Subdivision and Development Appeal Board Meeting

AGENDA

Thursday, July 30, 2020
5:00 PM
Council Chambers
County Administration Building

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. APPROVAL OF MINUTES - July 8, 2020
4. DELEGATIONS - 5:15 p.m.
   4.1 Refusal of Development Permit D20/073 - NE 34-47-27-W4M Plan 1620478, Block 1, Lot 1 - ROYEA - Roll 2573.00
5. UNFINISHED BUSINESS
6. NEW BUSINESS
7. INFORMATION ITEMS
8. ADJOURN
1. **CALL TO ORDER**

Chairperson L. Johnson called the meeting to order at 5:14 p.m.

2. **APPROVAL OF AGENDA**

Resolutions

**Resolution SD20200708.001**

MOVED: by Board Member T. Hoogland

that the Agenda for July 8, 2020 be accepted as presented.

Carried Unanimously

3. **MINUTES APPROVAL - March 9, 2020**

Resolutions

**Resolution SD20200708.002**

MOVED: by Board Member C. Daniel

that the minutes for the March 9, 2020 Subdivision and Development Appeal Board meeting be approved.

Carried Unanimously

4. **DELEGATIONS - 5:15 p.m.**

Chairperson L. Johnson declared the Hearing open at 5:16 p.m. and a delegation consisting of Linda Graham, Henry Davies and David Blades, Director of Planning and Economic Development 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 that the appeal was submitted properly and acceptable.

The Board was of the opinion that 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.

Chairperson L. Johnson asked the Appellant if she had any concern with any Board Members.
No concern was noted.

4.1 Refusal of Development Permit D20/042 - SW 27-46-24-W4M Plan 452NY, Block 1, Lot 17 - GRAHAM, Linda, Roll 1179.17

On December 2, 2019, a Real Property Report was submitted to County Administration as a part of a Certificate of Compliance Request which indicated the encroachment of a deck by 1.72 metres onto Lot 16 from Ms. Graham's Lot 17. On December 13, 2019, County Administration received a complaint that a portion of an existing deck belonging to Ms. Graham encroached onto Lot 16 to the north.

On December 23, 2019, a Notice Letter was sent to Ms. Graham outlining that the County had no record of a development permit having been issued for the deck and that she would either be required to remove the deck entirely or to submit a development permit application for the structural alteration of the existing deck to comply with the County's Land Use Bylaw setback requirements. Both options outlined a deadline of January 31, 2020.

On March 30, 2020, a Warning Letter was sent to Ms. Graham outlining the same requirements as the Notice Letter however, with a second deadline extension being granted until April 30, 2020. The first extension was verbally granted until March 31, 2020.

On May 1, 2020 Linda Graham submitted a completed development permit application to the County for an 'existing ground level deck 11’6” x 12’' and a 9.5’ x 12’ deck addition’.

On May 21, 2020, a Notice of Refusal of Development Permit was issued to Ms. Graham for the 'existing 12’ x 11’ 6” deck and 12’ x 9’ 6” deck addition’

On June 10, 2020, a Letter of Appeal was received by County Administration from Ms. Graham.

On June 10, 2020, County Administration also received an email of support from the new owners of Lot 16, Worthington, supporting Ms. Graham’s request for a relaxation as the deck encroachment onto their lands had been resolved.

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:

Existing 12’ x 11’ 6” Deck and 12’ x 9’ 6” Deck Addition

SW-27-46-24-W4

Lot 17, Block 1, Plan 452NY

GRAHAM, LINDA

has been REFUSED for the following reason:

As shown on the site plan provided, the Existing 12’ x 11’ 6” Deck and 12’ x 9’ 6” Deck Addition is proposed between 0.8-0.9 metres (2.6-3.0 feet) in height and is proposed at 0.45 metres (1.5 feet) to 1.5 metres (5.0 feet) from the north (side yard) property line.

The location of the Existing 12’ x 11’ 6” Deck and 12’ x 9’ 6” Deck Addition being 0.45 metres (1.5 feet) from the side property line is beyond the relaxation ability of County Administration.

As per the Land Use Bylaw 2017/48, Section 10.5.5, the required side yard setback is 5 metres (16 feet). In accordance with County Administration and in accordance with Section 3.8.1., this setback shall not be varied less than 1.25 metres (4.0 feet).

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 June 10, 2020, Administration received an appeal from Linda Graham. The appeal letter stated the following:

"I am writing this letter of appeal as directed by David Blades in regards to a deck on my residential property. I would like to discuss this appeal in person. I am requesting an exemption on bylaws for an easement concern identified by the County.

Here are several reasons for my appeal request:

1. The deck in question, and a set of French doors was added to the north side of the property 14 years ago to facilitate necessary ease of access for moving large household items in and out of this property.

2. The deck has now become imperative to facilitate visitation/respite care for my wheelchair bound granddaughter (2 years of age). Maintaining as much deck space as possible for use and maneuverability is important.

3. A portion of this deck meets the 2 foot height bylaw requirement which would not need a permit requirement. As the deck extends, the angle of the property lines widen to allow for more easement.

4. This deck construction was discussed and agreed upon with the previous neighbour as not being an issue with its construction and placement. The new owner and I have discussed and have agreed that the configuration of the deck currently is not an issue. They have agreed to submit an email to the County of Wetaskiwin as suggested by David Blades. The property line has been discussed and the proposal of future fencing location has been successfully agreed upon.

It is the opinion of the Development Authority that the appeal of Refusal of Development Permit D20/042 for the ‘Existing 12’ x 11’ 6” Deck and 12’ x 9’ 6” Deck Addition’ be denied. However, the SDAB should be advised that they have the authority as per Section 687(3) of the Municipal Government Act (MGA) and Section 3.8.4 of the County’s Land Use Bylaw to uphold the appeal and grant the necessary 91% relaxation from five (5) metres down to point forty-five (0.45) metres through the issuance of a development permit.

The recommendation is made for the following reasons:

1. The level of discretion granted to the Development Authority is restricted to 75%, the requested 91% variance cannot be approved Administratively as it exceed a 75% relaxation.

David Blades, Director of Planning & Economic Development reviewed the Development Officer’s report, including the availability for County Administration to relax Development Permit setback distances.

The Board questioned the following:

- Administration’s satisfaction with the structural requirements of the deck;
- Whether a Conforming Certificate of Compliance would be issues with this deck remedy; and
- If setback variance was granted, whether or not structural suitability would be addressed or reviewed by the Board.

Mr. Blades responded that the Development Permit has not been issued for the existing deck and that Superior Safety Codes has not issued approvals for the existing or proposed decks. He advised that the Board could require an updated Real Property Report as part of the Development Permit issuance but structural review would be solely through Superior Safety Codes, not through the County of Wetaskiwin Administration.

Clarification was requested regarding:

- If setback relaxation can be permitted for the existing deck and to the proposed deck addition or just the new deck addition.
Mr. Blades advised that the decks, (both existing and addition), are one and the same, so a relaxation would need to be granted for the entirety of the deck structure.

