

SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES (SDAB)



Meeting:	Subdivision and Development Appeal Board (SDAB)
Meeting Date:	July 10, 2019
Originated By:	K. Babin
Title:	Minutes of SDAB Hearing 19-005
Agenda Item No.	3

BACKGROUND:

Minutes of SDAB Hearing 19-005



SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Hearing No. 19-005

TIME: 6:30 pm
DATE: July 10, 2019
PLACE: Council Chambers, Cochrane RancheHouse

Chairperson: David Helmer

Board Members: Scott Gibson-Craig
Scott Shannon
Doug Townsend
Alex Reed, Councillor

Town Staff: Riley Welden, Manager of Planning
Amanda Legros, Planner I

Recording Secretary: Karen Babin

1. CALL TO ORDER

- a. Chairperson Helmer asked for a motion to open the hearing
 - i. MOVED by Alex Reed to open the hearing
~carried unanimously~
- b. Chairperson Helmer opened the hearing at 6:40 pm
- c. Introductions were made from the Board and Administration
- d. Chairperson Helmer asked if anyone had any objections to any members of the Board
 - i. There were no objections to any members of the Board

2. ADOPTION OF AGENDA AND MINUTES

- a. The Chairperson asked if there were any amendments or additions to the Agenda
 - i. Secretary Karen Babin responded that there were none
- b. The Chairperson asked for a motion to adopt the Agenda
 - i. MOVED by Scott Shannon to adopt the Agenda as presented
~carried unanimously~
- c. The Chairperson asked for a motion to adopt the Minutes from the reconvened hearing of May 22, 2019
 - i. MOVED by Scott Shannon to adopt the Minutes from SDAB 19-004 as presented
~carried unanimously~

3. **FIRST APPEAL**

- a. The Chairperson asked the Secretary to read out the appeal
 - i. The Secretary read out the first appeal as follows:
DP2019-025
111 and 113 Mountain Street
LOT 7, BLOCK N, PLAN 2436JK
Two Accessory Suites (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 July 4th edition of the Cochrane Eagle as well as sent out to adjacent landowners

4. **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

5. **PRESENTATIONS**

- a. Administration:
 - i. The Chairperson called upon the Development Planner to come forward and present her report
 - ii. Development Planner Amanda Legros 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 noted that the Appellant, Kevin Setter was unable to attend and that his written submission would stand as his testimony
 - ii. There were no questions from the Board
- c. Applicant:
 - i. The Chairperson called upon the Applicant to come forward and present their report
 - ii. Festo Gicuhi submitted 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. Mattie Gillespie, a tenant of Mr. Ficuhi, spoke against the appeal

6. **QUESTIONS AND SUMMARIES**

- a. Final questions for clarification were asked
- b. Summaries were presented from Administration and the Applicant

- 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

7. CLOSE

- a. Chairperson Helmer called for a motion to close the hearing
 - i. MOVED by Scott Gibson-Craig 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 7:45 pm
- d. The Chairperson called for a motion to go in-camera
 - i. MOVED by Scott Gibson-Craig to go in-camera
~carried unanimously~

DATED THIS 8th DAY OF August, 2019

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: 19-005

**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 Kevin
Setter, of Cochrane, AB (the "Appellant")

BEFORE:

David Helmer, Chairperson
Scott Gibson-Craig
Scott Shannon
Doug Townsend
Alex Reed, Councillor

Karen Babin, Secretary

This is an appeal to the Town of Cochrane Subdivision and Development Appeal Board ("SDAB") from a decision of the Development Authority approving Development Permit 2019-025 for two (2) Accessory Suites (Basement) at 111 and 113 Mountain Street; Lot 7, Block N, Plan 2436JK within the Town of Cochrane ("Town").

A hearing to consider the appeal was convened by the SDAB on July 10th, 2019, commencing at 6:30 pm in the Town's Council Chambers.

I. BACKGROUND

Application DP2019-025 is for two (2) Accessory Suites (Basement) located at 111 and 113 Mountain Street. The subject property is designated as Residential Medium Density Multi-Unit Dwelling District (R-2X) where Accessory Suites are listed as a Discretionary Use and are referred to the Cochrane Planning Commission (CPC) for decision as per Section 3.2.1 of Land Use Bylaw 01/2004.

