Subdivision and Development Appeal Board Meeting

MINUTES

Tuesday, December 11, 2018, 5:15 PM
Council Chambers
County Administration Building

Present
Laurie Johnson, Chairperson
Rick Pries, Board Member
Chris Daniel, Board Member
Tim Hoogland, Board Member

Absent
Everett Matiko, Board Member

Staff Present
Rod Hawken, Secretary of the Subdivision and Development Appeal Board
Jarvis Grant, Development Officer
Amber Tripp, Recording Secretary
Erin Ballhorn, Recording Secretary
Naomi Finseth, Municipal Intern

1. CALL TO ORDER
Secretary Rod Hawken called the meeting to order at 5:17 p.m.

2. APPROVAL OF AGENDA
Resolution SDAB20181012.001
MOVED: by Board Member C. Daniel
That the Agenda for December 16, 2018 be accepted as presented.
Carried Unanimously

3. NEW BUSINESS
3.1 Nominations for Chairperson and Vice Chairperson

At the February 6, 2018 Council General meeting, Council passed Bylaw 2018/07 which reads as follows:

"BY-LAW NO. 2018/07 is a by-law of the County of Wetaskiwin No. 10 in the Province of Alberta, to establish the administration of the subdivision of lands and development approvals.

WHEREAS Part 17, Division 3 Planning Authorities of the Municipal Government Act (hence known as 'the Act') requires that a municipality establish planning authorities.

THEREFORE, pursuant to the Municipal Government Act ('the Act'), the Council of the County of Wetaskiwin hereby enacts as follows:

A. SUBDIVISION AUTHORITY

1. Establishment of a Subdivision Authority
Pursuant to the provisions Section 623 of the Municipal Government Act, the Subdivision Authority of the County of Wetaskiwin No. 10 is hereby established to exercise subdivision powers and duties on behalf of the County of Wetaskiwin.

2. Composition of the Subdivision Authority
The Subdivision Authority shall be composed of all members of Council who are appointed at the annual Organizational Meeting of the County of Wetaskiwin No. 10.

(a) Duties of the Subdivision Authority:
   i) To make decisions on subdivision applications
      a) Approval
      b) Approval with conditions
c) Refusal

The Subdivision Authority may condition the approval of any subdivision within the requirements of the Municipal Government Act. If a refusal is issued, the Subdivision Authority will provide the reasons.

ii) Council may delegate by resolution those duties deemed appropriate by the Subdivision Authority to an employee of the County of Wetaskiwin.

B. DEVELOPMENT AUTHORITY

1. Establishment of a Development Authority

Pursuant to Section 624 of the Act, the authority to exercise development powers and duties under the Land Use By-law is vested in the Development Officer appointed Section Two: Authorities of Land Use By-law.

C. SUBDIVISION AND DEVELOPMENT APPEAL BOARD

1. Establishment of a Subdivision and Development Appeal Board

Pursuant to Section 627 of the Act, the Subdivision and Development Appeal Board ('the Appeal Board') is established.

2. Purpose of the Appeal Board

The purpose of the Appeal Board is:

(a) To hear appeals against decisions of the subdivision authority that do not fall under the criteria of Section 678(2)a of the Act; and

(b) To hear and decide upon appeals from decisions of the Development Officer in respect to development permits and stop orders and in this respect perform the duties assigned to the Development Appeal Board under Land Use By-law and amendments thereto.

3. Composition of the Appeal Board:

(a) The Appeal Board shall consist of:

i) five members from the general public who reside in the County of Wetaskiwin with a three member quorum; and shall be appointed by resolution of Council.

1. The terms of the appointed general public members who reside in the County of Wetaskiwin shall include:

2. two members being appointed January 1 previous of the current year and serving for a three year term to expire December 31 (ie: January 1st, 2014 to December 31st, 2016); and

3. two members being appointed January 1 of the preceding two year period of the current year and serving for a three year term to expire December 31 (ie: January 1st, 2013 to December 31st, 2015).

All subsequent appointments will be for a three year term.

1. Each member must receiving training as outlined in the Development Appeal Board Regulation before they may sit in an appeal.

2. Each member must receive refresher training as outlined in the Development Appeal Board Regulation a minimum of every three (3) years.

(b) A vacancy on the Appeal Board may be filled by resolution of Council at any time.

(c) The employees of the West Central Planning Agency or of the County of Wetaskiwin shall not be appointed to the Subdivision and Development Appeal Board.

