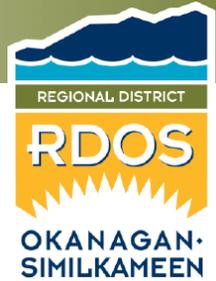


MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: July 24, 2025
TO: Christopher Garrish, Senior Manager of Planning
FROM: Colin Martin, Planner I
RE: Development Variance Permit (DVP) — Electoral Area “I”

FILE NO.: A2025.018-DVP

Owner: Patricia & Richard Voigt Agent: N/A Folio: A-059545.002
Civic: 16423 87th Street Legal: Lot B, Plan EPP55486, District Lot 2450S, SDYD

Proposed Development:

This application is seeking a variance to the front yard setback that applies to the subject property in order to undertake the construction of a single detached dwelling.

Specifically, it is being proposed to reduce the front parcel line setback from 7.5 metres to 1.5 metres. In support of this request, the applicant has stated that “we are reapplying for a building permit to build a single-family house.”

Site Context:

The subject property is approximately 519 m² in area and is situated on the north side of 87th Street, approximately 2.1 km north from the boundary with Town of Osoyoos and is on the south shore of Osoyoos Lake. The property is understood to be vacant.

The surrounding pattern of development is generally characterised by similar residential development and agricultural 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 September 1, 2015, while available Regional District records indicate that a building permit has not previously been issued for this property.

Under the Electoral Area “A” Official Community Plan (OCP) Bylaw No. 2905, 2021, the subject property is currently designated Low Density Residential (LR) and is the subject of a Watercourse Development Permit (WDP) Area designation.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Low Density Residential Two (RS2) which includes single detached dwellings as a permitted principal use.

Under Section 10.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property is within the floodplain associated with Osoyoos Lake and is within the provincial floodplain mapping. Therefore, any development would be required to meet the floodplain regulations.

The property is within the Agricultural Land Reserve (ALR) and has been classified as “Residential” (Class 01) by BC Assessment.

On July 7, 2022, the RDOS Board approved Development Variance Permit No. A2022.021-DVP which reduced the front parcel line setback for 16423 8th Street from 7.5 metres to 1.5 metres. No development has been started and A2022.021-DVP expired on July 7, 2024. As the previous DVP has expired the owners are reapplying for the same DVP.

Watercourse Development Permit (WDP) No. A2024.012-WDP was issued for the proposed development by the RDOS on July 12, 2024.

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* ..."

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 June 24, 2025, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of July 16, 2025, 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 3.22 of the Regional District's Chief Administrative Officer Delegation Bylaw No. 3033, 2023, 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 80% reduction to the front parcel line setback is not minor.

With regard to the proximity of the proposed single detached dwelling to neighbouring properties, the nearest parcel line is approximately 1.5 metres to the south and west. The proposed dwelling is consistent with the interior side parcel line setback of 1.5 metres which is the nearest parcel line to a neighbour. The approximately 1.5 metres to the nearest interior side parcel line is common along 87th street. Moreover, the setback from the front parcel line is unlikely to alter the proximity to neighbour or have any effect on privacy. Therefore, the effects of variance on the proximity to neighbouring buildings and properties is seen to be minor.

With regard to the final criteria and the character of development in the vicinity of the subject property, the placement of a single detached dwelling within 1.5 metres of the front parcel line setback is common along 87th Street. Some newer developments including the subject properties

have acquired DVPs to allow for reduced front parcel line setbacks. Other older developments do not have DVPs on file; however, satellite imagery indicates that many neighbouring properties have dwellings that are less than 7.5 metres from the front parcel lines. For these reasons, the proposed variance is seen to be minor.

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 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 intended to help facilitate the construction of a single detached dwelling, which is consistent with the residential nature of the RS2 zone.

The property abuts Osoyoos lake and is entirely within a Watercourse Development Permit (WDP) Area. The proposed variance is intended reduce environmental degradation of the riparian area by siting the dwelling further from the lake.

While strict compliance with the zoning bylaw may not be unreasonable, the Electoral Area “A” OCP does encourage the reduction of zoning setbacks on existing small lots to reduce the impacts and preserve the Streamside Protection and Enhancement Area (SPEA).

The parcel is within the floodplain of Osoyoos Lake and moving the structure to the front of the property will help distance the structure from the floodplain and increase the elevation which may mitigate the risk of potential flooding.

87th Street runs along the shore of Osoyoos lake. As such many properties along this street have been sited closer to the front parcel line, reducing the impact of developments on the riparian area. Therefore, the proposed variance is consistent with the character and streetscape of the neighbourhood.

