

November 11, 2021

Nikita Kheterpal, Planner 1
RDOS,
101 Martin Street,
Penticton, BC
V2A 5J9

**RE: Opposition to Development Variance Permit (DVP) H2021.049-DVP –
2864 Coalmont Road, Tulameen, BC (Lot A, Plan EPP21078, District Lot 104,
YDYD**

Dear Ms. Kheterpal,

I am submitting a statement of opposition, on behalf my wife and I (lot 2870 – adjacent to lot 2864) and adjacent owners of lots 2872 and 2874, Coalmont Road, to the development variance requested by one of the property owners, Marisa Gueulette, on October 13, 2021

Specifically, the development variance application is for “**Lot A, Plan EPP21078, District Lot 104.**” The civic address being 2864 Coalmont Road.

The variance requests:

- “Reduce front parcel line setback from 9.0 metres to 7.18 metres to formalize an existing single detached dwelling.”

At first glance this variance appears to a rather simple, straightforward variance request. We believe it is much more complex. Minimally, we request that the variance request hearing scheduled for your November 18, 2021 be tabled. A site visit should be completed before adjudicating this variance request We have concerns and questions regarding this application that must be included in the RDOS review as part of this application approval process:

- Accuracy of application supporting documents
- Implication of current RDOS zoning bylaws regarding building on this lot

This letter of opposition focuses on three areas:

- Background Information we feel is pertinent to the application
- Questions regarding information provided by the owner(s) in the application for a zoning variance
- Consistency with the application and RDOS Zoning Bylaws

1. Background Information

- The lot is zoned LH2. The front width along Coalmont Road is 45 m with the side extending 665.732m up a very steep hill.
- The lot was initially bought by the previous owners (before Beers/Gueulette families) to build a temporary accessory dwelling (garage) that was to be used while the permanent single family dwelling was to be constructed higher up on the property, away from the road, with an approved well and septic system
- The building was framed and closed in, windows/doors installed, but no siding installed. Unfortunately, the owners had to sell this property It sat in

this condition until the current owners, Beers/Gueulette purchased the property

- Since the Beers/Gueulette families purchased the property, the following has been done:
 - Gated driveway (with both families' names on the gate), has been created, above the building in question on this variance application
 - Two additional building sites have been created along this driveway:
 - A trailer was situated on the second building site with a permanent roof structure built. **Was a permit required/obtained for this structure?**
 - No septic, (port a potty only) or well was installed.
 - **As this was the first habitable structure installed, is this considered the “principal dwelling?” The building (identified in this variance request) was not used as a habitable structure by one of the families, until this summer. Instead, a trailer, beside the structure was used ... and now removed..**
 - The driveway was further extended up the hill on the property and a third building site was cleared by an excavator. No building has been built on this third site
 - Up until this past summer (2021) the existing building has been used to store building materials and RV equipment. Prior to this summer, a second trailer was situated beside the existing building, (between the building and approximately 3 metres from Coalmont Road).
 - This trailer was situated on the property, full time, for at least two years. The gray water was discharged directly, by hose, into the Coalmont Road ditch beside it. The open drainage ditch drains into Otter Lake. No well or septic system was installed. The only possible location for a septic system for the existing structure would be under the short dirt driveway (which at times has 4-6 vehicles parked on it). Any septic field would be very close to Coalmont Road
 - This summer, the owner(s) have been installing siding (not complete) and renovating the interior. In addition, a new separate, private entrance to the second story was built this summer with a metal stairs leading from the ground floor to the second storey of the building. **Was this included in the original building permit?** What is the purpose of this separate entrance? Carriage house access? Future B and B access? There is already access to the second story from inside the structure, with a separate entry door.
 - The second trailer beside the building was removed this summer and one of the owner(s) have been using this building for living.

- The second storey of this structure also has a wood stove for heating. ***Is this wood stove WETT inspected?*** Realizing this is an insurance issue, not specifically and RDOS issue.

2. Application Documentation

The application documentation raises questions and concerns:

1. Property Description

- a. **“Current method of sewage disposal.”** The applicant states “*septic.*” Is there is any approved septic system on the property? If not, how does this impact the application? Has a site inspection been done by RDOS?
- b. **“Current method of water supply.”** The applicant states “*well.*” Where is the approved well located? If, not, how does this impact the application? Has a site inspection been done by RDOS?

2. “Supporting Rationale”

- a. The variance should not defeat the intent of the bylaw standard or significantly depart from the planning principle or objective intended by the bylaw. Please elaborate how the requested variance meets this objective.
 - i. The applicant states, “*Building was already there when property was purchased.*”
 - ii. This is an insufficient rationale. The existing structure was built as an accessory building/garage, to be used when constructing a new permanent dwelling higher up on the property, with a view of Otter lake and farther away from Coalmont Road. The garage was placed in this location as it was very close to Coalmont Road so that access and egress from the dwelling would be easier, especially in the winter. What if the building was that was “already there” did not meet zoning bylaw requirements? If the variance as approved and additional dwellings are built on the property, will this structure then be considered as an “accessory building,” “accessory dwelling,” “principal dwelling” or “single detached dwelling or “carriage house”
 - iii. Detailed concerns are identified in section 3 of this letter of opposition.
- b. The variance should not adversely affect adjacent or nearby properties or public lands. Please elaborate how the requested variance meets this criteria.”
 - i. The applicant states, “*The building is considered to (sic too) close to front property line*”
 - ii. The applicant should have determined this many years ago, and it should have been disclosed in the sale agreement and due diligence, when the property was purchased. Why a variance request now? What has changed? Two families own

this property. Will it be seen as a “sub divided” property, with potentially, three dwelling units on the property? If approved, there would now be two principal dwellings on this property. In addition, if approved, the building would remain too close to Coalmont Road and potential impact on drainage and seepage from any septic field. It appears that two other sites are planned for this property. One site, above the structure that the variance application is made, is currently occupied by a permanent trailer with a roof, and no septic system or well. A third site, above this trailer has also been excavated. If all sites have dwellings installed/built, this would adversely affect the neighboring properties.

