

# REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

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December 14<sup>th</sup>, 2021

Brad Edel  
P.O. Box 1203  
Caroline

**RE: Appeal of Development Permit approval for the relocation of used mobile home on Lot 15, Block 2, Plan 6976ET (#5023 – 49 Avenue) Village of Caroline**

## SUMMARY OF APPEAL

This is an appeal of a development permit approval for the relocation of a used mobile home on Lot 15, Block 2, Plan 6976ET (#5023 – 49<sup>th</sup> Avenue) Village of Caroline.

The Appellant, Brad Edel, is appealing the approval of Development Permit 2021-09 based on the impact the development may have on neighbouring properties. The Appellant filed the Notice of Appeal within the 21 day appeal period provided for in s. 686(1)(a)(i)(A) of the *Municipal Government Act*.

Note 2 at the bottom of The Notice of Decision issued by The Village of Caroline stated that The Land Use Bylaw provides that any person claiming to be affected by a decision of the Development Officer may appeal to the Subdivision and Development Appeal Board by serving written notice of appeal to the secretary of the Subdivision and Development Appeal Board within 14 days after the date the development permit is issued. The Appellant filed the Notice of Appeal beyond 14 days. The jurisdiction of the Board to hear the appeal was addressed as a preliminary matter in a Preliminary Hearing held prior to the Merit Hearing on December 7<sup>th</sup>, 2021.

Hearing Panel:           Joe Henderson, Chair  
                                  Jocelyn Robinson, Board Member  
                                  Earl Graham, Board Member

SDAB Clerk:             Jamie Collins

## Other Parties and Members of the Public in Attendance

Brennan Kirby  
Scott Craigg  
Rose Benz

Ian Ballantyne  
Santina Godin

## **BACKGROUND OF THE APPLICATION**

Development Permit 2021-09 approves the relocation of a used mobile home on Lot 15, Block 2, Plan 6976ET (#5023 – 49 Avenue) Village of Caroline. Lot 15 is designated Low Density Residential District (R1) under the Village of Caroline Land Use Bylaw. In this zone a manufactured home is a discretionary use and must conform with the requirements in Section 1(6) schedule B. The approved development permit includes a variance of the minimum 6.09m (20ft) width to allow for a width of 16ft.

## **PRELIMINARY MATTERS**

At the start of the hearing on December 7<sup>th</sup>, 2021, the Appellant, Applicant, Other Parties in Attendance and Development Authority were given the opportunity to raise objections to the Board Members assigned to the hearing. No objections were raised.

The status of Ella Norgaard as authorized Agent on behalf of the Applicant was confirmed.

## **PRELIMINARY HEARING**

A notice of appeal was filed by the Appellants and received by the Clerk of the Subdivision Development and Appeal Board on November 9<sup>th</sup>, 2021. The deadline to file an appeal on Development Permit #2021-09 written in Note 1 was November 4<sup>th</sup>, 2021. The Municipal Government Act of Alberta Section 686 (1) A states the deadline to file an appeal is 21 days after the date on which a decision is given or in this case November 11<sup>th</sup>, 2021.

### **Summary of the Development Authority's Presentation**

The Development Authority made a verbal presentation only

The Development Authority stated that the Board has jurisdiction.

### **Summary of the Applicant's Presentation**

The Applicant indicated they had changed their mind regarding the issue of timelines and had no presentation to make.

### **Summary of the Appellant's Presentation**

The Appellant did not make a presentation.

## **Summary of the Other Parties Presentation**

No other parties made a presentation.

## **Board Decision on Preliminary Hearing**

No presentations were given regarding the timing of the appeal filing. The Board determined that the appeal meets the timelines provided for in the MGA and that the Board has jurisdiction to hear the appeal.

## **MERIT HEARING**

### **Summary of the Development Authority's Presentation**

The presentation was made by Development Authority using the Development Authority submissions (Pages 1 thru 14) contained in the Agenda Package.

