



## AGENDA

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

**Thursday, October 8, 2020**

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
  - \* September 11, 2020 Intermunicipal Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing**
  - \* a) **9:00 a.m.**

Apellant(s)	Shirley Jolly, on behalf of William Cowan
Applicant's name	Jason and Nancy Lenos
Landowner's name	Jason and Nancy Lenos
Leduc County Municipal Roll #	511020
Legal description of subject property	NE 15-49-23-W4
Municipal address	49276 Range Road 232
Nature of development application	Accessory Building (shop) 185.8 sq.m (2000 sq.ft.)
Development permit application Number	D20-128

5. **Next Meeting Date** – at the call of the Chair.
6. **Adjournment**

**Legend**

\* Items Attached To Agenda

**MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON THURSDAY, OCTOBER 8, 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 8:57 a.m., Thursday, October 8, 2020 by Vice Chair Pat Rudiger and Board Members Rod Giles and Kevin Maine present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Colin Richards, Team Lead, Development
- Greg McGovern, Planner 1
- Rae-Lynne Spila, Senior Municipal Engineer
- Shirley Jolly, Appellant
- William Cowan, Appellant
- Jason and Nancy Lenos, Applicants
- and 6 others

**Agenda Adoption**

**33-20** Board Member Giles -- that the agenda for the October 8, 2020 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Adoption of Previous Minutes – September 11, 2020**

**34-20** Board Member Giles -- that the September 11, 2020 Intermunicipal Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

**Appeal by Shirley Jolly, on behalf of William Cowan, relating to conditional approval of Development Permit Application D20-128 to Jason and Nancy Lenos, for an accessory building (shop) – 185.8 sq.m (2000 sq.ft.) located at NE 15-49-23-W4 (49276 Range Road 232).**

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Vice Chair Rudiger called the hearing to order at 8:58 a.m. and provided introductory remarks.

Vice Chair Rudiger then called upon the Board secretary to introduce the subject of this appeal.

Board Clerk Joyce Gavan advised of the appeal by Shirley Jolly, on behalf of William Cowan, whereby Development Permit Application D20-128 was conditionally approved to Jason and Nancy Lenos for an accessory building (shop) 185.8 sq.m (2000 sq.ft.) located at NE 15-49-23-W4 (49276 Range Road 232).

The reasons for appeal are as follows:

1. We feel a 2000 sq.ft. accessory building is too large for the available developable area of this parcel. Not only will the building and related activities be totally visible to the surrounding neighbors, it will also cause drainage concerns in the area due to the topography of the site.



2. Specifically, conditions #2, 3, 5, 7 and 11 do not address the concerns we have related to this development.
3. A more detailed presentation will be provided at the hearing.

Joyce Gavan, Clerk, advised the following information is attached for the Board:

- 1) Notice of ISDAB hearing package dated September 21, 2020
- 2) Notice of Development Appeal received September 16, 2020
- 3) Notice of Development Authority's conditional approval and conditionally approved site plan dated August 26, 2020
- 4) Development Permit Application D20-128 from Jason and Nancy Lenos
- 5) Building plans
- 6) Key Plan
- 7) Development Authority's report
- 8) Leduc County GIS mapping
- 9) Referral comments
- 10) Submission from Applicants, Jason and Nancy Lenos

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

Vice Chair Rudiger 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.

Vice Chair Rudiger asked the appellant(s) and applicant(s) if they 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.

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

Vice Chair Rudiger called upon the Development Authority to provide background information.

Greg McGovern, Planner 1, provided a PowerPoint presentation relating Development Permit D20-128 appealed by Shirley Jolly, on behalf of William Cowan, highlighting the following:

1. This is an appeal by Shirley Jolly, on behalf of William Cowan, against a decision of Leduc County Development Authority, whereby an application to build an accessory building for the purpose of a shop for personal use, was approved, with conditions on August 26, 2020.
2. The subject property is located off of Range Road 232 and approximately 1.6 km south of the intersection of Range Road 232 and Highway 623; and existing development on the 2.85 acre subject property consists of a detached dwelling.
3. Surrounding lands are primarily of agricultural use, and the nearest dwelling to the building subject to this appeal is approximately 375 meters away. The closest dwelling on the appellants' property is located over 500 meters from the proposed development.

4. Policy / Land Use Bylaw 7-08

The subject property is districted within the Agricultural (AG) District of the Land Use Bylaw 7-08.



