

AGENDA

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD (ISDAB)

COUNCIL CHAMBER, LEDUC COUNTY CENTRE, NISKU

Wednesday, August 31, 2022

1. Order and Roll Call – 1:00 p.m.
2. Agenda Adoption
3. Adoption of Previous Minutes
 - * August 19, 2022 Intermunicipal Subdivision and Development Appeal Board Meeting
4. Subdivision and Development Appeal Hearing SDAB 03-2022
 - * a) 1:00 p.m. - Request for adjournment (2nd request)

Appellant's name	Akram Attia Law Group
Applicant/Landowner name	Garry Dimmock
Leduc County Municipal Roll #	6600001
Legal description of subject property	Lot 2, Block B, Plan 8022802
Municipal address	5024 Centre Ave - New Sarepta
Nature of Stop Order	Unauthorized Development - Outdoor Storage, Automotive Repair and Welding
Development permit application #	n/a

5. Next meeting date - Friday, September 16, 2022, commencing at 9:00 a.m.
6. Adjournment



Legend

* Items Attached To Agenda

** To be provided

MINUTES OF THE INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD MEETING, LEDUC COUNTY, HELD ON WEDNESDAY, AUGUST 31, 2022 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 1:01 p.m., Wednesday, August 31, 2022 by Chair Mary-Ann McDonald with Board Members Kelly-Lynn Lewis, Dalpreet Viridi and Pat Rudiger present.

Present as well were the following:

- Joyce Gavan, Clerk
- Miranda Anderson, Recording Secretary
- Ata Muhammad, Planner - Development Services
- Charlene Haverland, Manager - Development Services
- Kala Raymond, Planner - Development Services
- Garry Dimmock, Appellant
- Akram Attia, Attia Reeves Law Group, Appellant's Legal Counsel
- Jenette Leathem, Registered Speaker
- Darrell Leathem, Registered Speaker

Agenda Adoption

01-22 Board Member Viridi -- that the agenda for the August 31, 2022 Intermunicipal Subdivision and Development Appeal Board meeting be accepted as circulated.

Carried

Adoption of Previous Minutes – August 19, 2022

02-22 Board Member Rudiger -- that the August 19, 2022 Intermunicipal Subdivision and Development Appeal Board minutes be confirmed as circulated.

Carried

Request for Adjournment - Appeal by Akram Attia Law Group on behalf of Garry Dimmock - Stop Order issued for unauthorized development of outdoor storage, automotive repair and welding located at Lot 2, Block B, Plan 8022802, 5024 Centre Avenue, New Sarepta

Chair McDonald indicated that there was a preliminary matter for the Board to consider the request for a second adjournment, and called upon the board clerk to introduce the request for adjournment.

Joyce Gavan, Clerk, advised of the appeal by Akram Attia Law Group, on behalf of Garry Dimmock, Applicant/Landowner, relating to a stop order issued by the Development Authority for unauthorized development of outdoor storage, automotive repair and welding located at Lot 2, Block B, Plan 8022802, 5024 Centre Avenue within New Sarepta.

On July 21, 2022, the Intermunicipal Subdivision and Development Appeal Board considered a request for adjournment received from Attia Law Group, advising that Mr. Attia was unavailable for the hearing but would be available August 31, 2022. The Board granted the request for adjournment until August 31, 2022, commencing at 1:00 p.m. with no further adjournments. On August 22, a second request for adjournment was received from Attia Law Group, advising that Mr. Attia had an in-custody matter in



Regina where his personal attendance was required. If the Board would grant the adjournment, he would be available on September 8, 2022.

Chair McDonald called upon the Applicant to speak to the adjournment request.

Akram Attia, Applicant, provided the following remarks:

- He had requested the second adjournment as he had a criminal matter to attend to in Regina where his personal attendance was required. The matter concluded early, so he drove home late the previous night.
- He is present and is no longer seeking adjournment.
- Mr. Attia requested to abandon the adjournment request.

03-22 Board Member Rudiger -- that the Intermunicipal Subdivision and Development Appeal Board dismiss the second request for adjournment by Akram Attia, Attia Reeves Law Group for the following reasons:

- 1) Both the appellant, Mr. Akram, and the applicant, Garry Dimmock, attended and indicated they were prepared to proceed with the hearing.
- 2) The Development Authority also indicated their agreement to proceed with the hearing.

Carried

Appeal by Akram Attia Law Group on behalf of Garry Dimmock - Stop Order issued for unauthorized development of outdoor storage, automotive repair and welding located at Lot 2, Block B, Plan 8022802, 5024 Centre Avenue, New Sarepta.

Chair McDonald called upon the Clerk to introduce the subject of this appeal.

Joyce Gavan, Clerk, advised of the appeal by Akram Attia Law Group, on behalf of Garry Dimmock, relating to a stop order issued by the Development Authority for unauthorized development of outdoor storage, automotive repair and welding located at Lot 2, Block B, Plan 8022802, 5024 Centre Avenue within New Sarepta. This matter was adjourned to August 31, 2022 at the July 21, 2022 hearing.

