



SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Hearing No. 22-006

TIME: 6:30 pm

DATE: July 14, 2022

PLACE: Council Chambers, Cochrane RancheHouse

Chairperson: Scott Shannon

Board Members: Ashley Marshall
Christopher Hutchinson
Hayley Gavin

Administration: Joelle Annicchiarico, Planner
John Popoff, Manager, Planning Services

SDAB Clerk: Karen Babin
Leigh Sands

1. CALL TO ORDER AND INTRODUCTIONS

- a. MOVED by C. Hutchinson to open the hearing
Carried Unanimously
- b. Chairperson Shannon opened the hearing at 6:31pm
- c. Introductions were made from the Board and Administration
- d. Chairperson Shannon asked if anyone had any objections to any member of the Board
 - i. There were no objections

2. APPEAL

- a. The Chairperson asked the Clerk to introduce the appeal
 - i. The Clerk read out the appeal as follows:
DP2022-06
189 Willow Green
Lot 4, Block 15, Plan 1511082
Dwelling, Backyard Suite
- b. The Chairperson asked the Clerk if this Appeal had been duly advertised
The Clerk stated that the Notice of Appeal had been advertised in the July 7th edition of the Cochrane Eagle as well as sent out to adjacent landowners

3. 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 Clerk if each of the affected parties had received all materials in a timely fashion.
The Clerk replied that they had

4. PRELIMINARY MATTERS

- a. There were no preliminary matters

5. PRESENTATIONS

- a. Administration:
 - i. The Chairperson called upon the Development Officer to come forward and present their report
 - ii. J. Annicchiarico submitted a comprehensive Administrative Report and made an oral and visual presentation to the Board
 - iii. No 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. L. Bailey and B. & D. Scheuchner presented a comprehensive report and made an oral presentation to the Board
 - iii. No questions were asked from the Board to the Appellant
- c. Applicant: (if different from the Appellant)
 - i. The Chairperson called upon the Applicant to come forward and present their report
 - ii. D. Tuff-Overes presented a comprehensive report and made an oral presentation to the Board
 - iii. No questions were asked from the Board to the Applicant
- d. Additional Presentations: (if applicable)

6. QUESTIONS AND SUMMARIES

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

7. CLOSE

- a. MOVED by C. Hutchinson to close the hearing

Carried Unanimously

- b. The Chairperson advised that the Board had 15 days to reach their decision
- c. Chairperson Shannon adjourned the hearing at 7:22 pm

DATED this 15th day of August 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: 22-006

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

AND IN THE MATTER OF AN APPEAL FROM AN ORDER lodged by Debbie and Brent Scheuchner and
Lauren Bailey, of 185 and 193 Willow Green, Cochrane, AB (Appellants)

BEFORE:

Scott Shannon, Chairperson
Ashley Marshall
Christopher Hutchinson
Hayley Gavin

Leigh Sands SDAB Clerk
Karen Babin, SDAB Clerk

This is an appeal to the Town of Cochrane Subdivision and Development Appeal Board (SDAB) of the Development Authority, being the Notice of Decision to approve Development Permit 2022-046 for a Dwelling, Backyard Suite at 189 Willow Green, Plan 151 1082, Block 15, Lot 4, in the Town of Cochrane.

A hearing to consider the appeal was convened by the SDAB on July 14, 2022, commencing at 6:30 pm in the Town's Council Chambers

I. BACKGROUND

The appeal before the Subdivision and Development Appeal Board (SDAB) was brought by Debbie and Brent Scheuchner and Lauren Bailey (Appellants).

This appeal is from a decision of the Developments Authority to issue development permit DP2022-046 for a Dwelling, Backyard Suite located at 189 Willow Green, Cochrane. The subject property is designated Residential Mix District (R-MX).

The Appellants 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. DETERMINATION OF THE BOARD

The Appeal is denied, and the decision of the Development Authority is upheld as per the reasons outlined in section V Decision.

III. APPEARANCES and SUBMISSIONS

The Board received oral and/or written submissions from:

- a) Debbie and Brent Scheuchner, the Appellant
- b) Lauren Bailey, the Appellant
- c) Dilan Tuff-Overes, the Applicant
- d) Joelle Annicchiarico of the Development Authority

The Board also received written submission from:

- e) Karen Robb, in favour of the appeal
- f) Kiana and Kurtis Sander, in favour of the appeal
- g) Zahra Guy, in favour of the appeal

The following was also presented during the hearing and forms part of the record:

Addendum 1 – PowerPoint Presentation submitted by the Development Authority.