The Cochrane Planning Commission approved the development permit application, subject to the conditions listed in Appendix I.

The Appellant appealed this decision as per Section 685(2) of the Municipal Government Act whereby 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.

As per section 642(2) of the Municipal Government Act, the development authority may issue a development permit with or without conditions as provided for in the Land Use Bylaw.

II. DETERMINATION OF THE BOARD

The appeal is denied and the decision of the Development Authority with regard to DP2019-025 is upheld as per the reasons outlined in Section IV Decision.

III. REVIEW OF SUBMISSIONS

a) Development Officer

The Development Officer submitted a comprehensive Administrative Report and oral presentation to the Board.

The application is for the proposed development of two (2) accessory suites (basement) with variances in an existing semi-detached dwelling located in a Residential Medium Density Multi-Unit Dwelling District (R-2X). The purpose and intent of this district is to provide for redevelopment in existing neighbourhoods. Redevelopment may occur in a variety of housing forms at medium densities, serving as a transition between lower density single and two-unit residential districts and higher multi-unit residential districts. Accessory Suites are listed as a Discretionary Use in the R-2X District.

A site inspection was conducted after receiving a complaint about non-compliant suites from an adjacent neighbour and resulted in determining that a development permit was required.

An application was submitted for two (2) accessory suites, one per municipal address. It was noted that this property is unique in that the semi-detached dwelling sits on a single legal parcel. The proposed suite at 111 Mountain Street is a two (2) bedroom while the proposed suite at 113 Mountain Street is a one

(1) bedroom. If approved, the owner would be required to remove two (2) of the four (4) existing suites in the basement, one on either side of the property.

While the application conformed with most regulations under the Land Use Bylaw ("LUB"), three (3) variances are required, specifically:

- a registered owner of a lot shall be limited to one (1) accessory suite. This application proposes two (2) accessory suites on one lot resulting in a 100% variance requirement.
- an accessory suite shall not exceed 40% of the total gross floor area of the principal building. The proposed suite at 111 Mountain Street is 43.9% of the gross floor area resulting in a 9.75% variance. The proposed suite at 113 Mountain Street is 45.8% of the gross floor area resulting in a 14.5% variance.

Accessory suites shall not exceed the maximum density prescribed for a neighbourhood or 10% of existing lots, whichever is less. There are 20 identified accessory suites in the East End and approximately 375 lots thus bringing the density in the neighbourhood to 5.9%.

In addition to the two (2) parking stalls required for each of the primary residences, three (3) additional stalls are required (one for the one-bedroom suite and two for the two-bedroom suite). The owner confirmed an additional parking pad was added in the rear of the subject property to accommodate seven (7) total parking stalls.

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

- The Cochrane Sustainability Plan
Pathway 9: Everyone has a roof over their head – housing is diverse, accessible, safe and affordable for all income levels, for either ownership or rental.
Pathway 11: Wherever you are in Cochrane, you are close and connected – 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 development permit application was circulated to appropriate internal departments and external agencies for comment. While no objections were received, Fire Services initially expressed concern about having more than one accessory suite in a duplex. Once contacted by the file manager, Fire Services explained that this is a preference as they do not have policy or statistics to support it. Further, they are aware of several other semi-detached dwellings in town with a suite on either side and withdrew their initial concern.

At the May 15, 2019 meeting of the Cochrane Planning Commission (CPC), Town Administration recommended approval of the application subject to twelve conditions and nine advisory notes (Appendix I). The CPC expressed concern regarding the fact that there had been multiple non-compliant suites on the property over the years and wanted to know what recourse the Town has, if any, should the property not be brought into compliance with the LUB or if the property owner reverted to the four (4) accessory suites in the future. They were advised that the Development Compliance Officer could conduct inspections in the future to ensure the development is compliant with the development permit and conditions of approval. If the development is found to be non-compliant, enforcement action could include fines and/or a stop order. CPC approved the application subject to the recommended conditions and advisory notes.

