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Decision
Subdivision and Development Appeal Board
APPEAL NO. 2023-06

SUBDIVISION & DEVELOPMENT APPEAL BOARD ORDER
APPEAL INFORMATION

PL20220286
634 7 Street
Lot 9 Block 71 Plan 1095F
Duplex with Two Accessory Dwelling Units
Appeal against a refusal by the Development Officer

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED JULY 26, 2023.

Board Members Hearing the Appeal: Mr. Peter Moreland-Giraldeau (Chair), Mr. Andre Giannandrea (Vice Chair), Ms. Darlene Jehn

AND IN THE MATTER of the Municipal Government Act, Revised Statues of Alberta 2000, Chapter M-26, as amended (the "**MGA**");

AND IN THE MATTER of an appeal by Vincent Koch against a refusal by a Development Office.

This appeal hearing having been duly opened before the Subdivision & Development Appeal Board on June 23, 2023 and July 20, 2023.

AND 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 (Bylaw), the MGA and other relevant planning documents.

RELEVANT STATUTORY & PLANNING DOCUMENT PROVISIONS:

1. Bylaw 2019-06, the Town of Canmore Subdivision and Development Appeal Board Bylaw, in general.
2. Municipal Government Act ("MGA"), in general, and specifically:
    a. Section 687(3)(c) and (d)
3. Municipal Development Plan ("MDP"), in general, and specifically:
    a. 4.2.25 Existing Development Adjacent to a Waterbody
    b. 5.3.6 Market Accessory Suites and Incentives
4. Land Use Bylaw 2018-22 ("LUB") in general, and specifically:
    a. Sections 1.14; 2.3; 2.5; 2.7; 2.8; 3.8; 7.2; 10.

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SUMMARY OF EVIDENCE PRESENTED:

1. 111-page Subdivision and Development Appeal Board Staff Report, undated, of the Town of Canmore's Supervisor of Planning & Development, Marcus Henry, and Development Planner, Eric Bjorge, inclusive of six attachments.
2. 1-page Notice of Appeal dated June 2, 2023, from the Appellant's Agent, Vincent Koch.
3. Notification to the Appellant and Adjacent Neighbours, dated June 8, 2023, from the Subdivision and Development Appeal Board Clerk, Allyssa Rygersberg.
4. Summary presentation, including a PowerPoint presentation, from the Town of Canmore's Development Planner, Eric Bjorge.
5. Verbal presentation, including a PowerPoint presentation, from the Appellant's Agent, Vincent Koch.
6. Written submission from one community member in support of the appeal.
7. Written submissions from two community members in opposition of the appeal.
8. Verbal presentations at the hearing from three community members in opposition of the appeal.
9. Verbal presentation at the hearing from one community member neither in favour nor in opposition of the appeal.

THE BOARD THEREFORE ORDERS THAT:

The appeal be ALLOWED and PL20220286 be APPROVED with the following condition added to Schedule A:

1. Prior to the release of the Development Permit, submit a report completed by a qualified professional to the satisfaction of the Municipal Engineer, which addresses any potential impacts to neighbouring properties with respect to groundwater and soil stability which may result from the removal of existing structures, and construction of new buildings and structures on the property as proposed. Any recommendations of this study shall be incorporated into the design and amended plans submitted as required.

REASONS:

1. Water Body Setback: The Board finds that the proposed development is expected to impose a minimal to negligible risk to the environmentally sensitive features present on the site. We are confident that the comprehensive protections included in the development plan will ensure the conservation of Spring Creek both during and subsequent to the development phase.
2. Front Yard Setback: The Board agrees with the Town's position that the proposed design significantly minimizes any impact on the neighboring properties. The proposed front yard setback has been deliberately designed to ensure a harmonious integration with the adjacent properties, upholding the spirit of community aesthetics and privacy standards.
3. Rear Yard Setback: The Board accepts the Town's position that certain site constraints provide design challenges. However, we acknowledge that the proposed development maintains a consistent transition along the rear yard, which is analogous to the conditions at the adjacent duplex. This balance ensures continuity while addressing unique site-specific limitations.

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4. Minimum Usable Length of Driveway: The Board agrees with the Town's position acknowledging that the proposed driveway design, despite site constraints, still fulfills the minimum parking requirements. The planned driveway design addresses the challenge of limited space while maintaining the necessary functionality, ensuring that the development will cater adequately to the needs of future inhabitants.
5. Maximum Building Envelop: The Board agrees with the Town's position that the variances to the maximum building envelope are minor. In making this determination, the Board considered the extensive portions of the maximum building envelope that are not being utilized due to the presence of the adjacent water body. Therefore, this aspect of the proposal is not viewed as an overreach but a necessary adaptation in the unique context of the site.
6. Accessory Dwelling Units Parking Access: The Board accepts the Town's position that the parking arrangement proposed is logical and necessary, given the North/South split of the duplex unit. This arrangement effectively manages the spatial constraints of the site, ensuring an efficient and user-friendly parking solution.
7. Groundwater and Soil Stability: The Board, upon evaluation of the evidence and arguments presented, is satisfied that Condition 8 outlined in Schedule A appropriately mitigates the concerns regarding groundwater and soil stability. This Condition has been designed to maintain the integrity of the natural landscape, and to safeguard against any potential harm to the environment as a result of the proposed development.

In conclusion, based on the above considerations, the Board rules in favor of the proposed development. All concerns have been adequately addressed, ensuring that the development balances the needs of the community, the environment, and the unique characteristics of the site.

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Date Signed	**CHAIRPERSON PETER MORELAND-GIRALDEAU** **SUBDIVISION & DEVELOPMENT APPEAL**

IMPORTANT INFORMATION FOR APPELLANTS
This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the Municipal Government Act, R.S.A. 2000, c. M-26.