

## Preparing for your SDAB Appeal Hearing

### Cochrane Subdivision and Development Appeal Board

The Subdivision and Development Appeal Board (SDAB) is a quasi-judicial authority (similar to a court of law) established in accordance with the Municipal Government Act and Town of Cochrane Bylaws 17/2024 (Procedural Bylaw) and 21/2024 (SDAB Bylaw). It is independent from the Town of Cochrane Planning Department and is comprised of public-at-large members and a member of Council. The SDAB hears appeals regarding decisions made by the development officer, the Development Authority or the Cochrane Planning Commission with respect to subdivisions, development permits or stop orders issued by the Town of Cochrane (the Town). The SDAB meets in the evening within 30 days of receipt of a valid appeal.

The SDAB is not an evidence seeking body; it relies on written evidence as well as verbal submissions made at hearings as the basis for its decisions. Persons appearing before the SDAB must ensure that sufficient evidence is presented to support their respective positions. The onus of proof is on each party to substantiate their arguments. The SDAB considers each application on its own merits and weighs all planning evidence presented.

In making its decision, the SDAB can only consider relevant facts and evidence presented in the appeal hearing or in the written documents submitted, applying legal rules as per legislation and planning documents. Irrelevant evidence, that is, evidence that has nothing to do with development, subdivision or stop order, may not be taken into account. Please note, the SDAB hearing is considered a hearing de novo (to hear anew). The SDAB can confirm, revoke, or vary the order, decision, or development permit, or any attached condition. The SDAB may also replace an order, decision, or permit with its own.

All communications to the Board must be sent to the Clerk and **a person must not contact a Board member about a matter that is eligible for appeal or has been appealed.**

#### What Type of Information Should I Submit

When you file an appeal with the SDAB you are required to provide evidence in advance of your hearing to support your appeal. The Clerk can provide information regarding the process to assist you, however they are unable to offer an opinion or advice regarding the merit of your appeal.

For in-person hearings, the SDAB will base its decision on the written evidence as well as verbal submissions made by the parties. During the hearing, the parties can explain their evidence and may be asked to respond to questions for clarity.

Listed below are some relevant planning considerations to think about when gathering information for your SDAB hearing:

- Compliance or non-compliance with Land Use Bylaw (height, setbacks, lot coverage, building coverage, etc.)
- Parking
- Traffic
- Building mass
- Privacy (impact of the proposed development on privacy)
- Shadowing
- Landscaping

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- Intensity of use
- Noise

Some examples of non-relevant planning considerations include, but are not limited to:

- Business competition
- Comments regarding someone's character
- Financial impact on the applicant
- Financial status of the applicant
- Whether the development is occupied by renters or owners

You may also want to review relevant planning documents such as the Municipal Development Plan, Land Use Bylaw, Area Structure Plans, and Cochrane Sustainability Plan when preparing your presentation. These, and others, can be found on the Planning and Land Use page of the Town's website.

### Submitting Your Evidence

- Parties must submit their evidence and written arguments to the Clerk five (5) days before the scheduled hearing.
- Any materials, including evidence, written arguments, or presentation materials, provided to the Board is considered a public record.
- Audio and video evidence can be presented at the hearing but cannot be included in the appeal package.
- Board members and the Clerk cannot open links to websites or external documents. If a document contains links to websites or other documents, these linked websites and documents are not included in the appeal package.
- Materials received after the submission deadline:
  - are not included in the appeal package;
  - are available for viewing at the RancheHouse by appointment with the Clerk;
  - are provided to the Board and the parties by the Clerk; and
  - the Board does not accept or consider evidence submitted after a hearing unless requested by the Board.
- If the Board requests additional evidence from party or parties to make its decision on the appeal, the Board may:
  - re-open the public hearing for the parties to submit and rebut the requested information; or
  - ask the parties to submit and rebut the requested information in written format.
- If the Board re-opens a hearing to hear additional evidence, the Clerk sends the parties notice of the new hearing.

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- If the Board requests additional evidence in written format, the Clerk notifies the parties of the information requested, the opportunity to comment on the specific information, and instructions on how information is exchanged.
- Additional information requested by the Board:
  - is not added to the appeal package or posted online; and
  - is provided to the Board and the parties by the Clerk.

### At the Hearing

You will have access to a projector and screen should you wish to make a visual presentation to the SDAB. Please provide an electronic copy of any presentation materials prior to the evening of the hearing.

At the hearing, the Chairperson will review the process for the evening. The order of proceedings will be as follows:

- Development Authority's presentation;
- Appellant's presentation;
- Applicant's presentation;
- Those supporting the Appellant;
- Those opposing the Appellant;
- Summation and Closing Comments; and
- Any final questions from the Board.

#### Procedural Guidelines:

- At the beginning of your presentation introduce yourself (with your full name and address) for the hearing record.
- If you have a presentation or want to have your materials presented to the Board, you must provide the presentation electronically to the Clerk to [legislative@cochrane.ca](mailto:legislative@cochrane.ca).
- We recommend that you not read your written materials word-for-word at the hearing, if you gave them to the Board before the hearing. Also, try not to repeat yourself during your presentation. The Chair may remind you of these points, during the hearing.
- For the Appellant, the Applicant and the Development Authority, the Board would prefer that you limit your hearing presentation to 15 minutes. For all other parties, try to keep your hearing presentation to 5 minutes. However, the Board may choose to allow longer presentations.
- Discuss the planning facts and support them with measurable data. You may also want to refer to planning policies, traffic studies, parking statistics, sun shadow studies, etc.
- Refer to the pages, paragraphs, sections and/or article of any documents you are quoting from.
- Present your opinion regarding any errors in fact or interpretation.

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- State the detailed issues about the site in the context of the surrounding properties and the impact on the community.
- Show photographs, illustrative materials and well-prepared drawings throughout your presentation. Once again, these materials must be provided electronically to the Clerk to [legislative@cochrane.ca](mailto:legislative@cochrane.ca).

**Please note that the SDAB must avoid conducting site visits or "taking a view". This particularly applies when the site visit or viewing occurs without the knowledge of, or in the absence of, some or all of the interested parties. This creates a ground on which a Board's decision may be challenged.**

### Notice of Decision

You will receive notification of the SDAB's decision within 15 days after conclusion of the hearing.

SDAB decisions going back to 2022 are also posted and available on the Town of Cochrane website at <https://cochraneab.civicweb.net/Portal/MeetingTypeList.aspx>. For anything prior to that, please contact the Clerk.

### Disagreement with the Board's Decision

You have the right to apply to the Court of King's Bench for judicial review of the SDAB decision. Judicial reviews of the Board's decisions are governed by section 688 of the *Municipal Government Act*. **The Town of Cochrane also has the right to apply for judicial review of the decision.**

If you are considering an application to the Court of King's Bench it is recommended that you consult legal counsel. The SDAB members are not able to offer any legal advice, suggestions, or guidance with respect to such inquiries.