IV. BACKGROUND and SUMMARY OF EVIDENCE

- a) Submissions of the Development Officer
- Ms. Annicchiarico's submission included a report, maps, plans, photographs, and a PowerPoint presentation.
 - A development permit application for a Dwelling, Backyard Suite located at 189 Willow Green was submitted and deemed to be complete on May 26, 2022.
 - This development is a Discretionary Use in the Residential Mix District (R-MX). The application was reviewed against the following statutory and non-statutory planning documents:
 - [Municipal Development Plan](#), Bylaw 07/2008 (MDP)
 - 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".
 - [Cochrane Sustainability Plan](#), 2009
 - Pathway 9: 'Everyone has a roof over their head'
 - Pathway 11: 'Wherever you are in Cochrane, you are close and connected'

- [River Heights Area Structure Plan](#), Bylaw 17/2011
 - Section 5.2, Residential Policies states the objective of providing a diverse housing mix
 - Section 5.2.7 to include alternative housing forms such as secondary suites where deemed appropriate.
 - [The Willows of Riversong Neighbourhood Plan](#)
 - Sections 6.7.1, Residential Use and Section 9.0, Housing Diversity, Streetscape and Architectural Development: both state the intent is to have a variety of housing types, including secondary suites, as available housing options within this neighbourhood.
 - [Land Use Bylaw 01/2022](#) (LUB)
 - Section 8.2 states Accessory Buildings/Structures are a Permitted Use in any District
 - Section 9.7: Backyard Suites are defined in the LUB as a “self-contained detached Dwelling Unit which is accessory to the principal Dwelling Unit on a residential Lot with a Single-Detached Dwelling”. The proposed Backyard Suite complies with this definition, as well as the majority of regulations specific to Accessory Suites and Backyard Suites listed in this section.
- Circulation Comments
 - The application was circulated to appropriate internal departments and external agencies for comment. There were no objections to the Backyard Suite from any internal departments or external agencies. Fire Services made note of recommendations to meet or exceed the National Building Code, and that there were no current concerns with the proposed variance to the side yard setback.
 - Administration issued a Notice of Decision approving the Discretionary Use for a Backyard Suite with a variance. The Development Officer, per Section 1.10.4 of the LUB, determined that the variance to the side setback from 1.2m to 0.9m would not result in the suite unduly interfering with the amenities of the neighbourhood, or neighbouring properties beyond what would otherwise be incurred. Further, the application would not create a clustering of Accessory Suites or other accessory uses nor impact existing servicing or roadways.
 - The Development Officer provided the following response to a question from the Board:
 - The plans and elevations that were submitted by the Applicant were not the ones submitted with the original application, and this was the first time that she had seen them.

b) Submissions of the Appellants

- Debbie and Brent Scheuchner, Appellants, provided a written submission and made an oral presentation with supporting photos outlining their concerns with the development. They advised the Board that they are opposed to the development for the following reasons:
 - The proposed development would decrease their enjoyment of their backyard and deck, impact their privacy while on their deck and the proposed development would be able to see directly into their large south facing living area window and the upper floor master bedroom. The proposed development would decrease their sunlight throughout fall, winter, and spring.
- Lauren Bailey, Appellant, provided a written submission and a presentation with supporting photos and informed the Board that she was opposed to the development for the following reasons:
 - The proposed development would decrease the Appellant’s privacy in her backyard and deck. The proposed development would restrict the amount of sunlight that will be in the backyard and deck.
 - The proposed development would decrease the resale price of their properties.

There were no questions from the Board to the Appellants.

c) Submission of the Applicant

- Mr. Tuff-Overes, the Applicant, provided a written submission and made an oral presentation with supporting photos and included new plans and elevations. The Applicant is opposed to the appeal for the following reasons:
 - The Applicant addressed the issue of privacy raised by the Appellants and informed the Board that he had amended the plan of the potential development by rotating the floor plan 180 degrees, thus moving the high traffic areas to the rear of the property.
 - The Applicant also proposed a change to the window placement to reduce how the development overlooks the Appellants' properties. The Applicant informed the Board that there was very little he could do with regard to the proximity of the proposed development however, he had reduced the floor area to 53sqm with the height being 23ft 4in.

