

MINUTES of the **Subdivision & Development Appeal Board** held on **Thursday, July 21, 2011** at **4:00 p.m.** in Council Chambers with the following in attendance:

MEMBERS:	L. Cutforth	Chairman (only for Hearing 2011-04)
	V. Chester	Member at Large and Chairman for Hearing 2011-05
	A. Haesler	Member at Large (only for Hearing 2011-05)
	T. Nicholson	Member at Large
	R. Stein	Member at Large
	J. Mauro	Alderman
OTHERS:	P. Colling	Development Officer
	D. Sarsfield	Acting Secretary to the Board

V. Chester

THAT the Minutes of the Subdivision and Development Appeal Board held on April 7, 2011 be approved as presented.

-----**CARRIED**

SDAB HEARING 2011-04

Appellants: Lorraine Moodie and Harold N. Moodie

Applicants: Amron Construction Ltd. and Demke Enterprises Ltd. To construct a single detached dwelling with covered front deck and partially covered rear deck and a request for a rear setback waiver for both the covered portion of the rear deck and the uncovered portion of the rear deck at 50 Sixmile Ridge South

Development Permit No. DEV03388
Land Use District: R-L (Low Density Residential)

There were no objections when the Chairman asked if anyone present had a lawful reason why any particular member(s) of the Board should not hear this appeal.

Development Officer's Presentation:

Pam Colling, Development Officer, stated that an application to construct a single detached dwelling with covered front deck and partially covered rear deck was made on May 31, 2011. A request was made for a rear setback waiver of the covered portion of rear deck of 2.57m (8'5") which thereby allowed the rear setback for the covered portion of the deck to be 5.03m (16'6"), and a request for a rear setback waiver for the uncovered portion of the rear deck of 1.78m (5'10") which thereby allows the rear setback for the uncovered portion of the rear deck to be 3.22m (10'7").

Ms. Colling advised that neighbourhood letters were sent out on May 31, 2011. No letters of objection were received. This application was approved on June 9, 2011 as it did not appear that this waiver would unduly or materially affect neighbouring properties.

The approved Development Permit was then advertised in the newspaper on June 18, 2011 with an appeal period expiry date of July 4, 2011.

Ms. Colling advised there was adequate amenity space in the back and side yards for the residents of this parcel.

Distance between the appellant's existing dwelling on the adjacent parcel and the proposed dwelling was approximately 90m (252'). The trees that are located behind this parcel appear to be approximately 13m (42'8") away from the rear parcel line and 16.22m (53'3") from the proposed location for the uncovered portion of the deck.

In terms of legislations and policy, the Integrated Community Sustainability Plan / Municipal Development Plan (Sections 6.2.1, 6.2.2, and 6.4.5) were considered in this development decision. The proposed development complies with these goals and policies of the Integrated Community Sustainability Plan/Municipal Development Plan.

Appellants' Presentation:

Harold N. Moodie, 765 Southgate Boulevard South, advised that he owns the property directly north of the proposed development. He stated the following:

- City should not be supporting the waiver because of safety concerns
- Concern with the location of the deck development being too close to mature trees
- Suggest that the deck should be further away from the existing tree line located on his property
- Trees have been weakened by the soil being scraped impacting the tree root system
- Dwelling and deck could be built elsewhere without any waiver required
- Question if waivers are given too frequently without concern for safety
- Asked whose responsibility is it if a tree falls because the waiver was granted
- Subdivision and Development Appeal Board as well as the City of Lethbridge are being put on notice to be sued when a tree does fall and does damage adjacent fences, decks, and houses

Applicant's Presentation:

Wanda Robertson, Purchaser of 50 Sixmile Ridge South, advised that they developed a plan for the property, not realizing a waiver was required to obtain the building permit. This lot was picked due to the beautiful park like setting created by the trees on the Appellants' property.

Ms. Robertson advised the existing trees would land on their property as well as many of the neighbours' properties. Without the granting of the waiver, Amron Construction will not be able to proceed with building the home as it has been designed.

Other Presentations:

Gary Kaskiw, 71 Six Mile Ridge South, owns property near to the proposed development. Mr. Kaskiw advised that he built on his property this past year. The proposed development is not visible from his property.

Mr. Kaskiw suggested that the setback rules are good. Consideration should be given to minor variations in waivers. There are reasons for rules. The tree line is magnificent and a definite asset to the neighbourhood. If the waiver is allowed, each subsequent owner may also ask for a waiver, so that the tree line no longer will have its impact.

There were no further presentations.

Discussion:

The Board addressed the following issues during question period:

- Lack of a neighbourhood association
- Architectural control requirements
- Portion of uncovered rear deck that does not require a waiver
- Number of waivers in the neighbourhood
- Number of adjacent landowners notified of development
- Timeframe for approval
- Location and age of trees
- Number of trees that fell in the past year and rationale for concern for the falling of trees
- Visual impact of development on adjacent landowners
- Notification given to Developer
- Distance of tree line from fence line

Rebuttal:

The Appellant was given the opportunity to provide a rebuttal.

Decision:

IN THE MATTER OF the Municipal Government Act

AND IN THE MATTER OF an Appeal made to the Subdivision and Development Appeal Board with respect to:

Appellants: Lorraine Moodie and Harold N. Moodie

To construct a new single detached dwelling and a request for a rear yard setback for both covered and uncovered deck at 50 Sixmile Ridge South

AND UPON HEARING from the Applicants, **Amron Construction Ltd. and Demke Enterprises Ltd.**

AND UPON HEARING from the Development Officer, and other interested parties,

AND UPON CONSIDERING the relevant provisions of the Municipal Government Act, the Municipal Development Plan, the Land Use By-law, any applicable Statutory Plans, and the circumstances and merits of this case, the decision of the Subdivision and Development Appeal Board is as follows and for the following reasons:

V.CHESTER/L. CUTFORTH/J. MAURO/T.NICHOLSON/R. STEIN

DECISION: The Appeal The Appeal is **DENIED** and the decision of the Development Officer regarding Development Permit DEV03388 on June 9, 2011 to construct a new single detached dwelling and a request for a rear yard setback for both covered and uncovered deck at 50 Sixmile Ridge South is hereby **ALLOWED**.

