



**SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
OF THE TOWN OF OKOTOKS  
DATED AUGUST 20, 2018**

**DECISION**

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Hearing held at: Town of Okotoks Municipal Centre  
Council Chamber  
5 Elizabeth Street, Okotoks

Date of Hearing: August 8, 2018

Members present: Jasse Chan, Chair  
Councillor Tanya Thorn  
Corey Brandt

Staff present: Jamie Dugdale, Planning Services Manager  
Kari Florizone, Development Planner  
Michelle Grenwich, SDAB Clerk

Summary of Appeal: This is an appeal against the decision of the Municipal Planning Commission to refuse Development Permit Application Number 115-18 for a Studio Suite at 442 Cimarron Boulevard (Lot 63, Block 34, Plan 0715152).

Appeal filed by: Joe Rorke

Those present at the hearing were asked if there were any objections to the Board members hearing the appeal. There were no objections. Those persons who made representations at the hearing were asked if they felt they had a fair hearing. They indicated they felt they had a fair hearing.

The Board heard verbal submissions from the following:

Kari Florizone, Development Planner ("Administration");

The Board reviewed the materials contained in its agenda package and considered the verbal submissions made at the hearing.

**SUMMARY OF SUBMISSIONS:**

The following is a summary of the submissions made to the Board in respect of this appeal.

Submissions of Administration

This appeal is against the decision of the Municipal Planning Commission (MPC) to refuse a development permit application for a Studio Suite in the walkout basement of a two storey single detached dwelling. The MPC refused the application for the reasons that the studio suite exceeded the maximum allowable floor area and minimum parking requirements for studio suites. The appellant is appealing on grounds relating to the calculation of the size of the studio suite and the minimum parking requirement.

The subject property is in the Residential Single Detached (R1) District and is located on a corner lot without a lane. The corner lot fronts onto Cimmaron Boulevard, a high volume collector road, with driveway access onto Cimarron Springs Link. Properties to the west, north, and east are zoned R1, and properties to the south are zoned Residential Narrow Lot Single Detached (R1N).

The existing single detached dwelling was constructed in 2008 and included a roughed-in unfinished basement. The basement was subsequently developed as an independent dwelling unit containing a full kitchen, dining area, living area, bedroom, full washroom, storage room, and separate laundry facilities. Administration has no record of any permits being obtained for the completed basement development. This application is a result of a complaint received in 2017 and subsequent follow-up by Administration.

Section 9.24.7(c) of Land Use Bylaw No. 40-98 (LUB) stipulates that the maximum floor area allowance for the studio suite is 40% of the principal dwelling unit to a maximum of 75m<sup>2</sup>. As shown in item 7 of the agenda package, Administration calculated the size of the studio suite to be 87.13m<sup>2</sup> which represents 38% of the floor area of the single detached dwelling. The studio suite exceeds the maximum regulated size by 12.13m<sup>2</sup> representing a 16.2% variance. Administration based its measurements off of the 2008 approved Cedarglen Homes floor plans and the 2009 Real Property Report in accordance with sections 9.24.7 of the LUB.

Section 11C.2.2 of the LUB stipulates that one parking space is required for a studio suite, in addition to the required four parking spaces for the single detached dwelling. The minimum required dimensions for the four residential parking spaces are met within the garage and on the approved driveway. At some point after 2009 the driveway was expanded to the north by 3.03m. The Town has no records approving this driveway expansion. The unapproved driveway expansion measures 3.03m in width and 3.71m in depth, which does not comply with the minimum required depth of 5.80m as stipulated in Section 9.3.4(f) of the LUB. The applicant is requesting a variance of 2.09m to the

minimum depth of the parking space. The proposed driveway cannot accommodate a vehicle without encroaching into the adjacent boulevard.

Administration does not support the variance to the size of the studio suite as they are not satisfied that the application demonstrates compliance with Council direction, given through the LUB, with regards to the maximum size and intensity of a studio suite.

Administration does not support the requested variance to the depth of the parking space, as parking is required to be accommodated on site. Further, the administrative review team was not satisfied that parking could be accommodated at another location on the site without compromising the integrity of the development.

#### Submissions of the Appellant

The appellant is of the opinion that the measurements in the Cedarglen Homes floor plan are inaccurate and are greater than the actual floor area of the dwelling by 120-160 square feet based on three independent measures.

