

SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES (SDAB)



Meeting:	Subdivision and Development Appeal Board (SDAB)
Meeting Date:	April 16, 2019
Originated By:	K. Babin
Title:	Minutes of SDAB Hearing 19-004
Agenda Item No.	3.1

BACKGROUND:

Minutes of SDAB Hearing 19-004



SUBDIVISION AND DEVELOPMENT APPEAL BOARD MINUTES

FOR SDAB HEARING NO. 19-004

TIME: 6:30 pm

DATE: April 16, 2019

PLACE: Council Chambers, Cochrane RancheHouse

Chairperson: David Helmer

Board Members: Scott Gibson-Craig
Jenna Graham
Brenda Samborski
Scott Shannon
Doug Townsend
Alex Reed, Councillor

Town Staff: Drew Hyndman, Senior Manager Development Services
Adam Nordquist, Planner II

Recording Secretary: Karen Babin

1. CALL TO ORDER

- a. Chairperson Helmer asked for a motion to open the hearing
 - i. MOVED by Scott Shannon 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
- d. The Chairperson asked if the appellant, applicant or any member of the audience objected to any Board member hearing the appeal
 - i. There were no objections

2. ADOPTION OF AGENDA AND MINUTES

- a. The Chairperson asked if there were any amendments or additions to the Agenda
 - i. The Secretary requested that approval of the Minutes from Hearing No. 19-003 be stricken from the Agenda

- b. The Chairperson asked for a motion to adopt the Agenda
 - i. MOVED by Scott Shannon to adopt the Agenda as amended
~ carried unanimously~
- c. Chairperson Helmer noted there is a preliminary matter to address
 - i. Administration advised that it was brought to their attention that an error was made when advertising the Notice of Decision for the Development Permit. They are requesting a one (1) month adjournment in order to properly advertise the Decision with the correct address in order to meet legislative requirements.
 - ii. MOVED by Alex Reed that in order to avoid potential legislative appeals and to be fair and equitable, that we accept the recommendation to adjourn the hearing
~ carried unanimously~
 - iii. A suitable date will be found to re-convene and all parties will be notified

3. MOTION TO CLOSE HEARING

- a. Chairperson Helmer asked for a motion to close the hearing
 - i. MOVED by Scott Gibson-Craig to close the hearing
- b. Chairperson Helmer adjourned the hearing at 6:40 pm

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: 19-004

**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 Colin T. Fox, of
Cochrane, AB (the "Appellant")

BEFORE:

David Helmer, Chairperson
Jenna Graham
Brenda Samborski
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") of the Development Authority, being the Notice of Decision of Development Permit 2018-248 for an Accessory Suite (Basement) at 144 Quigley Close, Lot 22, Block 32, Plan 971 1154, in the Town of Cochrane ("Town").

A hearing to consider the appeal was convened by the SDAB on April 16, 2019, commencing at 6:30 pm in the Town's Council Chambers. The hearing was adjourned and reconvened on May 22, 2019 at 6:30 pm.

I. BACKGROUND

Application DP2018-248 is for an Accessory Suite (Basement) located at 144 Quigley Close. The subject property is designated Residential Single and Two-Dwelling District (R-2) where Accessory Suites are listed as a Discretionary 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 Development Permit 2018-248 subject to the conditions found in Appendix One.

The Appellant appealed this decision in accordance with 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.

II. DETERMINATION OF THE BOARD

The Appeal is denied and DP2018-248 is upheld as per the reasons outlined in Section IV Decision.

III. REVIEW OF SUBMISSIONS

a) Development Officer

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

The proposed development is for an accessory suite (basement) located in a Residential Single and Two-Dwelling District (R-2). The purpose and intent of this district is to provide for single-detached, semi-detached, duplex and street-oriented townhome residential development in existing and new neighbourhoods that are designed to provide for integrated varying lot sizes and to allow for a blend of different housing forms. These neighbourhoods may contain a limited number of accessory or garden suites and are listed as a Discretionary Use in the R-2 District.

The Town had received a complaint about the existing basement development being used as an illegal suite. The property was sold prior to any compliance action being taken by the Town. The new property owner arranged for a site inspection to be conducted by Planning Services in conjunction with Safety Codes officers and the Development Compliance Officer. It was determined that the suite could be brought into compliance and the owner made application for the accessory suite.

The application conformed to the following criteria as set out in Section 12.3.0 of the Land Use Bylaw:

- There are no other suites on this property;
- The suite is 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; and
- The accessory suite will have full utility services through service connections from the principal building

The application is for a one (1) bedroom suite. In addition to the two parking stalls required for the primary residence, one additional stall is required for the accessory suite. There are 2 stalls in the attached garage and 2 stalls provided on the driveway.

Accessory suites are limited to 10% of existing residential lots in a neighbourhood. There are approximately 496 residential lots in West Terrace and 10 (ten) are currently identified as having accessory suites. This application brings the density of accessory suites in the neighbourhood to 2.0%.

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

- The Cochrane Sustainability Plan – Pathway 9 (Everyone has a roof over their head) and 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.

