



Municipal District of Bighorn No. 8

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DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: **March 8, 2017**

Development Permit #09/17, **Roy and Monique Hendrickx (Appellants)**

I. Decision

For the reasons outlined below, the Board grants the 8 Mar 17 appeal of Roy and Monique Hendrickx, on the Development Officer's refusal of Development Permit Application No. 09/17, for the requested addition and rear yard setback variance.

The Development Permit application 09/17 for a two-storey addition to a Single Detached Dwelling with a rear yard setback variance on the Subject Property legally described as Lot 15 Block 2 Plan 3032 G.H., (within the Hamlet of Exshaw) is approved with the following conditions:

1. Approval is granted based on the information provided by the owners for a two-storey addition to a Single Detached Dwelling with a Rear Yard Setback Variance. No further development, expansions, or change in use is permitted unless approved by The MD of Bighorn.
2. The proposed development shall be located as shown on the site plan provided by the owners and identified as Schedule 'A' attached hereto.
3. The Subdivision and Development Appeal Board (S/DAB) grants an approximate 70% (5.5 m) rear yard setback variance to the existing dwelling so that the addition may proceed as per Section 643 of the Municipal Government Act.
4. Care must be taken to ensure that the other setback distances to property boundaries are not exceeded as prescribed in Land Use Bylaw No. 04/10 (LUB), except for those projections allowed pursuant to Section 3.21 of the LUB.
5. All construction shall conform to the Alberta Building Code.
6. The landowner is responsible to ensure that site grading is completed to provide effective site drainage in accordance with Section 3.3 of Land Use Bylaw No. 04/10. Accordingly, storm water runoff, including eaves from the building, shall be directed to drain to the front street (Fortress Mountain Way) and/or to the rear lane to the west. No site drainage will be allowed to drain onto the adjacent neighbouring residential properties.
7. All electrical wiring and plumbing, all natural gas or propane connections, and all sewage alterations and installations shall be approved by Alberta-registered Safety Codes Officers.
8. If new plumbing fixtures are proposed as part of the development, the developer shall install low-water-use plumbing fixtures only. As applicable, these fixtures shall have the following features:
 - a) toilets shall have a capacity no greater than 6.0 litres per flush; and
 - b) shower heads shall have a flow capacity of not more than 9.5 litres per minute.

9. The developer shall be aware that the MD of Bighorn does not maintain rear laneways; accordingly, arrangements for access to the property from the rear laneway shall be obtained at the developer's sole expense.
10. There shall be no major home-based business operated within the dwelling without a separate development permit application being submitted and approved by the MD of Bighorn.
11. There shall be no secondary suite created within the dwelling without a separate application being first submitted and approved by the MD of Bighorn.
12. As a fire protection measure all roofs shall be constructed of non-combustible or fire retardant materials.
13. Plants used for landscaping shall be hardy to the region and landscaping shall be completed to conform with Section 3.13 of the MD of Bighorn Land Use Bylaw. The use of water efficient landscaping techniques is encouraged, including drought tolerant indigenous vegetation in combination with pervious surface materials. Bear attractant vegetation and noxious or prohibited weeds or invasive plants shall not be used for landscaping.
14. The developer shall control weeds during the period of construction.
15. Construction practices shall be followed as outlined in Section 36.25 of Land Use Bylaw No. 04/10.
16. The developer shall sort construction wastes generated as a result of the development prior to transporting the waste material to a disposal facility, such as the Francis Cooke Regional Landfill. As a minimum, the MD of Bighorn expects to see the following material sorted for recycling purposes: items such as, asphalt shingles, brush and vegetation, metal, cardboard, drywall and kiln-dried lumber.
17. Careful attention shall be paid to the exterior lighting to preserve the night environment through reduction of light pollution. Exterior lighting shall be designed, located and arranged to be low glare in nature and to minimize light trespass on adjacent properties. Light fixtures with a lumen output of greater than 2,000 lumens shall be fully shielded to the satisfaction of the MD.
18. The addition shall match or be complementary to that of the existing buildings.

II. Background

The Subdivision and Development Appeal Board (the "Board") heard an appeal from the Appellants, with respect to the Development Officer's Notice of Refusal on Development Permit application 09/17. The Appellants had applied for a development permit for a two-storey addition to a Single Detached Dwelling with a rear yard setback variance. The Development Officer noted that the requested rear yard setback variance exceeded both the Development Officer's and the Municipal Planning Commission's abilities to grant. The Appellant is now seeking approval of the addition and variance to the required rear yard setback distance for the dwelling, from the S/DAB.

The appeal hearing by the Board was held on March 8th, 2017, at the M.D. Administration building in the Hamlet of Exshaw; the Appellants were present at the hearing. The Board heard from the

Appellant; the Board also heard from Development Officer Jan Thompson on the Officer's Notice of Refusal. Several documents were submitted and provided to the Board, as follows:

- Board Secretary's Case Outline/Overview;
- Copy of Development Permit 09/17 application;
- Copy of the 03 Feb 17 Notice of Refusal from the Officer;
- Copy of the 07 Feb 17 Appeal from the Appellant;
- Copy of the real property report/site plan;
- Copy of the Certificate of Title;
- A map showing the location of the Subject Property;
- Excerpts from the Land Use Bylaw 04/10 (Part 3 Section 14.5).

There was one verbal submission received in support of the Appellant, and no letters received in opposition; there were no other submissions in support of, nor opposition to, the Officer's decision. The aforementioned documents are attached as Exhibits to the minutes of the hearing.

Issues Raised

The Appellants noted that when they purchased the property, they were unaware that a variance would be required for the rear yard setback distance of the residence until they submitted the development permit application for the two-story addition to their home.

The Board noted there were no submissions objecting to the Appellant's application from any nearby property owners. The Board also noted that there were no submissions from anyone who might support the Development Officer's decision.

III Reasons for Decision / Findings of Fact

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

- The Board felt the proposed variance to the rear setback distance from the residence to the rear yard property line would not unduly affect the amenities of the neighbourhood, noting there was support from an adjacent neighbouring property that indicated support for the Appellants' application.
- The Board noted there was no opposition raised to the variance request.
- The Development Officer, in principle, saw nothing wrong with the proposed variance, but noted the limitation in relaxation powers available to the development approval authorities.

The findings of facts are as follows:

- There was support from the neighbour in an immediately-adjacent property across the lane from the subject property, and no objections being brought forward to the S/DAB.

8 Mar 17

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.