



SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Preliminary Hearing No. 22-003

TIME: 6:30 pm
DATE: May 3, 2022
PLACE: Videoconference via Zoom

Chairperson: Scott Shannon

Board Members: Ashley Marshall
Christopher Hutchinson
Hayley Gavin
Mark Cardwell

Administration: Nicole Tomes, Senior Planner
John Popoff, Manager of Planning

SDAB Clerk: Karen Babin

1. CALL TO ORDER

- a. Chairperson Shannon asked for a motion to open the hearing
 - i. MOVED by A. Marshall to open the hearing
Carried Unanimously
- b. The Chairperson opened the hearing at 6:33 pm
- c. Introductions were made from the Board
- d. The Chairperson asked if anyone had any objections to any member of the Board
 - i. There were no objections to any member of the Board

2. ADOPTION OF AGENDA

- a. The Chairperson asked if there were any amendments or additions to the Agenda
 - i. The Clerk responded there were none
- b. The Chairperson asked for a motion to adopt the Agenda
 - i. MOVED by C. Hutchinson to adopt the Agenda as presented
Carried Unanimously

3. ADOPTION OF MINUTES

- a. The Chairperson asked for a motion to adopt the Minutes from the previous hearing

- i. MOVED by H. Gavin to adopt the Minutes from SDAB 22-002 as presented
Carried Unanimously

4. APPEAL HEARING

- a. The Chairperson asked the Clerk to read out the appeal
 - i. The Clerk read out the appeal as follows:
DP2021-204
318 Fireside Place
Lot 14, Block 3, Plan 111 2085
Accessory Building with Variance

5. PRELIMINARY MATTER

- a. Applicant:
 - i. The Chairperson asked the Applicant to present their preliminary matter
 - ii. The Applicant, Dillon Sharpe, requested the Board accept his late application to appeal the refusal of his development permit application
 - iii. Questions were asked from the Board to the Applicant
- b. Administration:
 - i. The Chairperson called upon Administration to respond
 - ii. Nicole Tomes, Senior Planner and John Popoff, Manager of Planning provided a timeline of the events and requested that the Board not accept the Applicant's request
 - iii. Questions were asked from the Board to Administration

6. IN CAMERA

- a. Chairperson Shannon called for a motion to go in camera to discuss the request
 - i. MOVED by M. Cardwell to go in camera
Carried Unanimously
- b. Chairperson Shannon called for a motion to come out of camera
 - i. MOVED by M. Cardwell to come out of camera
Carried Unanimously
- c. The Board's decision is to deny the request to accept the application to appeal
- d. A written decision will be issued within 15 days in accordance with the Municipal Government Act

7. CLOSE

- a. Chairperson Shannon called for a motion to close the hearing

- i. MOVED by A. Marshall to close the hearing
Carried Unanimously
- b. Chairperson Shannon adjourned the hearing at 6:55 pm

DATED this 26th day of May 2022

Original signed by Scott Shannon

Scott Shannon, Chairperson

Original signed by Karen Babin

Karen Babin, SDAB Clerk

**TOWN OF COCHRANE
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

BOARD ORDER: 22-003

IN THE MATTER OF THE *Municipal Government Act*, R.S.A. 2000 Chapter M-26

AND IN THE MATTER OF AN APPEAL FROM AN ORDER lodged by Dillon Sharpe, of 318 Fireside Place,
Cochrane, AB (Applicant)

BEFORE:

Scott Shannon, Chairperson
Ashley Marshall
Christopher Hutchinson
Hayley Gavin
Mark Cardwell

Karen Babin, SDAB Clerk

This is an appeal to the Town of Cochrane Subdivision and Development Appeal Board of the Development Authority, being the Notice of Decision to refuse Development Permit 2021-204 for an Accessory Building with Variances at 318 Fireside Place, Plan 111 2085, Block 3, Lot 14, in the Town of Cochrane.

A preliminary hearing to consider the appeal was convened by the Subdivision and Development Appeal Board on May 3, 2022, commencing at 6:30 pm via video conferencing.

I. BACKGROUND

Development Permit application DP2021-204 is for an Accessory Building with Variances. The proposed development is located at 318 Fireside Place. The subject property is located in a Residential Single and Two-Dwelling District (R-2).

Accessory Buildings are a Discretionary Use within an R-2 District. In accordance with Land Use Bylaw 01/2004, the Development Officer has the authority to either make a decision or refer the application to the Cochrane Planning Commission (CPC). This application was forwarded to CPC for a decision and was subsequently refused at the March 16, 2022 meeting.

The Applicant appealed this decision as per section 685(1) of the *Municipal Government Act*, RSA 2000, c. M-26 (MGA), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the Subdivision and Development Appeal Board.

II. APPEARANCES and SUBMISSIONS

The Board heard verbal submissions from:

- a) Dillon Sharpe, the Applicant
- b) Nicole Tomes, on behalf of the Development Authority
- c) John Popoff, on behalf of the Development Authority

III. SUMMARY OF EVIDENCE

Preliminary Issue

The preliminary issue of whether or not the Appeal was submitted within the legislated time period, as prescribed under the [Municipal Government Act](#), was dealt with by the Subdivision and Development Appeal Board.

- a) Submission of the Applicant

The Applicant, Mr. Sharpe, explained that he submitted the Notice to Appeal on April 4, 2022, within the prescribed timeline, and believed that was sufficient to initiate the appeal process. He acknowledged that the payment was late because he was out of town at the time. He does not have a credit card so did not have an opportunity to pay the filing fee on time.

- b) Development Authority

Ms. Tomes confirmed that the Notice of Decision included the deadline date to file an appeal. The Development Authority issued a Refusal on April 11, 2022, after being notified by Legislative Services that the Applicant did not pay the appeal fee by the April 7 deadline.

Mr. Popoff explained to the Board that, after consulting with Legislative Services, he advised the Applicant his sole recourse would be to pay the appeal fee and request a Preliminary Hearing to receive a decision from the SDAB as to whether the matter could proceed to appeal. The Applicant made the payment on April 20, 2022, putting the matter before the Board.

IV. DECISION

The Board reviewed all evidence and arguments, written and oral, submitted by the parties, and will focus on key evidence and arguments in outlining its reasons.

The Board notes that section 686(1) of the MGA provides that a “notice of appeal, containing reasons... must be filed...within 21 days after the date on which the written notice of decision is given”.

The Applicant confirmed that he submitted the Notice to Appeal on April 4, 2022 and paid the required appeal fee on April 20, 2022.

The Board acknowledged the Notice of Decision issued by the Development Authority stated an appeal, accompanied by the appeal fee, was due no later than April 7, 2022.

The Board finds that the Appeal was not filed in accordance with the requirements of section 686(1) of the MGA; therefore, it has no jurisdiction to hear the Appeal. The decision of the Development Authority is upheld.

Dated this 9th day of May 2022

Original signed by Scott Shannon

Scott Shannon, Chairperson

Original signed by Karen Babin

Karen Babin, SDAB Clerk

An appeal of this Decision, on a question of law or jurisdiction, may be made to the Alberta Court of Appeal in accordance with section 688 of the Municipal Government Act, RSA 2000, c.M-26 within 30 days of the date of this Decision.