

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: November 5, 2024
TO: Christopher Garrish, Senior Manager of Planning
FROM: Jerritt Cloney, Planner I
RE: Development Variance Permit (DVP) — Electoral Area “E”

FILE NO.: E2024.032-DVP

Owner: Katherine Davies & Karen Verveda **Folio:** E-202196.10

Civic: 3195 Bartlett Road **Legal:** Lot A, Plan KAP47571, District Lot 210, SDYD

Proposed Development:

This application is seeking a variance to the exterior side parcel line setback in order to facilitate the construction of an addition for a foyer which would be entirely contained within an existing carport.

Specifically, it is being proposed to decrease the exterior side yard setback from 4.5 to 4.25m.

In support of this request, the applicant has stated that:

The majority of the proposed new foyer complies with the existing zoning. The very small section of the proposed new foyer that would encroach the setback will be built under the existing carport roof and will not require and changes to that structure.

We feel that the strict compliance with the zoning regulation is “unnecessary” given the pre-existing carport that likely was in place before the current zoning regulations.

Also, the proposed renovation will not impact the character of the streetscape or neighbourhood as it will be entirely enclosed in the existing carport.

In addition, the new entrance will make a big difference to our day-to-day lives as it will allow ground level access to our back door from the carport, as well as provide a place for shoes and outerwear to be removed and stores which will help keep outside dirt out of our main living area.

Site Context:

The subject property is approximately 1,371m² in area and is situated at the intersection of Bartlett Road to the west, and Patterson Road to the North. The subject property is located approximately 4km north of the Town of Penticton. The property is understood to contain one (1) singled detached dwelling and an accessory building.

The surrounding pattern of development is generally characterised by similar residential development.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on July 7th, 1992, while available Regional District records indicate that building permit(s) have not previously been issued for this property.

Under the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 3010, 2023, the subject property is currently designated Small Holdings (SH).

Under the Electoral Area “E” Zoning Bylaw No. 2800, 2022, the property is currently zoned Small Holdings 1 (SH2) which includes “Single Detached Dwelling” as a Permitted Principal Dwelling. The proposed development is seen to be consistent with use of a Dwelling.

BC Assessment has classified the property as “Residential” (Class 01).

Under Section 3.21 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 3033, 2023*, “the CAO or their designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

Included in the applicant’s submission was a “Permit to Reduce Building Setback Less Than 4.5 Metres from the Property Line Fronting a Provincial Public Highway,” approved by the B.C. Ministry of Transportation. A copy of the approved plans are consistent with the plans submitted to the Regional District.

Public Process:

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on October 15, 2024, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of November 4, 2024, being 15 working days from the date of notification, approximately zero representations have been received electronically or by submission at the Regional District office.

Delegated Authority:

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.22 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 3033, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the scope of the requested variance, it is considered that a 5.6% variance into the side yard setback is minor due to the short distance of 0.25 metres being requested.

With regard to the proximity of the proposed dwelling addition to neighbouring properties, the nearest parcel line is approximately 22.44 metres to the south. For this reason, the requested variance is seen to be minor and unlikely to adversely impact the use of adjacent properties through loss of privacy or overshadowing.

With regard to the character of development in the vicinity of the subject property, encroachments into yard setbacks, based on satellite imagery, appears to be common in this area.

For these reasons, the proposed variance is deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

Analysis:

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

- 1. is the proposed variance consistent with the general purpose and intent of the zone;*
- 2. is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
- 3. is strict compliance with the zoning regulation unreasonable or un-necessary; and*
- 4. Would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

In this instance, the Zoning Bylaw’s use of setback regulations is generally to provide physical separation between neighbouring properties in order to protect privacy and prevent the appearance of overcrowding. When a parcel is also adjacent to a roadway, setbacks are further employed to maintain adequate sightlines for vehicle traffic movements.

Minimum setbacks from parcel lines are used to maintain a minimum space between houses in a residential neighbourhood to allow access to sunlight, to provide separation for fire safety or to mitigate nuisances (like noise) that might come from an adjacent building.

In the agricultural zones, setbacks are further used to mitigate the potential for conflict between land uses with the Ministry of Agriculture recommending that setbacks be used to “avoid farming right up to the back wall of [a] residence.”

The proposed variance is to facilitate the expansion of the existing single detached dwelling on the property and is therefore consistent with the intent of the SH2 zone.

The character of the neighborhood is unlikely to be negatively affected by a variance to the exterior side parcel line setback, as many of the properties are a fair size. The larger sized lots help to reduce the risk of overcrowding. Additionally, the nearest neighbour’s dwelling to the proposed addition to the single detached dwelling is approximately 34 meters away. Further, the proposed addition is positioned to face east, toward Bartlett Road, and away from adjacent properties.

