

## **AGENDA**

### **INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB) COUNCIL CHAMBER, COUNTY CENTRE, NISKU, ALBERTA**

**Thursday, February 27, 2020**

1. **Order and Roll Call** – 9:00 a.m.
2. **Organizational Meeting of the Board**
  - a) Nomination of Chair
  - b) Nomination of Vice Chair
3. **Agenda Adoption**
4. **Adoption of Previous Minutes**
  - \* November 7, 2019 Subdivision and Development Appeal Board Meeting
5. **Subdivision and Development Appeal Hearing**
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a)	9:00 a.m. D20-005 Roll # 2814000	Appeal by 1443315 Alberta Ltd. / Craig Harder relating to Development Permit D20-005 to leave as sited, accessory building shop – 139.4 sq.m (1500 sq.ft.) located at SW 5-50-1-W5.
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6. **Next Meeting Date** – at the call of the Chair.
7. **Adjournment**

\* **Legend**  
Items Attached To Agenda



**MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON THURSDAY, FEBRUARY 27, 2020 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.**

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**Order and Roll Call**

The meeting was called to order at 9:14 a.m., Thursday, February 27, 2020 by Joyce Gavan, Clerk of the Intermunicipal Subdivision and Development Appeal Board with Board Members Mary-Ann McDonald, Pat Rudiger, Rod Giles, Doug Ruel and Larry Wanchuk present.

Also present were:

- Duane Coleman, County Manager
- Greg McGovern, Planner 1, Development Services
- Colin Richards, Team Lead, Development Services
- Charlene Haverland, Manager of Development Services
- Laurie Stoetzel, Recording Secretary
- Michelle Edgerly, Observer
- Appellant, Craig Harder

**Organizational Meeting of the Board**

Clerk Joyce Gavan indicated that in accordance with Bylaw No. 33-19 establishing the Intermunicipal Subdivision and Development Appeal Board, the Chair and Vice Chair are to be elected at the first meeting of each year.

**Nominations for Chair**

Clerk Gavan called for nominations for the position of Chair of the Intermunicipal Subdivision and Development Appeal Board.

Board Member Pat Rudiger nominated Board Member Mary-Ann McDonald as Chair.

**Nominations Cease - Chair**

**01-20** Board Member Rudiger -- that nominations cease for Chair of the Intermunicipal Subdivision and Development Appeal Board.

Carried

Clerk Gavan declared Board Member McDonald elected, by acclamation, as Chair of the Intermunicipal Subdivision and Development Appeal Board.

**Assume the Chair**

Chair McDonald assumed the Chair.

**Nominations for Vice Chair**

Chair McDonald called for nominations for the position of Vice Chair of the Intermunicipal Subdivision and Development Appeal Board.

Board Member Larry Wanchuk nominated Board Member Pat Rudiger for Vice Chair.



**Nominations Cease - Vice Chair**

**02-20** Board Member Wanchuk -- that nominations cease for Vice Chair of the Intermunicipal Subdivision and Development Appeal Board.

Carried

Chair McDonald declared Board Member Rudiger elected as Vice Chair of the Intermunicipal Subdivision and Development Appeal Board.

**Agenda Adoption**

**03-20** Board Member Giles -- that the agenda for the February 27, 2020 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Adoption of Previous Minutes – November 7, 2019**

**04-20** Board Member Wanchuk -- that the November 7, 2019 Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

**Appeal by Craig Harder, 1443315 Alberta Ltd. whereby Development Permit Application D20-005 was refused to leave as sited an accessory building shop – 139.4 sq. m (1500 sq.ft.) located at SW 5-50-1-W5.**

Chair McDonald called the hearing to order at 9:18 a.m. and introduced Board Members and staff.

Chair McDonald explained the purpose of the hearing, the order of presentation and the procedures to be followed.

Chair McDonald then called upon the Board Secretary to introduce the subject of this appeal.

Joyce Gavan, Clerk, advised of the appeal by Craig Harder, 1443315 Alberta Ltd., whereby Development Permit Application D20-005 was refused to leave as sited an accessory building-shop (139.4 sq.m (2500 sq.ft.) on SW 5-50-1-W5.

