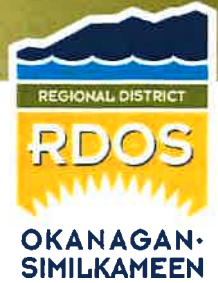


MEMORANDUM
DEVELOPMENT SERVICES DEPARTMENT



DATE: September 8, 2022
TO: Christopher Garrish, Planning Manager
FROM: Ben Kent, Planner I
RE: Development Variance Permit (DVP) — Electoral Area “E”

FILE NO.: E2022.033-DVP

Owner: Julie Quinlan & François Sauvé Agent: NA Folio: E-02192.500
Civic: 850 Patterson Road Legal: Lot 10, Block 33, Plan KAP575, District Lot 210, SDYD

Proposed Development:

This application is seeking a variance to the exterior side and rear parcel line setbacks that applies to the subject property in order to undertake the construction of a new accessory building (a ‘lean-to’ shed).

Specifically, it is being proposed to reduce the minimum exterior side and rear parcel line setbacks from 4.5 metres to 1.2 metres each.

In support of this request, the applicant has stated that the “lean-to will be housing our vineyard equipment, tractors, mowers, etc. ... with [required 4.5 metre] setbacks this lean-to would interfere with our vineyard... our field (vines are in the way) as well as septic field [are physical constraints associated with the site].”

Site Context:

The subject property is approximately 0.4 ha in area and is situated on the south side of Patterson Road, approximately 4 km north from the boundary with City of Penticton. The property is understood to contain one single detached dwelling, a vineyard, and an accessory building.

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

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on February, 1909, while available Regional District records indicate that building permits for a single family dwelling (2005), a detached garage (2005) and a swimming pool (2006) have previously been issued for this property. Additionally, a building permit for renovations to add a suite to the dwelling (2021) is currently active and an application for a deck addition to a carriage house (2022) has been submitted.

Under the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 2458, 2008, 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 requires a minimum rear parcel line setback of 4.5 metres and a minimum interior side parcel line setback of 4.5 metres.

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 July 26, 2022, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of August 17, 2022, being 15 working days from the date of notification, no 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 scope of the requested variance it is considered that a decrease of the minimum rear and exterior side parcel line setbacks for accessory buildings from 4.5 metres to 1.2 metres is seen to be minor because the similarly sized property immediately abutting the west parcel line is zoned Small Holdings One, which applies 1.5 metre rear and exterior side setback minimums for accessory buildings. Relative to this standard, which is already permitted on the adjacent property, the requested variances are seen to be minor.

With regard to the proximity of the proposed shed to neighbouring properties, the nearest parcel lines are approximately 1.2 metres to the south and west. The properties abutting the proposed shed are generally deep, narrow lots with dwellings situated along the roadside and ample rear yards. As such, the proposed 3 metre high, and 37m² shed is unlikely to adversely impact the use of adjacent properties through loss of privacy or overshadowing and therefore is seen to be minor.

With regard to the final criteria, the placement of an accessory building within 1.0 metre of the rear parcel line setback is common along Bartlett Road immediately to the east and is therefore seen to be minor.

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

Analysis:

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.*

In this instance, the SH2 zone allows a building or structure as an accessory use to a single detached dwelling. As such, the proposed variance is consistent with the purpose and intent of the zone.

With respect to physical constraints on the site, the developable footprint of the subject property is limited by the vineyard immediately north of the proposed location of the shed and the septic field which lies immediately west of the proposed location.

Strict compliance with the zoning regulation is un-necessary because it would effectively restrict a permitted use on the property. Given the mitigating circumstances described, and the limited impact to adjacent properties, strict adherence to the minimum setback regulations would be unreasonable.

The proposed variance would not unduly impact the character of the streetscape because the proposed development is located in the rear yard and is screened from the roadway by the vineyard on the property.

Conversely, it is recognised that the physical constraints on the site are not inherent features of the parcel, but rather are the result of historic development patterns on the site. For this reason, the constraints would not be considered an undue hardship.

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

Recommendation:

THAT Development Variance Permit No. E2022.033-DVP, to allow for the construction of an accessory building at 850 Patterson Road, be approved.

Respectfully submitted:

Ben Kent

Ben Kent, Planner I

Attachments: No. 1 – Aerial Photo
No. 2 – Aerial Photo (2017)

Attachment No. 1 – Aerial Photo



Attachment No. 2 – Aerial Photo (2017)

