



**Board Order
Subdivision and Development Appeal Board**

SUBDIVISION & DEVELOPMENT APPEAL BOARD ORDER

**APPEAL NO. 2022-009
PL20210423**

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED JUNE 15, 2022.

Board Members hearing the Appeal: Michelle Cooze, Harry Scott, and Jim Bell

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 Sean Hennessey et al against the approval by the Canmore Planning Commission of Development Permit Application File Number PL20210423.

This Appeal hearing having been duly opened before the Subdivision & Development Appeal Board on April 21 and May 31, 2022.

UPON hearing oral submissions from the Appellants, the 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:

PL20210423

1330, 1338, 1342 1st Avenue Plan 1095f, Block 94

that Portion of Lot 15 which lies to the SE of the NW 25 feet

thereof and all of Lot 16 Plan 1095f, Block 94

Lot 14 and the NW 25 feet throughout of Lot 15

Plan 1095f, Block 94, Lot 13

13 Townhouse Units and 6 Common Amenity Housing Units Development

Maximum Density, Maximum Eave Line Height, Maximum Canopy Projection in Rear

Yard, and Building Step back Variance.

Appeal against an approval by the Canmore Planning Commission

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;



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- a. Section 2.3.1
- b. Section 5.1.1
- c. Section 5.3.4
- d. Section 6.1.5
4. Town of Canmore Teepee Town Area Redevelopment Plan (the “**ARP**”) in general, and specifically;
 - a. Section 3.1
 - b. Section 4.1.2
5. Town of Canmore Land Use Bylaw 2018-22 (the “**LUB**”) in general, and specifically;
 - a. Section 1.10.0.3
 - b. Section 2.4.3
 - c. Section 2.7.7
 - d. Section 3.18.2
 - e. Section 8.7.0.1
 - f. Section 11
 - g. Section 13

SUMMARY OF EVIDENCE PRESENTED:

1. Notice of Appeal dated March 22, 2022 (the “**Appeal**”), including an attached 3-page document outlining reasons for the Appeal, by the Appellants’ Representative, S. Hennessey, that represents the following persons (collectively, the “**Appellants**”):
 - a. S. Hennessey; 2, 1401 1st Ave
 - b. R. MacDonald; 2, 1401 1st Ave
 - c. B. Turcotte; 1-1411 1st Ave
 - d. D. Turcotte; 1-1411 1st Ave
 - e. T. van Kessel; 1, 1401 1st Ave
 - f. C. Gaunce; 1, 1401 1st Ave
 - g. C. Chu; 1239A 1st Ave
 - h. R. Khuu; 1239A 1st Ave
 - i. J. Young; 2, 1411 1st Ave
 - j. J. Young; 2, 1411 1st Ave
 - k. J. Rayne; 135 15th St
 - l. A. Schantz; 3, 1401 1st Ave
 - m. S. Schantz; 3, 1401 1st Ave
2. Undated 42-page Staff Report to the Subdivision and Development Appeal Board (the “**SDAB**”) from the Town of Canmore’s Manager of Planning and Development, L. Miller, and the Development Planner, R. Welden, inclusive of six Attachments (the “**Planning Department Report**”).
3. Notification to the Appellants and Applicant dated March 24, 2022, from the SDAB Clerk, K. Bravo-Stewart.
4. Notification to the Adjacent Neighbours dated March 25, 2022, from the SDAB Clerk, K. Bravo-Stewart.
5. April 6, 2022, correspondence of J. Muir in non-support of the Appeal.
6. April 6, 2022, correspondence of K. Milliken in non-support of the Appeal of the Variances and neutral regarding parking.
7. April 9, 2022, correspondence of S. Birch in non-support of the Appeal.
8. April 12, 2022, correspondence of J. Schumacher in support of the Appeal.
9. April 13, 2022, 26-page correspondence, inclusive of 7 Attachments, of the Applicant, Arbus Mountain Homes Inc., as represented by Dale Hildebrand (the “**Applicant**”).
10. April 13, 2022, correspondence of R. Khuu in support of the Appeal
11. April 13, 2022, correspondence of T. Van Kessel in support of the Appeal.