In accordance with Part 9.1.1 of the Land Use Bylaw, the purpose of this district is to provide for primarily larger agricultural operations and limited higher intensity agricultural activities on smaller lots, while at the same time providing for limited residential and other uses having a secondary role to agriculture.

Part 9.1.3 allows an Accessory Building greater than 120m<sup>2</sup> (1,292 ft<sup>2</sup>) to be considered as a discretionary land use within the AG district. As a result, the proposed structure was treated as a discretionary use and notice of the proposed development was circulated to neighbouring landowners.

Part 3.5.1 directs that the Development Authority may approve a discretionary use if, in its opinion, the proposed development complies with the Municipal Development Plan and the general purpose of the land use district.

Part 3.5.2 directs that when considering an application for development, the Development Authority shall consider compatibility with the surrounding lands, the suitability of the site for development, the capacity of public roads to accommodate potential traffic generation and the ability for infrastructure to accommodate the potential development.

#### Part 11 - 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 use or principal building on the same lot and is more than 10.0 sq.m (107.6 sq.ft.) or 2.0 m (6.5 ft.) in height.

#### Municipal Development Plan

The subject property is situated within 'Agricultural Area C – South Central/East Agriculture' of the Municipal Development Plan.

Agriculture Area C is intended to conserve large, contiguous tracts of prime agricultural land with minimal fragmentation primarily for intensive cropping operation and to protect existing future confined feeding operations.

5. Development permit application D20-128 was approved subject to 13 conditions on August 26, 2020. The appellants have appealed the decision to approve the application, citing concerns relating building size, location and drainage, and to conditions #2, #3, #5, #7 and #11 within the Notice of Decision.
6. Condition #2 and #11 both address access to the property. Condition #11 states the requirement for new approaches to be applied for and approved by Leduc County Engineering & Utilities and Condition #2 specifically addresses the existing north approach on the property and requires that it be inspected and upgraded if the County deems improvement are needed. According to Engineering & Utilities, this approach was applied for and approved in 2013 but there is no record of it being inspected by the County. The intent of Condition #2 is to ensure that this approved approach is inspected and constructed in a manner that meets Leduc County standards.
7. Condition #3 addresses tree removal and states that no trees shall be removed other than what is necessary to make space for the proposed development. The proposed development site is mostly treed and construction would require the removal of trees in



an area measured to be approximately 275 sq.m in size. Tree clearing is addressed by Section 3.2.1(n) of Land Use Bylaw No.7-08 which states that clearing is exempt from requiring a development permit where it is an integral part of a project for which a development permit has been issued.

8. Condition #5 speaks to the design of the proposed structure and requires that it be finished in a manner compatible with the existing dwelling. The building plans submitted with the application shows that the building exhibits features typical of a shop with two bay doors on one face of the building and a pitched roof.
9. Condition #7 speaks to the use of the proposed building which is limited to the storage and maintenance of property belonging to the residents of the parcel. The scope of application No .D20-128 does not include a business operation and Condition #7 stipulates that the proposed building shall not be used for business purposes.
10. Among the reasons for appealing the development approval, the appellants state that a 185.8 sq.m building is too large for the available developable area of the parcel. Land Use Bylaw No .7-08 does not define a maximum size for accessory buildings and therefore the proposed accessory building cannot be described as 'oversized'. Furthermore, Planning and Development does not regard the size of the proposed building to be out of character for the area, where accessory buildings on a neighbouring parcel are noted to be 360 sq.m and 485 sq.m in size without being considered detrimental to the area. Over the previous two years the County issued 13 development permits for personal accessory buildings (such as shops and detached garages) in the Agricultural District that are all larger than the shop that is the subject of this appeal.
11. The appellants further state that the proposed development will cause drainage concerns in the area due to topography. The matter of drainage is directly addressed by Condition #10 which states that the development shall not cause any adverse drainage impact on adjacent properties or flooding of ditches in excess of their capabilities. The proposed accessory building is located on the north side of the subject property where the ground surface slopes evenly towards the wetland and low-lying area on the adjacent property to the north. The proposed accessory building would be located at the end of a gravel driveway and Planning and Development surmise that neither the proposed shop nor driveway would significantly alter the natural drainage pattern in the area. In addition to the shop, Engineering & Utilities also considered the driveway and commented that it would not alter the natural drainage of the property. Lastly, the applicant confirmed that the gravel driveway will be gently sloped to preserve the pre-development flow direction and allow water to continue to flow downhill.
12. Lastly, the appellants express concern about the proposed location for the development stating that the building and related activities would be visible to surrounding neighbors. In reviewing the development permit application Planning and Development considered matters such as minimum setback distances, site topography, natural features and proximity to oil and gas features and utility rights-of-way. Planning and Development deemed the proposed location to be appropriate as it was found to be unobstructed and provided for the required minimum setback distances. Visibility of the proposed building from adjacent properties was not considered to be a concern given the proximity of adjacent dwellings from the application site and that this building was significantly smaller than accessory building on the adjacent property.

