

**MINUTES OF THE MEETING OF THE
SUBDIVISION AND DEVELOPMENT APPEAL BOARD
WEDNESDAY, AUGUST 12, 2015 at 7:00 p.m.**

PRESENT: Members: D. Kilpatrick, C. Brown, B. Hawrelak
 V. Lutz, G. Shipley

 Planning Consultant G. Smith
 Recording Secretary S. Simon
 B. Andres

 Appellant(s) **Appeal No. 1**
 Michael Arnold
 Tiffany Arnold

Appeal No. 2
 Tim McRoberts

ABSENT: Development Officer B. Stehr

1. CALL TO ORDER

Recording Secretary called the appeal hearing to order at 7:03 p.m., confirmed there was a quorum present to hear this appeal; and opened nominations for Chairman.

2. ELECTION OF CHAIRMAN

D. Kilpatrick nominated B. Hawrelak to be Chairman, seconded by V. Lutz. B. Hawrelak accepted and assumed control of the appeal hearing.

3. **APPEAL NO. 1
 Appeal of Development Application 15-DP-060
 Lots 36-40, Block 47, Plan 1117V (232 - 6 Street SE)
 Construction of fence in front yard**

Chairman Hawrelak asked the appellants if they had any objection to any board members hearing the appeal. The appellants advised they had no objection to any member of the Subdivision and Development Appeal Board.

a) **Presentation of Appellant**

M. Arnold provided a site plan to all present to show a visual of how the fence will be situated on the property. He referred to their submitted letter and reiterated the history of the home. It was initially built as a Church and the parking lot was always on the Avenue side. It was then converted to a four-plex and they have lived there five years. Now that they have a two year old child they have concerns for the child's safety in an unfenced yard as well as vandalism, privacy, and dog mess on the property. Also where the entrances are to each four-plex unit, being to the front (on the South side from the

parking lot), there is issue with delivery drivers coming to the appellants' balcony entrance rather than the actual entrances. Building a fence would help with defining where the main entrances are to each unit.

M. Arnold advised that they started building the side fence to code and the posts are in place now and will be cut to three feet if required. They do not want to appear to be doing the work prior to approval.

M. Arnold further stated that they plan to build a nice cedar fence that will not be an eye sore and will be well maintained. They have spoken to all of the neighbours and have received no negative comments for the proposed fence.

M. Arnold advised that they want to use the fenced area as the "backyard" and ask for approval to consider it a backyard for use with a hot tub etc. with proper permits so they don't have to keep having projects denied in the future due to front yard zoning.

B. Hawrelak asked hypothetically where would the hot tub be placed?

M. Arnold advised on a lowered deck beside the house.

M. Arnold stated that this plan is the only option for available outside space as there is no "back yard". They plan to make this home their "forever home". This property is now a four-plex and they have the benefit as owners living on the property to be there to ensure good neighbours, maintain the property and watch over their investment.

M. Arnold further commented that they need a fence higher than three feet for the safety of their child being in the yard.

B. Hawrelak referred to the site plan and asked about the north side yard.

M. Arnold advised there are two upstairs tenants and two downstairs and they use the north side access. He confirmed there are no pets allowed.

C. Brown confirmed there will be no fence at the back and along the alley?

M. Arnold confirmed there will be no fence.

B. Hawrelak asked what designates the Unit numbers?

M. Arnold advised the South side on the Avenue side there are numbers on the Unit doorways.

M. Arnold commented that he is a firefighter and he hopes to change the address because of how the suites are designated. He has concerns that the firefighters would come to their suite in case of a fire when the fire may be at another suite.

M. Arnold confirmed that the address for the complex would be placed on the proposed fence for clarity.

b) Presentation of Development Officer (Report Attached)

S. Simon confirmed the Development Officer was not in attendance and to refer to his report in the agenda package.

B. Hawrelak reiterated the Development Officers report and reason for denial.

c) Presentation of Municipal Planning Commission (MPC)

No one was in attendance.

d) Presentation of Planning Consultant (Report Attached)

G. Smith addressed the front yard by stating there are two side property lines and the narrowest point of the lawn is considered the front yard. The Town of Redcliff has a different definition. The Land Use Bylaw wording for front of property precludes changing the address as the original frontal of this lot would not meet other requirements of the Land Use Bylaw.

