

**SUMMER VILLAGE OF NORGLLENWOLD
SUBDIVISION AND DEVELOPMENT APPEAL BOARD
OCTOBER 4, 2021
RECORD OF HEARING AND DECISION**

PRESENT

Chair:	Gordon (Toby) Lampard via Zoom
Member at Large:	Allan MacPherson via Zoom
CAO:	Tanner Evans via Zoom
Development Officer:	Kara Kashuba via Zoom
Recording Secretary:	Teri Musseau
Appellant:	Reg Radford via Zoom Ashley Brant via Zoom
Gallery:	Justin Fedun via Zoom Kelsey Becker Brooks via Zoom Dwayne Beck via Zoom Bryden Lutz via Zoom Robert McLeod via Zoom Darryl Innes via Zoom Cyril Gurevitch via Zoom Ed Ruether via Zoom Dianna Ruther via Zoom Ken Waunch via Zoom Janice Waunch via Zoom Lorne Therriault via Zoom Dale Russell via Zoom

CALL TO ORDER Chair Lampard called the hearing to order at 10:03 a.m.

PURPOSE OF HEARING The purpose of this hearing is to hear an appeal received from Reg Radford on September 7, 2021, appealing the Municipal Planning Commission's decision to deny a development permit for escarpment work at 205 Grand Avenue, Lot 13, Block 2, Plan 2203KS, in the Summer Village of Norglenwold.

APPEAL FILED AND NOTICE GIVEN Pursuant to Section 686(1) of the Municipal Government Act, the appeal was filed within the 21-day appeal period following the September 2, 2021, denial of the development permit. Section 686(2) of the Municipal Government Act requires that the appeal hearing be convened within 30 days of the receipt of notice of appeal. The appeal was received on September 7, 2021. The appeal hearing is being convened 27 days within receipt of the notice of appeal.

DEADLINE FOR DECISION Pursuant to Section 687(2) of the Municipal Government Act, the Subdivision and Development Appeal Board must give its decision in writing together with reasons for the decision within 15 days of concluding the hearing.

OBJECTIONS TO MEMBERS OF THE APPEAL BOARD The Members of the Subdivision and Development Appeal Board are appointed in accordance with the Subdivision and Development Appeal Board Bylaw #204-18.

Members of the Subdivision and Development Appeal Board were asked if they felt they should disqualify themselves from hearing the appeal before them and no one felt they needed to disqualify themselves.

Mr. Radford was asked if he had any objection to any of the members of the Subdivision and Development Appeal Board present hearing the case. He had no objection to any of the members hearing his case.

**DISCLOSURE
OF EVIDENCE
FINDING OF
FACTS**

The members of the Subdivision and Development Appeal Board were asked if they had sought, been given or reviewed any evidence prior to the hearing.

No members had any prior knowledge of the appeal prior to the hearing.

**APPEAL
LETTER READ**

Tanner Evans, CAO, read the appeal letter received from Mr. Radford on September 7, 2021, into record.

JURISDICTION

Tanner Evans, CAO, provided his report to the Board on duties and jurisdiction.

**RECESS FOR
JURISDICTION**

Chair Lampard called for a short recess while the board discussed jurisdiction at 10:38 a.m.

Chair Lampard reconvened the hearing at 10:44 a.m.

**DECISION OF
THE BOARD ON
JURISDICTION**

The Subdivision and Development Appeal Board determined it had jurisdiction to hear the appeal as a development permit was denied.

**HEARING
PROCEDURES**

Chair Lampard reviewed the procedures to be followed for the hearing.

BACKGROUND

Kara Kashuba, Development Officer, provided the Subdivision and Development Appeal Board with the background of the appeal.

Between May and July 2021, two development permit applications for the lands located at 205 Grand Ave were heard by the Municipal Planning Commission. In May, a development permit application was made for escarpment work, boathouse repairs and tree removal. The application was presented to the Municipal Planning Commission for the following reasons:

1. Mechanized Excavation, Stripping and Grading is listed as a discretionary use; therefore, the decision must come from the Municipal Planning Commission.
2. Land located below the top of bank/top of escarpment should be in a natural state, a variance is required.

The recommendation from administration in the first development application was to deny the development permit application as the boat house repairs proposed were significant and in administration's opinion was not considered routine maintenance of the building, and the proposed bank work did not appear to be necessary.

The Commission reviewed the application and decided the following:

Deny the discretionary use/variance application for the construction of the escarpment work, boathouse repairs and tree removal because the application is not compliant with the

Land Use Bylaw as below:

1. Regarding the boathouse, a non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt, or structurally altered except to make it a conforming building, and for routine maintenance of the building if the development authority considers it necessary. If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the Land Use Bylaw. The board considered the work to be more than routine maintenance and included structural alterations.
2. In the current Land Use Bylaw, an accessory building on a parcel abutting Sylvan Lake shall be situated so that it is not closer to the front parcel boundary and the top of any escarpment area or high-water mark than the front wall of the main building or 15m whichever is least.
3. The village strongly desires that the banks and shoreline remain as natural as possible to retain the natural ecosystems. It does not state in the geotechnical report that there are signs of erosion and that the work is necessary.