Administration advised that on June 19, 2019, the Development Compliance Officer conducted an inspection of the property based on a complaint received from an adjacent landowner. During the inspection, the Officer discovered that the basement still had four (4) suites being rented out. As a result, Administration is currently following through with enforcement action on the property.

b) Appellant

The Appellant, Kevin Setter, submitted a report to the Board outlining his grounds for appealing the Development Authority's decision to approve the application for the proposed accessory suites.

Mr. Setter's written submission stood as his testimony as he was unable to attend and did not have anyone appear on his behalf.

c) Applicant

The Applicant, Festo Gicuhi, submitted an oral and visual presentation to the Board outlining his application for the proposed accessory suites.

Mr. Gicuhi stated that when he purchased the property in early 2008, there were four (4) suites in addition to the two (2) principal dwellings. Later that year, an inspection was conducted by the Chief Safety Codes Officer and as a result, the Applicant was advised he either had to apply for a development permit or remove the cooking facilities from all suites to make them legal non-conforming. The Applicant chose to replace the stoves with hotplates. Subsequent inspections confirmed that and no further action was required.

In early 2019, another inspection was conducted by Fire Services and Safety Codes. There were some deficiencies identified which have subsequently been addressed to the satisfaction of the officers. It was at this time that the Town determined a development permit was required to bring the existing suites into compliance.

It is the intention of the Applicant to continue to provide safe, affordable housing options in Cochrane. Ellery Irvin, the previous owner of the property, provided a letter to Mr. Gicuhi stating that when he purchased the property in approximately 2003, the four (4) suites were already present and being rented out at that time. These rental units have been available for several years. In fact, two of the tenants have resided there long-term – one for over 3 years and the other for 11 years.

With regard to the parking issue, the Applicant advised he has removed the holiday trailer from the back yard and added a tandem parking stall to meet the requirement of seven (7) on-site parking stalls. He has also made room for the black, blue and green carts in the back.

Mr. Gicuhi is awaiting the final decision. If the development permit is approved, he will make the final renovations required to bring the suites into compliance.

d) Additional Submissions

Mattie Gillespie is a long-term tenant of Mr. Gicuhi and resides in one of the suites. Ms. Gillespie noted that the suites are affordable, have been upgraded and are well-maintained. She is not in support of the appeal.

IV. DECISION

It is the Board's position that the approval of the accessory suites, with variances, complies with the Town's statutory and non-statutory planning documents. Development of these suites aligns with the R-2X Residential Medium Density Multi-Unit Dwelling designation of this neighbourhood. Their addition will increase the accessory suite density to 5.9%, well under the 10% allowable in the area.

The Board recognizes that this property is unique in that the semi-detached dwelling sits on a single legal parcel. If the lot was sub-divided, no variances would be necessary. In this situation however, three (3) variances relating to the allowable number of accessory suites and maximum floor area are required and deemed to be acceptable.

The Board acknowledges that the existing four (4) accessory suites were constructed prior to 2006 and complied with the standards of the day. Deficiencies identified during recent inspections made by Fire and Safety Codes officers have already been mitigated by the Applicant. The drawings submitted with the application show that few renovations are required to consolidate the suites into two (2) units. Should the Applicant plan any renovations requiring a building permit, modern building and fire code standards will need to be complied with at that time.

With respect to the parking, the Board finds the parking requirements to have been met by the Applicant. The required number of stalls have been provided for and each meets at least the minimum standard as outlined in the Land Use Bylaw. While the Board feels that the tandem stall may be less than ideal, it does meet planning requirements.

Finally, the Board also expressed their concern with the non-compliance issues related to the property however, they are not material to the planning merits of the proposed development therefore can carry no weight in the decision. These issues are outside of this Board's jurisdiction.

For these reasons, the Board denies the appeal and the decision of the Development Authority is upheld. A development permit, subject to the conditions and advisory notes listed in Appendix I, shall be issued.