The reasons for appeal are as follows:

1. The number one reason for appeal is that the engineered barn is already constructed and in good physical standing.
2. The building has been in use since 2018.
3. We will be applying for a house application however not ready to do so yet.

Ms. Gavan advised the following information is attached for the Board:

- 1) Staff Report
- 2) Notice of SDAB hearing package dated February 11, 2020
- 3) Appellant's notice of appeal received February 10, 2020
- 4) Notice of Development Authority decision (Refusal) dated January 30, 2019 with refused site plan.
- 5) Development Permit Application D20-005.
- 6) Site plan and building drawings
- 7) Key Plan.
- 8) Air Photo



9) Submission from Appellant - Craig Harder

The Board confirmed the appeal was submitted properly and acceptable to the Board.

Chair McDonald asked if any Board Member felt a need step down from this hearing within the boundaries of conflict of interest, and there was no one.

Chair McDonald asked the appellant if he had any objection to any of the members of the Intermunicipal Subdivision and Development Appeal Board hearing this appeal, and there was no objection indicated.

Chair McDonald asked the Clerk to read/present any other relevant information and/or correspondence, and Ms. Gavan advised there was none.

Chair McDonald called upon the Planning and Development Department to provide background information.

Mr. Greg McGovern, Planner 1, provided the following information relating to the appeal relating to D20-005 by Craig Harder, 1443315 Alberta Ltd.:

1. On January 30, 2020 the development authority refused Development Permit Application D20-005 by Craig Harder to leave as sited an accessory building (shop – 139.4 sq.m) on SW 5-50-1-W5. The refusal was based on the proposed development not in conformance with the current Land Use Bylaw, specifically:

Part Eleven - Definitions

- *Accessory Building* means, for the purpose of administering the provisions of Part Nine – District Regulations, a building that is incidental and subordinate to a principal building on the same lot and is more than 10m<sup>2</sup> (107.6 sq.ft.) in area or 2m (6.5 ft.) in height.
  - The proposed accessory building, a garage, would be the sole structure on the property and would therefore not be incidental or subordinate to a principal use or principal building on the property.
2. The subject property is designated as an Agricultural (AG) District in accordance with Leduc County Land Use Bylaw 7-08. The property is a quarter section of land located at SW 5-50-1-W5 northeast from the intersection of Township Road 500 and Range Road 15. The property is densely treed and a meandering creek passes through the property in an east/west direction. Apart from the existing accessory building (shop), being the subject of this appeal, there are no permanent structures on the property.
  3. In accordance with Section 11 of the Land Use Bylaw, an accessory building (such as a shop), by definition is to be incidental and subordinate to a principal use or principal building on the same lot. As the property does not contain a principal building (dwelling), under the provisions of the Land Use Bylaw, an accessory building cannot be considered as a sole structure or principal building on the property.
  4. The appellant states in the appeal letter that he intends to build a house on the property at some point in the future but he has no immediate plans to do so. The appellant would like the accessory building, which is currently being used to store equipment belonging to the applicant, to be allowed to stand because it is already existing (since 2018) and is in good physical condition.



5. The county acknowledges the appellant's desire to construct a dwelling on the property in the future. Notwithstanding this however, the reasons provided in the appeal letter for wishing to allow an accessory building before a principal building do not meet the regulations of the Land Use Bylaw. The purpose of an accessory building, as discussed within its definition in the Land Use Bylaw, is to be secondary to a principal use or a principal building on the same property. As a result of this, the Development Authority cannot support accessory developments prior to a principal use or building being established, and therefore, the application was refused.
6. The development authority recommends that the SDAB uphold the decision to refuse Development Permit Application D20-005 for the reasons outlined in the Notice of Decision.

Chair McDonald asked Board Members if there were any questions of administrative staff.

In response to a question by a Board Member, administrative staff advised the subject building has been on the property since 2018.

Chair McDonald called upon the appellant to speak to the proposed development.

Mr. Craig Harder, Appellant, had some questions regarding the County policies with respect to accessory buildings and principal buildings.

### **Recess**

Chair McDonald called a recess at 9:25 a.m. and reconvened the meeting at 9:27 a.m. with Board Members Pat Rudiger, Rod Giles, Doug Ruel and Larry Wanchuk present.