The Applicant/Appellant, Ms. Graham provided a summary of events and advised of the following:

- She and her contractor built the deck together a number of years ago;
- Previous owners had wrongly advised her of the property lines;
- Issues with time frames to remedy the deck issue;
- Deck is essential for access into the home for grandchild in wheelchair; and
- Provided photos of the property lines for the Board's review.

The Board questioned the following:

- Plans for the deck, including adding a structure/ramps for wheelchair access;
- Whether the neighbor is building a fence entirely on their own property and the setback of that fence; and
- Exact distance the "cut off" portion of the existing deck is from the property line.

The Applicant advised that no separate structures will be built for wheelchair access and that the plans were provided from the builder in the site plan.

The builder, Mr. Davies advised that the cut off portion of the existing deck is approximately 6 inches from the property line. An additional portion of the deck currently removed was approximately 18 inches off the ground.

The Board questioned:

- How the Applicant will ensure privacy for the neighbor with having a deck so close to the property line; and
- What the access situation is in entering the home through another door.

The Applicant advised that she may want to put back the privacy screen that was previously attached to the existing deck. There is only one other access through the front door which has 12 concrete stairs to get up.

The builder, Mr. Davies explained deck dimensions and current setbacks and advised that he would be building the addition of the deck and clarified that the deck would require railings as it would end up being over 2 feet in height.

Mr. Blades, Director of Planning and Development provided closing comments which included:

- SDAB has the ability relax setback distances up to 100%;
- Board has the ability to deny or support the appeal and if the Board chooses to support the appeal, they have the ability to approve a Development Permit for the applied for deck addition; and
- The Board can require the Applicant to provide Real Property Report to the County prior to the issuance of a Development Permit or make that requirement part of the Development Permit conditions.

The Board questioned the longevity of a Real Property Report.

Mr. Blades summarized the County's Real Property Report Policy.

Discussion ensued regarding Section 3.2 - Development Not Requiring a Development Permit and the Country Residential District, specifically the setback requirements in that district.

Ms. Graham expressed that the requirement for another Real Property Report would not be beneficial as there are already stakes and flags from the neighbors having a recent survey done.

Chairperson L. Johnson questioned the Appellant if they felt they had a fair hearing. The Appellant stated that she felt she 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 the 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 persons subject only to an appeal upon question of law or upon a question of jurisdiction pursuant to Section 688 of the Municipal Government Act.

Chairperson L. Johnson declared the hearing closed at 6:35 p.m. and the Board thanked the delegation for attending and they, as well as David Blades left the hearing.

The Board discussed the following to come to a decision:

**Land Use Bylaw 2017/48 - Section 3.8.4 Variance Provisions**

3.8.4 The subdivision and Development Appeal Board may relax the setback standards of this Bylaw up to 100%, provided there are no objections from the affected road authority or from adjacent landowners.

**Municipal Government Act - Section 687 (3)(d)**

(3) In determining an appeal, the subdivision and development appeal board

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

Reasons for the Board Decision:

- The Board has the authority to relax the side yard setback for the existing and proposed deck;
- There were no objections received regarding the current placement of the existing and proposed deck on the property;
- The Board felt that a 2 foot side yard setback distance was reasonable;
- A 2 foot setback would ensure future and existing property access and maintenance of deck;
- A 2 foot setback would help ensure drainage does not impact neighboring property;
- The size of the deck will still accommodate wheelchair access into the home;
- Adequate privacy between applicant/appellant and neighbor is afforded; and
- Safety regarding property access around existing and future deck (current 6 inch setback is dangerous in the event of falls).

**Resolution**

MOVED: by Board Member C. Daniel

that the appeal of Refusal of Development Permit D20/042 for the 'Existing Deck and Deck Addition' be upheld with a size and setback variance and as per Section 687(3) of the MGA and Section 3.8.4 of the County’s Land Use Bylaw, the Subdivision and Development Appeal Board issue a Development Permit with the following conditions:

1. The required side yard setback of 5.0 metres (16.4 feet) as per Land Use By-law 2017/48, has been relaxed 88% to a minimum setback distance of 0.6 metres (2.0 feet) from the existing and proposed deck to the property line.
2. The total combined square footage of the existing and proposed decks shall not exceed 21.37 square metres (230.0 square feet).

3. Proposed Development not to encroach on Registered Rights of Ways or Utility Service Lines.

4. Use of proposed development shall be as specified by documents submitted by applicant.

5. The applicant shall be responsible to contact Superior Safety Codes Inc. (1-888-358-5545) for their requirements under the Safety Codes Act. The County requests that copies of the approved permits issued by Superior Safety Codes Inc. or Municipal Affairs also be provided for County file records prior to the commencement of any development.

6. Drainage shall not impact adjacent lots.

7. No natural drainage courses shall be changed, entering or leaving in or out of County ditches; natural flows are to be maintained.

   Carried Unanimously

8. **ADJOURN**

   Resolution
   
   MOVED: by Board Member R. Pries

   that the meeting adjourn at 7:35 p.m.

   Carried Unanimously

---

**MINUTES APPROVED:**

Ref: Resolution #

_________________________
CHAIRPERSON

_________________________
SECRETARY
Refusal of Development Permit D20/073 – ROYEA, Andrew & Leanne – NE 34-47-27-W4M Plan 1620478, Block 1, Lot 1 Roll #2573.00

Meeting Date (Report Reference Only): 2019/08/30
Meeting (Report Reference Only): SDAB

Background

On June 4, 2020, the County received a development permit application from Andrew and Leanne Royea for a 40’ x 60’ x 18’ shop.

On June 19, 2020, Mr. Royea followed up on a previous phone conversation with an email to County staff outlining that with the 18 foot high walls the overall height of the shop was to be 23 feet and 10 inches. It should be noted that in that same phone conversation Mr. Royea verbally outlined that he wanted the shop to have an 18 foot ceiling height to accommodate an overhead crane so that he could use the crane to pull augers out of feed mixers. It was not specified if this would be an agricultural or commercial operation.

On June 29, 2020, a Notice of Refusal of Development Permit was issued to Mr. and Mrs. Royea for the 40’ x 60’ shop.

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:

40' x 60' Stick Built Shop
NE-34-47-27-W4
Lot 1, Block 1, Plan 1620478
ROYEA, ANDREW & LEANNE

has been REFUSED for the following reason:

As per your submitted development permit application, the height of the 40' x 60' Shop has a proposed wall height of 18 feet and an overall height of 23 feet, 10 inches. Both of these dimensions exceed the 16 foot wall height restriction and 20 foot maximum accessory building height restriction.

As stated in the Wizard Lake Watershed District, Section 10.24.8 Building Height
a) the maximum building height of all principal buildings shall be 10.0 metres (33 feet)
b) the maximum height of an accessory building shall be 6.0 (20 feet)

As per Section 9.18.3 (b) of the County’s Land Use Bylaw 2017/48:

"9.18.3 (b) Accessory buildings on an individual site shall not exceed a site coverage and wall height (unless otherwise specified in a District) as follows

Country Residential Lots, High Density Rural Residential, Rural Conservation, Restrictive Country Residential, Rural Residential, Recreational (less than 5 acres), Watershed Protection (less than 80 acres), Recreational Resort Holdings (less than 5 acres), Wizard Lake Watershed (less than 80 acres) assessor building square footage shall not exceed a square footage equal to that of 3.5% of the titled area of the lot, with no one building larger than 4,000 square feet and a maximum cumulative square footage of 6,000 square feet. The buildings shall not exceed a 4.88 metre (16 foot) wall height unless approved by the Development Officer."

