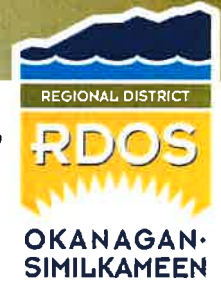


# MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



**DATE:** July 21, 2023  
**TO:** Christopher Garrish, Senior Manager of Planning  
**FROM:** Ben Kent, Planner I  
**RE:** Development Variance Permit (DVP) — Electoral Area “H”

**FILE NO.:** A2023.022-DVP

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Owner: Scott & Christina Vyse      Agent: NA      Folio:A-01234.010  
Civic: 3102 30<sup>th</sup> Avenue      Legal: Lot A, Plan KAP77333, District Lot 42, SDYD

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### Proposed Development:

This application is seeking a variance to the front parcel line setback that applies to the subject property in order to convert an existing carport to an attached garage.

Specifically, it is being proposed to vary the front parcel line setback from 7.5 metres to 5.19 metres.

In support of this request, the applicant has stated that:

- Existing carport built years ago. 1974.
- It's 2.31m too close to parcel line.
- It's been this way since 1974.
- Closing this carport in will not change foot print nor density, nor affect anything in the area.

### Site Context:

The subject property is approximately 4000 m<sup>2</sup> in area and is situated on the north side of 30<sup>th</sup> Avenue and on the east side of 33<sup>rd</sup> Street, approximately 190 metres east from the boundary with Town of Osooyos. The property is understood to contain one (1) singled detached dwelling and an accessory building.

The surrounding pattern of development is generally characterised by similar residential development.

### Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on January 24, 2006, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area “A” Official Community Plan (OCP) Bylaw No. 2905, 2021, the subject property is currently designated Small Holdings (SH).

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Small Holdings Two (SH2) which lists single detached dwelling as a principal permitted use.

The property has been the subject of multiple Stop Work Notice for converting a carport to a garage and developing a basement without building permits.

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The property is within the Agricultural Land Reserve (ALR) and BC Assessment has classified the property as “Residential” (Class 01).

Under Section 3.49 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 2793, 2018*, “the CAO or his designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

**Public Process:**

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on June 15, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of July 7, 2023, being 15 working days from the date of notification, approximately 0 representations have been received electronically or by submission at the Regional District office.

**Delegated Authority:**

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.49 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 2793, 2018, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the degree of the requested variance it is considered that a 30% reduction in the front parcel line setback from 7.5 metres to 5.19 metres is minor because it is unlikely to impact adjacent uses.

With regard to the proximity of the proposed garage to neighbouring properties, the nearest parcel lines is approximately 29 metres to the east. For this reason, the requested variance is seen minor and unlikely to adversely impact the use of adjacent properties.

With regard to the final criteria and the character of development in the vicinity of the subject property, the placement of an accessory building within 5.19 metres of the front parcel line setback is common in this area and for this reason the requested variance is minor.

For these reasons, the proposed variance is deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

**Analysis:**

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When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or un-necessary; and*
4. *Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

The Zoning Bylaw’s use of setback regulations is generally to provide physical separation between neighbouring properties in order to protect privacy and prevent the appearance of overcrowding. When a parcel is also adjacent a roadway, setbacks are further employed to maintain adequate sightlines for vehicle traffic movements.

In this instance, formalizing the placement of an existing carport so that it can be converted into a garage is unlikely to result in impacts to adjacent properties or the roadway.

Front parcel line setback variance requests are generally more likely to impact the established streetscape and for this reason are reviewed more critically. However, in this case the placement of accessory structures within the front setback is common in the surrounding neighborhood and is unlikely to impact the streetscape.

Conversely, it is recognised that non-conforming uses are generally expected to meet current zoning provisions when they are substantially altered or redeveloped.

For these reasons, it is recommended that the requested variances be approved.

**Recommendation:**

THAT Development Variance Permit No. A2023.022-DVP, to allow for the conversion of a carport to an attached garage at 3102 30<sup>th</sup> Avenue, be approved.

