

SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES (SDAB)



Meeting:	Subdivision and Development Appeal Board (SDAB)
Meeting Date:	August 8, 2019
Originated By:	K. Babin
Title:	Minutes of SDAB Hearing 19-006
Agenda Item No.	3

BACKGROUND:

Minutes of SDAB Hearing 19-006



SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Hearing No. 19-006

TIME: 6:30 pm
DATE: August 8, 2019
PLACE: Council Chambers, Cochrane RancheHouse

Chairperson: David Helmer

Board Members: Scott Gibson-Craig
Scott Shannon
Robyn Usher, Alternate

Town Staff: Nicole Tomes, Senior Planner
Adam Nordquist, Planner

Recording Secretary: Karen Babin

1. CALL TO ORDER

- a. Chairperson Helmer asked for a motion to open the hearing
 - i. MOVED by Scott Gibson-Craig to open the hearing
~carried unanimously~
- b. Chairperson Helmer opened the hearing at 6:30 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 AND MINUTES

- 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 Robyn Usher to adopt the Agenda as presented
~carried unanimously~
- c. The Chairperson asked for a motion to adopt the Minutes from the previous hearing
 - i. MOVED by Scott Shannon to adopt the Minutes from SDAB 19-005 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:

DP2019-059
512 Fourth Avenue North
LOT 4, BLOCK 4, PLAN 021 0633
Parking Pad With a Variance to RV Storage
- 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 August 1st edition of the Cochrane Eagle as well as sent out to adjacent landowners
- c. 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

4. OUTLINE OF HEARING PROCESS

- a. The Chairperson outlined the hearing process for all present

There were no concerns with the process from the Applicant, Administration or any members of the audience

5. 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. Applicant:
 - i. The Chairperson called upon the Applicant to come forward and present their report
 - ii. Brenda Samborski presented a comprehensive report and made an oral presentation to the Board
 - iii. Questions were asked from the Board to the Applicant
- c. Additional Presentations
 - i. Doug Wine, the Applicant's neighbour, 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 Robyn Usher to close the hearing
~carried unanimously~
- b. The Chairperson advised that the Board had 15 days to reach their decision
- c. The Chairperson called for a motion to go in-camera
 - i. MOVED by Scott Gibson-Craig to go in-camera
~carried unanimously~
- d. Chairperson Helmer adjourned the hearing at 7:45 pm

DATED this 17th day of October, 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: 19-006

**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 Brenda
Samborski of Cochrane, AB (the "Applicant").

BEFORE:

David Helmer, Chairperson
Scott Gibson-Craig
Scott Shannon
Robyn Usher, Alternate

Karen Babin, 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 2019-059 for Parking Pad With Variance to RV Storage for Lot 4, Block 4, Plan 021 0633 – 512 Fourth Avenue North, in the Town of Cochrane ("Town").

A hearing to consider the appeal was convened by the SDAB on August 8th, 2019, commencing at 6:30 pm in the Town's Council Chambers.

I. BACKGROUND

The application for DP2019-059 is for the development of a parking pad in the front yard to allow for the year-round storage of a recreational vehicle. This property is designated as Residential Single Detached Dwelling District (R-1) where the purpose and intent is to:

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

Section 12.1.1(b)(i) of the Land Use Bylaw states that:

“No person shall be allowed to keep or maintain on a lot [...] any recreational unit in the front yard: except from May 1 to October 20 of any given year.”

The development permit application was referred to the Cochrane Planning Commission (CPC) as it required a variance greater than 10% to the Land Use Bylaw requirement. The application was refused by the CPC for the following reasons as provided in the Notice of Decision as shown in the Administrative Report.

The Applicant appealed this decision under section 685(1) of the Municipal Government Act on the grounds noted in the Applicant's Report.

II. DETERMINATION OF THE BOARD

The Appeal is denied and the decision of the Development Authority is upheld. The Development Permit is refused.

III. REVIEW OF SUBMISSIONS

a) Development Authority

The Development Authority submitted a comprehensive report that included the Notice of Decision, context map, site plan, site photos and the Applicant's submission to the Cochrane Planning Commission (“CPC”).

The Development Authority received a development permit application for a parking pad in the front yard of the subject property. The application was made after a complaint had been received by municipal enforcement. A notice was sent to the homeowners stating that the recreational vehicle (“RV”) located in their front yard was parked without a development permit. The intent of the parking pad is to allow for the year-round storage of the RV. The subject property is designated Residential Single Detached Dwelling District (R-1).

The Development Authority pointed out that there are two (2) parts to the application: a development permit for the parking pad and a variance to the RV Storage bylaw. The application was reviewed for compliance with Land Use Bylaw 01/2004 ("LUB") and the following were determined:

- Section 11.3.8(e) "... on lots where no other parking space is possible, a parking pad may be allowed in the yard of a lot in a residential district at the Development Authority's discretion." The proposed parking pad complies with the size and design requirements (sub-paragraphs (ii) to (vi)) however; access would be gained through the existing driveway, which is not permitted (sub-paragraph (i)).
- Section 12.1.1(b)(i) "No person shall be allowed to keep or maintain on a lot any recreational unit in the front yard except from May 1 to October 20 of any given year." The Applicant is seeking a 100% variance to the bylaw to allow for long-term storage in the front yard.

The Development Authority explained that in an effort to strike a balance between the amenities and aesthetics of a neighbourhood with the growing popularity of RV ownership, the LUB allows for short-term storage during the months when these units would be used regularly. Long-term storage in the front yard over the winter was found to detract from the streetscape and amenities of the neighbourhood thus is prohibited. Alternatively, RV storage is permitted in side and rear yards as the visual impact is more easily mitigated.

