



## AGENDA

### INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

**Friday, July 16, 2021**

1. **Order and Roll Call** – 9:00 a.m.
2. **Agenda Adoption**
3. **Adoption of Previous Minutes**
  - \* July 7, 2021 Intermunicipal Subdivision and Development Appeal Board Meeting
4. **Subdivision and Development Appeal Hearing - D04-021**
  - \* a) 9:00 a.m.

Apellant / Applicant	Cameron L'Heureux
Landowner's name	Cameron L'Heureux
Leduc County Municipal Roll #	2331015
Legal description of subject property	Lot 6, Block 1, Plan 1822227, Pt. SE 14-48-28-W4
Municipal address	---
Nature of development application	Leave as sited dwelling, converted industrial trailer - 42.0 m <sup>2</sup> (450 ft. <sup>2</sup> )
Development permit application #	D20-243

5. **Adjournment**

Legend

\* Items Attached To Agenda

**MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON FRIDAY, JULY 16, 2021 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 9:01 a.m., Friday, July 16, 2021 by Chair Mary-Ann McDonald, and Board Members Larry Wanchuk, Rod Giles, Doug Ruel and Ron Patrick present.

Also present were:

- Joyce Gavan, Clerk
- Lynn White, Recording Secretary
- Colin Richards, Supervisor - Development Services
- Cameron L'Heureux, Appellant/Applicant
- Four other individuals

**Agenda Adoption**

**36-21** Board Member Giles -- that the agenda for the July 16, 2021 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

**Adoption of Previous Minutes – July 7, 2021**

**37-21** Board Member Patrick -- that the July 7, 2021 Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

**Appeal by Cameron L'Heureux - refusal by the development authority of Development Permit Application D20-243 relating to a leave as sited dwelling - converted industrial trailer located at Lot 6, Block 1, Plan 1822227, Pt. SE 14-48-28-W4.**

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Chair McDonald called the hearing to order at 9:02 a.m. and provided introductory remarks.

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

Joyce Gavan, Clerk, advised of the appeal by Cameron L'Heureux relating to the refusal by the development authority of Development Permit Application D20-243 relating to a leave as sited dwelling 42.0 m<sup>2</sup> (450 ft.<sup>2</sup>) - converted industrial trailer located at Lot 6, Block 1, Plan 1822227, Pt. SE 14-48-28-W4.

The reasons for appeal are as follows:

1. This is my place of residence; without it I don't have a home.
2. I have received permits for power and had the inside inspected by the electrical inspector and building inspector.
3. On my recent tax assessment I am being taxed on the dwelling.
4. I have contacted the Municipal Affairs Residential Protection Program (MA RPP) and have been given an exemption from New Home Warranty and requiring a builders license.



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

- 1) Notice of ISDAB hearing package dated June 23, 2021
- 2) Notice of appeal received by Cameron L'Heureux on June 22, 2021 (including reasons)
- 3) Notice of decision (refusal) by Development Authority including site plan dated June 7, 2021
- 4) Development Permit Application D20-243 by Cameron L'Heureux
- 5) Key Plan
- 6) Development Authority's report:
  - i) GIS imagery
  - ii) Jan. 26, 2021 letter from the County to applicant - requesting additional information
  - iii) Excerpt from LUB - Wizard Lake West District
  - iv) Site inspection photos

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

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

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

Chair McDonald called upon the Development Authority to provide background information.

Supervisor of Development Services Colin Richards provided a PowerPoint presentation relating to Development Permit D20-243, highlighting the following:

- The appeal property is located off of Range Road 281, approximately 0.7 km north of Township Road 482 and 0.8 km west of the western shore of Wizard Lake.
- The parcel is a 40 acre (16.2 hectare) piece of land that is mostly tree covered with forest and is undeveloped with the exception of the existing, unpermitted building that is the subject of this appeal.
- There are no historical planning permits associated to the subject property.