Dated this 22nd day of July 2019

Original signed by David Helmer

David Helmer, Chairperson

Original signed by Karen Babin

Karen Babin, Recording Secretary

APPENDIX I

This development has been **approved** by the Development Officer, and is subject to the following condition:

1. This development is classified as two (2) Accessory Suites and are a Discretionary Use in the Residential Medium Density Multi-Unit Dwelling District (R-2X), on the lands legally described as Lot 7, Block N, Plan 2439JK.
2. An Accessory Suite of 90.1 square meters (969.83 square feet) is approved at 111 Mountain Street and an Accessory Suite of 94.0 square meters (1,011.81 square feet) is approved at 113 Mountain Street in accordance with the approved plans. Any changes to the design, format, location, orientation, capacity or use of any part of the development must receive the approval of the Development Authority before they may be commenced.
3. This development is approved with a 100% variance to the maximum number of accessory suites and garden suites allowed requirement of Section 12.3.1 in Land Use Bylaw 01/2004, as may be amended from time to time. The maximum number of accessory suites allowed on a parcel is relaxed from one (1) to two (2).
4. This development is approved with a 9.75% variance to the gross floor area requirement of Section 12.3.2d in Land Use Bylaw 01/2004, as may be amended from time to time. The maximum gross floor area of the Accessory Suite located at 111 Mountain Street is relaxed from 40% to 42.05% of the principal dwelling.
5. This development is approved with a 14.5% variance to the gross floor area requirement of Section 12.3.2d in Land Use Bylaw 01/2004, as may be amended from time to time. The maximum gross floor area of the Accessory Suite located at 113 Mountain Street is relaxed from 40% to 45.8% of the principal dwelling.
6. There shall be no use or occupancy of the accessory suite unless verification is obtained, by means of a Final Inspection, from the Town of Cochrane Safety Codes Officer that the accessory suite meets the requirements of the Alberta Building Code (2014), to the satisfaction of the Development Authority.
7. In addition to the parking required for the principal dwellings, the applicant shall provide and maintain three (3) off-street parking stall at all times for the use of the accessory suite. On-street parking for this development shall not be permitted.
8. The material used for the parking area must be a hard surface treatment which may include gravel that is a minimum of 20mm, to the satisfaction of the Development Authority.
9. The applicant/owner shall ensure that construction of the parking area does not negatively impact the drainage of adjacent properties, or the drainage pattern of 125 Baird Avenue (Lot 7, Block N, Plan 2439JK) and conforms to the Town's Surface Drainage Bylaw.
10. Construction materials, including garbage, shall be stored securely in weather-proof and animal-proof containers to the satisfaction of the Development Authority so as not to create a nuisance to neighbouring properties.
11. The applicant/owner shall be responsible for the clean-up of any garbage, materials or other items that may be unsightly, or disperse beyond the boundaries of the subject property during the construction of this development.
12. In accordance with Section 1.5.1 of Land Use Bylaw 01/2004, a Development Permit, if issued, is valid only if development commences within one year of the date of Development Permit issuance and the development is completed within two years of the date of issuance. A new Development Permit may be required unless a request for a time extension to the applicable date is received prior to its expiry.

ADVISORY NOTES:

- a) It is the responsibility of the applicant/owner to comply with all requirements of Land Use Bylaw 01/2004, other municipal regulations, and all provincial and federal legislation.
- b) All permits as required by the Alberta Building Code shall be obtained and the applicant/owner shall remain compliant with the provisions of this code at all times. All building permit applications must be affixed with the seal of a professional architect.
- c) Inspections are conducted by the Town of Cochrane Safety Codes Officer.
- d) All buildings are to comply with the fire codes and regulations in place at the time of construction.
- e) The address for the accessory suites are 111A Mountain Street and 113A Mountain Street; please be advised that due to external agency processing times, it may take up to six weeks for your address to be registered at Canada Post.
- f) All contractors working on this development shall acquire a valid Cochrane Business Licence prior to the commencement of any work and shall maintain the licence for the full duration of the construction period.
- g) The Town of Cochrane encourages the establishment of an additional waste account with the Utilities Service Department at the Town of Cochrane for waste collection at the time of the accessory suite development.
- h) Access around and to the shut off valve and water meter must be maintained and unobstructed as per the Water Utility Bylaw 04/2013.
- i) It is the responsibility of the applicant to meet all conditions of approval.