

MINUTES OF THE DEVELOPMENT APPEAL BOARD
of the Town of Banff in the Province of Alberta
Town Hall Council Chamber
Thursday, July 5, 2018

BOARD MEMBERS PRESENT

Dak Kerr	Public Representative (Vice Chairperson)
Peter Eshenko	Public Representative
Ray Horyn	Public Representative
Grant Canning	Council Representative
Kendra Van Dyk	Parks Canada Representative
Sheila Luey	Parks Canada Representative

BOARD MEMBERS ABSENT

David Bayne	Public Representative (Chairperson)
Doug Macnamara	Public Representative
Karen Sorensen	Council Representative

ADMINISTRATION PRESENT

Randall McKay	Director, Planning and Development and Secretary to DAB
Jennifer Laforest	Planner
Kerry MacInnis	Administrative Assistant Planning (Recording Secretary)

1.0 CALL TO ORDER

The Vice Chair called the Thursday, July 5, 2018 Development Appeal Board meeting to order at 9:00a.m.

2.0 APPROVAL OF AGENDA

DAB18 - 32 Moved by Canning to approve the July 5, 2018 Development Appeal Board agenda as presented.

CARRIED

3.0 ADOPTION OF PREVIOUS MEETING MINUTES

DAB18 - 33 Moved by Eshenko to approve the minutes of the June 5, 2018 meeting of the Development Appeal Board as presented.

CARRIED

4.0 APPEALS

4.1. APPEAL #08-18

Appeal #08-18 – Appeal by applicant against a decision of the Municipal Planning Commission to refuse development permit application 17DP68 for a proposed accessory dwelling at 118 Otter Street. The application was refused on the grounds of noncompliance with Section 8.10.5 of the Town of Banff Land

Minutes approved by: _____

Use Bylaw which states that an accessory dwelling shall be permitted only where the principal use of the site is single detached house or duplex, or as provided in section 12.

Public Present Objecting to Any Board Member Hearing This Appeal

There were no objections from the public present to any board member hearing this appeal.

Declaration of Conflict of Interest by Board Members

There was no declaration of conflict by a board member.

Notification to Affected Neighbours and Media Announcement

Notice of the appeal hearing has been given to the appellants, the applicant, the Municipal Planning Commission and all affected parties in accordance with the Municipal Government Act and Banff Land Use Bylaw 31-3.

Development Officer's Comments

Laforest spoke to the written submissions included in this agenda package and made the following comments:

- Proposal is for an accessory dwelling where there is an existing Bed and Breakfast Inn on site
- Variances are being requested – increase maximum site coverage and a decrease in enclosed parking
- Floor plans were presented – existing and what is proposed
- Definitions were reviewed – Bed and Breakfast Inn, Bed and Breakfast Home, Single Detached Housing, Primary Use and Accessory Use
- Feedback received was reviewed with the board

Board Questions

Q – Parking requirements? Are they different for single detached homes versus Bed and Breakfast Inns?

A – Yes, parking requirements are in the LUB section 12.25.7(e)

Q – Can a property be a BnB Inn and a single family home at the same time?

A – Yes it can. It's a hierarchy of use(s). Discretion was applied to the various parts of this proposal.

Q – Parking currently on site – are the appropriate parking requirements being met?

A – No, the current parking is unenclosed. At present time, three enclosed parking stalls would be required but there are none. There are currently seven parking stalls provided at this property.

Appellant Presentations

Kerry Miller, Barrister and Solicitor, representing the appellants spoke to the written submission included in this agenda package. The following points were highlighted:

- Existing and proposed floor plans were presented and included in these meeting minutes
- Principal use of this property is a single detached home. MPC concluded that the principal use was commercial BnB Inn based on the number of commercial accommodation rooms.

- Reviewed the authority of the appeal board as per the Municipal Government Act.
- Appellant requests that DAB reconsider the determination of principal use, as the following changes will be made;
 - Appellant is prepared to reduce the number of B&B Inn Guestrooms from eight to five
 - Increase the number of residential bedrooms from five to six (with the accessory dwelling adding an additional one bedroom for a total of seven bedrooms)
- Request that DAB determine that this property is deemed a single family home.
- Definition of principal use – “primary” – what is the most important activity for which this site has been used?
- Historical use of the property was described and detailed that the use was residential.
- B&B Inn definition was discussed.
- Request that the proposed development be approved.

