

**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.

DATE OF DECISION: January 26, 2021

IN THE MATTER OF: An appeal by Traci Upshaw against a conditional approval of Development Permit No. PL20200000543 to locate a home occupation on the same site as an existing secondary suite at 41 Hudson Cove (Plan 132-3212, Block 11, Lot 120).

DATE OF HEARING: January 20, 2021

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 opened virtually via Zoom on January 20, 2021.
- [2] The following members of the Subdivision and Development Appeal Board were in attendance throughout the hearing:
- Stephen Nielsen, Chair
 - Nancy Domijan
 - Terry Wendel
 - Wayne Rothe
- [3] Lindsay O'Mara served as Clerk to the Board for the hearing.
- [4] 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
 - Applicant's Written Submission
 - Appellant's Written Submission

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

- Tanya Ouellette, Development Officer
- Traci Upshaw, Appellant
- Kristina Kloeck, Applicant

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

SUMMARY OF EVIDENCE

[8]

Exhibit	Description
1.	Timelines
2.	Development Permit Application
3.	Development Officer's Decision
4.	Notice of Appeal
5.	Notice of Hearing
6.	Adjacent Property Owner List (Confidential)
7.	Site Plan Showing Adjacent Property Owners
8.	Key Plan of Subject Location (Maps)
9.	Development Officer's Report
10.	Appellant Submission
11.	Applicant Submission

[9] Oral testimony from Tanya Ouellette, Development Officer, including:

- Content of Development Officer's report and Powerpoint presentation
- Answers to questions from the Board including:
 - There are three on-site parking stalls on the applicant's property; two residential parking stalls for the property owner's vehicle and the tenant's vehicle with one stall left for the vehicle of clients.
 - There is a minimum number of on-site parking stall requirements for residential properties.
 - Street parking is on a first come first serve basis.
 - Even with three on-site parking stalls, the applicant, or guests or clients of the applicant are permitted to park on the street.

[10] Oral Testimony from the appellant, Traci Upshaw including:

- Content of the Appellant's Written Submission
- Answers to questions from the Board including:
 - The appellant has a secondary suite and a three car garage providing sufficient on-site parking. However, due to the narrow alleys, the appellant's tenant is unable to maneuver his truck to park on the on-site parking and so he parks on the street.
 - The appellant has observed that the applicant often has vehicles parked at the back of the property on the on-site parking and in the front of the property on the street.
 - Parallel parking in a cul-de-sac takes up a lot of space, adding to the parking congestion in the neighbourhood.
 - If the operating hours of the home occupation were on weekdays during the daytime, parking concerns would be less of an issue since parking congestion is less pronounced during the day than in the evening.
 - The variance allowing a home occupation with a secondary suite sets a precedent that could extend to other dwellings in the neighbourhood further exacerbating the parking congestion.

[11] Oral Testimony from the applicant, Kristina Kloeck including:

- Content of the Applicant's Written Submission
- Answers to questions from the Board including:
 - The maximum number of clients the applicant would see per day on weekdays would be three and she would not see clients every weekday. No clients will be seen evenings or on weekends.
 - The duration of each appointment will be 1 – 1.5 hours.
 - Reflexology is performed on a one-on-one basis; only one client will be seen at a time.
 - When clients book an appointment, the applicant will notify them that they must park in the back of the property using the on-site parking stalls. The applicant will also send client's an email and/or text advising of same.
 - There is a sidewalk that extends from the on-site parking to the dwelling.
 - The applicant's son typically parks across the street from the applicant's property because when the applicant's son visits he is driving his father's large truck and there usually is no room to park in front of the applicant's property due to other vehicles parked there.
 - The applicant's son does not visit every day and when he does it is generally in the evening.
 - With the three on-site parking stalls there is room for the applicant's, the tenant's and a client's vehicle.

RELEVANT LEGISLATION

[12] The Board considered the following sections of the Land Use Bylaw in its decision:

- Land Use Bylaw Section 7 – Definitions
- Land Use Bylaw Section 70 – Home Occupations
- Land Use Bylaw Section 75 – Secondary Suites
- Land Use Bylaw Section 115 – R1 – Mixed Low to Medium Density Residential District

DECISION

[13] 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 Subdivision and Development Regulation and the Land Use Bylaw, this appeal is denied and Development Permit No. PL20200000543 is hereby approved.

REASONS:

- [14]
1. The proposed use, being a home occupation for reflexology services is considered a discretionary use. Since the home occupation is proposed to be located on the same site as a secondary suite a variance is required.
 2. When considering a discretionary use, the Board is tasked with determining whether the proposed use is reasonably compatible with neighbouring uses or can be made reasonably compatible with neighbouring uses through the imposition of conditions.
 3. In addition, in order to allow a variance from the development regulations contained in the Land Use Bylaw, in this case the prohibition on a home occupation on the same site as a secondary suite, the Board must be satisfied the proposed use will not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.
 4. The primary concern raised in the appeal is the increased pressure on parking as a result of a home occupation with visitors being on the same site as a secondary suite with a tenant.
 5. The Board is satisfied the Development Officer's conditions as outlined in the Development Permit will adequately address the potential impacts raised by the appellant and are fair, reasonable and enforceable.
 6. The applicant's property has three on-site parking stalls that are sufficient to accommodate the residential, home occupation and secondary suite

uses, taking into consideration the hours of operation, number of visitors, and number of vehicles per visitors.

7. With the conditions imposed by the Development Officer and the existing on-site parking capacity, the proposed use is reasonably compatible with neighbouring uses and will not appreciably interfere with parking in the area or the use, enjoyment or value of neighbouring parcels of land.

Dated at the City of Spruce Grove in the Province of Alberta, January 26, 2021

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Lindsay O'Mara, Clerk, on behalf of
Stephen Nielsen, 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.