



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: October 26, 2020

SUBJECT: Development Variance Permit (VP-20-04)
J. & J. Vander Ploeg, 515 Mountain Drive
Central Okanagan West Electoral Area

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

Purpose: To consider issuance of a Development Variance Permit to allow an increase in the maximum height of an existing retaining wall, and to vary setbacks to accommodate the location of the retaining wall.

Executive Summary:

Retaining walls were constructed at 515 Mountain Drive without building permit approval. Subsequent to a survey of the site, it was identified that one retaining wall did not comply with the required setbacks or permitted height. As such, a Development Variance Application was required.

Letters of support have been received, and no concerns have been identified regarding the application. The owners recently obtained the required permit to address the encroachments of the retaining walls within the right-of-way from the Ministry of Transportation and Infrastructure and Planning Services staff are supportive of the application. Should the Development Variance Permit be issued by the Regional Board, a building permit can be applied for and issued to bring the existing retaining wall into compliance with RDCO bylaws.

RECOMMENDATION:

THAT the Regional Board approve Development Variance Permit Application VP-20-04 for 515 Mountain Drive to vary the following provisions of Zoning Bylaw No. 871 based on the site plan dated October 1, 2020, by Maddox & Company Land Surveyors:

- Section 3.10.5 by allowing an increase in the maximum allowable height of a retaining wall from 2.5 m (8.2 ft.) to 3.5 m (11.5 ft.).
- Section 3.17.5 by allowing an accessory structure in the required front setback.
- Section 3.17.6 by allowing a reduction of the minimum side setback for an accessory structure from 1.0 m (3.3 ft.) to 0 m (0 ft.) to permit the siting of a retaining wall.
- Section 7.1.4 by allowing a reduction of the minimum front setback from 4.5 m (14.8 ft.) to 3.01 m (9.8 ft.) to permit the siting of a retaining wall.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Approved for Board's Consideration



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 by 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 has recently been developed with a single detached house and various retaining walls. Inspections Services issued Building Permit #7871/19 in 2019 for the construction of the house however, the retaining walls were not included as part of the application.

Upon further review of the site, Inspections Services identified that the constructed retaining walls may not meet all of the applicable provisions of Zoning Bylaw No. 871 or Building Bylaw No. 835. As such, staff requested setback and height information for the retaining walls. The owners obtained the services of Maddox & Company Land Surveyors to obtain the required information (site plan attached). The site plan identified one retaining wall did not comply with the required setbacks or maximum height allowed for a retaining wall. As such, a Development Variance Application was submitted to request an increase in the maximum height of Retaining Wall B, a reduction of the side setback to permit the siting of an accessory structure (Retaining Wall B), and to permit the siting of an accessory structure (Retaining Wall B) within the required front setback.

The survey identified that a portion of Retaining Wall B and the majority of Retaining Wall C are located within Ministry of Transportation and Infrastructure right-of-way.

The owners' rationalize that the existing retaining walls were constructed to provide:

- Safe access and exit from the property;
- Off street parking;
- Prevent dirt and snow from falling on the adjacent property; and
- More efficient use of the property width.

Historically, variances have been evaluated and assessed based on site specific conditions and on input received from affected neighbouring property owners. From 2008-2019, the Regional Board approved three Development Variance Permits (VP-08-11, VP-11-05, and VP-19-02) to allow an increase in the maximum height of retaining walls within Central Okanagan West Electoral Area.

Regional Board Strategic Priorities 2019-2020:

RDCO's strategic priorities, developed by the Regional Board, speak to important goals, services, and needs on which the Board wishes to focus the organization's attention and resources. Sustainable Communities has been identified as a priority in which safety is a critical aspect to support healthy built environments.

Site Context:

The subject property is located adjacent to Mountain Drive, in the vicinity of Westshore Estates within Central Okanagan West Electoral Area.

Additional Information:

Owners/Applicants:	J. & J. Vander Ploeg
Legal Description:	Lot 128, District Lot 3688, ODYD, Plan 26101
Address:	515 Mountain Drive
Lot Size:	+/- 0.27 acres
Zoning:	R1 Single Detached Housing
OCP Designation:	Residential – Low Density
Sewage Disposal:	Septic System
Water Supply:	Westshore Estates
Existing Use:	Single Family Residential
Surrounding Uses:	North: Evergreen Way South: Single Family Residential / Rural Residential East: Single Family Residential (Vacant) West: Single Family Residential
A.L.R.:	Not within the A.L.R.
Fire Protection:	North Westside Road Fire Protection Area

RDCO TECHNICAL COMMENTS:

Planning Services staff advises the parcel is affected by provisions of the Rural Westside Official Community Plan (OCP) and the Wildfire Hazard Development Permit Area. A restrictive covenant has been registered on the title of the property addressing the design guidelines of the Development Permit Area.

Inspection Services staff advises that as per Building Bylaw No. 835, any retaining wall that exceeds 1.5 metres (4.92 ft.) in height requires a building permit and to be designed and inspected by a certified Professional Engineer.

Retaining Wall B has been certified by a geotechnical engineer. Should the Development Variance Permit be approved, a building permit can be applied for and issued to bring the existing retaining wall into compliance with RDCO bylaws.

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

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 application, and have issued a permit to construct, use, and maintain works within the right-of-way of a provincial public highway (Permit No. 2020-04919) as it relates to the encroachment of Retaining Wall B and C.

Interior Health Authority staff advises the house is serviced by an on-site sewerage disposal system. The location of the retaining wall must be confirmed to ensure that it has not conflicted or interfered with the existing on-site sewerage disposal system.

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

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 33 letters were mailed to neighbouring property owners.

Further to the notification process, at time of writing this report, twenty-six letters of support 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-20-04 for 515 Mountain Drive be denied.

Considerations not applicable to this report:

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

Attachment(s):

- Subject Property and Orthophoto Maps
- October 1, 2020 Site Plan prepared by Maddox & Company Land Surveyors

- Profile Plan – Retaining Wall B
- Letters of Support