

# MEMORANDUM

## DEVELOPMENT SERVICES DEPARTMENT



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

**FILE NO.:** I2023.007-DVP

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Owner: Koko Ventures Corp                      Agent: Bryce Goligher                      Folio: I-01421.000  
Civic: 537 Lakehill Road                      Legal: Lot 3, Plan KAP763, Block 17, District Lot 105S, SDYD

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### Proposed Development:

This application is seeking a variance to the front setback that applies to the subject property in order to undertake construction of a new covered patio.

Specifically, it is being proposed to vary the front setback from 7.5 metres to 4.0 metres.

In support of this request, the applicant has stated that

- “The south side of the property functions as the front. The front door and road access/ driveway are on this side and the property itself is addressed 537 Lakehill Road.”
- “Strict compliance with the zoning bylaw is not realistic as there’s no other suitable area for this outdoor space.”
- “The proposed variance will not impact the character of the neighbourhood. The neighbourhood is thrilled that this iconic cottage style home is being brought back to life.”

### Site Context:

The subject property is approximately 815m<sup>2</sup> in area and is situated on the north side of Lakehill Road and the west side of Third Avenue in Kaleden. The property is understood to contain one (1) singled detached dwelling.

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 May 9<sup>th</sup>, 1910, while available Regional District records indicate that building permits have not previously been issued for this property.

Under the Electoral Area “I” Official Community Plan (OCP) Bylaw No. 2683, 2016, the subject property is currently designated Low Density Residential (LR), and is the subject of a Watercourse Development Permit (WDP) designation.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Low Density Residential Two (RS2) which requires a front parcel line setback of 7.5 metres.

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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 March 7, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of March 28, 2023, being 15 working days from the date of notification, approximately 2 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 46% decrease in the front parcel line setback is minor because the front parcel line in this case functions as a de facto exterior side parcel line.

With regard to the proximity of the proposed covered patio to neighbouring properties, the nearest parcel lines is approximately is 8 metres to the north. 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 structure within 4.0 metres of the front parcel line setback is uncommon in this area and is deemed to be not 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:**

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:

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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 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.

Front parcel line setbacks are further used to avoid impacts to the character of the streetscape.

In this instance, Administration notes that Third Avenue is a partially constructed Road and that several adjacent properties are oriented such that their frontage along Third Avenue functions as a de facto rear or exterior side yard. For this reason, the requested variance is seen to address a physical constraint associated with the site.

The requested variance is in keeping with the established orientation of buildings in this area and for this reason is not seen to impact the character of the streetscape.

In consideration of the reasons listed above, strict compliance with the zoning regulation is seen to be unnecessary in this case.

#### Alternative

Conversely, it may be possible to avoid the requested variance either by redesigning the patio or relocating elsewhere on the property.

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

#### **Recommendation:**

THAT Development Variance Permit No. I2023.007-DVP, to allow for the construction of an accessory structure at 537 Lakehill Road be approved.