13. The County acknowledges the appellants' reasons for appealing the decision to approve Development Permit No.D20-128. Nevertheless, the reasons provided in the appeal letter do not meet the regulations of the Land Use Bylaw. The Development Authority recommend that the Subdivision and Development Appeal Board uphold the decision to conditionally approve Development Permit D20-027.

Vice Chair Rudiger asked if there were any questions by the Board members of Development Authority staff.

In response to questions by Board members, Mr. McGovern advised of the following:

- Structures on neighboring properties are farm buildings.
- The access road was previously approved in 2013.
- The proposed accessory building, for the most part, will be surrounded by trees.

Vice Chair Rudiger called upon the appellant(s) to speak to the proposed development.

Shirley Jolly, appellant, provided the following information:

- 1) Speaking in opposition to the decision to allow a 2,000 square foot accessory building to be constructed on a parcel of land adjacent to our property. Our quarter section, an active cow/calf farm until recently, is right across the road.
- 2) After living near this small parcel for the last 30 years, we have become familiar with its natural features and topography. It sits in the very corner of the quarter section - a small knob that was subdivided out since it was unsuitable to farm. Bill plowed snow and maintained the previous owner's driveway for 20 years, in fact, right up to when the property was sold. Besides the dwelling, there is no other building on the property, not even a garage.
- 3) We received a letter letting us know an application had been received for an accessory building (shop), considered discretionary because it was over the permitted size. The building is 708 square feet larger than what is permitted and we were invited, as adjacent landowners, to provide our comments and concerns regarding this development. The site plan, included with the letter, had no details other than dimensions for the new building. A question for us was - which way would the building be facing and how would it be accessed - neither of which could be determined from the site plan. When I called Planning, I was told the building will be facing northeast and a second approach is anticipated - something not shown on the site plan. As a result of my inquiries, Planning advised they would request an updated plan from the applicant and recirculate it.
- 4) The updated site plan contained more detail but also raised more questions. We expected to see a second approach but we didn't expect to see a new driveway that would serve only the accessory building. The new driveway contains concrete products which could leach into neighboring land.
- 5) I was told by Engineering that the approach had been applied for in 2013 and, according to aerial photos, was in existence and this is why the approach was approved. We don't agree an access existed - there never has been access to the property at this location, unless we include where the applicant rides his motorbike through the ditch. There was, until recently, no way for a vehicle to enter the property.

- 6) I was in contact with Planning and Public Works several more times to clarify what seemed to be conflicting information. At this time I was told another reason for approving the approach was to provide proper legal access to the property since the existing approach is mostly on the neighboring land. This is confirmed in the applicant's letter. We discovered this after the deadline date or it would have been included in our submission. When I asked about the two approaches, I was told two things - the application did not request the existing approach be removed and it didn't need to be removed when the approach was constructed. Did this mean there would be two approaches on this parcel? And did it mean the illegal one would be allowed to remain? Did it mean the intent all along?
- 7) Although we still had questions, we submitted our responses which are included in the appeal package. We tried to explain, as best we could, the reasons why we would not be supporting the development permit application.
- 8) One concern was that under the Bylaw, the list of permitted and discretionary uses in the AG district is exactly the same for every property regardless of size. This means the same uses can be considered for a 3 acre country residential parcel as they can be for a 160 acre farm property. Adding the fact that there is no minimum size for an accessory building and no limit to site coverage, except for RV storage, was even more reason for concern.
- 9) When we learned the application had been approved, we turned to the 13 conditions to see if they would satisfy our concerns, very similar to those added to other decisions of approval. On the surface they appeared to be adequate but we felt they didn't go far enough to address our specific concerns. This is why we appealed the decision to approve the application.
- 10) The planning history for this parcel has been provided but I want to explain how we became involved. In 2013, we were notified that a 4,320 square foot Accessory Building and a Home Based Business (Automotive Repair Shop) were being proposed for this property. Both applications, although considered discretionary in the AG District, were approved by Planning. The decisions and conditions were provided to us as adjacent landowners. Knowing the applicant's plan was to relocate his business, we believed it would have a huge negative impact on this area and our quality of life. With encouragement from the neighboring landowners at the time, we appealed both decisions. Before our appeal could be heard, the applicant requested both applications be cancelled.
- 11) In 2014, we were notified that an Accessory Building and Home Based Business were again being proposed for this same property. The applications were identical to those submitted in 2013. Both applications, considered discretionary, were refused by Planning because they were not compatible with surrounding lands. This time the applicant appealed the decision but prior to the hearing date, the applicant withdrew the applications.
- 12) This is important because, for a third time, the applicant has applied and now been approved for an Accessory Building larger than what is permitted. This application may not have been accompanied by an application for a Home Based Business, however, we are convinced one will eventually be submitted. The building is smaller this time but when we look at the site plan and consider the building design, we are convinced the applicant still intends to relocate his business.
- 13) Speaking to this appeal, our reasons in the Notice of Appeal included general reference to size, visibility and drainage as well as the conditions we wanted to address. The following reasons we provided are not in any particular order. Condition #11 references access to the property. We know an access application was submitted and approved in 2013 and we