G. Smith referred to his report and discussed the Land Use Bylaw considerations for aesthetics and other neighbor precedent setting. Typically in the front there is a three foot fence maintained to ensure site lines for vehicles.

G. Smith reiterated his recommendations for conditions from his report, if the Subdivision Development Appeal Board does not uphold the Development Officer's decision as follows:

- Exterior finish of the fence to match and/or compliment house and neighbourhood.
- The fence has a setback from the sidewalk the greater of 1.5m from either the sidewalk or front property line and to ensure that no utilities are located under or immediately adjacent to the fence.
- Relocation of affected utility services to the satisfaction of all utility departments. Please be advised that relocation of services is at the applicant's expense.

e) Presentation of anyone served notice of hearing

No one in attendance.

f) Presentation of anyone claiming to be affected

No one in attendance

g) Rebuttal of Appellant/Applicant

M. Arnold states making the front a backyard won't change regulations of where it sits on the land. This property was built as a Church and the Bylaws must have changed. The property already doesn't have a proper setback from the back and there must have been

some allowances or grandfathering as the garage no longer meets code as well. The Church entrance was always on the side. He referred to the site lines. There is a lot of visibility for drivers. There are seven meters from the property line to the corner and they are within that code. He states that he has taken all of the site lines and setbacks into account and the fence would already be far from the sidewalk.

B. Hawrelak asked if there are two driveway accesses or full low curb on the Avenue?

M. Arnold stated there are two entrances.

B. Hawrelak asked if they would consider making landscape changes on the Avenue side as having a six foot fence on that side makes kind of a "fort" appearance without having obvious front yard direction.

M. Arnold states they would be willing to consider some aesthetic improvements.

h) Other

Nothing further was discussed.

i) Recess

V. Lutz moved to meet in camera at 7:38 p.m. – Carried.

The Appellants and Planning Consultant left the meeting at 7:38 p.m.

j) Decision

D. Kilpatrick moved Development Permit Application 15-DP-060 (Lots 36-40, Block 47, Plan 1117V (232 - 6 Street SE) to allow a fence to be constructed in the front yard be approved conditional to:

1. Maximum height of fence in the front yard be 1.2m and must meet all other applicable regulations as per Section 56 of the Town of Redcliff Land Use Bylaw;
2. Exterior finish of the fence to match and/or compliment house and neighbourhood;
3. Relocation of affected utility services to the satisfaction of all utility departments, at the expense of the applicant.

- Carried.

Reasons for Decision

The Board advised the reasons for their decision are as follows:

1. Due to this property's proximity to the Lions Park;

d) Presentation of Planning Consultant (Report Attached)

G. Smith discussed that the Land Use Bylaw is a guide to keep garage sizes and height in scale for property in Redcliff. Therefore, he recommends upholding the denial of the Application, but in case the Board does not uphold the decision, he recommends conditions be met as stated in his report as follows:

- The accessory building is the same size, height and location as provided by the applicant for the Development Permit as submitted 15-DP-058.
- The accessory building be designed with the same or compatible design as the existing residential building.
- Relocation of affected utility services to the satisfaction of all utility departments. Please be advised that relocation of services is at the applicant's expense.

e) Presentation of anyone served notice of hearing

No one in attendance.

f) Presentation of anyone claiming to be affected

No one in attendance.

g) Rebuttal of Appellant/Applicant

The appellant had no further comments.

B. Hawrelak asked if this garage is the same size as the garage adjacent to this property, which T. McRoberts built as well.

T. McRoberts stated that this garage is 2 feet narrower.

h) Other

Nothing further was discussed.

i) Recess

C. Brown moved to meet in camera at 8:45 p.m. – Carried.

The Appellant and Planning Consultant left the meeting at 8:45 p.m.

j) Decision

G. Shipley moved Development Application 15-DP-058 (Lot 24, Block 80, Plan 0310556 (14 - 6 Street NE) for an accessory building, be approved as presented with conditions as follows:

1. A minimum of 10% of the site shall be landscaped unless otherwise required by the Development Authority, as per Section 62 (3) of the Land Use Bylaw;

2. Relocation of affected utility services to the satisfaction of all utility departments, at the expense of the applicant;
3. The accessory building be designed with the same or compatible design as the existing residential building.