#### One Individual

One individual entered the council chamber at 9:07 a.m.

- The application before you proposed to leave as sited, a 42.0 m<sup>2</sup> (450 ft.<sup>2</sup>) dwelling made from a converted 'Part 10' industrial trailer that had already commenced construction at the time of the application.
- An application was submitted in December 2020, and at that time, staff advised the applicant that additional details such as floorplans and interior layout design were required to deem the application complete. As the proposed building was proposed to be classified as a manufactured home, proof of the building's C.S.A. certification was also required before the County could consider support of the application.
- By the end of January of this year, the required information had still not been received and staff advised that the application would be deemed incomplete and refused if the outstanding information was not provided by February 26. During this period, the landowner had advised the County that staff were not permitted to enter his property to undertake any inspections.
- As the outstanding information was not received, the application was placed through the decision making process in order to allow for a formal decision to be issued based on the information available.
- On June 7, the refusal was issued for the reason that the dwelling type proposed, which the County deems to be a dwelling made from a Part 10 relocatable industrial trailer, is not a permitted or discretionary dwelling type in this district. Under the regulations of the Land Use Bylaw, a building that is neither permitted nor discretionary must be refused.
- In response to the referral of the application, the Safety Codes department noted that building permits will be required, however, the point was stressed that the type of development being proposed is a converted 'Part 10 Relocatable Industrial Accommodation' and not a residential dwelling.
- What this essentially means is that if the building were to be considered a residential dwelling, it would need to be engineered by a professional and certified documentation to that effect supporting an application for building permits would be required. Safety Codes advised that to achieve this would not be impossible but would be a very expensive process.
- The appellant has appealed the refusal for four (4) reasons outlined within the grounds of appeal.
  - (1) *This is my place of residence without it I don't have a home.* The Development Authority can confirm that this parcel is suitable for a residential dwelling, and that the Land Use Bylaw fully supports residential use here in a dwelling type that is considered within the Wizard Lake West District. The issue we have with the building on the property, is that it is technically not a dwelling, and is a converted industrial trailer, which doesn't fit any of the allowable dwelling type descriptions of the Land Use Bylaw.
  - (2) *I have received permits for power and had the inside inspected by the electrical inspector and building inspector.* Electrical permits for power have been issued for the property, however, these are not directly related to the proposed development and relate to bringing power to the property only. Receiving a permit for power at the site cannot be used as a reason to justify the approvals of any physical development on the property. Safety Codes also confirmed that no physical building inspections have occurred on the building that is subject to this appeal and no permits have been issued from their end.
  - (3) *On my recent tax assessment I am being taxed on the dwelling.* Tax assessment is based on what is observed by the County's tax assessors during their property

inspections. As a property was already existing at that time and was being used for residential purposes, this was reflected in the taxation status of the property. The tax status of a property has no bearing on the legality of the buildings that may exist at the time of inspection and does not remove the requirement to obtain appropriate permits for development.