**Respectfully submitted:**

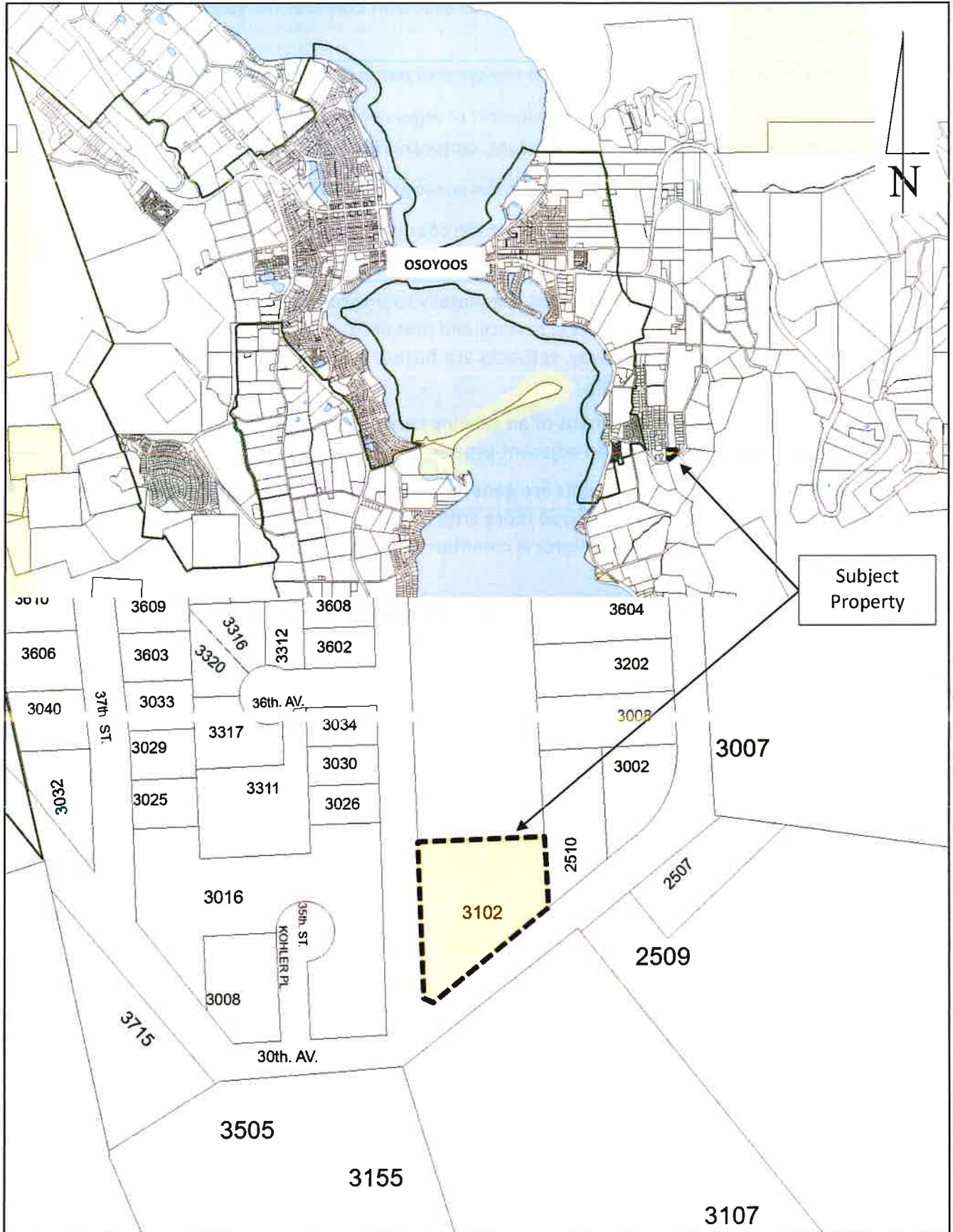
*Ben Kent*

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Ben Kent, Planner I

**Attachments:** No. 1 — Context Maps  
No. 2 — Applicant’s Site Plan

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan

