

REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

UNIT B 4730 ROSS STREET
RED DEER AB T4N 1X2
403-343-3394

April 5, 2023

NOTICE OF DECISION

RE: Appeal of Refusal of Development Permit Application Development Permit 2022-24 for solar installation on Lot 12, Block 4, Plan 752 1541 located at 1 Parkland Road in the Summer Village of Parkland Beach, AB.

SUMMARY OF APPEAL

This is an appeal of a refusal of a development permit application for solar panels on a residential lot in the Summer Village of Parkland Beach. The application was refused by the Summer Village of Parkland Beach Municipal Planning Commission. The lot is zoned R1 and Alternative Energy Collecting and Storing Devices are discretionary use.

Notice of the appeal was provided to interested parties and a hearing was held on February 15, 2023, but adjourned until March 23, 2023.

Hearing Panel: Joe Henderson, Chair
 Cheri Neitz, Board Member
 Julia King, Board Member

SDAB Clerk: Tracy Breese

BACKGROUND OF THE APPLICATION

The Development Authority, being the Summer Village of Parkland Beach Municipal Planning Commission, refused Development Permit application DP2022-24 on January 6, 2023. The subject site is Lot 12, Block 4, Plan 752 1541 located at 1 Parkland Road. The subject site is designated R1.

The Municipal Planning Commission noted the following as their basis for the refusal:

1. Due to the location of the Solar System, it is not feasible for sufficient screening to be put in place to adequately obscure the structure without affecting the visual appeal, community standards and overall aesthetics required of properties facing the arterial roads in the community.
2. Additionally, any significant screening that might have been done along Parkland Road and Parkland Drive to sufficiently provide a level of screening to obscure the structure would inherently cause a Safety concern at the Intersection of Parkland Road and Parkland Drive (See Section 8.7 of the Bylaw) due to visibility being impaired at the intersection for pedestrians and drivers.
3. Finally, the lack of consideration by the applicant of Land Use Bylaw regulations led to the following:
 - a. proceeding with the installation of solar system without development approval.
 - b. lack of awareness of applicant that Alternative Energy Collection and Storing Devices (See section 8.2 and 9.1 of LUB) are a Discretionary Use development according to the Land Use Bylaw and are only approved at the discretion of the Development Authority.

MERIT HEARING

Summary of the Development Authority's Submissions

Parkland Drive is the Summer Village of Parkland Beach's longest and most accessed road in the community. The installed solar system is visible to all residents and to visitors. The front yard is within 150 meters of the Public Beach access. The MPC, in its discretion, believes strongly that the proposed development does not meet the intent of the Land Use Bylaw and the community standards.

The MPC in consideration of potential screening proposed by Ms. Beddoes, felt that any significant screening to obscure the sight of the solar system in the front yard of the property would inherently deter the intent of the Land Use Bylaw and potentially cause safety concerns due to reduced visibility at the intersection.

Summary of the Appellant/Applicant's Submissions

The solar panels can be screened appropriately, and the screening will not interfere with any sight lines at the intersection of Parkland Drive and Parkland Road. The solar panels and their screening will enhance the community by adding more greenery and reducing our dependency on a non-renewable energy source.

KEY FINDINGS OF FACT

The Board makes the following key findings:

1. The subject site is zoned R1 and “Alternative Energy Collecting and Storing Devices” is a discretionary use in this District.
2. The subject site is a corner lot, located on the corner of Parkland Road and Parkland Drive.
3. Based on the definition provided by the DA, the front yard is the first 8 meters back from the front property line.
4. Proper process was not followed by the appellant in commencing the development without an approved development permit.

