

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: May 29, 2025
TO: Christopher Garrish, Senior Manager of Planning
FROM: Jerritt Cloney, Planner I
RE: Development Variance Permit (DVP) — Electoral Area “D”

FILE NO.: D2025.012-DVP

Owner: Justin and Michelle Stickland Folio: D-06756.075
Civic: 460 Matheson Road Legal: Strata Lot 16, Plan KAS268, District Lot 2710, SDYD

Proposed Development:

This application is seeking a variance to a parcel line setback for a building located within a bare land strata subdivision that applies to the subject property in order to undertake the construction of an addition to the existing dwelling on site.

Specifically, it is being proposed to vary the interior side parcel line setback for a property located within a bare land strata subdivision from 1.5 metres to 0 metres to the outermost projection.

In support of this request, the applicant has stated that “The request for variance is to bring the existing building into compliance. (and) the new addition will not encroach any closer to the interior side strata lot line than the existing foundation.”

Site Context:

The subject property is approximately 209m² in area and is situated on the north side of Matheson Road, approximately 4 km south from the boundary with the City of Penticton. The property is understood to contain one (1) singled detached dwelling.

The surrounding pattern of development is generally characterised by a strata bare land subdivision, with similar rural residential developments.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on May 29, 1979, while available Regional District records indicate that a building permit(s) for a single-family dwelling (1992) have previously been issued for this property.

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated Resource Area (RA) and is the subject to Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Area) designations.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Resource Area (RA) which lists single detached dwellings as a permitted principal use.

Under Section 10.0 (Floodplain Regulations) of the Zoning Bylaw, the subject property may within the floodplain associated with creeks surrounding the subject property. Floodplain Management

Regulations may be applicable, however, will be confirmed at the time a building permit application is submitted.

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* ...”

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 May 7, 2025, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of May 28, 2025, being 15 working days from the date of notification, approximately 0 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 degree of the requested variance it is considered that varying the interior side strata lot line from 1.5 metres to 0 metres constitutes a 100% variance, which is considered to be not minor.

With regard to the proximity of the proposed dwelling addition to neighbouring properties, the nearest parcel line is approximately 120 metres to the southeast. 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 final criteria and the character of development in the vicinity of the subject property, the location of the proposed addition is situated within a rural strata subdivision amongst a heavily forested area, where there is anticipated to be little to no impact on adjacent strata property owners. For this reason, the requested 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:

As no representations have been received and assessed as “opposing the requested variance(s)”, and in accordance with Section 2.12 of Schedule 4 of Regional District’s Development Procedures Bylaw No. 2500, 2011, this application is to be scheduled for consideration by the Regional District Board.

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, Administration notes that 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.

With respect to the proposed development, Administration notes that subject property is located within a bare land strata subdivision, which provides less stringent setback requirements than what is ordinarily required of a parcel located in a RA zone (7.5m vs 1.5m for interior side parcel line setbacks for principal buildings).

These reduced setback requirements are provided to allow for smaller lot sizes and higher density lots than what is ordinarily permitted for non-strata lots, and where “common property” is managed by a strata that often employs additional rules and regulations to lessen potential conflicts between strata lot owners.

As part of the submitted application materials, the applicant has submitted a letter of support from the Golden Hills Strata Subdivision which presides over the subject strata lot and surrounding common property, further mitigating potential concerns that could arise, should the proposed variance be approved.

Beyond the subject property being located within a subdivision, the proposed variance represents a significant encroachment into a relatively short setback. However, the proposed variance does not directly face other strata lot owners, and the common property surrounding the subject property is heavily forested. As a result, the proposed variance is seen to pose little impact on surrounding strata lot owners or the greater surrounding community.

Alternatively:

Conversely, it is recognised that where a development is undertaken and compliance with the zoning bylaw was not achieved, and permission to vary from the zoning bylaw was not provided, demolition

and relocation of the portion of building not complaint could be considered. Another alternative could involve adjusting the strata lot boundaries, to further encompass both the proposed development and requisite setback standards.