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 this notice. The notice of appeal shall contain a statement of the grounds of appeal as well as $150.00 for appeal fee."

On July 7, 2020, payment for the Appeal of the Notice of Refusal was submitted. The applicants forwarded an email from their builder as a part of their appeal. The email reads as follows:

"In regards to lowering the shop this can easily be accomplished however it is in my opinion the building would not serve your needs well nor for any future owners for several reasons:

1. If the overhead door is lower than 14’ any storage of a holiday trailer will be impossible
2. For a 14’ door to work it requires 20” above it for the door to open as the panels rise significantly higher than the door opening itself
3. In 2014 the provincial government made a huge step for the betterment of all structures being built in Alberta to comply with a National Energy Code 9.36, this code requires all new structures built to comply to lower energy consumption for the heating buildings and residences. Therefore in all attics there is an area of a roof truss to wall assembly that now requires full insulation on top of the wall as well as a venting area above. So gone like the dodo bird are the old ways of having low heal truss’s and huge heat losses out the corner of the buildings this directly affects the overall height of buildings which is something that should be considered in the near future by all municipalities with height restrictions. Our old assembly details would have used 7 1/4” heal trusses and now we use up to 24” heals on the trusses to comply with this energy Code. This is over 16” in height gain. I have attached a cross section from your shop blueprints to help show this area."
The math looks like this: 168” door

20” for door clearance

18” truss heal

80” trusses this is a 4/12 roof pitch which is as shallow as I recommend for safety of snow loading

286” total tall building

In Summary with the heights of recreation vehicles getting taller, and new Energy Codes the municipalities must just not have had time to react yet to the needs of their people when building accessory buildings. I believe this should be the height restriction for buildings in a recreation zoned area.

Thank you.

Michael Jacob

Mikes Homes Ltd.

A Subdivision and Development Appeal Board Hearing was scheduled for Thursday July 30, 2020 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 July 20, 2020.

Recommendations

Administration recommends that the appeal of Refusal of Development Permit D20/073 for the 40’ x 60’ shop be denied.

The recommendation is made for the following reasons:

With the overall height of the building exceeding the height restriction as outlined in Section 10.24.8 the Development Authority does not have the discretion to provide a variance. Further to this, the Development Authority does have concerns that if the Board provide the requested variances that it would enable uses of the Lands to occur that were not intended for the Wizard Lake Watershed District.

Recommended Resolution

that the deny the appeal submitted by Andrew and Leanne Royea for the Refusal of Development Permit D20/073, for the 40’ x 60 shop.
July 20, 2020

NOTICE OF APPEAL HEARING

This is to notify you that an appeal has been made to the SUBDIVISION AND DEVELOPMENT APPEAL BOARD regarding Development Permit D20/073 described as follows:

ROYEA, ANDREW & LEANNE
40' x 60' Stick Built Shop
NE-34-47-27-W4 Lot 1, Block 1, Plan 1620478

PLACE OF HEARING: Council Chambers

County of Wetaskiwin Administration Office. Approximately 1.6 kilometres west of Wetaskiwin on Highway 13 on south side of the Highway.

DATE OF HEARING: Thursday, July 30, 2020

TIME OF HEARING: 5:15 p.m.

Any persons affected by the proposed development have the right to present a written brief prior to the hearing and be heard at the hearing.

Administration and the Subdivision and Development Appeal Board are strongly encouraging and recommending that communication be through alternative methods such as email, mailed correspondence, fax, or otherwise, rather than public attending the meeting in person. This will ensure that the information is presented to the Board at or before the meeting and will also ensure the health and safety of all members of the public and County staff.

For individuals wishing to attend in person virtually for the aforementioned Subdivision and Development Appeal Board Hearing, please contact Jeff Chipley, Assistant CAO, at 780-3616225 or at jchipley@county10.ca in order to make arrangements prior to the start of the meeting.

Written briefs may be submitted to the Secretary of the Subdivision and Development Appeal Board no later than 5:15 p.m., Thursday, July 30, 2020.

Information pertaining to this hearing can be obtained by contacting the Planning and Economic Development Department or by email at wpermits@county10.ca.

Date: July 20, 2020

JEFF CHIPLEY
Secretary
Subdivision & Development Appeal Board
## Official Receipt

**Royea, Leanne G**  
**Box 3188**  
**Leduc AB T9E 6L9**

<table>
<thead>
<tr>
<th>Account #</th>
<th>Description</th>
<th>Opening Bal</th>
<th>Payment</th>
<th>Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-1-526-6100-00</td>
<td>PD00502 SDAB Appeal Fees</td>
<td></td>
<td>150.00</td>
<td></td>
</tr>
</tbody>
</table>

**Payment Total:** 150.00

**Telebanking**: 150.00
Hi Andy,

In regards to lowering the shop this can easily be accomplished however it is in my opinion the building would not serve your needs well nor for any future owners for several reasons:

1. If the overhead door is lower than 14’ any storage of a holiday trailer will be impossible
2. For a 14’ door to work it requires 20” above it for the door to open as the panels rise significantly higher than the door opening itself
3. In 2014 the provincial government made a huge step for the betterment of all structures being built in Alberta to comply with a National Energy Code 9.36, this code requires all new structures built to comply to lower energy consumption for the heating buildings and residences. Therefore in all attics there is an area of a roof truss to wall assembly that now requires full insulation on top of the wall as well as a venting area above. So gone like the dodo bird are the old ways of having low heat truss’s and huge heat losses out the corner of the buildings this directly affects the overall height of buildings which is something that should be considered in the near future by all municipalities with height restrictions. Our old assembly details would have used 7 1/4” heal trusses and now we use up to 24” heals on the trusses to comply with this energy Code. This is over 16” in height gain. I have a attached a cross section from your shop blueprints to help show this area.

The math looks like this: 168” door
20” for door clearance
18” truss heal
80” trusses this is a 4/12 roof pitch which is as shallow as I recommend for safety of snow loading
286” total tall building
In Summary with the heights of recreation vehicles getting taller, and new Energy Codes the municipalities must just not have had time to react yet to the needs of their people when building accessory buildings. I believe this should be the height restriction for buildings in a recreation zoned area.

Thank you.

*Michael Jacob*
*Mikes Homes Ltd*
[www.mikeshomesltd.com](http://www.mikeshomesltd.com)
Cell: 780-991-1008
[mj@mikeshomesltd.com](mailto:mj@mikeshomesltd.com)
Full insulation to outer edge

- 2 x 2 x 8 top plates
- J-channel
- Cont. vented aluminum soffits
- Aluminum fascia
- 2 x 6 wood fascia board
- Cardboard insulation stop
- 3/8" plywood sheathing
- 6 mil poly Vapor Bar (CCSB)
- R40 fiberglass insulation or blown loose fill
- Pre-engineered roof trusses @ 2'-0" OC
- 2 x 4 strapping @ 24" OC
- 29 gauge metal clad roofing only
NOTICE OF REFUSAL OF DEVELOPMENT PERMIT

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

40' x 60' Stick Built Shop
NE-34-47-27-W4
Lot 1, Block 1, Plan 1620478
ROYEA, ANDREW & LEANNE

has been **REFUSED** for the following reason:

As per your submitted development permit application, the height of the 40' x 60' Shop has a proposed wall height of 18 feet and an overall height of 23 feet, 10 inches. Both of these dimensions exceed the 16 foot wall height restriction and 20 foot maximum accessory building height restriction.