were told it was to provide legal access to the property. Comparing this site plan with the one in 2014, each show two approaches in exactly the same location, a driveway aligned exactly the same and serving an undeveloped accessory building. This is not a coincidence. No one has addressed the illegal access - will it be allowed to remain or will it be removed? Will two approaches be allowed on this small parcel and was this the intent all along?

- 14) Condition #2 addresses an inspection for the new approach. Already concerned about the extent of work currently underway for the approach and driveway, we wanted assurance that the required inspections, approvals and permissions had been granted. This has not been confirmed.
- 15) Condition #3 speaks to tree removal. We understand trees have to be removed but the site plan shows the building will be constructed in a clearing. This isn't correct and which is why we want to know how much total tree cover would be removed. Considering a parking pad, normally found in front a building this size, may be contemplated and knowing firefighting access must be provided at all times, implies even more clearing will be required. We want to know if Planning has included these in their calculations.
- 16) Condition #5 refers to the design of the building. Plans appear to reflect a typical shop, over 18' high with two overhead doors, making it compatible with surrounding development. Although no finishing information has been provided, Planning is of the opinion the building will not impose any negative impact. With none of this information provided to us until now, we don't have that same assurance.
- 17) Condition #7 addresses the use of the building. We are aware an application must be submitted for a business; however this provides little comfort when we know one can be presented at any time. This building would be perfect for a start-up commercial venture or an existing business, permitted or not. Given the planning history and our experience, we don't believe this application reflects the true objective and long term plans of the applicant.
- 18) When we looked at the size of this building in relation to others, for example a typical 4 car garage - a building permitted in the CR district and a permitted building in the AG district - we got an idea of the scale of the building in comparison. At 2,000 square feet, this building will be 55% larger than permitted. Based on this comparison, I stated in our submission that the parcel, with its constraints, was not suitable for an oversize building. Planning argues that if there is no maximum size defined, an accessory building cannot be described as "oversized". I am not sure why my opinion is being challenged but the real question is: with no maximum size for an accessory building, how much bigger will Planning allow? What is the limit and how does Planning determine this? How big is too big? Planning has noted that this building would be similar in size to those on the neighboring property. But I'd like to point out those existing buildings were erected when they were part of an active dairy farm and used to store hay and farm machinery. If the comparison is to be fair, parcel size and typography need to be included. We are talking about a 2,000 square foot shop on a 2.85 acre parcel with development constraints, not an agricultural building on a quarter section of relatively flat open land. This comparison has been totally taken out of context and shouldn't be given as a reason to allow the building.
- 19) The bylaw defines an accessory building as incidental and subordinate to a principal use. In this case, Planning considers the dwelling to be the principal use; therefore the proposed shop is automatically regarded as accessory, no matter the size. The point we want to make here is that it doesn't seem logical that a 2,000 square foot building is incidental and subordinate to the much smaller principal dwelling.



