



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: June 24, 2019

SUBJECT: Development Variance Permit (VP-19-04)
R. and C. Denison (owners)
Lot D, District Lot 2549, ODYD, Plan 37807 – 3595 Westside Road North
Central Okanagan West Electoral Area

Voting Entitlement: *Custom Vote – Electoral Areas & West Kelowna – 1 Director, 1 Vote*

Purpose: To consider issuance of a Development Variance Permit to allow an increase of the maximum accessory building height.

Executive Summary:

The height of the existing accessory building on the subject property is greater than permitted under Zoning Bylaw No. 871. While the variance was precipitated due to a Stop Work Order, the landowner ceased construction and submitted the appropriate Building Permit and Development Variance Permit applications. Existing tree cover provides screening between the accessory building and neighboring single detached housing; however, images of the site indicate that the building is visible to traffic from Westside Road.

Four letters of support have been received from three adjacent neighbours and no concerns have been identified from agencies regarding the application. Should the Development Variance Permit be issued by the Regional Board, provisions of the Wildfire Development Permit Area guidelines of the Rural Westside Official Community Plan will be applicable.

RECOMMENDATION:

THAT the Regional Board approve Development Variance Permit Application VP-19-04 to vary the Provision of Part 6, Section 6.3.14.2 of Zoning Bylaw No. 871 by allowing an increase of the maximum accessory building height from 5.0 m (16.4 ft.) to 7.6 m (24.93 ft.), based on the Survey Certificate prepared by AllTerra Land Surveying Ltd. dated April 3, 2019.

Respectfully Submitted:

Todd Cashin
Director of Community Services

Approved for Board's Approval

Brian Reardon, CAO

Prepared by: Brittany Lange, Planner

Implications of Recommendation:

Strategic Plan:	Development Variance Permits provide options/solutions to address building/location issues provided there are no negative impacts (visual, health and safety) to neighbouring residents.
Policy:	The application was submitted and processed in accordance with Requirements of RDCO Development Applications Procedures Bylaw No. 944.
Legal/Statutory Authority:	In accord with Section 498 of the <i>Local Government Act</i> , on application by an owner of land, a local government may, by resolution, issue a development variance permit that varies, in respect of the land covered in the permit, the provisions of a bylaw. A development 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.

Background:

During a routine inspection in February of 2019, a Stop Work Order was placed on the subject property for the unauthorized construction of an accessory building without an approved RDCO Building Permit. At time of application for a building permit, it was identified that the accessory building would not meet the height regulations within Zoning Bylaw No. 871. As such, a Development Variance Permit Application has been submitted.

The owners' rationalize that they were confused regarding the zoning of their property. Furthermore, the owners' based the height for the accessory building on RU2 zoning regulations which permit a maximum height of 8.0 m (26.2 ft.) rather than the correct RU3 zoning regulations which permit a maximum building height of 5.0 m (16.4 ft.) for an accessory building or structure. Based on the survey certificate provided by AllTerra Land Surveying Ltd. dated April 3, 2019, the existing two-storey, accessory building has been constructed to a height of 7.6 m (24.93 ft.).

Furthermore, the owners' have indicated that the majority of their property is impacted by steep slopes and in order to avoid building on the hillside, the owners wish to maximize the flat portion of their land by increasing the building height.

Historically, height variances have been evaluated and assessed based on site specific conditions and on input received from affected neighbouring property owners. In 2017 and 2016, the Regional Board approved two Development Variance Permits to increase the maximum height to accommodate two existing accessory buildings constructed without permits (Files: VP-17-03 & VP-16-02). Furthermore, the Regional Board approved two additional Development Variance Permits to increase the maximum height of accessory structures in the Central Okanagan West and East Electoral Areas (Files: VP-17-08 & VP-09-02).

Site Context:

The parcel is located within the Rural Westside Official Community Plan (OCP) and is affected by a number of Development Permit Areas. Demitri Creek runs through the northern boundary of the parcel and the eastern boundary fronts a red zone for shore spawning Kokanee along Okanagan Lake. The landowners will be required to address applicable Development Permit provisions of the OCP in conjunction with the building permit process.

Additional Information:

Owner/Applicant:	R. & C. Denison
Legal Description:	Lot D, District Lot 2549, ODYD, Plan 37807
Address:	3595 Westside Road North
Lot Size:	+/- 2.55 ha (6.31 acres)
Zoning:	RU3 Rural 3
OCP Designation:	Rural Residential
Sewage Disposal:	Septic System
Water Supply:	Okanagan Lake
Existing Use:	Residential
Surrounding Uses:	North: Okanagan Lake / Rural Residential South: Rural Residential East: Okanagan Lake / Rural Residential West: Westside Road / Rural Residential
A.L.R.:	Not within the A.L.R.
Fire Protection:	Wilson's Landing Fire Protection Area

RDCO TECHNICAL COMMENTS:

Planning Services staff advise that the accessory structure is greater than 40m², as such, the provisions of the Wildfire Development Permit Area Guidelines of the Rural Westside OCP apply. However, Development Permit approval for the accessory structure is not required should the owners' register a Wildfire Covenant on the properties' title.

Inspection Services staff advise that the existing single detached house was constructed prior to the incorporation of the Regional District of Central Okanagan, as such, a building permit is not required. Should a Development Variance Permit be approved, a building permit can be issued to bring the existing accessory building into compliance with RDCO bylaws.

Central Okanagan West Advisory Planning Commission (APC) recommends that the application be supported as presented.

AGENCY REFERRAL COMMENTS:

Unaffected Agencies include Interior Health, Ministry of Transportation and Infrastructure, Fortis B.C., Telus, Shaw Cable, and the City of West Kelowna.

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

External Implications:

In accord with the *Local Government Act* and the Development Applications Procedures Bylaw No. 944, a Notice of Application sign was posted on the property and written notices were mailed to all registered property owners of land situated within 100 metres of the subject property. A total of 7 letters were mailed to 4 adjoining properties.

Further to the notification process, at time of writing this report, four letters of support from three adjacent property owners have been received for this application.

In consideration of the Development Variance Application, the Regional Board may approve the Development Variance Permit, not approve the Development Variance Permit or defer a decision pending more information or clarification. Should the Board choose not to support the staff position, the following alternate recommendation is provided.

Alternative Recommendation:

THAT Development Variance Permit Application VP-19-04 for 3595 Westside Road be denied.

Considerations not applicable to this report:

- *General*
- *Organization*
- *Financial*

Attachment(s):

- Subject Property and Orthophoto Maps
- April 3, 2019 Survey Certificate
- April 13, 2019 Building and Elevation Drawings
- Photos of Site, dated February 26, 2019
- Support / Opposition Map
- Letters of Support