

SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES (SDAB)



Meeting:	Subdivision and Development Appeal Board (SDAB)
Meeting Date:	April 10, 2019
Originated By:	K. Babin
Title:	Minutes of SDAB Hearing 19-003
Agenda Item No.	3.1

BACKGROUND:

Minutes of SDAB Hearing 19-003



SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

For SDAB Hearing No. 19-003

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

Chairperson: David Helmer

Board Members: Scott Gibson-Craig
Jenna Graham
Brenda Samborski
Scott Shannon
Doug Townsend
Robyn Usher, Alternate
Alex Reed, Councillor - *absent*

Town Staff: Riley Welden, Manager of Planning
Jill Hofer, Senior 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 6:35 pm
- c. Introductions were made from the Board and Administration

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 Scott Shannon 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 Gibson-Craig to adopt the Minutes from SDAB 19-002 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:
DP2018-237
3 Bentley Place
LOT 13, BLOCK 4, PLAN 771 1447
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 April 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 their report
 - ii. Senior Planner, Jill Hofer 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. Lee Anne Luciano submitted a 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. Bastiaan and Dianne Vanderlist submitted a report and made an oral presentation to the Board

iii. Questions were asked from the Board to the Appellant

6. QUESTIONS AND SUMMARIES

- a. The Chairperson asked if there was anyone present in support of the appeal that wished to speak
 - i. Maureen Innes spoke in support of the appeal
 - ii. James Luciano spoke in support of the appeal
- b. The Chairperson asked if there was anyone present opposed to the appeal that wished to speak
 - i. There were none
- c. The Chairperson asked the Secretary to read in any additional submissions
 - i. The Secretary replied there were none
- d. The Chairperson asked if the Board had any final questions
 - i. Final questions were asked and answered
- e. The Chairperson asked if Administration, the Appellant or the Applicant would like to make final comments
 - i. Final comments were made
- f. 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 Shannon to close the hearing
~carried unanimously~
- b. The Chairperson advised that the Board has 15 days to reach their decision
- c. Chairperson Helmer adjourned the hearing at 8:00 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 22nd DAY OF May, 2019

Original Signed by David Helmer

Original Signed by Karen Babin

David Helmer, Chairperson

Karen Babin, Recording Secretary

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

BOARD ORDER: 19-003

**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 Lee Ann
Luciano of Cochrane, Alberta (the "Appellant")

BEFORE:

David Helmer, Chairperson
Scott Gibson-Craig
Jenna Graham
Brenda Samborski
Scott Shannon
Doug Townsend
Robyn Usher, Alternate
Alex Reed, Councillor - *absent*

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 2018-237 for an Accessory Suite (Basement) at 3 Bentley Place, Lot 13, Block 4, Plan 771 1447, in the Town of Cochrane ("Town").

A hearing to consider the appeal was convened by the SDAB on April 16th, 2019, commencing at 6:30 p.m. in the Town's Council Chambers.

I. BACKGROUND

Application DP2018-237 is for an existing Accessory Suite (Basement) located at 3 Bentley Place. The subject property is designated as Residential Single Detached Dwelling District (R-1) where Accessory Suites are listed as a discretionary land use and are referred to the Cochrane Planning Commission for decision as per Section 3.2.1 of Land Use Bylaw 01/2004.

The Cochrane Planning Commission 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, 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 DP2018-237 is upheld as per the reasons outlined in Section IV Decision.

III. REVIEW OF SUBMISSIONS

a) Development Officer

The Development Permit application presented to the Cochrane Planning Commission was for an existing Accessory Suite (Basement) located at 3 Bentley Place in a Residential Single Detached Dwelling District (R-1) where the purpose is:

“to provide for the 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 suites or garden suites.”

With respect to limiting the number of accessory suites in each neighbourhood, Section 12.3.2(g) of the Land Use Bylaw establishes a permissible limit of up to 10% of the existing lots. There are currently 17 accessory suites in the East End, a neighbourhood of 375 residential properties. This application would create another accessory suite, bringing the total percentage in the East End to 4.8%, well within the 10% bylaw maximum.

The application conformed to the following criteria as set out in Sections 12.3.1 and 12.3.2 of the Land Use Bylaw further ensuring this is an appropriate location:

- There are no other suites on this property
- The suite is an accessory to the principal residence

- There will be no structural changes to the front exterior of the principal residence
- The gross floor area of the suite shall be more than 30m²
- The suite does not exceed 40% of the gross floor area of the principal dwelling
- The accessory suite will have full utility services through service connections from the principal building

The development permit application is for a two-bedroom suite. In addition to the two (2) parking stalls required for the primary residence, two (2) additional stalls are required for the accessory suite. The subject property has a total of four (4) stalls; two (2) in the garage and two (2) on the front driveway thereby meeting the parking requirement as outlined in Section 11.3.0 of the Land Use Bylaw.