- 20) Condition #10 states that drainage shall not cause any adverse impact but doesn't mention any measures that will be taken to make sure that doesn't happen. The house sits at the top of a hill and the property slopes in all four directions, acknowledged by the applicant. We know water flows downhill but when a large building with an even larger roof area is added, we cannot predict how this will change the drainage characteristics. Sloping the driveway may be one way to preserve the flow but a comprehensive drainage plan would confirm if increased or concentrated water flows will negatively affect neighboring properties. We already know the natural drainage is an issue for the applicant - he has been pumping water from a low area on his property through a large diameter hose directed towards the neighbor's wetland where his cattle drink. The applicant may have solved his drainage issue but in doing so has affected the natural water level on another property.
- 21) Most accessory buildings either face the dwelling or are at least in close proximity to it. Planning has found the proposed located unobstructed and meeting minimum setbacks and, in his opinion, visibility is not a concern. We have not suggested the building will be unsightly and we may not see it from our living room window but it would be right across from where we live and where our family will drive by it every single day, a concern for us. What we know for sure is that neighboring properties will have an unobstructed view of the building and any activities going on in front of it. We have lots of questions about why the building is oriented away from the applicant's residence when it is supposed to be for the applicant's own personal use. And why is he proposing to screen his own home from the building while exposing it to the neighbors. This seems unfair and unnecessary.
- 22) Speaking to the photos of our farm that the applicant has provided, they show a grain bin, stock trailer, manure spreader, bale wagon, water tank and small storage sheds. These items are typically found on a farm property; therefore we don't understand the relevance.

William Cowan, appellant, provided the following information:

- 1) We would prefer this building be reduced to a permitted size, but even if this is not a consideration, there are two other concerns we feel need to be addressed - orientation and the second approach.
- 2) We would like to table two conditions for the Board to consider that could address each one of these:
  - a. Turn the accessory building 90 degrees clockwise toward, so that it faces more in the direction of the applicant's dwelling and his existing parking area. This way the new driveway could be extended, providing convenient vehicle and firefighting access for the dwelling. The large open area adjacent to the driveway could become a marshalling area for vehicles and equipment, serving both the residence and the shop. Since security is a concern of the applicant, this would also allow him to see the front of the building which might otherwise be left vulnerable. Lighting on or adjacent to the building will not become a concern for the neighbors and the building to be used in privacy, something the applicant values.
  - b. The new approach is an important improvement over the access that currently exists. The site line at the existing location is obscured by substantial tree growth and is hazardous to vehicles entering and leaving the property as well as the travelling public. The new approach is a much safer alternative and with construction already underway, the illegal approach can be removed.



Vice Chair Rudiger asked if there were any questions by the Board members of the appellant(s).

In response to a question by a Board member, William Cowan advised his property is located southeast of the proposed development.

Vice Chair Rudiger called upon the applicant(s) to speak to the proposed development.

Jason and Nancy Lenos, Applicants, provided the following information:

- 1) Feel that proposed accessory building is an appropriate size for our property.
- 2) Currently, the only building on the property is our dwelling.
- 3) Would like the accessory building so we can store and park our vehicles as well as store items such as holiday trailer, recreation vehicles, etc. Would also utilize this space to repair all these items.
- 4) There is a lot of theft in the area and we would like to lock up all our items.
- 5) The existing approach is off our property.
- 6) The new approach was inspected and approved last week.
- 7) Property is totally treed and we only plan on removing what is necessary.
- 8) Recently planted a row of trees and the plan is to add more.
- 9) The exterior siding of the proposed building will be matched to our existing dwelling and will not be an eye sore.
- 10) Neighbor's property is not esthetically pleasing for us.
- 11) The proposed building will not affect drainage.
- 12) Our property has always been surrounded by water.
- 13) If you observe the current driveway, you can see from the condition of the surface that our vehicles have never leached anything into the ground, e.g., no chemical leaks.
- 14) It will be easier for us to back up our holiday trailer up the new driveway, as opposed to the existing one.

Vice Chair Rudiger asked if there were any questions by the Board members of the applicant(s).

In response to questions by Board members, Jason and Nancy Lenos advised of the following:

- The new driveway will not be our main access; it will serve the accessory building.
- There will be access from the proposed building to the residence through a man door that faces the house and we will be adding a walking path from the building to the dwelling.
- Easier to back up holiday trailer on the new driveway.
- Require the proposed height in the accessory building in order to access the roof of the holiday trailer and other items that may be taller.
- The concrete in the driveway came from Wetaskiwin Ready Mix Concrete's washout pit.
- The new approach is approximately 30 feet from the tree line.



- The trees on the current approach are cut back so people driving down the road can see the approach.