The reasons for appeal are:

- 1) The subject property is not in contravention of Leduc County Land Use Bylaw 7-08.
- 2) The Stop Order does not state which sections if any of Bylaw 7-08 are being contravened.

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

- 1) Appeal received June 29, 2022 from Akram Attia on behalf of Garry Dimmock.
- 2) Notice of adjourned Intermunicipal Subdivision and Development Appeal Board hearing dated July 25, 2022.
- 3) Stop Order issued by the Development Authority on June 8, 2022.
- 4) Request for 2nd adjournment, dated August 22, 2022.
- 5) Development Authority's presentation and report, including:
 - a. Notice of ISDAB hearing

- i. Notice of Development Appeal
 - ii. Appellant's Grounds of Appeal
 - iii. Stop Order dated June 8, 2022
- b. Warning letter dated May 3, 2022
- c. C1 – Commercial District Regulations
- d. Leduc County GIS mapping
 - i. Site location map
 - ii. Site map
- e. Site visit photographs
 - i. August 6, 2021 photos
 - ii. April 27, 2022 photos
 - iii. June 7, 2022 photos
- f. Landowner email response – September 1, 2021

The Board confirmed they have jurisdiction to hear this appeal and that the appeal was submitted properly and is acceptable.

Chair McDonald stated the purpose of the hearing and provided introductory remarks.

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 anyone in the audience 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.

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

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

Charlene Haverland, Manager - Development Services, provided a presentation relating to the issuance of a Stop Order by the Development Authority on June 8, 2022. The presentation is included in the agenda package. Additionally, Ms. Haverland highlighted the following:

1. Planning and Development is bringing forth an appeal issued against the Development Authority for a Stop Order for an unauthorized development for outdoor storage and automotive repair and welding.
2. The lot is located in New Sarepta at 5024 Centre Avenue.
3. On June 28, 2022, the Stop Order issued under the authority of the Municipal Government Act and under the provisions of the Land Use Bylaw (7-08) for the following contraventions:
 - automotive repair and welding on property without the required development permits
 - outdoor storage of unregistered and derelict vehicles
 - scrap wood, metal, accumulation of tires, propane cylinders, barrels, shipping containers, generators, diesel tank



4. The stop order was issued in response to a non-compliance of a warning letter that was issued on May 3, 2022.
5. The subject property is located in New Sarepta and is zoned Commercial-1, which is Commercial District. The zoning carries forward from the New Sarepta Land Use Bylaw; when the County took over the Village of New Sarepta, the Land Use districts were adopted by Council.
6. The background, including complaint history, planning history, issuance of development permits between 1990 and 2006 and the issuance of Stop Order was presented, as included within the agenda package.
7. In accordance with the Land Use Bylaw, if a development use is not in activity for more than one year, the permit is no longer in effect and a new permit is required, which helps when lands change hands.
8. The site visit history includes the following:
 - August 6, 2021 – warehouse building onsite
 - April 27, 2022 – more outdoor storage present, fence, multiple tires, welder generator
 - June 7, 2022 – trailer present and additional storage. RV had been removed at that point in time
 - Aug 28, 2022 – still some outdoor storage, but subject lands had been substantially moving towards compliance
9. Ms. Haverland highlighted further history on the property:
 - August 5, 2021 – the County received the complaint from property owners undertaking drainage work and regarding construction waste, lots of outdoor storage, and work inside the warehouse.
 - Staff conducted a site visit in August 2021, as well as a Peace Officer who attended on August 13, 2021. The Peace Officer did not find the property to be unsightly, but felt it was more of a land use item to deal with through the Development Authority.
 - August 31, 2021 – County staff visited the property – as pictures in the agenda package show, there were several vehicles, and the warehouse was under restoration.
 - September 1, 2021 – County staff contacted the landowner via email for information on the scope of activities undertaken at the site.
 - September 24, 2021 – County received another complaint regarding the running of a generator onsite. With increase of noise in the area, County staff contacted the landowner again and advised him to keep the noise of the generator down. The Development Authority does recognize that it's a commercial site next to residential; however, does not have appropriate land uses approved for that site when it comes to development activity.
 - August 26, 2022 – the County received another complaint. Completed an inspection and found the unauthorized, more commercial operation – outside welding, fixing cars, trailers, welding, frequent traffic.