DECISION

The appeal filed by Bobbie Beddoes is allowed and the decision of the Development Authority is replaced with the following:

The proposal to install solar panels on Lot 12, Block 4 Plan 752 1541, is deemed a discretionary use under the R1 District. The proposed use and development of Lot 12 is **APPROVED** subject to the following conditions:

- 1) Confirmation by the Development Authority that the overall height of the installation does not exceed 8.2 ft as per the Land Use Bylaw.
- 2) That a 6.5 ft high solid fence be built on the north side (Parkland Road) to adequately screen the entire length of solar panels.
 - a) The fence to extend a minimum of 1 ft on either end of solar panels.
 - b) Fence to be built before October 1, 2023.
- 3) That landscaping shall be installed in the form of shrubs to be planted around base of installation to obscure cement blocks.
- 4) Plant a row of trees, a minimum of 7 feet high between the required fence and solar panels. The vegetation that is selected must be coniferous for year-round effect. At least six (6) plantings are required along the fence line. The planting shall be completed by June 30, 2024.

REASONS FOR DECISION

The Board determines that the proposed development meets the definition of “Alternative Energy Collecting and Storing Devices” which is a discretionary use for the subject property under the R1 District.

Based on the evidence provided by the Development Authority and the Appellant, the Board is satisfied that the proposed development meets the applicable requirements of the Summer Village of Parkland Beach Land Use Bylaw such as minimum setbacks.

The Board believes that the location of the solar system can be sufficiently screened and would not cause a significant safety concern at the intersection of Parkland Road and Parkland Drive as long as the Appellant meets the setback requirements which as presented are appropriate. The development is beyond the intersection sightline requirements prescribed in the land use bylaw for developments on a corner lot.

In the absence of evidence supporting the claim by an adjacent resident that their property value has been reduced, the board does not accept this as a relevant claim by the adjacent landowner.

The board does not accept the concerns raised by the development authority regarding traffic safety at the intersection of Parkland Drive and Parkland Road as being relevant to this development. The development and screening are sufficiently removed from the intersection such that the requirements for setbacks from a corner, contained in the land use bylaw, are adequately met. The board feels that traffic safety due to speed and other factors should remain with the Summer Village of Parkland Beach to address through other traffic control measures.

The board believes that there are no other appropriate locations on the subject property to allow for the proper operation of a solar panel system.

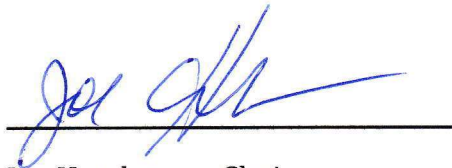
The board finds that given the placement of the house on the property (deep set into what would normally be considered the “back yard” of the lot) strict adherence to the notion of side yard and back yard placement of solar panels as a discretionary use is too restrictive in this case.

The board did not consider the commencement of the development prior to the issuance of a development permit as being a relevant consideration, as the appellant applied for a development permit in a timely matter once they were made aware of the need for a development permit. The merits of the development were considered on their own with no regard to the current status of the development. Any penalties or remedies for not complying with the land use bylaw requirements remain with the development authority.

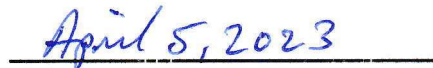
CLOSING:

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 County of Ponoka, in the Province of Alberta this 5th day of April, 2023 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.

A handwritten signature in blue ink, appearing to read "Joe Henderson", is written above a solid horizontal line.

Joe Henderson, Chair

A handwritten date "April 5, 2023" in blue ink is written above a solid horizontal line.

Date

APPENDIX “A”

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

<u>Name</u>	<u>Capacity</u>
Bobbie Beddoes	Appellant/Applicant
Cyril Fortney	Development Authority
Laurence Rooney	Adjacent Landowner
Donalda Cresswell	Adjacent Landowner
Marc Mousseau	Summer Village Resident
Grant Nielsen/Marilyn Rinas	Submitted a statement
David and Susan Younggren	Submitted a statement

APPENDIX “B”

DOCUMENTS RECEIVED PRIOR TO THE HEARING:

<u>Reference Tab</u>	<u>Item</u>
TAB A	Notice of Appeal
TAB B	Application
TAB C	Notice of Refusal
TAB D	Information Provided by Development Authority
TAB E	Notices for Hearing
TAB F	Correspondence from Adjacent Landowners