

Municipality of Crowsnest Pass
Subdivision and Development Appeal Board

**NOTICE OF DECISION OF THE SUBDIVISION AND DEVELOPMENT APPEAL
BOARD OF THE MUNICIPALITY OF CROWSNEST PASS.**

DECISION DATE: APRIL 26, 2023

BEFORE: Subdivision and Development Appeal Board

MEMBERS: Chair, Rupert Hewison, Members Glen Girhiny, Ken Allred
Recording secretary, Glen Snelgrove

ATTENDING Ron and Shandy Poulin, Appellants

Larry McKinny, purchaser

Ron Yeske, adjacent landowner, Tammie Self, Adjacent landowner

Johan Van Der Bank, Manager of Development and Trades,

Kim Kozak, Development Officer.

In the matter of the Municipal Government Act, Statutes of Alberta, 2000, Chapter M-26, as amended (MGA); and in the matter of the Municipality of Crowsnest Pass Land Use Bylaw No, 868, 2013 and amendments thereto, and in the matter of an appeal by Ron and Shandy Poulin against the decision of the Development Officer to approve an application (DP2023-018) for a Development Permit to place a Single-Family Dwelling (Ready to Move), with a variance to the front yard setback by 25% at 2022-208 Street in the Crowsnest Pass.

Notice of the Hearing was sent to adjacent land owners, the property owner, The Development staff of the Municipality of Crowsnest Pass and, six members of the Subdivision and Development Appeal Board.

PERTINENT FACTS:

1. The property is legally described as LOT 14 BLOCK 16 PLAN 0612667
2. The civic address of the property is 2122-208 Street in the Municipality of Crowsnest Pass

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3. The property is zoned R-1 Residential
4. An application for a development permit was received on February 7, 2023.

Ron and Shandy Poulin, Appellants raised the following points:

- After reviewing the proposed building application (dp2023-018 roll no 3001601), we have concerns about privacy, decrease in property value, parking, and amount of noise that this construction development will result in.
- As you can see from Crowsnest GIS the applicants building would be almost inline with our back yard, which is the only real usable space on our property. Our children would look directly into the neighbour's house and they could see every time we were outside too. 2121207 has been built relatively in line with our house so that we can share our back yard with out looking into each others houses when in use.
- The proposed "Accepted "building permit would decrease our privacy limiting our use of the property.
- As seen with the newly developed 20710 23 Ave in recent years this properties deck looks directly into our master bedroom.
- I do have concern with another development being more intrusive.
- It is important that we have our back yard and privacy and hope that the development would take inconsideration our privacy outlined in this pic.
- We discussed privacy with the applicant, and it wasn't an item they wished to consider. Below is a representation of an option of symmetry that would look acceptable to us.
 - Our currently assessed property value is based upon our house as it sits now. A dwelling that is taking up the majority of our back yard view would have negative effects on our property value. If the municipality allows this proposed development would result in financial hardship for us and future financing.
 - This development as proposed and seen above would affect the enjoyment of the views from both the front and the back sides of our home and property. The back yard view will be obstructed by their proposed home development.
 - The views from the front of our house will be severely limited if the applicant indeed goes ahead with the "shop" he plans to build along our driveway in the future. The approximate site for the shop the applicant mentioned to us is somewhere in the 68 feet of property from his proposed garage to the property line along side my driveway. We mention this as it pertains to why the house could not be more to respect our privacy
 - As you can see the proposed 3000 sq. ft. property plus 576 sq. ft. property directly in front of our place would look a bit weird and would not fit in with

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the current grid and organization of the other properties in the area. Our house behind such a house would severely negatively impact the property value of our property. There is no other property in this area that is land locked like we would be, with a large building (house) being allowed to be placed in front of it with total disregard to our property. There needs to be consideration to lines of symmetry for the neighbourhood so that our home is not taken and seen as the "guest house" for the other home.

