

**NOTICE OF DECISION  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
CITY OF SPRUCE GROVE**

Pursuant to Part 4 of the City of Spruce Grove Land Use Bylaw C-824-12 (the "Land Use Bylaw"), as amended, and Part 17, Division 10 of the *Municipal Government Act*, RSA 2000, cM-26, as amended.

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**DATE OF DECISION:** July 14, 2023

**IN THE MATTER OF:** An appeal by Peace Lutheran Church against the refusal of Development Permit PLDPNR202300210 for an accessory building (sea can) on the site of 303 Church Road (Plan 6442KS, Block 13, Lot 2).

**DATE OF HEARING:** July 6, 2023

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**SUMMARY OF THE HEARING:**

- [1] Notice of the appeal was given to all interested parties in accordance with the Land Use Bylaw and the requirements of the *Municipal Government Act* and a hearing was held in Council Chambers at 315 Jespersen Avenue, 3<sup>rd</sup> Floor, on July 6, 2023.
- [2] The following members of the Subdivision and Development Appeal Board were in attendance throughout the hearing:
  - Paul Hanlan, Chair
  - John Fraser, Board Member
  - Tim Tully, Board Member
  - Liam McGrath, Board Member
- [3] Jennifer Maskoske served as Clerk to the Board for the hearing. No persons present voiced any objections to the Clerk assigned to this hearing or the role of the Clerk.
- [4] Following an introduction of the Board and the Chair outlining the hearing process, no persons present voiced any objections to the members of the Board hearing the appeal and the process of the hearing as outlined by the Chair.
- [5] The Board received and considered written submissions from each of the following:
  - Development Officer's Report

- Development Officer's PowerPoint presentation

[6] The following persons were in attendance at the hearing of the appeal and made oral submissions where were considered by the Board:

- Karen Majeau, Development Officer
- Peace Lutheran Church, represented by Edwin Huber, Appellant
- Judy Palynchuk, Other Affected Party
- Darlene Gamble, Other Affected Party

[7] All those who provided evidence at the Hearing indicated that they had a fair Hearing.

### **SUMMARY OF EVIDENCE**

[8] The Board marked the following documents as exhibits in the hearing. There were no objections to them being marked as exhibits:

<b>Exhibit</b>	<b>Description</b>
1.	Timelines
2.	Development Permit Application
3.	Development Permit Decision
4.	Notice of Appeal
5.	Notice of Hearing
6.	Adjacent Property Owner List (Confidential)
7.	Site Plan Showing Adjacent Property Owners
8.	Subject Location (Maps)
9.	Development Officer's Report

[9] The Board heard oral testimony from Karen Majeau, Development Officer, including:

- A summary of the content of Development Officer's report (Exhibit 9) and a PowerPoint presentation
- Answers to questions from the Board including:
  - The Land Use Bylaw speaks to the facades and exterior design of an accessory building.
    - The accessory building has an industrial look and is not architecturally compatible with the existing building on the site and does not complement the site as required under Section 30(5)(b) of the Land Use Bylaw.

- Building facades and exterior design shall adhere to brick, natural wood, wood composites, stucco, or glass.

[10] The Board heard oral testimony from the Appellant Peace Lutheran Church represented by Edwin Huber including:

- Edwin Huber is a member of the church and is representing Peace Lutheran Church.
- Edwin Huber spoke to the process followed to complete the development permit application process.
- He provided concerns on other buildings in the area that do not meet with architectural guidelines of the bylaw and are these no longer in line with the legislation.
- It was unsure of how to change the accessory buildings appearance.
- Answers to questions from the Board including:
- The Appellant stated they were unsure of how the exterior of the accessory building could be changed to satisfy the regulations of the Land Use Bylaw; the most likely option being to clad the building in wood.
- The purpose of the shed is for a permanent use to store lawn equipment and supplies.

[11] The Board heard oral testimony from Judy Palynchuk:

- Judy Palynchuk is a member of the church
- Not sure how to change the look of the sea can.
- The sea can will not be in the open, it would be to the side behind the church.

[12] The Board heard oral testimony from Darlene Gamble:

- Darlene Gamble is a member of the church
- She has concerns regarding the safety in the area and theft that is occurring.

## **RELEVANT LEGISLATION**

[11] The Board considered the following in its decision:

### *Land Use Bylaw*

- Land Use Bylaw Section 7 - Definitions
- Land Use Bylaw Section 13 - Decisions on Development Permits
- Land Use Bylaw Section 30 - Design and Appearance of Buildings
- Land Use Bylaw Section 53 - Accessory Building

### *Municipal Government Act*

- MGA Section 642(1)
- MGA Section 687

## DECISION

[14] Having considered all relevant planning evidence presented at the hearing, the arguments made and the circumstances and merits of the application and the appeal, and having regard for the relevant provisions of *Municipal Government Act*, any applicable statutory plans, the Matters related to Subdivision and Development Regulation, AR 84/2022 and the Land Use Bylaw, this appeal is denied and Development Permit No. PLDPNR202300210 is hereby refused.