(d) Appeal Board Procedures:

i) The members of the Appeal Board shall elect from its membership a Chairman and Vice Chairman.

ii) Elections of the Chairman and the Vice Chairman shall occur at the first meeting of the Appeal Board after the adoption of this By-law.

iii) In the event of absence or inability of the Chairman to preside at a meeting, the Vice Chairman shall preside.

iv) In the event of absence or inability of both the Chairman and Vice Chairman to preside at a meeting, the members present in constituting a quorum shall elect one of its members to preside as Chairman for that meeting.

v) Three members of the Appeal Board present shall constitute a quorum.
4. Appeal Board Secretary

1. The Secretary must have received training as outlined in the Development Appeal Board Regulation.

2. The Secretary must receive refresher training as outlined in the Development Appeal Board Regulation a minimum of every three (3) years.

(b) The Appeal Board Secretary shall:

i) Ensure that the appeal was properly filed on time.

ii) Ensure that notices of the hearings of the Appeal Board are given to all affected parties.

iii) Prepare and provide an information package for each Appeal Board member in advance of the hearing.

iv) Ensure the appropriate material is available for public viewing.

v) Prepare an agenda and an order of presentation.

vi) Notify all members of the Appeal Board of the arrangements for the hearings and other meetings of the Appeal Board.

vii) Prepare and maintain a file of written minutes of the business transacted at all meetings of the Appeal Board, copies of which shall be regularly filed with Council.

viii) Issue all notices of decision of the Appeal Board.

ix) Carry out such other administrative duties as the Appeal Board may specify.

5. Method of Decision-Making of the Appeal Board

The Appeal Board shall reserve the right to discuss matters presented at the appeal and take decisions in committee within fifteen (15) days of the completion of the hearing.

6. Filing and Processing of Appeals

The procedure for filing and processing appeals is set out in Sections 678 to 687 of the Act.

7. Establishment of Fee Schedules

Council may, by resolution, establish fees for subdivision and development appeals which shall be sufficient to cover the cost of advertising, administration, and other expenses.

8. Remuneration of Appeal Board Members

Council may, by resolution, establish at the annual organization meeting the remuneration to be paid to the Appeal Board members hearing an appeal.

By-law 2018/07 will repeal By-law 2015/13 in its entirety."

(Ref Resolution No. CG20180206.1014)

As per Section (d) Appeal Board Procedures of Bylaw 2018/07, the Appeal Board must elect from its membership a Chairperson and Vice Chairperson.

The following Nominations were made:

- Board member Chris Daniel nominated Board Member Laurie Johnson as Chairperson. Board Member Laurie Johnson had accepted the nomination.

- Board Member Laurie Johnson nominated Board Member Chris Daniel as Vice Chairperson. Board Member Chris Daniel had accepted the nomination.

Resolution SDAB20181012.002

MOVED: by Board Member C. Daniel

That the nominations for Chairperson cease.

Carried Unanimously

That Board approve Board Member Laurie Johnson as Chairperson.

Resolution SDAB20181012.003

MOVED: by Chairperson L. Johnson

That the nominations for Vice Chairperson cease.
That the Board approve Board Member Chris Daniel as Vice Chairperson.

4. **MINUTES APPROVAL**

4.1 **August 16, 2018 Subdivision and Development Appeal Board Minutes**

Resolution SDAB20181012.004

MOVED: by Board Member C. Daniel

To approve the minutes for the Subdivision and Development Appeal Board - August 16, 2018 meeting.

**Carried Unanimously**

5. **5:15 p.m. PUBLIC HEARING**

Chairperson L. Johnson declared the Hearing open at 5:28 p.m. and a delegation consisting of Stan Reiser, Holly Hobbs, and Jarvis Grant, Development Officer 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.

5.1 **Refusal of Development Permit D11/298 - Stan Reiser - Existing Six (6) Cabins within SW 1-47-2-W5M**

On February 4, 2000, County Administration received a development permit application from Stan and Fran Reiser to operate a bed and breakfast business out of their recently constructed house.

On February 16, 2000, Development Permit D00/12 was issued to Mr. and Mrs. Reiser for a bed and breakfast business. As per the land use bylaw at the time, Bylaw 95/54, bed and breakfast businesses were to be operated out of the main residence on the property.

On June 22, 2005, Mr. and Mrs. Reiser submitted a development permit application for a single family home to be built on the lands. At the time of application a seasonal cabin, single car garage and a shop were noted as already existing on the property.

