



**Board Order
Subdivision and Development Appeal Board**

SUBDIVISION & DEVELOPMENT APPEAL BOARD ORDER

**APPEAL NO. 2022-008
PL20210477**

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED MAY 19, 2022.

Board Members hearing the Appeal: Graham Lock, Michelle Cooze, Harry Scott, 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 Edward and Jody Keenan against the approval of Development Permit Application File Number PL20210477.

This Appeal hearing having been duly opened before the Subdivision & Development Appeal Board on May 11, 2022.

UPON hearing oral submissions from the Appellant, Applicant, 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:

PL20210477

Lot 8, Block 22, Plan 161 1360

442 Stewart Creek Close

Renewal of a Bed & Breakfast

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 (2)
 - 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 6.2.3
4. Town of Canmore Land Use Bylaw 2018-22 (the “**LUB**”) in general, and specifically;
 - a. Section 1.10.0.3
 - b. Table 2.7.3
 - c. Section 8.3.0.7
 - d. Section 8.3.0.10
 - e. Section 8.3.0.11. (b), (c)
 - f. Section 8.3.0.13



Board Order Subdivision and Development Appeal Board

- g. Section 8.4.1.1.(b)
- h. Section 13

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 13, 2022 submission by the Appellant, E. Keenan.
3. A 1-page Written Submission with three attachments was provided to the Board by the Appellants, E. Keenan.
4. A 2-page Written Submission with two attachments by the Applicants, J. and M. Morris.
5. Notification to the Appellant and Applicant was dated April 26, 2022, from the SDAB Clerk, K. Bravo-Stewart.
6. Notification to the Adjacent Neighbours was dated April 28, 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 and PowerPoint presentation by the Appellant, E. Keenan.
9. Verbal and PowerPoint presentation by the Applicant, J. Morris.
10. Virtual building tour by the Applicant, J. Morris.
11. Virtual presentation of the Air BnB advertisement and profile by the Applicant, J. Morris.

FINDINGS OF FACT:

1. The Applicants, J. and M. Morris, filed an application for a renewal on January 6, 2022, Application File Number PL20210477 (the “**Application**”), for the renewal of a Bed and Breakfast.
2. The Development Officer issued a Notice of Decision on January 6, 2022 approving the Application, subject to conditions (the “**Approval**”).
3. The Planning Technician noted that the posting of the Notice of Decision sign by the Applicants on the subject site took longer than normal, but all the required steps outlined in the LUB process were met.
4. The Appellant filed a Notice of Appeal on April 13, 2022 (the “**Appeal**”) against the Approval on the basis that:
 - a. Separate access allows it to be used as a Tourist Home Accommodation instead of B&B Accommodation and;
 - b. Observes parking on street instead of in garage or on driveway and;
 - c. Cooking and preparation areas within the unit and;
 - d. Customers are often unknown in the community causing security concerns.
5. A hearing date for the Appeal was set on April 26, 2022, for May 11, 2022.
6. The Appellant, E. Keenan, is an affected property owner adjacent to the subject site.
7. The subject property is part of an existing Duplex within the R2A-SC Residential District, this district lists Bed and Breakfast as a Discretionary Use.
8. The Applicants, J. and M. Morris, are the owners of the subject property and operate the Bed and Breakfast.
9. Owners indicate rental has only been a handful of times (5 times in the past 2 years).
10. The Board noted that there are two accesses to the Bed and Breakfast. One through the front door, and one rear entrance. The Owners allow users to use the rear entrance should they prefer during Covid-19 times.
11. It was noted by the Owner that parking is provided as required in the LUB.
12. Planning Technician noted that this facility has not been designated as an Accessory Dwelling Unit.



Board Order Subdivision and Development Appeal Board

13. The bedroom appeared to accommodate three guests instead of maximum of two as outlined in the LUB. The Applicant noted that this was for the benefit of accommodating a small family.
14. The Board noted that the Applicants permit use of the guest rooms by two adults plus one child.
15. The Applicant acknowledge that signage had been removed when the Bed and Breakfast was not actively advertised.
16. The Applicants are owners, occupants, and permanent residents of **442 Stewart Creek Close**.
17. The Property is in the “**R2A-SC**” District of the Town of Canmore.
18. The Property consists of one unit of a duplex dwelling with the Applicants’ primary residence on the main floor and one guestroom on the lower floor.
19. The guestroom is rented by the Applicants to tourist guests on a short-term basis. They also allow visiting friends to use the space from time to time.
20. The Applicants are chefs with experience in the hospitality industry. While their original intent was to host guests for breakfast in the kitchen on the main floor of the Property, they were unable to do so due to the COVID-19 pandemic. Instead, the Applicants’ provide a continental breakfast adjacent to the guestroom.
21. Access to the guestroom is provided via an interior door (which can be locked) to the principal Dwelling Unit and the back entrance to the Dwelling Unit.
22. The Applicants operated the guestroom as a Bed and Breakfast for a number of months under their initial Development Permit prior to COVID-19.
23. The Applicants, together with their children, are the “permanent”, “principal” and “primary” residents of the Principal Dwelling

THE BOARD THEREFORE ORDERS THAT:

The appeal be **DENIED** and Development Permit PL20210477 be **APPROVED** be issued subject to the conditions of the attached amended Schedule “A”.

REASONS:

- The Board concludes that the facility is not being used in such a manner that would violate Section 8.3.0.11. (b) of the LUB.
- The Board accepts the Use of the rear entrance as reasonable during Covid-19 times. The Applicant also allows access through the home from the front door in accordance with the LUB.
- The Board observes that parking complies with the requirements of the LUB, and this was determined by the evidence presented at the hearing.
- The Board does not believe that a Fridge and a Microwave constitutes a full kitchen for the preparation and cooking of meals. The guest unit is being operated in compliance with the LUB. The Board finds that there is no BBQ either available to the guests adjacent to the guest unit.
- Consumption of food within the guest unit, does not violate the Bed and Breakfast Regulations outlined in the LUB.
- Past utilization of the Bed and Breakfast at this residence has not duly materially affect the surrounding area, nor has it shown to affect the quiet enjoyment of the neighbouring parcels of land.
- The Board noted that signage was not being used in accordance with the LUB, and therefore signage is required to be posted at the site in accordance with Section 8.3.0.13 of the LUB.
- The SDAB, therefore, grants a variance in respect of Section 8.3.0.7 permitting the Applicants to accommodate up to two adults and one child, for a maximum of three people, in its guestroom at any time, which is reflected in Schedule “A” as a condition of approval.



**Board Order
Subdivision and Development Appeal Board**

5/19/2022 | 3:28 PM PDT

Date Signed

DocuSigned by:

Graham Lock

**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.