

**JOINT SUBDIVISION AND DEVELOPMENT APPEAL BOARD  
DECISION**

Hearing Date: January 6, 2023  
Development Application 020020-22-00070  
Applicant: Caitlin Strong  
Appellant: Kelly Lehman  
Location: SE 13-51-20 W4M  
Proposed Development: Second or Additional Dwelling (1,876 sq. ft. mobile home)/  
Building and Uses Accessory to Permitted Use (as built garage)

**A. INTRODUCTION**

1. The Beaver County Development Authority issued a development permit approving a side yard variance for an existing Second or Additional Dwelling (1,876 sq. ft. mobile home)/ Building and Uses Accessory to Permitted Use (as built garage). The Appellant appealed the approval of the development permit. The Development Authority took the position that the appeal was filed out of time. The Joint Subdivision and Development Appeal Board scheduled a preliminary hearing to determine whether the appeal was filed in time.

**B. PROCEDURAL MATTERS**

2. The Chair asked the parties in attendance whether there were any objections to the Board members. No objections were raised.
3. The Chair asked the parties in attendance whether there were any objections or other concerns regarding the hearing process. No objections or concerns were raised.

**C. SUMMARY OF HEARING**

4. Appellant (Kelly Lehman) – The Appellant provided the Board with a written submission, which is on file. She also provided the Board with copies of a printout of her emails with Beaver County, which the Board accepted as an exhibit. To summarize:

- The Appellant did not receive the October 24, 2022 application referral letter.
- The Appellant was out of the country from November 21 to 29, 2022.
- Upon returning home on the evening of November 29, 2022, she saw the notice in the newspaper and immediately emailed the Board regarding her objection to the application and intention to appeal the development permit.
- The Appellant paid the appeal fee by credit card on December 6, 2022.

5. Development Authority (Margaret Jones) - The Development Authority provided the Board with a written submission, which is on file. To summarize:

- The development permit was issued on November 8, 2022.
- Notice of issuance of the development permit was provided to the Applicant and landowner as required by the Land Use Bylaw on November 8, 2022. The Applicant confirmed receipt of the notice on November 8, 2022.
- Pursuant to section 686 of the *Municipal Government Act (MGA)*, the appeal period for affected parties is 21 days from the date of notice of issuance of the development permit in accordance with the land use bylaw.
- In this case, the Development Authority deemed that notice of issuance of the development permit occurred on November 8, 2022 and that the appeal period expired 21 days later on November 29, 2022.
- In order to have a valid appeal, the notice of appeal must be submitted and the appeal fee paid prior to expiry of the appeal period.

- The Appellant's email was received after hours on November 29, 2022. The appeal fee was not paid until December 6, 2022 and the appeal form was not received until December 8, 2022.
  - The appeal was therefore filed out of time.
6. Applicant (Caitlin Strong) - The Applicant provided the Board with a written submission, which is on file (the written submission is also signed by the landowner). To summarize:
- The Appellant did not submit the appeal form and appeal fee until December 8, 2022, which is outside the appeal deadline of November 29, 2022. The appeal should therefore be dismissed.
  - The Development Authority provided the Appellant with notice of the application on October 24, 2022, which gave the Appellant 36 days notice. In addition, the development permit was advertised twice in the newspaper. The first advertisement was before the Appellant left the country. In short, the Appellant had ample notice of the development permit and ample time to appeal.
  - While the Applicant did not object to the Appellant's email printout being marked as an exhibit, she pointed out that it was not reliable or necessarily complete as it could easily be altered.

**D. DECISION**

7. The Board finds that the appeal was filed in time and will therefore proceed with a hearing on the merits on January 31, 2023 at 9:30 am at the Beaver County Service Centre, Council Chambers.

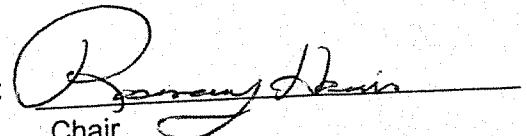
**E. REASONS FOR DECISION**

8. Section 2.5 (2) of the Beaver County Land Use Bylaw (LUB) requires that notice of a development permit for a discretionary use or where there has been a variance be published in the newspaper.

1. Section 2.5 (2) of the Beaver County Land Use Bylaw (LUB) requires that notice of a development permit for a discretionary use or where there has been a variance be published in the newspaper.
2. Therefore, for affected parties, notice of issuance of the development permit as required by section 686(1)(b) of the MGA is the date of publication in the newspaper (not the date the Applicant was notified).
3. As such, the appeal deadline for affected parties was 21 days from the date of publication in the newspaper.
4. In this case, the first publication in the newspaper was on November 16, 2022. Therefore, the appeal period for affected parties expired 21 days later, on December 7, 2022.
5. The Appellant submitted her initial email on November 29, 2022 and the appeal form on December 8, 2022. The Board finds that there is no requirement in the MGA or LUB that an appeal be filed using the Board's form. Section 3.1(4) of the LUB provides that an appeal is commenced by "filing a notice of appeal containing reasons ... together with the appeal fee". The LUB does not specify that a particular form be used for the notice of appeal. The Board is satisfied that the November 29, 2022 email from the Appellant is sufficient notice of appeal pursuant to the LUB.
6. The appeal fee was paid on December 6, 2022.
7. As the notice of appeal and appeal fee were provided to the Board prior to the December 6, 2022 appeal deadline, the Board finds that the appeal was filed in time.

Dated this 11 day of January, 2023

Per:



Chair  
Joint Subdivision and Development  
Appeal Board