- April 27, 2022 – another site inspection – found same. Working with the landowner, operations didn't cease, so a warning letter was sent on May 3 to start the enforcement process, asking them to cease the automotive repair and welding activities and remove the outdoor storage. County staff spoke to the landowner and advised if the County was unable to see progress, a Stop Order would be issued
 - June 3, 2022 – with further inspection, changes had not been made and a stop order was issued, which is the subject of appeal today.
10. Section 645 of the Municipal Government Act (MGA) allows a stop order for any contravention on the land and the use of activity.
 11. The stop order was issued under Section 646 of the MGA, advising the landowner of what they need to do to bring the property into compliance.
 12. Their appeal was submitted under Section 685 of the MGA.
 13. Section 3.1 of the Land Use Bylaw (LUB) stipulates that any development or land use on a property requires a valid development permit unless exempt, which would only be in the case of agricultural use.
 14. Section 4.1 LUB states that the County can use enforcement measures if needed due to non-compliance; Section 4.2 LUB came into play as the bylaw does stipulate stop orders can be issued for any development, land use or building that is thought to be in contravention of the bylaw.
 15. The district is Commercial-1 – automotive repair and welding is not listed as a permitted or discretionary use in this area; it is designed for higher-use commercial activity (even with a dwelling adjacent to it, it is still considered commercial land use). The Commercial-1 District, which carried over from the New Sarepta Land Use Bylaw, did allow residential dwellings in a Commercial District, which was how we ended up with a warehouse next to a residential dwelling.
 16. Ms. Haverland went onsite over the weekend and spoke with landowner. They discussed the contraventions that were still present on the land. Outdoor storage was still present. The fence and RV had been removed from site, no welding, a couple vehicles were on the property but she didn't find they were being restored outside on the site. There was one inside the building but there was no activity on the lands. She felt there was certainly progress made on this subject parcel.
 17. The original recommendation to the Board was to uphold the stop order in its entirety and enforce it; the stop order did ask that the lands be brought into compliance by June 8. She brings forth today that the Board should still uphold the stop order, but Development is amenable if the Board wishes to provide additional time to December 31, 2022. This would allow the landowner time to bring the lands into compliance, as it is felt they are working towards it. It could also allow the landowner time to apply for a development permit, which would involve no automotive repair and welding. It could possibly be a commercial retail business, given that there's a warehouse and they are looking at making it into a hardware store.



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

In response to a question from a Board member, Ms. Haverland there was an eight-month time gap from the first complaint to the warning letter, as the County did not receive any complaints until then. The complaints are on file, so if there's a gap in timing it indicates there wasn't a complaint.

In response to a question from a Board member, Ata Muhammad, Planner – Development Services, advised that when the complaint came in, it was not clear what was initially going on, on the site. Planning and Development advised Bylaw Enforcement Services to monitor the site. During that time, some site visits were conducted. When receiving a complaint, Planning and Development takes time to investigate and does not want to jump to conclusions.

Chair McDonald called upon the Appellant to speak to the appeal of the Stop Order issued on June 8, 2022.

Garry Dimmock, Appellant, provided the following:

- Feels that there are many faults with this. With regard to the background that was discussed in the Development Authority presentation, the first site visit of August 6 was strictly about shingles and roofing that he was doing on the building. He had cleaned out along the side of the building where there was already a waterway to make sure that the shingles that did come off the roof could be cleaned up, and to make sure there were no nails and debris.
- Regarding the first complaint of August 5, it was highlighted that outside storage was an issue, but at the time the complaint was about working outside and dumping things.
- The second complaint was about generator noise. The generator ran from 3:00 p.m. – 8:00 p.m. and there was a complaint about it. He shut it down and ran it from 9:00 a.m. - 6:00 p.m. from that point onwards. He only used it when he really needed it and tried not to use it much. The building didn't have power until December, so propane was required for heat to do the work inside of the building.
- On September 24, there was a complaint about noise and about the temporary construction fence. The fence was erected before school started on September 4 to keep children off the site, as it was considered a construction site with the roofing coming off.
- There was no complaint about outside storage at the time as there was no outside storage at that time.
- There was no warning prior to the stop order that was issued on May 3. It was received via mail and demanded that he cease all operations and included accusations of mechanical work and welding onsite. He did do some welding to attach the generator that was the subject of the complaint to a plate mounted on his trailer to get it off the property.

Akram Attia, Appellant's Legal Counsel, provided the following:

- There was no commercial welding or business being conducted on the property. The repairs being done were on Mr. Dimmock's private automobile inside of the warehouse.
- Mr. Dimmock has been trying to comply throughout the history of this.



- Generator noise can be irritating, but in accordance with the law, running a generator for construction purposes is allowed.
- The building was built in 1914, and as you can see from photographs, the state of disrepair that it was in when Mr. Dimmock purchased it. It clearly needed work and he was doing nothing more than getting it into a safe structure, and doing it in a very nice fashion.
- The entire neighbourhood has been very supportive, as Mr. Dimmock has done everything to get the building up to code and properly within the statute requirements. He acquired permits for a wood burning stove, gas and electrical.
- Everything is moving forward as quickly as possible. At times, things needed to be stored outside, and that was temporary.
- Now the only things on the property are his own vehicles that are registered and insured.
- The one issue is the sea can; as a respectful submission it should be allowed to stay while the construction is being completed for storage, safety and prevention of theft/vandalism. Lots of equipment is being used, including a mill for the hand-milled wood, as he is attempting to complete a historical restoration that will enhance the community.

Chair McDonald asked if there were any questions by the Board members of Garry Dimmock, Appellant.

In response to questions from Board members, Mr. Dimmock advised of the following:

- The intention for the property is to have a hardware store with small rentals.
- There is a sea can on the property for storage as there is no outside storage, and to prevent theft.
- On the paperwork that is submitted, there is a diagram on the back that shows he will potentially request more sea cans.
- The vehicles and restoration are my passion and are my own vehicles. The storage of two vehicles in that building is because he restored the roof to keep them safe from the elements. Are not intending to do any autobody work there.

