
Appeal File Number: 024-STU-008
Application Number: 305305-24-D0120
Appeal Against: Development Authority of Sturgeon County
Appellant: Ryan Augusto
Date and Location of Hearing: June 18, 2024
Council Chambers and Through Electronic Communications
Date of Decision: July 2, 2024
SDAB Members: Julius Buski (Chair), Neal Comeau, Lee Danchuk, Amanda Papadopoulos, and Don Rigney

NOTICE OF DECISION

IN THE MATTER OF an appeal by Ryan Augusto against the Development Authority’s refusal to approve an application to operate a Home-Based Business Level Two - Lawncare Service - Unicutters Lawncare, with a variance allowing for four non-resident employees on-site at Plan 0729434; Block 5; Lot 3 Tuscany Hills, 101-54302 Range Road 250 within Sturgeon County.

- [1] This is the decision of the Sturgeon County Subdivision and Development Appeal Board (the “SDAB” or “Board”) on an appeal filed with the SDAB pursuant to sections 685 and 686 of the *Municipal Government Act*, RSA 2000, c M-26 (the “MGA” or “Act”).
- [2] In making this decision, the Board reviewed all the evidence presented and considered provisions of the *Municipal Government Act*, Sturgeon County’s Land Use Bylaw 1385/17 (LUB), and Sturgeon County’s Municipal Development Plan (MDP), and any amendments thereto.
- [3] The following documents were received prior to the hearing and form part of the record:
1. The Notice of Appeal;
 2. A copy of the development permit application with attachments;
 3. The Development Authority’s written decision;
 4. Planning & Development Services Report; and
 5. Adjacent landowners’ written submissions.

PRELIMINARY MATTERS

[4] There were no preliminary matters addressed at this hearing.

PROCEDURAL MATTERS

[5] The appeal was filed on time and in accordance with section 686 of the MGA.

[6] There were no objections to the proposed hearing process as outlined by the Chair.

[7] There were no objections to the composition of the Board hearing the appeal.

[8] The Board is satisfied that it has jurisdiction to deal with this matter.

ISSUE

[9] The Appellant raised the following grounds of appeal:

- The business operates seasonally from late April to early October and requires four employees to convene at the subject property, park their personal vehicles, and depart together in a company work vehicle.
- Employees would park on the subject property without blocking adjacent roadways and cause minimal disturbance in the neighbourhood.
- He believes the request for the variance is reasonable and aligns with their commitment to being considerate neighbours.

RECOMMENDATION OF THE DEVELOPMENT AUTHORITY

[10] Yvonne Bilodeau, representative of the Development Authority, provided a presentation which outlined the Development Authority's refusal of Development Permit 305305-24-D0120. In summary:

1. The property is located in the R2 – Country Estate Residential District and is 0.2 hectares with a single detached dwelling and attached garage with a paved driveway area of 260.08 square metres. The property is adjacent to a residence to the north with the County's Public Utility Lot and Municipal Reserve lot to the south. There are more houses across the street and the rear yard is abutted by farmland.
2. Sturgeon County received a complaint from a local resident. Development Compliance Officers visited the parcel wherein the landowners and operators of the business confirmed the operation of a home-based lawn care business.
3. Sturgeon County Land Use Bylaw Section 6.16 – Special Regulations for Home Based Business – Table 6.1 states the requirements for home-based businesses. The maximum number of non-resident employees allowed on-site for a Home-Based Business Level Two is 2. An application was made for a Home-Based Business Level Two with a variance requested to increase the number of non-resident employees from two to four. The Development Authority refused the application as it exceeds the number of allowed on-site non-resident employees.
4. Sturgeon County Land Use Bylaw Section 12.2.2 lists a Home-Based Business Level 2 as a discretionary use in the R2 – Country Residential District. A Home-Based Business is defined as the accessory use of a dwelling, accessory buildings and parcel for an occupation, trade, profession or craft to be operated by the permanent residents of the dwelling.

5. Part 9 - Parking Regulations states the minimum parking standards for a 90-degree parking stall is 2.7 metres wide and 6.1 metres long. Table 9.2 - Minimum On-Site Parking Stall Requirements for a Home-Based Business is 1 per non-resident employee and 1 per commercial vehicle.
6. The application is consistent with the regulations for available parking in that there is ample space on the property's private driveway to accommodate all four non-resident employee vehicles as well as the commercial vehicle and trailer. Calculated as four parking spaces for the non-resident employees, one commercial vehicle, one passenger vehicle, and one trailer for a total of 7 spaces at 16.53 square metres each, 115.75 square metres of total parking space is needed. The total area of the driveway at 260 square metres leaves an additional 144.3 square metres of parking area. Therefore, the Development Authority's refusal was not based on inadequate parking.
7. The application is consistent with all other regulations of the use other than the number of on-site non-resident employees.

SUMMARY OF APPELLANT'S POSITION

[11] The Appellant, Ryan Augusto, attended the hearing and submitted that:

1. As property and home-based business owners they were approached by Sturgeon County staff and advised that they would require a development permit to continue operating a home-based business on their property.
2. They wish to continue operating as a home-based business with adequate on-site parking for their four employees as it is an economically viable business model and therefore seek to obtain the appropriate development permit.
3. It is their intention to operate within the guidelines as set out by Sturgeon County, and they will ensure their employees park on their property during business hours.
4. The work activities of their business are performed at other properties off-site and would not affect adjacent landowners.

