



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: November 19, 2020
RE: Development Variance Permit Application — Electoral Area “I”

Administrative Recommendation:

THAT the Board of Directors deny Development Variance Permit No. I2020.002-DVP

Purpose: To accommodate a retaining wall, fence on a retaining wall, and a swimming pool/hot tub

Owners: MJVO Holdings, Inc. Agent: Jennifer and Mario Iorio Folio: I-01378.500

Civic: 120 5th Street, Kaleden Legal: Parcel A (See KT140320), Block 9, Plan 763, DL 105S, SDYD

OCP: Low Density Residential (LR) Zone: Residential Single Family One (RS1)

Variance Requests: [see below]

Proposed Development:

This application is seeking to vary several zoning regulations that apply to the subject property in order to install a retaining wall and a fence on a retaining wall along 5th Street and the lane, and to construct a swimming pool and hot tub in the front yard.

Specifically, it is being proposed to:

- reduce the front parcel line setback for an accessory structure from 7.5 metres to 3.63 metres;
- to increase the maximum combined height of a fence and retaining wall at the parcel line from 1.8 metres to 3.02 metres;
- to increase the maximum height of a retaining wall in a required front or side parcel line setback from 1.2 metres to 5.83 metres; and
- to reduce the minimum distance for a retaining wall from the corner of the site at the intersection of streets from 4.5 metres to 0.0 metres.

In support of this request, the applicant has stated, “the design works in the limited space of the property, yet takes into consideration the neighbouring house site lines as well as the roadway appearance. This proposal not only greatly improves the character of the home and property but the streetscape as well with the presence of architectural custom blockwalls, negative lighting and street art installations”.

Site Context:

The subject property is approximately 837 m² in area and is situated on the south side of 5th Street with a lane to the east. The property is currently developed with a single detached dwelling.

The surrounding pattern of development is characterised by low density residential and is in close proximity to Pioneer Park which abuts Skaha Lake.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision which was registered as the plan of townsite of Kaleden on May 4, 1910, while available Regional District records indicate that a building permit for an addition to a single detached dwelling (2019).

Under the Electoral Area “I” Official Community Plan (OCP) Bylaw No. 2683, 2016, the subject property is currently designated Low Density Residential (LR).

Under the Electoral Area “I” Zoning Bylaw No. 2457, 2008, the property is currently zoned Residential Single Family One (RS1) which permits single detached dwellings as a principal use, and accessory buildings and structures, among other uses, as a secondary use. Accessory buildings and structures include swimming pools, retaining walls, and fences over 2.0 metres in height.

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

The proposal is within 4.5 metres of a road reserve, and the Ministry of Transportation and Infrastructure has issued a permit (Permit No. 202-03439) for the proposed setbacks.

Public Process:

Adjacent property owners will have received notification of this application with written comments regarding the proposal being accepted until the commencement of the regular Board meeting. Any comments will be on the agenda as separate item.

At its meeting of September 16, 2020, the Electoral Area “I” Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject application be denied.

The applicant has since modified their proposal by reducing the height of the retaining wall through a stepped design, and by moving the pool/hot tub further away from the front parcel line.

Analysis:

In considering this proposal, Administration notes that there are no unique circumstances for the parcel that necessitate an over-height retaining wall and fence at this location and there are available alternatives to development that would meet the bylaw requirements or minimize the variances requested.

Retaining Wall

The Zoning Bylaw’s retaining wall regulations are meant to mitigate the visual impact and prominence of such structures. Typically, retaining walls are required on hillsides for geotechnical stability or to create a level building site for development.

In this instance, the retaining wall is to accommodate a swimming pool area and provide a private and safe area within the front yard for this use. There are no site constraints that require a retaining wall within the sight triangle.

The “stepped” nature of the retaining wall is seen to meet the intent of the retaining wall height regulation as no portion of the retaining wall is greater than 1.2 metres and this “stepping” no more

imposing to the streetscape than other permitted retaining walls that are not disadvantaged by height calculations measuring from the lowest grade to the top of the structure.

However, the location of the retaining wall at an intersection with a lane is considered to defeat the intent of the bylaw, as these areas are intended to allow for unimpeded sightlines by maintaining low profiles and the retaining wall raises ground level to establish a higher profile.

Conversely, Administration recognizes that the retaining wall within the “sight triangle” is limited to 1.0 m high and is located on a lane with low traffic.

Fence on a retaining wall

The Zoning Bylaw’s fence height regulations are meant to mitigate visual prominence of such structures. The positioning of a fence on top of a retaining wall, particularly at the property line, adds to the prominence of the structure and creates a barrier between the street and the parcel.

In this instance, there is room elsewhere on the property to locate a fence for the purpose of enclosing the pool area and to provide privacy/security.

Further, there is no unique site circumstance requiring the fence to be located on top of the retaining wall or any mitigating site factors that make such a structure less imposing.

Conversely, the fencing consists of glass railing to provide visual permeability and allows for improved security of the pool area.

Swimming pool

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 and a consistent street rhythm of built form.

An in-ground swimming pool and hot tub is not seen to impact the sightlines of vehicular traffic and a swimming pool and hot tub being located partially within the front parcel line setback could be supportable on its own, given the low impact to adjoining properties and the street.

However, when paired with the proposed retaining wall and fencing described above, the overall impression is that of a site is being over-developed and in a manner that is not consistent with surrounding residential parcels which all provide open, landscaped front yards along 5th Street with low or no fencing.

Summary

The proposal is considered to be over-development of the site. As such, Administration does not support the requested variances and is recommending denial.

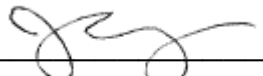
Alternative:

1. That the Board approve Development Variance Permit No. I2020.002-DVP.

Respectfully submitted

Endorsed by:

Attachments:



JoAnn Peachey, Planner I



C. Garrish, Planning Manager

No. 1 – Site Photo (November 2020)
No. 2 – Site Photo (November 2020)

Attachment No. 1 – Site Photo (November 2020)



View from Lane

Attachment No. 2 – Site Photo (November 2020)



View along 5th Street