

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: October 5, 2023
RE: Development Variance Permit Application — Electoral Area “E” (E2023.032-DVP)

Administrative Recommendation:

THAT Development Variance Permit No. E2023.032-DVP, to allow for the construction of a single detached dwelling at 4545 Mill Road, be approved.

Legal: Lot 22, Plan KAP3889, District Lot 211, SDYD Folio: E-02283.000

OCP: Low Density Residential (LR) Zone: Residential Single Family One (RS1)

Variance to reduce the minimum front parcel line setback from 6.0 metres to 1.19 metres; and

Requests: to reduce the minimum rear parcel line setback from 6.0 metres to 3.37 metres.

Proposed Development:

This application is seeking a variance to the frontyard setback from 6.0 metres to 1.19 metres and rearyard setback from 6.0 metres to 3.37 metres to undertake construction of a new single detached dwelling.

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

Due to the existing lot configuration, size and proximity to Okanagan Lake the aforementioned lot falls completely within the Riparian setback. The proposed...setback variances will allow for a new single family dwelling. Proposed dwelling is two stories with a 33'x28' footprint. Main floor is 838ft² & top floor 560ft² or a total of 1398ft². Please see rationale letter for additional comments.

Site Context:

The property is 285 m² in area and is situated on the south side of Mill Road, approximately 6 km north from the boundary with City of Penticton. The property contains one small cabin.

The surrounding pattern of development is generally characterised by similar residential development on larger lakefront parcels to west and large upland agricultural parcels on the opposite side of Mill Road.

Background:

The property was created on June 28, 1947, while available Regional District records indicate that building permits have not been issued for this property.

The property is designated Low Density Residential (LR), and is located entirely within a Watercourse Development Permit (WDP) area.

The *Riparian Areas Protection Regulation* (RAPR), includes provisions that allow for development within a riparian area, subject to conditions, where a parcel is the subject of “undue hardship”.

In order to apply to the Province for consideration under “undue hardship”, RAPR requires a developer to seek and receive “a decision on every variance that would reduce the legally restricted area of the site”. In this case, a “variance” includes a hardship appeal to a board of variance as well as a development variance permit or a zoning bylaw amendment application to a local government.

The current application to reduce the front and rear parcel line setbacks is being sought to reduce the legally restricted area of the site so that an application for development under “undue hardship” may be submitted to the Province.

The property is zoned Low Density Residential One (RS1) which lists single detached dwelling as a permitted principal use and requires 6.0 metre front and rear parcel line setbacks.

The property is within the floodplain associated with Okanagan Lake which requires a flood construction level of 343.66 metres Geodetic Survey of Canada (GSC) datum and a floodplain setback of 7.5 metres from the natural boundary of the lake. For this reason, should the subject variance be approved, issuance of a subsequent floodplain exemption would be required.

BC Assessment has classified the property as “Residential” (Class 01).

Public Process:

Adjacent property owners will have received notification of this application with written comments regarding the proposal being accepted, in accordance with Section 2.10 of Schedule ‘4’ of the Regional District’s Development Procedures Bylaw No. 2500, 2011, until 4:30 p.m. on September 12, 2023. All comments received are included as a separate item on the Board’s Agenda.

Analysis:

The Area “E” OCP includes policies that speak to encouraging variance applications for the relaxation of parcel line setbacks on existing small lots in order to reduce impacts to the riparian area. Any new development on this property would require the developer to seek approval for variances under the RAPR “undue hardship” process because the entire property is within the riparian area.

The current setback regulations limit the buildable area of the property to an approximately 35 m² area measuring 17 metres wide by 2 metres deep.

Regarding impacts to adjacent properties, a similar proposal has been submitted by the same agent for the property at 4535 Mill Road, whereas the property at 4555 Mill Road is vacant. For this reason, these properties are unlikely to be affected by reductions to the front or rear parcel line setbacks

The nearest dwelling on the opposite side of Mill Road is approximately 30 metres from the location of the proposed dwelling and is located on top of a steep, vegetated embankment. For this reason, this property is also unlikely to be affected by the requested variances.

Regarding the character of the streetscape, a single detached dwelling constructed within 1.19 metres of the front parcel line will likely change the appearance of the roadway, however nearby dwellings along the lakefront appear to have also been constructed within the front parcel line setback.

With regards to vehicle traffic safety, the Ministry of Transportation and Infrastructure has jurisdiction over the road network and a Highway Use Permit authorizing the reduced setback has been issued by the Ministry.

Alternative:

1. That the Board deny Development Variance Permit No. E2023.032-DVP.

Respectfully submitted

Ben Kent
Ben Kent, Planner I

Endorsed by:


C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Site Photo (Google Streetview)
No. 2 – Aerial Photo

Attachment No. 1 – Site Photo (Google Streetview – July 2023)



Attachment No. 2 – Aerial Photo

