



Regional Board Report

Request for Decision

To: Regional Board

From: Director of Community Services

Date: April 20, 2023

Subject: Development Variance Permit Application (VP-22-11)
Tracy Mitchell (owner)
Block W, District Lot 3998, ODYD
Swalwell Lake (Central Okanagan East Electoral Area)

Voting Entitlement: *Custom Vote – Electoral Area East & Lake Country Fringe Area – Electoral Area Directors, Lake Country - 1 Director, 1 Vote*

Purpose: To consider allowing a decrease in the minimum setback from a watercourse.

Executive Summary:

RDCO Zoning Bylaw No. 871 requires a minimum setback of 30.0 metres from watercourses in the RU7 zone. The subject property is Crown Land leased and is currently developed with a historical cabin built in 1926 which is located within the 30-metre setback of Swalwell Lake. As the structure was built prior to regulations being set in place, the existing cabin is legal non-conforming.

The applicant is seeking approval to reduce the minimum setback from a watercourse to construct a residential addition to an existing cabin. The proposed addition is located within the 30-metre setback of Swalwell Lake however, the proposed addition does not extend further into the 30-metre setback than the existing cabin. The applicant has permission from the Province to pursue the application. At the time of writing this report no comments or concerns have been raised by neighbouring property owners, staff, or referral agencies. Staff are providing a recommendation of support.

Recommendation(s):

THAT the Regional Board receives the report from the Director of Community Services, dated April 20, 2023, with respect to RDCO file VP-22-11, for the property located at Block W, District Lot 3998, ODYD (the Subject Property);

AND THAT Development Variance Permit application VP-22-11, to vary Section 6.7.4 of Zoning Bylaw No. 871 is approved, to decrease the minimum setback from a watercourse from 30.0 metres to 22.4 metres.

Respectfully submitted by: Michael Czarny, Senior Planner

Approved by:



Todd Cashin
Director of Community Services

Attachments:

1. Location Map
2. Site Plan
3. RDCO Zoning Bylaw No. 871, Section 6.7 – Cottage Lot RU7
4. Regional Board Presentation

Strategic Plan Alignment:

Priorities: Sustainable Communities

Values: Good Governance

Background:

The subject property is Crown Land leased to the applicant and is currently developed with a historical cabin built in 1926, deck, dock, and several accessory buildings. The existing cabin and deck are within the 30-metre setback of Swalwell Lake. As the structures were built prior to regulations being set in place, the structures are legal non-conforming.

Proposal:

The applicant is seeking approval to reduce the minimum setback from a watercourse to construct a residential addition to an existing cabin. The proposed addition is located within the 30-metre setback of Swalwell Lake however, the proposed addition does not extend further into the 30-metre setback than the existing cabin which is 22.4 metres. The existing cabin is approximately 35.3 m² and the proposed addition is 114.4 m² in size totaling a gross floor area of 149.7 m². Additionally, the applicant has permission from the Province to pursue the application.

Site Context:

The subject property is not located within an Official Community Plan area, therefore no Development Permit Areas apply to the subject property.

Owner/Applicant:	Tracy Mitchell
Legal Description:	Block W, District Lot 3998, ODYD
Address:	N/A
Lot Size:	+/- 0.279 hectares (0.689 acres)
OCP Designation:	N/A
Zoning:	Cottage Lot (RU7), Conservation Land (CL8)
Water Supply:	Private source
Sewage Disposal:	Septic system

Fire Protection:	Not within a Fire Protection Area
Existing Use:	Tourist Cabin
Surrounding Uses:	North: Swalwell Lake South: Crown Land East: Tourist Cabin West: Tourist Cabin
ALR:	Within the ALR
Fire Protection:	Within the Ellison Fire Protection Area

RDCO TECHNICAL COMMENTS:

Inspection Services staff comment that the owner should be aware that due to the size of the addition the project will be subjected to new home warranty, up-graded septic, and Energy Compliance Report in addition to items required when making application for a building permit.

Unaffected RDCO Departments include Engineering Services, Fire Services, and Parks Services.

AGENCY REFERRAL COMMENTS:

Ministry of Forests staff comment that the property has a Crown Land Tenure for Recreational Residential covering the area where the work is proposed. The applicant should also be aware that any “work in and about a stream” requires a Water Sustainability Act application for both foreshore and the private moorage. No structures can be placed below the Present Natural Boundary.

Unaffected Agencies include Interior Health Authority, Ministry of Transportation and Infrastructure and BC Hydro.

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 7 letters were mailed to neighbouring property owners on March 30, 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
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Approved for Agenda

A handwritten signature in black ink, appearing to read "Brian Reardon".

Brian Reardon, CAO