Those in Favour of the Appeal

None

Board Questions

Q – With the proposed decrease in number of commercial accommodation units, how would this affect the parking requirements?

A – 0.5 parking stalls per unit – reduction of 2 required parking stalls. The enclosed parking would reduce from a 22% deviation from the guidelines to 17%.

Q – Would the proposed changes ensure that the enclosed parking requirements be met?

A – No

Q – Have the proposed revised reduction in BnB rooms and residential rooms been applied for as of yet?

A – Not as of yet but an application would be put forth to make these proposed changes.

Those In Favor of the Appeal

Robin Cowan, representing her mother, addressed the board members and reiterated that the Bed and Breakfast Inn is not the primary use of the property.

Opposed to the Appeal

Chris Hannon, 102A Wolverine Street, adjacent neighbor. Spoke to the written submission in the previous MPC agenda package and is in opposition to this proposed development.

Shelley Mardiros and Michael Shuster, adjacent neighbors, reiterated their opposition to the proposed development via email to McKay.

Minutes approved by: _____

Development Officer's Response

Laforest highlighted the key considerations for DAB to deliberate as included in this agenda package.

Board Questions

Q – Does the DAB have the authority to amend/vary past decisions with adding conditions of approval?

A – Yes, DAB does have the authority to approve the development subject to/impose conditions.

Q – Any additional conditions that included the proposed changes to the interior of the property would have to be approved by MPC or a development officer?

A – Once the development permit was received, it would be reviewed by the development officer and determined if it could be approved by a development officer or by MPC.

Motion to Continue Discussion In-Camera

DAB18 - 34 Moved by Horyn that the DAB move in camera at 10:40a.m. to discuss a matter where public disclosure could be harmful to third party personal privacy as per Section 17 of the *Freedom of Information and Protection of Privacy Act*.

CARRIED

Motion to Leave In-Camera Discussion

DAB18 - 35 Moved by Horyn to return to the public meeting at 11:40a.m.

CARRIED

Verbal Decision Announced

It is the decision of the Development Appeal Board to uphold the decision of the Municipal Planning Commission to refuse development permit 17DP68 for an accessory dwelling within an accessory development at 118 Otter Street.

It is the opinion of the board that;

- 118 Otter Street is the principal residence for Mrs. Cowan and potentially her family, however, the main use of the site is as a Bed and Breakfast Inn and they have a current license from the Town of Banff to that effect;
- As the main use and primary activity of the site is as a Bed and Breakfast Inn, the board does not find this meets the requirements of section 8.10.5 whereby an accessory dwelling shall be permitted only where the principal use of the site is as a single detached house or duplex.

5.0 CORRESPONDENCE

There was no correspondence presented.

6.0 NEW BUSINESS

6.1. Subdivision and Development Appeal Board Training (as per attached in this agenda package) – accepted as information by the board.

Minutes approved by: _____

7.0 INQUIRIES

There were no inquiries.

8.0 ADJOURNMENT

The next regularly scheduled meeting of the Development Appeal Board is to be held the first and third Thursdays of each month. At this time, there aren't any pending appeals nor hearing date.

DAB18 - 36 Moved by Canning to adjourn the meeting at 12:00p.m.

