

Wheatland County

Request for Decision

Regular Council Meeting

November 10, 2020

Report prepared by: Suzanne Hayes



DP 2020-114

Recommendation from Administration

THAT Council approve DP 2020-114 for a variance for an existing greenhouse and shed subject to the following conditions:

1. This Development Permit is issued solely for the purpose of an existing shed and greenhouse both requiring a variance – Defined as a Variance for an Accessory Building and Greenhouse, Private.
2. The variance has been granted allowing the existing 2.56 m x 4.40 m greenhouse to be located 0.76 m (2.49 ft) from the rear yard property line and the existing 2.45 m x 3.68 m shed to be located 0.87 m (2.85 ft) from the rear yard property line.
3. Development shall proceed according to Direct Control District 7 (DC-7, Cell 1) requirements and the applicant must comply with all applicable provisions of the Wheatland County Land Use Bylaw.
4. Landowner to enter into an Encroachment Agreement with Wheatland County which will allow the existing shed, greenhouse, and concrete to remain on the Utility Right of Way.

Chief Administrative Officer's Comments

N/A

Report

Division 5

File Number:	DP 2020-114	
Proposal:	Variance Request, Encroachment (Existing Greenhouse, Existing Shed)	
Location:	Within the Lakes of Muirfield	
Legal Description:	Plan 071 0284, Unit 108	
Title Area:	9224 sq. ft.	
Existing Land Use:	Residential	
Proposed Parcels:	n/a	

The applicant requested a compliance review which was completed by Wheatland County on September 23, 2020. The review identified the following:

- An existing 2.56 m x 4.40 m greenhouse does not meet the rear yard setback of 3.05 m (10.0 ft) as it is located 0.76 m (2.49 ft) from the rear property line.
- The greenhouse and its concrete pad also encroach 1.34 m (4.40 ft) into the County Utility Right of Way, which runs along the inside of the property line on the rear of the parcel.
- An existing 2.45 m x 3.68 m shed does not meet the rear yard setback of 3.05 m (10.0 ft) as it is located 0.87 m (2.85 ft) from the rear property line.

- The shed and its concrete pad also encroach 1.23 m (4.04 ft) into the County Utility Right of Way, which runs along the inside of the property line on the rear of the parcel.

The Land Use Bylaw stipulates that an accessory building may not be constructed on or over a Utility Right of Way unless an encroachment agreement is in place. As these structures are existing, approval of the variance is conditional on an encroachment agreement be entered into by Wheatland County and the property owner. If an encroachment agreement cannot be executed, the variance approval is void.

The Utility Right of Way was put in place to accommodate a drainage swale. Wheatland County Manager of Utilities visited the property and after review and a discussion with the General Manager of Transportation and Agriculture, it was determined that the grades used to build the 3 existing homes located on the lots which accommodate the Utility Right of Way will not easily be adjusted for a swale so it is not likely one will ever be built in that location, therefore they have no issue with the encroachment and variance.

Relevant Policies, Practices, and Legislation

Lakes of Muirfield Area structure Plan: The area structure plan addresses drainage of the entire development at a higher level and does not get into specific details regarding drainage, variances, or encroachments.

Municipal Development Plan: Section 3.3.3 of the MDP states that any site grading/drainage plans for individual development sites shall be in conformance with the overall stormwater management plan.

1. Cell 1 Land Use Regulations – Residential Type I

Purpose and Intent

The purpose and intent of this development cell is to provide for low density residential development in the form of single detached dwellings.


Permitted and Discretionary Uses

- a) The following uses shall be permitted or discretionary with or without conditions provided that the application complies with the regulations of this district and this Bylaw:


Permitted	Discretionary
Accessory Building/Structure	Home-Based Business, Type 2
Dwelling, Single Detached	Show Home
Essential Public Service	
Sign, Identification	

Site Regulations

- b) The following regulations and policies shall apply to every development in this district:

Minimum Parcel Size	As per the Approving Authority
Minimum Parcel Width	14.0m (46.0ft)
Front Yard Setback	6.10m (20.0ft) principal building and accessory buildings
	4.57m (15.0ft) principal building and accessory buildings (street side of a corner site)
	4.57m (15.0ft) for side entrance garages where the vehicular garage doors do not front the street
Side Yard Setback	1.22m (4.0ft) principal building and accessory buildings
	3.05m (10.0ft) principal building and accessory buildings (street side of a corner site)
Rear Yard Setback	6.10m (20.0ft) principal building
	3.05m (10.0ft) accessory buildings 
Minimum Yard Setback between Buildings / Structures	1.52 m (5.0 ft)
Maximum Height Requirements	10.0m (32.8ft) principal building
	5.03m (16.5ft) accessory buildings
Maximum Site Coverage	50%

