



MINUTES OF THE MEETING OF THE DEVELOPMENT APPEAL BOARD
of the Town of Banff in the Province of Alberta
Hearing of Appeal #: 04-22: Appeal against a decision of the Development Officer to issue a Stop Order
on August 22, 2022, at 321 Squirrel Street

Tuesday, 2022 December 6, at 9:00 a.m.

BOARD MEMBERS PRESENT

Dak Kerr	Public Representative (Chair)
Robin Tuck	Public Representative
Lachlan Mackintosh	Public Representative
Brian Smythe	Public Representative
Scott McElhone	Public Representative
Grant Canning	Council Representative
Kendra VanDyk	Parks Canada Representative

BOARD MEMBERS ABSENT

Chip Olver	Council Representative
Sheila Luey	Parks Canada Representative
Ray Horyn	Public Representative (Vice Chair)

ADMINISTRATION PRESENT

Libbey McDougall	Municipal Clerk
Dave Michaels	Manager, Planning and Development
Kerry MacInnis	Administrative Assistant, Planning and Development

LEGAL COUNCIL TO THE DEVELOPMENT APPEAL BOARD PRESENT

Janice Agrios	Kennedy Agrios LLP (participating via zoom)
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PLEASE NOTE: Due to the extraordinary circumstances and measures being taken to slow the spread of COVID-19, this meeting will be held **electronically** and will be **live streamed** on www.banff.ca/live

1.0 CALL TO ORDER

Board Chair Kerr called the Tuesday, December 6, 2022, Development Appeal Board hearing to order at 9:06 a.m.

The December 6, 2022, Hearing of the Development Appeal Board will be conducted virtually using Zoom and will be live streamed on the internet, and recorded, in accordance with Council Policy C8002-1, Video Recording and Live Streaming of Legislated Meetings. It will be made available on the Town of Banff website.

Minutes approved by: _____



1.1. DAB Hearing Procedure Overview

Board Chair Kerr reviewed the DAB hearing procedures and introduced members of the development appeal board, Town of Banff administration and legal counsel to the development appeal board.

Board Chair Kerr asked for presentations from the appellant and the Town of Banff as to the validity of the August 22, 2022, stop order.

Mr. Rick Grol, legal representative for the appellant, Gail Morgan, spoke to the validity of the stop order included in this agenda package.

Mr. Michaels spoke to validity of the stop order included in this agenda package.

Board Questions

Asked and answered.

Motion to Continue Discussion In-Camera

DAB 22-37 Moved by Councillor Canning that pursuant to Sections 24 (advice from officials) of the Freedom of Information and Protection of Privacy Act and Section 3.2.12 of the Land Use Bylaw, DAB move into closed meeting at 9:43 a.m., in the Council Boardroom, to deliberate and discuss confidential matters with respect to the appeal #04-22.

MOTION CARRIED

Administration in attendance during the closed meeting discussions with respect to appeal #04-22.

Advice: Ms. Janice Agrios
Ms. Libbey McDougall

DAB reconvened in public hearing at 10:10 a.m., with Board Chair Kerr in the chair.

Motion to Leave In-Camera Discussion

DAB 22-38 Moved by Mr. Mackintosh that the Board rise and report.

MOTION CARRIED

Board Chair Kerr introduced the appeal #04-22.

Minutes approved by: _____



4.0 APPEAL #04-22

An appeal has been filed with the Development Appeal Board against a decision of the Development Officer to issue a Stop Order on August 22, 2022, at 321 Squirrel Street. The appellant, Gail Morgan, is appealing the Stop Order on the grounds that no unapproved dwellings have been created nor used at 321 Squirrel Street.

Development Officer's Comments

Mr. Michaels spoke to the written information included in this agenda package.

Appellant Presentation

Mr. Grol spoke to the written information included in this agenda package and provided DAB members with an additional submission which has been attached to these meeting minutes (Mr. Cesar Antonio – submission).

Ms. Morgan addressed the board.

Mr. Borkistl, in favor of the appeal, addressed the board.

Mr. Husack, in favor of the appeal, spoke to the written submission included in this agenda package (page 369).

Those Opposed to the Appeal

None

Development Officer's Comments

Mr. Michaels addressed points which the appellant had made in their presentations, and reiterated points included in the written material included in this agenda package.

Appellant's Rebuttal

Mr. Borkistl addressed the board.

Mr. Grol addressed the board.

Ms. Morgan addressed the board.

Board Questions

Asked and answered.