In response to a question from a Board member regarding permits, Ms. Haverland advised of the following:

- There is no development permit issued with respect to the work that's happening on this site. The permits required with respect to building are safety codes permits, which are separate from development permits.
- The permits required for the restoration include building, gas and electrical permits, which he has. These permits have to do with wiring and the wood stove and are completely different from land use.
- For the land use, there is no permit that can be given to someone to approve a building restoration. He would need to apply for a specific land use, which is why the Development Authority is proceeding with him with the commercial retail store land use, which would then allow him to do the work to make it into a commercial retail store. That could pertain to work on the building bringing it up to safety code standards of retail; if he has plans for a sea can, he can apply for that at the same time as the permits.
- Outdoor storage is allowed with Commercial Retail, he would just have to apply for that appropriate land use to be able to do the work that he's doing.
- Keep in mind there will be no welding or autobody repair.

- A hardware store is a permitted use that would fall under “commercial retail store.” For commercial retail land use in the Commercial-1 district, the definition does allow for the rental part and outdoor storage. The only provision is no heavy equipment.

Ata Muhammad, Planner - Development Services, added the following additional comments:

- In the agenda package, there is a photo that was taken on June 16, 2022 that shows a car, which gave the impression of restoration work happening on the property.
- While he feels there is nothing wrong with a hobby, he requested through the Chair to question the appellant as to the number of vehicles he has to personally restore. Outdoor storage and autobody repair was a significant portion of the concern. There is no issue with commercial retail for the hardware store, but as far as fixing cars inside, that is not allowed in the commercial district.

Akram Attia, Appellant’s Legal Counsel, provided the following response to Mr. Muhammad’s question:

- There was no work being done on the vehicle; the vehicle was just being stored there, and it is not his intention to restore vehicles there.

In response to a question from a Board member, Mr. Dimmock advised of the following:

- New power was just put in: new power poles, 3 phase power and a power box. There is no gas to the building yet.
- The generator was necessary to enable what needed to be done with the restoration. I offered to pay the neighbours’ power bill for 2 months to cut down on noise but my offer was refused.

In response to questions from a Board members, Ms. Haverland advised of the following:

- The Development Authority would like to see the Stop Order remain in place, however would be amenable if the Board deems to provide extra time to December 31, 2022 to allow time for the appellant to apply for the needed development permit and go through the process to get the commercial retail store use.
- Once the appellant gets the permit, the Stop Order can be removed.
- This arrangement provides security to the County that the Stop Order is still in place, but allows the property owner time to get permits.
- The Development Authority feels the appellant is moving in the direction of compliance.
- Before any restoration/renovation begins, a permit is required. Safety codes won’t issue a building permit until a development permit is issued. While they have issued some permits, they are waiting for a development permit for Commercial Retail to be in place before proceeding further with a building permit; so it is in contravention right now.

Ata Muhammad, Planner - Development Services, added the following additional comments:

- The building is old and was built in 1914. It was abandoned for quite some time. Previous permits are mentioned because the use should be continuous; if the use lapses, so do the permits.
- As for the electrical permit, the appellant is right – they first used a generator and later applied for an electrical permit.
- Maybe they now have a building permit for the structure; from a planning perspective, the Development Authority is interested in the use of the lands.

- If they are going for a Commercial Retail land use, such as an equipment rental business, the outdoor storage should be related to the business.

Akram Attia, Appellant's Legal Counsel, asked if items such as a rototiller and lawnmower, to upkeep the property, are they then not allowed to be stored there?

In response to Mr. Attia's question, Ms. Haverland advised items related to the upkeep of the property are allowed to be stored on the property and are considered to be associated with the business.

Chair McDonald called upon a registered speaker to speak to the appeal of the Stop Order issued on June 8, 2022.

Jenette Leathem, next door neighbour, provided the following remarks:

- I am Jenette Leathern and I live at 5020 Centre Ave., New Sarepta. I am here to voice my concerns on behalf of my family.
- We have lived on Centre Ave. for 24 years. This is the place we raised our daughter, this is the place we have made our home. Our understanding is that the property in question is zoned as a Commercial C1/Retail and we happen to live right next door.
- These two properties were once one. This means that the family that lived in our home once controlled the business next door. They had control of what and when things happened. This was a different time and with different equipment. This is of great importance. We on the other hand do not, since these properties were subdivided.
- The community has changed with the times, and usage and placement of these old building that were once used for these types of businesses may no longer be acceptable. For example, in 2006, a permit was approved by the Village, not County, for a small fabrication shop, taking into account a previous usage of that building. It did not open due to finding out the building and property were not suitable for the work being done. These are the things taken into consideration when the County did updating of zoning and bylaws. It is a unique property and has great potential, and we would love to see the right business that follows those zoning and bylaws in it.
- What I would like bring to your attention is that our building and theirs are 30 ft. apart, with said building being at an angle that has two overhead doors facing our house. This gives it a speaker effect. That means anything being done in front of said building or between said properties is heard directly in our home in fact amplified like a speaker. Certain sounds that are already loud and high pitched are amplified even more and living with those noises has come to be unbearable.
- We have a special needs daughter that has sensitivity to certain sounds; I have a husband that is doing chemo treatment every two weeks. The home that was a safe place to raise our daughter and place for my husband to come home to heal has become a place that causes more harm than healing. My daughter gets headaches from the noise and fumes, then throws up from the headaches. My husband that was on a clinical trial for seven years and was stable has now been placed back on chemo after the cancer has grown. How can someone doing chemo come home to the fumes and listen to all the noise and relax and even begin to heal? Yes this is my family's situation, and yes it is unique to us, but no one should ever have to deal with this.
- Since the last sale of this property just over a year ago, the work that has been done on this property has been nothing but light industrial and industrial work, which goes against the zoning.