- Being "land locked" also raises concerns about the safety of our property. If there was an emergency and the vehicles responding were not able to use our driveway for whatever reason (weather related conditions, Acts of Nature etc.) then there would be no other access to our home or the people in it other than our small drive way. Especially if the applicant were to build a fence on the property line, or build the shop in the location he has spoken to us about. (Alongside our driveway).
- Please picture a fire truck responding to an offensive fire condition and changing tactics to a defensive fire condition and need for retreat. It simply would not happen. It would not be a great situation. I reference this as planning and developments are based on learned lessons from emergencies (suggestions from Alberta Building code and fire code) and hence why we have guidelines are in place and should be followed when developing in an urban area.
- All houses in our area have a reasonable area to road way and alley ways. If the municipality approves this development, I think it would be necessary to include the development of this lane way too. develops the laneway that is shown in the GIS (at north side of my property and continuing to 208). At this point the laneway is not usable
- As you can see from the permit application and discussion with the land owner that he has plans to have a "horse shoe" shaped drive way that takes up close to 40 feet of available parking space on the road. He also discussed with us to have plans for a shop that would take up the available 48 feet of parking in his next phase of construction.
- I understand street parking is allowed for anyone to use, except when blocking drive ways. This proposed plan would eliminate any street parking on our side of the road that anyone could potentially use. This would result in future bylaw complaints and issues if we were to try and utilize the on-street parking. I believe that special thought and consideration should have been placed on this proposed development. It is a lot that had an un-orthodox subdivision prior to our purchase, and at that point should have raised a bit of concern with logistics.
- The applicant he has said that he wishes to excavate for basement develop in the area. From historic development from our property, and others in this area, it was shown to be right on the ridge of rock that will result in excessive amount of weeks jack hammering the rock to remove an acceptable

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amount of material out to build a basement. This isn't a simple put a shovel in the ground and a couple days later your pouring footings. Its weeks of hydraulically fracturing rock and then removing the small debris with another shovel. If the foundation foot print was the size of the actual house the material of rock needed to be removed would be: House size:46 x34= 1564 sq. ft. 1564 sq. Ft. x 8ft ^Ndepth=12 512 cubic foot, 12512 cubic feet = 463 cubic yards.

- If the applicant could store (as per proposed approved application) half the amount of excavation next to house and have to remove the other half, remember you can only place it on the east side because of the proximity to the hill and dwelling on the west (2118 208st). The amount of material excavated would be the equivalent of 66 dump trucks of material, so it would require at least 33 truck loads removed. Since this property is located at the top of a blind hill on 208 street, that this would cause a huge impact to any local traffic in the area. The excessive noise from this excavation process would directly affect the following properties: 2134-208 St, 20801-22 Ave, 2121-208 St, 2118-208 St, and 2126-208 St.
- My property does not have access to a back alley like many in this area. And if a building is permitted on this property, the only site line to the road would be at the driveway entrance. The driveway location is just before the steep hill on 208 Street, and extreme caution has to be observed when leaving the property. Now include a huge excavation pile blocking my view upon exiting my driveway, this causes a huge risk of possible collision with traffic coming up the hill. As seen with the pictures accompanied with this letter.
- This is a secondary concern but a noteworthy one, please take in account residence 2118 208 street. This dwelling is constructed probably in mid 70, this is the first property that could be affected from run off water due to the top native "grasses" being removed from the top of the property that slopes down the hill. If all of the material is removed does the applicant have a water mitigation strategy so that it doesn't affect the foundation of 2118 208 street and 2114 208 street? How much water can be diverted in the 17 ft to the property line? The rainfall and snowmelt precipitation that normally would be controlled by plants in the field would not be mitigated by the grass and soil, and could result in run down to the adjacent properties.
- Thank you for your consideration in this matter, and for going ahead and filing the appeal.

