
**SUBDIVISION AND DEVELOPMENT APPEAL BOARD OF
MOUNTAIN VIEW COUNTY**

DECISION

Hearing held at: Mountain View County Office
Council Chambers

Date of Hearing: April 16, 2018

Members Present: Bruce Beattie
Gil Hegel
Lori Conkin
Mark Olson

Basis of Appeal: This is an appeal from a Development Permit approved for a Change of Use from existing Cabin to Accessory Building – Personal Use; Change of Use for a portion of the existing Accessory Building to Commercial Use and Secondary Suite (The **“Proposed Development”**) on NW 32-30-4-W5M (The **"Lands"**) issued by Mountain View County on March 1, 2018. The Appellant stated the following as the Reason for Appeal:

- Application was approved by the Approving Authority prior to the end of the adjacent notification period;
- Existing developments and the Proposed Development has affected the quality of life and enjoyment on lands designated as Agricultural.
- Lack of enforcement actions against existing gravel pits and previous development by Mountain View County;
- Intersection at Rge Rd 45 and Twp Rd 31 is not conducive to commercial/industrial vehicle use (access should be granted from Rge Rd 45 and not Twp Rd 31);
- Proposed Development would be better suited in a Land Use zoned Industrial;
- If approval is granted, landowner should be required to reside on the property.

Appellant: Clair & Denica Crosbie
Landowner: Teodoro Ammirati

Description of Application

On April 16, 2018, the Subdivision and Development Appeal Board (the **"Board"**) opened the appeal hearing for the appeal filed by the Appellant in regard to a Development Permit issued with respect to a Change of Use from existing Cabin to Accessory Building – Personal Use; Change of Use for a portion of the existing Accessory Building to Commercial Use and Secondary Suite (the **“Proposed Development”**) on NW 32-30-4-W5M (the **"Lands"**) pursuant to Section 686 of the *Municipal Government Act*, R.S.A. 2000 Chapter M-26, as amended. The Development Permit was approved on March 1, 2018 (the **"Development Permit"**).

The Notice of Development Appeal was filed by the Appellant with the Board on March 19, 2018. (the "**Notice of Appeal**").

Findings of Fact:

1. The Lands are located at NW 32-30-4-W5M and is a 148.51 acre parcel with split zoning: A – Agricultural District and A(2) – Agricultural (2) District.
2. The Development Permit was approved by Mountain View County (the "**County**") Municipal Planning Commission, on March 1, 2018.
3. The Appellant filed the Notice of Appeal with the Board on March 15th 2018 in accordance with Section 685 (2) of the ***Municipal Government Act***.
4. The Landowner has applied for a subdivision of the Lands and received acceptance of this subdivision with conditions including a requirement to change the use from an existing Cabin to Accessory Building – Personal Use.
5. The Lands have an existing development permit (DP 07-171) which permitted Business, Contractors (Office & Equipment Storage for Construction Business). This permit will be voided should the Proposed Development receiving appropriate permits to operate on the Lands.
6. Accessory Building – Personal Use is a permitted use within the A(2) – Agricultural (2) District.
7. Business, Contractors and Dwelling, Secondary Suite is a discretionary use within the A – Agricultural District
8. Mountain View County Land Use Bylaw 15/15 defines a Business, Contractors as a “business, trade or craft for gain or support conducted within the residential dwelling and/or accessory buildings for a person who ***occupies*** the dwelling.”
9. A Traffic Impact Analysis was not required as a condition of the Development Permit.
10. The Board accepts the Respondent’s claim that an Area Structure Plan is not required for the Lands until a higher impact use in the area requires the adoption of one.
11. Legal access can not be granted to the east side of the Lands from Township Road 31.
12. The intersection at Range Road 45 and Township Road 31 does not meet the current road standards nor County Policy 4005 – Road Template Policy.
13. Mountain View County does have a formalized and documented process for residents to provide comment if a business is operating outside of their permitted conditions through Policy 1021 “Complaint Process”.
14. Written confirmation was received from several adjacent landowners supporting the Proposed Development.