The neighbourhood does include other parcels where dwellings are built closer to parcel lines. This means that the proposed variances is consistent with the character of the neighborhood.

Conversely, it is recognized that proposed addition could be reduced in size, and constructed without requiring a variance.

For these reasons, it is recommended that the requested variances be approved.

Recommendation:

THAT Development Variance Permit No. E2024.032-DVP, to allow the construction of a foyer/entryway partially projecting into the exterior side yard setback at 3195 Bartlett Road, be approved.

Respectfully submitted:

Jerritt Cloney

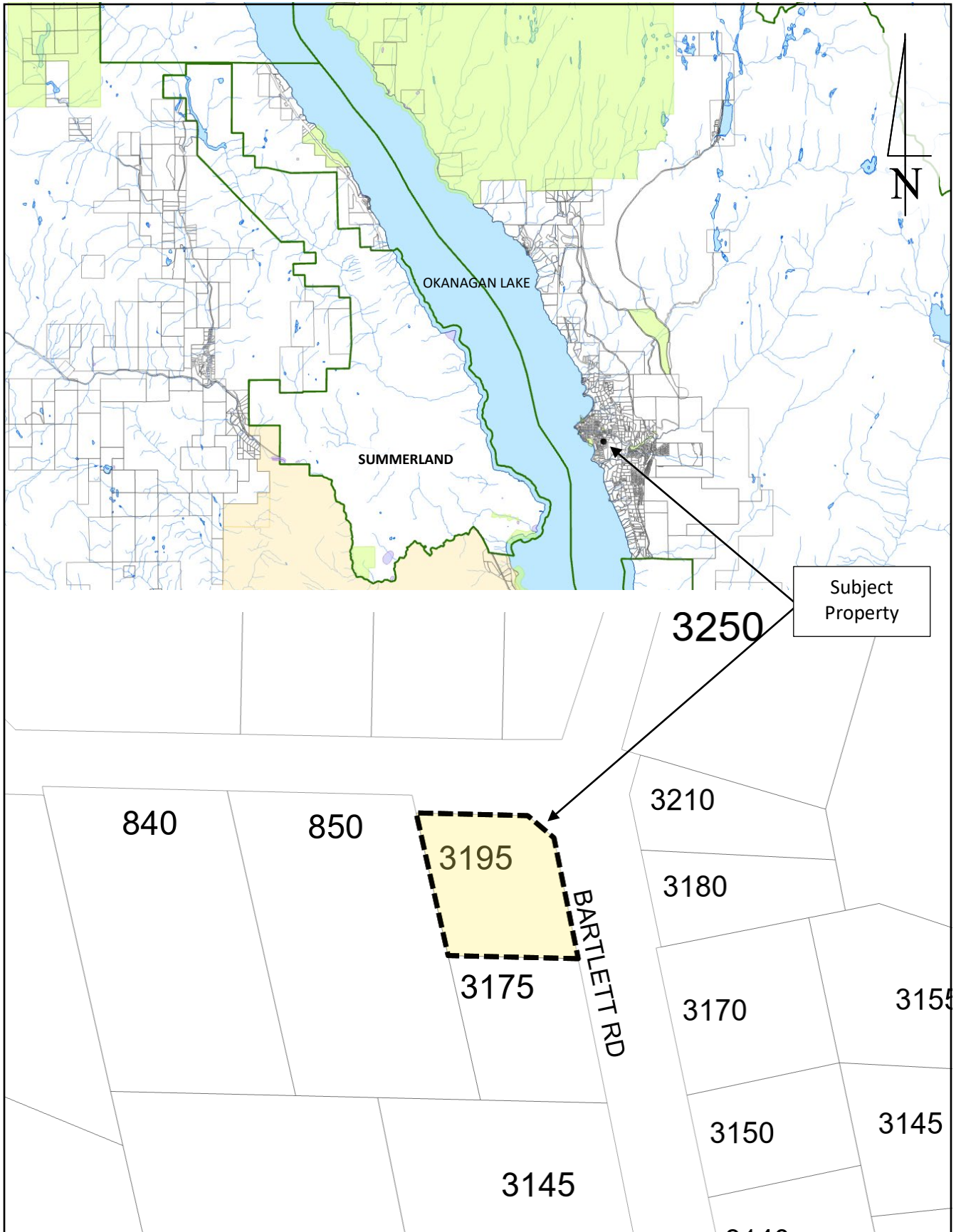
Jerritt Cloney, Planner I

Attachments:

No. 1 — Context Maps

No. 2 — Applicant's Site Plan

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant's Site Plan

