



Municipal District of Bighorn No. 8

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DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Hearing: Monday, March 18, 2019

Development Permit 85/18, Mymac Ltd. (Appellant)

I. Decision

The appeal before the Subdivision and Development Appeal Board (SDAB) was brought by Lorena Miller on behalf of Mymac Ltd.

On February 8, 2019, the Development Authority refused the application of Lorena Miller c/o Mymac Ltd. for a single detached dwelling (un-serviced cabin) on SE Section 33, TWP. 30, RGE. 6, W5M – near Burnt timber Road, in the North Ranchlands Portion of the Municipal District of Bighorn, hereinafter referred to as “the subject property”. The property is owned by Tom and Heather Murray, Mymac Limited (Lorena Miller, Neil MacDonald, Joanne Mackenzie and Andrew MacDonald) and Margaret Keyzer. The subject property has a land use designation of Agricultural Conservation. The proposed development is a permitted use within the district.

The Development Authority’s Notice of Refusal states that the development permit application was deemed refused as per Section 683.1(8) of the Municipal Government Act (MGA) for the following reason: that the Section 42.4.1, of the Land Use Bylaw 09-Z/18 requires “An application for a Development Permit shall be made to the Development Officer, using the prescribed form, signed by the owner or agent”.

The hearing commenced and concluded on March 18, 2017.

For the reasons outlined below, the Subdivision and Development Appeal Board (the “Board”) denies the appeal and the decision of the Development Authority is upheld. A development permit shall not be issued.

II. Background

The Board heard an appeal from Lorena Miller on behalf of Mymac Ltd. (the Appellant). L. Miller applied for an Accessory a single detached dwelling (an existing un-serviced cabin) on the subject property.

The appeal is against the Development Authority’s February 8, 2019 Notice of Refusal of Development Permit 85/18 that states the development permit application was deemed refused as per Section 683.1(8) of the Municipal Government Act (MGA) for the following reason: that the Section 42.4.1, of the Land Use Bylaw requires “An application for a Development Permit shall be made to the Development Officer, using the prescribed form, signed by the owner or agent”.

Based on above noted facts, the Development Authority issued a Notice of Refusal for Development Permit Application 85/18 on February 8, 2019. The Applicant submitted the appeal of the

Development Officer's decision on February 25, 2019 to the Secretary of the Subdivision and Development Appeal Board.

The appeal hearing by the Board was held on March 18, 2019, at the M.D. Administration building in the Hamlet of Exshaw; the Appellant (Lorena Miller on behalf of Mymac Ltd.) was present at the hearing. The Board heard from Ms. Miller; the Board also heard from Development Authority (Development Officer Janice Thompson) on the Officer's Notice of Refusal. Several documents were submitted to the Board, as follows:

- Copy of the Notice of Refusal, date of issue, February 8, 2019, on Development Permit Application 85/18;
- Copy of the letter of appeal from the Appellant received February 22, 2019;
- Copy of the Development Permit Application;
- Copy of the Certificate of Title;
- Map showing the location of the Subject Property;
- Plan elevations with dimensions for the Miller cabin;
- Photographs of the cabin;
- Development Permit Application Receipt Record;
- Excerpts from the Municipal Government (Section 683.1(8));
- Excerpts from Land Use Bylaw 04/10 (Sections 42.4.); and
- Suggested conditions of approval if a development permit is issued.

Issues Raised

The Board and Appellants discussed the following reasons for the appeal:

- L. Miller told the Board she was a co-owner of Mymac Ltd.
- L. Miller stated she had inherited the 80 acre portion of the property and only uses the property for recreational uses and no buildings on the property would interfere with M. Keyzer's portion of the land.
- L. Miller stated she had attempted to communicate with M. Keyzer.
- L. Miller told the Board that her cabin was built on a trailer and was moveable.
- Board member, L. Hogarth, asked who built the structures on the property. M. Miller replied that her parents built the picnic shelter and other co-owners built the cabin and another shelter in the 90's. These structures are what the Murray's purchased one and a half years ago.
- Chair Anderson asked if M. Miller had two buildings on her property. M. Miller said they are considered structures, though they do not have footings. One is placed on a wood frame on a gravel pad.

III Reasons for Decision / Findings of Fact

The reasons for the Board's decision to refuse the appeal:

- The Board is satisfied that Section 42.4.1 of the Land Use Bylaw requires the consent of all owners of the subject site. The application did not comply with Section 42.4.1 of the Land Use Bylaw, as the applicant did not receive the consent of all owners listed on the Land Title registered on the subject property, noted as Title Number 171 182 567.
- The application does not contain all outstanding information and documents sufficient for it to be deemed complete, because it is missing the consent of all owners of the subject property.
- The application was appropriately deemed refused according to Section 683.1(8) of the MGA.
- The Board acknowledges the applicant's submissions that the subject property effectively functions as three different parcels of land. However, the land is still a single parcel, and the internal agreements between the landowners do not change this or replace the Land Use Bylaw's requirements that all owners must consent to the application.
- The Board places no weight on the fact that the development that is the subject of this application for a single detached dwelling (un-serviced cabin) has been developed on the subject property without the approval of the Development Authority.

The Board acknowledges the following additional submissions:

- There was one letter of support for the Development Authority's decision to refuse the application, submitted by M. Keyzer.
- Verbal support for the appeal was made at the hearing by A. MacDonald, T. Murray and H. Murray.

April 4, 2019

DATE



CHAIRMAN,
SUBDIVISION/DEVELOPMENT APPEAL BOARD

A decision of the Subdivision/Development Appeal Board is final and binding on all parties and persons subject only to an appeal upon, or questions of jurisdiction or law pursuant to, Section 688 of The Municipal Government Act, RSA 2000 c. M-26, as amended. An application for leave to appeal to the Court of Appeal of Alberta shall be made within THIRTY (30) days after the issue of the order, decision, permit or approval sought to be appealed.