- (4) *I have contacted the MA RPP and have been given an exemption from, New Home Warranty, and requiring a builders license.* Any exemption issued by the province concerning the New Home Buyer Protection Act, is distinct and separate from the requirement to obtain municipal development and building permits. Safety Codes confirmed that the letter issued by Alberta Municipal Affairs on May 21, which is included in the appeal package, does not have any bearing on the decision to refuse this application, nor does it mean the building must be considered a dwelling type that can be supported on the property.
- In addition, Safety Codes provided the following information to explain their position in relation to this application:
  - Staff became aware of this development when Electrical Safety Codes Officer was on-site performing an inspection for an electrical permit for a pole service.
  - Electrical Inspector found a “skid shack” under construction with no permits and then notified a Building Inspector and Development Services.
  - The Electrical Inspector along with Building Inspector returned to the site and advised Mr. L’Heureux in person that Development and Safety Codes permits are required prior to commencing this work. These were not formal inspections.
  - Despite not obtaining permits, it is understood that Mr. L’Heureux continued work on the Industrial Trailer from late 2020 to now including siting on blocks, renovating interior, constructing an addition, wiring, installing a private sewage system and occupying the unpermitted structure without permission which is contrary to the Building Code and the County’s Safety Codes Bylaw.
  - The full extent of the work is currently unknown due to the lack of information and permits from the owner.
  - Development and Safety Codes staff scheduled times with Mr. L’Heureux to come to the office to provide information and apply for permits but he did not keep the appointments.
  - When Mr. L’Heureux did come to the office to apply for Development, he was adamant he didn’t need Safety Codes permits because the structure is on skids. He also advised staff he did not want staff “trespassing” on his property again.
  - To date, no applications have been received for Safety Codes permits except the original electrical pole service permit.
  - Because the structure was designed and approved as a Relocatable Industrial Accommodation and never intended to be used as a “dwelling”, and then renovated and changed to an unknown extent, it does not meet the requirements of Safety Codes Act as a single family dwelling.
  - Because the work was done and covered without permits and inspections, the owner would need to retain the services of a professional engineer to review the construction

and confirm in writing what changes are necessary for compliance in order to obtain a building permit, or all of the work would have to be uncovered to allow for inspection.

- The New Home Warranty exemption Mr. L'Heureux refers to in his letter exempts him from requiring a New Home Warranty not from complying with the Safety Codes Act.
- Mr. L'Heureux's deliberate failure to comply with the Land Use Bylaw, Safety Codes Bylaw and provincial legislation has caused this unfortunate situation.
- This appeal is to leave as sited an existing building intended for residential purposes that was constructed from a converted industrial trailer and was built without any required permits in place.
- A dwelling constructed from a converted industrial accommodation trailer does not fall under any of the allowable dwelling types that can be considered in the Wizard Lake West District. The allowable types include a dwelling, detached; dwelling, moved in; manufactured home; secondary suite and guest house.
- In accordance with the Land Use Bylaw, the Development Authority is duty bound to refuse the application as it was neither a permitted or discretionary building type being considered and as no requested information was submitted by the applicant by way of engineered designs to confirm that the building has been, or can be, engineered to be a supportable dwelling type, the Development Authority must consider the building to be what is constructed and intended for, which is a relocatable industrial accommodation, designed for temporary accommodations of a workforce.
- Based on this, the Development Authority considers the reasons for refusal within the Notice of Decision remain valid and that the decision should be upheld.

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

In response to questions by Board members, Colin Richards advised of the following:

- The appellant did not keep appointments with staff.
- Safety Codes was on-site to perform an inspection for an electrical permit specific to pole service only.

Chair McDonald called upon the appellant/applicant Cameron L'Heureux to speak to the proposed development.

Cameron L'Heureux provided the following:

- 1) Electrical inspector visited the site and entered the dwelling while it was still under construction.
- 2) The building inspector also came at the same time and asked for drawings for the trusses.
- 3) I was not notified of any appointments. Never even made an appointment. Just came in on own time.
- 4) When applying for a development permit, was told that a building permit was also required. If development permit was going to be denied, didn't want to spend \$1400 applying for a building permit.

- 5) Requested that Leduc County not trespass on land as I wanted to be there when they come. Someone came and took photos after I asked them not to trespass.

In response to questions by Board members, Mr. L'Heureux advised of the following:

- Do not have any engineered drawings for the existing building.
- Can probably find specs for make and model of building.
- Electrical inspector inspected new wiring and provided a deficiency list which needed to be rectified prior to a meter being installed.
- Industrial buildings such as this are built to higher standards than houses. Have made some modifications to the original building, e.g., plumbing, etc.
- Through meetings with the County, understood that engineered drawings were not the only way to go; can also be inspected by County inspector and approved.
- Once all modifications are complete, this building will be like any other modular home.