Decision:

The decision of the Subdivision and Development Appeal Board is to **deny the appeal** and uphold the decision of the Municipal Planning Commission to approve Development Permit PLDP20180047 with the conditions required in the March 1st 2018 decision.

Reasons for Decision:

1. The Board has determined that the application for a Change of Use from Existing Cabin to Accessory Building – Personal Use and Change of Use for a portion of the existing Accessory Building to Commercial Use and Secondary Suite is a suitable use for the area.
2. The Board has determined that the Proposed Development will not notably intensify the Lands from the current approved use and based on the information presented will have a lesser impact to adjacent landowners than the current approved use of the Lands.
3. Due to the size and expected operations of the Proposed Development, there is no anticipation of a significant increase to the traffic impact within the area and therefore no Traffic Impact Assessment is required.

4. Although the Board accepts the Appellants claim that the intersection does not meet the current road standards, it has determined that due to having no historical issues and the limited use of the intersection for the operations of the Proposed Development, that it will be suitable for the intended use and does not require updates.
5. Although the Board accepts the Appellants claim that there are other intensive developments in the area, the Board does not have the jurisdiction to alter or repeal permits or permit conditions of previous developments and has determined that these developments should not be a reason for rejection of the Development Permit.
6. The Board has determined that the conditions listed on the Development Permit are appropriate for the Proposed Development and should satisfy the Appellants concerns relative to the occupant residing on the Lands and concerns relative to the Proposed Development affecting the Appellants quality of life or enjoyment of their property.
7. The Board confirms that the application is in accordance with the regulations of Mountain View County Land Use Bylaw 15/15.
8. The Board confirms that the application is supported by Mountain View County Municipal Development Plan Bylaw 09/12 Section 5.0 by “establishing opportunities for economic development that will provide variety and diversity in location, servicing standards and types of uses.”

Evidence:

The Board considered the following evidence in making its decision:

1. The Agenda and Notice of Appeal;
2. Report and verbal presentations to the Subdivision and Development Appeal Board including all attachments presented to the Board by the Appellant;
3. Verbal presentations to the Subdivision and Development Appeal Board in support of the Appellant;
4. Report and verbal presentations to the Subdivision and Development Appeal Board including all attachments presented to the Board by the County's Planning and Development Department;
5. Report and verbal presentations to the Subdivision and Development Appeal Board including all attachments presented to the Board by the Applicant;
6. *Municipal Government Act*, R.S.A. 2000, Chapter M-26;
7. Mountain View County Municipal Development Plan 09/12;
8. Mountain View County Land Use Bylaw 15/15.

Appeals:

If you wish to appeal this decision, you must follow the procedure prescribed in Section 688 of the *Municipal Government Act* as follows:

Section 688(1)

An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to

- (a) a decision of the Subdivision and Development Appeal Board.

Section 688(2)

An application for permission to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for permission to appeal must be given to

- (a) the Municipal Government Board or the Subdivision and Development Appeal Board, as the case may be; and

- (b) any other persons that the judge directs.

Section 688(3)

On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant permission to appeal if the judge is of the opinion that the appeal involves a question of law of sufficient importance to merit a further appeal and has a reasonable chance of success.

Section 688(4)

If a judge grants permission to appeal, the judge may:

- (a) direct which persons or other bodies must be named as respondents to the appeal,
- (b) specify the questions of law or the questions of jurisdiction to be appealed, and
- (c) make any order as to the costs of the application that the judge considers appropriate.

Section 688(5)

If an appeal is from a decision of a subdivision and development appeal board, the municipality must be given notice of the application for permission to appeal and the board and the municipality

- (a) Are respondents in the application and, if permission to appeal is granted, in the appeal, and
- (b) Are entitled to be represented by counsel at the application and, if permission to appeal is granted, at the appeal.

**SUBDIVISION AND DEVELOPMENT APPEAL
BOARD OF MOUNTAIN VIEW COUNTY**

Per:



Chair

Date Signed: April 30, 2018