- Right from the beginning of the new owner taking possession, we have seen and heard nothing but heavy equipment being used. Things being moved in even after hours, to welding and grinding and metal manufacturing, air socket wrenches and other high power tools, to many vehicles being worked on, to camper vans, and even a big touring boat being revved and being started over and over again. All classified as industrial work, all hours of the day, well into the night.
- We have had to listen to bobcats clearing dirt, and have witnessed that dirt being moved onto County property. The bobcat has also been used on multiple occasions to assemble trailers and other things they have built.
- We have had to listen to and have witnessed the digging of drainage ditches with a big backhoe, which also happens to be dug on County property and not the said property.
- The reason we have concern with the ditches other than the noise is due to previous flooding problems we have had, that the County has worked with us to try to solve.
- We have also had to listen to diesel trucks coming and going multiple times a day or evening, and being left running for hours at a time, all hours of the day and night, making it hard to get a decent night's sleep.
- We have listened to a commercial diesel generator that ran for, at times, up to eight hours per day, and smaller generators that ran all night.
- We understand some of this may have been for work on the building, but the lack of concern for the neighboring properties is the problem. On top of all the noise, the fumes that have been generated from all the diesel, gas vehicles, and welding and grinding have been horrible.
- I have been told everything from, "have you talked to them?" "Wear earplugs," and even to sell and move. We have had to batten up the hatches on the warmest of days like prisoners in our own home. We have tried talking and got nowhere with that. Who would like to wear earplugs in their own home all day? Even if we decided to sell, who would want to buy our property? Families with young kids would have problems; businesses that would work in a home building like ours would still have to deal with the sound and fumes and try to conduct their work over it. It does not make a difference to who is in our home, the sound and safety concerns will still be there.
- This brings us to the storage. The sea can that was hauled in one night, to the multiple trailers moved in and left for months at a time, filled with old wood and tires and even garbage, to the point where there has been so much that there has been no room on said property. Trailers and trucks have been parked on County property, leaving the property very unsightly most of the time. Most of this has been done in the later hours of the day, making the timing of the work being done at and the lack of concern for the surrounding properties of great importance.
- This has also continued throughout the Stop Order, until Saturday, August 27th, when trailers were removed and others things moved around.
- As of now, we have a tarped pile of unknown stuff and about 30 tires and other things still stockpiled around and on top of the sea can, with multiple rototillers and snow blowers and other small equipment stored on rubber mats against the property line and fence, and vehicles still being stored.
- It is great to see the place being cleaned up some, sad that it took this hearing to do so, but how long will it last, what will stop him from hauling more in after this hearing?
- Tarping the stockpile and taking it out of physical sight does not take away the safety concerns of what is being stored. We also have concerns with the heavy mats he is using as weed control under the equipment. They are rubber and do not let water through, so all they

do is divert it and it happens to be right against the property line which brings us back to our flooding concerns.