The applicants, Larry and Catherine McKinney submitted the following points:

- We drove from Calgary to Bellevue to meet with the Appellants, in the late afternoon of March 11th, 2023. We had the intention of listening to any concerns they might have had, and hopefully establishing a good relationship with them. We showed both Appellants our revised site plan (we had received a front yard setback variance, to move

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our house closer to 208 St.), which would give the Appellants as much space as possible between our two homes.

- The only concern the Appellants expressed to us at this time was for their privacy. We assured them that privacy would not be an issue, and that we would take steps to deal with it, because we are, in fact, just as concerned about our own privacy. We tried to assure them that we desired no conflict between us, as we would eventually all be neighbors.
- During our conversation, we asked them several times if they had any other concerns about our plans to build on the lot, and they said no. We gave them our cell number, with much encouragement to contact us if they had any other questions or comments, after we left.
- We had the impression that the interaction was a very positive one for both sides, and so we were quite surprised to find out almost a month later, that the Appellants had decided to send an appeal to the Municipality, rather than deal with us directly.
- We would like to respond to the Appellants' issues regarding our development of the above stated property. We hope that the City will consider our responses to these issues, and allow us to proceed with our development plans, which were approved on March 15, 2023. The Appellants' issues are listed below, along with our responses to each.

1. Privacy: The Appellants are concerned that they will experience a loss of privacy, and that their front yard is "the only real usable space" on their property.

Response: The privacy that both the Appellants and we seek, can be maintained through installing fences on the ground, as well as privacy screens on the decks of both homes. As for the Appellants' concern for the limited "usable space" on their lot, we would like to refer them to the aerial views of their property (submitted to the Municipality by them), which indicate a fair amount of space on their lot, that is, in fact, taken up by trees. We suggest that the Appellants consider clearing some trees on their lot, if they desire more usable space.

The Appellant's proposed site plan for our lot is not acceptable. The view from south-west to north-west is the ideal one, and yet the Appellants propose the placement of our home as far to the east as possible, which would severely limit our view. This placement entirely disregards our desire for a view, and it seems to infer that the Appellants have the sole right to one. The placement would, furthermore, prohibit future construction of a shop, on the east side of our lot.

2. Property Value: The Appellant cites a potential "loss of view", in the event that a shop is constructed on our property, which might cause a decrease in his property value. He also states a concern over the safety of his property, insisting a future shop on our property will impede fire and emergency access to his property.

Response: The view that the Appellants mention is, in reality, already very limited by trees and houses. By building a shop on the east side of our lot, we will in no way be further obstructing their view. As for a decrease in value of their property, the fact is, by developing our lot according to the approved plans, we will actually be increasing

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the value of their property. Not once did the Appellants mention their concern for a view during our meeting on March 11. They had already examined our site plan, and were fully aware of the placement of our home; one can only assume that they made no mention of a view, because it didn't matter to them. We are wondering why the Appellants have now decided that it is a concern. As for the issue of safety, we suggest that the Appellants refer, again, to the aerial view of the two lots, which indicates that the Appellants have over 48 feet of street access on 208 St. We recognize that the Appellants consider themselves somewhat "landlocked", and it is not our intention to create conflict over their street access; we will endeavor to maintain ease of street access for the Appellants. On their part, we suggest that rather than have their driveway infringe on our property (as shown in the aerial view), the Appellants should remove various trees and other obstacles on the east side of their driveway to the street, which are actually impeding their full use of that 48 ft. of street access.

3. Parking: The Appellants claim that street parking will be limited by our proposed driveway.

Response: The Appellants are not taking into consideration that we have 5 off-street parking spaces proposed on our lot, as well as other spaces available (the proposed garage and shop). We believe the high number of off-street parking spaces is more than sufficient to avoid any street parking issues.

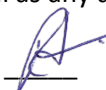
4. Construction Processes: The Appellants are concerned that development on the lot will generally be disruptive to them; they cite noise and piles of excavation material, as specific problems.