In July 2021, a new development permit application was made for a dwelling and escarpment work. The application was presented to the Municipal Planning Commission for the following reasons:

1. Mechanized Excavation, Stripping and Grading is listed as a discretionary use; therefore, the decision must come from the Municipal Planning Commission.
2. Land located below the top of bank/top of escarpment should be in a natural state, a variance is required.
3. The side yard setback to the dwelling of 1.0m (3.28ft.) does not meet the minimum 1.5m (4.92ft.), therefore requires a variance of 0.5m (1.64ft.).

The second application for the dwelling and escarpment work did not include boathouse repairs, and the proposed development on the bank was significantly different. The recommendation from administration was to approve the application. The side yard setback variance appeared to be minor, and they did not receive any complaints from neighboring properties until the actual Municipal Planning Commission hearing and were under the impression that the neighbors were in favor of the proposed development. The geotechnical report states in the assessment that the proposed reconfiguration of the slope grade will improve the overall stability of the slope by off-loading some of the driving force from the slope. The proposed regrading would increase the factor of safety of the slope global (entire slope) from a 1.1 to 1.9. A "long-term" stable score is considered to have a factor of safety greater than 1.3. The proposed landscaping plans on the escarpment were revised to include a much more natural area than the first application with no boathouse repairs and unnecessary work to occur.

**APPLICANT
PRESENTATION**

Mr. Radford, and his daughter Ashley Brant, presented their case to the Board explaining the reasons for the requested development.

They are requesting a 0.408m variance to the side yard setback. The relaxation would not cause any hinderance to sight lines, beautification issues or safety issues.

Bank work was requested and needed due to safety concerns over the steep slope and current unsafe stairs. The slope behind the boathouse has failed and a large hole is there which poses a safety risk should anyone fall into it. The work would improve the overall stability of the slope by off-loading some of the driving force from the slope. People have fallen and the ground is very slippery when wet.

Currently the bank is not in a natural state. The vegetation is currently dead or dying. The bank is eroding. The erosion is 3-4 feet up the bank and 6-8 feet deep. They have applied to Alberta Environment and Parks to request shoreline stabilization work be done. Materials and landscaping were discussed.

Supporting comments and explanations were provided by various contractors and legal counsel.

**IN FAVOUR OF
THE APPEAL**

Ed Ruether and Janice Waunch provided comments in support of the appeal.

No written submissions were received in support of the appeal.

**OPPOSED TO
THE APPEAL**

No written submissions were received, and no one spoke in opposition of the appeal.

**SUMMARY
FROM THE
APPELLANT**

Mr. Radford and Ashley Brant had nothing additional to offer as they felt everything had been covered previously.

**DEVELOPMENT
OFFICER
SUMMARY**

Kara Kashuba, Development Officer, had nothing additional to add.

**OPPORTUNITY
FOR A FAIR
HEARING**

Mr. Radford was asked if he felt he had an opportunity to present his case. He confirmed that he had.

**HEARING
CLOSED**

Chair Lampard thanked everyone for their attendance and presentations. A written decision of the Board will be made within 15 days. The hearing was declared closed at 12:38 p.m. No further submissions will be entertained by the board.

**FINDINGS OF
THE BOARD**

Upon hearing and considering the presentations and evidence of the parties concerned, the Subdivision and Development Appeal Board finds the facts in the matter to be as follows:

- 1) The proposed development will occur on an irregular lot which creates difficulties in sitting the structure within the required setbacks.
- 2) The relaxation would not unduly interfere with the use, enjoyment, or value of neighboring properties.
- 3) The proposed bank work would improve the stability of the slope.
- 4) Current condition of the bank is a safety concern due to the steep slope and numerous holes.
- 5) Erosion of bank is evident and current retaining walls are failing.
- 6) Adjacent landowners in support of the development and

shoreline work.

DECISION

MOVED by Chair Lampard that the Subdivision and Development Appeal Board overturn the Municipal Planning Commission's decision of September 1, 2021, and approve the application for a dwelling with escarpment work at 205 Grand Avenue subject to the standard development conditions and following conditions being met to the satisfaction of the Development Officer:

- Updated drainage plan including all proposed walls, height measurements and permeable pavers
- 1m no mow zone adjacent to shoreline
- Gabions to be placed under the boathouse
- No work to be done on the shoreline or in the water without prior approval from Alberta Environment and Parks. A copy of the approval from Alberta Environment and Parks to be submitted to the Development Officer prior to work commencing.

CARRIED

DATED AT THE TOWN OF SYLVAN LAKE THIS 4TH DAY OF OCTOBER 2021.

**THE SUMMER VILLAGE OF
NORGLLENWOLD SUBDIVISION AND
DEVELOPMENT APPEAL BOARD**

**Gordon (Toby) Lampard
SDAB Chairman**