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

In response to questions by Board members, Colin Richards advised of the following:

- The only completed inspection on this site is for the power to the pole.
- Even if the building had not been modified, it is still classified as a temporary or relocatable accommodation which is neither permitted nor discretionary under the Land Use Bylaw and must be refused.

Chair McDonald called upon anyone in attendance to speak in support of the appeal (in favour of the proposed development).

- 1) Gord L'Heureux, father of appellant and lives adjacent to subject land at 48224 Range Road 281, spoke in support of the appeal for the following reasons:
- Do not think County can come on property whenever they want; they have come in multiple times.
  - Cameron lives in Didsbury for five days per week. He eventually wants to build a permanent dwelling on the property.
  - The current building was manufactured by Gemco. This building is on a movable skid.

#### One Individual

One individual entered the council chamber at 9:32 a.m.

- 2) Joel Miller, spoke in support of the appeal for the following reasons:
- Have a plumbing company and have done a lot of work on mobile homes.
  - Lived in a modular home until I built my own permanent dwelling. I only had blueprint drawings; didn't have to provide engineered drawings.
  - Don't see where the code problems are.



- Seems to be a lack of communication. Is there not a cheaper way to do this without engineered drawings.
- There have been other older mobile homes that were approved.
- This one is probably better than the mobile home I had.
- I am able to inspect mechanical but not electrical.

Chair McDonald called upon anyone in attendance to speak against the appeal (in favour of the refusal by the development authority); and there was no one.

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 administrative staff to provide final comments.

Colin Richards provided the following closing comments:

- The existing building is technically not a dwelling. It is a converted industrial trailer.
- A development permit can be obtained prior to applying for a building permit.
- The existing building is not constructed to be a permanent dwelling.
- Until Safety Codes receives all the information they require, such as engineered drawings and certified documentation to support the application, the Development Authority must refuse the application.
- The existing building cannot physically be left as currently sited.
- Even though the appellant does not currently live there full-time, it does not change the requirements of the development permit.

Chair McDonald then called upon Cameron L'Heureux to make final comments.

Mr. L'Heureux provided the following closing comments:

- Hope to rectify issue.
- Plan on building permanent home in the future.
- Want to maintain upkeep on property right now. Have put a lot of work into it.
- Want to ensure dwelling is safe to live in.
- Want to quit all these meetings.
- Willing to meet with Safety Codes and eventually get building permit.
- Just don't want to pay \$1400 for building permit and then the development permit gets denied.

In response to a question from a Board Member, Colin Richards indicated that Safety Codes only does inspections, and do not certify drawings.

Chair McDonald asked if there were any further comments from anyone in attendance.





Dave Bootsman, lives across the road from the appellant at 48225 Range Road 281, provided the following information:

- Was in a similar situation at one time. Brought in a job trailer and built on an addition. The County came and did an inspection and approved it.
- Resided there for 2½ years while I built my permanent dwelling. I had no engineered drawings on the temporary building.
- Had permits in place for new dwelling.

Chair McDonald asked appellant Cameron L'Heureux if he felt he received a fair hearing, and Mr. L'Heureux responded affirmatively.

### **Conclusion of Public Hearing**

Chair McDonald declared the hearing concluded at 9:44 a.m.

### **In-Camera**

**38-21** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 9:46 a.m.

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

**39-21** Board Member Wanchuk -- 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 Cameron L'Heureux - refusal by the development authority of Development Permit Application D20-243 relating to a leave as sited dwelling - converted industrial trailer located at Lot 6, Block 1, Plan 1822227, Pt. SE 14-48-28-W4.**

**40-21** Board Member Giles -- that the Intermunicipal Subdivision and Development Appeal Board deny the appeal by Cameron L'Heureux and upholds the refusal by the Development Authority to leave as sited dwelling - converted industrial trailer located at Lot 6, Block 1, Plan 1822227, Pt. SE 14-48-28-W4.