## REASONS:

- [15]
1. Edwin Huber represented Peace Lutheran Church, owner of the development on which the proposed use is located. As a result of Peace Lutheran Church owning the land, the Board finds that it is an affected party.
  2. The proposed development is for an accessory building.
  3. The lands are governed by PS - Public Service Institutional District and OCC - Overlay City Centre District of the Land Use Bylaw.
  4. An accessory building is a permitted use in the PS - Public Service Institutional District.
  5. Under section 642(1) of the *Municipal Government Act*, when a person applies for a development permit in respect of a permitted use, the Development Authority, and on appeal, the Board must approve the application, provided that the application otherwise conforms to the Land Use Bylaw. In this case, the application requires adherence to Land Use Bylaw Section 30(5) which provides regulations on design and appearance shall apply to all new buildings on lands districted PS - Public Service Institutional District within the City Centre Overlay Area.
  6. The proposed development is a permitted use; however, it does not adhere to Land Use Bylaw Section 30(5) on design and appearance.
  7. The regulations under Section 30(5)(b) states building facades and exterior design shall adhere to the following:
    - i. Architectural features shall be used to differentiate Building faces while allowing that each face remains architecturally compatible with an adjacent building by use of similar and complementary forms, materials, and scale.
    - ii. A Building Wall visible from an adjacent Alley and/or onsite parking area shall be designed to improve the rear Building aesthetic.
    - iii. All blank walls of a Building shall be treated with cladding complementary to the overall Building, to add interest and texture of

- the wall and building, or with mural artwork where appropriate.
- iv. Brick natural wood, wood composites, stucco, or glass shall be used for a Building as its fundamental cladding with these materials being compatible and complementary to adjacent Buildings.
  - v. Vinyl siding shall not be used as a cladding material.
8. The Board examined whether the design and appearance of the accessory building in the PS - Public Service Institutional District and OCC - Overlay City Centre District complied with the requirements in section 30(5) of the Land Use Bylaw.
  9. The Board heard evidence from the Development Officer that the accessory building is a permitted use in the PS - Public Service Institutional District and OCC - Overlay City Centre District. However, the accessory building has an industrial look and is not architecturally compatible with the existing building on the site and does not complement the site as required under Section 30(5)(b) of the Land Use Bylaw.
  10. The Appellant wished to place a sea can on the lands. The Board notes that page 8/27 of the Agenda package shows the exterior of the sea can. The Board notes that the Appellant's intention is to place an unmodified sea can onto the property. An unmodified sea can – made of metal - does not comply with section 30(5)(b)(i) because there are no architectural features on the faces of the sea can. An unmodified sea can is not architecturally compatible with the adjacent buildings and is not of a similar or complementary form, material or scale.
  11. The Board is of the view that an unmodified sea can fails to comply with section 30(5)(b)(ii) because it does not improve the aesthetic. It is a metal container which is not visually appealing.
  12. The Board is of the view that an unmodified sea can fails to comply with section 30(5)(b)(iii) because it is metal, and not the brick, wood (natural or composites), stucco or glass as required by the section.
  13. The Board heard the issues raised by the Appellant and other presenters as those concerns related specifically to the Appellants use, condition and security of the proposed development.
  14. In hearing the comments on security raised by the Appellant and other presenters, the Board considered the security concerns; however, the Board felt the Appellant could address the security concerns while also complying with the Land Use Bylaw requirements for cladding of an Accessory Building.

15. The Appellant did not demonstrate to the satisfaction of the Board the willingness to clad the accessory building to comply with the Land Use Bylaw Section 30(5)(b).
16. The Board concludes that the application does not comply with the requirements for an accessory building in the PS - Public Service Institutional District and OCC - Overlay City Centre District of the Land Use Bylaw.
17. For these reasons, the decision of the Development Authority is confirmed and the appeal is denied.

Dated at the City of Spruce Grove in the Province of Alberta, July 14, 2023

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*Jennifer Maskoske*

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Jennifer Maskoske, Clerk, on behalf of  
Paul Hanlan, Chair  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

NOTICE:

If you wish to appeal this decision, you must follow the procedure prescribed in Section 688 of the *Municipal Government Act*. An appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to a decision of the Subdivision and Development Appeal Board. An application for leave to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed.