

TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: November 19, 2020

RE: Development Variance Permit Application — Electoral Area “F”

Administrative Recommendation:

THAT the Board of Directors approve Development Variance Permit No. F2020.014-DVP

Purpose: To allow for development of a new deck on an existing single family dwelling.

Owners: Rob & Michelle Swetlikoe Agent: N/A Folio: F-07329.000

Civic: 203 West Bench Drive Legal: Lot 31, Plan 5817, District Lot 5076, ODYD

OCP: Small Holdings (SH) Zone: West Bench Small Holdings (SH6)

Variance Request: to reduce the minimum rear parcel line setback from 7.5 metres to 4.36 metres.

Proposed Development:

This application is seeking a variance to the rear parcel line setback in order to formalise the construction of a new deck on an existing principal dwelling.

Specifically, it is being proposed to vary the rear parcel line setback for a principal building and structure from 7.5 metres to 4.36 metres.

In support of this request, the applicant has stated that “we didn’t realize there was a bylaw in place for such a large distance from the rear property line when we replaced the existing deck.”

Site Context:

The subject property is approximately 2,590 m² in area and is situated on the east side of West Bench Drive. The property is currently developed to include a single detached dwelling.

The surrounding pattern of development is characterised by similar residential lots zoned West Bench Small Holdings.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on August 20, 1952, while available Regional District records indicate that building permit have not previously been issued for this property.

Under the Electoral Area “F” Official Community Plan (OCP) Bylaw No. 2790, 2018, the subject property is currently designated Small Holdings (SH).

Under the Electoral Area “F” Zoning Bylaw No. 2461, 2008, the property is currently zoned West Bench Small Holdings (SH6) which requires a minimum rear parcel line setback of 7.5 metres for

principal buildings (i.e. single detached dwellings). The bylaw (Section 7.7.1(c)(ii)(.2)) also establishes limitations for unenclosed decks to project into a rear parcel line setback (upto 2.0 metres).

The existing deck (built approximately in 1980's) was recently replaced by a new deck. In doing so, the applicant (unknowingly) extended two (2) feet further into the rear parcel line setback.

Under Section 529 (Non-conforming structures) of the *Local Government Act*, a building or structure that does not comply with the siting (i.e. setbacks) of a zoning bylaw may only be maintained, extended or altered only to the extent that no further contravention of the bylaw occurs. In this instance, the new deck is seen to represent an extension of a contravention to the siting requirements of the zoning bylaw.

A Building Permit was submitted in May 2020, to repair/replace existing deck.

BC Assessment has classified the property as "Residential" (Class 01) and the property also has a geotechnical classification of "Silt Bluff Hazard".

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.

Analysis:

In considering this proposal, 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.

In this instance, Administration notes that the proposed deck is not seen to have any negative impact to the neighbouring properties as it overlooks a garage on the neighbouring property to the east and is unlikely to result in a loss of residential amenity or privacy on this property.

Further, there exists a steep grade change between subject property and neighbouring properties (north and east) and the impact of reduced setback will be mitigated with already existing vegetation cover (along east side) and fence (along north side) between the properties.

Finally, Administration also recognises that the new deck is substantially the same as the deck that was replaced and represents only a minor intensification of the development footprint associated with the dwelling.

Conversely, Administration considers that there are no physical site constraints or other limiting features (i.e. irregular parcel lines) that appear to warrant a variance in this instance and that other options are available to the applicant, such as constructing the deck to the south of the existing dwelling and avoiding the rear setback entirely.

Further, the point at which a non-conforming structure requires structural alterations appears to be the preferred point at which compliance with the requirements of the zoning bylaw must be sought.

Due to the proposed deck having already been constructed, this would require it be demolished.

For the reasons outlined above, Administration supports the requested variances and is recommending approval.

Alternatives:

1. That the Board deny Development Variance Permit No. F2020.014-DVP; or
2. That the Board defer consideration of the application and it be referred to the Electoral Area "F" Advisory Planning Commission.

Respectfully submitted

R. Gadoya

Rushi Gadoya, Planning Technician

Endorsed by:



C. Garrish, Planning Manager

Attachments: No. 1 – Aerial Photo

No. 2 – Site Photos (October 2020)



Attachment No. 2 – Site Photos (October 2020)

