



DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: May 21, 2024

From: Ron Mattiussi, Interim CAO

File No: DVP 24-01

Subject: **DVP 24-01, Development Variance Permit (855 Proserpine Road)**

Report Prepared By: Cam Graham, Planner II

RECOMMENDATION to Consider and Resolve:

THAT Council authorize the issuance of a Development Variance Permit (DVP 24-01) for 855 Proserpine Road to vary S.3.25.1 (a) of Zoning Bylaw No. 0265 to reduce the siting regulation from an agricultural parcel from 15 m to 0 m for the existing structure in accordance with the permit attached to and forming part of the report dated May 21, 2024 from the Planner II.

STRATEGIC AREA(S) OF FOCUS

Pursue Economic Growth and Prosperity – We will work with stakeholders throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

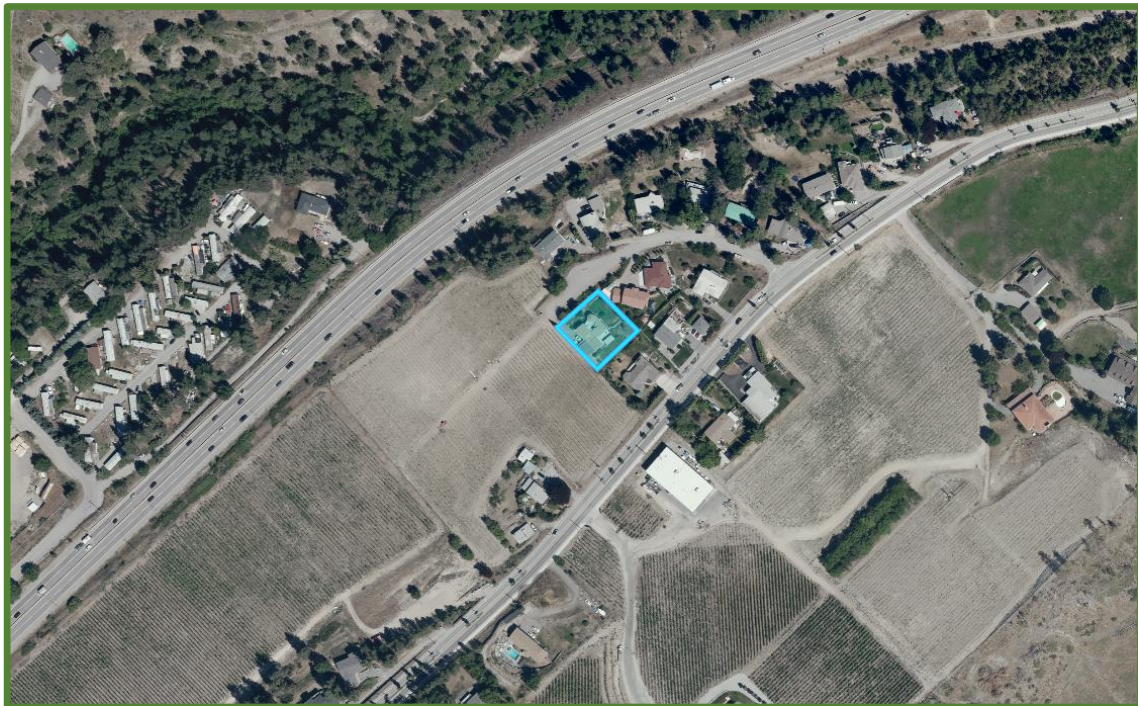
BACKGROUND

The subject property is located in the Lakeview Heights Neighbourhood. The parcel contains a single-family dwelling that was constructed in 1973. A garage was built without a building permit or required variance in the early 2000s up to the neighbour's property line. The siting of this garage did not meet the 15 m siting regulation from an agricultural parcel required by Zoning Bylaw No. 871 (Zoning Bylaw of the day) and does not meet the current Bylaw requirements. A Bylaw contravention Notice was placed on the land title in 2002 noting "a violation of certain bylaws" and directing the homeowner to further information is held in the office of the RDCO (now CWK). The property was sold in 2021. The new homeowner has been in contact with the CWK Building department to bring the garage to the building code standard and was prompted to apply for this variance.

PROPERTY DETAILS			
Address	855 Proserpine Road		
PID	008-597-626		
Folio	36413783.000		
Lot Size	1375.9 m ²		
Owner	Kali Wells	Agent	Kali Wells
Current Zoning	R1 – Single Family Residential	Proposed Zoning	N/A
Current OCP	Low Density Residential	Proposed OCP	N/A
Current Use	Single Family Dwelling	Proposed Use	N/A
Development Permit Areas	None		
Hazards	No		
Agricultural Land Reserve	No		

ADJACENT ZONING & LAND USES			
North	^	R1 – Single Family Residential	
East	>	R1 – Single Family Residential	
West	<	R1 – Single Family Residential	
South	v	A1 – Agricultural Zone	

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

Proposal

The applicant is requesting a retroactive variance to section 3.25.1(a) of the Zoning Bylaw to reduce the siting regulation from an Agricultural Parcel from 15 m to ~0 m in accordance with the attached permit. The applicant has submitted a detailed rationale letter as Attachment 2.