The application was required to go before the CPC for consideration as the variance requested is greater than 10%. The Cochrane Planning Commission refused the application on June 20, 2019 for the following reasons:

- 1) The application requires a 100% variance to RV storage and will unduly impact the amenities of the neighbourhood during the winter months.
- 2) The application cannot meet the regulations for parking pads as per the Land Use Bylaw.

b) Applicant

The Applicant submitted a detailed report that included their original submission to the CPC along with site photos.

The subject property is located in the community of Cochrane Heights. The front faces west and Cochrane High School which is directly across the street. Neighbouring homes are located to the north and south. There is no development to the east as the properties along this section of Fourth Avenue North back onto a hill. The Applicant described the lot as approximately 1/3 acre with the front yard measuring roughly 16 metres x 21 metres. There is also a large driveway in front of the double

attached garage that the Applicant stated can accommodate up to six (6) cars or four (4) trucks. Photos were provided showing the layout of the property and different views of the front yard. The unique layout and absence of a back lane means that access to the back yard is restricted. In addition, the distance between houses is limited to the required setbacks. As a result, there is no way for an RV to be moved to the back yard for storage.

The Applicant explained that approximately five (5) years ago, they had a discussion with Bylaw to determine how to legally park their 1977 Boler 17 foot trailer on their property in an effort to avoid storage costs. The RV was situated on the north-eastern edge of the front yard adjacent to the house. This area is somewhat hidden by a turret which juts out approximately three (3) metres from the main structure. The Applicant stated that Bylaw directed them to construct a hard surface parking pad. Once completed, the manager of Bylaw inspected and verbally approved of both the pad and parking of the RV. There had been no issues or complaints until late 2018 when a Bylaw officer, responding to a complaint, advised the Applicant that a permit for the parking pad was required. In addition, the Town planners informed the Applicant that in order to store the RV in the front yard year-round, a 100% variance to Section 12.1.1(b) of the LUB ("no person shall be allowed to keep or maintain on a lot...any recreational unit in the front yard") would also be required. Because the variance being requested was greater than 10%, the development permit application was referred to the CPC for approval whereby it was subsequently refused.

The Applicant provided photos of the front yard and views from the street showing trees and shrubs used for screening. Four (4) aspen trees recently planted on the north side of the trailer are meant to provide additional screening for the neighbours as their property sits higher than the subject property. The Applicant feels that with the vegetation and location of the turret, the RV is well screened from neighbours and the street thus not impacting the neighbourhood and asks the Board to overturn the decision of the CPC.

c) Additional Submissions

Neighbourhood letters of support for the Applicant's development permit application were received from Shane Trowbridge, Abigail Garratt and Lyle Taylor.

A letter opposed to the Applicant's development permit application was received from Doug and Gail Wine. They also attended the SDAB hearing to address the Board. Their property, located adjacent to the Applicant on the north side, has a direct view of the RV from their living room window and front yard. Mr. Wine provided photos of the RV taken from both views showing that the vegetation does not screen the RV from their view. They feel that it is an eyesore. Mr. Wine further indicated that the RV is rarely used so has seldom moved from that spot. They are of the opinion that by allowing the Appeal, any number of RV's of any condition or size will then also be allowed to park year-round in front yards thus unduly interfering with the amenities of the neighbourhood.

IV. DECISION

The Board considered the written, verbal and photographic evidence submitted by the parties and will focus on key evidence and arguments in outlining its reasons.

The Board has particular regard to the following sections of Land Use Bylaw 01/2004.

Section 11.3.8 states:

(e) Notwithstanding Section 11.3.8(b), on lots where no other parking space is possible, a parking pad may be allowed in the yard of a lot in a residential district at the Development Authority's discretion. The parking pad shall:

(i) not be an extension of an existing driveway, or be directly adjacent to an existing driveway.

Section 12.1.1 states:

No person shall be allowed to keep or maintain on a lot:

(b) any recreation unit in the front yard:

(i) except from May 1 to October 20 of any given year, when

(A) such units may be parked or kept on the private front driveway.

It is the Board's opinion that a 100% variance of Section 12.1.1 of Land Use Bylaw 01/2004 is not appropriate.

Based on all of the evidence presented, the Board finds that the parking of the RV on the parking pad is clearly visible from the adjacent property to the north. The Board recognizes that the Applicant planted more trees in an effort to mitigate this issue however; this neighbour's view is impacted as evidenced in the photos. The trees and turret mostly block the view from the street and other adjacent properties, the RV can still be seen.

While the Board notes that economics may be a consideration and empathizes with the Applicant, the *Municipal Government Act* is clear that the decision of the SDAB must be based on planning merit.

With regard to the parking pad, the Board finds that the application does not comply with the requirements of Section 11.3.8 of Land Use Bylaw 01/2004.

Furthermore, the Board recognizes that the conditions of the permit, if approved, would not preclude the Applicant from parking a larger recreational vehicle on the subject parking pad.

Accordingly, pursuant to Section 687(3)(d) of the *Municipal Government Act*, the Board finds that approval of DP2019-059 would unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

For these reasons, the Board denies the Appeal and the decision of the Development Authority is upheld.

Dated This 23rd Day of August, 2019.

Original signed by David Helmer

David Helmer, Chairperson

Original signed by Karen Babin

Karen Babin, Recording Secretary