As stated in the Wizard Lake Watershed District, Section 10.24.8 Building Height

a) the maximum building height of all principal buildings shall be 10.0 metres (33 feet)

b) the maximum height of an accessory building shall be 6.0 (20 feet)

As per Section 9.18.3 (b) of the County's Land Use Bylaw 2017/48:

"9.18.3 (b) Accessory buildings on an individual site shall not exceed a site coverage and wall height (unless otherwise specified in a District) as follows

Country Residential Lots, High Density Rural Residential, Rural Conservation, Restrictive Country Residential, Rural Residential, Recreational (less than 5 acres), Watershed Protection (less than 80 acres), Recreational Resort Holdings (less than 5 acres), Wizard Lake Watershed (less than 80 acres) assessoriy building square footage shall not exceed a square footage equal to that of 3.5% of the titled area of the lot, with no one building larger than 4,000 square feet and a maximum cumulative square footage of 6,000 square feet. The buildings shall not exceed a 4.88 metre (16 foot) wall height unless approved by the Development Officer."
COUNTY OF WETASKIWIN NO. 10
Box 6960, Wetaskiwin, AB T9A 2G5 Tel 780-352-3321, Fax 780-352-3486

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.

DATE OF DECISION:       June 29, 2020

Appeal Deadline:        July 27, 2020

[Signature]
Jarvis Grant
Development Officer
County of Wetaskiwin No. 10
County of Wetaskiwin No. 10
Development Permit Appeal Form

Upon receiving this completed Appeal Form a Hearing will be scheduled within 30 days. The Hearing will be scheduled after 5:15 p.m. Monday - Thursday. You will be notified of the scheduled Hearing by Registered Mail.

PLEASE NOTE:

The County of Wetaskiwin No. 10 requires that a non-refundable fee of $150.00 for an appeal to be sent to the Secretary of the Subdivision and Development Appeal Board. The fee may be paid by debit, cash, or a cheque made payable to the County of Wetaskiwin No. 10.

With this written submission, the information that you provide may be made public subject to the provisions of the Freedom of Information and Protection of Privacy Act.

Appeal the Refusal of Development Permit: D20/073 of NE-34-47-27-W4 Lot 1, Block 1, Plan 1620478, for 40' x 60' Stick Built Shop

<table>
<thead>
<tr>
<th>Date of Appeal Application:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Appellant(s):</td>
</tr>
<tr>
<td>Appellant Phone Number:</td>
</tr>
<tr>
<td>Appellant Email:</td>
</tr>
<tr>
<td>Appellant Mailing Address:</td>
</tr>
</tbody>
</table>

You must attach a letter stating your grounds for Appeal to this application.

Please indicate if there are any date(s) and times within 30 days of this application that you would not be able to attend a Hearing, also please indicate the best way to contact you when the Hearing has been scheduled:

______________________________
Signature of Appellant(s):

---

For Office Use Only:

<table>
<thead>
<tr>
<th>Date Received:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receipt Number:</td>
</tr>
</tbody>
</table>
FYI

Lindsay Jacobsen
Assistant Development Officer
County of Wetaskiwin No.10
Phone 780-352-3321 ext. 6238
Fax 780-352-3486 Toll Free 1-800-661-4125
Mailing Address: Box 6960 Wetaskiwin, AB T9A 2G5
Email: ljacobsen@county10.ca

From: Andrew Royea <roycofarms@gmail.com>
Sent: June 19, 2020 10:17 AM
To: Lindsay Jacobsen <ljacobsen@county10.ca>
Subject: Royea Shop Permit

Hello Lindsay,

I spoke with Jarvis this morning and he requested the exact overall height of the building from grade. Grade being the top of the floor... The engineer calculated that measurement to be 23 feet 10 inches. Please add this to our file.

Thank you,

Andrew
COUNTY OF WETASKIWIN NO. 10 - APPLICATION FOR DEVELOPMENT PERMIT

I hereby make an application under the provisions of the County of Wetaskiwin’s Land Use Bylaw for a Development Permit, in accordance with the plans and supporting information submitted herewith and which form part of this application. Except as otherwise provided in the Land Use Bylaw, a person may not commence development unless the person has been issued a development permit; a decision will only be issued in writing.

It is the responsibility of the applicant/owner to ensure that all development carried out complies with any caveat, easement, restrictive covenant or other encumbrance noted on the back of the Certificate of Title.

APPLICANT INFORMATION:

<table>
<thead>
<tr>
<th>Name of Applicant:</th>
<th>ANDREW AND LEANNE ROYEA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>PO BOX 3188, LEDUC AB T9E 6L9</td>
</tr>
<tr>
<td>Phone Number:</td>
<td>780-361-8210</td>
</tr>
<tr>
<td>Email Address/Fax Number:</td>
<td><a href="mailto:ROYCOFARMS@GMAIL.COM">ROYCOFARMS@GMAIL.COM</a></td>
</tr>
<tr>
<td>Are you the Registered Owner □Yes □No, if no complete the next box</td>
<td></td>
</tr>
</tbody>
</table>

If No as above, presented Registered Owner(s) according to Alberta Land Titles: (We)(please print)
____________________________ as the registered owner(s) (as per Land Titles) of the
aforementioned property, authorize (applicant(s) “as above”) to develop which I have fully reviewed and fully
endorse.
Address: __________________________ Telephone __________________________

Signature of Present Registered Owner(s):
✓ If owner is a corporate body, he or she must be listed on the corporate registry as authorized person(s) to
   sign. Proof of authority to sign MAY BE required.
✓ If additional signatures are required, attach to application as necessary.