CARRIED

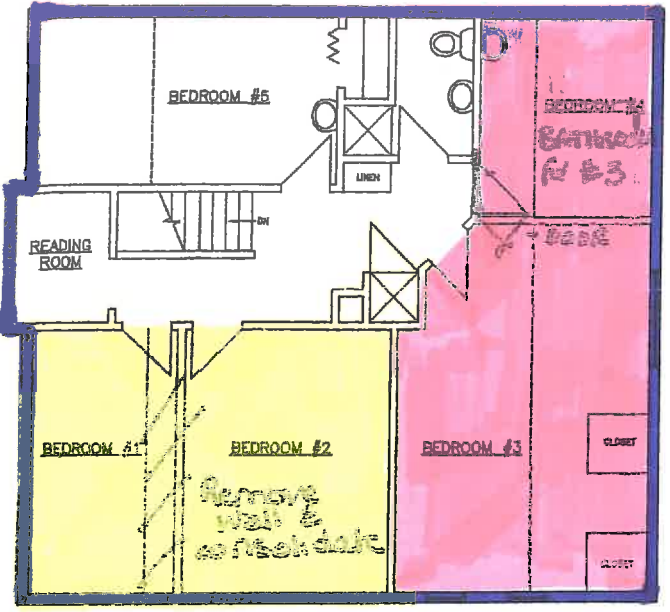
Dak Kerr
Vice Chairperson

Kerry MacInnis
Recording Secretary

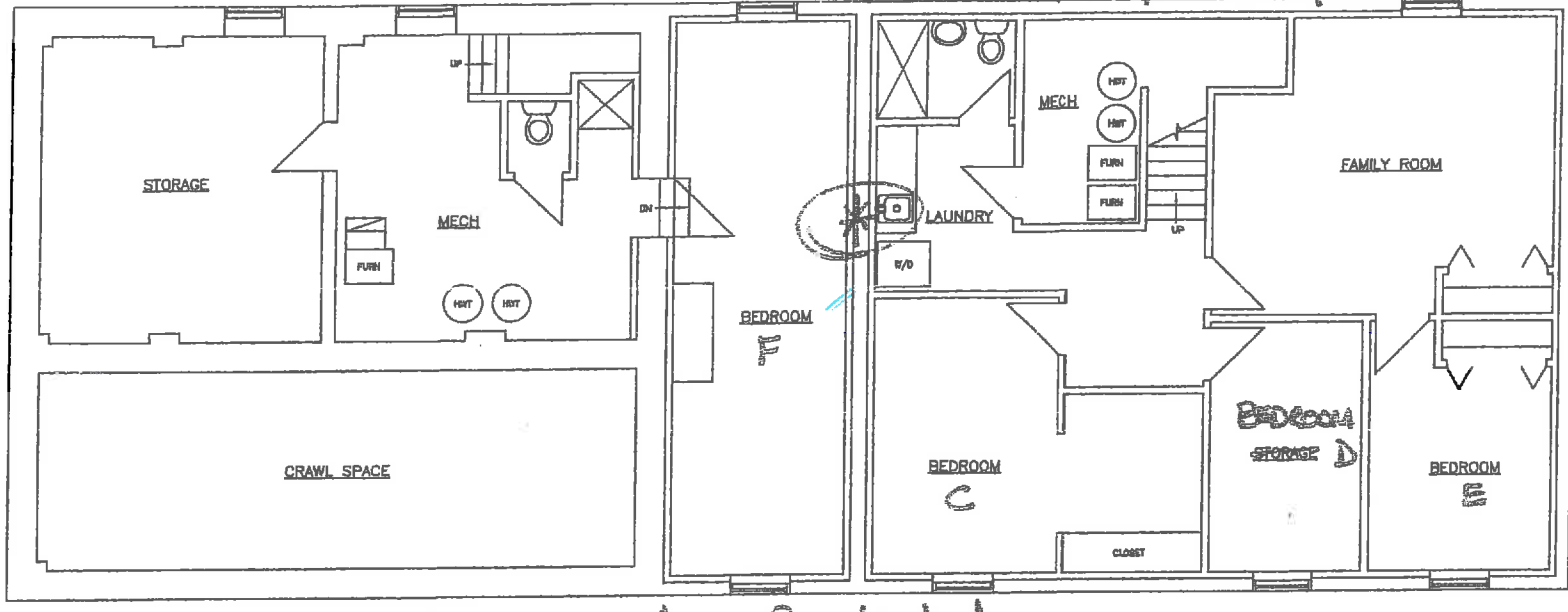
Minutes approved by: _____

General Note BEB:
 - create original balcony to 2nd floor
 - remove 1970's paneling, no core tongue and groove paneling (original) throughout
 - remove carpeting - refinish original wood floors throughout

