



Municipal District of Bighorn No. 8

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DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: 1 June 15

Development Permit #26/15, Greg & Lianne Becic (Appellants)

I. Decision

For the reasons outlined below, the Board grants the 8 May 15 appeal of Greg & Lianne Becic, on the Development Officer's refusal on Development Permit 26/15, granting the requested side yard setback variance, subject to the conditions outlined in the attached document from the Planning Services department.

The Development Permit application is for a proposed single family residence, on the Subject Property legally described as Lot 1 Block 8 Plan 1510262, Rivers' Bend subdivision (within the Hamlet of Exshaw).

II. Background

The Subdivision and Development Appeal Board (the "Board") heard an appeal from the Appellants, with respect to the Development Officer's (the "Officer") 8 May 15 decision on Development Permit application 26/15. The Appellants had applied to construct a single family residence on the Subject Property, but required a side-yard setback variance to accommodate a covered deck (veranda); the requested variance exceeded both the Development Officer's and the Municipal Planning Commission's abilities to grant. The Appellants are now seeking a variance to the side yard set-back, from the S/DAB.

The appeal hearing by the Board was held on June 1st, 2015, at the M.D. Administration building in the Hamlet of Exshaw; the Appellants were both present at the hearing. The Board heard from the Appellants; the Board also heard from Development Officer Janice Thompson on the Officer's Notice of Decision. A number of documents were submitted and provided to the Board, as follows:

- Board Secretary's Case Outline/Overview;
- copy of Development Permit 26/15 application;
- copy of the 8 May 15 Notice of Refusal from the Officer;
- copy of the 8 May 15 Appeal from the Appellants;
- copy of correspondence from the Developer (Rivers' Bend Inc.) regarding architectural control guidelines' and methane monitoring compliance for the proposed single family residence;
- copy of the Certificate of Title;
- copy of M.D. of Bighorn Bylaw 03-z/14, pertaining to the overlay district which applies to the subject property;
- copy of the plot plan for the proposed single family residence;
- a map showing the location of the Subject Property;

- a package showing the floor plans and layout for the proposed single family residence;
- excerpts from the Land Use Bylaw 04/10 (Part 3 Section 14; Part 4 Section 36).

The Appellants also provided a binder with additional diagrams, photos, and correspondence with the Developer, all regarding the subject property.

A letter in support of the Appellants, from the subdivision developers Rivers' Bend Inc., was submitted to the hearing.

There were no other submissions received in support of the Appellants; there were no submissions in support of the Officer's decision. The aforementioned documents are attached as Exhibits to the minutes of the hearing.

Issues Raised

The Appellants raised the following issues, in their appeal:

1. the variance would not impact site-lines for either road (the subject property is a corner lot abutting two roads/road allowances);
2. there is an overall distance of sixteen metres (16 m.) between their sideyard property line and the developed roadway, with undeveloped road allowance and green space in the sixteen metre stretch.
3. The Developer has no concerns with the requested variance.

The Appellants noted that there are no neighbors to the south of the subject property (due to the undeveloped road allowance/green space), and therefore the variance would not affect an adjoining property. It was further noted that the lands immediately behind the Subject Property were Municipal Reserve lands; beyond the Municipal Reserve was light industrial lands, and therefore there was no residences at the rear of the property which would be impacted.

The Board noted there were no submissions objecting to the Appellants' application, from any nearby property owners. The Board also noted that there were no submissions from anyone who might support the Officer's decision. The Board did express concern that the Developer may have given, or may be giving, false information to property purchasers, regarding setbacks within the Rivers' Bend subdivision.

III Reasons for Decision / Findings of Fact

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

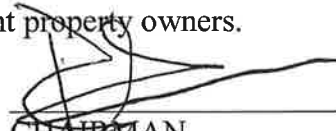
- the Board felt the granting of the variance would not unduly affect the amenities of the neighbouring properties.
- the Board noted there was no opposition raised, to the variance requests.
- the Board noted that the side yard abutted the undeveloped road allowance and green space, and therefore there was no impact on an adjacent property.
- the Board noted that the use conforms to the Land Use Bylaw.

The findings of facts are as follows:

- There were no objections from adjacent property owners.

