

# SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES (SDAB)



<b>Meeting:</b>	Subdivision and Development Appeal Board (SDAB)
<b>Meeting Date:</b>	June 2, 2020
<b>Originated By:</b>	K. Babin
<b>Title:</b>	Minutes of SDAB Hearing 20-002
<b>Agenda Item No.</b>	3

## **BACKGROUND:**

Minutes of SDAB Hearing 20-002



## SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Hearing No. 20-002

**TIME:** 4:00 pm  
**DATE:** June 2, 2020  
**PLACE:** [Cochrane.ca/SDAB](http://Cochrane.ca/SDAB)

Chairperson: David Helmer

Board Members: Jenna Graham  
Brenda Samborski  
Scott Shannon  
Robyn Usher  
Patrick Wilson, Councillor

Town Staff: Adam Nordquist, Planner II  
Ryan Stewart, Acting Manager Planning Services & Civil Land  
Development  
Riley Welden, Acting General Manager, Development &  
Community Services

Recording Secretary: Karen Babin

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### 1. CALL TO ORDER

- a. Chairperson Helmer asked for a motion to open the hearing
  - i. MOVED by J. Graham to open the hearing  
~carried unanimously~
- b. Chairperson Helmer opened the hearing at 4:05 pm
- c. Introductions were made from the Board and Administration
- d. Chairperson Helmer 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. Secretary Karen Babin, responded that there were no additions to the agenda
- b. The Chairperson asked for a motion to adopt the Agenda
  - i. MOVED by J. Graham to adopt the Agenda as presented  
~carried unanimously~

### 3. **ADOPTION OF MINUTES**

- a. The Chairperson asked if there were any amendments to the Minutes from the previous hearing
  - i. No amendments were brought forward
- b. The Chairperson asked for a motion to adopt the Minutes from the previous hearing
  - i. MOVED by R. Usher to adopt the Minutes from SDAB 20-001 as presented  
~carried unanimously~

### 4. **ELECTION OF VICE CHAIRPERSON**

- a. The Chairperson asked if there were any nominations for the position of Vice Chair
  - i. B. Samborski declined a nomination
  - ii. R. Usher accepted a nomination
  - iii. S. Gibson-Craig declined a nomination via email
- b. The Chairperson asked for a motion to appoint a Vice Chair
  - i. MOVED by S. Shannon to appoint R. Usher to the position of Vice Chair  
~carried unanimously~

### 5. **FIRST APPEAL**

- a. The Chairperson asked the Secretary to read out the appeal
  - i. The Secretary read out the first appeal as follows:  
DP2020-018  
166 Heritage Drive  
Lot 43, Block 9, Plan 141 1072  
Accessory Suite (Basement)
- b. The Chairperson asked the Secretary if this Appeal had been duly advertised  
The Secretary stated that the Notice of Appeal had been advertised in the May 28<sup>th</sup> edition of the Cochrane Eagle as well as sent out to adjacent landowners

### 6. **OUTLINE OF HEARING PROCESS**

- a. The Chairperson outlined the hearing process for all present  
There were no concerns with the process from the Appellant, Administration or any members of the audience
- b. The Chairperson asked the Secretary if each of the affected parties had received all materials in a timely fashion.  
The Secretary replied that they had

### 7. **PRESENTATIONS**

- a. Administration:
  - i. The Chairperson called upon the Development Planner to come forward and present their report

- ii. Development Planner, Adam Nordquist submitted a comprehensive Administrative Report and made an oral and visual presentation to the Board
  - iii. Questions were asked from the Board to Administration
- b. Appellant:
  - i. The Chairperson called upon the Appellant to come forward and present their report
  - ii. Mac Gillespie presented a comprehensive report and made an oral presentation to the Board
  - iii. Questions were asked from the Board to the Appellant
- c. Applicant:
  - i. The Chairperson called upon the Applicant to come forward and present their report
  - ii. Vincent Constantineau presented a comprehensive report and made an oral presentation to the Board
  - iii. Questions were asked from the Board to the Applicant
- d. Additional Presentations:
  - i. There were no additional presentations or submissions

## 8. QUESTIONS AND SUMMARIES

- a. Final questions for clarification were asked
- b. Summaries were presented from Administration, the Applicant and the Appellant
- c. The Chairperson asked if all parties involved felt they were given a fair hearing
  - i. All parties agreed they were given a fair hearing

## 9. CLOSE

- a. Chairperson Helmer called for a motion to close the hearing
  - i. MOVED by J. Graham to close the hearing  
~carried unanimously~
- b. The Chairperson advised that the Board had 15 days to reach their decision
- c. Chairperson Helmer adjourned the hearing at 5:05 pm
- d. The Chairperson called for a motion to go in-camera
  - i. MOVED by P. Wilson to go in-camera  
~carried unanimously~

**DATED** this 14th day of August, 2020

Original signed by David Helmer  
David Helmer, Chairperson

Original signed by Karen Babin  
Karen Babin, Recording Secretary

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

**BOARD ORDER: 20-002**

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

**AND IN THE MATTER OF A DEVELOPMENT APPEAL** lodged by Mac Gillespie, of  
Cochrane, AB (the "Appellant")

**BEFORE:**

David Helmer, Chairperson  
Jenna Graham  
Brenda Samborski  
Scott Shannon  
Robyn Usher  
Patrick Wilson, Councillor

Karen Babin, Recording Secretary

This is an appeal to the Town of Cochrane Subdivision and Development Appeal Board (SDAB) of the Development Authority, being the Notice of Decision of Development Permit 2020-018 for Accessory Suite (Basement) at 166 Heritage Drive, Lot 43, Block 9, Plan 141 1072, in the Town of Cochrane (Town).