- This then brings us to the concern of property value. For 24 years, we have put everything we have into this home. It has not been much, but it made this a home to raise our daughter in. I have had great pride in our property and taking care of it. Being on the main street by the market makes it is very much in the eye of the community, and even visitors to our community would likely see it. I want our hamlet to be known as a quiet, clean, beautiful community, and I believe that what the individual properties look like makes a big difference in that. When buying a house, people just don't look at the property, they are interested in the street and the community. This is a big decision for anyone, and there are so many factors that can increase or decrease the value of a home - one of the biggest is the neighboring properties. They will take in consideration of the noise level and smells, and in this day and age, no one wants to buy a home next to a property that looks like salvage yard. You can lose 5 -10 % of your house value just from an unkempt yard let alone a property that goes against zoning.
- Why should we be forced to sell? Really at this point in time, would we be able to? We moved to New Sarepta 24 years ago because it was a place we wanted to raise a family and we could afford to do so. With my husband's condition and only me working, would we ever be able to afford to live anywhere else, and we would not want to leave the community my family and I have called home for so many years.
- I believe there are other things to consider other than just us, the neighboring property. The property in question is also on the main street that gives access to the market and post office from a residential area. My concern with this is that all the work being done on the property like welding and grinding has been unprotected and considered to be hot work. There have been multiple times when a third party, not just the owner, has come and welded and grinded on tanks and multiple trailers. To start with, the fire hazards with this are not being controlled, and no safety protocols are in place. This is of great concern.
- Secondly, anyone that is walking by said property has full view of that work. All it will take is a young child not knowing any better to stop and watch. It does not take much to get a welding flash, and I believe you can get one up to 7m away. Even if it is a pinpoint flash, to a child that is severe. Even if protective screens were put up, there is not enough space between our buildings and fence to do that type of work safely, taking into consideration the amount of things being stored on property at any one time.
- The fumes and noise are another factor to take in, with this also being one of our main thruways; it is not a place to have light and heavy industrial work being done.
- Everyone that comes to this community either to visit or looking into moving here sees this as the heart of our community, and with the property looking and being used like this one, being in this area next to our post office and market might be the wrong type of first impression.
- Leduc County must have taken all of this into account when the zoning was done, and we as individual property owners should not be able to pick and choose what bylaws and zoning can be and should be followed and by whom.
- It has been said that the work being done is just personal. What some may believe to be personal use, others believe not to be. I have been told by others that their friends have used him for auto repair, and it has been advertised verbally around town that is what he is offering. We have seen and heard the vehicles being hauled in on a flatbed on a Friday night, worked on all weekend, and picked up on a Sunday.
- Just because money has not crossed hands or money might be paid under the table does not make it personal work. There are many options for payment like products and favors. It also

does not matter if there are no mechanic licenses involved or if it is a small welder being used, the definition of mechanics does not change; mechanics is mechanics and same goes with welding. Just because you call it personal does not change that. If the mechanics and metal work is allowed to continue, who gets to choose when the work being done crosses that line? How many friends and family, and friends of friends vehicles or metal jobs can be done, and how many times a week before it is not classified as personal? If it is allowed to keep going, would that not just open the doors for any other property owner to do whatever they want and just classify it as personal work? Where does it stop?

- It has gotten to a point where my family has been attacked with threats and property damage has been done with a vehicle being driven through and a sludge• hammer taken to our fence due to the stop order being in place.
- I would not be standing here if the work being done next door was not so intrusive to our home and property and daily living. We just want to be able to live within the rights of the "law nuisance" and be able to enjoy our property inside and out without hindrance.
- The property in question is zoned as a Commercial C1 Retail building and should be used as such following the bylaws and zoning. There are many businesses that fall under that umbrella. It should not be allowed to be used as a front for a Mechanic/body shop, metal works or storage yard.
- I do have pictures and video sound bites of the work in question. I thank you for taking the time and letting me voice our concerns.

Chair McDonald asked if there were any questions by the Board members of Jenette Leathem.

In response to questions from Board members, Ms. Leathem advised of the following:

- The fumes can be smelled. A diesel generator ran for 8 hours. The appellant said it shut off at 6:00 p.m. but it did not. They had a blowup with the appellant about it, because at one time he started the generator and then left the property for 8 hours while it was running. At the time, he was told that my daughter gets headaches. He was angry because someone had complained about the trailer and he said he didn't like the County involved.
- There have been diesel trucks creating fumes. At one point, he started all 4 of his vehicles and revved them over and over again. Other fumes are from gas, the welding, and the grinding. There is only 30 feet between the properties.
- Since the appeal adjournment, this hasn't continued. He did one stint of working on a trailer but otherwise has been quiet for about a month. There is a video I have of him hammering on the trailer and sound bytes of how it echoed through their house.
- Locally, he is known as a repair place. The video is of him working on vehicles, pictures of welding and grinding and a third person welding and grinding, pictures of a bobcat moving things and putting them together. He has a small shack in the back and he had to do welding on it.
- This is not a one time thing. Vehicles are dropped off, worked on, and then taken. There are vehicles coming and going at all hours of the night. If it was just his vehicle, it wouldn't be a problem, but this is vehicles being hauled in. With the angle of the building, we can hear the work being done late at night and have witnessed it.
- This last month has been quiet. The last time he worked on something was on July 13, when he was working on one of the trailers.

In response to a question from a Board member, Ms. Haverland there is no noise bylaw in place, however, the one important thing which will be touched upon in summary is that a development permit will control the hours of the business, which will help control the noise that comes from a business.

In response to questions from Board members, Ms. Leathem advised of the following:

- The noises he is making every day are not commonly occurring noises, such as a lawnmower or a snow-blower operating. These are banging, welding, grinding, and revving over and over again. We have a solid house with no windows on one side, and we can still hear these noises so loudly it rattles our teeth, such as an air socket wrench. If it was normal daily noises like a lawnmower that would be different.
- Twenty-two years ago when we purchased our property, we realized it was next to a property that could one day become a commercial property. They have had other businesses in there, such as a wood workshop. People have lived in the building. There have been multiple businesses. The only one they didn't approve of was the fabrication shop, as there was a day home at the time, and we spoke against that as we didn't want welding happening right next door. However, the village went ahead with it knowing it was once a blacksmith shop, but later discovered that it wasn't appropriate due to the age of the building. The back end of that building has been hit by a backhoe. After that, it was a woodworking shop.
- The Village of New Sarepta approved a small fabrication shop for the property, but it was the building that wasn't suitable for that business.
- These noises have not been happening and are not happening now, but they were up until the Stop Order was in place. The appellant got the Stop Order and continued the work; it was only in July after he appealed that he stopped.