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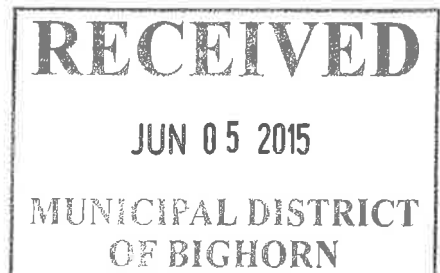
DATE



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.



TO THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

RECOMMENDED APPROVAL CONDITIONS TO BE IMPOSED ON ANY APPROVAL OF DP APPLICATION NO. 26/15

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1. All construction shall conform to the Alberta Building Code.
 2. **Prior to a building permit being issued**, proof must be submitted that the appropriate warranty coverage for the new home is in place through issuance of a Certificate, or other acceptable documentation, from Alberta Municipal Affairs.
 3. The Subdivision and Development Appeal Board grants an approximate 52% variance to the 3.0 m corner side yard setback requirement so that the veranda/deck may be as close as 1.46 m to the south side property boundary.
 4. The dwelling shall be constructed at the required design elevation grades as approved by the Developer in a letter dated March 20, 2015, and as outlined and approved within the site servicing and storm water management plan submitted by McElhanney Consulting Services on behalf of the Developer and approved for the overall subdivision lands. The March 26, 2015 developer approved drawings, and March 20, 2015 approved plot plan prepared by McElhanney Consulting Geomatics Services Ltd., shall be followed.
 5. The developer 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 and the approved site grading and drainage plan for the overall River's Bend Subdivision lands. Accordingly, storm water runoff, including eaves from the building, shall be directed to drain to the front street (River's Bend Drive). No site drainage will be allowed to drain onto the adjacent neighbouring residential properties.
 6. Any changes to the submitted drawings must first be approved by both River's Bend Developments and the MD of Bighorn prior to any construction of that item.
 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. The new dwelling shall be connected to the municipal water and sewage handling systems in a manner deemed acceptable to the MD of Bighorn Director of Operations and the installation of a backflow preventer on the sanitary system is required. All costs associated with such connections and installations shall be the sole responsibility of the landowner/developer.
 9. There shall be a minimum of two on-site parking stalls for the subject development and these parking stalls shall be of a size and installed in accordance with Section 3.12 of Bighorn's Land Use Bylaw and may be either within the proposed garage, within the driveway (provided there is sufficient space (6.0 m) in the driveway as outlined in Section 3.12 of the LUB), or a combination thereof.
 10. There shall be no residential suite activated within the dwelling without a separate development permit application being submitted and approved by the MD of Bighorn.
 11. 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.
 12. 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.
13. As a fire protection measure all roofs shall be constructed of non-combustible or fire retardant materials. The asphalt shingles proposed should meet this requirement.
 14. Plants used for landscaping shall be hardy to the region and landscaping shall be completed so as 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.
 15. The developer shall control weeds during the period of construction.
 16. Construction practices shall be followed as outlined in Section 36.25 of Land Use Bylaw No. 04/10.
 17. 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.
 18. Careful attention shall be paid to the exterior lighting in order 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.
 19. Any changes to the submitted drawings must first be approved by both River's Bend Developments and the MD of Bighorn prior to any construction of that item.
 20. The proposed dwelling is shown to be situated exactly at, or very close to, the required setback distances from the property line and to the maximum height of 10 m. Care must be taken to ensure that the height of the dwelling is not exceeded, and no encroachment into the setback areas occurs, except for those projections allowed pursuant to Section 3.21 of Land Use Bylaw No. 04/10.

FOR THE SUITE ROUGH IN

21. The developer may "rough in" or construct a secondary suite in this dwelling even though this permit does not give approval for use of the space as a suite; that must be the subject of a separate development permit application, approval for which cannot be granted by Bighorn until, among other things, the dwelling is connected to the municipal water system and the landowners are occupying the dwelling.
22. The developer shall enter into an agreement with the MD of Bighorn to ensure that the secondary suite is not occupied, or utilized as a suite, until a separate approval for such has been approved by the MD of Bighorn. The said agreement is to be registered on the property title by caveat so that there is clear understanding of this commitment by the current and any future land owners.
23. It is understood that parking for the proposed future suite must be accommodated on site and additional parking will be a requirement of any future approval.
24. Approval to rough-in of a suite at the time of dwelling construction in no way guarantees that approval of any future suite will be granted.