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12. April 13, 2022, correspondence of A. and M. Bryant in non-support of the Appeal.
13. April 13, 2022, correspondence of N. Rainey in non-support of the Appeal.
14. April 14, 2022, email correspondence in support from S. and A. Schantz, received as a late submission
15. April 18, 2022, correspondence of C. Mullen in non-support of the Appeal and neutral regarding parking, received as a late submission.
16. April 20, 2022, 29-page correspondence of the Applicant outlining a compromise development proposal reached with the Appellant (the "**Compromise Development Proposal**"), inclusive of a comparison of development alternatives, a revised Schedule "A" reflecting the Compromise Development Proposal, and a Sustainability Screening Report Process Impact Matrix for the Compromise Development Proposal, received as a late submission.
17. April 20, 2022, correspondence of J. Schumacher in support of the Appeal, received as a late submission.
18. April 20, 2022, correspondence of J. Young neutral regarding the Appeal, received as a late submission.
19. Verbal presentation, including a PowerPoint presentation, of the Town of Canmore's Development Planner, R. Welden.
20. Verbal presentation of the Appellants' Representative, S. Hennessey.
21. Verbal presentation of J. Young speaking in support of the Appeal.
22. Verbal presentation of the Applicant's Representative K. Elhatton-Lake (Shores Jardine LLP).
23. Verbal presentation, including a PowerPoint presentation and video recording, of the Applicant.
24. Verbal presentation, including a PowerPoint presentation, of the Applicant's Representative K. Faber (WSP).
25. Verbal presentation of the Town of Canmore's Development Planner, R. Welden, providing additional information in response to questions from the Board.

FINDINGS OF FACT:

1. The Applicant filed an application on November 4, 2022, Application File Number PL20210423 (the "**Application**"), for the development of 13 Townhouse units and 6 Common Amenity units on three (3) properties located at 1330, 1338 and 1342 1st Ave, which development Application included variance requests for maximum density, maximum eave line height, maximum canopy projection in rear yard and building step back (the "**Proposed Development**").
2. The Canmore Planning Commission (the "**Development Authority**") issued a Decision approving the development Application for the Proposed Development on February 23, 2022, subject to conditions of approval in Schedule "A" attached thereto (the "**Approval**"). The Notice of Decision was signed March 1, 2022.
3. The Appellants filed the Appeal on March 22, 2022 (the "**Appeal**") against the Approval on the basis of the following:
 - a. Zoning
 - b. Parking
 - c. Traffic
 - d. Variances
 - e. Garbage disposal
 - f. Noise
4. A hearing date for the Appeal was set on March 24, 2022, for April 21, 2022.
5. The hearing of April 21, 2022 was postponed to May 31, 2022 due to the volume and nature of new information submitted following circulation of the SDAB Package, including the Compromise Development Proposal.
6. The Appellants are affected property owners located adjacent, or in close proximity, to the Proposed Development.