The Development Authority stated that the proposed used mobile home does not meet the requirements in Section 1(6) in the following two areas:

The minimum width of the unit shall be 6.09m (20ft). The plan submitted shows 16ft. As this is less than a 25% variance the Municipal Planning Commission can make this determination

There is a minimum roof overhang or eaves requirement of 0.4m (1.3 ft) The pictures submitted shows no overhang.

In addition to the above, the finish on the exterior of the building may require some upgrading. This upgrading will need to be done to the satisfaction of The Development Authority.

It should also be noted that under section 1(6) of the development will require "a permanent foundation consisting of a basement, crawl space or slab on grade"

The mobile home will be placed on a mobile home pad already on the lot.

The mobile home has been fairly well kept.

In making the recommendation in favour the existing neighbourhood was considered.

Area to east is mixed use older single-family homes and commercial development including one site with a sea can and shop. There are other manufactured homes on the street. The Municipal Planning Committee believe the proposed development would be a good transition from the east to the west and is an improvement to the site.

The condition is good but still the condition does need to be upgraded on the east side.

The Municipal Planning Committee unanimously approved the permit with conditions.

### **Summary of the Applicant's Submissions**

The presentation was made by Ella Norgaard who was acting as an Agent for the Applicant using the Applicant submissions (pages 15 thru 17) contained in the Agenda Package. In addition, Exhibits E thru J was used.

She stated she doesn't believe it will depreciate values. It will be a nice addition to the neighbourhood. Speaking about the concrete pad concerns the applicant does intend to do the upgrades including a concrete pad as listed in the approved Development Permit. The Appellant spoke to the picture on Facebook (Exhibit J) to show the condition of the lot at a previous point in time.

### **Summary of the Appellants' Submissions**

The Appellant gave a verbal presentation using submissions in the Agenda Package. (Pages 18 thru 20)

The Appellant indicated that he is concerned about the value of his home and property will be majorly affected due to the year and style of the mobile home trailer being moved onto the property next to his house. It will also affect the value of the properties next to him.

The Appellant is also concerned about the length of the trailer.

The Appellant stated he has lived in the neighbourhood for 15 years. The Village of Caroline has done many upgrades. He doesn't believe the mobile home fits the neighbourhood. He has spoken to realtors, and they have indicated that the older mobile home next door would affect his property values negatively.

The Appellant asked the Board to overturn the development permit approval.

### **Summary of Other Parties' Submissions**

#### **Brennan Kirby**

Brennan Kirby gave a verbal presentation based on the letter submitted and made part of the Agenda Package – Page 21. He talked about his concerns

1. Concerned about the age and the dimensions of the proposed trailer.

2. Concerned about the concrete slab and what will be considered permanent.
3. Concerned about the roof overhang
4. Stated he's not sure what was mentioned for length. He is concerned 76 feet long won't meet the length to width ratio in the Land Use Bylaw
5. Concerned about the roof pitch
6. Concerned about the deadline to meet the conditions. Who determines if they are met and who enforces them if they are not?

Brennan Kirby closed by saying he just wants to protect our community

### Scott Craigg

Scott Craigg gave a verbal presentation. He also submitted Exhibits A thru D to illustrate the quality of houses in the neighbourhood.

Scott spoke to his concerns that the minimum yard requirement in the front and back would not be met. The maximum length of trailer that could be put in is 67 feet. This trailer is nearly 10 feet too long. The length to width ratio is supposed to be 2.5 to 1. This trailer is 4.75 to 1. Finally, he stated he doesn't think that it matches the neighbourhood.

