

**SUMMER VILLAGE OF NORGLLENWOLD
SUBDIVISION AND DEVELOPMENT APPEAL BOARD
NOVEMBER 8, 2017
HEARING AND DECISION**

CALL TO ORDER

The Chair called the hearing to order at 10:01 a.m.

The following people were in attendance:

Jeff Ludwig – Chair
Beverly Smith – Member at large
Carol McMillan – Member at large
Koralyn Lemmon – Development Officer
Phyllis Forsyth - CAO
Teri Musseau – SDAB Secretary
Rob Applegate – Appellant
Victor Maris – Gallery
Sonia Fedorus – Gallery
Randy Geddes - Gallery

PURPOSE OF THE HEARING

The purpose of this Hearing is to hear an appeal against the Development Officer's decision of October 3, 2017 to place a Stop Order for construction on Lot 18, Block B, Plan 5108EO, being 135 Grand Avenue.

IN THE MATTER OF AN APPEAL by the appellant, Rob Applegate, appealing the Development Authority's decision to place a Stop Order for construction on Lot 18, Block B, Plan 5108EO, being 135 Grand Avenue.

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

Chairman Jeff Ludwig
Member Beverly Smith
Member Carol McMillan

THIS IS AN APPEAL ON the Development Authority's decision of October 3, 2017.

UPON NOTICE BEING GIVEN by letter to the appellant and owners of property located within 200' radius of the proposed development on October 13, 2017.

BACKGROUND

The Subdivision and Development Appeal Board Secretary advised that Rob Applegate is appealing the Development Authority's decision of October 3, 2017, to place a stop order on construction at 135 Grand Avenue, Lot 18, Block B, Plan 5108EO, 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. Applegate if he had any objection to any of the Subdivision and Development Appeal Board members. He had none.

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. APPLGATE

The Secretary read the appeal written from Mr. Applegate which was received at the office on October 11, 2017 appealing the stop order placed on construction at his property.

DEVELOPMENT OFFICER REPORT

Koralyn Lemmon provided the Board with the background information regarding the stop order.

On September 20th 2017, she drove by and noticed the owner's driveway was recently constructed with two driveway accesses, and it spanned the width of this lot of 15m.

The Development Permit #161508 issued on December 13, 2016 and was approved with a site plan showing the existing driveway of 6.1m in width. Replanting native vegetation adjacent to the driveway was condition #5 on this permit. Condition #14 stated maximum 50% parcel coverall is permitted.

The Development Permit #171508 issued on August 31, 2017 and also approved with a Real Property Plan showing the existing driveway of approx. 6.94m in width. Replanting native vegetation adjacent to the driveway was condition #16 on this permit. Condition #8 stated an Alberta Land Survey Site plan is required prior to commencement of development, survey to include parcel coverage (maximum is 50%).

Koralyn provided the history of the owner with previous development permits:

- Owner began construction of a deck and patio in November 2016, prior to obtaining a permit in December 2016 (Permit #161508).
- Owner began construction of a deck and shed in June 2017, prior to obtaining a permit in August 2017 (Permit #171508). Although I have no written confirmation of our in person conversation in my office prior to June 2017, I advised the owner to submit an application for the proposed developments.
- Owner began construction of the driveway, prior to applying for a permit. Therefore a Stop Order was issued to break this cycle. Again, no written confirmation of our in person conversation held in my office prior to September 2017, the owner was advised driveway can only be a maximum of 10m wide and limited to 1 driveway access when he inquired about it.

APPELLANT PRESENTS CASE

Mr. Applegate addressed the Board. He explained his reasons for paving across the rear of his property.

The elevation of his property is significantly lower than the adjacent properties at 133 and 137 Grand Avenue which sits roughly 4 feet below street grade. The variation in elevation causes the runoff to flow toward his house from the street as well as from both his neighbors. The paving was done in a way that would direct runoff back toward the property lines.

Parking is also an issue as parking is not permitted along Grand Avenue. The added parking surface will help alleviate congestion when numerous vehicles are present and allow for additional space for recreational vehicle storage.

Since the Development Officer had mentioned only one entrance to his property was permitted he paved directly across to create a single entrance.

Vegetation was replaced in the 25' X 15' green space in the middle of the driveway.

