

APPEAL NO. 2020-005
PL2020-0175

ORDER OF THE SUBDIVISION & DEVELOPMENT APPEAL BOARD OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, DATED SEPTEMBER 17, 2020.

BOARD MEMBERS HEARING THE APPEAL: Mr. Sean Krausert, Mr. Greg Birch, Mr. Adam Driedzic, Mr. Harry Scott, Ms. Jill Jamieson, and Councillor Vi Sandford

AND IN THE MATTER of the Municipal Government Act Revised Statutes of Alberta 2000, Chapter M-26, as amended;

AND IN THE MATTER of an appeal by William Clark with respect to a Development Permit – Building Addition with variance to rear yard setback. Appeal against a Refusal by the Development Officer

This appeal hearing having been duly opened before the Subdivision & Development Appeal Board on September 10, 2020

AND UPON hearing verbal and visual submissions from the Development Officer.

AND UPON hearing a verbal submission from the Applicant.

AND UPON having regard to the Town of Canmore Land Use Bylaw No. 2018-22 (Bylaw), the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26, as amended and other relevant planning documents;

APPEAL INFORMATION:

Subdivision & Development Appeal Board Hearing

PL2020-0175

Development Permit – Building Addition –Variance to rear yard setback

Lot 48 Block 1 Plan 831 0433

252 Grizzly Crescent

Appeal against a Refusal by Development Officer

RELEVANT STATUTORY & PLANNING DOCUMENT PROVISIONS:

1. Land Use Bylaw 2018-22 (“LUB”) in general, and specifically:
 - a) Section 1.14.1.1 Variance Powers of Development Authority.
 - b) Section 2.4.3 Building projections and Table 2.4-1.
 - c) Section 3.1.3.7 The Minimum rear yard setback shall be 7.5 m.
 - d) Section 13.2 The definition of Porch.
2. Municipal Government Act (“MGA”) in general, and specifically:
 - a) Section 687.

SUMMARY OF EVIDENCE PRESENTED:

1. Written report provided by Development Authority, Camila Ramos-Strankman.

2. Verbal & Visual presentation by the Development Authority, Camila Ramos-Strankman and Marcus Henry.
3. Written submission by the Appellant, William Clark.
4. Verbal presentation by the Appellants, William and Shawna Clark.
5. Signatures from 250 Grizzly Crescent and 254 Grizzly Crescent in support of the appeal.

FINDINGS OF FACT:

1. The proposed roof structure would encroach 2.08m into the required 7.5m rear yard setback, which amounts to a proposed 27.7% variance.
2. The LUB definition of a porch is not clear in terms of this development permit application.
3. No affected persons spoke at the public hearing, besides the Appellants, and no other written submissions were received.

THE BOARD THEREFORE ORDERS THAT:

The appeal be allowed and Development Permit PL2020-0175 be approved with the conditions for approval as set out in the attached Schedule "A".

REASONS:

1. It is not necessary for the SDAB to determine whether or not the proposed structure is a porch to make a decision on this appeal.
2. The adjacent neighbours are in support of the proposed development.
3. None of the participants provided evidence that the proposed development would adversely impact the amenities of the neighbourhood or the use of the adjoining environmental reserve.
4. 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.

September 17, 2020

Date Signed

CHAIRPERSON SEAN KRAUSERT
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 Statutes of Alberta, 2000, Chapter 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.

SCHEDULE A

CONDITIONS FOR APPROVAL FOR:

**Roof Extension/Addition
Variance to Rear Yard Setback
PL20200175**

LEGAL DESCRIPTION:

**Lot 48, Block 1, Plan 8310433
252 Grizzly Cr., Canmore AB**

APPROVED VARIANCES:

1. A variance to Section 3.1.3.7 of Land Use Bylaw 2018-22 to allow for a building to be 5.42m from the rear yard property line rather than the required 7.5m.

STANDARD CONDITIONS OF APPROVAL:

1. The applicant shall comply with all Town of Canmore Engineering requirements including the following:
 - a) No roof or other on-site drainage will be allowed to flow to the sanitary sewer system.
 - b) The developer must ensure that no drainage is diverted to either of the adjoining private properties or onto Town road or trail right-of-way. The location of all catch basins, dry wells and down spouts must be designed and constructed to meet this specification.
 - c) Water and sewer services are to be the satisfaction of the Director of Environmental Services and must conform to the Engineering Design Standards and Open Space Guidelines of the Town of Canmore. Specifications must be obtained from the Director of Environmental Services.
2. All development shall comply with Alberta Environment ground water table elevation. No habitable floor space shall be built below the ground water table as determined by the Town of Canmore.
3. All construction shall comply with the Alberta Building Code and the Safety Codes Act.
4. All construction, landscaping and exterior finishing materials are to be as shown on the approved plans and other supporting material submitted with the application.
5. No occupancy shall be permitted until an Occupancy Certificate has been issued by the Town of Canmore.
6. The following Special provisions shall apply for steep slope and deep fill development on the site:
 - a) No finished slopes shall exceed a 1:3 slope (1 vertical to 3 horizontal), except where certification of the stability of the slope has been issued by a Professional Engineer.
 - b) Where the Professional Engineer identifies the need for a retaining wall in the certification, all such retaining walls must be professionally designed and constructed, and the completed retaining wall certified by a Professional Engineer.
 - c) If required by the development officer, the applicant shall submit an as-built grade plan from a land surveyor showing finished grades. Such plan shall be submitted and the grades accepted by the development officer prior to issuance of the development completion certificate and prior to permission to occupy is granted. Any grades

exceeding 1:3 shall be adjusted or certified prior to issuance of the development completion certificate.

7. Only the proposed development as shown on the Plot Plan and submitted house plans is approved. Any future development must comply with the Land Use Bylaw regulations.

SPECIFIC CONDITIONS:

8. None.

September 17, 2020

Date signed

**Sean
Krausert**

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Krausert
Date: 2020.09.17
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Subdivision and Development
Appeal Board

APPLICATION COMPLETE: July 14, 2020

NOTICE POSTING REQUIRED? No