- c. The variance should be considered as a unique solution to an unusual situation or set of circumstances. Please elaborate how the requested variance meets this criteria.
 - i. The applicant states, *“Building was already there when the property was purchased. Told it is too close to property line and have to apply for a variance”*
 - ii. This does not satisfy the question how this would be a “unique solution to an unusual situation or set of circumstances. It appears that one of the owners has now decided to remove a trailer, located beside Coalmont Road and have this structure be a “single detached dwelling,” not a temporary garage. The second trailer on the property would remain.
- d. The variance represents the best solution for the proposed development after all other options have been considered. Please elaborate how the requested variance meets this criteria
 - i. The applicant states, *“Foundation and Building permit already signed off. Permit needs to be completed.”*
 - ii. This is confusing, and what is the solution? Simply getting a variance for setbacks? If the building foundation and permit was already signed off, what “permit needs to be completed?” The building was permitted and erected prior to 2015. What specifically was the permit for? Has the “permit” to be completed for a “single family dwelling, “Accessory building?” Or? Is an occupancy permit already been approved, as the owners are now using it a living space...If so, for what kind of dwelling?
- e. The variance should not negatively affect the natural site characteristics or environmental qualities of the property. Please elaborate how the requested variance meets this criteria
 - i. The applicant states, *“building is already there.”*
 - ii. The answer does not address the question. If approved, the building would remain too close to Coalmont Road and potential impact on drainage and seepage from any septic field. It appears that two other sites are planned (one already

has the trailer on it) for this property. One site, above the structure that the variance application is made, is currently occupied by a permanent trailer with a roof, and no septic system or well. A third site, above this trailer has also been excavated. If all sites have dwellings installed/built, this would adversely affect the neighboring properties.

- iii. In addition, there is a concern over site erosion. During the severe July 2021 rain storm, the driveway to the trailer above the building in question, was severely eroded and fill and water deposited on the landing adjacent to the driveway for the building in question. If the septic field is located adjacent to the building in question there is a concern for overwhelming and compromising the system into the open ditch on Coalmont Road

3. Zoning Bylaw Concerns

Notwithstanding the concerns highlighted above, we have concerns/questions regarding consistency with RDOS Bylaws, specifically related to “Definitions” and L2H zoning. First, we need clarification on the intended use of the building:

- The variance application states: Reduce front parcel line setback for principal dwelling...
 - In the bylaws this is defined as:
 - a. consists of a self contained set of rooms located in a building
 - b. is used or intended for use as a residential premises
 - c. contains kitchen and bathroom facility that is intended to be exclusive to the unit
 - d. Is not a secondary suite or an accessory dwelling
 - In addition, Bylaw 7.12 .5 states:
 - No accessory building or structure shall be sited on a parcel unless: (a). a principal building has already been erected on the same lot. Question – Is the existing trailer considered the principal building?”
 - (b) a principle building will be erected simultaneously with an accessory building or structure on the same lot. The accessory building or structure is one storey in building height. In this case, the building was initially constructed and the trailer with a roof was added years later, when the Beers/Gueulette bought the property
- Question – Will this building be the principal dwelling, or is the trailer with a permanent roof on the property considered the principal dwelling?
- If this building is considered an “Accessory Dwelling” it “shall not exceed one storey.” (Bylaw 7.12 (5))
- Further, Bylaw 7.13 (2) states:

- An existing single detached dwelling may be maintained and occupied and a new single detached dwelling may be constructed on the same parcel, subject to the following: (b) a new single detached dwelling must have a valid building permit and (c) the owner of the parcel must first grant and register a restrictive covenant in a form that satisfactory to the RDOS. Is this applicable?
- Bylaw 7.14 – Residential occupation of recreation vehicles states:
 - (.1) When a recreational vehicle is permitted in lieu of a principal dwelling or manufactured home then the recreational vehicle will be considered a dwelling unit when calculating density and must be connected to an approved sewage disposal system
 - (.4) Despite section 7.14.3, one (1) recreation vehicle....may be on the same parcel containing the principal single family detached dwelling. Recreational vehicles shall only be used for the temporary accommodation of the guest or visitor for a period not to exceed a total of 90 days on any one calendar year.
 - Is the trailer with a roof considered in lieu of a principal dwelling and the dwelling in the application, the principal dwelling? This is interesting when two families own the property and want to erect their own dwellings.
- Lastly, but very important, the L2H Zoning for this property, section 11.5.3 states that the “minimum parcel width be “not less than 25% of the depth of the parcel.” In this case, this minimum requirement **DOES NOT** appear to have been met. The front is 45m and the sides of the lot are 665.732/618.361m. To be in compliance with the minimum width the front should be around 166m, not the current 45m.
- **Question – Is this lot even a “buildable” lot?**

Summary

Yes, we are concerned about this variance application and oppose it until all questions/concerns in this letter are answered. If this lot is not even considered to be a “buildable lot” then all other concerns need not be addressed. The owners should have understood this when they purchased the lot. If it is a “buildable lot” then then we have concerns as to the intent of this application, taking into consideration that two unrelated families own this property and wish to develop it.

Thank you in advance for your consideration.

George Mapson and Heather McLaren – 2870 Coalmont Road, Tulameen
 Michael and Mareen McInnis – 2872 Coalmont Road