

SUMMER VILLAGE OF NORGLNWOLD
SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING AND DECISION
FEBRUARY 12, 2019

CALL TO ORDER

The Chair called the hearing to order at 9:59 a.m.

The following people were in attendance:

Chair	Jeff Ludwig
Member at large	Carol McMillan
Member at large	Kent Lyle
Development Officer	Tanner Evans
CAO	Phyllis Forsyth
SDAB Secretary	Teri Musseau
Applicant	Bill Robinson
Gallery	Mary Lynn Brown
	Jodi Neish

PURPOSE OF THE HEARING

The purpose of this hearing is to hear an appeal received from Bill Robinson against some of the conditions placed on his amended Development Permit #181484 by the Municipal Planning Commission on January 10, 2019, for the property located at 115 Grand Avenue, Lot 7 & 8, Block B, Plan 5108EO in the Summer Village of Norglenwold.

IN THE MATTER OF AN APPEAL by the appellant, Bill Robinson appealing some of the conditions placed on his amended Development Permit #181484 by the Development Authority on January 10, 2019, for the property located at 115 Grand Avenue, Lot 7 & 8, Block B, Plan 5108EO in the Summer Village of Norglenwold.

BEFORE the Summer Village of Norglenwold Subdivision and Development Appeal Board:

Chairman Jeff Ludwig
Member Carol McMillan
Member Kent Lyle

THIS IS AN APPEAL ON the Development Authority's decision of January 10, 2019.

UPON NOTICE BEING GIVEN by letter to the appellant and owners of property located within 200' radius of the proposed development on January 10, 2019. The hearing is being convened within 15 days of receipt of the notice of appeal.

BACKGROUND

The Subdivision and Development Appeal Board Secretary advised that Bill Robinson is appealing some of the conditions placed on his amended

Development Permit #141484 by the Municipal Planning Commission on January 10, 2019, for the property located at 115 Grand Avenue, Lot 7 & 8, Block B, Plan 5108E0 in the Summer Village of Norglenwold.

OBJECTIONS TO ANY MEMBERS HEARING THE APPEAL

The Secretary asked if any members of the Subdivision and Development Appeal Board felt that they should disqualify themselves from hearing the appeal before them. No one felt the need to disqualify themselves.

The Secretary then asked Mr. Robinson if he had any objection to any of the Subdivision and Development Appeal Board members. He had none.

The Board members were asked if other than the agenda package provided here today, had any member of the Subdivision And Development Appeal Board sought, been given or reviewed evidence prior to the hearing.

All answered they had not.

JURISDICTION AND DUTIES

Phyllis Forsyth, CAO, provided the Board information on the duties of the Subdivision and Development Appeal Board members and how to determine if they had jurisdiction to hear the appeal.

Chair Ludwig, called for a brief recess to determine jurisdiction.

Determining they had jurisdiction to hear the appeal, the hearing was reconvened.

READING OF APPEAL LETTER FROM MR. ROBINSON

The CAO read the appeal written from Mr. Robinson which was received at the office on January 28, 2019, appealing some of the conditions placed on his amended Development Permit #181484 for the property located at 115 Grand Avenue.

DEVELOPMENT OFFICER REPORT

Tanner Evans provided the Board with the background information regarding the application.

In August 2018, escarpment development began on 115 Grand Ave (Lot 7&8, Block B, Plan 5108E0) without a permit. Administration initiated enforcement, and Bill Robinson applied to amend his existing development permit #181484 (for a new dwelling) to include escarpment development on the property which is located in the R-S district.

On August 27, 2018, the application was submitted to the Municipal Planning Commission. The Municipal Planning Commission denied the application as they determined the landscape and drainage plans submitted were incomplete.

On November 8, 2018, the application was again submitted to the Municipal Planning Commission with new documents. However, the Municipal Planning Commission denied the application again as they wanted more detailed engineered landscaping plans including retaining wall materials.

On January 10, 2019, the application was submitted to the Municipal Planning Commission once more, including the required plans. The

applications were presented to the Municipal Planning Commission due to:

1. Land with slope areas with a gradient of 15% or greater/located below the top of escarpment shall remain in their natural state, therefore a variance is required.
2. Retaining walls over 1m in height require a development permit and are considered a discretionary use.

The Commission reviewed the application and decided the following:

Approve the amendment to development permit #181484 with the following conditions:

1. All lands below crest of hill to be filled with native mature bank stabilizing woodland with undisturbed/unmanicured native vegetation and shrub layers with exception of stairs (therefore no firepit).
2. Front yard fences to be a maximum of 1m in height, from the front wall of the dwelling towards the lake.
3. A total of 89 12 ft. trees/shrubs to be planted, as per original landscaping plan that was approved.
4. Statement by arborist or another qualified professional recommending measure to be taken to ensure integrity of trees adjacent this property be submitted to office prior to any construction.
5. Applicant receive \$1,500.00 penalty for construction without a development permit.
6. Applicant forfeit completions deposit for not constructing as per development permit.

On January 25, 2019, Administration received a letter of appeal from the Mr. Robinson, which was submitted within the required timeframe set in the MGA. The appeal is against the last 4 conditions placed on the development by the Municipal Planning Commission and the arguments for appeal are outlined in the letter from the Mr. Robinson. When asked to clarify condition 3, Administration let the appellant know that the requirement is that there will be a mixture of 12' trees and also shrubs, the requirement is not for 12' shrubs.

APPELLANT PRESENTS CASE

Bill spoke to the reasons he is appealing the Municipal Planning Commissions decision.

Mr. Robinson explained he had started development back in January 2018. In the spring he had some difficulties cleaning up the slope because it was steep and there were not steps or stairs in the side hill.

