

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: September 22, 2022
TO: Christopher Garrish, Planning Manager
FROM: Shannon Duong, Planner II
RE: Development Variance Permit (DVP) — Electoral Area “H”

FILE NO.: H2022.019-DVP

Administrative Recommendation:

THAT Development Variance Permit No. H2022.019-DVP, to allow for the construction of a shop at 2567 Princeton-Summerland Rd, be approved.

Owner: Terry Nosaty Folio: H-00839.150
Civic: 2567 Princeton-Summerland Rd Legal: Lot 6, District Lot 939, KDYD, Plan 23290

Proposed Development:

This application is seeking a variance to the interior side parcel line setback that applies to the subject property in order to facilitate the construction of a shop.

Specifically, it is being proposed to reduce the interior side parcel line setback from 4.5 metres to 3.0 metres.

In support of this request, the applicant has stated that “I have chosen this site because of its proximity to my house and the land is already cleared, any other location would require the removal of many trees”.

Site Context:

The subject property is approximately 2.05 ha in area and is situated on the east side of Princeton-Summerland Rd, approximately 21 km from the boundary of the Town of Princeton. The property is understood to contain a single detached dwelling and various accessory buildings.

The surrounding pattern of development is generally characterised by similar rural 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 November 10, 1972, while available Regional District records indicate that building permits have been issued for a single detached dwelling (2002), an office studio (2004), and a shed/garage (2008).

Under the Electoral Area “H” Official Community Plan (OCP) Bylaw No. 2497, 2012, the subject property is currently split-designated Small Holdings (SH) and Large Holdings (LH) and is the subject of Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP)

Area designations. The proposed development would not be within the ESDP or WDP areas on the property.

Under the Electoral Area “H” Zoning Bylaw No. 2498, 2012, the property is currently split-zoned Small Holdings Two (SH2) and Large Holdings Two (LH2). The proposed development would occur on the portion of the property zoned SH2, which permits “accessory buildings and structures, subject to Section 7.12”.

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

Under Section 3.49 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 2793, 2018*, “the CAO or his designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

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 August 19, 2022, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of September 12, 2022, being 15 working days from the date of notification, no 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 3.49 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 2793, 2018, 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 degree of the requested variance it is considered that an approximately 33.33% reduction in the interior side parcel line setback is minor, particularly due to the rural residential nature of the surrounding neighbourhood where parcel sizes are larger and residential and residential ancillary uses have more physical separation.

With regard to the proximity of the proposed shop to neighbouring properties, the nearest parcel lines is approximately is 3.0 metres to the northeast. For this reason, the requested variance is seen minor and unlikely to adversely impact the use of adjacent properties through loss of privacy or overshadowing.

With regard to the final criteria and the character of development in the vicinity of the subject property, the placement of an accessory building within 3.0 metre of the rear parcel line setback is

not common in this area. Despite this, the proposed development is not seen to have substantial impacts on the overall character or established streetscape of the area particularly due to its proposed siting towards the rear of the property.

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.*

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 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 this instance, Administration notes that the proposed variance represents an approximately 33.33% deviation from the minimum interior parcel line setback required under the Zoning Bylaw.

It is recognised that rural residential neighbourhoods tend to be comprised of larger parcels which can provide better physical separation from uses on neighbouring parcels compared to smaller lot residential developments. In this regard, a 33.33% reduction to an interior side parcel line setback is not seen to have substantial impacts on the privacy and overshadowing of neighbouring properties and is therefore seen to be consistent with the general purpose and intent of the zone.

Similarly, given the relatively large parcel sizes in the general vicinity, strict adherence to the prescribed setback requirements is not need to be necessary.

According to the application, the siting of the proposed shop was selected due to its proximity to an existing house on the property and having been previously cleared thus avoiding the removal of trees in other locations on the property. Administration finds that there are no major legal or topographical constraints which would restrict alternative siting of the shop.

Lastly, as the proposed shop would be sited to the rear of the parcel, there will likely not be any substantial impacts to the established character of the streetscape or surrounding neighbourhood.

Conversely, it is recognised that the applicant has the option to site the proposed shop in another location on the property in compliance with the minimum parcel line setback requirements under the Zoning Bylaw.

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

Respectfully submitted:



Shannon Duong, Planner II

Attachments: No. 1 — Aerial Photo

Attachment No. 1 – Aerial Photo