#### **Respectfully submitted:**

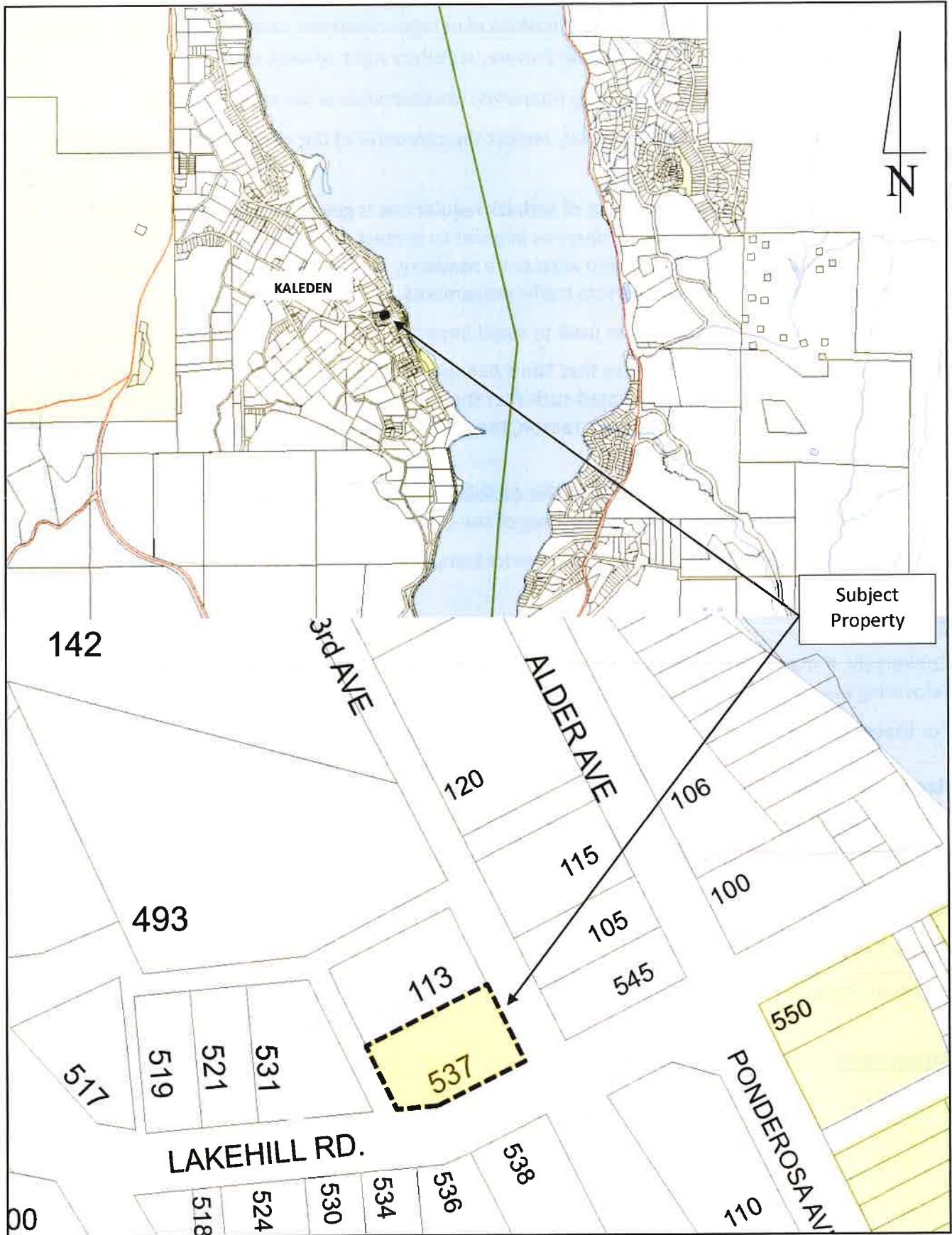
*Ben Kent*

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Ben Kent, Planner I

Attachments: No. 1 — Context Maps  
No. 2 — Applicant's Site Plan  
No. 3 — Applicant's Elevation Drawings  
No. 4 — Aerial Photo

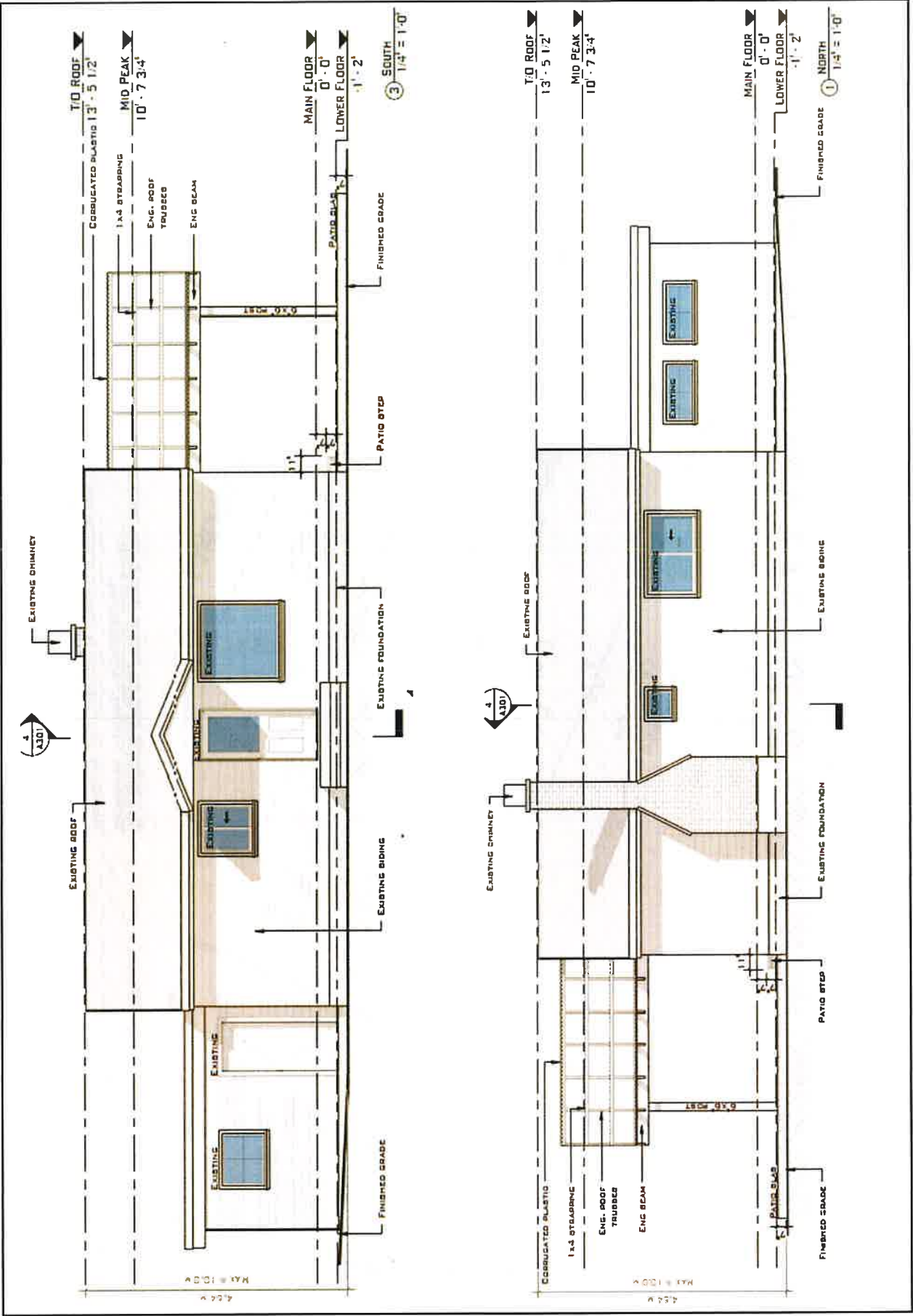
Attachment No. 1 – Context Maps







# Attachment No. 3 – Applicant's Elevation Drawings





Attachment No. 4 -Aerial Photo