The property is in a small, low-density neighbourhood surrounded by agricultural lands which would likely see limited traffic. The setback is unlikely to have an impact on traffic flow or safety.

Summary:

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

Recommendation:

(for approvals)

THAT Development Variance Permit No. A2025.018-DVP, to allow for the construction of a single detached dwelling at 16423 87th Street, be approved.

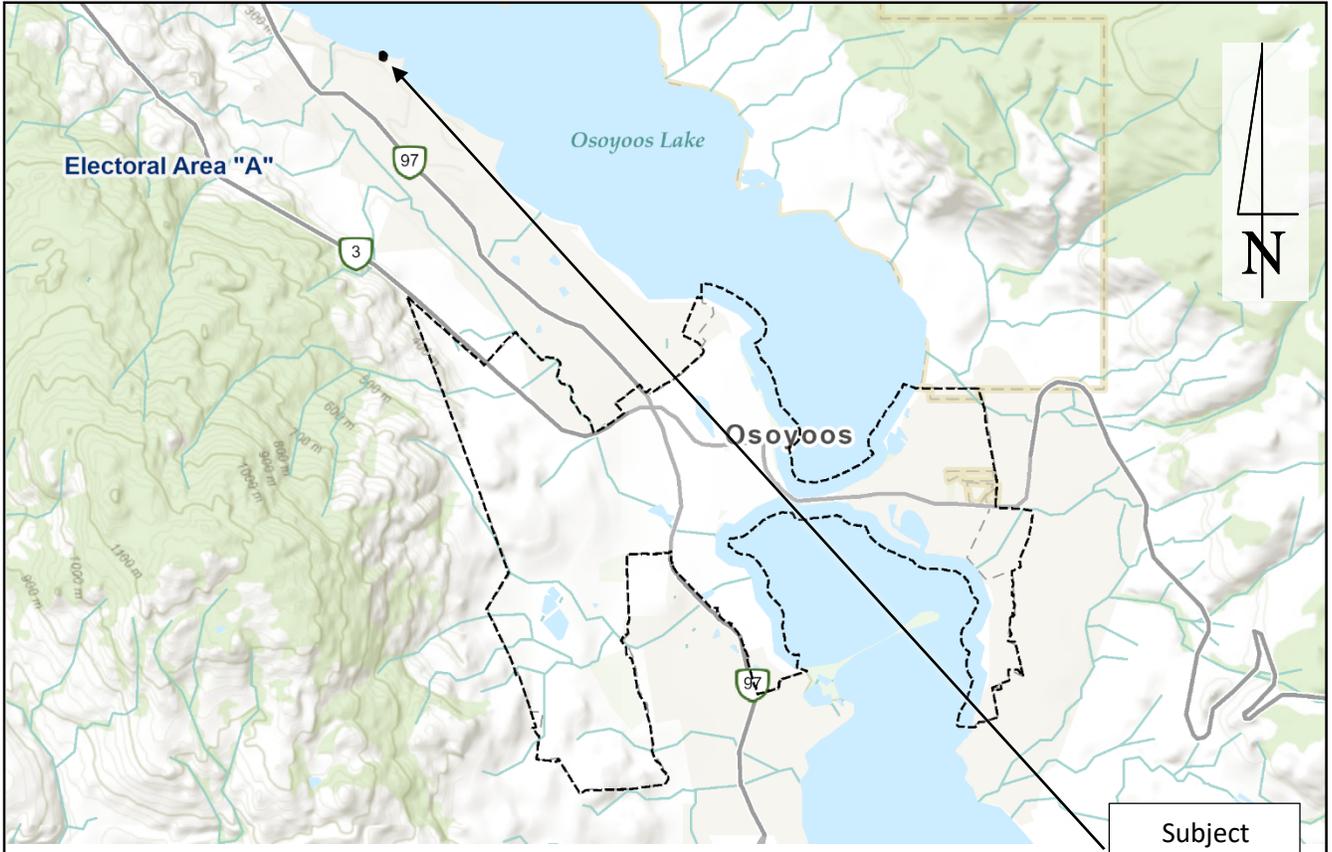
Respectfully submitted:

Colin Martin

Colin Martin, Planner I

Attachments: No. 1 — Context Maps
 No. 2 — Applicant's Site Plan
 No. 3 — Site Photo (Google Earth)

Attachment No. 1 – Context Maps



Subject Property



Attachment No. 3 – Site Photo (Google Earth)

