



# 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: **June 1, 2017**

Development Permit **22/17**, **Kristin Lenarduzzi and Marc Niehaus (Appellants)**

### **I. Decision**

For the reasons outlined below, the Subdivision and Development Appeal Board (the “Board”) grants the June 1, 2017 appeal of Kristin Lenarduzzi and Marc Niehaus (the “Applicants”), on the refusal of the Municipal Planning Commission of Development Permit Application No. 09/17, for the requested height variance to a two-storey accessory building with upper floor for storage purposes.

The Development Permit application 22/17 for a two-storey accessory building with a height variance on the subject property, legally described property as Lot 14, Block 3, Plan 7188J.K., (within the Hamlet of Lac Des Arcs), is approved by the Board with the following conditions:

1. A 10% (0.54 metre) height variance is granted to the accessory building to a maximum height of 6.0 metres.
2. The balconies and door shown on the second floor of the accessory building (as shown on South (Right) Elevation page 2/4 dated April 5 '17, Alpine Design Studio) are to be removed and a revised drawing submitted to the Planning Department for their approval prior to issuing Development Permit 22/17.
3. The secondary storey can only be used for storage.
4. No water and/or sanitary connections will be allowed to the accessory building.
5. All other conditions for Development Permit 22/17 approved by the Municipal Planning Commission on April 19<sup>th</sup>, and not appealed by the Applicants, are upheld.

### **II. Background**

The Board heard an appeal from the Appellants, with respect to the Development Officer’s Notice of Refusal on Development Permit application 22/17. The Appellants had applied for a development permit for a two-storey accessory building (garage) with a height variance. On April 19, 2017, the Municipal Planning Commission reviewed development permit application 22/17. The Commission determined that a studio suite originally shown on the second storey was not an allowable use and was removed from the floor plan. The Commission stated the height variance for storage in an upper floor accessory building was not needed and decided that it may have been warranted for a suite but not for storage. The Municipal Planning Commission approved Development Permit 22/17 for the accessory building but not the height variance. The Appellant is requesting the Board approve the variance to the height of the accessory building.

The appeal hearing by the Board was held on June 1, 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 Application 22/17 form;
- Copy of the April 25, 2017 Notice of Refusal from the Development Officer;
- Copy of the May 15, 2017 Appeal from the Appellants;
- 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).
- Copy of the real property report/site plan and garage floor plans and elevations;

There were no other submissions, written or verbal, in support or opposition to the decision of the Municipal Planning Commission.

### **Issues Raised**

The Appellants noted the original design had a suite designed to be above the garage. The design was changed when the Appellants realized suites were not legal in Lac Des Arcs. The Applicants were told by their designer that 5.5 metres would not create enough usable space in the second storey. The Appellants requested a variance so the garage could be 6.0 metres in height.

The subject property is zoned as Hamlet Single Detached Residential District (R-1). The maximum height for an accessory building is 5.5 metres. The Board noted that a variance of .54 metres would be required for the accessory building.

In reviewing the plan and elevations for the accessory building, the Board noted the design for the accessory building showed a door and balcony on the second storey for a space intended for a storage use.

The Board noted there were no submissions objecting nor supporting from nearby property owners regarding the Appellant's appeal.

### **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 height of the accessory building would not unduly affect the amenities of the neighbourhood.
- The Board felt the accessory building did not require the balcony and door on the second storey as the intended use of the space is for storage.
- The Board noted there was no opposition raised to the variance request.

The findings of facts are as follows:

- The subject property is zoned as Hamlet Single Detached Residential District (R-1). The maximum height for an accessory building in this land use district is 5.5 metres.
- No objections being brought forward to the S/DAB.
- The floor plans and elevations for the accessory building show a balcony and door on the second storey.
- The use of the second storey is intended for storage use.

June 15, 2017

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.