Vice Chair Rudiger called upon anyone wishing to speak in support of the appeal (against the conditionally approved proposed development).

Bruce Klingspon spoke in support of the appeal for the following reasons:

- His property borders proposed development to the south.
- Have lots of reasons to support the appeal. The appellants have already communicated most of his concerns.
- The current approach is on his property and he has allowed it to remain. The applicant and Leduc County did not tell him that they applied for a new approach. If the new approach is approved, he will likely remove the current approach and re-establish his fence line.

Vice Chair Rudiger then called upon anyone wishing to speak against the appeal (in support of the conditionally approved proposed development). and there was no one.

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

In response to a question from the appellant, Mr. McGovern indicated Planning did receive comments from neighbors. Those have been included in the hearing package.

Mr. Cowan indicated that he has an email message from a neighbor which has not been included in the package. Mr. McGovern responded that everything received by Planning was included.

### **Recess**

Vice Chair Rudiger called a recess at 9:54 a.m. and reconvened at 9:59 a.m. with Board Members Rob Giles and Kevin Maine present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Colin Richards, Team Lead, Development
- Greg McGovern, Planner 1
- Rae-Lynne Spila, Senior Municipal Engineer
- Shirley Jolly, Appellant
- William Cowan, Appellant
- Jason and Nancy Lenos, Applicants
- and 6 others

Vice Chair Rudiger asked administrative staff to provide final comments.

Mr. McGovern provided the following closing comments:

- Planning takes into consideration existing buildings on property.
- The proposed accessory building is oversized but it is not regarded to be out of line with other previous approvals in AG district.



- A building of this size, 700 feet larger than permitted use, is not regarded as dominant use. Principal use of this property is still residential.
- Previous development applications for this subject property have included a home base business. Current application indicates not for commercial use. Cannot speculate what building will be used for.
- Applications must provide drainage information on site plan. This was done and it was circulated to engineering and they did not feel there would be any negative impact on drainage.
- Development application conforms to planning regulations, e.g., location, drainage, tree removal, etc.
- Past approvals on AG parcels included similar and larger shops on smaller acreages, e.g., 3 acres.
- According to records, previous applications were turned down because they did not adhere to Land Use Bylaw 7-08, Section 3.5.2 - not considered compatible with surrounding land.

Vice Chair Rudiger called upon the applicant(s) to provide final comments.

Jason and Nancy Lenos indicated they had no further comments.

Vice Chair Rudiger called upon the appellant(s) to provide final comments.

Shirley Jolly and William Cowan provided the following final comments:

- Not our intent to stand in the way of the applicant getting an accessory building but what we see is: a building 55% larger than permitted; on a small country residential parcel; with a separate approach and driveway; oriented away and screened from the dwelling; sited in an area separate and apart from the principal use.
- This development, as proposed, appears to be a stand-alone development and not accessory at all. This application does not reflect the intent of the Land Use Bylaw nor does it meet the principles of the Municipal Development Plan.
- If the intent of the approved approach is to provide legal access, then why seven years later has nothing been done? Now that there is no need for the current approach, we are supporting our neighbor in resolving the illegal access. After all this time, the neighboring landowner should be able to restore his fence line and use his land without question. This is long overdue.
- We feel these conditions are reasonable to include and believe they would go a long way to address the parts of this application we are most concerned about. They are possible and achievable, making them fair for everyone.
- We are requesting the Board include the proposed conditions. Failing this, we request our appeal be allowed.
- We know the Land Use Bylaw is not designed to punish people; instead it attempts to make development fair and protect the quality of life for everyone. The Board has the opportunity to bring balance to this development and that is all we ask.



Vice Chair Rudiger asked the appellant(s), if they felt they received a fair hearing, and Shirley Jolly and William Cowan responded affirmatively.

### **Conclusion of Public Hearing**

Vice Chair Rudiger declared the Public Hearing concluded at 10:10 a.m.

### **In-Camera**

**35-20** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 10:12 a.m.

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

**36-20** Board Member Giles -- 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 10:30 a.m.

**Appeal by Shirley Jolly, on behalf of William Cowan, relating to conditional approval of Development Permit Application D20-128 to Jason and Nancy Lenos, for an accessory building (shop) – 185.8 sq.m (2000 sq.ft.) located at NE 15-49-23-W4 (49276 Range Road 232).**

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**37-20** Board Member Maine -- that the Intermunicipal Subdivision and Development Appeal Board deny the appeal by Shirley Jolly, on behalf of William Cowan, and upholds the conditional approval of Development Permit Application D20-128 to Jason and Nancy Lenos for an accessory building (shop) 185.8 sq.m (2000 sq.ft.) located at NE 15-49-23-W (49276 Range Road 232).