LAND INFORMATION:

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Section</th>
<th>Township</th>
<th>Range</th>
<th>West of 4 or 5 Meridian</th>
</tr>
</thead>
<tbody>
<tr>
<td>NE 34</td>
<td>47</td>
<td>27</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Is your property located within 1/2 mile or 800 metres of a Highway or Secondary Highway? □No □Yes

If yes, Please complete and provide Alberta transportation with a road side development application form. The
application can be obtained at the County of Wetaskiwin Office or at http://www.transportation.alberta.ca/2629.htm

Roadside Development Application Sent on: _____________ Method Application sent by: □Mail □Fax □Email □Sent by: _____________
**PROPOSED DEVELOPMENT(S)**

Development Proposal(s): Type of Development (Include Dimensions & Number of Storeys)

*Any structure that is 108 sq. ft. / 10 m² or over requires a development permit*
*Decks 2 ft / 0.61 m or higher require a development permit* *If this application is for a Business please go to Page 4.*
*All residential buildings require Blueprints to be submitted electronically to wpermits@county10.ca before the permit application will be processed.*

**40' X 60' SHOP, SINGLE STOREY**

<table>
<thead>
<tr>
<th>Size of Proposed Development:</th>
<th>Building:</th>
<th>Building:</th>
<th>Building:</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Please note some districts within the County of Wetaskiwin have a maximum cumulative accessory building square footage of 1506 sq. ft. There is also site coverage and height restrictions.</em></td>
<td>Length: ___ Width: ___</td>
<td>Length: ___ Width: ___</td>
<td>Length: ___ Width: ___</td>
</tr>
<tr>
<td>Please circle if Dimensions are in feet metres:</td>
<td>Height: ___</td>
<td>Height: ___</td>
<td>Height: ___</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Construction:</th>
<th>☑ Conventional Construction</th>
<th>☐ Moved in, describe type:</th>
</tr>
</thead>
<tbody>
<tr>
<td>If Moved In (check one):</td>
<td>☑ New (Direct from factory)</td>
<td>☐ Used, Year built</td>
</tr>
</tbody>
</table>

*Pictures must be provided for all used buildings*

<table>
<thead>
<tr>
<th>Will there be plumbing within the proposed Structure:</th>
<th>☐ No</th>
<th>☑ Yes, if so please check that all apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>畏Empty toilet</td>
<td>☑ Tap for Garden Hose</td>
<td>☐ Other 2-floor drains into collection swap</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Will there be kitchen facilities within the proposed structure:</th>
<th>☑ Yes</th>
<th>☐ No</th>
</tr>
</thead>
</table>

List all existing building(s)/structure(s) on the Property (i.e. Dwelling(s), Garage(s), shed(s), etc.) and label accordingly on the site plan to be provided with this application on Page 6.

**Shop, DWELLING WITH ATTACHED GARAGE, QUONSET SHELL (TO BE REMOVED) GARDEN SHED**

**Estimated Cost of Project (for statistic purpose only):** $228,440.00

**Estimated Date of Commencement:** 06/15/20  *(asap)*  **Estimated Date of Completion:** 08/15/2020

**CONFINED FEEDING OPERATION:**

Is the proposed development within 800 metres (1/2 mile) of a CFO? ☑ No or ☐ If Yes, please read the following and sign below.

I choose to build here knowing that I/we may suffer from smells, noise, flies, etc. from animals or manure; however, I realize that this is a farming area and that these nuisances are unavoidable if I choose to live here. I also understand that land cannot be subdivided if it is too close to a Confined Feeding Operation.

**Applicant Signature(s):**

---

**SECONDARY DWELLING:**

Is this a secondary dwelling? ☑ No or ☐ If Yes, please read the following and sign below.

I understand that if I build a second residence on my land, the residence will not stand on a separate parcel. It will stand on the same parcel as the first house and as such, the 2 residences cannot be sold separately unless the parcel is subdivided and 2 separate lots are created. I further understand that I have no automatic right to have the land subdivided, and an application to subdivide may be refused if it conflicts with the regional plan or any County by-law.

**Applicant Signature(s):**

---
SITE PLAN

*Please note that by including development/building(s) solely on a drawing that this may not preclude it from the development permit application process nor does it approve its use, and it may be required to be applied for unless it is exempted according to the County of Wetaskiwin's Land Use Bylaw or is under Section 643 of the MGA. A person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the Land Use Bylaw.

27 acres

---

Except as otherwise provided in the County of Wetaskiwin No 10 Land Use Bylaw, a person may not commence any development unless the person has been issued a development in respect of it pursuant to the Land Use Bylaw. A decision will be issued in writing. I hereby make application under the provisions of the County of Wetaskiwin Land Use Bylaw for a Development Permit, in accordance with the plans and supporting information submitted herewith and which form part of this application.

By signing this application, I hereby authorize representative(s) of the County of Wetaskiwin No. 10 to enter onto the above described land for the purpose of performing inspections. The personal information on this form is collected under the authority of Section 33 (c) of the Alberta Freedom of Information and Protection of Privacy Act. The information will be used to process your application(s) and your name and address may be included on reports that are available to the public. If you have any questions on the collection and use of this information, please contact the FOIP Coordinator at (780) 352-3321.

May 25, 2020
Date of Application

Andrew Ryska
Signature of Owner(s)

Leanne Ryska
Signature of Owner(s)

Please Print Name(s)

Please Print Name(s)

All Development Permits are mailed out when completed, when your permit is complete would you like to also be notified by:

☐ Fax No. ☐ Email: royco_farms@gmail.com
RIGHT ELEVATION

PLEASE NOTE:
IF GRADE TO TOP OF DECK HEIGHT IS GREATER THAN 2'-0", THEN DECK WILL REQUIRE RAILING

LEFT ELEVATION

PLEASE NOTE:
GRADE HEIGHT MAY BE ALTERED TO BETTER ACCOMMODATE SITE AREA. THIS IS TO BE DETERMINED ON SITE.
ALL ROOF OVERHANGS TO BE 2'-0" UNLESS OTHERWISE NOTED.
10.24 **Wizard Lake Watershed District (WLW)**

10.24.1 **Purpose**

The purpose of this district is to preserve existing tree and vegetation cover around Wizard Lake. The Wizard Lake Watershed District may be applied to land indicated on the map entitled Wizard Lake Management Plan – Plan Area in the Wizard Lake Management Plan.

10.24.2 **Permitted Uses**

a) Dwelling, Detached

b) Dwelling, Mobile – New

c) Dwelling, Modular – New

d) Buildings and uses accessory to the above

10.24.3 **Discretionary Uses**

a) Dwelling, Mobile – Used

b) Dwelling, Modular – Used

c) Dwelling, Moved – in

d) Dwelling, Secondary Suite

e) Bed and Breakfast

f) Recreational, Extensive

g) Kennel

h) Public Utility

i) Veterinary Clinic

j) Guest Cabin

k) Apiary (*amended by Bylaw 2019/44*)

l) Recreational Units Use (where no dwelling exists – maximum 3-year permit. If the landowner wants the use to continue, they may reapply for the use prior to the expiry of the development permit)

m) Offsite Home Occupation (Type 1) (*amended by Bylaw 2019/55*)

n) Onsite Home Occupation (Type 1) (*amended by Bylaw 2019/55*)

o) Buildings and uses accessory to the above
10.24.4 **Parcel Size**

a) On tree covered land which is within 400.0 meters (1312 feet) of Wizard Lake, or which has a view of the lake, the minimum parcel size is 2.0 hectares (5 acres).

b) On tree covered land other than that described in (a) above, the minimum parcel size is 5.0 hectares (12 acres).

c) On land seeded to permanent grass, the minimum parcel size is 16.0 hectares (40 acres).

d) On land seeded to annual crops, the minimum parcel size is 32.0 hectares (80 acres).

e) Where land is traversed by creeks, ravines, or other obstacles, the minimum lot size may be varied so that the obstacles are conformable with parcel boundaries.

10.24.5 **Density of Development**

The number of lots that may be created on a quarter section of land is the lesser of:

a) the number of families whose water needs can be met on a sustainable basis from the underlying aquifer, where that aquifer has been tested by a professional engineer using methods acceptable to Alberta Environmental Protection, or

b) the number allowed under Section 10.23.4, or

c) twenty-four (24).

