1. **CALL TO ORDER**

   Secretary Rod Hawken called the meeting to order at 5:14 p.m.

2. **APPROVAL OF AGENDA**

   Resolution SDAB20191007.001
   
   MOVED: by Board Member R. Pries
   
   that the Agenda for Monday October 7, 2019 be accepted as presented.

   **Carried Unanimously**

3. **MINUTES APPROVAL**

   Resolution SDAB20191007.002
   
   MOVED: by Board Member C. Daniel
   
   to approve the minutes for the Subdivision and Development Appeal Board - Tuesday, August 27, 2019 meeting.

   **Carried Unanimously**

4. **PUBLIC HEARING**

   Chairperson L. Johnson declared the Hearing open at 5:17 p.m. and a delegation consisting of Brad Engel entered the meeting.

   Chairperson L. Johnson introduced the members of the Subdivision and Development Appeal Board and asked if there were any objections to any of the members sitting on the Board.

   No objections were presented.

   Rod Hawken, Secretary to the Subdivision and Development Appeal Board presented the Summary of Events.

   Chairperson L. Johnson asked the Board if they felt the appeal was submitted properly and acceptable.

   The Board was of the opinion the appeal was submitted properly and acceptable.

   Chairperson L. Johnson asked the Board if they had any Conflict of Interest.

   No conflict of interest was noted.
4.1 Refusal of Development Permit Application D19/201 – Bengel Contracting Ltd. (Homeniuk) (File# 418523) – Report – Detached Two Storey Garage

On May 31, 2019, a development permit application was received from Bengel Contracting for a single family residence with a height of thirty-two (32) feet with attached garage and 2038 square foot detached shop. Further that day after doing a brief review of the application, Administration sent an email to Bengel Contracting outlining four concerns. One of the concerns relevant to this hearing was that the detached shop’s square footage was 2038 square feet versus the 1506 square foot limit established by the Land Use Bylaw for accessory buildings.

One June 5, 2019, Administration received an email from Bengel Contracting with direction to remove the detached shop from the application.

On July 23, 2019, Administration sent an email to Bengel Contracting outlining that a review had been conducted of the newly submitted detached shop plans and that the shop though complied with the square footage requirements of the Bylaw, it exceeded the twenty foot height restriction of accessory buildings by six feet. It should also be noted that at this time it was also outlined that engineered drawings were going to be required for the detached shop due to the water table height found on site.

On July 28, 2019, Bengel Contracting responded with direction to once again remove the shop from the development permit application until it could be redrawn.

On August 27, 2019, a new development permit application for the detached shop was submitted by Bengel Contracting. In this application the shop square footage was compliant with the requirements of the Land Use Bylaw, however, the height was still above the twenty-foot height limitation.

On September 16, 2019, a Notice of Refusal of Development Permit was issued for the detached 2 storey garage.

The refusal issued reads as follows:

**NOTICE OF REFUSAL OF DEVELOPMENT PERMIT**

"You are hereby notified that your application for a development permit with regard to the following:

Detached 2 Storey Garage

NW-30-46-5-W5

Lot 21, Block 4, Plan 0821591

Bengel Contracting Ltd.

has been REFUSED for the following reason:

As stated in Section 10.7.10 (b) of the Land Use Bylaw 2017/38:

10.7.10 (b) Building Height

The Maximum height of an accessory building shall be 6.0 Meters (20 feet).

As per your Development Permit application submitted on August 28, 2019, the proposal for a detached 2 storey garage with the proposed height of 7.92 metres (26 feet) exceeds the 6.0 metres (20 feet) maximum building height outlined in the Lakeshore Residential District Section 10.7.10 (b).

You are further notified that you may appeal this decision to the Development Appeal Board in accordance with the provisions of Section Four of this Bylaw. Such an appeal shall be made in writing and shall be delivered either personally or by mail so as to reach the Secretary of the Subdivision Appeal Board not later than twenty-one (21) days following the date of decision of this notice. The notice of appeal shall contain a statement of the grounds of appeal as well as $150.00 for appeal fee."