The Development Permit was circulated to appropriate internal and external agencies for comment. There were no objections to the Accessory Suite as proposed.

The development of Accessory Suites aligns with the following policy documents:

- The Cochrane Sustainability Plan
Pathway 9 – Everyone has a roof over their head
Pathway 11 – Wherever you are in Cochrane, you are close and connected
- The 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

Town Administration recommended approval of the application subject to eight (8) conditions and nine (9) advisory notes at the February 20, 2019 meeting of the Cochrane Planning Commission (“CPC”). CPC approved the application subject to the recommended conditions and advisory notes.

b) Appellant

The Appellant submitted an oral and visual presentation to the Board outlining their grounds for appealing the Development Authority’s decision to approve the proposed development for Accessory Suite (basement).

The Appellant described the cul-de-sac as being part of a quiet, older, well-established neighbourhood. They have lived there for the past 30 years and many of their neighbours have been there for 10 to 20 years. They feel that the quality of life in the neighbourhood should not have to suffer and continue to be impacted on a daily basis because of the Applicant’s disregard for the neighbours and authority.

The Appellant expressed disappointment that they did not receive notification of the Applicant's development permit application. They would have preferred to make their views known to the Cochrane Planning Commission as opposed to having to pay to appeal the decision.

The Appellant provided a brief history. The Applicants first moved in to 3 Bentley Place in 2014. They operated an Airbnb out of their basement for over two (2) years with little regard for neighbours. There were numerous issues with noise, litter, traffic/parking and strangers in the neighbourhood coming and going at all hours. Municipal Enforcement had been called and responded on numerous occasions. The Applicants have stated that they no longer operate an Airbnb and that the basement is not currently being rented out; however, someone has been staying there since December 2018.

The Appellant contends that Pathways 9 and 11 of the Cochrane Sustainability Plan do not fit with the Airbnb model of short-term rentals. Further, diversity of housing addressed in Section 1.1.8 of the Municipal Development Plan should not be applied to older established neighbourhoods, it should be considered when planning new neighbourhoods.

The Appellant continues to be concerned with the likelihood of increased traffic, speeding and parking issues. No off-street parking had been provided for the Airbnb and resulted in vehicles being parked all over the cul-de-sac, sometimes blocking driveways. Even with two (2) off-street parking stalls, as would be required if the permit is approved, the driveway is narrow so any vehicle parked there will restrict access to the garage. The Appellant is concerned that future tenants will park on the street as a result. The number of diverse strangers in the neighbourhood, coming and going at all hours have been cause for concern and they do not feel safe in their own neighbourhood. The increase in noise and litter has also been an issue but parking and safety are the top concerns.

The Appellant believes that the Applicant has little regard for complying with the Town's bylaws as he did not apply for a permit for the renovations. The Appellant is concerned that this approval for discretionary use could lead to the Applicant operating another Airbnb.

c) Applicant

The Applicants submitted a report as well as an oral presentation to the Board outlining their application for the proposed re-development of the existing accessory suite.

The Applicants purchased the property in 2014 and had been told that previously the basement had been fully developed. While they did complete some renovations in the spring and summer of 2015 to bring everything up to code, it wasn't until the Fall of 2018 that they were advised that proper permitting had never been obtained. They have worked closely with Development Services throughout the permitting process to ensure strict compliance.

The Applicants did operate an Airbnb for one (1) year but that had never been their long-term goal. After a bad experience with clients, they returned to their original plan of having an accessory suite. They offered their apologies to the neighbours for problems caused by that particular incident. The Applicants feel that most of the concerns raised have already been addressed by them no longer operating an Airbnb.

With regard to the parking issue, the Applicant confirmed that the garage is large enough to accommodate two (2) vehicles. He agrees that access may be restricted at times if there is a vehicle in the driveway but they are willing to work around that

The Applicants submit that their intention for the proposed development is to be able to provide a safe place to live for someone needing a safe and secure environment. The renovations are complete and comply with all requirements of the Land Use Bylaw. The Applicants have had an opportunity to review the recommended conditions and advisory notes as outlined by the Cochrane Planning Commission in their Notice of Decision and find them acceptable.

d) Addition Submissions

Maureen Innes, a neighbour, provided a written submission and made an oral presentation to the Board in support of the Appellant.

Ms. Innes was in agreement with the points made by the Appellant. She further stated that all of the strangers in the neighbourhood have made her uneasy and she fears for her safety.

IV. DECISION

The Board feels the majority of the issues raised have already been addressed when the Airbnb ceased operation.

The Board recognizes that while there is no control over public street parking, the garage and driveway are sufficient to accommodate the parking requirements for the accessory suite.

It is the Board's position that the development of the accessory suite complies with all of the Town's statutory and non-statutory planning documents. Issues related to noise, parking, and traffic are within the area's ability to accommodate given that the density of accessory suites is less than the maximum of 10% of the number of existing lots in the neighborhood.