Chair McDonald noted there was no one else in attendance to speak to the subject appeal.

Chair McDonald called upon administrative staff to provide final comments.

Ms. Haverland provided the following final comments:

- There's no question that they are in non-compliance from August 5, 2021 to today. They are working through the different items on the property, and would agree there was outdoor storage and activity happening on the lands. With that said, we don't see that happening today, and that's what is before us today.
- There are two things that the Board can consider:
 - Upholding the stop order in its entirety and not amending the timeframe and requiring that all activity cease on those lands;
 - Secondly, the Board could choose to continue to uphold the stop order, but provide additional time to bring the land use into compliance and allow time to apply for a development permit
- The development permit does help bring lands into compliance. Having a development permit addresses items such as hours of operation, odour, noise, smell, fencing, drainage, lot grading, parking, and unloading.
- One important thing is that we recognize is that there is no automotive restoration work allowed on this site and the Development Authority would not issue a permit for this activity onsite.

- With respect to sea cans and commercial retail – requiring a development permit makes the most sense for this compliance issue, but it is up to board's discretion.

Chair McDonald asked Board members if they had any final questions of Administration, and there were none.

Chair McDonald called upon the Appellant to provide final comments.

Mr. Attia provided the following final comment:

- We agree with the County's recommendation that the Stop Order stay in place, but be extended to December 31, 2022. We are hopeful that the development permit and all work will be completed well in advance of that.

Chair McDonald asked if Board members had any final questions for the appellant.

In response to a question from the Chair, Mr. Dimmock advised that there has been no automotive restoration since they talked last fall; the only work done was the generator on the trailer.

Chair McDonald asked the Appellant Garry Dimmock if he felt he received a fair hearing, and he responded affirmative.

Conclusion of Public Hearing

Chair McDonald declared the hearing concluded at 2:10 p.m.

Recess

The hearing recessed at 2:11 p.m. and reconvened at 2:12 p.m. with the following people in attendance: Chair Mary-Ann McDonald and Board Members Kelly-Lynn Lewis, Pat Rudiger and Dalpreet Virdi.

Present as well were the following:

- Joyce Gavan, Clerk
- Miranda Anderson, Recording Secretary

In-Camera

04-22 Board Member Lewis -- that the Intermunicipal Subdivision and Development Appeal Board meet in-camera.

Carried

The in-camera session commenced at 2:13 p.m.

Revert to Intermunicipal Subdivision and Development Appeal Board Meeting

05-22 Board Member Lewis -- 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 2:22 p.m.

Appeal by Akram Attia Law Group on behalf of Garry Dimmock - Stop Order issued for unauthorized development of outdoor storage, automotive repair and welding located at Lot 2, Block B, Plan 8022802, 5024 Centre Avenue, New Sarepta

06-22 Board Member Rudiger -- That the Intermunicipal Subdivision and Development Appeal Board:

- 1) disallows the appeal by Akram Attia, on behalf of Garry Dimmock, to set aside the Stop Order dated June 8, 2022 and upholds the issuance of the Stop Order; and
- 2) allows the appeal by Garry Dimmock to the extent the Stop Order is amended as follows:
 - The landowner to apply for a development permit for the intended use.
 - Extend the time to December 31, 2022 for the removal of items from the lands.

Findings of Fact

1. The Board is satisfied that the Stop Order complies with the technical requirements of s. 645 of the *Municipal Government Act*, and was received by Garry Dimmock, appellant/landowner, on the day it was made, and further, the Stop Order stated the sections of the *Leduc County Land Use bylaw* being contravened; therefore was issued properly.
2. The applicant/landowner was provided a warning letter on May 3, 2022 by the development authority identifying the subject lands are in contravention of the Leduc County Land Use Bylaw 7-08 and that actions are to be taken to bring the lands into compliance and to immediately cease automotive repair and welding activities on the site. Notice was provided that should the stated measures within the stipulated time not be taken, a Stop Order would be issued.
3. The property is located within the Village of New Sarepta and zoned C1-Commercial District in accordance with the Leduc County Land Use Bylaw. The purpose of this district is to provide for the mixed-use development of retail and service outlets which offer a variety of goods and services and allow for existing residential developments or in combination with commercial development.
4. The Development Authority submitted:
 - Automotive and equipment body repair is not a listed use in the C1-Commercial District of the Leduc County Land Use Bylaw No. 7-08.
 - The existing use of the property does not carry a valid development permit.
 - Previous permits are no longer valid.
 - The site visit on August 28, 2022 found there was still some outdoor storage, however noted the lands were substantially being brought into compliance.
5. The appellant indicated agreement to extend the Stop Order and allow additional time for the clean up to bring lands into compliance.
6. The Board heard from the adjacent neighbour expressing concern with the property's use and concerns with noise, odours and the negative affect to their family.

