



**Board Order
Subdivision and Development Appeal Board**

SUBDIVISION & DEVELOPMENT APPEAL BOARD ORDER

**APPEAL NO. 2022-001
PL20210357**

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED 1/17/2022.

Board Members hearing the Appeal: Michelle Cooze, Jim Bell, Harry Scott, Peter Giraldeau, and Councillor Karen Marra

IN THE MATTER of the *Municipal Government Act*, RSA 2000, c. M-26, as amended (the “MGA”);

AND IN THE MATTER of an appeal by Dale Hildebrand against a deemed refusal of Development Permit Application File Number PL20210357.

This Appeal hearing having been duly opened before the Subdivision & Development Appeal Board on January 6, 2022.

UPON hearing oral submissions from the Appellant and Development Officer;

AND UPON having regard to the Town of Canmore Land Use Bylaw No. 2018-22, the MGA and other relevant planning documents;

APPEAL INFORMATION:

PL20210357

Application for a New Detached Dwelling

135 Cougar Point Road

Lot 35, Block 1, Plan 901 1889

The Appeal is that a decision has not been made by the Development Authority for Development Permit Application No. PL20210357 within the legislated timeframes outlined in the MGA

RELEVANT STATUTORY & PLANNING DOCUMENT PROVISIONS:

1. *MGA*, Part 17, section 684 “Permit deemed refused”.
2. *MGA*, Part 17, section 683.1 “Development applications”.
3. Town of Canmore Subdivision and Development Appeal Board BYLAW 2019-06 (the “SDAB Bylaw”), sections 26.1, 43.1, 43.2, 43.3, 43.4 and 43.5.

SUMMARY OF EVIDENCE PRESENTED:

1. Appellants’ emailed request to withdraw the Appeal, dated December 24, 2021.
2. Verbal presentation of Dale Hildebrand, on behalf of the Appellants, confirming the Appellants’ request to withdraw the Appeal and their reasons for the withdrawal request.



**Board Order
Subdivision and Development Appeal Board**

FINDINGS OF FACT:

1. The Appellants filed a Notice of Appeal on December 7, 2021 pursuant to which they deemed their Development Permit Application File Number PL20210357 refused and sought an appeal of such deemed refusal.
2. A hearing date for the Appeal was set on December 16, 2021 for January 6, 2022.
3. The Appellant emailed a written request to the SDAB Clerk to withdraw the Appeal on December 24, 2021 because a time extension had been agreed between the Appellants and the Town of Canmore Planning Department.
4. The Appellants' request to withdraw the Appeal was clear and unconditional.
5. While Appeal notices were provided by the SDAB Clerk to adjacent property owners pursuant to the provisions of the MGA, no person submitted written materials or attended at the hearing to speak in support or objection of the Appeal.

THE BOARD THEREFORE ORDERS THAT:

The Appellants' request to withdraw the Appeal is ACCEPTED. The Appeal will not be considered on its merits.

REASONS:

1. Sections 26.1, 43.1, 43.2, 43.3, 43.4 and 43.5 of the SDAB Bylaw provide as follows:
 - 26.1 If a request to withdraw an appeal is received after the hearing date has been set, the Board shall open the hearing to determine if there is anyone speaking in support of the appeal, if yes the appeal continues.
 - 43.1 A request made by the appellant to withdraw an appeal must be made in writing and submitted to the SDAB Clerk:
 - (a) before the hearing begins, or
 - (b) after the close of the hearing but before the Board issues its decision
 - 43.2 A request made by the appellant to withdraw an appeal may be made verbally if the request is made during the hearing.
 - 43.3 A request to withdraw an appeal made in writing or verbally must include a statement on the reasons for the request.
 - 43.4 A withdrawal of an appeal must be unequivocal and unconditional.
 - 43.5 Withdrawals submitted by e-mail will be accepted in accordance with the timing outlined in section 43.1.
2. Based on the Findings of Facts provided above, the requirements of sections 26.1, 43.1, 43.2, 43.3, 43.4 and 43.5 of the SDAB Bylaw have been met.



**Board Order
Subdivision and Development Appeal Board**

1/17/2022

Date Signed

DocuSigned by:

0005A64A3D0042E...
VICE CHAIRPERSON MICHELLE COOZE
SUBDIVISION & DEVELOPMENT APPEAL BOARD

A decision of the Subdivision and 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 Section 688 (1) & (2) of the *Municipal Government Act*, RSA 2000, c. M-26, as amended.

An application for leave to appeal to the Court of Queens Bench shall be made:

- a) to a judge of the Appellant Division, and;
- b) within 30 days after the issue of the order, decision, permit or approval sought to be appeal.