On July 29, 2005, Development Permit D05/140 was issued to Mr. and Mrs. Reiser.

On November 16, 2009, Development Officer Shelley Der spoke with Mr. Reiser on the phone about applying for the necessary approvals for his cabins as well as his hunting outfitting business. In Shelley’s notes she makes specific reference to the fact that the bed and breakfast approval previously granted to the Reiser’s does not apply. She further mentions that development permit and Alberta Transportation application forms were sent. It should be noted that on the 2009 General Assessment records of the County that the Resier’s were listed to have one lodge/cookhouse, five (5) rental/bunkhouses and a wash house.

On July 22, 2010, Mr. and Mrs. Reiser were sent a letter from the County of Wetaskiwin following up on their conversation with Shelley Der in November of 2009. Within the letter it discusses how a bed and breakfast approval is not appropriate for what is existing on the property and that a new development permit would be required.

On November 7, 2011, Mr. Reiser was issued a Stop Order from the County of Wetaskiwin for operation of a business without approval and the construction of multiple buildings related to the business without approval. The Stop Order outlined applying for a development permit for
the aforementioned contraventions or ceasing operations and removing the unapproved buildings.

On November 15, 2011, Shelley Der spoke again with Mr. Reiser on the phone regarding the Stop Order. It was noted that Mr. Reiser was going to be applying for the necessary applications.

On December 10, 2011, a cheque for $150.00 was received from Alberta Trophy Hunts for Mr. Reiser’s development permit application but no application was received.

On December 14, 2011, a registered letter was sent to Mr. Reiser outlining that his cheque had been received but no application had been received. The letter further granted him an extension to the timeline as well as again outlined his need for an Alberta Transportation application to be filled out and submitted.

On December 21, 2011, the County received an email from Mr. Reiser which outlined that he was submitting the applications again.

On December 23, 2011, another $150 payment was received from Alberta Trophy Hunts along with a development permit application.

On June 4, 2012, County Administration sent another letter to Mr. Reiser outlining that we were still waiting on a referral from Alberta Transportation for his development. Along with the letter another Alberta Transportation application was sent.

On February 14, 2013, County Administration sent a list of outstanding development permit applications waiting on Alberta Transportation approval to Alberta Transportation; Mr. Reiser’s application was on the list.

On February, 21, 2013, Alberta Transportation responded to the County indicating that they had not received Mr. Reiser’s application.

On April 23, 2013, County Administration sent a letter to Mr. Reiser following up to the June 4, 2012 letter. In the letter it again outlined that an Alberta Transportation application had not been received and that without any approvals in place, no development was to have been commenced.

On November 20, 2018, County Administration received a fax from Mr. Reiser requesting that he be sent a copy of the development that he had applied for and that he will be appealing the refusal.

On November 3, 2018, County Administration sent a fax to Mr. Reiser again outlining that he could apply for a development permit and all of the information that would be required.

On October 29, 2018, Administration issued a Notice of Refusal of development permit application:

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

Existing Six (6) Cabins SW-1-47-2-W5M, REISER, STANLEY

has been REFUSED for the following reason:

As per Section 3.4.4 of the County’s Land Use By-law 2017/48, "Pursuant to Section 683.1(1)
through to (11) of the Act, the following subsections are outlined in relation to development applications:

6. If the development authority determines that the application is incomplete, the development authority must issue to the applicant a notice in the form and manner provided in the Land Use Bylaw that the application is incomplete and that any outstanding documents and information referred to in the notice must be submitted by a date set out in the notice or a later date agreed on between the applicant and the development authority in order for the application to be considered complete.

8. If the applicant fails to submit all the outstanding information and documents on or before the date referred to in subsection (6), the application is deemed to be refused.

9. If an application is deemed to be refused under subsection (8), the development authority must issue to the applicant a notice in the form and manner provided for in the Land Use Bylaw that the application has been refused and the reason for refusal.

Your development permit application was submitted to Administration on December 23, 2011. After reviewing your application Administration informed you of the need for the Approval from Alberta Transportation for the Existing Six (6) Cabins and the requirement of the Off-Site Levy fee in the amount of $2,034.00, or proof of a compliant on site treatment system. Administration has made multiple attempts to follow-up to have the application and approval sent to the County of Wetaskiwin and Alberta Transportation, and collect the Off-Site Levy fee. However, as of today’s date we have yet to receive any correspondence of when we would receive the approval the County requires from Alberta Transportation and the Off-Site Levy payment, or proof of a compliant on site treatment system to process your Development Permit Application.”