### **Findings of Fact**

1. The subject property is districted Wizard Lake West (WLW) in accordance with the Leduc County Land Use Bylaw No. 7-08. In accordance with the Sections 9.29.2 and 9.29.3 of the Wizard Lake West District, the following dwelling types are considered permitted or discretionary uses:

Permitted Use: Dwelling, Detached

Discretionary Use: Dwelling, Moved In; Dwelling, Manufactured Home; Dwelling, Secondary and Guest House

2. The subject of the appeal is to leave as sited a 42.0 m<sup>2</sup> (450 ft.<sup>2</sup>) dwelling of a converted Part 10 industrial trailer that is under construction. The development authority requested to the appellant/applicant on January 26, 2021 further information be required by no later than February 26, 2021. The appellant did not submit any further information to comply with the request.
3. In accordance with Section 7.9.1 a dwelling, manufactured home shall have C.S.A. certification, or an equivalent to the satisfaction of the development authority, to be submitted with the development permit application. The appellant did not meet this requirement.
4. In accordance with Section 3.4.5(d) of the Leduc County Land Use Bylaw No. 7-08, the Board considers the proposed development neither a permitted use nor a discretionary use and accordingly shall refuse the application.
5. The appellant submitted a copy of letter dated May 21, 2021 from Alberta Municipal Affairs, Residential Protection Program - this letter exempts the appellant from requiring a new home warranty only vs. compliance with the Safety Codes requirements.
6. The appellant also indicated an email was exchanged between Leduc County Safety Codes approving the power to be brought in - however the Board did not have any evidence of that email.
7. Power has been installed to the property, however there have been no permits issued by the Safety Codes department in relation to the proposed development.
8. The appellant does not allow trespassing on his land and wanted to be present when County staff attended.

The Board considered the following legislation in making their decision:

Land Use Bylaw No. 7-08:

Sections 9.29.2 and 9.29.3 Wizard Lake West District - dwelling types:

Permitted Use: Dwelling, Detached

Discretionary Use: Dwelling, Moved In; Dwelling, Manufactured Home; Dwelling, Secondary and Guest House

*The Board did not receive any evidence that the proposed dwelling type meets required proof of the building's C.S.A. certification, including floor plans or interior photographs. Further, to meet the requirements of a residential dwelling engineered drawings are required.*

3.4.5 The Development Authority shall consider an application for development and:

- (a) shall approve it, with or without conditions, if it is a permitted use and it complies with the Bylaw, or
- (b) may approve it, with or without conditions, or refuse it if it is a discretionary use and it complies with the Bylaw; and
- (c) may refuse it even if it is a permitted use or discretionary use, if it does not comply with the Bylaw; and
- (d) shall refuse it if it is neither a permitted use nor a discretionary use.

*The Board considered the proposed building could not be considered a permitted or discretionary use as the building is a “converted industrial trailer” as opposed to a “dwelling”, as presented by the Development Authority.*

Reasons for refusal

In consideration of the above the Intermunicipal Subdivision and Development Appeal Board refuses Development Permit Application D20-243, as the proposed development is not in conformance with the Leduc County Land Use Bylaw 7-08, specifically:

1. The proposed dwelling type is neither a permitted nor discretionary use under Section 9.27.2 and 9.27.3, respectively of the Wizard Lake Central District (WLC).
2. In accordance with Section 3.4.5(d), the Development Authority shall consider an application for development and shall refuse it if it is neither a permitted use nor a discretionary use.
3. In accordance with Part Eleven - definitions of the Leduc County Land Use Bylaw 7-08, *shall* is defined as an operative word that means the action is obligatory.
4. The appellant has until September 30, 2021 to come into compliance to the satisfaction of the Development Authority.
5. Any unapproved development on the property effective October 1, 2021 shall be removed and the site returned to a pre-development state, to the satisfaction of the Development Authority. Failure to adhere to this requirement shall result in enforcement action being pursued by the County.

Carried

Adjournment

**41-21** 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