



# Regional Board Report

## Request for Decision

**To:** Regional Board

**From:** Director of Community Services

**Date:** March 30, 2023

**Subject:** Development Variance Permit Application (VP-22-10)  
Rose Cunningham (owner) c/o Jason Arnold (Applicant)  
Strata Lot 296, Plan KAS2428, DL3850, ODYD, together with an interest in the Common Property in proportion to the unit entitlement of the Strata Lot as shown on Form V  
6730 Marbella Loop (Central Okanagan West Electoral Area, La Casa)

***Voting Entitlement:*** Custom Vote – Electoral Area West – Electoral Area Directors only – 1 Director, 1 Vote

---

**Purpose:** To consider allowing an increase to the length of an exterior stairway that is permitted to project into a side yard setback area.

### Executive Summary:

RDCO Zoning Bylaw No.871 allows for exterior open stairways to project up to 0.6m into a side yard setback area, provided the length of the stairway within the setback does not exceed 35% of the wall length on that side of the house. Recent renovations to a patio and exterior stairway at 6730 Marbella Loop have resulted in a projection into the side yard setback that is approximately 110% of the north-eastern wall length.

At the time of writing this report no comments or concerns have been raised by neighbouring property owners or referral agencies in response to the variance application.

### Recommendations:

**THAT** the Regional Board receives the report from the Director of Community Services, dated March 30, 2023, with respect to RDCO file VP-22-10, for the property located at 6730 Marbella Loop, legally described as Strata Lot 296, Plan KAS2428, DL3850, ODYD, together with an interest in the Common Property in proportion to the unit entitlement of the Strata Lot as shown on Form V ("the Subject Property");

**AND THAT** Development Variance Permit application VP-22-10, to vary Section 3.5.1.c of Zoning Bylaw No. 871 is approved, to increase the length of an exterior open stair that may project into the side yard setback of the Subject Property from 35% of the wall length of that particular side of the house, to 110% of the wall length of the north-eastern wall of the house.

---

*Respectfully submitted by: Shaun O'Dea, Planner*

Approved by:



Todd Cashin,  
Director of Community Services

Attachments:      1. Location Map  
                         2. Site Plan and Building Elevations  
                         3. RDCO Zoning Bylaw No.871, Section 3.5 – Setback Exemptions  
                         4. Presentation Slides

---

### **Strategic Plan Alignment:**

Priorities:      Sustainable Communities

Values:      Good Governance

---

### **Background:**

The Subject Property contains a tourist cabin built in 2006, which included an exterior open stairway within the side yard setback area, spanning 73% of the cabin's north-eastern wall length. The RDCO's Zoning Bylaw regulations allow for exterior open stairs to project into a side yard setback area, provided the length does not exceed 35% of the wall length. Despite the original design's nonconformity, the structure was approved by the RDCO.

In the Fall of 2022, the property owner began renovating and expanding the cabin's rear patio and extending the upper landing of the stairway to provide direct access to the patio. Through the building permit process, RDCO staff noted that the length of the stair within the setback area had been extended to approximately 110% of the adjoining wall length. The property owner was advised to apply for a Development Variance Permit to remedy the nonconformance.

### **Proposal:**

The owners are seeking a Development Variance Permit to increase the permitted length of an exterior open stairway within the side yard setback area, to allow the partially built stairs.

One similar request varying the permitted length of a projection into a setback area, has been approved by the Regional Board (VP-15-02). In total 29 setback reduction variances have been considered and approved since 2012.

**Additional Information:**

<b>Owner/Applicant:</b>	Rose Cunningham (owner), Jason Arnold (Applicant)
<b>Address:</b>	6730 Marbella Loop (Central Okanagan West Electoral Area)
<b>Legal Descriptions:</b>	Strata Lot 296, Plan KAS2428, DL3850, ODYD, together with an interest in the Common Property in proportion to the unit entitlement of the Strata Lot as shown on Form V
<b>Lot Size:</b>	637m <sup>2</sup>
<b>OCP Designation:</b>	Commercial Resort
<b>Zone</b>	C5 - Campground, Cabin and Motel Commercial
<b>Existing Use:</b>	Tourist Cabin
<b>Surrounding Uses:</b>	<b>North:</b> Tourist Cabin <b>South:</b> Parks and Recreation <b>East:</b> Tourist Cabin <b>West:</b> Tourist Cabin
<b>ALR:</b>	No
<b>Fire Protection:</b>	North Westside Fire Protection Area
<b>Water Supply:</b>	Community – La Casa
<b>Wastewater Disposal:</b>	Community – La Casa

**RELEVANT POLICY AND REGULATIONS:**

In 2004 Development Permit DP-04-15 approved a variance for all strata properties within the La Casa community, reducing the C5 Zone side yard setback requirement from 3.0m to 1.2m. The north-eastern wall of the Subject Property's tourist cabin is 1.96m from the property boundary and the proposal meets all other Zoning Bylaw regulations. The requested variance is not impacted by other RDCO policies or regulations.

**RDCO TECHNICAL COMMENTS:**

**Unaffected RDCO Departments** include Inspection Services, Fire Services, Parks Services, and Environmental Services.

**AGENCY REFERRAL COMMENTS:**

**Unaffected Agencies** include Interior Health, Ministry of Transportation and Infrastructure, B.C. Hydro, Fortis, Telus, Shaw Cable and the La Casa Strata.

**Considerations:**

**External:** In accordance with the Local Government Act (LGA) and the RDCO Procedures Bylaw, a Notice of Application sign was posted at the property and written notices were mailed to all registered property owners within 100 metres of the Subject Property.

A total of 513 letters were mailed to neighbouring property owners on March 10, 2023. At time of writing this report, no letters of opposition have been received in response.

**Legal/Statutory Authority:** The application was submitted and processed in accordance with RDCO Procedures Bylaw No.944. Section 498 of the LGA states that, on

application by an owner of land, a local government may, by resolution, issue a Variance permit that varies, in respect of the land covered in the permit, the provisions of a bylaw. A Variance permit must not vary the use or density of land from that specified in the bylaw and a local government may not delegate the issuance of a permit, except by bylaw in accordance with section 498.1 of the Act.

In consideration of the Variance application, the Regional Board may approve the permit, not approve the permit or defer a decision pending more information or clarification.

Considerations not applicable:

- Organizational
- Financial
- Alternate Recommendation

---

***Approved for Agenda***



**Brian Reardon, CAO**