10.24.6 **Setbacks**

a) No part of any residential parcel shall be located closer than 50.0 meters (154 feet) to the lake shore, or to the top of the lake bank, whichever is greater.

b) All buildings shall be set back at least 6.0 meters (20 feet) from the property line, or 50.0 meters (154 feet) from any water feature, whichever is greater, and as shown in the General Regulations.

c) In addition to the setbacks noted in (b) above, all buildings shall be set backs from property lines as follows:

   i. Front yard: see Section 9.10.1
   ii. Side yard: 5.0 meters (16 feet)
   iii. Rear yard: 10.0 meters (33 feet)

10.24.7 **Environmental Protection Measures**

a) See Section 9.3.
b) On parcels of land less than 32.0 hectares (80 acres) in size, no more than 20% of the parcel shall be cleared of its tree cover and other natural vegetation.

c) No trees or vegetation shall be cleared from within 50.0 meters (164 feet) of the edge of a water feature except to provide physical access to the water feature and only to a maximum of width of 3.0 meters (10 feet).

d) Steeply sloping banks, ravines, water recharge areas and land underlain by coal mines will be taken into municipal or environmental reserve when land is subdivided. Alternatively, an environmental reserve easement may be registered to protect tree cover.

10.24.8 Building Height

a) The maximum building height of all principal buildings shall be 10.0 meters (33 feet)

b) The maximum height of an accessory building shall be 6.0 meters (20 feet).

10.24.9 Recreational Units

Recreational Units may be authorized as outlined in Section 3.12, Recreational Units.

10.24.10 Sewage and Wastewater

Sewage and wastewater systems are required as outlined in Section 3.12.1(g), Recreational Units.

10.24.11 Utility Hookups

Utility hookups are required as outlined in Section 3.12.1(h), Recreational Units.

10.24.12 Enforcement

Offences and fines are outlined in Section 5, Contravention.
Roll: 257300  
Legal: 1620478 1 1 NE-34-47-27-4

Address: 475050 Rge Rd 272

Owner: ROYEA, ANDREW & LEANNE
BOX 3188
LEDC, AB T9E 6L9 CANADA

Zoning: Wizard Lake Watershed District
Actual Use: Primary: R10101
Market Loc: 6000 HMY. 2 WEST DISTRICT

Econ.Zone: Econ 2  
Wizard Lake Watershed District

Assbl. Land Area: 27.18 Acres  
Primary: R10101

Balance of 1/4: 126.24  
Lost in conversion: 0.02

Total Area: 160.00 Acres

Roll: 257300
Legal: 1620478 1 1 NE-34-47-27-4

Address: 475050 Rge Rd 272

Owner: ROYEA, ANDREW & LEANNE
BOX 3188
LEDC, AB T9E 6L9 CANADA

Zoning: Wizard Lake Watershed District
Actual Use: Primary: R10101
Market Loc: 6000 HMY. 2 WEST DISTRICT

Econ.Zone: Econ 2  
Wizard Lake Watershed District

Assbl. Land Area: 27.18 Acres  
Primary: R10101

Balance of 1/4: 126.24  
Lost in conversion: 0.02

Total Area: 160.00 Acres

Roll: 257300
Legal: 1620478 1 1 NE-34-47-27-4

Address: 475050 Rge Rd 272

Owner: ROYEA, ANDREW & LEANNE
BOX 3188
LEDC, AB T9E 6L9 CANADA

Zoning: Wizard Lake Watershed District
Actual Use: Primary: R10101
Market Loc: 6000 HMY. 2 WEST DISTRICT

Econ.Zone: Econ 2  
Wizard Lake Watershed District

Assbl. Land Area: 27.18 Acres  
Primary: R10101

Balance of 1/4: 126.24  
Lost in conversion: 0.02

Total Area: 160.00 Acres
Revised per review of RAP account.

<table>
<thead>
<tr>
<th>Sales</th>
<th>Date</th>
<th>Asmt</th>
<th>Price</th>
<th>Adj. Price</th>
<th>Sale Code</th>
<th>Type</th>
<th>Ratio</th>
<th>CoT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>07-10-2015</td>
<td>$381,420</td>
<td>$500,000</td>
<td>$490,200</td>
<td>8102 Non Arms Length</td>
<td>Vacant</td>
<td>78%</td>
<td>152205753</td>
</tr>
<tr>
<td></td>
<td>08-27-2013</td>
<td>$406,420</td>
<td>$395,000</td>
<td>$395,000</td>
<td>8001 Good Sale</td>
<td>Improved</td>
<td>103%</td>
<td>132268974</td>
</tr>
<tr>
<td></td>
<td>03-21-2007</td>
<td>$406,420</td>
<td></td>
<td></td>
<td>5 *AG USE C/W IMPTS.</td>
<td>Improved</td>
<td></td>
<td>072160994003</td>
</tr>
</tbody>
</table>
The purpose of this Subdivision and Development Appeal Board Hearing is to review the appeal of refused Development Permit Application D20/073 from Andrew and Leanne Royea for a 40' x 60' Stick Built Shop within NE 34-47-27-W4M Plan 1620478, Block 1, Lot 1, located south west of Wizard Lake, along Range Road 272.

On June 4, 2020, the County received a development permit application from Andrew and Leanne Royea for a 40' x 60' Stick Built Shop.

On June 19, 2020, Mr. Royea followed up on a previous phone conversation with an email to County staff outlining that with the 18 foot high walls the overall height of the shop was to be 23 feet and 10 inches. It should be noted that in that same phone conversation Mr. Royea verbally outlined that he wanted the shop to have an 18 foot ceiling height to accommodate an overhead crane so that he could use the crane to pull augers out of feed mixers. It was not specified if this would be an agricultural or commercial operation.

On June 29, 2020, a Notice of Refusal of Development Permit was issued to Mr. and Mrs. Royea for the 40' x 60' shop.

On July 7, 2020, payment for the Appeal of the Notice of Refusal was submitted along with an email from the applicant’s builder.

An Appeal Hearing was set for Thursday, July 30, 2020 and the Notice of Appeal Hearing was sent to the Applicant/Appellant, Registered Owners, Adjacent Landowners and the Director of Planning and Economic Development on July 20, 2020.

On July 27, 2020, Administration sent the Board Members of the Subdivision and Development Appeal Board a copy of the Agenda Package which included the following:

1. Development Officer’s Report
2. Notice of Appeal Hearing
3. Email of Appeal (email from builder)
4. Refusal of Development Permit D20/073
5. Development Permit Application
6. Site Plan
7. Wizard Lake Watershed District (Land Use Bylaw 2017/48)
8. Section 9.12 (Land Use Bylaw 2017/48)
9. Aerial Photos

Other information that has been received and provided to the Board Members of the Subdivision and Development Appeal Board, prior to the hearing is as follows:

1. Relevant Facts
RELEVANT FACTS FOR THE BOARD’S CONSIDERATION:

1. On June 4, 2020, the County received a development permit application from Andrew and Leanne Royea for a 40’ x 60’ x 18’ shop.