- Carried.

Reasons for Decision

The Board advised the reasons for its decision are that this is a one-sided Residential development backing onto a C3 area. Further, they took into consideration the massing of the adjacent properties, and this property is comparable.

D. Kilpatrick moved to return to regular session at 9:00 p.m. - Carried.

The Appellant and Planning Consultant returned to the meeting at 9:00 p.m.

Chairman Hawrelak advised the appellant of the decision and that the written decision would be forthcoming.

5. ADJOURNMENT

D. Kilpatrick moved the meeting be adjourned at 9:03 p.m.



B. Hawrelak, Chairman

S. Simon, Recording Secretary

SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Development Officer's Report

Date: July 21, 2015

Development Permit Application: **15-DP-060 (6' fence in front yard)**
Applicant: **Michael & Tiffany Arnold**
Owner: **Michael & Tiffany Arnold**
Property Address: **232 6 Street SE**
Legal Address: **Lot 36-40, Block 47, Plan 1117V**
Land Use: **R-3 Medium Density Residential District**
Development Officer: **Brian Stehr**

Background:

Originally the building was constructed as a church. The building was used as a church until 2001. In 2002, a Development Permit Application was made to change the use from a Religious Assembly to a Fourplex. The property was zoned DC- Direct Control at the time and the Development Permit Application was approved by Redcliff Town Council to convert the building from a Religious Assembly to a Fourplex. Currently the property is zoned R-3 Medium Density Residential District.

During the past 4 months M. Arnold, S. Simon, and I have had multiple discussions regarding the ability to construct a fence in his front yard. M. Arnold explained that because of the unique layout of the fourplex, what is viewed as the front yard from 6th Street is actually his backyard, and for this reason would like to construct a fence for his growing family.

During these meetings, we did discuss the possibility of re-addressing the home to 3rd Avenue, which would make that portion of the yard facing 6th Street a sideyard. After discussing the matter with the Planning Consultant, it was his opinion that the front yard was not determined by the civic address, but rather from the legal address of a property. This would mean that the front yard is defined as the area extending across the width of the lot and situated between front lot line and the nearest portion of the building(s).

On July 10, M. Arnold submitted a Development Permit Application for the construction of a 6' fenced in the front yard of his property. I informed M. Arnold that as the Development Officer I did not have the authority to approve this development.

Development Permit Application 15-DP-060 was denied on July 17, 2015 for the following reason(s):

1. Fences higher than 0.9 m are not allowed in the front yard as per the Town of Redcliff's Land Use Bylaw Section 56.6.a

On July 17, 2015 M. Arnold appealed the decision of the Development Officer to construct a fence in the front yard of his property at 232 6 Street SE.

As part of this report, I did a site inspection. During the site visit, I did note that the Applicant has started construction of the wooden fence in the side yard to the north.



Scheffer Andrew Ltd. Presentation Notes for Appeal of 15-DP-060

Presented by Gary Smith, RPP, MCIP
Senior Planner

Introduction

My name is Gary Smith; I am acting on behalf of the SDAB in the appeal of the refusal of Development Permit **15-DP-060**.

I have reviewed the documentation provided by the Town with regard to the appeal of the refusal of Development Permit application **15-DP-060**. I offer the following planning comments.

Background and Description of Development

- An application for a development permit was received by the Development Officer July 10, 2015, from Michael & Tiffany Arnold to build a 1.8 m fence located at the front of 232 6 Th Street SE. The subject property is located on Lot 36-40, Block 47, Plan 1117V otherwise known as 232 6Th Street SE.
- On July 17, 2015 the Development Officer denied the development permit application listing the reason for denial as:
 - Fences higher than 0.9 m are not allowed in the 4 front yard as per the Town of Redcliff's Land Use Bylaw Section 56.6.a.
 - A Notice of Appeal was submitted to the Municipal Manager on July 17, 2015 by Michael & Tiffany Arnold (the "appellant") citing the reason for denial as ground for the appeal. Subsequently a Subdivision and Development Appeal Board Hearing is scheduled for August 12, 2015. The application was processed in accordance with the Municipal Government Act.

Basis for Original Decision

In respect of the refusal, fences higher than 0.9 m are not allowed in the front yard as per Section 56.6.a of Zoning Bylaw 1698/2011.

