1. **CALL TO ORDER**  
Chairperson L. Johnson called the meeting to order at 5:14 p.m.

2. **APPROVAL OF AGENDA**  
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**  
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 angel 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

   ______________________
   CHAIRPERSON

   ______________________
   SECRETARY