Response: The Appellants are unaware of the actual development that will take place. The proposed construction is based on a 1266 sq. ft. dwelling, not a 1564 sq. ft. one, as the Appellants claim. The development will also only involve excavation for a foundation 4 ft. below grade (and approximately 5 ft. above grade), which will accommodate a ready-to-move (RTM) home. We do not believe the inconvenience from this type of development would be excessive for any neighbors. The Appellants are concerned that an "excavation pile" will block their view of the street when exiting their driveway. Any and all construction on our lot will be in accordance with all city ordinances, and we will ensure that any inconveniences to neighbors will be mitigated as much as possible, including ensuring a clear view to the street for the Appellants. We will also ensure that the local trades we hire are respectful of our neighbors.

5. Water Drainage: The Appellants list this as a secondary concern, citing the potential for excessive "run-off water" affecting other neighbors.

Response: The Appellants are, again, unaware of the basic development processes that will occur. Whatever construction takes place, we will have city permits in place, and inspections will be carried out at all phases. The excavation process will necessarily include an effective drainage system, which will prevent any negative impacts on our property, as well as any adjoining ones.

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In considering the Appellants' reasons, it would appear that the real motivation behind their appeal is that they simply do not want any kind of development to take place on our lot. It is apparent that the Appellants purchased their property without any forethought of the potential development that might occur on this lot. They did indicate to us when we spoke in person, that they have lived there for over ten years, and that they had never considered anyone actually buying the lot.

We ask the city to please consider, in their deliberations, our desire to live on this particular lot, and our desire to arrive at an amicable agreement with our neighbors. We've spent several years trying to find the ideal location for our house, and we feel that we have now found it. We are very much looking forward to moving into our forever home, and making our retirement life there as peaceful, and as responsible, as possible.

Larry and Catherine McKinney submitted the following:

April 8th, 2023

TO WHOM IT MAY CONCERN: Re DP2023-018 Roll No. 3001601
Lot 14 Block 16 Plan 0612667 (2122 208 St. Bellevue, AB)

We drove from Calgary to Bellevue to meet with the Appellants, in the late afternoon of March 11th, 2023. We had the intention of listening to any concerns they might have had, and hopefully establishing a good relationship with them. We showed both Appellants our revised site plan (we had received a front yard setback variance, to move our house closer to 208 St.), which would give the Appellants as much space as possible between our two homes. The only concern the Appellants expressed to us at this time was for their privacy. We assured them that privacy would not be an issue, and that we would take steps to deal with it, because we are, in fact, just as concerned about our own privacy. We tried to assure them that we desired no conflict between us, as we would eventually all be neighbors. During our conversation, we asked them several times if they had any other concerns about our plans to build on the lot, and they said no. We gave them our cell number, with much encouragement to contact us if they had any other questions or comments, after we left. We had the impression that the interaction was a very positive one for both sides, and so we were quite surprised to find out almost a month later, that the Appellants had decided to send an appeal to the Municipality, rather than deal with us directly.

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A handwritten signature in blue ink, appearing to be 'RH', written over a horizontal line.

DECISION:

Having considered the written and oral submissions, including Exhibits A through G and from Ron Yeske and Tammie Self, and having regard to the provisions of the Land Use Bylaw 1103, 2021, and the Municipal Development Plan, the decision of the Board is as follows:

The appeal is DENIED and Development Permit DP2023-018 is granted with a front yard variance of 25% as issued by the Development Officer.

REASONS:

1. A single-family dwelling is a permitted use within the R-1 Residential Zone.
2. The proposed development conforms with the use prescribed for that land or building in the Land Use bylaw.
3. In the opinion of the board, the variance of 25% does not unduly interfere with the amenities of the neighborhood.
4. In the opinion of the board, the variance of 25% does not materially interfere with or affect the use, enjoyment or value of neighboring parcels of land.



CHAIR, RUPERT HEWISON

May 2, 2023

DATE

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