



**MINUTES OF THE DEVELOPMENT APPEAL BOARD
of the Town of Banff in the Province of Alberta Thursday, May 20, 2021**

BOARD MEMBERS PRESENT

Grant Canning	Council Representative
Peter Poole	Council Representative
Stavros Karlos	Public Representative (Presiding Officer)
Kane Shepetunko	Public Representative
Lachlan MacIntosh	Public Representative
Kendra Van Dyk	Parks Canada Representative
Sheila Luey	Parks Canada Representative

BOARD MEMBERS ABSENT

Peter Eschenko	Public Representative (Vice Chair)
Dak Kerr	Public Representative (Chairperson)
Ray Horyn	Public Representative

ADMINISTRATION PRESENT

Darren Enns	Director Planning and Development and Secretary to the Development Appeal Board
Emma Sanborn	Development Planner
Barbara McNeil	DAB Decision Writer/Recording Clerk
Kerry MacInnis	Administrative Assistant Planning and Development (DAB Minutes Clerk)

1.0 CALL TO ORDER

The Secretary to the Development Appeal Board called the Thursday, May 20, 2021 Development Appeal Board hearing to order at 9:10 a.m.

1.1 Appointment of Presiding Officer

DAB21-01 Moved by Councillor Canning to appoint Mr. Karlos as DAB Presiding Officer for the DAB hearing on Thursday May 20, 2021.

MOTION CARRIED

1.2 DAB Hearing Procedure

Mr. Karlos reviewed the DAB hearing procedures as included with this agenda package and introduced the municipal staff and members of the development appeal board.

2.0 APPROVAL OF AGENDA

DAB21-02 Moved by Mr. Karlos to approve the May 20, 2021 Development Appeal Board agenda as presented.

MOTION CARRIED

Minutes approved by: _____

3.0 ADOPTION OF PREVIOUS MEETING MINUTES

DAB21-03 Moved by Mr. Karlos to approve the minutes of the November 26, 2020 meeting of the Development Appeal as presented.

MOTION CARRIED

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 conflict of interest declared by any board members.

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.

4.0 APPEAL

4.1. APPEAL #01-21

Appeal has been filed with the Development Appeal Board regarding a decision of the Development Officer to revoke the Bed and Breakfast Home Permit 19DP74 on April 23, 2021.

Appeal by the applicant on the following grounds:

The bed and breakfast home is in compliance with all conditions of the development permit 19DP74 and the following conditions are being adhered to:

- o 1(a) the property is a single-family home and not being operating as a duplex;
- o 1(b) the property is only operating two commercial accommodation units; and
- o 2(f) the property is the operator's primary residence and is a single-family home.

Development Officer's Comments

Ms. Sanborn spoke to the written report included in this agenda package:

- Application for a Bed and Breakfast Home containing two (2) Commercial Accommodation Units at 338 Squirrel Street.
- Bed and Breakfast Homes are Discretionary Uses and under section 3.1.2 of the Land Use Bylaw are referred to the Municipal Planning Commission for decision.
- Includes Change of Use from Duplex Housing to Single Detached Housing.
- Single Detached Housing is also a Discretionary Use. Section 10.3.2(e) states that *a bed and breakfast home shall be operated exclusively by a live-in owner as an accessory use and shall not change the principal residential character, use or external appearance of the dwelling.*
- *Accessory Use means a use that is subordinate or incidental to the principal use of a site or building.*
- *Owner, Live-in means a natural person who is an owner or shareholder of a corporation which is an owner of a property permitted to be operated as a bed and breakfast home and who: Lives in the bed and breakfast home; and Manages the bed and breakfast home while maintaining eligible residency status.*
- Single Detached Housing means a building containing one principal dwelling, which is separate from any other dwelling or building.
- Dwelling means one or more rooms that are self-contained, intended for domestic use as a residence by one or more persons, and containing kitchen, living, sleeping and sanitary facilities.
- April 9, 2021; complaint received and site inspection of property.
- Revocation of development permit on April 23, 2021 (as attached in this agenda package).

Minutes approved by: _____

Appellant Presentation

Mr. and Mrs. Ashok Pillai, the applicants, spoke to the written submission included in this agenda package.

- To address condition 1(a); the oven was only being stored in the basement, it was not being used as it is a nonworking oven.
- Due to Covid-19, we use the basement while the guests are using the main level kitchen only to keep the proper separation between guests and our family.
- The photos on booking.com were only a model of what type of rooms a guest may book not exactly the rooms a guest would book.
- As we were new to booking.com, our photos were not accurate.
- We are in compliance with the development permit conditions and are only operating two BnB guestrooms.

Those in Favour of the Appeal

None

Those Opposed to the Appeal

None

Development Officer's Comments

Ms. Sanborn responded to the appellant's submission:

- No new information was presented by the appellant; thus, no further comment.

Appellant's Rebuttal

Mr. and Mrs. Pillai responded:

- On booking.com you cannot book more than two guestrooms.
- There is no real evidence to suggest that we are booking more guestrooms than is permitted.

Board Questions

Asked and answered.

Motion to Continue Discussion In-Camera

DAB21-04 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 moved into closed meeting at 10:40a.m., in the Virtual Zoom Boardroom, to deliberate and discuss confidential matters with respect to Appeal #01- 21, revocation of the Bed and Breakfast Home Permit 19DP74 on April 23, 2021.

MOTION CARRIED

Administration in attendance during the closed meeting discussions with respect to Appeal #01- 21, revocation of the Bed and Breakfast Home Permit 19DP74 on April 23, 2021.

Advice: Ms. B. McNeil

DAB reconvened in public hearing at 12:43p.m., with Board Presiding Officer Karlos in the chair.

Motion to Leave In-Camera Discussion

DAB21-05 Moved by Mr. Karlos that the Board rise and report.

MOTION CARRIED

Verbal Decision Announced

In the matter of appeal #01-21, an appeal against the decision of the Development Officer to revoke the Bed and Breakfast Home Permit 19DP74 on April 23, 2021, the appeal is denied.

The board find that the appellant was in contravention of their BnB Development Permit. There was strong evidence provided by the Development Officer that unapproved construction had been built in the basement mechanical room in contravention of Schedule A (L), Schedule C (4) of their development permit and Section 4 of the Land Use Bylaw.

The board received significant amounts of evidence that the basement had been utilized as residential accommodation and that photos of unapproved accommodation unit were displayed online. We will provide further details in the written decision. The board notes that the applicants can reapply for a BnB license in this location

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.

5.0 CORRESPONDENCE

There was no correspondence presented.

6.0 NEW BUSINESS

6.1 Proposed Bylaw 440

Mr. Enns gave a brief update on the proposed bylaw as included in this agenda package.

7.0 INQUIRIES

There were no inquiries.

8.0 ADJOURNMENT

DAB21-06 Moved by Councillor Canning to adjourn the meeting at 12:53p.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. Stavros Karlos
Presiding Officer

Ms. Kerry MacInnis
Recording Secretary