



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Directory of Community Services

DATE: November 23, 2020

SUBJECT: Development Variance Permit (VP-20-05)
N. Dray, 1876 Huckleberry Road
Central Okanagan East Electoral Area

Voting Entitlement: *Custom Vote—Electoral Areas & Kelowna Area—1 Director, 1 Vote – Simple Majority*

Purpose: To consider issuance of a Development Variance Permit to allow a reduction of the side setback to permit the siting of an existing accessory building.

Executive Summary:

An existing barn located at 1876 Huckleberry Road was constructed without a building permit and does not meet the minimum side setback regulation of the Joe Rich Rural Land Use Bylaw. The variance request was precipitated due to processing a concurrent application; RLUB-20-01 and historical review of permits associated with the property. Since receiving the variance application, the owner has also submitted a Building Permit application.

No objections have been received from agencies or the public regarding the application and Planning Services staff are supportive of the application.

RECOMMENDATION:

THAT the Regional Board approve Development Variance Permit Application VP-20-05 for N. Dray (owner), located at 1876 Huckleberry Road to vary Section 2, Part 5.7.6 of Joe Rich Rural Land Use Bylaw No. 1195 by allowing a reduction of the minimum side yard setback from 6.0 m (19.7 ft.) to 1.58 m (5.18 ft.) to permit an existing accessory building based on the Surveyor's Certificate dated June 28, 2019, by AllTerra Land Surveying Ltd.

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

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 is currently developed with one single family dwelling (with an existing secondary suite) and accessory buildings (barn and out buildings).

Further to processing a Joe Rich Rural Land Use Bylaw amendment application (RDCO File: RLUB-20-01); to amend the land use designation on the property from SH-2 Small Holdings 2 to SH-2s Small Holdings 2 (Secondary Suite) to legalize an existing secondary suite, Community Services records indicated that the existing barn approximately 67.4 m² (725 ft²) in size was constructed without a building permit. Further, the barn does not conform with the side setback of the Joe Rich Rural Land Use Bylaw. As such a Development Variance Application was submitted by the owner to request a reduction of the side setback to permit the siting the barn.

As the building is not on a foundation the owner was under the impression that it was exempt from requiring a building permit. The owner rationalizes that the barn is required for storage and in an ideal location due to site characteristics and close proximity to other development on the property.

Two similar variance applications (VP-09-03 and VP-13-02) were previously submitted to reduce the minimum side yard setback in Central Okanagan East Electoral Area and subsequently approved by the Regional Board.

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 healthy built environments are to be fostered and would include addressing building/location issues provided there are no negative impacts (visual, health and safety) to neighbouring residents.

Site Context:

The property is located within the Joe Rich Area. The parcel is serviced by a private water source and on-site sewerage disposal system. In accordance with the Joe Rich Rural Land Use Bylaw No. 1195, the property is affected by a number of Development Permit Areas including Slope Stability and Rural Hillside and Sensitive Terrestrial Ecosystem.

Additional Information:

Owner/Agent:	N. Dray
Address:	1876 Huckleberry Road
Legal Description:	Lot A, Plan EPP35478, Sec. 14, Twp. 27, ODYD
Lot Size:	+/- 2.4 ha (6.05 acres)
Joe Rich Rural Land Use Designation:	SH-2 Small Holdings 2
Sewage Disposal:	Septic system
Water Supply:	Onsite water service (private well)
Existing Use:	Rural residential
Surrounding Uses:	North: Rural residential South: Rural residential East: Huckleberry Road / Rural residential West: Rural residential
A.L.R.:	Not within the A.L.R.
Fire Protection:	Joe Rich Fire Protection Area

RDCO TECHNICAL COMMENTS:

Planning Services staff advises that portions of the subject property are affected by Development Permit Areas (DPAs) however, the existing development footprint is located outside of the DPAs and a development permit application is not required. A no build/ no disturb covenant was previously registered on title to address the design guidelines of the Slope Stability and Rural Hillside DPA. The applicant must consult with Planning Services prior to any future land disturbance or further development.

Inspections Services staff advises there are various building permits associated with subject property including:

- Building Permit #4411/95 for a single family dwelling.
- Building Permit #7039/14 for a 624 ft² accessory building with a loft.
- Building Permit #7991/19 for an addition to connect the accessory building and single family dwelling together.

As per Building Bylaw No. 835, the accessory building requires a building permit. Staff understand that the existing barn was placed on a mud sill foundation, however the existing structure is 11.1 m² (120 ft²) in excess of the building code provision to use this type of foundation.

- The BCBC requirements for a building 55m² (600 ft²) in area or less, allows a structure to be placed on pressure treated mud sills or four inches of concrete for a foundation.
- There are two options the applicant can choose to make the barn code compliant.
 1. Reduce the building area to 55m² (600 ft²); or
 2. Place the building on a concrete foundation.

Should the Development Variance Permit be approved, the building permit application can be processed to bring the existing barn into compliance with RDCO bylaws.

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

AGENCY REFERRAL COMMENTS:

FortisBC advises that there are primary distribution facilities along Huckleberry Road. The applicant is responsible for costs and land right requirements associated with changes to the existing servicing. For any changes to the existing service, the applicant must contact an FBC(E) designer regarding design, servicing solutions, and land right requirements.

Unaffected Agencies include Ministry of Transportation and Infrastructure, Interior Health Authority, and Shaw Cable.

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 500 metres of the subject property. A total of 43 letters were mailed to neighbouring property owners.

Further to the notification process, at time of writing this report, no letters of support or opposition have been received regarding 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-20-05 for 1876 Huckleberry Drive be denied.

Considerations not applicable to this report:

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

Attachment(s):

- Subject Property and Orthophoto Maps
- June 28, 2019 Surveyor's Certificate prepared by AllTerra Land Surveying Ltd.
- Site Photo