



**Board Order
Subdivision and Development Appeal Board**

SUBDIVISION & DEVELOPMENT APPEAL BOARD ORDER

**APPEAL NO. 2022-010
PL20220047**

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED JULY 25, 2022.

Board Members hearing the Appeal: Graham Lock, 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 E. Burghardt and A. Jung against the refusal of Development Permit Application File Number PL20220047.

This Appeal hearing having been duly opened before the Subdivision & Development Appeal Board on July 20, 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:

PL20220047

Lot 22, Block 77, Plan 9910432

628 1st Street

Attached Garage and Mud Room to an Existing Dwelling Appeal against a refusal 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.
4. Town of Canmore Land Use Bylaw 2018-22 (the “**LUB**”) in general, and specifically;
 - a. Section 1.9.0.1.q.
 - b. Section 1.14.1.1.
 - c. Section 3.1.
 - d. Section 8.1.0.6.



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SUMMARY OF EVIDENCE PRESENTED:

1. 26-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 seven Attachments (the “**Planning Department Report**”).
2. Notice of Appeal dated June 22, 2022 submission by the Appellant/Applicant, D. Burghardt and A. Jung.
3. 2-pages of new information was accepted by the Board. These pages contained corrected drawings that formed part of the Planning Department Report.
4. Notification to the Appellant/Applicant dated June 28, 2022, from the SDAB Clerk, K. Bravo-Stewart.
5. Notification to the Adjacent Neighbours dated June 30, 2022, from the SDAB Clerk, K. Bravo-Stewart.
6. Summary presentation, including a PowerPoint presentation, from the Town of Canmore’s Planning Technician, E. Bjorge.
7. Verbal presentation by the Appellant/Applicant, D. Burghardt.
8. 2-submissions received by the public for the subject appeal:
 - a. G. Harden, Letter of Support
 - b. R. Sargent, Neutral Letter

FINDINGS OF FACT:

1. The Applicants, D. Burghardt and A. Jung, filed an application on February 11, 2022, Application File Number PL20220047 (the “**Application**”), for a Residential Addition (Attached Garage with a Mudroom) (the “Proposed Development”).
2. The Development Officer issued a Notice of Refusal on June 15, 2022 for the subject application and provided written reasons for the refusal.
3. The Appellant/Applicant filed a Notice of Appeal on June 22, 2022 (the “**Appeal**”) against the Refusal.
4. A hearing date for the Appeal was set on June 28, 2022, for July 20, 2022.
5. The Appellant/Applicant, D. Burghardt and A. Jung, are both the affected property owners.
6. The current use of the site is a Detached Dwelling that is within the R1 District. An addition to an existing Detached Dwelling does not require a Development Permit unless a variance to the LUB is being proposed. The Application has requested a variance to the rear yard setback for the garage addition (3.8 m instead of 7.5 m), amounting to a 49.3% variance from the LUB R1 district regulations. However, the requested variance to the minimum rear yard setback was larger than the Development Officer’s Authority to consider under section 1.14.1.1.
7. It was clarified by the Planning Technician, E. Bjorge, that the LUB does not regulate tree removal on private property and that there are no restrictions regarding this.

THE BOARD THEREFORE ORDERS THAT:

The appeal be **APPROVED** and Development Permit PL20220047 be **APPROVED** subject to the conditions of the attached amended Schedule “A”.

REASONS:

For the following reasons, the Board is of the opinion that the Proposed Development would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land:

- According to the written submission of G. Harden, if a detached garage were constructed on the subject site in accordance with the provisions of the LUB, then it would block a lot of light into G. Harden’s yard compared to the siting of the Proposed Development with the rear yard setback variance. By attaching the garage to the house, light to Mr. Harden’s property is enhanced.



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- The site coverage footprint of the Proposed Development together with the existing principal dwelling of 39.8% is less than the maximum site coverage footprint of 40% permitted under the LUB.
- During the notification stage of the Development Permit application, letters of support were received from residents at 626 1st Street, 630 1st Street and 634 1st Street, indicating that the Proposed Development would not adversely impact the neighbourhood.
- If the proposed garage was not attached to the principal dwelling it could be considered an Accessory Building and would comply with the LUB regulations for area and height and could be located within 1m of the rear property line.

7/25/2022 | 5:22 PM PDT

Date Signed

DocuSigned by:

Graham Lock

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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.