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7. The Applicant is the owner of the subject properties.
8. The Development Officer determined that a new development permit application would be required to evaluate the Compromise Development Proposal and notified the Applicant of its determination. Accordingly, on or about May 16, 2022, the Applicant advised Mr. Hennessey as representative of the Appellants that the Applicant was withdrawing the Compromise Development Proposal from consideration by the SDAB for approval.
9. The Proposed Development is in TPT-CR Teepee Town Comprehensive Redevelopment District - Sub-District A ("**Sub-District A**"), as set out in Section 3.18.2 of the LUB.
10. "Townhouse" and "Townhouse, Stacked" are permitted uses in Sub-District A (3.18.2.2 LUB).
11. "Common Amenity Housing" is a discretionary use in Sub-District A (3.18.2.3 LUB).
12. The proposed Common Amenity Housing units are each designed to consist of a common kitchen, a common living room area, a common laundry facility and five separate bedrooms with private bathrooms. The total number of proposed bedrooms in the Common Amenity Housing units is 30.
13. The Applicant intends to sell or lease the Common Amenity Housing units to employers who seek to provide longer term housing for their employees, with each bedroom housing a single employee or two employees cohabitating.
14. Although the Applicant committed to the Development Authority that the Common Amenity Housing Units would only be leased or sold to employers for use by mature employees, neither the Applicant nor the Planning Department has proposed a legal mechanism by which the Town of Canmore can enforce the use of such units in this manner.
15. The site includes a private outdoor amenity forming a central open space between the buildings along 1st Ave. and the buildings at the back of the site along the rear lane. This central open space reduces the overall massing impact of the development and allows for more access to natural light when compared to standard townhouse development.
16. Automobile parking for the townhouses in the Proposed Development complies with the requirement of Table 2.7.3 of the LUB.
17. Automobile parking for the Common Amenity Housing in the Proposed Development has been determined through the completion of a parking study by a qualified professional, WSP Canada Group Inc. ("**WSP**"), in accordance with the requirement of Table 2.7.3 of the LUB (the "Parking Study").
18. The Parking Study concludes that the provision of more than 12 vehicle stalls would likely be an oversupply of parking under most operations of the site. In the event that the Common Amenity Housing is consistently occupied by more than 40 residents, and if those residents have a higher rate of vehicle ownership than anticipated, then there may be a demand for on-street parking.
19. Written submissions from J. Muir, a Canmore hotel operator, and S. Birch, the CEO of Banff Caribou Properties, indicate that automobile ownership of employees housed in staff accommodations and employer managed housing were approximately 15% and 10-15% of occupants, respectively. Even in a maximum occupancy scenario of two occupants per bedroom of Common Amenity Housing, at a 15% ownership rate the number of automobiles would be 9, less than the 12 parking stalls allocated to Common Amenity Housing in the Proposed Development.
20. The Proposed Development includes a total of 48 bicycle parking stalls, including two stalls for the townhouses.
21. The Proposed Development is located within reasonable walking and cycle distances from grocery stores, the Town of Canmore's Main Street and a Roam transit stop.
22. Although it is reasonable to expect that there may be additional off-site automobile parking in the neighborhood from time to time because of the Proposed Development, the SDAB is of the opinion that such additional off-site automobile parking would not unduly interfere with the amenities of the neighborhood.



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23. WSP submitted that the Institute of Transportation Engineers (ITE) Trip Generation Manual generates an expected 78 daily trips from the Proposed Development compared to an estimated 40 daily trips from the existing single-family homes.
24. The Proposed Development is expected to be governed by the bylaws of a single condominium corporation and contain restrictions on noise.
25. Subdistrict A sets the maximum density per hectare. With a site area of 0.244 ha, the maximum number of units for the subject site is 16 units. The Proposed Development consists of a total of 19 units, which is three over the total maximum number of units. This results in 77.8 units per hectare, which is 18% over the maximum density standard.
26. The density of the Proposed Development on the front of the site along 1st Ave. is 73 units/hectare and the density on the rear of the site along the lane is 81 units/hectare.
27. The proposed eaveline height is 8.14 m, which is 0.66 m, or 8.5%, above the maximum eaveline height established by Section 3.18.2.11 of the LUB.
28. Section 3.18.2.9 of the LUB requires that the front and rear facing facades of a building above the designated eaveline height are to be stepped back a minimum of 1 m from the building facade below. The Proposed Development does not include a step back at this height and therefore a 100% variance is required.
29. Section 2.4.3 of the LUB permits a canopy to project 0.61 m into the rear yard of a residential property. The Proposed Development includes a canopy that projects to the rear property line and therefore a variance is required.
30. The SDAB concurs with the submissions of R. Welden that the playground located 125 m southeast of the subject site addresses the requirement of Section 8.7.0.1 of the LUB.

THE BOARD THEREFORE ORDERS THAT:

The appeal be **DENIED** and Development Permit PL20210423 be **APPROVED** subject to the conditions of the attached amended Schedule "A".