2. On June 19, 2020, Mr. Royea followed up on a previous phone conversation with an email to County staff outlining that with the 18 foot high walls the overall height of the shop was to be 23 feet and 10 inches. It should be noted that in that same phone conversation Mr. Royea verbally outlined that he wanted the shop to have an 18 foot ceiling height to accommodate an overhead crane so that he could use the crane to pull augers out of feed mixers. It was not specified if this would be an agricultural or commercial operation.

3. On June 29, 2020, a Notice of Refusal of Development Permit was issued to Mr. and Mrs. Royea for the 40’ x 60’ shop.

4. On July 7, 2020, payment for the Appeal of the Notice of Refusal was submitted along with an appeal letter from the applicant’s builder.

5. An Appeal Hearing was set for Thursday, July 30, 2020 and the Notice of Appeal Hearing was sent to the Applicant/Appellant, Registered Owners, Adjacent Landowners and the Director of Planning and Economic Development on July 20, 2020.

6. On July 27, 2020, Administration sent the Board Members of the Subdivision and Development Appeal Board a copy of the Agenda Package.

RELEVANT LEGISLATION FOR THE BOARD’S CONSIDERATION:

1. Municipal Government Act, R.S.A. 2000, c.M-26, Sections 627;
2. Municipal Government Act, R.S.A. 2000, c.M-26, Sections 638.2(1) through (4);
4. Municipal Government Act, R.S.A. 2000, c.M-26, Sections 640 (1);
5. Municipal Government Act, R.S.A. 2000, c.M-26, Sections 642(1) through (4);
6. Municipal Government Act, R.S.A. 2000, c.M-26, Sections 683 through to and including 687;
7. County of Wetaskiwin No. 10 Land Use Bylaw 2017/48: Regulations for Land Use Districts, Section 10.24 Wizard Lake Watershed District (WLW);
8. County of Wetaskiwin No.10 Land Use Bylaw 2017/48: Safety and Suitability of Sites, Section 9.12.2(n);
9. County of Wetaskiwin No.10 Land Use Bylaw 2017/48: Definitions, Section 1.2 – On Site Home Occupation (Type 1);

SPECIFIC CONCERNS REGARDING THE PROPOSED DEVELOPMENT:

1. The Applicants/Appellants would like the height restrictions relaxed.

PLANNING MERITS FOR THE BOARD’S CONSIDERATION:

When evaluating a development appeal, board members shall ask themselves the following:

1. How does this proposal contribute to the orderly, economic, and beneficial development, use of land or pattern or human settlement?
2. Does the proposal maintain or improve the quality of the human environment?
3. How does the proposal impact the individual rights and the public interest? Which is more important in this case and why?
4. Does the proposed development conform with the use prescribed for the land or building in the land use bylaw?
5. Have all concerns raised regarding the proposed development been adequately addressed?
The proposal for the 40’ x 60’ shop is located on the NE 34-47-27-W4M, Plan 1620478, Block 1, Lot 1 which is comprised of an approximate 27.18 acres and is zoned as Wizard Lake Watershed District. The parcel is located directly adjacent to Range Road 272 and is 600 metres south of Township Road 480.
(This picture was taken from Google Maps as it is more recent and shows the new house (approved by D18/179) and an existing shop (50ft x 72ft with overall height of almost 24ft), which does not have a development permit on file, but was constructed after the subdivision was registered on January 30, 2016. It should be noted that this is NOT the shop applied for with Application D20/073).

On June 4, 2020, the County received a development permit application from Andrew and Leanne Royea for a 40’ x 60’ x 18’ shop.

On June 19, 2020, Mr. Royea followed up on a previous phone conversation with an email to County staff outlining that with the 18 foot high walls the overall height of the shop was to be 23 feet and 10 inches. It should be noted that in that same phone conversation Mr. Royea verbally outlined that he wanted the shop to have an 18 foot ceiling height to accommodate an overhead crane so that he could
use the crane to pull augers out of feed mixers. It was not specified if this would be an agricultural or commercial operation.

On June 29, 2020, a Notice of Refusal of Development Permit was issued to Mr. and Mrs. Royea for the 40’ x 60’ shop.

On July 7, 2020, payment for the Appeal of the Notice of Refusal was submitted.

DISCUSSION

For the reasons explained in detail below, the Development Authority recommends that this appeal be denied.

Reason 1: Wall Height and Overall Height

Section 10.24.8 of the County’s Land Use Bylaw states that the maximum height of an accessory building shall be 6 metres (20 feet). As seen within an email sent by Mr. Royea, the overall height of the shop is proposed to be 23 feet and 10 inches. Further to this, Section 9.18.3(b) of the County’s Land Use Bylaw states that accessory buildings on Wizard Lake Watershed parcels less than 80 acres shall not exceed a wall height of 4.88 metres (16 feet) unless approved by the Development Officer. Within Section 10.24.8 there is no discretionary ability given to the Development Officer to provide a variance on the overall height of the shop. Section 9.18.3 does provide specific variance abilities to the Development Officer, however, as will be outlined in Reason 2 below there are further concerns that could be enabled by providing a variance.

Reason 2: Unauthorized Use Potential

As seen in the County’s Land Use Bylaw, the purpose of the Wizard Lake Watershed District is to preserve existing tree and vegetation cover around Wizard Lake. As such, when the District was established by Council, the approved list of permitted and discretionary land uses were fairly limited and did not make any allowances for extensive or intensive agricultural uses as well as restricted commercial uses. The most intensive commercial use that would be permitted on the lands would be an Onsite Home Occupation (Type 1). An Onsite Home Occupation (Type 1) would be subject to an approved development permit and would be required to operate within the following requirements:

- Up to 12 hours a day, 7 days a week;
- 1 employee, not including the owner/resident of the property;
- Up to 1 ton truck with a maximum of 30’ trailer; (No trailer allowed in the following districts RRHD, MH,HDR, LR, UR)
- 500 sq. ft of outdoor storage (pertaining to the Home Occupation); and
- Must be internal to existing residence or accessory building.
With the applied for wall and overall height of the proposed shop mixed with the statement made about an overhead crane, the Development Authority has concerns that approving the applied for wall and overall height would promote the use of the shop for uses that were not intended for the Wizard Lake Watershed District.

**RECOMMENDATION:**

It is the opinion of the Development Authority that the appeal of Refusal of Development Permit D20/073 for the 40’ x 60’ shop be **denied**.

The recommendation is made for the following reasons:

With the overall height of the building exceeding the height restriction as outlined in Section 10.24.8 the Development Authority does not have the discretion to provide a variance. Further to this, the Development Authority does have concerns that if the Board provide the requested variances that it would enable uses of the Lands to occur that were not intended for the Wizard Lake Watershed District.

**SUMMARY:**

In conclusion, the Development Authority's recommendation to the SDAB is to deny the appeal of the Refusal of Development Permit D20/073.
Appendix 1 – Applicable Legislation

Municipal Government Act

627(1) A council must by bylaw
(a) establish a subdivision and development appeal board, or
(b) authorize the municipality to enter into an agreement with one or more municipalities to establish an intermunicipal subdivision and development appeal board, or both.

