

Town of Mundare
Subdivision and Development Appeal Board Hearing
April 11, 2012

7:00 p.m.

Present: Wally Felawych, Ken Gulevich, Marvin Walinski, Alex Bendera, Steven Krysyk

Secretary: Theresa Warawa,

Call to Order: Chairman Alex Bendera called the meeting to order at 7:05 p.m.

Jane Dauphinee and Colin Zyla were also present on behalf of the Development Authority of the Town of Mundare.

The appellant was not present.

The hearing involves an appeal against the decision in respect of Development Permit Application No 12/02 which involves development described as follows:

The placement of a temporary building on Lot 12, Block 5, Plan RN88 for an undetermined period of time described only as "until the construction of a house on the site is complete". The proposed use of the building was for the storage of construction materials and as an office for construction workers during onsite construction of a dwelling.

The appeal package including:

1. The written notice of appeal submitted to the Secretary of the Appeal Board by the appellant. (Pgs. 1-2)
2. Relevant Sections of the Municipal Government Act provided by the Development Authority. Specifically Section 640 subsections (1)-(6).(Pgs. 3-4)
3. The Notice of Refusal of Permit No. 12/02. (Pgs. 5-7)
4. Stop Order of October 26, 2011. (Pgs. 9-10)
5. Notice of Development Permit 11/21. (Pgs. 11-13)
6. Stop Order of August 23, 2011. (Pgs. (15-16)

was distributed to all present at the hearing.

The board waited till 7:30 pm for the appellant to be present.

Discussion took place.

- should the hearing should go ahead without the appellant?
- would be fair to adjourn the meeting to a future date?

Wally Felawych moved that the Subdivision and Development Appeal Hearing be adjourned to Thursday, April 26 at 7:00 p.m. as the appellant did not appear and asked that the appellant and adjacent land owners be advised in writing of the reconvened hearing date.

Carried

Chairman Alex Bendera adjourned the meeting at 7:45 p.m.

The hearing was reconvened on May 3, 2012 at 7:00 p.m.

Present: Wally Felawych, Ken Gulevich, Marvin Walinski, Alex Bendera

Secretary: Theresa Warawa,

Chairman Bendera called the meeting to order at 7:00 p.m.

Jane Dauphinee and Colin Zyla were also present on behalf of the Development Authority of the Town of Mundare. The appellant was not present.

Discussion took place regarding the appeal.

Mr. Edward Guzierowicz, the appellant, arrived at the meeting at 7:10 p.m. At which time the Chair of the Board asked him why he did not attend the hearing as originally scheduled on April 11, 2012. Mr. Guzierowicz responded that he had a family emergency. He also indicated that he was late for the current hearing because he had just gotten off of work.

The board was introduced. The Chairman asked if anyone had any objections to anyone sitting on the Subdivision and Development Appeal Board. No objection was received.

Mr. Guzierowicz was asked to provide a summary of his reasons for appealing the decision of the Development Authority regarding his current development permit application.

The following is a summary of relevant comments made by Mr. Guzierowicz relating to his appeal:

- Mr Guzierowicz's father had mentioned verbally to the development officer that they would be putting a building on the property
- when the building was being placed-the development officer was yelling at him
- as it is his property, he can put a temporary building on the property if he decides to

- he removed a garage that was on the property because he was told it was unsafe-he was just replacing the garage
- he was going to bring 1.2 million in development to the Town
- he does not want to build on the property any more
- he will remove the building but wants three months to do it

The Town of Mundare Development Authority was then asked to provide a summary of the reasons for issuing the decision respecting Permit No. 12/09.

The following is a summary of relevant comments made by the Development Authority respecting the decision of the Development Authority respecting Permit No. 12/09:

- a brief history of action taken by the Development Authority relating to the current development on the property was presented including a summary of the Stop Order(s) that have been issued relating to development on the site, the applicants appeal of the Stop Order issued on October 26, 2011 to the Court of Appeal and the decision of the Court of Appeal regarding the appeal of said Stop Order.
- as of May 3, 2012, the Town has not received an application for a development permit for a main building or use on the property,
- additionally no permit has been issued for any building on the site as of the date of the hearing
- on behalf of the Development Authority Jane Dauphinee indicated that the application to place a temporary building on Lot 12, Blk 5, Plan RN88 for an undetermined period of time to be used for storage and a construction office was refused because, as described on the development permit application, the development is not a permitted or discretionary use in the R1 district. Section 640(6)(b) of the Municipal Government Act states that the Development Authority cannot approve a development permit for a use that does not conform with the uses prescribed for that land or building within the land use bylaw. As a result, in the opinion of the Development Authority, the application must be refused.

As described on the development permit application the proposed building and use do not conform to the current definition of an “accessory building” in the Town of Mundare LUB.

Section 1.3(1) of the Town of Mundare Land Use Bylaw states that:

“accessory building” means a building separate and subordinate to the main building, the use of which is incidental to that of the main building and is location on the same parcel of land;

If a development permit had been applied for and approved for a main building on the site then the proposed development may have been considered an accessory building and the Development Authority could consider approving a development permit for an accessory building. However no application for a main use has been received by the Town and no development permit has been issued.

The Chair of the Board asked the Development Authority if they have any questions or comments regarding the statement given by the appellant.

The Development Authority noted that, it is their understanding that the board does not have authority to alter the time frame to remove the building on the site as there is a court order.

The Chair of the Board asked the appellant if they have any questions or comments regarding the statement given by the Development Authority.

The Appellant indicated asked the Development Authority what the point of the appeal was at all and made additional statements regarding his options of the Town's stance on encouraging development.

Jane Dauphinee responded on behalf of the Development Authority that it was her understanding that the purpose of the appeal was to allow an individual claiming to be affected by a decision of the Development Authority the opportunity to have their concerns heard by the appeal board.

Marvin Walinski moved that the meeting go into camera at 7:25 pm to discuss the appeal.

Carried

Ken Gulevich moved that the meeting come out of camera at 7:40 p.m.

Carried

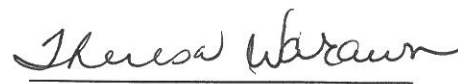
Marvin Walinski moved that the Subdivision and Development Appeal Board uphold the decision of the Town of Mundare Development Authority in respect of Development Permit Application No 12/02 for the following reasons:

1. The proposed development does not conform to the definition of an "accessory use" as defined in the Town of Mundare Land Use Bylaw.
2. The proposed use "temporary structure" as identified on the development permit application does not conform with the use prescribed for the lot within current Town of Mundare Land Use Bylaw.
3. Section 640 (6)(b) of the Municipal Government Act states that the Development Authority cannot approve a development permit for a use that does not conform with the use prescribed for that land or building within the land use bylaw.

Carried

Chairman Bendera adjourned the meeting at 7:42 p.m.


Chairman


Secretary