REASONS FOR DECISION:

It is the opinion of the Board that there is insufficient evidence of an actual risk to the safety of residents or of undue impact on neighbouring properties or other neighbourhood amenities, which said risk would be appreciably greater by the granting of the waiver as opposed to strict compliance with existing setback requirements.

-----**CARRIED**

SDAB HEARING 2011-05

Appellant: Joe Meszaros

Applicant: Joe Meszaros To establish a new secondary suite at 335 Mt. Sundial Court West

Development Application Decision No. DEV03411
Land Use District: R-L (Low Density Residential)

There were no objections when the Chairman asked if anyone present had a lawful reason why any particular member(s) of the Board should not hear this appeal.

Development Officer's Presentation:

Pam Colling, Development Officer, stated that an application had been filed to establish a new secondary suite at 335 Mt. Sundial Court West. This is a discretionary use in the Low Density Residential District.

The 2004 SunRidge Outline Plan allowed for 718 dwelling units in all phases of the development. It was designed to allow for a wide variety of housing types. Due to over-subdivision by the developer and the popularity of secondary suite development, that number was exceeded by the end of 2010. Currently density is expected to be 939 units.

Twenty secondary suites were approved prior to realizing that the maximum density was being surpassed. The Development Review Committee agreed to allow an additional 13 secondary suites in order to assist the developer to meet his commitment to the home builders. The developer and the building community worked together to come up with a solution on the dispersal of the 13 suites. This brought the total allowable suites to 33.

This proposed suite was not on a preselected lot. It would then be number 34 and if developed would continue to exceed the maximum allowable density.

The Transportation Department approved a density of 718 dwelling units in the SunRidge Outline Plan. As a result, the Transportation Department has determined that the road network

is over maximum capacity and cannot absorb any further secondary suite development. The increased traffic and parking requirements would unduly and materially impact the surrounding neighborhood.

SunRidge Boulevard West is the only access to all of the SunRidge Subdivision. The Waterbridge Subdivision which will be built to the west of the SunRidge Subdivision will also be using this road network system as it is the most direct access out of the subdivision.

This application was refused for the following reasons:

- The road network design cannot support any additional secondary suites according to City of Lethbridge standards.
- The increased traffic and parking requirements would unduly and materially impact the surrounding neighborhood.

Appellant's Presentation:

Joe Meszaros, 335 Mt Sundial Court West, outlined his case. Mr. Meszaros stated that he was encouraged to purchase the property as it was suitable for secondary suite development in September, 2010. Prior to being able to submit his application, a commitment was made to the SunRidge Building Group for the remaining secondary suite allocation.

Mr. Meszaros advised the property was a corner lot which is suitable for the secondary suite as can have access from both the avenue and the street. He did not believe that one more unit will impact the density.

There were no further presentations.

Discussion:

The Board addressed the following issues during question period:

- Sequence of events for approval of secondary suites
- Ownership of lots approved for secondary suites
- Definition of secondary suites
- Process for approval of neighbourhood
- Reason for lot sizes being smaller than was proposed in the SunRidge Outline Plan
- Process for approval of final secondary suites
- SunRidge Outline Plan Revisions
- Guidelines for secondary suites produced by the Provincial Government in 2008
- Possibility of neighbouring multifamily dwellings being rezoned to low density residential
- Process for approval of secondary suites
- Process for subdivision approval
- Role of architectural control holder and the dates for approval on the site plan and on the SunRidge Outline Plan Revisions
- Role of the Development Review Committee and the Developer
- Review of the development application
- Timeline for initiating development for land that is bought from the City
- Impact of secondary suites on traffic flows
- Traffic Impact Assessment Study
- Ten minute Fire Assess Rule

Rebuttal:

Mr. Meszaros was given the opportunity to provide a rebuttal.

Decision:

IN THE MATTER OF the Municipal Government Act

AND IN THE MATTER OF an Appeal made to the Subdivision and Development Appeal Board with respect to:

Appellant: Joe Meszaros

To establish a new secondary suite at 335 Mt Sundial Court West

AND UPON HEARING from the Appellant, Joe Meszaros

AND UPON HEARING from the Development Officer, and other interested parties,

AND UPON CONSIDERING the relevant provisions of the Municipal Government Act, the Municipal Development Plan, the Land Use By-law, any applicable Statutory Plans, and the circumstances and merits of this case, the decision of the Subdivision and Development Appeal Board is as follows and for the following reasons:

V.CHESTER/A. HAESLER/J. MAURO/T.NICHOLSON/R. STEIN

DECISION: The Appeal is **ALLOWED** and the decision of the Development Officer regarding Development Application DEV03411 on June 13, 2011 to establish a new secondary suite at 335 Mt Sundial Court West is hereby **OVERTURNED**.


REASONS FOR DECISION:

It is the opinion of the Board that the proposed development would become the 33rd secondary suite to be approved within the affected SunRidge Neighbourhood as there is currently one remaining secondary suite permitted. The property is located in Phase 3c which contains lower than the average number of secondary suites in SunRidge and was sold prior to the decision to limit secondary suites.

A. Haesler


THAT this meeting of the Subdivision and Development Appeal Board be adjourned.

-----CARRIED



-----CARRIED

CHAIRMAN



ACTING SECRETARY TO THE BOARD