For these reasons, the Subdivision and Development Appeal Board denies the appeal and approves DP2018-237 subject to the conditions listed in Appendix 1 and the drawings in Appendix 2.

Dated this 25th Day of April, 2019

Original Signed by David Helmer

David Helmer, Chairperson

Original Signed by Karen Babin

Karen Babin, Recording Secretary

APPENDIX 1

On February 28th, 2019 the Town issued a Notice of Decision (NOD) based on approval of the Cochrane Planning Commission. The NOD stated the following: 'This development has been **approved** by the Cochrane Planning Commission and is subject to the conditions contained herein.

1. This development is classified as an Accessory Suite and is a Discretionary Use in the Residential Single Detached Dwelling District (R-1), on the lands legally described as Lot 13, Block 4, Plan 771 1447.
2. An Accessory Suite (basement) of 82 square meters (883 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.
3. 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.
4. In addition to the parking required for the principal dwelling, the applicant shall provide and maintain two (2) off-street parking stalls at all times for the use of the accessory suite. On-street parking for this development shall not be permitted.
5. 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 a 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.
6. 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.
7. 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.
8. 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:

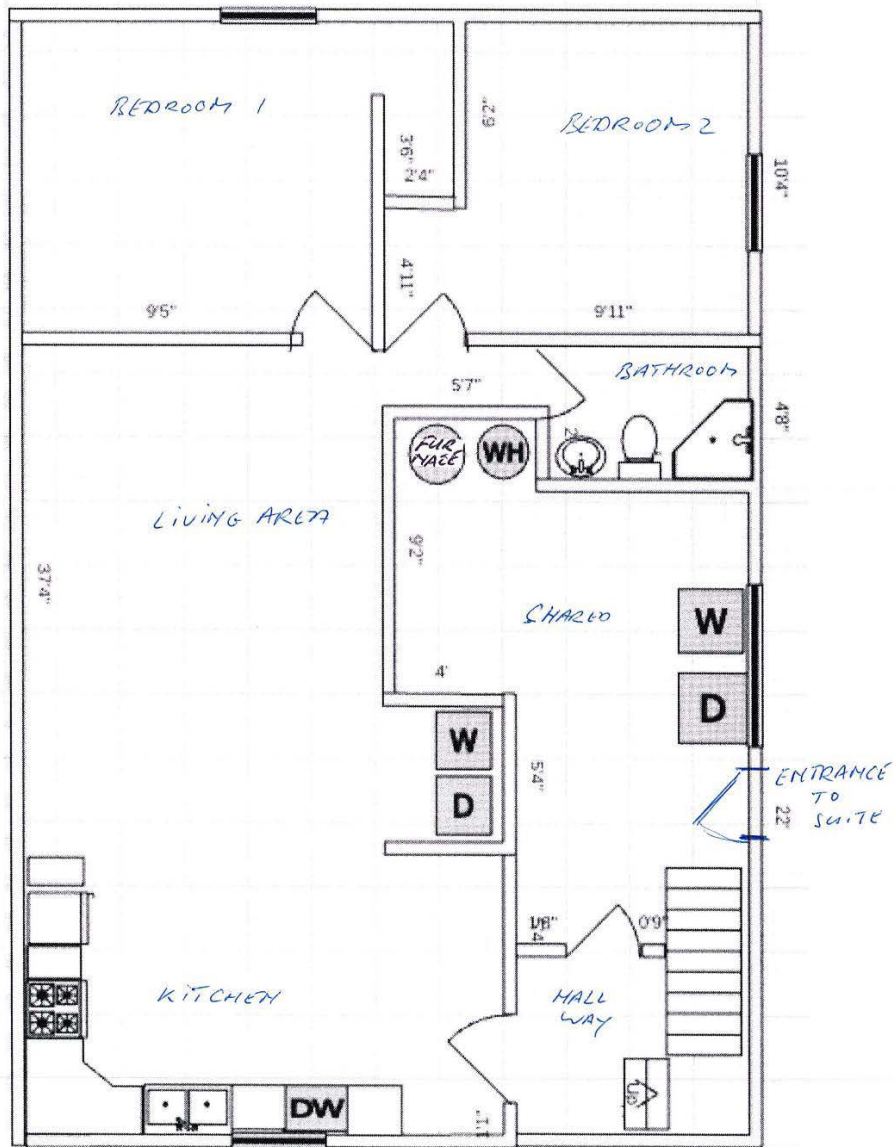
- a) It is the responsibility of the applicant/owner to comply with all requirements of Land Use Bylaw 01/2004, other municipal regulations, and all provincial and federal legislation.
- b) All permits as required by the Alberta Building Code shall be obtained and the applicant/owner shall remain compliant 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 suite is 3A Bentley Place; 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.

APPENDIX 2

ACCESSORY SUITE
82 M²

BACK



FRONT

ALBERTA LAND SURVEYORS' REAL PROPERTY REPORT