On November 19, 2018, the Secretary of the Subdivision and Development Appeal Board received a Letter of Appeal from the Applicant/Appellant that read as follows:

"Please find attached the septic field information, and inspection report, as requested.

The papers from Alberta Transportation are not here, for the following reasons:

1. The permit application was sent in years ago, to a Gail Long. I also spoke with Ms Long at the time, and she had no problem with the cabins, due to their isolated location from the highway. There is a heavily treed ravine between the highway and the cabins. Traffic flow is extremely low into our site. Approx. 2 to 4 vehicles leaving at 6am, and returning around 7pm. This takes place for only approx. 6 weeks per year. I had submitted an application at that time, but it is missing now.

2. I have had a “Bed and Breakfast” licence since about 2001, which is still valid.

3. At the request of the previous development officer, the premises was inspected, and the county issued me a “food serving permit”.

4. I hold an outfitters licence, from the Govt of Alberta. It is mandatory that I carry a $10 million bond, and insurance. We operate under a DAO from the province. Of the 450 plus outfitters in Alberta, I believe I am the only one subjected to the taxes etc. Imposed upon me. I pay taxes to the county as follows: $2613.66 on my residence, and $3285.50 on the cabins.

They were built in 1999, and I have been taxed ever since. . To be asking for this 19 years after the fact seems a little odd.

5. I have asked for, and HAVE NOT RECEIVED a copy of the development permit that is in question. That is, I have been told, because there is NO SUCH PERMIT.

6. Last fall I agreed to resubmit an application to Alberta Transportation. Shortly after I suffered several heart attacks, and literally died several times. I spent 4 months in the U of A hospital, and thus could not submit the application.

I respectfully request, that on receipt of approval from Alberta Transportation, you will put this matter to rest. Please consider my health status and the 19 years retroactive,
A Subdivision and Development Appeal Board Hearing was scheduled for Tuesday, December 11, 2018 and a Notice of Appeal Hearing was sent to the Applicant/Appellant, adjacent landowners, the Subdivision and Development Appeal Board members and the Director of Planning and Economic Development on November 20, 2018.

Administration recommended that the Subdivision and Development Appeal Board deny the appeal of Refusal of Development Permit D11/268 for 'six (6) existing cabins' and that the Board not issue a development permit, but rather in accordance with Section 687(3)(c) of the Municipal Government Act, issue a Stop Order which outlines the following:

- Submit a development permit application completed to the satisfaction of the Development Authority, which is to include but is not limited to, a completed Alberta Transportation Roadside Development Application and $2034 or an inspection by Superior Safety Codes, which indicates that the septic system which services the guided hunting business meets code and treats all effluent onsite, no later than February, 8, 2019;
- Remove all structures used in conjunction with the guided hunting business and cease operating the guided hunting business no later than February 8, 2019.

The Board had the following questions for Administration:

- What elements are missing from the Development Permit Application?
- What qualifies as a Minor Business?
- Have there been any complaints regarding the business?
- Is the 2011 Stop Order still valid?

Jarvis Grant, Development Officer replied with the following:

- The missing information for the application is the Alberta Transportation approval and payment for the offsite Levy fee and or the inspection report for the existing unauthorized buildings.
- Based on the Seasonal nature of the business and historical records, a minor business could be applied for. There is also some extensive recreational use as well.
- As of today, there have been no complaints regarding the business.
- The stop order is still valid, but Administration felt it was more appropriate to start over.

Stan Reiser addressed the following:

- The refusal of the development permit may not have been legal as there was no application.
- Alberta Transportation issued a Roadside Development approval today for the 6 Existing Cabins (December 11, 2018).
- Stated the septic field (outflow mound)was installed within cabins that were built in 1999, and was unable to get copies of the permits.
- Mentioned that Stop Order was regarding the Food Service on the property and was resolved, by getting a food service licence.
- Stated he has been paying taxes on the Cabins since 1999.
- Stated he has been issued a Bed and Breakfast approval from the County in 2002, and that approval does not have an expiry date.
- Discussed the location and use of the buildings on a site plan provided.
- Stated no other outfitters in the County are being taxed on their buildings.
- There are two to three employee vehicles entering and leaving the property a day.
- These issues that are being brought forward today have been going on for 13-19 years.