There were no questions from the Board to the Applicant.

V. 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.

Whilst the Board appreciated the evidence present by the Appellants, there was an absence of any expert evidence to support that the proposed development would materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land.

The photos from all the parties showed some casting of shadows but the Board was not convinced that it would unduly affect the use or enjoyment of their backyard.

In response to the Appellants' concerns about privacy, the Applicant is willing to adjust the floor plan to move the high traffic areas to the other side of the suite and change the size and location of some of the windows. The Board appreciates his willingness to address these concerns.

The proposed development conforms with the use prescribed for that land in the Land Use Bylaw 01/2022 and the Willows of Riversong Neighbourhood Plan.

For the reasons set out above, the appeal is denied, and the decision of the Development Authority is upheld. Development Permit DP2022-46 shall be issued with conditions as outlined in Appendix A and attached herewith.

Dated this 28 day of July 2022

Original signed by Scott Shannon

Scott Shannon, Chairperson

Original signed by Karen Babin for

Leigh Sands, 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.

APPENDIX A

1. This development is classified as a Dwelling, Backyard Suite (above an accessory building) and is a Discretionary Use in the Residential Mix District (R-MX), on the lands legally described as Lot 4, Block 15, Plan 151 1082.
2. Prior to the release of a Development Permit, the applicant shall provide a full electronic set of plans, elevations and details (PDF) which shall include any revisions required by the Development Authority as part of the approval at the time of the decision. The development shall be constructed in accordance with the plans, elevations and details approved and stamped by the Development Authority. 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. Prior to the release of a Development Permit, the applicant/owner shall submit revised drawings that includes the following revisions/information, to the satisfaction of the Development Authority:
 - a. Building elevations of the accessory building and suite not to exceed 7.0m in height.
 - b. Revised site and floor plans as submitted to the SDAB on July 14.
 - c. An Accessory Building shall not have a roof top deck, terrace or other structure used as Amenity Space or storage.
4. A Backyard Suite of 51.2 square meters (551.1 square feet) is approved 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.
5. This development is approved with a 22% variance to the side setback requirements of Section 9.7.5(i) of Land Use Bylaw 01/2022, as may be amended from time to time. The minimum side setback of the Backyard Suite is relaxed from 1.2m to 0.94m to the east property line.
6. The backyard suite shall have a separate entrance from the entrance to the accessory building, either from a common landing or from the exterior of the structure.
7. There shall be no use or occupancy of the backyard suite unless verification is obtained, by means of a Final Inspection, from the Town of Cochrane Safety Codes Officer that the backyard suite meets the requirements of the applicable National Building Code – Alberta Edition, to the satisfaction of the Development Authority.
8. In addition to the parking required for the principal dwelling, the applicant shall provide and maintain one (1) off -street parking stall at all times for the use of the accessory suite. On-street parking for this development shall not be permitted.
9. 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.

10. The applicant shall ensure that the construction of the parking area does not negatively impact the drainage of adjacent properties or the drainage pattern of the subject property and conforms to the Town's Surface Drainage Bylaw.

11. The area leading to the parking stall from the entrance of the accessory suite shall consist of hard-surfacing material, including: asphalt, concrete, brick, interlocking block or similar material to the satisfaction of the Development Authority. The pathway to the parking stall shall be graded and surfaced to ensure conformance with the Surface Drainage Bylaw, as may be amended from time to time.

12. The applicant shall ensure that the design, character, and appearance of the backyard suite is compatible with the principal dwelling and neighbouring dwellings.

13. 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.

14. 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.

15. This approval shall be voided if the conditions to be met prior to releasing a Development Permit have not been satisfactorily addressed within one year of the Notice of Decision date (July 28, 2022). An extension to the approval period for the Notice of Decision may only be considered by the Development Authority if a request is received in writing, along with the applicable fee, a minimum of forty (40) days before the expiry date noted above.

16. In accordance with Section 1.19.5 and 1.19.7 of Land Use Bylaw 01/2022, 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 01/2022, other municipal regulations, and all provincial and federal legislation.

b) All permits as required by the applicable National Building Code – Alberta Edition 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 suite is 189A Willow Green; 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.