In his original application, the appellant submitted a scaled drawing of the studio suite showing it to be 72.22m<sup>2</sup> in size. A second measurement, based on the Realtor's square footage of the dwelling, shows the studio suite to be 74.32m<sup>2</sup>. A third measurement, based on the appellants personal inside measurements, show the studio suite to be 73.486m<sup>2</sup>. All three measurements show the size of the studio suite to be compliant with the LUB.

The appellant is requesting a variance to the parking requirement; however if this is not acceptable they would be willing to change the parking location to comply with the LUB or to other nearby parking spaces.

#### **DECISION:**

The Board upholds the appeal and approves Development Application Number 115-08 for a Studio Suite at 442 Cimarron Boulevard subject to the following conditions and variances:

#### Conditions

1. Prior to the release of the Development Permit, the Developer shall:
  - a) provide performance security in the amount of \$5,000.00 in a form satisfactory to the Town to ensure the completion of conditions;
2. Development Conditions:
  - a) the Developer shall construct the development in accordance with:
    - i) all conditions of this approval; and
    - ii) the Real Property Report from 2009 and the Floor Plan from the original Building Permit in 2008;

- b) the Developer shall provide and maintain a hard surfaced walkway from the driveway to the door of the studio suite that is a minimum of 1.0m in width;
- c) this approval does not include any changes to the exterior of the building;
- d) a Development Completion Certificate (DCC) shall be issued for the site improvements approved under this Development Permit before the use is commenced or the development occupied. A DCC is independent from the requirements of Building Permit occupancy. Performance security will be released upon issuance of the DCC; and
- e) The issuance of a development permit by the Town of Okotoks does not relieve the permit holder of the responsibility of complying with all other relevant municipal bylaws and requirements, nor excuse violation of any regulation or act, which may affect this project.

### Variances

The following Sections of the Land Use Bylaw are varied pursuant to Section 4.4.1 of the Land Use Bylaw:

1. Section 9.24.7(c) [Studio Suites] to permit a studio suite with a floor area of 87.13m<sup>2</sup> where the maximum is 75m<sup>2</sup>, a variance of 12.13m<sup>2</sup>;
2. Section 11C2.2 [Minimum Parking Required] to permit a studio suite without a dedicated parking space and to permit four (4) parking spaces for the site, where a minimum of five (5) are required.

### **REASONS:**

As an initial comment, the Board notes that the appellant was not in attendance at the hearing. As such, the Board relied on the appellant's submission in the agenda package as representative of their reasons for appeal.

The Board considered the various measurements of the studio suite as provided in the agenda package, and has based its decision on Administration's measurement of 87.13m<sup>2</sup> found in item 7 of the agenda package. The Board is satisfied that Administration's measurement of the studio suite is accurate as it is based on the Real Property Report (RPR), which was prepared by an Alberta Land Surveyor, and the approved Cedarglen Homes floor plans, which matches the footprint of the RPR.

Section 9.24.7(c) of the LUB stipulates that the maximum floor area allowance for a studio suite is 40% of the area of the principal dwelling unit to a maximum of 75m<sup>2</sup>. The Board notes that while the floor area of the studio suite represents 38% of the floor area of the principal dwelling, it is 12.13m<sup>2</sup> greater than the maximum allowed 75m<sup>2</sup> it.

The Board considered the definitions of a studio suite and accessory use as follows:

**“studio suite** means a self-contained dwelling unit on a site that is accessory to the principal dwelling unit where both dwelling units are registered on the same land title”

**“accessory use** means a use on a site which is normally incidental and subordinate to the main use on the same site”

The Board is of the opinion that the intent behind the requirement in the LUB, to limit the size of a studio suite to not more than 40% of the floor area of the principal dwelling, is to ensure that the studio suite is an accessory use to the principal dwelling unit. Given the size of the studio suite in relation to the principal dwelling, the Board is satisfied that the studio suite is incidental and subordinate to the principal dwelling. Further, the Board is of the opinion that the variance of 12.13m<sup>2</sup> granted to the floor area of the studio suite is minor, and minimal in impact as it represents a variance of only 16.2% of the maximum allowable floor area of 75m<sup>2</sup>.

The Board is not satisfied that the additional fifth required parking space can be accommodated on the site, given Administration's concerns regarding safety along Cimarron Boulevard, constraints associated with the location of the community mailbox, encroachment into the boulevard and snow removal. The Board; however, considered the location and orientation of the subject property on the corner of Cimarron Boulevard and Cimarron Springs Link and has determined that granting a parking variance to allow four parking spaces instead of the required five spaces is acceptable.



Michelle Grenwich  
SDAB Clerk