### **Findings of Fact**

1. The proposed development is considered a discretionary use within the Agricultural (AG) District in accordance with the Leduc County Land Use Bylaw No. 7-08.
2. The subject property is located off Range Road 232 and approximately 1.6 km south of the intersection of RR 232 and highway 623. The nearest dwelling to the proposed building is approximately 375 metres away. The closest dwelling on the appellants' property is located approximately 500 metres from the approved development.
3. The following concerns were received from four nearby landowners:
  - protection of existing rural landscapes
  - parcel is too small and too many topographical constraints for an oversized building
  - drainage
  - tree removal
  - the approach that has not received approval
  - the use of the building may be used for commercial purposes
  - devaluation of neighbouring properties





4. The Board heard the following concerns from the Appellant(s):

- Access to the property:
  - The approach applied for in 2013 would serve only the accessory building.
  - The existing approach is mostly on neighbouring land.
- Tree removal:
  - Do not know the total tree cover that would be removed.
  - More tree clearing may be required if a parking pad is developed in front of this building as well as the requirement for firefighting access.
- Design of the building:
  - Appears to be a typical shop, over 18' high with two overhead doors; however, no finishing information has been provided.
  - The accessory building is a 2000 sq.ft. shop on a 2.85 acre parcel with development constraints, not an agricultural building on a quarter section. It does not seem logical that a 2000 sq. ft. building is incidental and subordinate to the much smaller principal dwelling.
  - Are not suggesting the building will be unsightly and will not see it from our living room window but it would be right across from where we live and will see it every time we drive by.
  - The orientation of the building is away from the applicant's residence; why is it proposing to screen the applicant's own home from the building while exposing it to neighbors - it's unfair and unnecessary.
- Use of the building:
  - The planning history of this subject parcel is convincing that an application for a home based business will be eventually submitted.
- Drainage:
  - There are no measures taken to make sure any adverse drainage impact will occur; cannot predict how this building will change the drainage characteristics.
  - A comprehensive drainage plan would confirm the drainage impact.
- Concern with the Land Use Bylaw listing of permitted and discretionary uses in the Agricultural (AG) district is the same for every property regardless of size; also, there is no maximum size for an accessory building and no limit to site coverage, except for RV storage.
- Submitted two additional conditions be considered by the Board:
  - Turn the accessory building 90 degrees clockwise toward so that it faces the direction of the applicant's dwelling and existing parking area.
  - The new approach is a much safer alternative and with construction already underway, the illegal approach can be removed.

5. The Applicant(s) submitted the following information:

- The new approach has been approved by the County making it a legal access and is 100% on our property while the existing approach is partially off our property.
- Have only one dwelling and no other accessory buildings on the property.



- The proposed building is being constructed as a residential accessory building for personal use to park our vehicles, store holiday trailer, tractor, lawn tractor, skidoo's, side by side, quads and other things. Would also like a space to work on these things inside when they need fixing.
  - With the increase in theft in the county the last few years, having things stored outside is not ideal.
  - Our property is completely treed in so removal of some trees is necessary for the accessory building; do not want to take out any more trees than needed as we value our privacy. Have planted additional trees to have complete privacy.
  - The building finish will be matched to the existing dwelling.
  - The appellant will not have a view of our building from their property.
  - The adjacent neighbours that will have a view of the building (until the trees grow) do not have a problem with this building.
6. The development authority confirmed:
- Section 9.1.3 allows an accessory building greater than 120 sq.m (1,292 sq.ft.) to be considered as a discretionary land use within the Agricultural district.
  - Leduc County Engineering & Utilities state the access is approved as existing and that development shall not cause any adverse drainage impacts on adjacent properties or flooding of ditches in excess of their capabilities. The north access was applied for and approved in 2013 but no inspection was ever made; the purpose of a final inspection is to ensure that the access is properly constructed and meets Leduc County standards.
  - There are 13 conditions imposed by the development authority that address the concerns, as submitted.

The Board considered the following legislation in making their decision:

Land Use Bylaw No. 7-08

Part 9.1.3 allows an Accessory Building greater than 120m<sup>2</sup> (1,292 ft<sup>2</sup>) to be considered as a discretionary land use within the AG district.