638.2(1) Every municipality must compile and keep updated a list of any policies that may be considered in making decisions under this Part
(a) that have been approved by council by resolution or bylaw, or
(b) that have been made by a body or person to whom powers, duties or functions are delegated under section 203 or 209,

and that do not form part of a bylaw made under this Part.

(2) The municipality must publish the following on the municipality’s website:
(a) the list of the policies referred to in subsection (1);
(b) the policies described in subsection (1);
(c) a summary of the policies described in subsection (1) and of how they relate to each other and how they relate to any statutory plans and bylaws passed in accordance with this Part;
(d) any documents incorporated by reference in any bylaws passed in accordance with this Part.

(3) A development authority, subdivision authority, subdivision and development appeal board, the Municipal Government Board or a court shall not have regard to any policy approved by a council or by a person or body referred to in subsection (1)(b) unless the policy is set out in the list prepared and maintained under subsection (1) and published in accordance with subsection (2).

(4) This section applies on and after January 1, 2019.

639 Every municipality must pass a land use bylaw.

640(1) A land use bylaw may prohibit or regulate and control the use and development of land and buildings in a municipality.

642(1) When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application
otherwise conforms to the land use bylaw and is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

(2) When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may, if the application is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

(3) A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the decision was made and containing any other information required by the regulations, must be given or sent to the applicant on the same day the decision is made.

(4) If a development authority refuses an application for a development permit, the decision must include the reasons for the refusal.

683 Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

684(1) The development authority must make a decision on the application for a development permit within 40 days after the receipt by the applicant of an acknowledgment under section 683.1(5) or (7) or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(b).

(2) A time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority.

(3) If the development authority does not make a decision referred to in subsection (1) within the time required under subsection (1) or (2), the application is, at the option of the applicant, deemed to be refused.

685(1) If a development authority
   (a) fails or refuses to issue a development permit to a person,
   (b) issues a development permit subject to conditions, or
   (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board
(a) in the case of an appeal made by a person referred to in section 685(1)
   (i) with respect to an application for a development permit,
       (A) within 21 days after the date on which the decision is made under section 642, or
       (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires, or
   (ii) with respect to an order under section 645, within 21 days after the date on which the order is made, or
(b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(2) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.

(3) The subdivision and development appeal board must give at least 5 days’ notice in writing of the hearing
   (a) to the appellant,
   (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
   (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.

(4) The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
   (a) the application for the development permit, the decision and the notice of appeal, or
   (b) the order under section 645.

(4.1) Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).

(5) In subsection (3), “owner” means the person shown as the owner of land on the assessment roll prepared under Part 9.

687(1) At a hearing under section 686, the subdivision and development appeal board must hear
   (a) the appellant or any person acting on behalf of the appellant,
   (b) the development authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the development authority,
   (c) any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of that person, and
(d) any other person who claims to be affected by the order, decision or permit and that the subdivision and development appeal board agrees to hear, or a person acting on behalf of that person.

(2) The subdivision and development appeal board must give its decision in writing together with reasons for the decision within 15 days after concluding the hearing.

(3) In determining an appeal, the subdivision and development appeal board

(a) must act in accordance with any applicable ALSA regional plan;

(a.1) must comply with any applicable land use policies;

(a.2) subject to section 638, must comply with any applicable statutory plans;

(a.3) subject to clause (d), must comply with any land use bylaw in effect;

(b) must have regard to but is not bound by the subdivision and development regulations;

(c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

(d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

(i) the proposed development would not

(A) unduly interfere with the amenities of the neighbourhood, or

(B) materially interfere with or affect the use, enjoyment or value of

neighbouring parcels of land, and

(ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw

Land Use Bylaw

1.2 Definitions
Onsite Home Occupation (Type 1) means business or commercial activities that operate within the following requirements:

• Allowed in all Residential, and Agricultural districts;
• Up to 12 hours a day, 7 days a week;
• 1 employee, not including the owner/resident of the property;
• Up to 1 ton truck with a maximum of 30’ trailer; (No trailer allowed in the following districts RRHD, MH, HDR, LR, UR)
• 500 sq. ft of outdoor storage (pertaining to the Home Occupation); and
• Must be internal to existing residence or accessory building.

If a proposed use is already listed within a District or another more specific definition may be more suitable, the above definition does not apply. (amended by Bylaw 2019/55)

9.18 Accessory Buildings
9.18.1 An accessory building shall not be used for human habitation unless approved by the Development Officer.
9.18.2 An accessory building shall not be located in the required front yard unless approved by the Development Officer.

9.18.3 Accessory buildings on an individual site shall not exceed a site coverage and wall height (unless otherwise specified in a District) as follows:
   a) Within Lakeshore Residential, Urban Residential, Lakeshore Mixed, Mobile Home, Mixed Recreational Residential, Recreational Resort Holdings (Up to a maximum of 140 square metres (1506 square feet.) and shall not exceed a 4.26 metre (14ft) wall height unless approved by the Development Officer.
   b) Country Residential Lots, High Density Rural Residential, Rural Conservation, Restrictive County Residential, Rural Residential, Recreational (<5acres), Watershed Protection (<80 acres), Recreational Resort Holdings (<5 acres), Wizard Lake Watershed (<80 acres) accessory building square footage shall not exceed a square footage equal to that of 3.5% of the titled area of the lot, with no one building larger than 4,000 square feet and a maximum cumulative square footage of 6,000 square feet. The buildings shall not exceed a 4.88 metre (16ft) wall height unless approved by the Development Officer.

Exemptions: Districts not listed above, as well as any buildings and uses that are the principle building and use as allowed by the County’s Land Use Bylaw are exempt from these size and height restrictions limitations. Principal uses such as dwellings still may be subject to any square footage and height minimums and maximums established within each specific district. (amended by Bylaw 2019/55)

10.24 Wizard Lake Watershed District (WLW)
10.24.1 Purpose
The purpose of this district is to preserve existing tree and vegetation cover around Wizard Lake. The Wizard Lake Watershed District may be applied to land indicated on the map entitled Wizard Lake Management Plan – Plan Area in the Wizard Lake Management Plan.

10.24.2 Permitted Uses
a) Dwelling, Detached
b) Dwelling, Mobile – New
c) Dwelling, Modular – New
d) Buildings and uses accessory to the above

10.24.3 Discretionary Uses
a) Dwelling, Mobile – Used
b) Dwelling, Modular – Used
c) Dwelling, Moved – in
d) Dwelling, Secondary Suite
e) Bed and Breakfast
f) Recreational, Extensive
g) Kennel
h) Public Utility
i) Veterinary Clinic
j) Guest Cabin
k) Apiary (amended by Bylaw 2019/44)
l) Recreational Units Use (where no dwelling exists – maximum 3-year permit. If the landowner wants the use to continue, they may reapply for the use prior to the expiry of the development permit)
m) Offsite Home Occupation (Type 1) *(amended by Bylaw 2019/55)*

n) Onsite Home Occupation (Type 1) *(amended by Bylaw 2019/55)*
o) Buildings and uses accessory to the above

**10.24.8 Building Height**

a) The maximum building height of all principal buildings shall be 10.0 meters (33 feet)
b) The maximum height of an accessory building shall be 6.0 meters (20 feet).