A hearing to consider the appeal was convened by the SDAB on June 2, 2020, commencing at 4:00 pm via video conferencing. The live stream was available for viewing on the Town's website at [Cochrane.ca/SDAB](http://Cochrane.ca/SDAB).

## I. BACKGROUND

Development Permit application DP2020-018 is for an Accessory Suite (Basement) located at 166 Heritage Drive. The subject property is designated as Residential Single Detached Dwelling District (R-1) where accessory suites are listed as a discretionary use. In accordance with Section 3.1.1 c) of the Land Use Bylaw 01/2004 (LUB), the Development Officer shall consider and decide on applications for development permits for accessory and garden suites.

The Development Officer approved the application for reasons listed in Section III Review of Submissions below.

The Appellant appealed this decision as per section 685(2) 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. DETERMINATION OF THE BOARD

The Appeal is denied and the decision of the Development Authority is upheld as per the reasons outlined in Section IV Decision.

## III. REVIEW OF SUBMISSIONS

### a) Development Officer

Mr. Nordquist submitted a comprehensive Administrative Report and provided an oral presentation to the Board.

The Development Permit application was for a single bedroom accessory suite (basement) located at 166 Heritage Drive in an R-1 District where the purpose and intent is:

“to provide for single-detached residential development. New neighbourhoods will be designed to provide for integrated and varied lot sizes. A limited number of these lots may also contain accessory or garden suites.

The application, floor plan and site plan were found to be compliant with the regulations set out in Section 12.3.0 of the LUB, specifically:

- that the suite be an accessory to the principal residence and be fully serviced through the existing utility connections;
- a separate access from the principal dwelling be provided. A side entrance with below-grade stairwell is proposed and meets the minimum side yard setback requirement of 0.59 m;
- no structural changes be made to the front exterior;
- that the suite’s floor area meets the minimum of 30m<sup>2</sup> and be a maximum of 40% of the total gross floor area; and
- the provision of one off-street parking stall with safe unimpeded access to the suite.

In addition to two parking stalls for the primary residence, one stall is required for the single bedroom suite. An existing parking pad with rear lane access will be expanded to accommodate the additional stall.

Section 12.2.2 of the LUB states that the clustering of accessory residential uses within the subject block face or adjacent block face must also be considered. There are currently 3 lots out of 20 which support accessory suites on the subject block face and none on the adjacent block face. The approval of this suite would bring the total clustering of suites to 11.7% for lots on Heritage Drive between Heritage Boulevard and Heritage Terrace. Municipal

Enforcement confirmed that there have been no major or ongoing complaints of parking or congestion along this block face.

The development of accessory suites aligns with the following guiding policy documents:

- *Cochrane Sustainability Plan*  
Pathway 9, "Everyone has a roof over their head": diverse, accessible, safe and affordable housing options for all income levels, for either ownership or rental.  
Pathway 11, "Wherever you are in Cochrane, you are close and connected": includes a target of increasing density within the existing 2009 footprint.
- *Municipal Development Plan*  
Section 1.1.8, Diversity of Housing: Cochrane's goal is to ensure that housing is available to all, regardless of income, lifestyle or life cycle.

The DP application was circulated to internal departments and external agencies for comment; no objections were received. Safety Codes noted the final design of the exterior stairwell must bear the stamp of an engineer when the building permit is applied for. Civil Land Development noted that the development must not impact surface drainage onto adjacent properties and all final grades must comply with Surface Drainage Bylaw 13/2005.

The Development Authority issued the Notice of Decision approving the application, subject to ten (10) conditions and nine (9) advisory notes, on March 16, 2020.

In response to the COVID-19 pandemic, Ministerial Order 022/20 dated March 25, 2020 was issued by the Province lengthening timelines for a variety of legislated activities under the MGA. SDAB appeal deadlines were extended to October 1, 2020. In order to correct a number of unintended consequences of this action, the Order was rescinded and replaced by Ministerial Order 036/20 on April 17, 2020. Under this Order, original timelines were reinstated; however, for matters that started or ended between these two dates, the "clock was reset" for applicable appeal periods. The appeal period for the subject application ended on April 9, 2020 thus a new Notice of Decision and appeal period were required. A second Notice of Decision was issued on April 21, 2020 with a new appeal period. No new appeals were filed during that time.