The Development Permit was circulated to appropriate internal departments and external agencies for comment. No objections were received. An adjacent resident submitted a letter of objection to the proposed accessory suite citing concerns of noise control, plumbing, municipal enforcement, emergency services, waste collection and snow removal.

b) Appellant

The Appellant submitted a comprehensive report and provided an oral and visual presentation to the Board outlining his grounds for appealing the Development Authority’s decision to approve the proposed development. Specifically, Mr. Fox outlined the issues associated with adjoining accessory suites in semi-detached homes:

- The right to quiet enjoyment is compromised by having both intra- and inter-building noise control. Mr. Fox feels that no amount of after market soundproofing will muffle the noise between upper/lower suites and those sharing a common wall.
- The previous homeowner and tenant in the illegal suite created a lot of noise. The RCMP were unable to restore/maintain peace within the community even after repeated visits due to multiple complaints.
- The garages and driveways are relatively narrow. Most people appear to use their garage for storage not parking thereby needing to find other places to park. The street has become congested and sidewalks blocked, particularly because they are located at the end of the cul-de-sac. Community bylaw services have

been ineffective in dealing with this issue. Parking repeatedly comes up as an issue in planning surveys.

- Serious fire risk and safety issues exist due to over densification of neighbourhoods. Vehicles parked illegally on the street could potentially hamper response times of emergency services.
- Waste disposal and snow removal is challenging at the end of a cul-de-sac especially when there are numerous vehicles parked on the street.
- There is a building code issue related to the banned plumbing used when these properties were built. The Town permitting more people to live in a home increases the number of people affected when the plumbing fails.
- Allowing accessory suites in adjoining semi-detached homes leads to a clustering effect and the loss of a small-town feel.
- Other surrounding communities do not allow accessory suites in adjoining properties. There is no standard as each municipality handles it differently.
- Affordability should encompass price and quality. These suites are generally of poor quality.
- Only five (5) other properties in town have accessory suites in semi-detached properties and none are comparable to 142 and 144 Quigley Close being at the end of a cul-de-sac.

c) Applicant

The Applicants submitted a report and made an oral presentation to the Board outlining their application for the proposed accessory suite.

The Applicants purchased the property because it was zoned R-2, had an existing basement suite and the neighbouring unit already had a legal accessory suite. Their son lives at the property with his young family and renting out the accessory suite will help pay expenses while he attends bible college.

The Applicants submitted that renovating the accessory suite and bringing it up to code will benefit the community by creating a safe, affordable and legal place to reside. The proposed development meets the Town's Land Use Bylaw requirements.

The Applicants acknowledged that while the previous owner operated an illegal accessory suite and that the behaviour of the past owner and tenants is regrettable, it should not directly impact their application for a development permit. Each of the concerns regarding noise, parking and safety raised by the Appellant apply equally to Mr. Fox's own accessory suite and any potential future tenants. Additionally, there are four (4) parking stalls and their son only has one (1) vehicle.

d) Additional Submissions

Matthew Parker is the Applicants' son who currently resides at the property. Mr. Parker noted that he finds parking is adequate and that the spots are quite long. He has not encountered any issues in this regard.

IV. DECISION

It is the Board's position that the development of the accessory suite at 144 Quigley Close complies without variance with the Town's Land Use Bylaw and non-statutory planning documents. There were no objections to the proposed accessory suite by any internal departments or external agencies.

As outlined by Administration, the current percentage of approved accessory suites in this neighbourhood is 2%, well under the 10% maximum allowable. Clustering does not appear to be an issue on the street in question. The Town currently has no bylaw restricting the allowance of adjacent suites in semi-detached dwellings. There are five (5) other semi-detached properties with approved adjoining accessory suites.

The Board recognizes that parking is often at issue in neighbourhoods whether there are accessory suites or not. In this case; however, the requirement of providing one (1) off-street parking stall is satisfactorily met. The additional parking violations and impediment of traffic outlined by the Appellant are matters for Municipal Enforcement and are not under this Board's authority.

Alberta Building Code mandates that common walls provide fire and sound protection between units. It is not reasonable though to expect that no noise be transmitted between the units.

The Board recognizes that the Appellant experienced numerous issues with the former residents; however, those past behaviours are not relevant to the current development permit application. Further, the Appellant's encounters with Fire, Bylaw Enforcement and RCMP while unfortunate, are not germane to the argument against this application.

It is the responsibility of the Applicant to meet all conditions of approval. If the Applicant is not willing/able to comply, the permit may be cancelled.

For these reasons, the Board denies the appeal and the application for Development Permit 2018-248, including the Conditions of Approval as listed in Appendix One, is granted.

DATED this 5th Day of June, 2019.

Original signed by David Helmer

David Helmer, Chairperson

Original signed by Karen Babin

Karen Babin, Recording Secretary

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 ONE

Conditions of Approval:

1. This development is classified as an Accessory Suite (Basement) and is a Discretionary Use in the Single and Two Dwelling (R-2) District, on the lands legally described as Lot 22, Block 32, Plan 971 1154.
2. An Accessory Suite (basement) of 42.3 square meters 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 one (1) off street parking stall at all times for the use of the accessory suite. The parking stall shall be hard-surfaced and have dimensions of 2.75m x 6.0m. 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, or interlocking block. The pathway to the parking stall shall be grated 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, including, but not limited to the Alberta Public Health Act.

- 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 144A Quigley Close; 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 water meter must be maintained.
- i) It is the responsibility of the applicant to meet all conditions of approval.

