

Lloydminster Subdivision and Development Appeal Board Decision

Hearing Date: June 3, 2022
Appellant: Keen Developments – Mr. Travis Tomanek
Location: 6208 – 20 Street Close, Lloydminster, AB.
Proposed Development: R1 Single – Detached Residential
Appeal: SDAB-04-22-0231

A. INTRODUCTION

1. The Appellant, Keen Developments requested on May 10, 2022, for an existing Accessory Building to remain where it is on the lot located at 6208-20 Street Close, Lloydminster, AB. The Site is under the City's Land Use Bylaw 5-2016 (LUB).
2. The Development Officer (DO) refused the application on the following grounds, the existing Accessory Building exceeds the regulations within the Land Use Bylaw 5-2016. The variance for the required setbacks exceeds the 0.9 meters allowable setbacks for the rear and side of the yard. The DO refused the application for the Accessory Building located at 6208-20 Street Close, Lloydminster Ab, for the following reason(s):
 - a. The application exceeds the variance powers granted to the development Authority through the LUB.

B. PRELIMINARY MATTERS

3. The Subdivision and Development Appeal Board (SDAB) members – The Chair asked the appellant and other parties in attendance whether there were any objections to the SDAB members or Administration. There were no objections.
4. Hearing Process - The Chair reviewed the hearing process. The Chair asked the Appellant and other parties in attendance whether there were any objections to the hearing process. There were no objections.

C. SUMMARY OF HEARING

5. The SDAB heard from the Development Officer (DO), Natasha Pidkowa, who read from the City's submission that was provided to the Board and did not expand further on the original submission.
6. The Board asked the City, what if any additional conditions would be appropriate. The City indicated that should the variance be granted that no additional conditions would be required.
7. The SDAB then heard from the Appellant, Mr. Travis Tomanek, who also reiterated the contents of their submission. Mr. Tomanek also indicated:
 - a. His measurements for the rear setback were made from the city fence and not the property stakes. Mr. Tomanek noted that the fence on the city lands were setback from the property line and he did not realize the setback at the time. He also admitted that because of his knowledge in the construction industry, he should have known better.
 - b. The Shed fits with the amenities of the neighbourhood
 - c. It would be difficult to move, however, it is on skids and is designed to be movable.
 - d. Admitted that not acquiring a permit was an oversight on his part.
 - e. He admitted fault and indicated that he understood why the Accessory Building was non-compliant. Further, he had learned an important lesson and hoped the board would grant the variances and allow the Accessory Building to remain in its current location.
 - f. He alleged other properties in the neighbourhood had similar transgressions.
8. The Board asked the Appellant, what if any additional conditions would be appropriate. The Appellant indicated that the Accessory Building's design was meant to be consistent and did not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of the neighbouring properties. As such agreed with the City's recommendation of no further conditions should the variances be granted by the SDAB.
9. No one else was in attendance who wished to speak to the appeal, in addition, there were no written submissions.

10. The SDAB Board ask the DO if the variance requested was within their approval would it be allowed. The DO indicated that in determining whether to grant a variance the DO was required to act reasonably and determine that if refusing the requested variance would cause undue hardship. After completing their review, the DO did not feel that the request met the threshold to cause undue hardship and as such they would have refused the request variance even if it was within their authorities.

D. DECISION

11. The SDAB determined that it would allow the side variance.

12. The board refused the request for the rear variance and will require the Accessory Building located at 6208- 20 Street Close, Lloydminster AB, to be moved forward on to appellants property until it confirms with the required setbacks, pursuant to the Land Use Bylaw 5-2016.

13. In addition, when the Accessory Building is moved it must continue to be consistent and not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment, or value of the neighbouring properties.

E. REASONS FOR DECISION

12. The SDAB considered the impact of the variance, and that the DO would not have granted the variance if such authorities were available to the DO to do so.

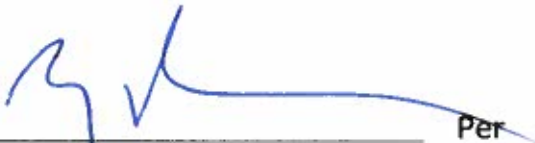
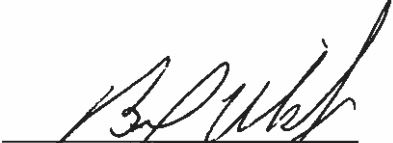
13. The Appellant indicated that he knew better and offered no justifiable reason for not making an application for the Accessory Buildings or for the non-compliance of that structure.

14. The SDAB agreed with the DO that moving the shed forward would not create any undue hardship on the Appellant.

15. The SDAB considered the effect of the allegations that others in the neighbourhood may be non-compliant. The SDAB determined that the alleged behaviours of the others were not relevant to this SDAB concern.

16. The SDAB has allowed for the Accessory Building to keep its current side variance because the existing cement pad located on the buildings opposite side would have to be cut/demolished and to do so would impose an undo hardship on the Appellant.

17. The rear variance request was denied as the board is of the opinion that the Accessory Building located at 6208- 20 Street Close, Lloydminster AB, must comply with the required setbacks as required by the City of Lloydminster Land Use Bylaw 5-2016.

Per  Per 
SDAB Clerk, Doug Rodwell
City of Lloydminster, Subdivision
and Development Appeal Board
Chair, Bernal Ulsiter
City of Lloydminster Subdivision
and Development Appeal Board

IMPORTANT INFORMATION FOR APPELLANT

This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, R.S.A. 2000, c. M26