The Board had the following questions for Mr. Reiser:

- When did he apply for the Alberta Transportation Roadside Development permit?
- Questioned the Septic Field report. Is there a separate system for the house and accessory buildings?
- How many people does the Business accommodate?
- What type of hook ups are in the cabins?
Mr. Resier replied to the Boards questions as follows:

- Stated he had just recently applied for the Roadside Development Permit.
- Mentioned that the mound that was installed was legal in 1999, it is not with the house not the cabins. The house and cabins have different systems. Stan went over his site plan.
- Stated that the business accommodated four to six people a week.
- The cabins only have power.

5.2 Recess/Reconvened

The meeting recessed at 6:10 p.m.

The meeting reconvened at 6:22 p.m.

Discussion continued regarding the refusal of Development Permit D11/298 for Stan Reiser, the Board and Administration then were provided with the Roadside Development Application approval given to Mr. Reiser earlier that day (December 11, 2018).

Mr. Grant stated to the Board, that the issued Roadside Development Application seems to be sufficient, the applicant still would require the inspection of the existing wastewater system for the cabins.

Mr. Reiser stated that there are no dog kennels and there are only three (3) dog runs on the property for clients who bring their dogs.

Chairperson L. Johnson declared the hearing closed at 6:38 p.m. and thanked the delegation for attending and they left the hearing.

Chairperson L. Johnson stated that due to time constraints the Board will continue discussion later in the meeting.

6. 6:00 p.m. PUBLIC HEARING

Chairperson L. Johnson declared the Hearing open at 6:40 p.m. and a delegation consisting of Montgomery Blanchard, Jarvis Grant, Development Officer 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 of the Subdivision and Development Appeal Board Hearing presented the Summary of Events.

6.1 Refusal of Development Permit D18/241 - Charlene Blanchard - Giftware and Retail Store, "Pipestone Trading Post" in existing building within NE 13-47-27-W4M

On September 5, 2018 Administration received a request from Harold Sande for Compliance Certificate for NE 13-47-24-W4M. On the basis of the Real Property Report dated September 17, 2018, Administration issued Certificate of Compliance for Non-Compliant Building. The locations of the buildings within the property were not in conformity with the present provisions of the County of Wetaskiwin’s Land Use Bylaw 2017/48 as follows:

The County notes that based on the year the following were established:

- Commercial Building (9.24 x 7.41)
- Shed (4.37 x 5.00)
- Commercial Building (5.34 x 8.40 x 7.99 x 20.71 x 9.16 x 6.99)
- Mobile Home and Dwelling
- Commercial Building (11.71 x 7.44)
The above listed structures may continue to be used subject to Section 643 of the Municipal Government Act.

Section 643(5) states:

A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

1. to make it a conforming building,
2. for routine maintenance of the building, if the development authority considers it necessary, or
3. in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

The location of the Commercial Building (5.34 x 2.23 x 8.40 x 7.99 x 20.71 x 9.16 x 6.99 x 1.08) being 1.27 metres (4.16 feet) from the front property line is beyond the relaxation ability of County Administration.

- As shown on the Real Property Report the Commercial Building (5.34 x 2.23 x 8.40 x 7.99 x 20.71 x 9.16 x 6.99 x 1.08) is located 6.62 metres (21.71 feet) from the south property line. As per the Land Use Bylaw 2017/48 the required front yard setback is 40 metres (131 feet).

The location of the Commercial Building (5.34 x 2.23 x 8.40 x 7.99 x 20.71 x 9.16 x 6.99 x 1.08) being 6.62 metres (21.71 feet) from the front property line is beyond the relaxation ability of County Administration.

- As shown on the Real Property Report the Commercial Building (9.24 x 7.41) is located 1.11 metres (3.64 feet) from the east property line. As per the Land Use Bylaw 2017/48 the required front yard setback is 50 metres (164 feet).

The location of the Commercial Building (9.24 x 7.41) being 1.11 metres (3.64 feet) from the front property line is beyond the relaxation ability of County Administration.

- As shown on the Real Property Report the Commercial Building (7.44 x 11.72) is located 6.88 metres (22.57 feet) from the south property line. As per the Land Use Bylaw 2017/48 the required front yard setback is 40 metres (131 feet).

The location of the Commercial Building (7.44 x 11.72) being 6.88 metres (22.57 feet) from the front property line is beyond the relaxation ability of County Administration.

