

**SUMMER VILLAGE OF NORGLLENWOLD  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
HEARING AND DECISION  
SEPTEMBER 17, 2018**

**CALL TO ORDER**

The Chair called the hearing to order at 10:00 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  
Jodi Neish – Gallery

**PURPOSE OF THE HEARING**

The purpose of this Hearing is to hear an appeal against the Municipal Planning Commission’s decision of August 3, 2018 to deny a development permit for paving 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 deny a development permit for paving 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 August 3, 2018

**UPON NOTICE BEING GIVEN** by letter within 5 days as per section 686(3) of the *Municipal Government Act*, to the appellant and owners of property located within 200’ radius of the proposed development on August 30, 2018.

**BACKGROUND**

The Subdivision and Development Appeal Board Secretary advised that Rob Applegate is appealing the Development Authority’s decision of August 3, 2018, denying a development permit for paving 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 August 29, 2018 appealing the decision of the Municipal Planning Commission to deny a development permit for paving at 135 Grand Avenue.

## **DEVELOPMENT OFFICER REPORT**

Koralyn Lemmon provided the Board with the background information regarding the application.

On October 3, 2017, a Stop Order was issued due to the non-complaint driveway that was constructed. To comply with the Stop Order, the owner had to demolish the newly constructed driveway portions to bring the driveway back to the original as per the Real Property Plan dated July 18, 2017, and to apply for a development permit to reconstruct one driveway at a maximum of 10m in width, provided the parcel coverage is 50% or less, within 60 days.

The owner appealed the Stop Order on November 8, 2017 in which the SDAB decided to uphold the Stop Order with compliance by June 30, 2018.

The owner applied for a development permit to revise his driveway on May 17, 2018. On June 4, 2018, the owner advised Administration he wished to cancel his application as he was going to seek legal advice. On June 6, 2018, the owner then advised Administration that he would like to continue with his application but requested an extension of September 15, 2018 be given to comply with the Stop Order. Since the applicant was working towards complying, Administration granted this extension.

On July 23, 2018, a complete application was submitted and went before the MPC on August 3, 2018, due to the parcel coverage of 61.4% being over the maximum of 50%, therefore a variance was required. On August 8, 2018, an MPC Notice of Decision was sent to the owner which stated that the application was denied due to the excessive (11.4%) variance request.

## **APPELLANT PRESENTS CASE**

Mr. Applegate addressed the Board. He explained his reasons for paving at his property.

His application to the Municipal Planning Commission was denied as the requested variance of 11.4% was deemed excessive.

Upon further review of the amended Land Use Bylaw he realized steps are exempt from parcel coverage. Once he recalculated his parcel coverage with the removal of the steps his new parcel coverage calculation was 54.9%, significantly smaller than the 61.4% he originally submitted.

He pointed out most of his parcel coverage (front deck) is pervious to allow natural watershed and vegetation growth. The deck had previously been permitted and not required to be included in parcel coverage. If the deck had not been included in his parcel coverage he would be significantly under the 50% allowed parcel coverage.

The reason for the new paving was to appease a stop order which was placed on his property by the Summer Village due to the width of his driveway being more than 10m and having more than one access.

Mr. Applegate referenced photos and a video he supplied to the Board showing his property and the work that had been done to mitigate water from flowing toward his foundation.

Mr. Applegate stated he would have to tear up new paving, curbing and various trees/shrubs in order to repave and reposition vegetation.

#### **QUESTIONS FROM THE BOARD**

Ms. Smith inquired as to whether the paving have stopped flooding on his property.

Mr. Applegate responded it had.

Chair Ludwig inquired about him speaking to his neighbors about their water run-off onto his property.

Mr. Applegate advised he did not wish to have conflict with his neighbors and the construction has corrected the issue.

Ms. Smith inquired about when the driveway was built and if he built before the new regulations came into effect.

Mrs. Lemmon replied the stop order was for the number of driveways and the new bylaw had not yet been passed.

Mr. Applegate added that at the time of the stop order impervious structures were not included in parcel coverage.

#### **WRITTEN SUBMISSIONS IN FAVOUR OF THE APPEAL**

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

Mr. Gurevitch expressed his and his wife's support for the existing development of the appellant. He noted the current landscaping and asphalt are both aesthetically pleasing as well as enhance the value to his and surrounding lands.

It is his opinion that residents need additional parking to accommodate guests as there is insufficient on-site parking. The development mitigates run-off from 137 Grand Avenue toward Mr. Applegate's foundation.

A written submission was received from Robert McLeod and read by the CAO.

Mr. McLeod is in support of the development. He stated the need for Mr. Applegate to have additional parking. Mr. Applegate has been successful in utilizing new slopes and contours on his property to achieve drainage that is acceptable and presentable to the Gurevitch family and himself.

The development does not interfere with the amenities or the neighborhood or materially interfere with or affect the use, enjoyment or value of neighboring parcels of land.

### **COMMENTS IN FAVOUR OF THE APPEAL**

Jodi Neish spoke in favour of the appeal.

She stated she agrees with Mr. Applegate and adjacent land owners. Removal of paving will cause him financial hardship and she supports his appeal.

### **WRITTEN SUBMISSIONS IN FAVOUR OF THE STOP ORDER**

No written submissions had been received.

### **COMMENTS IN FAVOUR OF THE STOP ORDER**

No one spoke in favor of the stop order.

### **QUESTIONS FROM THE BOARD**

Chair Ludwig asked for clarification on the existing driveway photo and where run off went.

Mr. Applegate explained the photo noting shaded area was where the driveway existed when he purchased the property which is more parcel coverage than he currently has and not significantly different then what he has requested.

Water runs off into crushed rock. There is weeping tile as well for drainage so when water flows it goes through crushed gravel and naturally flows into the lake. There is 100 ft. of pervious land between the driveway and the lake. He paved to mitigate drainage not accommodate the parking of his trailer.

### **CLOSING COMMENTS FROM THE APPELLANT**

Mr. Applegate felt he had already stated everything he wished to say. Nothing additional was added.

### **CLOSING COMMENTS FROM THE DEVELOPMENT OFFICER**

The Development Officer summarized her case stating the appellant went to the Municipal Planning Commission requesting a variance of 11.4%. Rob has significantly reduced the requested variance as he stated during his presentation.

Chair Ludwig asked the Development Officer is she agreed with Mr.

Applegate's new calculation of parcel coverage and she stated she had not reviewed the documents.

### **CLOSING COMMENTS FROM THE BOARD**

Chair Ludwig asked Mr. Applegate if he 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 10:54 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 finds the facts in the matter to be as follows:

1. The Board finds the applicant constructed a non-compliant driveway without a development permit.
2. The development does not unduly interfere with the amenities of the neighborhood.
3. The development does not unduly interfere with or affect the use, enjoyment or value of neighboring parcels of land.
4. The adjacent neighbors are in favour of the development.
5. The proposed development achieves drainage solutions acceptable to Mr. Applegate and his neighbors.

#### **CHAIR LUGWIG:**

Due to the issue with drainage the Subdivision and Development Appeal Board approves the application for development with a site variance coverage of 2.5%, allowing for total site coverage not to exceed 52.5% of parcel with the condition that a satisfactory Real Property Report is undertaken upon completion.

**CARRIED**

**DATED AT THE TOWN OF SYLVAN LAKE THIS 21<sup>ST</sup> DAY OF SEPTEMBER, 2018.**

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

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**Jeff Ludwig  
Board Chairman  
Issued September 21, 2018**