

NOTICE OF DECISION

Subdivision and Development Appeal Board

April 18, 2023

RE: Refusal of Development Permit for Dwelling with Attached Garage

In accordance with Subsection 687(2) of the Municipal Government Act, wherein the Subdivision and Development Appeal Board (SDAB) must give its decision in writing together with reasons for the decision within 15 days of concluding the hearing, the following serves as notification.

Finding of Fact:

Upon hearing and considering the representations and the evidence of the parties concerned the Board finds the facts in the matter to be as follows:

1. This property is located in the R District (Residential District) and the property currently is a vacant lot.
2. The proposed dwelling meets the height and setback requirements. The proposed parcel coverage is 49.1% and under the maximum 50%.
3. The design, character, and appearance of any building to be erected must be acceptable to the Development Authority having due regard to the character of existing development in the district. In administrations opinion a variance is required.
4. Driveways on corner parcels shall be setback from the street intersection not less than 6m (19.69ft.). The proposed driveway setback is 1.7m (5.57ft.). A variance of 4.3m (11.12ft.) is required.

Decision of SDAB:

1. Use

The proposed development has the appearance of a shop with small living quarters which is normally something that would be considered a suite or an accessory building. However, there is no regulation in the Land Use Bylaw of whether the amount of area used in the building is determinative of the Use. In this case, the definition of Detached Dwelling does not appear to preclude a building where more of the area is used for storage. Based on the Uses outlined in the Land Use Bylaw, the proposed development appears to be a detached dwelling.

2. Design, Character, and Appearance

Part 3, Section 1(2) of the Land Use Bylaw states the following:

“The design, character and appearance of any building, or series of buildings, structures or signs proposed to be erected or located in any district must be acceptable to the Development Authority having due regard to the following:

- a) Amenities such as daylight, sunlight, and privacy;
- b) The character of existing development in the district;
- c) Impact of proposed development on adjacent parcels;
- d) Crime Prevention Through Environmental Design (CPTED) principals to discourage crime by reducing concealment opportunities, providing lighting to minimize dark spaces, placing windows to maximize surveillance, and easily identifiable addresses;
- e) Proposed type of finish and use of building materials on all elevations and the roof;
- f) The exterior finish on all buildings shall be of permanent material satisfactory to the Development Authority;
- g) The roof pitch and width of the eaves;
- h) The depth of the main building shall not be greater than three (3) times it's width;
- i) The development Authority may require additional building setbacks in order to accommodate any local, area or natural drainage courses or over land drainage issues. Surface drainage from one (1) parcel may not be directed onto or over an adjacent Parcel without approval of the Development Authority.”

When considering the proposed development, the SDAB contemplated the surrounding area and the design, character, and appearance of other homes in Jarvis Bay. While there are no strict architectural regulations for the Summer Village, homes are appropriately designed for smaller residential parcels.

The proposed development has the design, character, and appearance of a large shop and is inconsistent with the surrounding developments. The stated intent was to match the existing development across the street at 166 Jarvis Bay Drive also owned by the appellant, but it is not consistent other than the color and siding. The home at 166 Jarvis Bay Drive was designed (as stated in the letter of appeal) as a composition of simple masses with spatial intersections, with a monolithic stacked-box appearance.

The proposed development is not consistent as it is a large barn-like structure that has the appearance of a commercial shop. This type of structure would be more acceptable in a rural or acreage type parcel, not in Jarvis Bay. While the principal use of the development can be considered a Detached Dwelling, the design, character, and appearance of the proposed development is not acceptable having due regard for the character of existing developments in the district.

3. Driveway

The location of the driveway does not comply with Land Use Bylaw Part 3 Section 3(1)(b). A driveway on a corner parcel requires a setback of 6m. The proposed setback is 1.7m requiring a 4.3m variance. The regulations for driveway setbacks on corner lots exist for the safety of vehicular traffic and pedestrians. While the lot does have an irregular shape, the proposed design of the building forces the need for a large and potential unsafe variance. A redesign of the dwelling and garage would allow for the driveway to conform to the Land Use Bylaw regulations with a safe setback from the intersection.

Based on the evidence presented at the hearing and with consideration for the presentations made by both the Appellant and the Development Officer, it is the decision of the Subdivision and Development Appeal Board to uphold the decision of the Municipal Planning Commission and deny the development permit for a dwelling with attached garage at 165 Jarvis Bay Drive.

This decision can be appealed to the Court of Appeal on question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 688 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of this decision.

Dated at the Town of Sylvan Lake, in the Province of Alberta, this 18th day of April 2023, and signed by the Secretary on behalf of all Board members who agree that the content of this document adequately reflects the decision of the Board.

Respectfully,

SUMMER VILLAGE OF JARVIS BAY

Teri Musseau
Secretary
Subdivision and Development Appeal Board