- As shown on the Real Property Report the Mobile Home and Dwelling is located 14.21 metres (46.62 feet) from the south property line. As per the Land Use Bylaw 2017/48 the required front yard setback is 40 metres (131 feet). As per Land Use Bylaw 2107/48 only one (1) dwelling is allowed on properties under 80 acres in size.

- The location of the Sign encroaches onto the Provincial Highway Road Allowance 1.04 metres (3.41 feet), and does not meet the required setback of 50 metres (131 feet) from the property line; as per the County of Wetaskiwin’s Land Use Bylaw 2017/48.

- As shown on the Real Property Report the Commercial Building (9.24 x 7.41) is located 3.92 metres (5 feet) from the north property line. As per the Land Use Bylaw 2017/48 the required side yard setback is 5 metres (16 feet).

- As shown on the Real Property Report the Shed (4.37 x 5.00) is located 13.74 metres (45.07 feet) from the east property line. As per the Land Use Bylaw 2017/48 the required front yard setback is 50 metres (164 feet).

- The County notes that historically there has been approval for a Cafe in the Commercial Building (6.99 x 1.08 x 5.34 x 8.40 x 7.99 x 20.71 x 9.16). If there are any changes to the use or intensity of the building the property may potentially require rezoning and development permits. Alberta Transportation’s approval will also be required.

- The County notes that there are no approvals for any businesses to be run out of any other buildings as shown on the real property report. If there are any changes to the use or intensity of the buildings the property may potentially require rezoning and will require development permits. Alberta Transportation’s approval will also be required.

On October 24, 2018 Administration received two applications for approval of Business located on the property, each proposal is located in a different building on the property. The first application was for “The Pipestone Family Cafe” which already had County approval, but since the ownership had changed, Administration requested they apply for Business Approval. The second application was for the Pipestone Trading Post. After review of the application,
the applicant was emailed on November 7, 2018 stating that they would be required to fill out a Development Permit application and fill out a Roadside Development to be sent to Alberta Transportation.

On November 15, 2018 Administration received a Development Permit application for Giftware and Retail Store, "Pipestone Trading Post" in existing building located at NE 13-47-27-W4M.

On November 23, 2018 Administration issued a Notice of Refusal for the Development Permit application:

"You are hereby notified that your application for a development permit with regard to the following:
Giftware and Retail Store, "Pipestone Trading Post" in existing building, NE-13-47-27-W4M, BLANCHARD, CHARLENE MARIE

has been REFUSED for the following reason:

As per Section 3.8. of Land Use Bylaw 2017/48

3.8 Variance Provisions

3.8.1 With the exception of Section 9.10.4 the Development Officer may relax the setback standards of this Bylaw by up to 75%.

3.8.3 The Development Officer may relax the setback standards of this Bylaw by up to 75%, for non-conforming buildings that are permitted or discretionary uses under the Bylaw provided there are no objections from the affected road authority or adjacent landowners.

As shown on the Real property report the Giftware and Retail Store, "Pipestone Trading Post" in existing building is located 6.88 metres (22.57 feet) from the front property line.

As per the Land Use Bylaw 2017/48 the required front yard setback is 40 metres (131 feet). The location of the Giftware and Retail Store, "Pipestone Trading Post" in existing building being 6.88 metres (22.57 feet) from the front property line is beyond the relaxation ability of County Administration. Even though the building is existing, the use of the building as a giftware and retail store is a new use and must meet the current requirements of the County's Land Use Bylaw.

On November 29, 2018 the Secretary of the Subdivision and Development Appeal Board received an email requesting the Appeal from the Applicant/Appellant the email stated:

"Good morning Amber and Lindsay,
I hope you are both having a wonderful Christmas Season. It seems to start earlier and earlier each year!
I have attached the statement, pertinent pics and documents needed to be submitted along with the Appeal. I have also made the appeal fee payment of $150, (included the proof of payment).
I am not going to be able to be present at the meeting, how do I make sure my statement and documents are all read to the board members? Should I send a family member in my stead to read the appeal statement? Will either of you be at the meeting and be able to make sure it is presented thoroughly?
Could you please print these off and give them to the Secretary of the Appeal Board for me? If not, I will do my best to have them delivered in person.
Thank you both very much for answering all my questions and your assistance in this matter.
The Appeal Letter reads as follows:

"Appeal to Refusal of Business Change:

Good evening,

I have submitted this to appeal the decision of "refusing the change in use" of an existing building.