REASONS:

A. Prescribed Uses

A-1. Permitted Uses

The Appellants did not raise any issue in their Appeal as to whether Approval of the 13 Townhouse Units met the definition and approved use of "Townhouse" in the LUB. Nevertheless, the SDAB is of the view that it is incumbent upon it to determine if the Proposed Development meets the definitions of the prescribed uses in the LUB.

The SDAB finds that four-unit townhouse building and the five-unit townhouse building fronting onto 1st Avenue, described by the Applicant as Building #1 and Building #2, respectively, fit the use definition of "Townhouse".

The SDAB finds that the two buildings containing two townhouses and three proposed Common Amenity Housing units each and situated at the rear of the site along the lane, described by the Applicant as Building #3 and Building #4, respectively, are "Townhouse, Stacked" units, which is a permitted use in the LUB, rather than "Townhouse" units, for the following reasons:

- As defined in the LUB, **Townhouse** means a single building comprised of three or more Dwelling Units separated from each other by walls extending from foundation to roof, with each Dwelling Unit having a separate, direct, at grade entrance. This includes all row, linked, patio, garden court or other



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housing which meet these criteria. A Townhouse development may consist of a group of buildings each of which contains three or more Dwelling Units.

- As defined in the LUB, **Townhouse, Stacked** means a multiple-unit dwelling comprised of three or more Dwelling Units and constructed such that one or more Dwelling Units are located totally or partially above another Dwelling Unit, and each having a separate, direct entrance from grade or a landscaped area. A Townhouse, Stacked development may consist of a group of buildings each of which contains three or more Dwelling Units.
- As each of Building #3 and Building #4 only contain two Dwelling Units separated from each other by walls extending from foundation to roof and having a separate, direct, at grade entrance, those Dwelling Units do not meet the definition of "Townhouse".
- Building #3 is attached to what the Applicant describes as Building #5a and Building #4 is attached to what the Applicant describes as Building #5b. Each of Building #5a and Building #5b are proposed to contain 3 Dwelling Units that fit the definition of "Townhouse/Stacked", even though the Applicant has applied for development approval for these buildings as Common Amenity Housing and the Development Authority has approved such use in the Approval.
- For purposes of determining the applicable use under the LUB for the units in Building #3 and Building #4, the SDAB is of the view that it is reasonable to consider them to be Townhouse, Stacked units as part of a Townhouse, Stacked development that includes the units in Building #5a and Building #5b, respectively.

A-2. Discretionary Use

The Appellants did not raise any issue in their Appeal as to whether the approved use in the Approval of 6 Common Amenity Housing Units met the definition of "Common Amenity Housing" in the LUB. The Approval constitutes the first time that the Development Authority has approved a Common Amenity Housing development, and therefore the SDAB is of the view that it is particularly important for it to consider if the Proposed Development of 6 Common Amenity Housing units meets the use definition of "Common Amenity Housing".

The use proposed by the Applicant and approved in the Approval for the 6 units collectively in Buildings 5a and 5b is "Common Amenity Housing". As the SDAB has determined above, the units in Buildings 5a and 5b may also be considered as "Townhouse, Stacked" units as part of a Townhouse, Stacked development when considered together with Building 3 and Building 4; however, the SDAB will proceed in assessing the Appeal on the basis approved in the Approval that such units are proposed as Common Amenity Housing units.

The SDAB finds that the proposed Common Amenity Housing units do not conform to the definition of "Common Amenity Housing" in the LUB without a change to the proposed interior configuration of such units for the following reasons:

- As defined in the LUB, **Common Amenity Housing** means a building with separate sleeping facilities and common washing, sanitary and kitchen facilities.
- The Applicant has proposed in its Application that each unit will contain five individual bedrooms with private – not common – bathrooms.
- While the Applicant has submitted that the proposed interior design would contain shared laundry facilities and would contain shared sanitary facilities if more than one person occupies a bedroom, the



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SDAB is of the view that this proposed design does not meet the definition's requirement of "common washing, sanitary facilities".

- The six (6) units categorized as "Common Amenity Housing" would, however, conform with the prescribed use if "common washing, sanitary facilities" were provided.

Notwithstanding the foregoing, the Applicant advised the SDAB, and the SDAB accepts, that minor design modifications could be made to the 6 units to provide for "common washing, sanitary" facilities.

