



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 7th, 2015**
Development Permit #80/15, **Tony Madsen (Appellant)**

I. Decision

For the reasons outlined below, the Board grants the 10 Nov 15 appeal of Tony Madsen, on the Development Officer's refusal on Development Permit 80/15, for the requested side yard setback variance.

The Development Permit application is for a deck that was reconstructed on an existing single family residence, on the Subject Property legally described as Lot 8 Block 1 Plan 3032GH, (within the Hamlet of Exshaw).

II. Background

The Subdivision and Development Appeal Board (the "Board") heard an appeal from the Appellant, with respect to the Development Officer's (the "Officer") 9 November 15 decision on Development Permit application 80/15. The Appellants had applied for a development permit for the replacement of a deck (after construction of same) 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 side-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 side yard set-back, from the S/DAB.

The appeal hearing by the Board was held on December 7th, 2015, at the M.D. Administration building in the Hamlet of Exshaw; the Appellant was present at the hearing. The Board heard from the Appellant; the Board also heard from Development Officer Darlene Paranaque 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 80/15 application;
- copy of the 9 Nov 15 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 reconstructed deck;
- excerpts from the Land Use Bylaw 04/10 (Part 4 Section 36).

There were no submissions received in support of nor opposition to the Appellant; 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 Appellant raised the following issues, in their appeal:

1. He was unaware that the deck development encroached into a setback area, given that the new deck was constructed on the same footprint and using the same dimensions as the old deck that was torn down;
2. He was unaware that he needed a development permit, given that he was only replacing what was already there;
3. the variance would not impact site-lines for either road (the subject property is a corner lot abutting two roads/road allowances);

The Appellant noted that there are no neighbors to the south of the subject property (the property abuts Grotto Mountain Road), and therefore the variance would not affect an adjoining property. The steps onto the deck had been re-aligned, so that they basically pointed towards the south-west corner of the property, instead of pointing directly towards Grotto Mountain Road.

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 positioning of the deck does not interfere with the sightlines/sight-line triangle for the adjacent municipal roads (Windridge Road and Grotto Mountain Drive)

The findings of facts are as follows:

- There were no objections from adjacent property owners.

✓ 16 Dec 15
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.