

**MINUTES OF THE MEETING OF THE SUBDIVISION
AND DEVELOPMENT APPEAL BOARD
MONDAY, SEPTEMBER 21, 2015 at 7:00 p.m.**

PRESENT: Members: V. Lutz, G. Shipley, B. Hawrelak, C. Crozier

Development Officer	B. Stehr
Planning Consultant	G. Smith
Recording Secretary	S. Simon and B. Andres

Appellant Kim Donais

1. CALL TO ORDER

Recording Secretary called the appeal hearing to order at 7:00 p.m., confirmed there was a quorum present to hear this appeal; and opened nominations for Chairman.

2. ELECTION OF CHAIRMAN

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

**3. Appeal of Development Application 15-DP-067
Lot 21, 22 & N. 20' of 23, Block 2, Plan 3042AV (502 - 5 Street SE)
Addition to Accessory Building - detached garage**

Chairman Hawrelak asked the appellant if he had any objection to any board members hearing the appeal. K. Donais advised he had no objection to any member of the Subdivision and Development Appeal Board.

a) Presentation of Appellant

K. Donais advised that he has owned the house and property since 1978 and the house was built in 1912. In either 1981 or 1982 he hired a contractor to rebuild the garage. He indicated that likely a permit was taken out; however, he does not have any record of one. He suspects the foundation was perhaps placed too close to the alley at that time. K. Donais indicated he wants add 16 feet to the south side of the garage. The setback from the alley would remain the same and the garage will be under 1000 square feet.

K. Donais referenced the Land Use Bylaw explaining his interpretation of the regulations pertaining to accessory buildings. He indicated there would be no entry ways or windows on the alley side. The access would remain the same. The overhang would stay the same as well.

b) Presentation of Development Officer

B. Stehr referred to his report and confirmed he met with K. Donais at the subject property to discuss the proposal as well as the regulations of the Land Use Bylaw, confirming the reasons that a Development Permit cannot be approved. B. Stehr reiterated those reasons as follows:

1. The site coverage of 98.85 sq. m. is greater than the maximum allowable coverage of 92.9 sq. m. as per Section 40.11 of the Town of Redcliff's Land Use Bylaw;
2. The Rear Yard setback of 0.48 m is less than the minimum of 1.0 m as per Section 40.6 of the Town of Redcliff's Land Use Bylaw;
3. The Side Yard setback of 3.40 m is less than the minimum of 6.0 m as per Section 40.8 of the Town of Redcliff's Land Use Bylaw.

B. Stehr further confirmed that even with the approval of the addition, the structure will continue to be non-conforming.

c) Presentation of Municipal Planning Commission (MPC)

No one was in attendance.

d) Presentation of Planning Consultant

G. Smith referred to his report and discussed the aesthetics of the property. Further he commented on the legislation relating to non-conforming buildings and its purpose. He noted that additions should conform to the Land Use Bylaw.

G. Smith reiterated the recommendations in his report as follows:

My recommendation is that the Board **uphold** the Development Officer's decision and not to approve the Development Permit for the proposed extension to the garage (accessory building) of the size and location as submitted. However, in the event that the SDAB does approve the Development Permit, the SDAB may wish to consider the following potential conditions:

- Relax the setback requirements for the flankage yard from 6 m to 3.4 m and the rear yard from 1.0 m to 0.48 m for the entire length of the building.
- Relax the maximum site coverage for site from 92.9 m² to 98.85 m².
- The accessory building is the same size, height, design, materials and location as provided by the applicant for the Development Permit as submitted 15-DP-067.
- 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.

B. Hawrelak asked G. Smith his impression of the site.

G. Smith stated the design would fill the entire length of the rear area.

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

K. Donais discussed the need for clarity of Section 40 (11) and (12) of the Land Use Bylaw (1698/2011).

Discussion continued regarding history.

h) Other

Nothing further was discussed.

i) Recess

C. Crozier moved to meet in camera at 7:21 p.m. – Carried.

The Appellant, Development Officer, and Planning Consultant left the meeting at 7:21 p.m.

j) Decision

G. Shipley moved that the appeal against the decision of the Development Officer to refuse to issue a permit for Development Permit Application 15-DP-067, Lot 21, 22 & N. 20' of 23, Block 2, Plan 3042AV (502 - 5 Street SE) for an addition to accessory building, be upheld and the decision of the Development Officer be revoked. Further that Development Permit Application 15-DP-067, Lot 21, 22 & N 20' of 23, Block 2, Plan 3042AV (502 - 5 Street SE) for an addition to accessory building, detached garage, be approved as presented with the following conditions:

1. Relax the setback requirements for the flankage yard from 6 m to 3.4 m and the rear yard from 1.0 m to 0.48 m for the entire length of the building;
2. Removal of the 8'x12' accessory building to meet maximum site coverage permitted under the Land Use Bylaw;
3. The accessory building is the same size, height, design, materials and location as provided by the applicant for the Development Permit as submitted 15-DP-067;
4. Relocation of affected utility services to the satisfaction of all utility departments. 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.

– Carried.

Reasons for Decision

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

1. The proposed development poses no safety concerns as there are no windows or accesses from the laneway.
2. The proposed development matches the configuration of the existing building;
3. The Development Authority has authorization to approve the development as per Section 65(5)(c)(i,ii,iii) of the Land Use Bylaw which states:

- (5) *A non conforming building may be continue to be used but the building shall not be enlarged, added to, rebuilt or structurally altered except:*
- (c) *if, at the discretion of the Development Authority, the proposed development would not:*
 - (i) *unduly interfere with the amenities of the neighbourhood, or*
 - (ii) *materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and*
 - (iii) *the proposed development conforms with the use prescribed for that land or building in this Bylaw.*


V. Lutz moved to return to open session at 8:00 p.m.

The Appellant, Development Officer, and Planning Consultant returned to the meeting at 8:01 p.m.

B. Hawrelak advised the Appellant of the decision and that the written decision would be forthcoming.

4. **ADJOURNMENT**

G. Shipley moved the meeting be adjourned at 8:06 p.m.


Chairman


S. Simon, Recording Secretary