In view of the foregoing finding, the SDAB therefore directs, as a condition precedent to its refusal of the Appeal and Approval of the Development Proposal, that the design of the 6 units in Building 3 and Building 4 be amended to provide for "common washing, sanitary facilities" so that the units conform with the definition and prescribed use of "Common Amenity Housing", as determined by the Development Officer. In the SDAB's view, the definition and prescribed use could be met if, among other possible design options, each unit were designed to provide direct access to at least one bathroom from the common area or if a half bath (i.e., a bathroom containing a toilet and a sink) is provided as a common amenity.

B. Approval of the Proposed Common Amenity Housing

The SDAB has considered the provisions of Section 1.10.0.3 of the LUB. Subject to compliance with the condition precedent identified in A-2 above, the SDAB approves the Common Amenity Housing component of the Proposed Development for the following reasons:

- The proposed Common Amenity Housing development aligns with the MDP's goals and policy direction as it provides a form of affordable market housing in an existing neighbourhood by including common amenity housing; consists of a multi-unit residential development that provides more variety and mix of housing types; contributes to greater inclusivity and gradual redevelopment and change of an existing neighbourhood; and provides the potential for additional employee housing.
- Section 4.1 of the ARP states that common amenity housing shall be supported in this area of Teepee Town.
- Section 3.1 of the ARP can be reconciled with the proposed Common Amenity Housing development as the proposed Common Amenity Housing units will be located at the rear of the site along the back lane rather than along 1st Avenue and are a transition to the permitted high-density area (i.e., no maximum density) of Sub-District B across the back lane.
- The central open space between the buildings at the front of the site and the buildings at the rear of the site assists in ensuring that access to light and privacy of neighbouring property are not unduly impacted.
- Based on the SDAB's review of the Parking Study, submissions from Administration regarding the acceptability of the Parking Study and the SDAB's review and analysis of the submissions from J. Muir and S. Birch, the SDAB is of the view that 12 parking stalls is adequate.
- Specific Condition 18 of Schedule A of the Approval, which requires that the Applicant undertake detailed design and construction of a 1.8m sidewalk, curb and gutter, boulevard, and streetlighting to fit in with the future streetscape and tie this development into the neighbourhood along the 1st Avenue frontage of the site, helps to mitigate against potential negative safety effects of increased traffic.
- Specific Condition 11 of Schedule A of the Approval, which requires that the Applicant agrees to pay a levy and then a monthly fee, as established by and to satisfaction of the Town of Canmore, for use of the Town's solid waste services for the Proposed Development, significantly mitigates against the effect of increased garbage that would be generated because of the proposed Development.



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- Condominium bylaws, which apply to the Proposed Development (the two Townhouse buildings and the two Townhouse/Stacked buildings which include the Common Amenity Housing units), would act as a deterrent to undue generation of noise by residents of the Proposed Development – including the Common Amenity Housing units.

C. Variances Approved by the Development Authority

The Development Authority approved the following variances to the LUB as part of the Approval (the “**Approved Variances**”):

- Section 3.18.2.12 – Maximum Density: Increase maximum density from 66 units per hectare to 77.8 units per hectare (the “**Density Variance**”).
- Section 3.18.2.11 – Maximum Eaveline Height – Increase maximum eaveline height from 7.5 m to 8.14 m. (the “**Eaveline Height Variance**”).
- Section 3.18.2.9 – Required Building Step Back Above Eaveline – Allow no minimum step back above the eaveline for the front and rear facades of all buildings from the required 1.0 m (the “**Step Back Variance**”).
- Section 2.4.3 – Maximum Permitted Canopy Projection into the Rear Yard: Allow the canopy to project to the rear property line from the 0.6 maximum permitted projection (the “**Canopy Projection Variance**”).

The SDAB confirms the Approved Variances. Taking into consideration the SDAB’s variance power under Section 687(3)(d) of the MGA, following the SDAB’s conclusion that the Proposed Development conforms with uses prescribed for the area, for the reasons set forth below, the SDAB is of the opinion that the Proposed Development, including the Approved Variances, would not (a) unduly interfere with the amenities of the neighbourhood, or (b) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land.