#### b) Appellant

Mr. Gillespie provided a written submission and made an oral presentation with supporting photos outlining his grounds for appealing the Development Authority's decision to approve the development permit application.

- There is limited parking available in front of his house and the street is often full on both sides already. Providing an off-street parking stall does not guarantee the tenant will park there. If a couple moves in with two (2) cars, there will not be enough off-street parking available. The main floor tenants at 166 Heritage Drive have two (2) stalls in the back but usually park on the street. The addition of an accessory suite will only increase parking issues. The street has become congested with so many accessory suites in the area.
- After reviewing the plans, Mr. Gillespie believes that dividing the yard lengthwise into two (2) sections with a centre fence along with the addition of a third parking stall will make the property look like a multi-family development and result in subdividing the property. He purchased a house in an R-1 single detached district for a reason and believes that property values will surely lower as a result.
- The proposed exterior entrance to the suite is adjacent to Mr. Gillespie's property. If the tenant parks on the street, he is concerned the area along the fence will become a walkway further impacting his privacy. Mr. Gillespie noted that there are several walk-out basement properties in the area they should have considered if they wanted to put in a suite.

- The distance from the proposed exterior stairwell to the fence is three (3) feet. Mr. Gillespie believes that four (4) feet is the requirement therefore it is not compliant.
- There are currently five (5) accessory suites in this block face and one (1) across the street. Parking on the street is already congested, as shown in the photos.
- Mr. Gillespie noted that there are presently six (6) people residing on the main floor at 166 Heritage Drive. Adding two (2) more tenants downstairs will increase the total number of occupants to eight (8) and he questions whether there is a density limit at some point.

The Appellant is requesting the Board overturn the Development Authority's decision to approve the development permit.

c) Applicant

Mr. Constantineau provided a written submission and made an oral presentation to the Board in response to the Appellant's concerns:

- Mr. Constantineau stated that the additional parking stall for the accessory suite meets the requirement of LUB 01/2004 section 11.3.1. He has driven along the rear lane and noted that street parking is a choice made by many of the residents as there are RVs, sheds, trampolines and incomplete garages along the back lane. Some yards are fenced right up to the back lane which he believes is in contradiction to the parking requirements in the LUB.
- Mr. Constantineau indicated that he is willing to change the location of the fence and/or gate to encourage parking in the back if that will impact the decision before the Board.
- The property is a pie-shaped lot therefore, there is more room available along the rear property line to allow for the additional parking and to create a separate outdoor space for the accessory suite tenant. Mr. Constantineau noted that the fence will not be visible from the back lane or street, just from the second story.
- The pie shaped lot also creates a wider side yard. This property would be no different than other homes on the street with a side entrance. The LUB requires a minimum setback of 0.61m and his plan proposes 0.95m.
- Mr. Constantineau said that in his experience, a single bedroom suite is generally rented by a single person and not a couple.

#### IV. DECISION

The Board reviewed all evidence and arguments, written and oral, submitted by the parties when making its decision.

The Board is satisfied that this application meets the requirements as outlined in Section 12.2.0 of the [LUB](#) for an accessory suite.

The Board expressed its concern about the number of unregistered accessory suites in the area however, they are only able to make a decision based on information available to them. It was confirmed by the Town that there are currently three (3) registered accessory suites in the area. The presence of unreported accessory suites does not fall under this Board's authority and therefore cannot be considered. Any complaints should be directed to Municipal Enforcement.

While the addition of the centre fence may give the appearance of a split lot, the Board is satisfied with the Town's assurance that the lot is not being subdivided. The proposed fence is on private property and is not a planning consideration therefore cannot be contemplated by the Board.



The Appellant did not provide substantiated evidence that his property value would decrease as a result of the proposed development.

The Board considered the proposed rear parking pad with respect to the walkway and exterior stairwell and is satisfied that the ease of access will further encourage the use of the off-street parking stall required by Sections 11.3.1 and 12.2.3e) of the [LUB](#).

In the Board's view, the privacy of the Appellant will not be materially affected. While some overlooking may occur when the side entrance is in use, the fence between the properties and the suite's entrance being below-grade will mitigate this impact.

The Board considered Section 12.2.2 of the [LUB](#), in particular, subsection c) when making their decision. There are three (3) other accessory suites within the subject block face and none on an adjacent block face. The addition of this development would result in a clustering of 11.7%. The Board is satisfied that the rear lane access and off-street parking will mitigate any traffic and parking impacts to Heritage Drive.

In summary, the Appellant failed to convince the Board that the proposed development would unduly interfere with the amenities of the community, or materially interfere with or affect the use and enjoyment of neighbouring properties.

### CONCLUSION

For the reasons set out above, the appeal is denied, and the decision of the Development Authority is upheld. A development permit shall be issued.

**Dated** this 16 Day of June 2020

Original signed by David Helmer

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David Helmer, Chairperson

Original signed by Karen Babin

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Karen Babin, Recording Secretary

*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.*