Summary:

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

Recommendation:

THAT Development Variance Permit No. D2025.012-DVP to allow for the addition to a second storey on an accessory building) at 460 Matheson Road be approved.

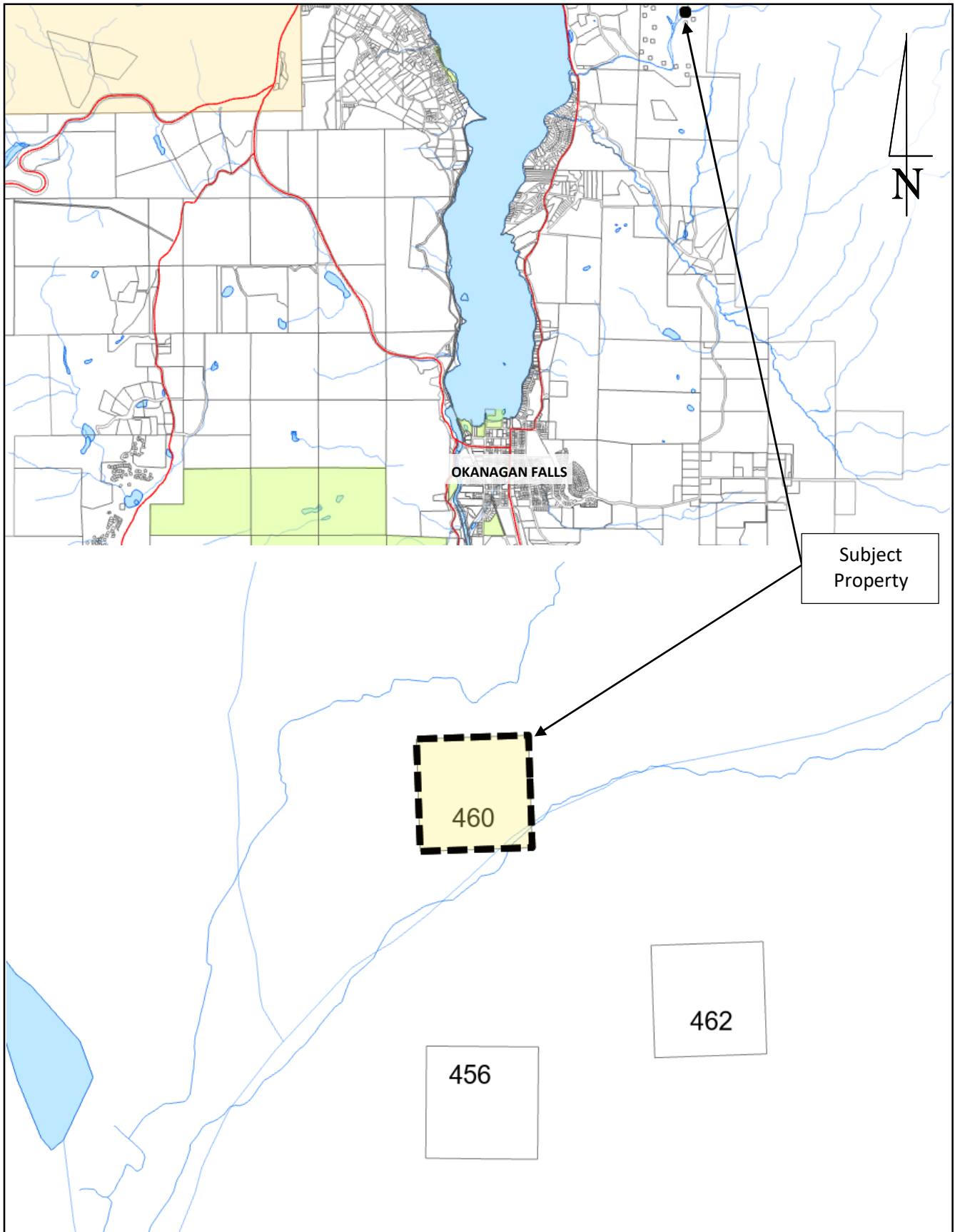
Respectfully submitted:

