



Regional Board Report

TO: Regional Board

FROM: Todd Cashin, Director of Community Services

DATE: February 24, 2020

SUBJECT: Development Variance Permit (VP-19-09)
K. Armstrong (Owner), 571 Mountain Drive
Lot 121, District Lot 3688, ODYD, Plan 26101
Central Okanagan West Electoral Area

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

Purpose: To consider the issuance of a Development Variance Permit to allow a reduction of the front setback from 4.5 m to 2.07 m to permit the siting of an existing single detached house and a proposed addition.

Executive Summary:

The recently constructed single detached house on the subject property currently does not meet the front setback requirements of the R1 zone. Based on the submitted survey certificate, the existing single detached house is sited 4.2 m from the front property line. In addition to this variance, the owner wishes to construct an addition to the front of the home which will bring the structure variance to 2.07 m from the front property line. This additional request is to permit the construction of a front porch.

A number of objections have been received from the community regarding this application. Although not directly related to the variance, additional community concerns have been voiced relating to the visual impact of the structure, driveway safety and a possible secondary suite in the dwelling. The Central Okanagan West Advisory Planning Commission does not recommend support for the variance as proposed. The required permit to reduce building setback has been obtained from the Ministry of Transportation and Infrastructure.

RECOMMENDATION:

THAT Development Variance Permit Application VP-19-09 for 571 Mountain Drive not be approved.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Todd Cashin".

Todd Cashin
Director of Community Services

Approved for Board's Consideration

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

Brian Reardon, CAO

Implications of Recommendation:

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 Strategic Plan:

Site Context:

The property is located in the community of Westshore Estates within the Rural Westside Official Community Plan Bylaw No. 1274. The area consists of a mix of developed and vacant (residential) lots with limited community services and infrastructure.

The parcel is located within the Rural Westside Official Community Plan (OCP) and is affected by Hillside and Wildfire Interface Development Permit Areas. A Wildfire Covenant has been issued and registered on the properties title (CA6657504). The property owner is responsible for complying with the conditions and terms of all restrictive covenants, statutory building schemes, easements, or right-of-ways registered on title.

Historically, front setback variances have been evaluated and assessed based on site specific conditions and on input received from affected neighbouring property owners. In 2009, 2017 and 2018, the Regional Board approved three Development Variance Permits to reduce the minimum front setback to permit the siting of a single detached house in the Central Okanagan West Electoral Area (Files: VP-18-02, VP-17-05, and VP-09-08).

Background:

In June of 2018, a building permit was issued for the subject property for the construction of a three-storey single detached house, double garage, a rooftop deck, and two additional decks. At time of building permit application for a single family dwelling, the building plans showed the structure meeting the front setback of 4.5 metres.

As staff understand it, a survey certificate was prepared by Russell Shortt Land Surveyors on July 20, 2018 but was not submitted to the RDCO until August 14, 2019. The survey plan identifies the single detached house encroaching into the required 4.5m minimum front setback and sited 4.20 m from the front property line. The owner has indicated to staff that after the foundation was poured there was a discrepancy between the approved siting of the single detached house and what was constructed. As such, a Development Variance Permit was triggered.

In addition to this encroachment, the applicant also wishes to construct the proposed front entrance addition to the house as per the original building plans. If approved, this would bring the building encroachment to 2.07 m from the front property line. Staff note that a notice to occupy has yet to be issued by the RDCO.

It is a requirement under the RDCO Building Bylaw, where a building is to be constructed within 2 meters of a setback requirement a survey certificate shall be completed. Given this, a certificate is to be submitted to the Building Inspector and the certificate shall show the location of all exterior foundation walls and columns with reference to the nearest property lines. The applicant was made aware of this requirement at the time of permit issuance and a number of times during the construction of the house.

A permit to Reduce Building Setback from 4.5 m to 2.07 m from a Provincial Public Highway has been obtained from the Ministry of Transportation and Infrastructure.

Additional Information:

Owner/Applicant:	K. Armstrong
Legal Description:	Lot 121, District Lot 3688, ODYD, Plan 26101
Address:	571 Mountain Drive
Lot Size:	+/- 0.22 acres (890m ²)
Zoning:	R1 – Single Detached Housing
OCP Designation:	Residential – low density
Sewage Disposal:	Septic System
Water Supply:	Westshore Estates Water System
Existing Use:	Residential
Surrounding Uses:	North: Rural Residential South: Rural Residential East: Rural Residential West: Rural Residential
Fire Protection:	North Westside Fire Protection Area

RDCO TECHNICAL COMMENTS:

Planning Services staff note that Development Variance Permits provide options and solutions to address building location issues provided there are no negative impacts (visual, health, and safety) to neighbouring residents.

Furthermore, Planning staff advises that the provisions of the Wildfire Development Permit Area Guidelines of the Rural Westside OCP apply and the owners' are responsible for complying with the conditions outlined in the Wildfire Covenant.

Inspection Services staff advise that there is an outstanding permit for the existing single detached house (#7710/18) and occupancy has not been issued. Furthermore, a building permit amendment is required should the proposed addition receive approval.

Bylaw Services staff advise that they have received complaints regarding an illegal suite on the property.

Central Okanagan West Advisory Planning Commission (APC) supports the house as it sits currently built; however, the Commission recommends that the encroachment of the addition be no more than 4 ft. in size (width) from the front of the house.

AGENCY REFERRAL COMMENTS:

Ministry of Transportation and Infrastructure has issued a Permit to Reduce Building Setback less than 4.5m from the property line fronting a Provincial Public Highway (Permit No. 2019-06406).

Unaffected Agencies include Interior Health, Fortis B.C., B.C. Hydro, Telus, and Shaw Cable.

Unaffected RDCO Departments include Fire Services, Environmental 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 39 letters were mailed to neighbouring property owners.

Further to the notification process, at time of writing this report, five letters of non-support have been received as noted on the attached support/opposition map.

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 the Regional Board approve Development Variance Permit Application VP-19-09 to vary the following provisions of Zoning Bylaw No. 871 based on the Land Surveyor's Certificate dated July 20, 2018 prepared by Russell Shortt Land Surveyors:

- Section 7.1.4 by allowing a reduction of the minimum front setback from 4.5 m (14.8 ft.) to 4.20 m (13.7 ft.).

AND FURTHER THAT the Regional Board not approve the proposed addition.

Considerations not applicable to this report:

- *Financial Considerations*
- *Organizational Issues*

Attachment(s):

- Subject Property & Orthophoto Maps
- Images of Subject Property from Mountain Drive
- Building Permit No. 7710/18 Construction Plans
- July 20, 2018 Land Surveyors Certificate
- December 16, 2019 Revised Site Plan
- MOTI Permit
- Support / Opposition Map
- Letters of Opposition