

# ADMINISTRATIVE REPORT



**TO:** Board of Variance  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** May 2, 2023  
**RE:** Board of Variance Appeal — Electoral Area “F”

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## **Administrative Recommendation:**

**THAT the Board of Variance deny the requested variance under Section 540(a) of the *Local Government Act*.**

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Purpose: To allow a metal storage container between a principal building and the front parcel line.

Civic: 214 West Bench Drive

Legal: Lot 1, Plan KAP21981, District Lot 5076, ODYD

OCP: Small Holdings (SH)

Zoning: Small Holdings West Bench (SH5) Zone

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## **Proposed Development:**

The applicant is seeking approval to formalize the placement of a metal storage container between the principal building and the front parcel line.

Specifically, it is being proposed to vary the zoning bylaw prohibition on siting a metal storage container between a principal building and a front parcel line.

In support of the proposal, the applicant has stated:

- “This is the only area on my property it will fit used to store valuable show cars and lock up and store lawn mower log splitter etc. No access to property behind house.”
- “Area is surrounded by trees and rock slope. Hard to see container.”
- “Containers are permitted on property. I would just like variance to allow container in front portion of lot.”

## **Site Context:**

The subject property is approximately 4,180 m<sup>2</sup> in area and is located on the west side of West Bench Drive. The property is currently developed with a single detached dwelling.

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

## **Statutory Requirements:**

Under Section 540(a) of the *Local Government Act*, a person may apply to the Board of Variance (BoV) if the person alleges that compliance with a bylaw respecting the siting, size or dimensions of a building or other structure would cause the person hardship. In this instance, the applicant is alleging that compliance with Section 6.7.1(b)(i).1, which prohibits siting a metal storage container between a

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principal building and the front parcel line, is not possible due to the features on the site (i.e. there is no access to the rear of the lot).

In considering this application, the BoV may order that a minor variance be permitted from the requirements of the applicable Bylaw. The BoV must be satisfied that it has heard the applicant and any notified person, undue hardship would be caused to the applicant if the Zoning Bylaw is complied with, and the proposed variances do not:

1. result in inappropriate development of the site;
2. adversely affect the natural environment;
3. substantially affect the use and enjoyment of adjacent land;
4. vary permitted uses and densities under the Zoning Bylaw;
5. defeat the intent of the bylaw; or
6. vary the application of an applicable bylaw in relation to residential rental tenure.

Under the Regional District's Board of Variance Bylaw No. 2494, 2009, written notice of a Board of Variance appeal shall be mailed or otherwise delivered at least 10 days before the date of the meeting. Owners and tenants of adjacent lands will have been notified of this application and will have the opportunity to comment prior to or during the Board of Variance meeting.

In accordance with Section 5 of Bylaw No. 2494, the Decision of the Board "to either grant or deny an order must be made in the presence of the applicant, and any other persons notified in connection with that application [emphasis added], if in attendance at the meeting."

#### **Background:**

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on November 8, 1971, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area "F" Official Community Plan (OCP) Bylaw No. 2800, 2022, 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 West Bench (SH5) which lists "accessory building or structure" as a permitted accessory use.

The Regional District has received written complaints regarding scattered foodstuff and a metal storage container in the front yard. The scattered foodstuff has since been cleaned and resolved.

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

#### **Metal Storage Container Regulations**

At its meeting of July 7, 2022, the Regional District Board adopted Okanagan Valley Zoning Bylaw Amendment No. 2895, 2020 to introduce zoning regulations governing the use and placement of metal storage containers. These regulations were prompted by feedback received from property owners concerned about impacts to adjacent properties, neighbourhood aesthetics, property values and compatibility with residential zones. The feedback received at this time also indicated that this land use issue was of particular concern in the West Bench area.

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Among other things, this amendment introduced general provisions permitting an accessory building or structure to be in the form of a metal storage container if specific criteria are satisfied. In the Small Holdings zones, these criteria allow only one (1) metal storage container, and only if it is not sited between a principal building and the front parcel line.

**Public Process:**

Adjacent property owners and residents will have received notification of this application in accordance with the requirements of the Regional District's Board of Variance Bylaw No. 2494, 2009.

**Analysis:**

In considering this proposal, administration notes that the intent of regulating the placement of metal storage containers in Small Holding zones is generally to prevent visual impacts to adjacent properties and the surrounding neighbourhood.

In this case, "metal storage container" is not itself a permitted use in the SH5 zone. One (1) metal storage container is permitted to be used as an accessory building or structure only if it is located in the rear or side yard.

For this reason, there is seen to be no hardship in this case because the features of the subject property do not limit the owner's ability to implement an accessory building or structure.

The accessory building or structure is simply required to be in a form other than a metal storage container if it is to be located in the front yard.

The property owner is seen to have several other options available to accommodate an accessory building for personal storage in this location (e.g. a pre-fabricated shed).