Jerritt Cloney

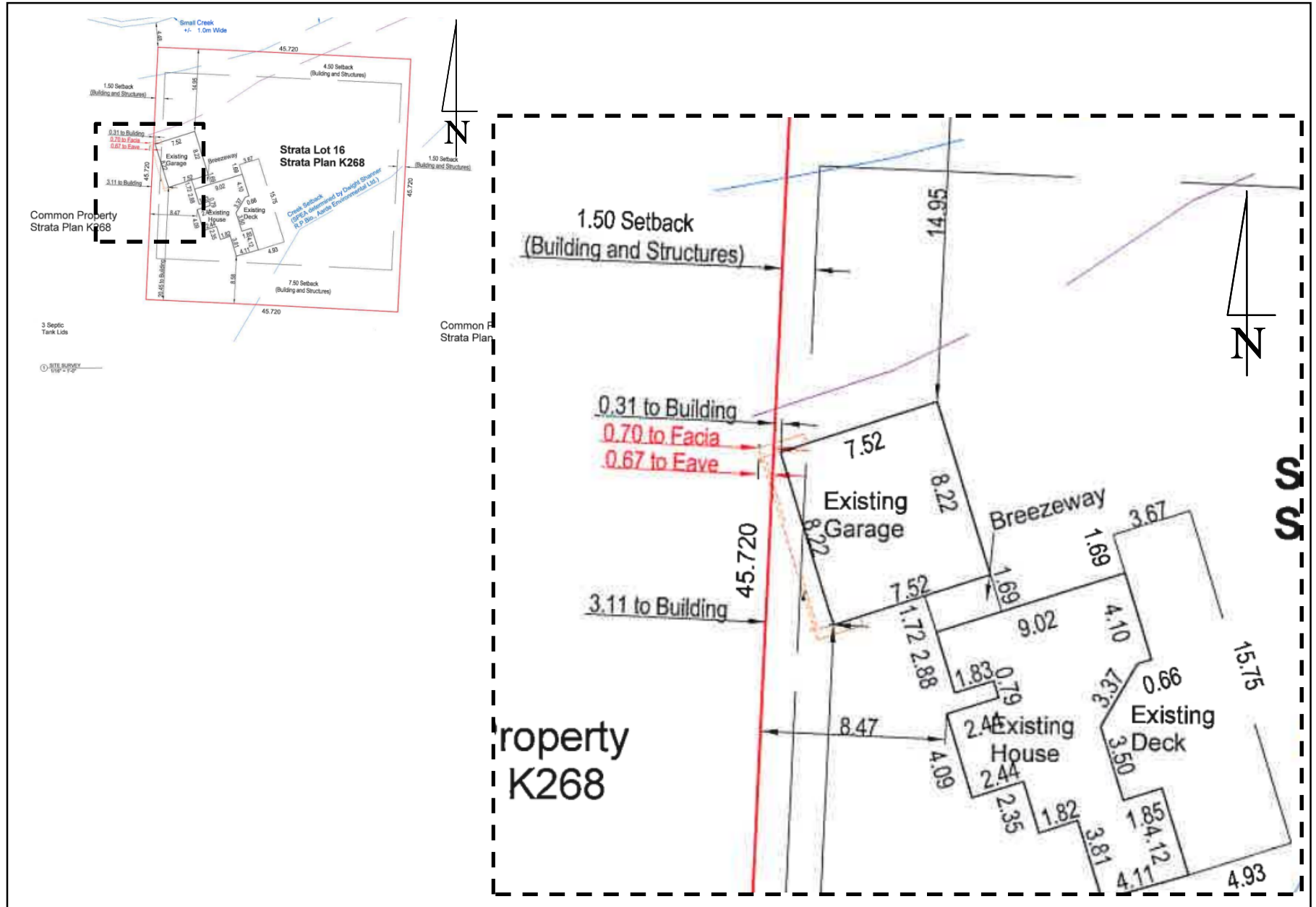
Jerritt Cloney, Planner I

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

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant's Site Survey



Attachment No. 3 – Site Photo

