



Municipal District of Bighorn No. 8

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DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: Tuesday, February 11, 2020

Development Permit 01/20, Jenn Lambert (Appellant)

I. Decision

For the reasons outlined below, the Subdivision and Development Appeal Board (the “Board”) conditionally grants the February 11, 2020 appeal of Jenn Lambert (the “Appellant”), acting as agent for the property owner, on the refusal of the Development Officer for Development Permit Application No. 01/20 for Side and Rear Yard Variances for an existing Accessory Building (Garage), located on Lot 7, Block 6, Plan 7921GP (#11 Mount Allan Drive), hereinafter referred to as “the subject property”, in the Hamlet of Exshaw. The conditions of approval are:

1. Approval is granted for a 1.01m rear yard variance of 67.3%, to allow the existing garage to be located 0.49m from the rear yard property line, as shown on the Real Property Report provided with Development Permit application 01/20;
2. Approval is granted for a 0.70m side yard variance of 46.7%, to allow the existing garage to be located 0.80m from the side yard property line, as shown on the Real Property Report provided with Development Permit application 01/20;
3. Approval is granted for a 0.66m side yard variance of 44.0%, to allow the existing garage to be located 0.84m from the side yard property line, as shown on the Real Property Report provided with Development Permit application 01/20.

II. Background

The Board heard an appeal from Jenn Lambert (the Appellant), with respect to the Development Officer’s Notice of Refusal for Development Permit application 01/20.

The subject property is located within the Hamlet Serviced Residential District (R1-S) and as such the existing Accessory Building (Garage) must be a minimum of 1.5m from the side and rear property lines. The Real Property Report (RPR) submitted with the Development Permit application 01/20, showed the side and rear yard setback distances for the Accessory Building (garage) as not conforming to the Development Regulations in Section 14.5.1 of the R1-S District.

The Garage has rear yard setback distance of 0.49m and side yard setback distances of 0.80m and 0.84m respectively from the property line. Neither the Municipal Planning Commission, pursuant to Section 41.3.3(b and c) of the Land Use Bylaw, nor the Development Officer, pursuant to Section 41.3.2(b), have the ability to grant the 67% rear yard setback variance and the 46% and 44% side yard setback variances for the Garage.

Based on these facts, the Development Officer issued a Notice of Refusal for Development Permit Application 01/20 dated January 15, 2020. The Applicant submitted the appeal of the Development Officer’s decision on January 16, 2020 to the Subdivision and Development Appeal Board.

The appeal hearing by the Board was held on February 11, 2020, at the M.D. Administration building in the Hamlet of Exshaw; the Appellant (Jenn Lambert) was present at the hearing. The Board heard from the

Appellant and Development Officer Janice Thompson on the Officer's Notice of Refusal. Several documents were submitted to the Board, as follows:

- Copy of the Notice of Refusal for Development Permit Application 01/20 issued on, January 15, 2020;
- Copy of the letter of appeal from the Appellant received January 16, 2020;
- Copy of Development Permit application 01/20;
- Copy of Real Property Report of the Subject Property, showing the location and measurements of the Garage, stamped received December 10, 2019;
- Development Permit Application Receipt Record;
- Copy of Certificate of Title;
- Photographs of the Garage on the Subject Property;
- Consent from owner of the Subject Property for the Appellant to make application for the development permit;
- Excerpts from the Land Use Bylaw 04/10.

Issues Raised

The Board and Appellant discussed the following reasons for requesting the variance:

- The Appellant was not unaware that there were non-compliance issues with the side and rear yard setbacks of the garage until a new RPR was prepared in December 2019 as part of the property sale.
- The Appellant stated the garage was not constructed in the proper specifications for the rear and side yard setbacks and was built on the existing footprint of a previous garage.
- The location of the garage on the property did not conform to the setback requirements of the Land Use Bylaw.
- The Appellant confirmed a Building Permit was issued for the existing garage.
- The Board heard confirmation from the Development Officer that clarified that the construction of the garage was not at issue as an Occupancy Permit had been issued for the structure.

III Reasons for Decision / Findings of Fact

The reasons for the Board's decision to grant the variance are:

- The Board felt the proposed rear yard variance and two side yard variances for the Accessory Building (Garage) would not unduly affect the amenities of the neighbourhood.
- The Board noted that there were no objections from any adjacent neighbours submitted to the Hearing.

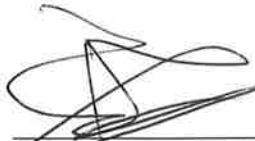
The findings of facts are as follows:

- There were no letters of support or opposition received by the Board.

- The RPR, dated December 10, 2019, shows the location of the Accessory Building (Garage) on the subject property and identifies the setback measurements of the garage relative to the closest rear and side yard property lines.
- The Accessory Building (Garage) does not conform to Section 14.5.1 of the Land Use Bylaw for the required rear and side yard setback distances for the R1-S District.

February 25, 2020

DATE



CHAIRMAN,
SUBDIVISION/DEVELOPMENT APPEAL BOARD

A decision of the Subdivision/Development Appeal Board is final and binding on all parties and persons subject only to an appeal upon, or questions of jurisdiction or law pursuant to, Section 688 of The Municipal Government Act, SA 2000, as amended. An application for leave to appeal to the Appellate Division of the Court of Alberta shall be made to a judge of the Appellate Division within THIRTY (30) days after the issue of the order, decision, permit or approval sought to be appealed.