



**Board Order
Subdivision and Development Appeal Board**

SUBDIVISION & DEVELOPMENT APPEAL BOARD ORDER

**APPEAL NO. 2022-006
PL20210505**

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED MAY 9, 2022.

Board Members hearing the Appeal: Graham Lock, Harry Scott, Jim Bell, 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 Paul and Nola Stoliker against the refusal of Development Permit Application File Number PL20210505.

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

UPON hearing oral submissions from the Appellants, Applicants, Members of the Public, 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:

PL20210505

Lot 29, Plan 781 00778

302 Larch Place

**For an Alteration and Addition (with Height Variance) to an Existing Detached Dwelling
Appeal against an approval by a Development Officer.**

RELEVANT STATUTORY & PLANNING DOCUMENT PROVISIONS:

1. Municipal Government Act, RSA 2000, c M-26 (the “**MGA**”), in general, and specifically;
 - a. Section 642
 - b. Section 687 (3) (c), (d)
2. Town of Canmore Subdivision and Development Appeal Board BYLAW 2019-06 (the “**SDAB Bylaw**”) in general.
3. Town of Canmore Municipal Development Plan (the “**MDP**”) in general, and specifically;
 - a. Section 4.5.1.
 - b. Section 6.0
4. Town of Canmore Land Use Bylaw 2018-22 (the “**LUB**”) in general, and specifically;
 - a. Section 1.14.1
 - b. Section 1.14.1.3
 - c. Section 1.8
 - d. Section 1.9
 - e. Section 2.8



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- f. Section 3.15
- g. Section 10.2.0.2

SUMMARY OF EVIDENCE PRESENTED:

1. 33-page Staff Report to the Subdivision and Development Appeal Board (the “**SDAB**”) from the Town of Canmore’s Planning and Development Supervisor, M. Henry, and Planning Technician, E. Bjorge, inclusive of eight Attachments (the “**Planning Department Report**”).
2. Notice of Appeal dated April 7, 2022 submission by the Appellants, P. and N. Stoliker.
3. A 4-page Written Submission of the verbal presentation before the Board by the Appellants, P. and N. Stoliker.
4. An 8-page Written Submission by the Applicant Spokespersons, R. Spinner with HSS Design Build, on behalf of landowner, H. Hunter.
5. Notification to the Appellant and Applicant was dated April 19, 2022, from the SDAB Clerk, K. Bravo-Stewart.
6. Notification to the Adjacent Neighbours was dated April 21, 2022, from the SDAB Clerk, K. Bravo-Stewart.
7. Summary presentation, including a PowerPoint presentation, from the Town of Canmore’s Planning Technician, E. Bjorge.
8. Verbal presentation, by the Appellants, P. and N. Stoliker.
9. Verbal presentation, referring to the written submission that formed part of the SDAB Package, from the Applicant’s Spokesperson, R. Spinner with HSS Design Build

FINDINGS OF FACT:

1. The Applicant’s Agent, R. Spinner with HSS Design Build, filed an application with one variance on December 20, 2021, Application File Number PL20210505 (the “**Application**”), for a residential addition and renovation to manufactured dwelling with a maximum building height variance (the “**Maximum Height Variance**”).
2. The Development Officer issued a Notice of Decision on March 17, 2022 approving the Application, subject to conditions (the “**Approval**”).
3. The Appellant filed a Notice of Appeal on April 7, 2022 (the “**Appeal**”) against the Approval on the basis that the approved Maximum Height Variance exacerbates (a) negative impacts to views, (b) negative impacts of south aspect light and (c) lack of suitability of the character established by surrounding homes which do not exceed the maximum height under the LUB such as his own home.
4. A hearing date for the Appeal was set on April 19, 2022, for May 6th, 2022.
5. The Appellants, P. and N. Stoliker, are an affected property owner adjacent to the subject site.
6. The subject property has an existing Manufactured Dwelling within the MHR – Residential District.
7. The Applicant’s agent and spokesperson for the Appeal was, R. Spinner with HSS Design Build
8. The Maximum Height Variance approved by the Development Officer was 7.9% using the building envelope model pursuant to Section 2.8.2 of the LUB, and excluding the additional height of the eave projection from the calculation in accordance with the Planning Department’s interpretation of the LUB.
9. The requested Maximum Height Variance and the Permit approval were within the Authority of the Development Officer even if the additional height of the eave projection was to be included in the variance calculation.
10. Although the Appellants submitted that the neighbourhood is intended for bungalows, there is no prohibition in Section 3.15 (MHR Residential Manufactured Dwelling District) of the LUB against two story homes. Further, the dwelling on the other side of the subject site is a two-story slab foundation dwelling.



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11. The slope of the roof design is in keeping with design for energy efficiency and aesthetics of the neighbourhood.
12. Appellants expressed concern over the impact of the development on their view and on sunlight. Their concern regarding sunlight was withdrawn during their verbal presentation to the Board.
13. The Board considers that due to the fact that the roofline will be toward the center of the Applicant’s building and opposite to the Appellants’ property, the impact of the Maximum Height Variance on the Appellants’ views would only be marginally negatively affected.
14. The Appellants submitted that in their opinion the impact of the proposed development on their views would negatively impact the value of their home; however, the Appellants did not submit any expert opinion evidence to the Board to support their submission. Accordingly, the Board does not make a finding of fact regarding negative impact to the value of their home.
15. The Applicant’s building orientation on the subject site maximizes light onto the Appellants’ property.
16. The LUB conformance review submitted by the Planning Department indicates that the front yard setback, rear yard setback, and site coverage of the proposed development are significantly less than permitted under the LUB.
17. The proposed development enhances building energy efficiency and fits within the gradual redevelopment and change of established neighbourhoods as provided in Section 4.5.1 and Section 6.0 the MDP.

THE BOARD THEREFORE ORDERS THAT:

The appeal be DENIED and Development Permit PL20210505 be APPROVED be issued subject to the conditions of the attached Schedule “A”.

REASONS:

Based on the foregoing findings of fact, the Board is of the opinion that:

- (i) The proposed development would not
 - a. unduly interfere with the amenities of the neighbourhood, or
 - b. materially interfere with or affect the use, enjoyment, or value of the neighbouring parcels of land,
 and
- (ii) The proposed development conforms with the use prescribed for the land or building in the LUB.

5/9/2022 | 10:58 AM PDT

Date Signed

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CHAIRPERSON, GRAHAM LOCK
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.