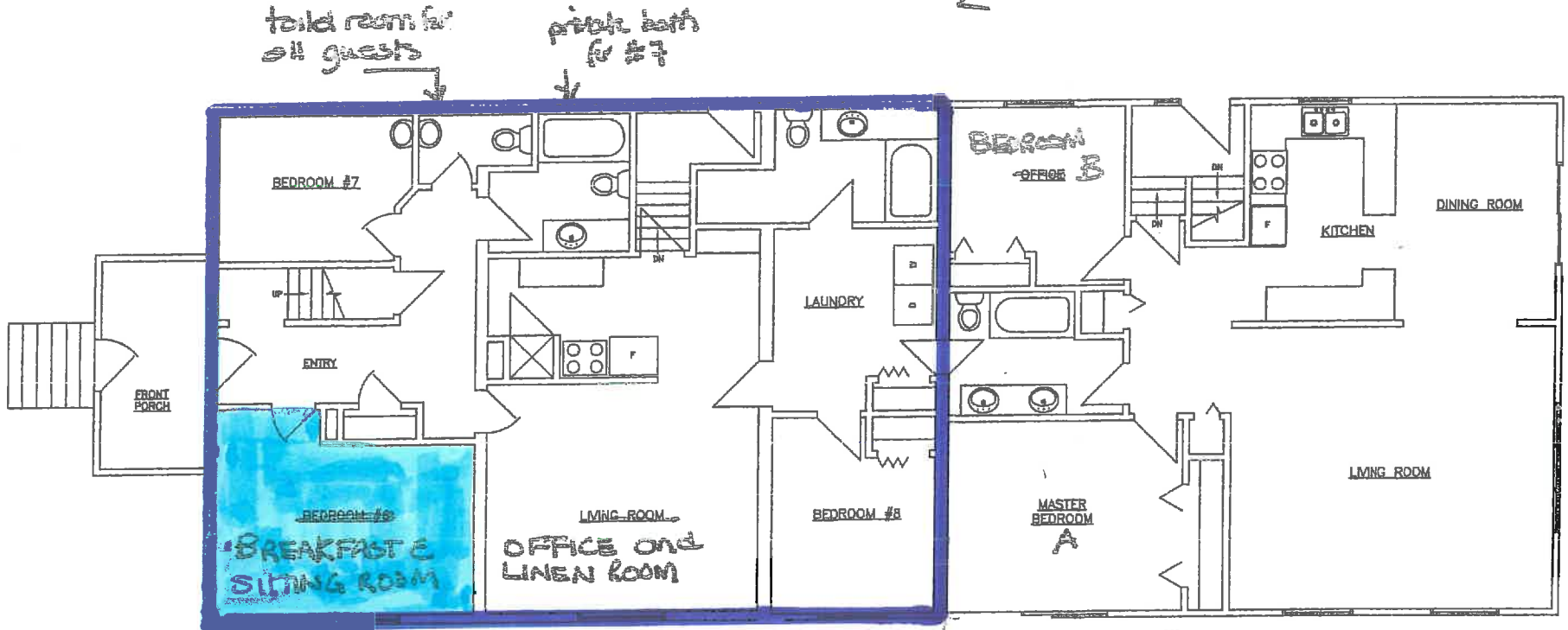
General Note RESIDENTIAL:
 - Reconfiguration to create six bedrooms in house (plus one in garage suite)
 - reconfigure basement and create den/deney (where current laundry exists)
 - see sample possibility below



SECOND FLOOR PLAN (EXISTING)
 SCALE: 1/8"=1'-0" BEB

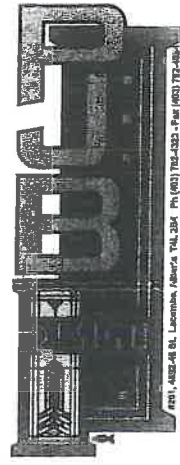


LOWER FLOOR PLAN (EXISTING)
 SCALE: 1/8"=1'-0" Residential



MAIN FLOOR PLAN (EXISTING)
 SCALE: 1/8"=1'-0" BEB

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DRAWN: BMB
 JDB: 17-0609
 10/10

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VERALL GOAL:
 5 BEB Rooms
 3 with private bath
 2 with shared bath.

RESIDENTIAL
 - six (6) Residential bedrooms
 - plus, garage with suite

July 2018