



Municipal District of Bighorn No. 8

No.2 Heart Mountain Drive, P.O. Box 310, Exshaw, Alberta T0L 2C0

Phone: (403) 673-3611 • Calgary Direct: (403) 233-7678

Fax: (403) 673-3895 • Email: bighorn@md.bighorn.ab.ca

DECISION OF THE SUBDIVISION/DEVELOPMENT APPEAL BOARD

Hearing: **December 1st, 2016**

Development Permit #50/16, **Chris & Jennifer Lambert (Appellants)**

I. Decision

For the reasons outlined below, the Board grants the 2 Nov 16 appeal of Chris & Jennifer Lambert, on the Development Officer's refusal on Development Permit 50/16, for the requested rear yard setback variance.

The Development Permit application is for a deck that was constructed on an existing single family residence, on the Subject Property legally described as Lot 3 Block 1 Plan 8610481, (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 Notice of Refusal on Development Permit application 50/16. The Appellants had applied for a development permit for an existing deck attached to a single family residence on the Subject Property, but upon requesting a letter of compliance and preparing a real property report, discovered that the deck development required a rear-yard setback variance; the requested variance exceeded both the Development Officer's and the Municipal Planning Commission's abilities to grant. The Appellant is now seeking a variance to the rear-yard set-back, from the S/DAB.

The appeal hearing by the Board was held on December 1st, 2016, 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 Decision. A number of documents were submitted and provided to the Board, as follows:

- Board Secretary's Case Outline/Overview;
- copy of Development Permit 50/16 application;
- copy of the 26 Oct 16 Notice of Refusal from the Officer;
- copy of the 10 Nov 15 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;
- photos showing the deck;
- excerpts from the Land Use Bylaw 04/10 (Part 3 Section 14 and Part 4 Section 36).

There were three submissions received in support of the Appellant (F.Ayearst, R.Gartly, and D. & L.Ward), and no letters received in opposition; there were no 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, as they had purchased the property with the deck already in place, they were unaware that the deck development encroached into a setback area. A handrail has been installed.

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 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 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 findings of facts are as follows:

- There were no objections from adjacent property owners.

1 Dec 16
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.