Previously the building was used as a Salon and I would like to change the use of the building to a gift/retail store.

Please allow me to take a minute of your time and explain. We recently purchased the Pipestone Café and Salon from the owners who had it since 1974 and were respected pillars of the Pipestone Community. Our family has lived 4 miles from the store for 4 generations, and our vision for the café and store are to keep the heritage and genuine history of the local farming community alive.

The Cafe is to be an old fashioned restaurant that serves homemade meals and the Salon [Pipestone Trading Post with your approval], will be a place where the folks can go to step back in time and walk through their own heritage. The community members are very supportive and have offered historic pictures of local homesteads as well as nostalgic antiques and black and white pictures of great, great grandparents for the walls.

Based on when the buildings were built, (some as early as 1937) they now have nonconforming setbacks and have been grandfathered by the County due to their locations. One of these buildings is the subject of this appeal.

This appeal is to the recent 'refusal for business change' and is based on The Municipal Government Act, section 643(5) which states: A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except for provisions a,b & c.

I would like to be very clear that there are no changes to be made to the structure of the building. Simply, the use of the building is going to change from a hair salon to a retail store. There is to be one employee, who will simply be in charge of the store rather than the Salon. It would be a very straight forward change in the business name, and rather than selling hair products and hair cuts, we would like to sell nostalgic giftware and other retail items which will compliment the historic and rural theme of the cafe.

I have obtained a permit from Alberta Transportation to allow for the change, and now appeal to this board to allow this as well.

Thank you very much for your time, I truly wish I could have been there in person to make my appeal.

If you are undecided or are negatively inclined would you please allow me the opportunity to come and speak with the appeal board in May? I am unfortunately out of the country until then.

Have a wonderful evening.

Kind Regards,
Charlene Blanchard”

After conforming to Ms. Blanchard that Administration would schedule a Hearing for Tuesday, December 11, 2018 and Administration would recommend the Board rescheduled the Appeal Hearing, Ms. Blanchard sent the following email:

"Thank you Amber,

I am happy with the secretary reading the letter to the board members. If it is possible to have the business change approved on December 11th, that would be great.
We aren’t positive when we will be back in May, so maybe it is best that we just put everything through the appeal process December 11th and if it’s declined I will reapply when I return.

Kind Regards,
Charlene"

On November 29, 2018 Administration sent the Notice of Refusal to the Public Works Department to get their comments on the location of the building with the proximity to Township Road 472A. On December 3, 2018 Administration received the following comments from Director of Public Works, Neil Powell:

"Considering that this is an existing building and the proximity to the restaurant, I do not have a specific objection regarding the location of the building containing a new business and its setback to the property line. Due to the existing parking lot in place for the restaurant, the roadway (TR 472A) is shifted to the south to accommodate. My only comment regarding this new application is that some conditions should be placed on the owner specifying that the existing parking lot (which is on public ROW) cannot be expanded any further within public right-of-way. In other words, additional parking requirements should be directed to the north on private property and away from the road ROW."

A Subdivision and Development Appeal Board Hearing was Scheduled for Tuesday, December 11, 2018 and a Notice of Appeal Hearing was sent to the Applicant/Appellant, adjacent landowner, the Subdivision and Development Appeal Board and the Director of Planning and Economic Development on November 29, 2018.

Administration recommended that the Board uphold the appeal as submitted by Charlene Blanchard and consider the issuance of a Development Permit for application D18/241 for Giftware and Retail Store, "Pipestone Trading Post" in existing building within NE-13-47-27-W4M. Due to the change in use of the development from historically being a hair salon to a new giftware/retail store, a development permit is required as it would no longer fall under Section 643 of the Municipal Government Act as a non-conforming use. With the existing building being beyond the relaxation ability of the development authority a refusal had to be issued. However, with the conditional support of the affected Road Authority, the Subdivision and Development Appeal Board has the provisions within the Municipal Government Act and Land Use Bylaw to issue a development permit with the required 82.8% relaxation.

The Board had the following questions:

• Questioned the location of parking on the property.
• What would happen if applicant wanted to renovate or have a change in use within the buildings?
• Questioned the Minor Business definition?
• What will be the number of employee at the gift shop and cafe be?