7.3 Accessory Buildings/Structures

- 7.3.1 An accessory building / structure cannot be located on or over an easement or utility right-of-way unless an approved written encroachment agreement is in place. 
- 7.3.2 An accessory building must be a standalone unit and cannot be attached or connected to any other building.
- 7.3.3 All accessory buildings / structures must be at least 1.52 m (5.0 ft) from the eaves of any other structures.
- 7.3.4 All accessory buildings must meet Alberta Building Code, Fire Code & Standards and Safety Code regulations.
- 7.3.5 A Development Permit is not required for any accessory building less than 9.29 m² (100.0 ft²) with the exceptions of any uses listed in the Development Permits Not Required section of this Bylaw.
- 7.3.6 All accessory buildings shall be of a design and finish which will complement the existing building(s).
- 7.3.7 All accessory buildings shall meet the setback requirements of the applicable land use district.

3.2 Development Authority

- 3.2.1 The Development Authority for the County is hereby established in accordance with Section 624 of the Municipal Government Act and consists of the following:
 - a) Council with respect to all Development Permit applications for Discretionary Uses within Direct Control Districts and with respect to Development Permit applications for Permitted Uses within Direct Control Districts which involve variance requests in excess of 10% of the relevant numerical value, unless otherwise specified within the Direct Control District;

4.3 Variances

4.3.2 The Development Authority may approve a Development Permit even though the proposed development does not comply with this Bylaw or is a non-conforming building if, in the opinion of the Development Authority:

- a) The proposed development would not:
 - i. Unduly interfere with the amenities of the neighborhood; or
 - ii. Materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land; and
 - iii. The proposed development conforms with a similar use prescribed for that land or building in this Bylaw.

Lakes of Muirfield Phase 1 Architectural Controls – Section 5.5 lists a rear yard setback of 3.05 m (10.0 ft) for accessory buildings, however the homeowner's association has advised that this had been revised to state 1.22 m (4.0 ft).

Considerations:

- The proposed application does not align with the MDP as the drainage on the lots does not conform to the overall drainage plan of the development, however staff have determined that a drainage swale will not be constructed in this location.
- The application does not align with the LUB as the shed and greenhouse are on a Utility Right of Way, however staff have determined the drainage swale will not be constructed and have no concerns.
- The application does not align with the LUB setbacks however the Deputy Regional Fire Chief has no issue with the placement of the buildings in relation to the property line.
- The proposed variance request does not align with the setback listed in the Lakes of Muirfield Phase 1 Architectural Controls, however the Homeowner's Association has no issue with the variance and are in the process of revising their architectural controls for a reduced rear yard setback.

Technical Review

- The parcel is adjacent to Muirfield Crescent.
- The lot immediately adjacent to the drainage swale on the NW side is owned by Wheatland County with a sale pending.

Circulation Comments

AGENCY CIRCULATION	
Not performed	
INTERNAL CIRCULATION	
Internal File Review	<p>Transportation and Agriculture – After a site review and a discussion, we are ok with approving a variance. The grades that have been used to build the 3 existing homes will not be easily adjusted for a swale so I don't think there will ever be one there.</p> <p>Planner – Not able to provide support for a variance for buildings constructed over a utility right of way. It may cause increased expense or difficulties for the County in the future if we need to perform maintenance</p>

	<p>within that URW. However if Public Works is ok with it, my concerns have been considered and addressed.</p> <p>Deputy Regional Fire Chief – From a fire perspective, there is no reason not to approve the variance.</p>
NEIGHBOUR CIRCULATION	
To adjacent neighbors + 1	<p>No Concerns.</p> <p>Muirfield Home Owners Association – The HOA has no concerns if Wheatland County approves the variance. We have amended the setbacks for sheds etc. to 4’ rather than 10’ from the fence/property lines to align with Wheatland County setbacks in hamlets. A new version of the Architectural Controls is being finalized.</p>

Alignment with the Strategic Plan

N/A

Response Options

Option 1: THAT the proposed recommendation is accepted/approved.

Option 2: THAT the proposed recommendation is not accepted/approved.

Option 3: THAT an alternate recommendation is accepted/approved.

Implications of Recommendation

General

N/A

Organizational

N/A

Financial

N/A

Environmental, Staff, and Public Safety

N/A

Follow-up Action / Communications

Inform Applicant of the Decision

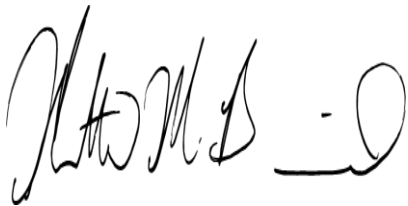
Report Approval Details

Document Title:	DP 2020-114.docx
Attachments:	- Appendices for Report DP 2020-114.docx
Final Approval Date:	Oct 30, 2020

This report and all of its attachments were approved and signed as outlined below:



Sherry Baers



Matthew Boscarol



Brian Henderson