On September 19, 2019 Administration received an appeal from Bengel Contracting Ltd. The appeal letter stated the following:
"We are appealing the decision of Wetaskiwin County to refuse the construct of a 2 story detached garage on the following grounds:

- The owner’s RV & its accessories are tall and we need the height of the overhead door to accommodate this height.
- There are similar shops in the area that are over the height restrictions.
- The development will be finished with high end materials and will be a nice looking shop (to match/compliment the house)"

A Subdivision and Development Appeal Board Hearing was scheduled for Monday, October 7, 2019 and a Notice of Appeal Hearing was sent to the Applicant/Appellant, adjacent landowners and the Subdivision and Development Appeal Board and the Director of Planning and Economic Development on September 25, 2019.

It is the opinion of the Development Authority that the appeal of Refusal of Development Permit D19/201 for the ‘two storey detached shop’ be denied for the following reason.

- The proposed two storey detached garage of seven point ninety-two (7.92) metres exceeds the height restriction of six (6) metres for accessory buildings within the Lakeshore Residential District of the County’s Land Use Bylaw 2017/48.

D. Blades, Director of Planning and Development, reviewed the Development Officer's report.

The Board asked for clarification regarding the height of the dwelling.
D. Blades replied the dwelling is 32 feet.

The Board asked why the applicant requested the height of the accessory building? D. Blades replied the accessory building is designed for Recreational Unit storage. The height issue is related to the peak and ascetic aspect of the building.

The Board asked what the second level or loft's intended use is?
D. Blades stated the applicant can provide that information but he believed the loft is for storage.

The Board asked for clarification regarding the height restriction in the Lakeshore District. Is the height restriction to manage use, limit size or for aesthetic reasons?
D. Blades stated that is correct.

The Applicant/ Appellant, Bengel Contracting Ltd. provided opening remarks.

B. Engel of Bengel Contracting Ltd. presented on behalf of the owners of the property.

The home owners proposed building a house and a shop that is intended for permanent living. The house design is a rustic, timber frame house with a steep roof pitch. The house is located in the middle of the lot with attached garage and stretches across most of the lake view. The detached shop is not infringing on the lake view.

The primary use of the shop is to store a large recreational unit with an air conditioning unit on top which exceeds 13 feet.

In trying to keep the pitch of the shop roof aligned with the pitch of the dwelling, the shop needed to be higher. The house has a 12x12 pitch and the shop designed was lowered to 8x12 pitch from 10X12 pitch.

The Board questioned what the loaf area was for.
B. Engel stated it the space above is for storage and the windows were added to give it a more residential look.

The Board questioned if the height could be lowered without loosing integrity?
B. Engel stated the height could be flat roof but aesthetically it would not match the house or residential look of the accessory building. There is no residence to the left of the property that view would be impede.

The Board asked about the pitch of the roof.

B. Engel replied the original accessory building was 10x12 pitch, right now it is an 8x12 pitch and the house is 12x12 pitch.

The board asked the appellant to describe the topography of the area, is it possible to dig down to reduce the height above ground?

B. Engle stated they are already dealing with the high water table and have raised the property a meter. Going deeper isn't an option. B. Engle also wouldn't recommend the access point for the accessory building being lower than the surrounding topography in the event of flooding.

The Board asked why two large doors and two smaller doors?

B. Engle stated the two large doors are for the Recreational Unit and a boat. That way the home owner has the to option use either door to navigate the equipment through. Aesthetically two large doors looks better than the one large door. The two smaller doors are for the side by side, lawn mower and other equipment.

D. Blades, Director of Planning and Development, provided closing comments.

The land immediate west is an undeveloped road right of way, and lands to the left of the road allowance is under the ownership of the original developer and there is reserves to the south adjacent to the lake.

Recommendation is for the appeal to be denied because the height does not comply with the Land Use Bylaw.

The Board asked if there is a Restrictive Covenant in the area?