Mr. Grant had the following responses:

• Stated that there is Section 9.14 within the Land Use Bylaw that states regulations for onsite parking.
• They would have to reapply for a Development Permit, and Administration would have to refuse based on the setbacks that they surpass 75% relaxation allowance.
• Discussed that Administration has no issues indentifying this proposal as a Minor Business. Administration had looked at intensity of use, during the Winter months it will be as busy and was given approval from Alberta Transportation.
• Mentioned that within the applications it was stated that Gift shop will have one (1) employee plus the land owner, and the Cafe will have (3) plus the landowner.

Montgomery Blanchard read the appeal letter sent by Charlene Blanchard from November 29, 2018.

The Board had the questions:
- Is someone is living on the property?
- Was there any approval for the Salon?
- Can the applicant change their hours of operation?

Mr. Blanchard stated the buildings are rented out, but stated there is the possibility of himself or sister to move onto the property in the future.

Mr. Grant stated Administration could not find any approval for the salon. If the applicant wished to expand the hours of operation they would be required to apply for another Development Permit.

The Board requested that Mr. Grant go over the proposed Development Permit conditions for Mr. Blanchard.

Mr. Blanchard questioned the parking condition.

Chairperson L. Johnson declared the Hearing closed at 7:08 p.m. and thanked the delegation for attending and they left the hearing.

**Resolution SDAB20181012.005**

MOVED: by Board Member T. Hoogland

That that the Board uphold the refusal a Development Permit for application D18/241 proposing the operation of a Giftware and Retail Store, “Pipestone Trading Post” in an existing building within NE-13-47-27-W4M. The Board was of the opinion that the proposed use does not meet the definition of Minor Business as the proposed business (giftware and retail store) is not operated from or subordinate to the residential use of the site.

Carried Unanimously

5. **5:15 p.m. PUBLIC HEARING**

5.3 **Refusal of Development Permit D11/298 - Stan Reiser**

Discussion continued regarding the refusal of Development Permit D11/298 for Stan Reiser.

The Board continued their discussion:
- Issuing a New Stop Order
- Discussed the number of cabins
- The number of Clients
- The Bed and Breakfast requires the proper approval

**Resolution SDAB20181012.006**

MOVED: by Board Member R. Pries

That the Subdivision and Development Appeal Board deny the appeal of Refusal of Development Permit D11/268 for 'six (6) existing cabins' and that the Board not issue a development permit, but rather in accordance with Section 687(3)(c) of the Municipal Government Act, issues a Stop Order which outlines the following:
- Submit a new development permit application completed to the satisfaction of the Development Authority, which is to include but is not limited to,
  - A detailed site plan to include all buildings
  - Detailed description of the operation of the Business
  - A completed Alberta Transportation Roadside Development Application and,
  - Pay $2034 or request an inspection by Superior Safety Codes, which indicates that the septic system which services the guided hunting business meets code and treats all effluent onsite, no later than May 31, 2019;
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- If the above conditions are not met, the removal of all structures used in conjunction with the guided hunting business and cease operating the guided hunting business no later than May 31, 2019.

Carried Unanimously

7. CLOSED TO THE PUBLIC

The Board will be discussing a response from Brownlee LLP, therefore the meeting should be closed to the public, pursuant to Section 197 of the Municipal Government Act, 2000, Chapter M-26 and amendments thereto, and the Freedom of Information and Protection of Privacy Act, Part 1, Division 2 Exceptions to Disclosure, Section 27 Privileged information.

Resolution SDAB20181012.007
MOVED: by Board Member T. Hoogland
That the meeting be closed to the public, at 8:28 p.m., pursuant to Section 197 of the Municipal Government Act, 2000, Chapter M-26 and amendments thereto, and the Freedom of Information and Protection of Privacy Act, Part 1, Division 2 Exceptions to Disclosure, Section 27 Privileged information to discuss the Legal response from Brownlee.

Carried Unanimously

Resolution SDAB20181012.008
MOVED: by Board Member C. Daniel
That the Board move out of closed to the public at 8:35 p.m.

Carried Unanimously

Resolution SDAB20181012.009
MOVED: by Board Member T. Hoogland
That the Board accept the Legal opinion provided by Brownlee LLP as information.

Carried Unanimously

10. ADJOURN

Resolution SDAB20181012.010
MOVED: by Board Member C. Daniel
That the Subdivision and Development Appeal Board hearing be adjourn at 8:36 p.m.

Carried Unanimously

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CHAIRPERSON

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SECRETARY