
DATE: September 6, 2023

FILE NO.: E2023.024-DVP

TO: Christopher Garrish, Senior Manager of Planning

FROM: Ben Kent, Planner I

RE: Development Variance Permit (DVP) — Electoral Area “E”

Owner: Larry & Ginette Hulsmans

Agent: Bryce Goligher

Folio: E-02329.160

Civic: 7002 Indian Rock Road

Legal: Lot 1, Plan KAP51731, District Lot 212 391, SDYD

Proposed Development:

This application is seeking a variance to the interior side parcel line setback that applies to the subject property in order to undertake an addition to the existing principal dwelling.

Specifically, it is being proposed to reduce the interior side setback from 4.5 metres to 3.12 metres.

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

Our proposed addition is required to create a new front entrance and access to a secondary suite above. Currently there is no front door on the front elevation of the house. The proposed renovation includes a secondary suite upstairs and this is the only place that makes sense to add a front door and access to upstairs. Given the size of the parcel and absence of neighbouring structures we believe the proposed 3.12m should be sufficient. The proposed addition is not visible from the street and would not impact the sight lines of any neighbours.

Site Context:

The subject property is approximately 3.12 ha in area and is situated on the south side of Indian Rock Road, approximately 4.5 km north from Naramata. The property is understood to contain one (1) singled detached dwelling and 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 March 8, 1994, while available Regional District records indicate that building permits for a single detached dwelling (1998, 2000, 2002) have previously been issued for this property.

Under the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 2458, 2008, the subject property is currently designated Small Holdings (SH), and is the subject of Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Area designations.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Small Holdings Four (SH4) which lists single detached dwelling as a permitted principle use and secondary suite as a permitted accessory use.

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 18, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of August 9, 2023, being 15 working days from the date of notification, approximately 1 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% decrease in the interior parcel line setback from 4.5 metres to 3.12 metres is minor because it satisfies the intent of the bylaw.

With regard to the proximity of the proposed dwelling addition to neighbouring properties, the nearest parcel lines is 3.12 metres to the west. The requested variance is seen to be minor because the adjacent property is 2.8 ha in area and the adjacent dwelling is approximately 180 metres from the proposed addition.

With regard to the final criteria and the character of development in the vicinity of the subject property, the construction of an addition within the interior setback is not common in this area.

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:

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.

In this case, surrounding parcels are generally greater than 2 ha in area and a 3.12 metre interior setback is seen to uphold the intent of this regulation by maintaining adequate separation between adjacent uses.

The variance is also seen to address the unusual parcel shape and steep topography of the subject property, which results in a narrow buildable area in the location of the existing access once setback requirements are applied.

Conversely, there may be alternative design options available that would not contravene the zoning regulation, however it is recognized that an alternative design may not be practical or desirable in this case.

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

Recommendation:

THAT Development Variance Permit No. E2023.024-DVP, to allow an addition to the existing principal dwelling at 7002 Indian Rock Road, be approved.

Respectfully submitted:

Ben Kent

Ben Kent, Planner I

Attachments: No. 1 — Aerial Photo

Attachment No. 1 – Aerial Photo