Alternative:

Conversely, Administration recognises that visual impacts from the metal storage container are partly mitigated in this case, due to the presence of a slope on one side of the metal storage container and foliage surrounding the general area.

However, it is noted that the property owner has no obligation to maintain the existing foliage as screening. These trees could be removed in the future, leaving the storage container highly visible from the roadside.

Administration notes that placement of the storage container elsewhere onsite appears to be limited by a deck adjacent the principal dwelling. The rear parcel line abuts Penticton Indian Band lands and there is no direct access to the rear of the lot.

Summary:

For these reasons outlined above, Administration does not support the requested variances and is recommending denial.

**Alternative:**

THAT the Board of Variance approve the requested variance under Section 540(a) of the *Local Government Act*.

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Respectfully submitted

*Ben Kent*

Ben Kent, Planner I

Endorsed by:

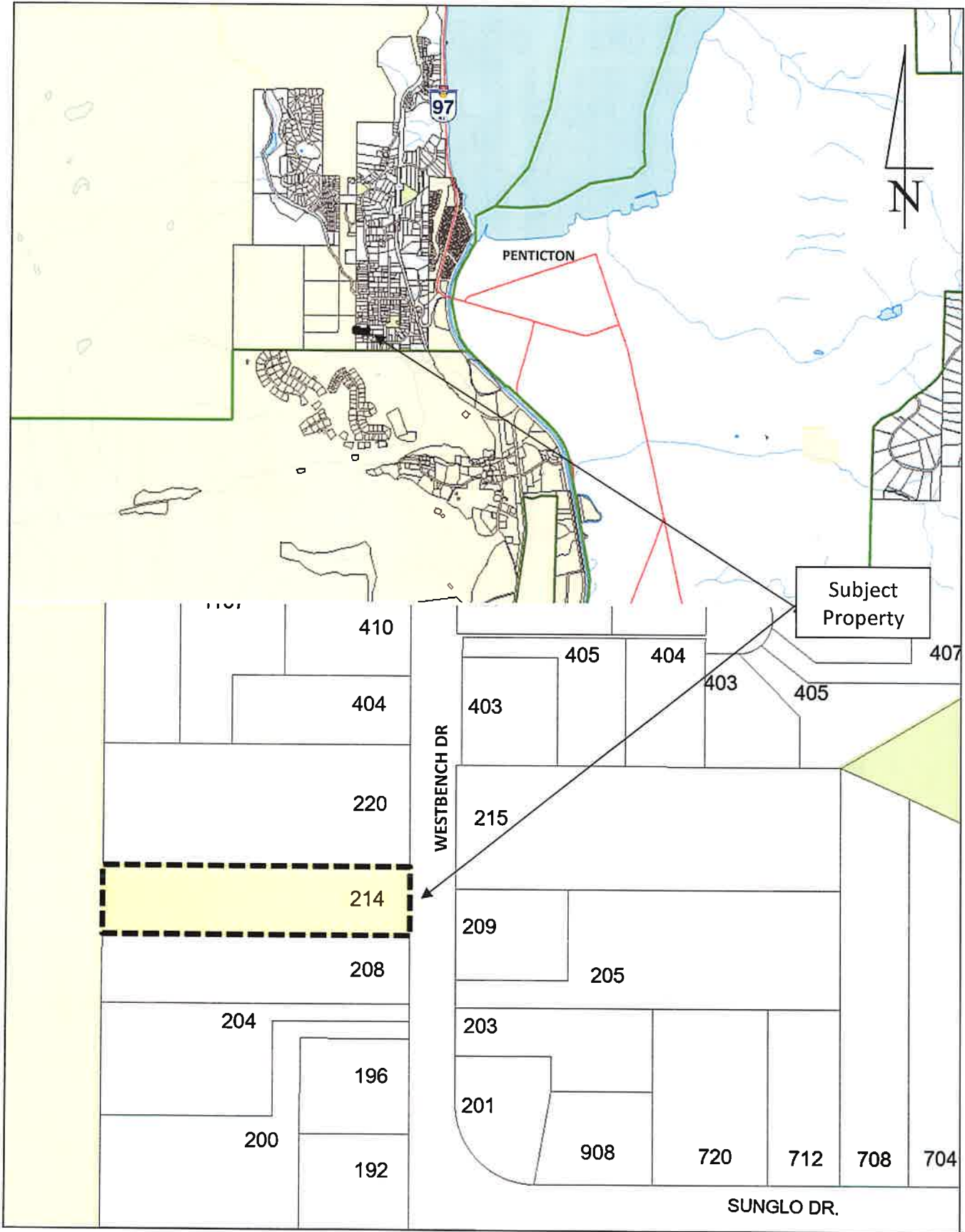


C. Garrish, Planning Manager

Attachments:

- No. 1 – Context Maps
- No. 2 – Applicant’s Site Plan
- No. 3 – Site Photo (September 2022)
- No. 4 – Site Photo (Street View – 2012)