Mr. Applegate referenced photos he supplied to the Board showing his property and other properties that are in violation of the Land Use Bylaw noting he has no objection to these developments but rather asks all residents are treated the same.

Mr. Applegate stated he tried to contact the Development Officer prior to paving across the front of his property but was told she was on vacation. Due to seasonal timing he proceeded.

QUESTIONS FROM THE BOARD

There were no questions from the Board at this time.

IN FAVOUR OF THE APPEAL

No one spoke in favor of the appeal.

WRITTEN SUBMISSIONS IN FAVOUR OF THE APPEAL

A written submission received from Cyril Gurevitch was read by the recording secretary.

Mr. Gurevitch expressed his and his wife's support for the existing development of the appellant. He addressed the problem of the access point on lakefront lots as they lots usually have vehicles and recreational equipment present, He noted that consideration should be given to Summer Village residents for additional footage for lake and other recreational vehicles.

In his opinion, the development was completed by qualified contractors in a very professional manner and the central garden in the front of the yard is esthetically pleasing.

IN FAVOUR OF THE STOP ORDER

No one spoke in favor of the stop order.

WRITTEN SUBMISSIONS IN FAVOUR OF THE STOP ORDER

No written submissions had been received.

QUESTIONS FROM THE BOARD

Beverly Smith, Board member, asked for clarification on why the Alberta Land Survey Site Plan had not been submitted by the appellant and why the Development Officer had not issued a warning prior to the issuance of the stop order.

CLOSING COMMENTS FROM THE APPELLANT

Mr. Applegate summarized his case noting drainage as a major factor. It was important to him that drainage was directed away from the foundation of his home. He has had an issue in the past with flooding.

Mr. Applegate noted that each property is very different and should be looked at on a case by case situation. He deliberately did what he did but for a good reason not because he intentionally wanted to break the bylaw.

CLOSING COMMENTS FROM THE DEVELOPMENT OFFICER

The Development Officer summarized her case stating the appellant has a history of development without a permit. Mr. Applegate has two infractions of conditions in the Land Use Bylaw.

Koralyn asked that the Stop Order be upheld by the board and noted Mr. Applegate could reapply for the existing driveway.

CLOSING COMMENTS FROM THE BOARD

Chair Ludwig asked Mr. Applegate if they felt he had an opportunity to present his 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 10:45 a.m. noting no further submissions would be entertained by the board.

DECISION

Upon hearing and considering the representations and the evidence of the parties concerned the Subdivision and Development Appeal Board is satisfied that the Stop Order was properly issued in accordance with:

Part Two of the Land Use Bylaw #208/13: 2.2:

All development undertaken in the municipality requires an approved Development Permit prior to commencement, except:

- (1) Amended by Bylaw #225/16: The carrying out of works of improvement, maintenance, repairs or renovation to any, but not limited to, building, deck, and/or driveway provided that such works do not include structural alterations, additions, or drainage alterations and that the works comply with the regulations of this

Land Use Bylaw;

Part Three of the Land Use Bylaw #208/13: 3.1 Vehicles, 3(1):

- a) The maximum width of a driveway shall be 10 m (32.8 ft). Driveway width shall be measured within the carriageway; and
- (c) Amended by Bylaw #225/16: In residential districts, the number of driveways shall be limited to not more than one (1) driveway on a property with less than or equal to 40 m (131.23 ft.) and not more than two (2) driveways for properties with more than 40 m (131.23 ft.) of frontage.

Part Four of the Land Use Bylaw #208/13: Shoreline Residential District – Site Development (1:

- (c) Maximum parcel coverage: fifty (50) percent.

Municipal Government Act, Section 645 (2) and Part Two, Section 2.10 Contravention and Enforcement of the Land Use Bylaw #208/13:

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.

By doing so, the Subdivision and Development Appeal Board denies the appeal with a caveat to extend the date of compliance to June 30, 2018.

CAROL MCMILLAN:

That recommendation to Council for discussion/review with the Administration the process for issuing stop work orders especially warning letters.

CARRIED

DATED AT THE TOWN OF SYLVAN LAKE THIS 8TH DAY OF NOVEMBER, 2017.

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

**Jeff Ludwig
Board Chairman
Issued November 8, 2017**