### **KEY FINDINGS OF FACT**

The Board makes the following key findings of fact:

1. Lot 15, Block 2, Plan 6976ET (#5023 – 49<sup>th</sup> Avenue) is located in Low Density Residential District (R1).
2. The mobile home is deemed a manufactured home under the definitions of the Village of Caroline Land Use Bylaw. A manufactured home is a permitted discretionary use within the R1 District of the Village of Caroline Land Use Bylaw.
3. The manufactured home is proposed to be 16ft wide. The standard in the Village of Caroline Land Use Bylaw is a minimum width of 20.0 ft for a manufactured home. This is a 20 percent variance from the Land Use Bylaw standard.
4. The manufactured home is proposed to have 4.75:1 maximum length to width ratio. The standard in the Village of Caroline Land Use Bylaw is a maximum length to width ratio of 2.5:1. The length of the manufactured home may make the front and rear setbacks less than the standard set out in the Village of Caroline Land Use Bylaw
5. The Village of Caroline Land Use Bylaw sets the standard that a manufactured home shall have a minimum roof overhang or eaves of 0.40 m (1.31 ft). The manufactured home

proposed does not have a minimum roof overhang or eaves of 0.40 m (1.31 ft) from each external wall.

6. The Village of Caroline Land Use Bylaw sets the standard that a manufactured home shall have minimum roof pitch of 4:12 (rise: run). The roof pitch of the proposed manufactured home is unknown.
7. All other applicable requirements of the Land Use Bylaw including side setback and site coverage are met.
8. The Village of Caroline Land Use Bylaw sets the standard that a permanent foundation consisting of a basement, crawl space or slab on grade is required for a manufactured home in an R1 Land Use District.
9. Section 2.3(6)(c)(i) of The Village of Caroline Land Use Bylaw provides that the Development Officer and Municipal Planning Commission, as the case may be, may approve an application for a development permit, if in the opinion of the Development Officer/Municipal Planning Commission the proposed development provides not less than 75% of any stated minimum standard and not more than 125% of any maximum standard.
10. Section 687(3)(d) of the *Municipal Government Act* authorizes the SDAB to issue a development permit even though the proposed development does not comply with the Land Use Bylaw if, in its opinion:
  - a. the proposed development would not:
    - i. unduly interfere with the amenities of the neighbourhood, or
    - ii. materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land, and
  - b. the proposed development conforms with the use prescribed for that land or building in the Land Use Bylaw.

## DECISION

The Board decides as follows:

1. The appeal filed by Brad Edel is denied.
2. The October 21<sup>st</sup>, 2021, decision of the Development Authority is replaced with the following:

The Subdivision and Development Appeal Board approves the application submitted by Lorraine Norgaard (the "Applicant") for a development permit for the Discretionary Use for the relocation of a used manufactured home on the lands zoned R1 located at 5023

49 Avenue, legally described as Lot 15, Block 2, Plan 6976ET, (the "Site"), subject to the conditions listed below:

- The granting of a 20% variance on the unit width as specified in Section 1(6)e of the Land Use Bylaw
- The owner installing eaves or roof overhang on the unit to a minimum of 0.4m (1.31ft.) as required in Section 1(6)c of the Land Use Bylaw
- The development must have a permanent foundation consisting of a basement, crawl space or slab on grade
- The external finish of the unit must be replaced on all four sides bringing the exterior to new condition. The skirting must also be upgraded in a fashion that is complimentary to the new external finish
- The Applicant must complete the roof overhang and replacement of the external finish (including skirting) within four (4) months of the manufactured home being placed on the site
- Applicant must complete all required building permits through an Authorized Accredited Agency providing Permits and Inspections and Developer must meet all standards issued by provincial authorities and abides by all applicable legislation and bylaws.
- That the development is situated as per the **submitted approve site plan. It must conform to the side setback conditions** and provisions of the Village of Caroline Land Use Bylaw. **A 20% variance on the front and rear setback conditions** and provisions of the Village of Caroline Land Use Bylaw will be permitted.
- That the applicant is responsible for any damages to Village property, such as utility services, curb, sidewalk, road, etc. and to maintain that site building construction materials and debris are kept within the development site property.
- All properties that are serviced by municipal water are required to have a water meter, which is provided by the municipality and the Developers is responsible for installation arranging pick up of meter by contacting the Village Office.