He stated there was some confusion regarding what he was allowed to do and explained that Koralyn Lemmon, Development Officer, had told him he was allowed a natural path or stairs to the lake.

When he was getting some gravel, there was a skid steer there so he had operator cut into the side hill with his blade to allow safe access down the slope where he intended to put his future stairs. His plan was to build some natural stairs or steps into the side hill to have access to the lake which he

later learned was not acceptable. An amendment to his development permit was applied for after the work was done at the direction of the development officer.

The Municipal Planning Commission reviewed his application and determined they wanted to see drainage plans. The application was denied as the Municipal Planning Commission did not like the materials he proposed to use. Different materials were found and the application resubmitted. The application was approved and more conditions added to his permit.

Mr. Robinson supplied members with the arborist report from Wildrose Garden & Tree Service.

One of the conditions on the amended permit was to provide a statement by an arborist or another qualified professional recommending measures to be taken to ensure the integrity of the trees adjacent to this property be submitted to the office prior to any construction, which he has complied with.

Mr. Robinson provided the Board pictures of the existing trees.

His land is being surveyed today to see if the trees are on his property or the neighbouring property. The proposed retaining wall along the back is far enough away from the trees so as not to cause damage to the roots. One tree has visible crack and risks falling onto his house from 113 Grand Avenue.

Mr. Robinson is also confused as to why he received a \$1500.00 penalty. He is doing work as per the landscaping plan.

QUESTIONS FROM THE BOARD

The board members asked questions of the appellant regarding the retaining walls.

Bill explained he had always wanted retaining walls but did not think they would be allowed. During a site visit of the Municipal Planning Commission the member-at-large suggested the use of retaining walls which would give more yard space.

WRITTEN SUBMISSIONS IN FAVOUR OF THE APPEAL

No written submissions were received in opposition of the development.

COMMENTS IN FAVOUR OF THE APPEAL

Jodi Neish from 193 Grand Avenue spoke in favour of the development. She acknowledged Mr. Robinson's frustrations over the lack of communication with Administration. People spend lots of money for lakefront properties because they want lake access. Mrs. Neish believes the development will be beautiful once complete which will be better for the land and the lake.

WRITTEN SUBMISSIONS IN OPPOSITION OF THE DEVELOPMENT

Mary Lynn Brown of 113 Grand Avenue provided a written submission to the board. In her letter she asked numerous questions of the neighbouring development and expressed her concern over damage to the existing mature trees and shrubs on her property.

COMMENTS IN OPPOSITION OF THE DEVELOPMENT

None.

QUESTIONS FROM THE BOARD

No further questions were asked from the board.

CLOSING COMMENTS FROM THE APPELLANT

Mr. Robinson explained it was not his intention to disturb the Summer Village or his neighbors. He is making this home his permanent residence. The yard work will not cause more erosion. He is working on stabilizing the bank so it doesn't fall into the lake. He stated he is willing to work with his neighbours and expressed regret over conflict that occurred between them. He has a vision for his property and was surprised that the neighbours are dictating what he can plant and where.

CLOSING COMMENTS FROM THE DEVELOPMENT OFFICER

The Municipal Planning Commission approved the permit with the conditions given after 3 Municipal Planning Commission hearings. The appellant has made statements and it is now up to the board to uphold the decision of the Municipal Planning Commission, or overturn it.

CLOSING COMMENTS FROM THE BOARD

Chair Ludwig asked Mr. Robinson if he felt he had an opportunity to present their case. He acknowledged he had.

Chair Ludwig thanked everyone for their attendance and presentations. A written decision of the Board will be made within 15 days.

He declared the hearing closed at 10:34 a.m. noting no further information or submissions would be entertained by the board.

DECISION OF THE BOARD

The Subdivision and Development Appeal Board finds as follows:

#1 - Item C *"A total of 89 12ft. trees/shrubs to be planted"*

The Board determines ¹ "All new planting should be carried out with small, potted stock, to avoid excessive root disturbances to the above-mentioned trees on the property lines. Avoid planting large ball & burlap (basket) trees, as they will require much more excavation for their planting holes, and larger trees require much more time to establish in the landscape, up to a year or more per inch or caliper size. Potted stock often establishes the same season it is planted."

² "No new trees are planted between the north-south runs of the retaining wall and the property lines. Planting in that area would unnecessarily excavate the root zone of the mature trees, causing additional stress, very close to structural roots. Also, the new trees

¹ Wildrose Garden & Tree Service, Planting Recommendations

² Wildrose Garden & Tree Service, Planting Recommendations

would suffer from shade and competition from the existing vegetation.”

The approved landscaping plan received December 18, 2018, to be followed as submitted with trees planted to be of the taller growing variety. No further excavation other than for installation of the retaining walls to occur on the property and the retaining walls to be constructed using smaller retaining blocks along the north and south sides to hold back the fill as discussed during the hearing so as to not disturb established roots from existing trees.

#2 – Item D *“Letter from Arborist or qualified professional”*

As Mr. Robinson provided the letter from Wildrose Garden & Tree Service to the Board members at the hearing the matter is considered closed.

#3 – Item *“\$1500 penalty”*

Further to the email of August 30, 2018, between Mr. Robinson and Phyllis Forsyth, CAO, the \$1500.00 penalty will be removed.

#4 – Item *“Applicant forfeit completions deposit for not constructing as per development permit”*

Alterations to the bank by mechanized equipment occurred without a development permit. The Board therefore upholds the decision of the Municipal Planning Commission and the applicant forfeits the completion deposit of \$5000.00.

DATED AT THE TOWN OF SYLVAN LAKE THIS 12th DAY OF
JANUARY, 2019.

THE SUMMER VILLAGE OF
NORGLIWOLD SUBDIVISION AND
DEVELOPMENT APPEAL BOARD

Jeff Ludwig
Board Chairman