Municipal Development Plan Considerations:

- The subject is consistent with the Residential policies of the Municipal Development Plan.

Land Use Bylaw Considerations:

- The subject site is located in R-3 High Density Residential District. As per the LUB the purpose of the district is primarily to provide for high density residential development adjacent to R-1 Single Family Residential District to the north and west of the site.
- The existing 4 unit building appears to meet the intent of the provisions of Section 104 R-3 High Density Residential District.
- The planning rationale for fences not having a height greater than 0.9 are for safety and aesthetic reasons for open front yards instead of fenced compounds. The 0.9 m height does allow for property protection and is a deterrent to most dogs and animals and in many instances provides protection for children playing within the yard. The concept for front yards is to provide opportunity of conversing and connection to neighbours while giving a space of openness.



- The proposed fence does impact the adjoining single family residence in essence cutting the flow of the neighbourhood and streetscaping giving a closed connection to the rest of the street frontage.
- Fences higher than 0.9 metres typically require deeper footing or pole depth which may interfere with existing or utilities that maybe located under or immediately adjacent to the fence.

Summary and Conclusions:

In respect of the Municipal Development Plan:

- The existing High Density Residential District is consistent with the Municipal Development Plan

In respect of the Land Use Bylaw:

- The "R-3" – High Density Residential District is an appropriate land use designation for the proposed development application however the locating of the proposed fence with a height greater than 0.9m in the front yard is not warranted where the applicant has the capability to meet the zoning bylaw requirement in all respects.

Recommendation:

My recommendation is that the Board **uphold** the Development Officer's decision not to approve the Development Permit proposing a 1.8 metre fence height. However, in the event that the SDAB does not uphold the Development Officer's decision and approve the Development Permit, the SDAB may consider the following potential conditions;

- Exterior finish of the fence to match &/or compliment house and neighbourhood.
- The fence has a setback from the sidewalk the greater of 1.5 m from either the sidewalk or front property line and to ensure that no utilities are located under or immediately adjacent to the fence.
- Relocation of affected utility services to the satisfaction of all utility departments. Please be advised that relocation of services is at the applicant's expense. The Town has not confirmed utility locations and it shall be the responsibility of the applicant to ensure that the development does not interfere with the utilities, and utility right-of-way.



SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Development Officer's Report

Date: July 22, 2015

Development Permit Application: **15-DP-058 (Accessory Building – detached garage)**
Applicant: **Tim McRoberts**
Owner: **Tim McRoberts**
Property Address: **14 6 Street NE**
Legal Address: **Lot 24, Block 80, Plan 0310556**
Land Use: **R-2 Low Density Residential District**
Development Officer: **Brian Stehr**

Background:

The building was constructed in 2002 as a duplex on one parcel of land. In 2003 it was subdivided to be 2 separate units.

The applicant, T. McRoberts, and I did have a pre-application meeting to discuss the procedure regarding his proposed development of an oversized garage.

On July 2, 2015 T. McRoberts submitted a Development Permit Application for an Accessory Building – detached garage.

Development Permit Application 15-DP-058 was denied for the following reason(s):

1. The coverage of the accessory building is 15.6% which exceeds that maximum coverage of 15% as per Section 40.11 of the Town of Redcliff's Land Use Bylaw
2. The height of the accessory building is 5.01 m which exceeds the maximum height of 4.5 m as per Section 40.10 of the Town of Redcliff's Land Use Bylaw
3. The proposed accessory building occupies 72.5% of the width of the rear yard of the lot which is wider than the maximum coverage of 66.7% as per the Town of Redcliff's Land Use Bylaw Section 40.13

As part of this report, I had the opportunity to do a site visit. Based on the site visit I noted the following:

- The property backs onto commercial property (Splash n' Dash carwash, and the Co-op gas bar)
- There are four (4) detached garages backing onto the back alley in this block. It did appear that 3 of these garages were built on larger lots, and may comply with the requirements of the Land Use Bylaw
- There is a City of Medicine Hat electrical pole in close proximity across the back alley from the exit of the proposed development. The back alley is 6.09 m (20') wide.
- The Accessory Building – Garden Shed that was visible in the aerial photo (circa 2013)
- It appeared that the lot was being redeveloped for concrete. Section 62.3 of the Land Use Bylaw requires that a minimum of 10% of the site shall be landscaped.