SUBMISSIONS FROM ADJACENT LANDOWNERS

[12] Shawn Frew attended the hearing and spoke in favour of the appeal. He submitted that:

1. He is the property owner of the house immediately adjacent to the home-based business.
2. He fully supports the Appellant in the appeal and stated that the business owners are respectful of the neighbouring properties, maintain their property and parking area in pristine condition, and do not engage in any activities that negatively affect or disturb the neighbouring properties.

DECISION

[13] **The Board GRANTS the appeal and REVOKES the decision of the Development Authority made on May 23, 2024 to refuse development permit application 305305-24-D0120, and APPROVES a development permit to operate a Home-Based Business Level Two - Lawncare Service - Unicutters Lawncare, with a variance allowing for four on-site non-resident employees, with the following conditions:**

1. The home-based business shall not occupy more than 30% of the gross floor area of the dwelling and the area of the accessory building(s) shall be at the discretion of the Development Authority.
2. There shall be no exterior storage. Any equipment or materials related to the business shall be located within the dwelling or accessory building(s).
3. There shall be no client traffic to the property.
4. The home-based business shall be operated by the permanent resident(s) of the principal dwelling and there shall be no more than four (4) non-resident employees on-site.
5. A maximum of four parking stalls for non-resident employees shall be provided on-site and not on the public roadways.
6. One commercial vehicle (not exceeding 4,800kg), one passenger vehicle and one trailer may be used for business purposes and be parked on-site.
7. Only one on-site, commercially produced sign to identify the business, shall be allowed. The sign dimensions shall be a maximum of 1 metre in length and 0.6 metres in height. The sign shall be displayed as a window sign, be affixed to a building or be located in the front yard adjacent to the front parcel boundary and either be self-supporting or attached to existing fencing. There shall be no off-site signage associated with this home-based business.
8. The home-based business shall operate between 7:00 a.m. to 8:00 p.m. only.
9. The home-based business shall not generate noise, smoke, steam, odour, dust, fumes exhaust, vibration, heat, glare or refuse matter considered offensive or excessive by the Development Authority. At all times, the privacy of the adjacent residential dwelling(s) shall be preserved and shall not, in the opinion of the Development Authority, unduly interfere with or affect the use, enjoyment or value of neighbouring or adjacent parcels.
10. The development permit is issued to the applicant and is non-transferable. Should the applicant move or sell the business, the permit will become void.

Advisory Notes:

1. Home Based Business means the accessory use of a dwelling, accessory buildings and parcel for an occupation, trade, profession or craft to be operated by the permanent residents of the dwelling.
2. It is the responsibility of the applicant/landowner to ensure that all development, and activities associated with the development, complies with any federal, provincial, or municipal laws/legislation and any required license, permit, approval, authorization, regulation, or directive.

REASONS FOR THE DECISION

[14] The subject property is located in the R2 – Country Estate Residential District. The application is to operate a Home-Based Business Level Two with a variance allowing for four on-site non-resident employees.

[15] Section 12.2.2 of the Land Use Bylaw lists a Home-Based Business Level 2 as a discretionary use in the R2 – Country Estate Residential District. Section 6.16 – Special Regulations for

Home Based Business, Table 6.1, states that the maximum number of non-resident employees allowed on-site for a Home-Based Business Level Two is 2. The requested variance is for 4 non-resident employees which exceeds what is allowed in the Land Use Bylaw.

- [16] The Board heard that there are more parking spaces available on the property than what is required for the current business operation, and that no business activities occur on-site.
- [17] The Board received submissions from adjacent landowners in support of the home-based business. A submission from the landowner immediately adjacent to the parcel included photographs showing the property as being maintained in good condition and the availability of on-site parking for non-resident employees. Further, the Board received no submissions stating opposition to the proposed development permit and requested variance for on-site parking.
- [18] The Board notes that the person whose complaint initiated the investigation of the business was provided notice of the hearing and that this individual did not make a submission to the Board with respect to the development permit, including the parking variance.
- [19] The Board finds that the proposed development would not materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land, and the proposed development conforms with the use prescribed for that land in the Land Use Bylaw, which is a Home-Based Business Level Two.
- [20] For all of these reasons, the Board grants the appeal and revokes the decision of the Development Authority and approves the development permit with the conditions noted above.

Dated at the Town of Morinville, in the Province of Alberta, this 2nd day of July, 2024.



Julius Buski, Chair

Pursuant to Section 688(1)(a) of the Municipal Government Act (MGA), an appeal of a decision of the Subdivision and Development Appeal Board lies with the Alberta Court of Appeal on a matter of law or jurisdiction. In accordance with Section 688(2)(a), if a decision is being considered, an application for permission to appeal must be filed and served within 30 days after the issuance of the decision and, notice of the application for permission must be provided to the Subdivision and Development Appeal Board and in accordance with Section 688(2)(b), any other persons that the judge directs.

APPENDIX "A"
List of Submissions

- The Notice of Appeal
- A copy of the development permit application with attachments
- The Development Officer's written decision
- Planning & Development Services Report
- Adjacent landowners' written submissions