## REASONS FOR DECISION

In exercising its discretion to grant a variance to the minimum width of the manufactured home and to the front and rear setbacks, the Board must apply the test set out in s. 687(3)(d) of the *Municipal Government Act*, which is the same variance test the Development Authority applied as outlined in Section 1(6)e of the Village of Caroline Land Use Bylaw. However, the Board had the benefit of significantly more information from affected parties as to the interference with the amenities of the neighbourhood and the impact on the use, enjoyment, and value of neighbouring parcels of land.

In the Board's opinion, the used manufactured home does not unduly interfere with the amenities of the neighbourhood. The width of the manufactured home may be less than what

is outlined in the Village of Caroline Land Use Bylaw; however, no concrete evidence was presented that this would unduly interfere with the amenities of the neighbourhood. Additionally, the R1 District regulations allow for a manufactured home as a discretionary use suggesting that manufactured homes do fit within the scale and character of the buildings in the district. Further, the requirement to install eaves or roof overhang of a minimum 0.4m and that the exterior finishing (including skirting) of the manufactured home must be replaced on all four sides bringing the exterior to new condition will ensure it will fit well with the scale and character of the neighbourhood.

In the Board's opinion, the nature of a manufactured home placed on a residential lot lends itself to narrower front and rear setbacks with no impact on side yard setbacks. The R1 District regulations allow for a manufactured home as a discretionary use suggesting manufactured homes do fit within the scale and character of the buildings in the district. The Board feels that a 20% variance on the front and rear setbacks to allow this manufactured home to sit on this lot will also fit within the scale and character of the buildings in the district.

With regard to the concern that the manufactured home will be placed on the gravel pad that currently exists on the site which is not up to the standard in the Village of Caroline Land Use Bylaw. The Board recognizes while the initial Development Application submitted to The Village of Caroline on October 19<sup>th</sup>, 2021, stated the foundation would be blocked on a gravel pad this was not approved by the Development Authority. The Development Permit issued by The Village of Caroline on October 21<sup>st</sup>, 2021, contains a condition that the manufactured home shall be placed on a permanent foundation consisting of a basement, crawl space or slab on grade. The Board acknowledges that the Appellant and Other Parties have a significant concern about this and amended the condition to use the word "must" instead of "shall".

The Board noted the development permit issued on October 21<sup>st</sup>, 2021, did not provide a timeline as to when the conditions regarding the eaves or roof overhang and exterior finish needed to be completed. In the Board's opinion this was an oversight and made enforcement of the conditions difficult. Therefore, the Board added the condition; the Applicant must complete the roof overhang and replacement of the external finish (including skirting) within four (4) months of the manufactured home being placed on the site.

With regard to the impact on financial value, the Board is of the opinion that the materials submitted by the Appellant in relation to property value is not conclusive evidence that a decrease in the property's financial value will be experienced as a result of the development. The Board noted that no authoritative documents, such as a property appraisal, indicating a decrease in the property's financial value were submitted as evidence.

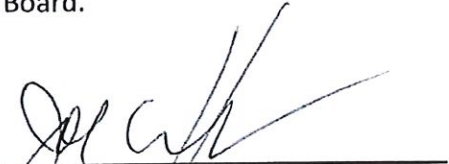
## **CLOSING**

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 688 of the



*Municipal Government Act* which requires an application for leave to appeal to be filed and served within 30 days of the date of this decision.

Dated at PONOKA COUNTY, in the Province of Alberta this 14<sup>th</sup> day of December 2021 and signed by the Chair on behalf of all three panel members who agree that the content of this decision adequately reflects the hearing, deliberations and decision of the Board.

  
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Joe Henderson, Chair

December 14, 2021  
Date

**APPENDIX "A"**

PARTIES WHO ATTENDED, MADE SUBMISSIONS, OR GAVE EVIDENCE AT THE HEARING:

<u>Name</u>	<u>Capacity</u>
Brad Edel	Appellant
Craig Curtis	Development Authority
Ella Norgaard	Agent for the Applicant
Brennan Kirby	Public
Scott Craigg	Public