



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: July 27, 2020

SUBJECT: Development Variance Permit (VP-20-02)
M. & L. Smith, 9668 Houghton Road
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 a reduction of the minimum front yard setback and to allow an accessory building in the required front setback.

Executive Summary:

The proposed setback for the accessory building is less than permitted under Zoning Bylaw No. 871; therefore, a Development Variance Application has been submitted. Due to various site constraints and natural topography of the parcel, the owners rationalize that the variance is required in order to maximize the availability of the level portion of the property.

Letters of support have been received, and no concerns have been identified from agencies or RDCO staff regarding the application. The applicants have obtained the required permit to reduce building setback from Houghton Road from the Ministry of Transportation and Infrastructure. Should the Development Variance Permit be issued by the Regional Board, provisions of the Wildfire Interface 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-20-02 to vary the following provisions of Zoning Bylaw No. 871 based on the site plan by Advanced Surveying Ltd:

- Section 3.17.5 by allowing one accessory building in the required front setback.
- Section 6.5.4 by allowing a reduction of the minimum front setback from 6.0 m (19.7 ft.) to 1.0 m (3.28 ft.) to permit one accessory building.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Approved for Board's Approval



Brian Reardon, CAO

Prepared by: Danika Dudzik, Senior 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 which is supported the Regional Board Strategic Priorities 2019-2022 with respect to "Sustainable Communities".
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:

The subject property is currently developed with a single detached house and various accessory structures which were constructed prior to the purchase of the parcel by the current owners in 2006.

The owners intend to construct a 67.6 m² (728 ft²) accessory building; garage with a second floor and wheelchair accessible bathroom. The proposed garage would replace the existing accessory structures including a shed, chicken coop, garden, temporary structure and dog run. A recent survey identified that a portion of the shed and area currently utilized is located within the road right-of-way.

With the information from the survey, the owners plan to locate the proposed garage entirely on private property however, in order to permit the siting of the accessory building, a Development Variance Permit is required. The applicants have obtained the required permit to reduce the building setback from Houghton Road from the Ministry of Transportation and Infrastructure

The owners rationalize that the variance is required due to various site constraints and natural topography of the parcel. The area behind the current driveway is steep and does not present a suitable build site. The location of the proposed building would allow for a walkout second floor; allowing ease of access to the entrance of the house. The owners require extra space and have indicated that the house is not suitable for an addition. They also believe that the proposal will improve the overall appearance of the property.

Historically, setback variances have been evaluated and assessed based on site specific conditions and on input received from affected neighbouring property owners. From 2009-2019, the Regional Board approved seven Development Variance Permits to allow reductions in the minimum front setback at various locations within Killiney Beach; along Winchester Road. Similar to the properties along Winchester Road, hillside constraints impact the development potential of the subject property.

Site Context:

The subject property is located adjacent to Houghton Road, in the vicinity of Killiney Beach within Central Okanagan West Electoral Area. The parcel is affected by provisions of the Rural Westside Official Community Plan (OCP) and a number of Development Permit Areas. The landowners will be required to address applicable Development Permit provisions of the OCP in conjunction with the building permit process.

Additional Information:

Owners/Applicants:	M. & L. Smith
Legal Description:	Lot 72, District Lot 3910, ODYD, Plan 21925
Address:	9668 Houghton Road
Lot Size:	+/- 0.46 acres
Zoning:	RU5 Small Lot Country Residential
OCP Designation:	Residential – Low Density
Sewage Disposal:	Septic System
Water Supply:	Killiney Beach
Existing Use:	Rural Residential
Surrounding Uses:	North: Crown land South: Rural Residential East: Houghton Road / Rural Residential West: Rural Residential (Vacant)
A.L.R.:	Not within the A.L.R.
Fire Protection:	North Westside Road Fire Protection Area

RDCO TECHNICAL COMMENTS:

Planning Services staff advise that the subject property is affected by Development Permit Areas (DPAs) for the protection of the natural environment or protection of development from hazardous conditions, including Wildfire Hazard, Rural Hillside, and Sensitive Aquatic.

As per the 2016 Killiney Beach Environmental Assessment (EA) completed by Ecoscape Environmental Consultants Ltd., the north-western portion of the parcel is recommended as a sensitive terrestrial area consisting of coniferous woodlands and broadleaf forest ecosystems. The EA also concluded that the watercourse identified on the Terrain Resource Inventory Mapping (TRIM) along the north-eastern portion of the subject property is not physically present and no aquatic resources were noted.

As the proposed development will remain outside of the sensitive areas and away from the hillside, a Development Permit is not required. However, to address the provisions of the Wildfire Interface DPA, plans for construction must show compliance with the “*Wildfire Interface Development Permit Design Guidelines*” of the Rural Westside OCP. Further, a restrictive covenant must be registered on the title of the property in conjunction with the building permit

process in order to ensure that future property owners are aware of, and obligated to the wildfire hazard reduction measures.

Inspection Services staff advise that should a Development Variance Permit be approved; a building permit is required for the proposed garage which must conform to the Building Bylaw and BC Building Code and is to include details on proposed servicing.

Inspections staff further advise:

- The existing accessory structures meet applicable RDCO bylaws.
- Based on the size or temporary nature of the existing accessory structures, a demolition permit prior to the removal of these structures will not be required.
- Based on the definition of height in Zoning Bylaw No. 871, the proposed accessory building will comply with the maximum building height for the RU5 Small Lot Country Residential zone as the subject property slopes upward from Houghton Road.
- The RU5 Small Lot Country Residential zone does not permit a secondary suite or accessory home. Further, there is no provision in Zoning Bylaw No. 871 for a carriage home. The accessory building shall not be used for residential purposes.

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

Anecdotal Comments:

- Concern with excessive size of the proposed accessory building and support a smaller footprint that potentially would eliminate the need for a variance.
- Subsequent to the development of the accessory building, Building Inspector to conduct ongoing site inspections to ensure compliance with the use (6 months to 1 year later). Concerns that the building will become an additional dwelling unit.
- Consider relocation of the garage doors to access off of the existing gravel driveway instead of Houghton Road.
- Concerns regarding potential drainage issues. Ensure proper drainage is installed through the development of the accessory building (ie: drain tile).

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

AGENCY REFERRAL COMMENTS:

Ministry of Transportation and Infrastructure staff advises that there are no concerns with the proposal, and have issued a Permit to Reduce Building Setback Less Than 4.5 Metres from the Property Line Fronting a Provincial Public Highway (Permit No. 2020-02668).

Interior Health Authority staff advises site constraints are also restrictive regarding the area available for onsite sewage disposal. There are no concerns with the proposal however, it is recommended that prior to the construction of the proposed building, the applicant confirm that it will not interfere with the existing onsite septic system and future backup septic area.

Unaffected Agencies include Fortis B.C.

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 19 letters were mailed to neighbouring property owners.

Further to the notification process, at time of writing this report, seven letters of support have been received for this application; two of these are from owners of adjacent properties. The remainder of the letters of support were from residents throughout Killiney Beach.

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-20-02 for 9668 Houghton Road be denied.

Considerations not applicable to this report:

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

Attachment(s):

- Subject Property and Orthophoto Maps
- June 17, 2020 Site Plan prepared by Advanced Surveying Ltd.
- Site Plan Current and Proposed
- Building and Elevation Drawings
- Letters of Support