Also present were:

- Duane Coleman, County Manager
- Greg McGovern, Planner 1, Development Services
- Colin Richards, Team Lead, Development Services
- Charlene Haverland, Manager of Development Services
- Laurie Stoetzel, Recording Secretary
- Michelle Edgerly, Observer

Present as well was Craig Harder, appellant.

Chair McDonald requested Mr. Harder, appellant, to provide his presentation.

Mr. Craig Harder, Appellant, provided the following information:

- 1) Purchased the subject farm property in November 2015.
- 2) In April 2016 updated the farm access roads, built new fence and added gates.
- 3) January 2017 the neighbours agreed to teach us how to farm the subject land.
- 4) September - October 2017 the engineered barn was designed and APPEGA P. Eng. provided approval of the design.
- 5) From April – July 2018 the foundation was poured, pilings barn was built on site.
- 6) In August 2018 additional farmland to the east was purchased adjacent to the subject property.
- 7) From 2018 – 2019 Fortis electrical application, design, review and installation of policies/UG occurred. An electrical contractor was hired to wire up the barn so equipment could be fixed, welding, etc. to occur within the existing structure.

- 8) In January 2020 submitted an application to the County for electrical, building permit, etc.
- 9) The intent is to build a house on the property after 2020 however are not ready to do so right now. Will apply for a new build application in the future.

Chair McDonald asked if there were any questions by the Board Members of the appellant.

In response to questions by Board Members, Mr. Harder advised of the following:

- Permits were not taken out for the shop as he was advised by the builder that it was not necessary being located on agricultural lands.
- Owns other property within Leduc County for farming.
- Approximately ten acres of the quarter section is being farmed.
- The subject building can be used for a shop or a barn.
- There are no commercial activities occurring on site.

Greg McGovern clarified the use of an accessory building within the Land Use Bylaw. A development permit needs to be in place prior to construction of a building. The use of the building is considered an accessory vs. farm related.

Mr. Harder provided additional information:

- The neighbours, engineer and builder advised that based on location of the building being within the agricultural district, there is no need for a permit.
- When the electrician took out the electrical permit, the development permit process was triggered.
- The building is on a slab and used for equipment storage.
- There are no farm animals in the building.

Charlene Haverland, Manager of Development Services, advised that an agricultural building could be built without permit when it's used for agriculture purposes on agricultural land. Further, an electrical permit can be applied for without a building permit being issued for an agricultural use building. However, when a building is constructed for personal use, then permits are required for development, building and safety codes. In this case, the electrical permit application for the building triggered requirements for a development permit and building permit.

Chair McDonald noted there was no one in attendance to speak in support or against the appeal.

Chair McDonald asked administrative staff to provide final comments.

The development authority provided the following closing comments:

- The reason for refusal was due to the use of the building not being for agricultural use. If it were used for agricultural purposes, a permit would not be required.
- Personal items stored deems the building an accessory building as defined within the Land Use Bylaw.
- In accordance with Section 3.2.1(b) of the Leduc County Land Use Bylaw, a development permit is not required for buildings used for agricultural purposes where the use is listed as permitted, including but not limited to a barn, hay shed, machine shed, livestock shelter, granary, dugout, and the outdoor storage of equipment, supplies and products directly associated with the agricultural operation.
- Leduc County Safety Codes has a farm confirmation form for structures that are for farm use only.



- The development is deemed as an accessory building, which requires a principal use building and to be in compliance with the Land Use Bylaw.
- A Stop Order could be issued if the building were to remain with no principal use building on site. A stop order is a tool that advises the owner to bring the property into compliance with the Land Use Bylaw and is registered on title.
- The Subdivision & Development Appeal Board can require similar requirements in order to bring the property into compliance.
- There is no requirement in the Land Use Bylaw that says an accessory building must be smaller than a principal building; a kitchen and bathroom deems a structure as a principal building.
- A mobile home could be put on a pad, which would be deemed as a permanent dwelling.

Chair McDonald asked the appellant if he had any final comments, and Mr. Harder provided the following closing comments:

- The subject property was bought in 2015.
- Do have agricultural background and experience.
- Is hopeful that the Board decides the building will not need to be removed as the building is solid and is acceptable to the community.