The Board considered the following legislation in making their decision:

Municipal Government Act - Section 645 Stop Order

- (1) If a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
 - (b) a development permit or subdivision approval, the development authority may act under subsection (2).
- (2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to
- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
 - (b) demolish, remove or replace the development, or
 - (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval, within the time set out in the notice.
- (2.1) A notice referred to in subsection (2) must specify the date on which the order was made, must contain any other information required by the regulations and must be given or sent to the person or persons referred to in subsection (2) on the same day the decision is made.
- (3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

Section 646 Enforcement of Stop Order

- (1) If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.
- (2) A municipality may register a caveat under the *Land Titles Act* in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.
- (3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

Section 685 Grounds for Appeal

- (1) If a development authority
 - (c) issues an order under section 645, the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Leduc County Land Use Bylaw No. 7-08

3.1.1 Any use or development of lands, buildings or signs in the County requires a valid development permit unless it is specifically exempted from requiring a development permit by this bylaw or by federal or provincial legislation.

4.1 General Provisions

- 4.1.1 No person shall commence any development or take any action that is contrary to the provisions of the Bylaw or to any permit or order issued under it.
- 4.1.2 A Development Authority may enforce the provisions of the Bylaw, and any permit or order issued under it.
- 4.1.3 After serving reasonable notice, a designated officer may enter a property in order to verify that a contravention exists or that an action required under Section 4.2 of this Bylaw has been completed.

- 4.1.4 If a person fails to comply with an order issued under Section 4.2 of the bylaw, a designated officer may take whatever lawful action is necessary to ensure compliance.
- 4.2 Stop Orders
- 4.2.1 If a development, land use, or *building* is found to contravene provisions of this *Bylaw* or conditions of a permit or order issued under this *Bylaw*, a Development Authority may serve the *landowner*, occupant or other person responsible with an order to:
- (a) stop the *development* or the use of the land or *building* in whole or in part as directed by the notice;
 - (b) demolish, remove, or replace the *development*; or
 - (c) carry out any other action required by the notice to ensure compliance with this *Bylaw* or the conditions of a permit or order issued under this *Bylaw*.
- 4.2.2 An order issued under this section *shall* specify a date for completing the required action.
- 4.3 Enforcement of Stop Orders
- 4.3.1 The *County* may register a caveat against the Certificate of Title for land that is the subject of an order under Section 4.2 of this *Bylaw*. The caveat shall be discharged upon achieving compliance with the order.
- 4.3.2 Costs to the *County* resulting from enforcement actions taken to achieve compliance with an order under Section 4.2 of this *Bylaw* may be added to the tax roll of lands subject to the order.
- 4.4 Offences and Penalties
- 4.4.1 A person who contravenes or fails to comply with provisions of this *Bylaw* and any decision, condition or order made under it, or who obstructs or hinders any person in the administration or enforcement of this *Bylaw*, is guilty of an offence under the *Act*.
- 4.4.2 A person who is guilty of an offence under the *Act* is liable to a fine and/or imprisonment.

C1 - Commercial District

- 9.36 The purpose of this district is to provide for the mixed-use development of retail and service outlets which offer a variety of goods and services and allow for existing residential developments or in combination with commercial development.

Conclusion

In consideration of the above, the Board concludes that the subject lands do not comply with Leduc County Land Use Bylaw No. 7-08 and accordingly, the appellant/landowner is hereby ordered to **Stop** all unauthorized activities at the subject lands and comply with the Land Use Bylaw 7-08 by taking the following actions:

1. Immediately cease any automotive repair and restoration activities, including welding and sandblasting, whether it is conducted inside the accessory building or outside; this class of land use is not permitted within the C1 -Commercial district.
2. The landowner to apply for a development permit for the intended use.
3. Remove the following items from the lands on or before December 31, 2022:
 - all derelict and unregistered vehicles from the site;
 - all the scrap wood, scrap metal, several tires, propane cylinders and empty barrels; and
 - the shipping container, gas/diesel tank and generator.
4. Arrange a site inspection for County Planning staff once the outdoor storage is fully removed from the site within the stipulated time.

In the event that this Stop Order is not complied with within the time limit provided, Leduc County has the authority to enter onto the lands in accordance with Section 542 of the Municipal Government Act to take whatsoever actions are determined by Leduc County to bring the lands into compliance, and may seek an Injunction or other relief from the Court of Queen's Bench of Alberta pursuant to Section 554 of the Municipal Government Act. Further, Leduc County has the authority to add the costs and expenses to carry out this Stop Order to the tax roll for the lands pursuant to Section 553.1(1) of the Municipal Government Act.

Carried

Next Meeting

The next scheduled Intermunicipal Subdivision and Development Appeal Board meeting will be held on Friday, September 16, 2022 at 9:00 a.m.

Adjournment

07-22 Board Member Viridi -- that the Intermunicipal Subdivision and Development Appeal Board meeting be adjourned.

Carried

The Intermunicipal Subdivision and Development Appeal Board meeting concluded at 2:23 p.m.


Chair


Clerk