Part 3.5.1 directs that the Development Authority may approve a discretionary use if, in its opinion, the proposed development complies with the Municipal Development Plan and the general purpose of the land use district.

Part 3.5.2 directs that when considering an application for development, the Development Authority shall consider compatibility with the surrounding lands, the suitability of the site for development, the capacity of public roads to accommodate potential traffic generation and the ability for infrastructure to accommodate the potential development.

**Part 11 - 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 use or principal building on the same lot and is more than 10.0 sq.m (107.6 sq.ft.) or 2.0 m (6.5 ft.) in height.





### Municipal Development Plan

The subject property is situated within 'Agricultural Area C – South Central/East Agriculture' of the Municipal Development Plan.

Agriculture Area C is intended to conserve large, contiguous tracts of prime agricultural land with minimal fragmentation primarily for intensive cropping operation and to protect existing future confined feeding operations.

In consideration of the above, the Board concludes:

- The proposed development aligns with the Leduc County Land Use Bylaw to allow an accessory building greater than 120 sq.m (1,292 sq.ft.) to be considered as discretionary use within the agricultural district.
- The subject site is treed in and the applicant has indicated minimal tree coverage will be removed. The nearest dwelling to the proposed building is approximately 375 metres away and will not be visible due to the tree coverage.
- There is an approved legal access onto the subject property.
- There was no evidence submitted to indicate how the drainage would be impacted. Conditional approval will satisfactorily address any drainage impacts on adjacent properties or flooding of nearby ditches in excess of their capabilities.
- Although there is a history on the subject parcel there was no evidence presented that the use will be for industrial or commercial purposes. Further, the applicant indicated the use is for personal use only and the conditional approval reinforces that.
- The Board is confident the conditional approval conditions adequately address the concerns submitted by the appellants and four nearby landowners.

### Conditions for Approval

Development Permit Application D20-128 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 applicant must contact Engineering & Utilities and apply to have the approach (the north approach) inspected. The applicant must upgrade the approach should any improvements be required.
3. The applicant shall not remove any living trees other than what is required for the construction of the approved accessory building.
4. The approved development shall be located as shown on the attached approved site plan. Any new approaches represented on the site plan are regarded as conceptual only and shall be applied for through a separate approval process.
5. The approved accessory building shall be constructed and finished in a manner compatible with the existing dwelling.
6. The approved accessory building shall not be used as a dwelling unless specifically approved as a dwelling by a separate development permit.
7. 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.

8. 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.
9. The applicant/landowner shall provide firefighting access at all times to the satisfaction of Leduc County Fire Services.
10. 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.
11. The applicant/landowner shall provide firefighting access at all times to the satisfaction of Leduc County Fire Services.
12. The development shall not cause any adverse drainage impact on adjacent properties or flooding of nearby ditches in excess of their capabilities.
13. All new accesses, approaches or upgrades, including driveways required off 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 & Engineering.
14. No further development, expansion or change in use is permitted unless approved by Leduc County.
15. The applicant shall contact Leduc County Engineering & Utilities Department at (780) 979-6185 to obtain a Road Use Agreement before bringing in any additional soil, or other fill material to the site.

The applicant is also advised of the following:

1. This Development Permit is issued under the Leduc County Land Use Bylaw 7-08. It does not exempt you from compliance with any other municipal bylaw or statutory plan applicable to the approved development, any relevant federal and provincial statute or regulation, or any easement, covenant, agreement or contract affecting the subject lands.
2. The County administers the Safety Codes Act and you must obtain any Safety Codes (building, electrical, gas or plumbing) permit(s) required prior to commencing construction. Increased setback distances from property lines, and/or modifications to plans for proposed buildings may be required in order to achieve compliance under the Alberta Safety Codes Act.
3. To contact Leduc Public Works & Engineering at 780-979-6185 regarding approach approvals and Road Use Agreements as required.
4. To contact Leduc County Fire Services at 780-955-7099 regarding compliance with the Alberta Fire Code.
5. Please be advised that this development may initiate inspections from the Assessment Department. If you would like to schedule an appointment or have questions, please contact the Assessment Department at 780-955-6412.

Development Permit D20-128 shall expire after one year from the date of decision unless development has commenced.

Carried



**Next Meeting**

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

**Adjournment**

**38-20** Board Member Maine -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 10:32 a.m.

  
Vice Chair

  
Clerk