D. Blade replied not that I am aware of.

The Board asked if there are any buildings in the development above 20’?

D. Blades stated he isn't aware of any.

B. Engel stated it looks like there are buildings in the area that are over the height restriction but not positive.

The Board asked if there are any concerns or complaints regarding this design from adjacent land owners?

D. Blades replied no.

The Board questioned if any recent changes to Land Use Bylaw that would affect this?

D. Blades replied no, not since 2017.

The Board asked about the site plan and the 1.5 meter set back from undeveloped road allowance?

D. Blades replied that 6 meter is the required setback from a road. Administration can adjust to 75% or 1.5 meters.

The Board asked about topography in general?

B. Engel stated there is a small hill when you come down the road to the curve, then as you come into the lot it does fall.

B. Engel, Applicant/ Appellant, provided closing comments.

If it is a use issue we can meet the height restrictions. Bengel Contracting Ltd. tried meet the landowner needs while also aligning the aesthetics of the accessory building to match the house.

Chairperson L. Johnson questioned the appellants if they felt they had a fair hearing. The appellants stated that they felt they had a fair hearing.
Chairperson L. Johnson stated that with Provincial Legislation, the Board is required to issue a decision within 15 days from the date of today's hearing. No decision is binding on the Board until it issues a written decision.

The Decision of the Subdivision and Development Appeal Board is final and binding on all person’s subject only to an appeal upon question of law or upon a question of jurisdiction pursuant to Section 688 of the Municipal Government Act, Chapter M-26.

Chairperson L. Johnson declared the hearing closed at 6:00 p.m. and the Board thanked the delegation for attending and they left the hearing.

The Board discussed the following to come to a decision:

- The development should conform with the Land Use Bylaw and aesthetic reasons are not a compelling reason to vary.
- A concern was raised about kicking back to the architectural controls which is a subdivision issue not a planning issue.
- There are other ways for the applicant to accommodate the height concern.
- If this permit was approved the Board would have to vary the height and the setbacks.

Reasons for the Board Decision:

- The proposed two storey detached garage of seven point ninety-two (7.92) metres exceeds the height restriction of six (6) metres for accessory buildings within the Lakeshore Residential District of the County’s Land Use Bylaw 2017/48.
- The Board was of the opinion that aesthetic value to match the roof contour of the dwelling is not a compelling planning reason to approve the proposed development and the applicant provided evidence that the height restrictions could be met.
- The two storey detached garage is a discretionary use within the Lakeshore Residential District of the County’s Land Use Bylaw 2017/48. As a variance to the height of the two story detached garage would be required as well as a variance to the setback of the side yard adjacent to the road allowance, the Board was of the opinion the development of the two storey detached garage as proposed was not suitable for this site.

Resolution SDAB20191007.003

MOVED: by Board Member T. Hoogland

that the Board deny the appeal from Bengel Contracting Ltd. within NW-30-46-5-W5M, Plan 0821591, Block 4, Lot 21 for the Refusal of Development Permit D19/201, ‘two storey detached shop’.

- Reasons:
  - The proposed two storey detached garage of seven point ninety-two (7.92) metres exceeds the height restriction of six (6) metres for accessory buildings within the Lakeshore Residential District of the County’s Land Use Bylaw 2017/48.
  - The Board was of the opinion that aesthetic value to match the roof contour of the dwelling is not a compelling planning reason to approve the proposed development and the applicant provided evidence that the height restrictions could be met.
  - The two storey detached garage is a discretionary use within the Lakeshore Residential District of the County’s Land Use Bylaw 2017/48. As a variance to the height of the two story detached garage would be required as well as a variance to the setback of the side yard adjacent to the road allowance, the Board was of the opinion the development of the two storey detached garage as proposed was not suitable for this site.

Carried Unanimously
5. **ADJOURN**

Resolution SDAB20191007.004

MOVED: by Board Member R. Pries

that the meeting adjourn at 6:10 p.m.

*Carried Unanimously*

__________________________________
CHAIRPERSON

__________________________________
SECRETARY