Scheffer Andrew Ltd. Presentation Notes for Appeal of 15-DP-058

Presented by Gary Smith, RPP, MCIP
Senior Planner

Introduction

My name is Gary Smith; I am acting on behalf of the SDAB in the appeal of the refusal of Development Permit **15-DP-058**.

I have reviewed the documentation provided by the Town with regard to the appeal of the refusal of Development Permit application **15-DP-058**. I offer the following planning comments.

Background and Description of Development

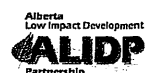
- An application for a development permit was received by the Development Officer on July 2, 2015, from Tim McRoberts an Accessory Building- Garage located at 14 6 Street NE. The property is legally known as Lot 24, Block 80, Plan 0310556 otherwise known as 14 6 Street NE is the subject of this appeal.
- On July 17, 2015 the Development Officer denied the development permit application listing the reason for denial as:
 - The coverage of the accessory building is 15.6% which exceeds the maximum coverage of 15% as per Section 40.11 of the Town of Redcliff's Land Use Bylaw.
 - The height of the accessory building is 5.01 m which exceeds the maximum height of 4.5 m as per Section 40.01 of the Town of Redcliff Land Use Bylaw.
 - The proposed accessory building occupies 72.5% of the width of the rear yard of the lot which is wider than the maximum coverage of 66.7% as per the Town of Redcliff Land Use Bylaw Section 40.13.
 - A Notice of Appeal was submitted to the Municipal Manager on July 23, 2015 by Tim McRoberts (the "appellant") citing the reason for denial as ground for the appeal. Subsequently a Subdivision and Development Appeal Board Hearing is scheduled on August 12, 2015. The application was processed in accordance with the Municipal Government Act.

Basis for Original Decision

In respect of the refusal, the requiring of a maximum building coverage, building height and width is a requirement of the Zoning Bylaw 1698/2011 to provide adequate open area for landscaping, open space and aesthetic reasons to maintain the scale of the accessory buildings.

Municipal Development Plan Considerations:

- The subject property of this appeal is consistent with the Downtown and Residential policies of the Municipal Development Plan..
- **Land Use Bylaw Considerations:**
- The subject property of this appeal is located in the R-2 Low Density Residential District. The building was constructed in 2002 as a duplex and subsequently subdivided into 2 separate units in 2003. The residential use meets the provisions of Section 102-Low Density Residential District.



- The proposed accessory building while meeting the general intent of Section 40 Accessory Buildings and Structures however does not meet the section 40.11 limiting the size of an accessory building to 15% of the lot size; exceeds the maximum height of 4.5 m as outlined in Section 40.10 and lastly exceeds the requirement of the accessory building to occupy more than two-thirds of the rear yard.
- The planning rationale for the above noted limitations regarding the height to not more than 4.5 metres, lot coverage and maximum rear yard width is to maintain the sense of scale with regards to the main residential use. When the accessory buildings are out of scale or larger than the main use arguments can be made that the residential use is no longer the main use of the lot and as such storage in essence becomes the main use which is for all intent and purposes is industrial and is not to be encouraged in a non industrial district.

Summary and Conclusions:

In respect of the Municipal Development Plan:

An accessory building or garage use would be consistent with the Residential Designation within the Municipal Development Plan.

However the proposed size, height and width is not compatible nor does not meet the Land Use Bylaw and are out of scale and form with the residential development in the area.

The applicant can easily meet the requirements of the existing Land Use Bylaw maintaining the intent of scale with the typical residential use.

Recommendation:

My recommendation is that the Board **uphold** the Development Officer's decision and not to approve the Development Permit for the erection of the proposed accessory building of the size, height and width as submitted. However, in the event that the SDAB does approve the Development Permit, the SDAB may wish to consider the following potential conditions;

- The accessory building is the same size, height and location as provided by the applicant for the Development Permit as submitted **15-DP-058**.
- The accessory building be designed with the same or compatible design as the existing residential building.
- Relocation of affected utility services to the satisfaction of all utility departments. Please be advised that relocation of services is at the applicant's expense. The Town has not confirmed utility locations and it shall be the responsibility of the applicant to ensure that the development does not interfere with the utilities, and utility right-of-way.