C-1. Density Variance

- The Density Variance was within the Development Authority’s discretion to approve pursuant to Section 1.14.1.1 of the LUB.
- The Planning Department Report notes for comparison purposes that the R4 Residential Medium Density District established a density range of 49-98 units per hectare. The density of the Proposed Development of 77.8 units per hectare is within this range.
- Since the Density Variance is driven in large part by the proposed Common Amenity Housing units, for the reasons set out above under “Approval of the Proposed Common Amenity Housing”, there is a strong planning reason to support this increased density.
- The higher density in the rear of the site along the back lane than at the front of the site along 1st Ave. acts as a transition to the unlimited density in Sub-District B across the back lane.
- While the Development is likely to have some negative impact on sunlight to adjacent properties, increased off-site parking and an increase in traffic, these potential negative effects are partially mitigated by several of the matters addressed under “Approval of the Proposed Common Amenity Housing Above”, including the central open space, the findings of the Parking Study, and Specific Conditions 11 and 18. Accordingly, the SDAB is of the opinion that these potential negative effects would not rise to the level of “unduly interfere with” or “materially interfere with or affect”.



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- The portion of the proposed Development fronting on 1st Ave consists of single-family townhouses consistent and compatible with other homes in the area. The architectural design of the townhouses is modern, contemporary, and aesthetically pleasing.
- No evidence was provided relating to the proposed Development having a potentially negative impact on the value of surrounding properties.
- In addition to the foregoing, the proposed Development will assist the Town of Canmore in achieving the affordable housing and increased variety of and mix of housing goals as set out in the MDP.

C-2. Eaveline Height Variance & Step Back Variance

- While the building eaveline is 0.64m above the maximum and the building above the eaveline is not stepped back from the eaveline, the design of the buildings provides for lower grade roofs so that total height meets the maximum height restrictions without need for a maximum building height variance.
- Although there is no step back above the designated eaveline height of 7.5 m, a large portion of each building's front and rear facades is stepped back 0.6 m. As a result, the building step back spans from grade to eaveline and not exclusively at the top of the building from the designated eaveline height.
- The buildings include and a high degree of articulation, including stepping the building back, balconies, framed windows and materials and colour variation to break up the overall mass of the building structures.
- The Appellants submitted in the Appeal that the Eaveline Height Variance as well as the Step Back Variance will impact the view and amount of light received by neighbours on either side of the Proposed Development. Two written submissions in support of the Appeal submitted that the Eaveline Height Variance will contribute to less light in the area. The SDAB notes, however, that no evidence was provided by the Appellants or the foregoing written submissions to support these contentions.
- The central open space assists in ensuring that access to light and privacy of neighbouring property are not unduly impacted. The slope of the roof line also lessens the impact to sunlight and views to pedestrians passing by along 1st Ave. or the back lane.
- Given the overall aesthetic appearance of the proposed Development, the lack of evidence supporting material negative effects of allowing the variances and the positive benefit the proposed Development would provide to the public in the form of potential new affordable and employee accommodation, the SDAB approves the Eaveline Height Variance and the Step Back Variance.

C-3. Canopy Projection Variance

- The Appeal reasons did not include any objection to the canopy projection.
- No concern about the canopy projection was raised in any oral or written submissions by the Appellants or by others supporting the Appeal.
- The purpose of the canopy is to cover the proposed bicycle parking areas in the rear yard in accordance with guidance from the Engineering Department.
- The canopy is located at the enter of the parcel, adjacent to the back lane and would have minimal impact on adjacent properties of residents living on site.
- Cycling will be important to the day-to-day lifestyle of residents and providing secure bicycle parking is important to ensure that this is successful.
- Based on the positive aspects of the canopy projection and the absence of evidence of material negative effects, the SDAB approves the Canopy Projection Variance.



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6/15/2022 | 10:40 AM PDT

DocuSigned by:

Date Signed

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VICE CHAIR, 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.