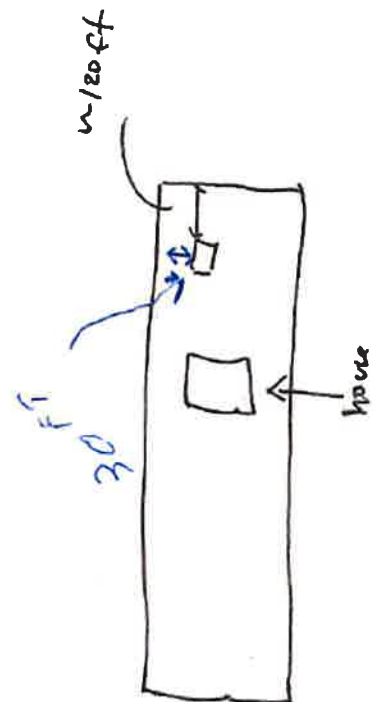
Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant's Site Plan

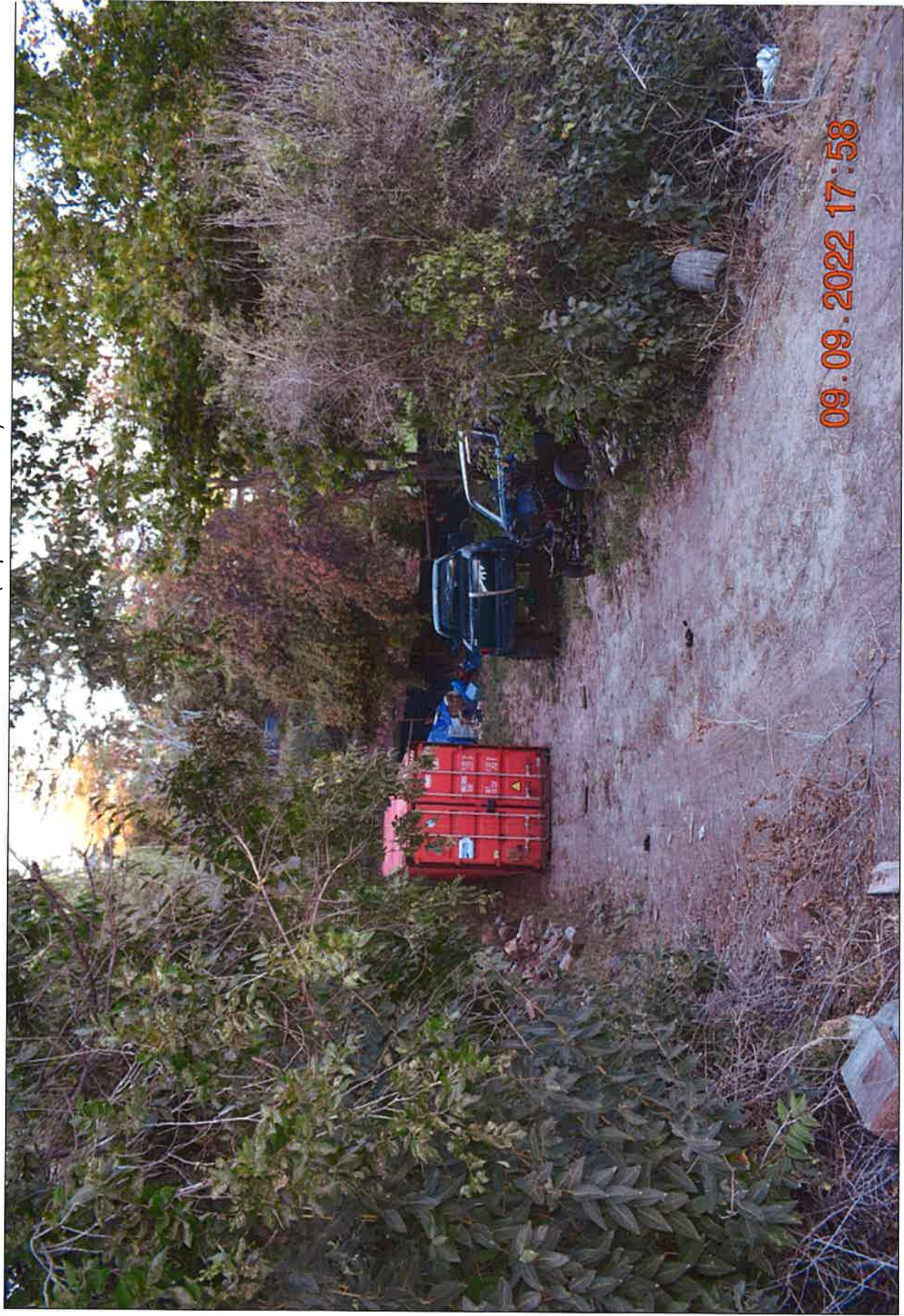


Approximate location of  
existing shipping container





Attachment No. 3 – Site Photo (September 2022)





Attachment No. 4 – Site Photo (Street View – 2012)

