



Municipal District of Bighorn No. 8

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DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: 7 June 2010

Development Permit #43/09 Amendment #1, ModCo Structures (Appellant)

I. Decision

For the reasons outlined below, the Board grants the 17 May 10 appeal from ModCo Structures Ltd., revokes the 29 April 10 decision of the Municipal Planning Commission in refusing the application to amend Development Permit 43/09, and confirms Amendment #1 to Development Permit 43/09, to allow a front yard set-back to accommodate the placement of a temporary office trailer on Unit 1 Condo Plan 0610910 ("the subject lands") in the Exshaw Industrial Park. The Board added the following conditions to its approval of Amendment #1:

- the office trailer be allowed on site for no more than three (3) years from the date of this S/DAB decision;
- the trailer must conform to all applicable Alberta Building Code requirements.

II. Background

The Subdivision and Development Appeal Board (the "Board") heard an appeal from ModCo Structures Ltd., with respect to the Municipal Planning Commission's (the "MPC") 29 April 10 refusal on the application for Amendment #1 to Development Permit 43/09, to allow the placement of a temporary office trailer on the subject lands in the Exshaw Industrial Park. The MPC refusal was due to:

- the proposed office trailer placement would not conform to the required front yard set-back distance of 6.0 metres, as per the Hamlet Industrial District provisions of the Land Use Bylaw.
- the required variance exceeds the MPC's ability to grant: the MPC is limited to granting up to a 20% variance on set-backs, while the Appellants' request is a 48% variance.

The appeal hearing by the Board was held on June 7th, 2010, at the M.D. Administration building in the Hamlet of Exshaw. Robert Ellis, representing the Appellant, was present at the hearing. The Board heard from the Appellant's representatives (R. Ellis and Pat Griffith) and the Board also heard from Development Officer Janice Thompson, on the MPC's Notice of Refusal. A number of documents were submitted and provided to the Board, as follows:

- Board Secretary's Case Outline/Overview;
- copy of the 11 March 10 Development Permit 43/09 amendment application;
- proposed site plan, showing the trailer location;

- floor plan for the proposed trailer;
- copy of the Certificate of Title;
- pictures of the proposed trailer;
- 06 Oct 09 and 11 March 10 e-mails from the Appellant's representative (P. Griffith);
- copy of the 29 April 10 MPC Notice of Refusal;
- 17 May 10 Letter of Appeal from Appellant;
- copy of 10 April 06 Restrictive Covenant;
- 21 April 10 excerpt from MPC minutes;
- submissions in support of the Appellant:

- 854578 Alberta Ltd o/a Walker Plant & Construction
- Bow-Kor Excavating Ltd.
- Pro-Cat Contracting Ltd.
- Woodpecker European Framing & Woodwork Ltd.
- 1057597 Alberta Ltd.

The aforementioned documents are attached as Exhibits to the minutes of the hearing. There were no submissions received in support of the MPC decision, nor were there any oral submissions made at the Hearing in support of the MPC decision.

Issues Raised

The Appellant raised the following issues, in his appeal:

1. State of the Subject Lands: The Appellant indicated that, since acquiring title for the subject lands, the Appellant had spent significant time cleaning and organizing the site, further indicating the intent to further improve the appearance of the property.

The Board noted the numerous comments that the subject lands' appearance has improved greatly since the Appellants took over ownership.

2. Condo Board: In order to consolidate the subject lands with the Appellant's other lands (the immediately-adjacent Unit 2), there needs to be a condo board established to authorize the consolidation. Once authorization is gained, the Appellant can construct an outside stair-case for an upstairs office, thus eliminating the need for the office trailer: the trailer would then be removed.

The Board noted that the Development Permit amendment request was for a temporary trailer, not a permanent facility.

3. Neighbourhood: The Appellant indicated that the area was zoned Light Industrial, and was not a commercial nor residential neighbourhood: as such, granting the appeal should not interfere with the amenities nor materially affect the use, enjoyment nor value of the adjacent properties.

The Board noted that the subject lands were within the Exshaw Industrial Park, and that granting the appeal would not impact residential/commercial properties.

III Reasons for Decision / Findings of Fact

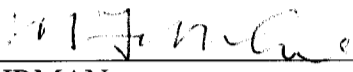
The reasons for the Board's decision to revoke the MPC decision and grant the appeal are:

- the Board felt the proposed office trailer, being a temporary facility, would not materially affect the neighbourhood.
- there were no objections raised to the proposed trailer; in fact, the correspondence received supported the Appellants.

The findings of fact are as follows:

- The Appellant is proposing a temporary facility, which will be removed once a site consolidation is complete.
- The Appellant did show strong support from nearby properties, and there were no objections received/opposition expressed.

11 June 2010
DATE



CHAIRMAN,
SUBDIVISION/DEVELOPMENT APPEAL BOARD

A decision of the Subdivision/Development Appeal Board is final and binding on all parties and persons subject only to an appeal upon, or questions of jurisdiction or law pursuant to, Section 688 of The Municipal Government Act, SA 2000, as amended. An application for leave to appeal to the Appellate Division of the Court of Alberta shall be made to a judge of the Appellate Division within THIRTY (30) days after the issue of the order, decision, permit or approval sought to be appealed.