Motion to Continue Discussion In-Camera

DAB 22-39 Moved by Mr. Smythe that pursuant to Sections 24 (advice from officials) of the Freedom of Information and Protection of Privacy Act and Section 3.2.12 of the Land Use Bylaw, DAB move into closed meeting at 12:41 p.m., in the Council Boardroom, to deliberate and discuss confidential matters with respect to appeal #04-22.

MOTION CARRIED

Administration in attendance during the closed meeting discussions with respect to appeal #04-22.

Advice: Ms. Janice Agrios
Ms. Libbey McDougall

DAB reconvened in public hearing at 2:13 p.m., with Board Chair Kerr in the chair.

Motion to Leave In-Camera Discussion

DAB 22-40 Moved by Councillor Canning that the Board rise and report.

MOTION CARRIED

Verbal Decision Announced

In the matter of Appeal #04-22, an appeal has been filed with the Development Appeal Board against a decision of the Development Officer to issue a Stop Order on August 22, 2022, at 321 Squirrel Street, the appeal is allowed in part and the order is varied. The Board upholds the Development Officer's decision but stays enforcement order until 2023 May 01.

In accordance with the Municipal Government Act, the decision of the Development Appeal Board is not final for 15 calendar days after concluding the hearing. The written decision together with reasons for the decision will be sent to the appellant and to those present who have identified themselves to the Recording Secretary by name and mailing address.

3.0 ADOPTION OF PREVIOUS MEETING MINUTES

DAB 22-41 Moved by Mr. Mackintosh to approve the minutes of the November 18, 2022, meeting of the Development Appeal as presented.

MOTION CARRIED

Minutes approved by: _____



DAB 22-41 Moved by Ms. VanDyk to approve the minutes of the October 6, 2022, meeting of the Development Appeal as presented.

MOTION CARRIED

5.0 CORRESPONDENCE

There was no correspondence presented.

6.0 NEW BUSINESS

There was no new business.

7.0 INQUIRIES

There were no inquiries.

8.0 ADJOURNMENT

DAB 22-40 Moved by Ms. VanDyk to adjourn the meeting at 2:15 p.m.

MOTION CARRIED

The Banff Development Appeal Board meetings are held only when an appeal has been received. Meetings are tentatively scheduled for the first and third Thursdays of each month.

Mr. Dak Kerr
Board Chair

Ms. Kerry MacInnis
Recording Secretary

Minutes approved by: _____

November 19, 2022

Development Appeal Board
Town of Banff
PO Box 1260
Banff, Alberta T1L 1A1

Attn: Kerry MacInnis

To whom it may concern:

RE: 321 Squirrel Street, Banff

Mrs. Gail Morgan, on behalf of Mrs. Janna-Joy Goff, the registered lease holder of 321 Squirrel Street, requested that I do an inspection of the home. She explained the situation of the stop order and asked my opinion with respect to the time of construction of the existing kitchens and countertops in the home. I have 17 years' experience in the building industry as a carpenter and have done minor repair jobs in the home.

On November 19, 2022, I inspected the home and, in particular, the countertop, sink and associated plumbing in the Greenhouse, and the countertop, upper and lower cupboards and cabinets, dumb waiter, sink and associated plumbing in the upper floor kitchenette (food preparation and serving area). The black PVC pipes under the countertops in both areas have a yellow marking of "88" on them. This indicates that the pipes were manufactured in 1988 and that the plumbing and sinks in these areas most likely were fitted in 1988/1989 when the home was built.

It is my professional opinion that the countertops, sinks and associated plumbing, and cabinets and cupboards in both areas were installed at the time of the original construction of the home. This is clear from the materials and similar installation style, for instance:

- (a) The matching stain of oak woodwork and trim.
- (b) Matching tiles on the floor, toe-kicks and countertop in the Greenhouse.

- (c) The Corian countertops in the upper food preparation area match the Corian countertops in bathrooms on all 3 levels and the 2 full kitchens on the main floor and basement.
- (d) Matching lino design and toe-kicks on the upper food preparation area and the 2 full kitchens and some bathrooms elsewhere in the home.
- (e) Coloured cast sinks in the 2 full kitchens and the upper level partial kitchen are matching (no 220 wiring to support a stove in this food preparation and serving area).
- (f) The dropped light fixtures and stain glass design on the cupboard doors also date from the eighties.
- g) Copper waterlines also indicate original construction.

The dumb waiter connects the main floor full kitchen to the upper floor preparation and serving area. This indicates construction at the same time, not later. Please see the attached pictures.

Sincerely,

César Antonio
Unit B, 337 Otter St.
Ph.: 306-250-7567
Email: tum8957@gmail.com

