



Decision
Subdivision and Development Appeal Board
APPEAL 2024-01

SUBDIVISION & DEVELOPMENT APPEAL BOARD ORDER

PL20230327

1004 3 Avenue

Lot 2 Block 1 Plan 8410098

Construction of a detached dwelling with an accessory dwelling unit

Variance to water body setback and rear yard setback

Appeal against a refusal by the Canmore Development Authority

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED March 18, 2024.

Board Members Hearing the Appeal: Andre Giannandrea (chair), Christoph Braier (public member), Audrey Rogers (public member), and Tanya Foubert (councillor).

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 Alasdair Russell against a refusal of the Development Authority to approve a development permit for the construction of a detached dwelling with an accessory dwelling unit with variances to the water body setback and the rear yard setback.

This appeal hearing having been duly opened before the Subdivision & Development Appeal Board on March 14, 2024.

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 643(5) a-c
 - b. Section 683
 - c. Section 684

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3. Municipal Development Plan Bylaw 2016-03 (MDP) in general and specifically
 - a. Section 4.2.24
 - b. Section 6.1.9 a-e
4. Land Use Bylaw 2018-22 (LUB) in general and specifically
 - a. Section 1.16.0.1
 - b. Section 1.16.0.2
 - c. Section 1.16.0.3
 - d. Section 1.14
 - e. Section 2.4
 - f. Section 2.7

SUMMARY OF EVIDENCE PRESENTED

1. Development Permit Application PL20230327 dated August 30, 2023.
2. Notice of Decision of Refusal issued January 30, 2024 by Jerritt Cloney, Planning Technician.
3. Notice of Appeal submitted by Alasdair Russell on February 15, 2024.
4. Staff report submitted by Jerritt Cloney, Planning Technician, inclusive of 6 attachments.
5. Written submissions in support of the appeal:
 - a. Carmen Velasquez and Jeju Varghese, owners of 1002 3 Avenue, neighbour of the applicant property.
6. Written submissions in opposition of the appeal:
 - a. None.
7. Written submissions neither in support nor in opposition of the appeal:
 - a. None.
8. Verbal presentation, including slides, from Jerrit Cloney, Planning Technician.
9. Verbal presentation from Alasdair Russell, applicant. Mr. Russell referred to Mr. Cloney's slides during his presentation.

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FINDINGS OF FACT

1. Variances proposed brings the development from legally non-conforming into conformance.
2. Variances proposed do not further encroach upon the creek.
3. The development is using the existing foundation.
4. Proposed development contributes an accessory dwelling unit.
5. The building permit will include construction management to protect the creek.

THE BOARD THEREFORE ORDERS THAT

The appeal be allowed and **PL20230327** be approved subject to the conditions set out in Schedule A.

REASONS

1. The proposed development creates reasonable opportunity to meet the intent of the land use bylaw, while also recognizing the constraints of the site given the creek setback.
2. The proposed development creates the opportunity to develop an existing site without increasing its current non-conformance to the rear yard setback and water body setback.

3/18/2024 | 9:03 AM MDT

Date Signed

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Andre Giannandrea, Chair
Subdivision & Development Appeal

In accordance with section 688 of the Municipal Government Act, this decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction within 30 days after the issue of the decision.