Chair McDonald asked Mr. Harder, appellant, if he felt he received a fair hearing, and Mr. Harder responded affirmatively.

### **Conclusion of Public Hearing**

Chair McDonald declared the Public Hearing concluded at 9:47 a.m.

### **Staff Members Haverland, Richards, McGovern, and Mr. Harder**

Staff members Haverland, Richards, McGovern and Mr. Harder exited the Council Chamber at 9:48 a.m.

### **In-Camera**

**05-20** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 9:50 a.m.

### **Revert to Intermunicipal Subdivision and Development Appeal Board Meeting**

**06-20** Board Member Ruel -- that the in-camera session revert to the Intermunicipal Subdivision and Development Appeal Board meeting.

Carried

The in-camera session reverted to the Intermunicipal Subdivision and Development Appeal Board meeting at 10:10 a.m.

**Appeal by Craig Harder, 1443315 Alberta Ltd. whereby Development Permit Application D20-005 was refused to leave as sited an accessory building shop – 139.4 sq. m (1500 sq.ft.) located at SW 5-50-1-W5.**

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**07-20** Board Member Giles -- that Intermunicipal Subdivision and Development Appeal Board allow the appeal by Craig Harder, 1443315 Alberta Ltd. and conditionally approves Development Permit Application D20-005 to leave as sited an accessory building (shop) 139.4 sq.m (1500 sq.ft.) as follows:

Findings of Fact

1. The subject property is designated as Agricultural (AG) in accordance with the Leduc County Land Use Bylaw 7-08.
2. There were no letters of objection received.
3. The subject building is an accessory building (shop) for mixed use.
4. The shop was built in 2018 to the highest standard with engineering approval.
5. The property is a quarter section of land located at SW 5-50-1-W5 northeast from the intersection of Township Road 500 and Range Road 15. The property is densely treed and a meandering creek passes through the property in an east/west direction. Apart from the existing accessory building (shop), being the subject of this appeal, there are no permanent structures on the property.
6. The appellant states that he intends to build a house on the property at some point in the future.

The Board considered the following legislation in making their decision:

Municipal Government Act, Section 687(3)(d)

*In determining an appeal the subdivision and development appeal board (SDAB) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw, if, in its opinion:*

- (i) *the proposed development would not*
  - (A) *unduly interfere with the amenities of the neighbourhood, or*
  - (B) *materially interfere with or affect the use, enjoyment of value of neighbouring parcels of land,*

*and*
- (ii) *the proposed development conforms with the use prescribed for that land or building in the land use bylaw.*

Conditions for Approval

Development Permit Application D20-005 is approved, subject to the following conditions:

1. Approval is granted based on the information provided by the applicant for the approved development only and no other development.
2. The approved development shall be located as shown on the site plan as submitted. Any new approaches represented on the site plan are regarded as conceptual only and shall be applied for through a separate approval process.
3. The approved accessory building shall not be used as a dwelling unless specifically approved as a dwelling by a separate development permit.
4. The approved accessory building shall be used as a personal residential accessory building for the storage and maintenance of property belonging to the residents of the parcel and not





for business purposes. At no time in the future, unless specifically permitted by the County, shall the accessory building be used for industrial or commercial purposes.

5. The site shall be maintained in a neat and orderly manner including the containment of all construction materials and refuse, to the satisfaction of the Development Authority.
6. The applicant/landowner shall provide firefighting access at all times to the satisfaction of Leduc County Fire Services.
7. The development shall not cause any adverse drainage impact on adjacent properties or flooding of nearby ditches in excess of their capabilities.
8. All new accesses, approaches or upgrades, including driveways required off of a Leduc County public roadway, as a result of the development shall first require an Access Application to be provided to the satisfaction of, and approved by Leduc County Public Works and Engineering.
9. The applicant shall contact Leduc County Public Works Department at 780-979-6185 to obtain a road use agreement before bringing any additional soil, or other fill material, to the site.
10. No further development, expansion or change in use is permitted unless approved by Leduc County.

Carried

#### **Next Meeting**

The next scheduled Intermunicipal Subdivision and Development Appeal Board meeting will be held at the call of the Chair.

#### **Adjournment**

**08-20** Board Member Wanchuk -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 10:11 a.m.

  
Chair

  
Clerk