Official Community Plan No.0300

The OCP Single Family Land Use Designation of Low-Density Residential. The application is generally consistent with the Official Community Plan No.0300. These guidelines are generally drafted to protect both non-compatible land uses.

Agricultural Plan

This application was reviewed in accordance with the City of West Kelowna's Agricultural Plan, adopted by Council on August 9th, 2011. This plan goes into detail on the City of West Kelowna's recommendations related to land use management and buffering.

4.6.4 Recommendation 23: Land Use Management and Buffering:

Land use conflicts occur at the interface of non-compatible land-uses. Many of these future conflicts can be prevented at time of development and may be mitigated with appropriate buffering.

Policy:

The District (City) of West Kelowna continues to consider edge planning strategies that do not interfere with farming operations, as one option for supporting existing farm operations and mitigating potential land use conflict.

The Agricultural Plan determines that the main priority of adequate buffering is to mitigate potential land use conflict. In this site-specific scenario, the conflict will heavily impact the residential property and will have minimal to no conflict on the agricultural side, as the unpermitted structure has been adjacent to the operations for over 20 years. This conflict will continue if the garage is removed as no buffer will be created through this variance process and the Single-family dwelling is within the siting regulation area ~7.5 m to the adjacent agricultural property line.

Zoning Bylaw No.0265

The retroactive proposal is consistent with Zoning Bylaw No.0265 and no other variances have been triggered other than:

s.3.25.1 (a) Principal buildings, principal structures, and carriage houses shall be a minimum distance of 15.0 m (49.2 ft) from land within the Agricultural Zone (A1) or land within the Agricultural Land Reserve (ALR).

The Zoning Bylaw also includes s.3.25.1 (b), which allows for a reduction in the 15m setback to 9m where a level 1 buffer is planted. In this instance, due to the structure being located on the lot line with ~0m setback, a planted buffer will not create any practical benefit.

Building Department Comments

The applicant has been working with the Building and Fire Departments to permit the structure. The structure will be required to be adjusted to meet the Building Code and be constructed of non-combustible materials. The applicant is aware of what is required and is waiting for consideration of the variance before moving forward.

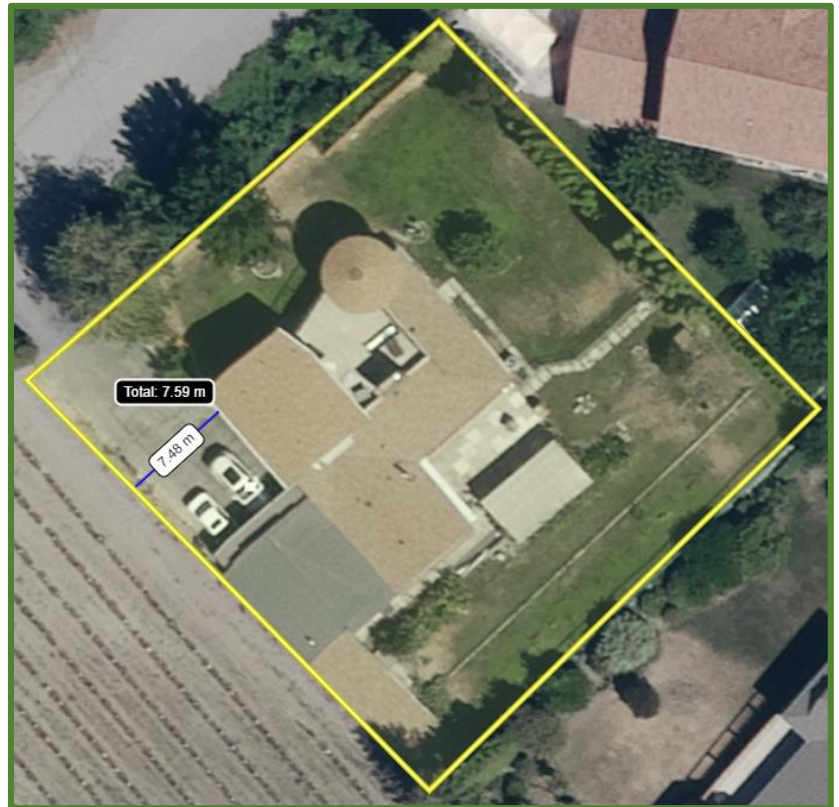


Figure 1: Orthophoto Setback

Public Notification

In accordance with the *Local Government Act*, notification letters were sent to all property owners and their tenants within 100 m of the subject property. A Notice of Application sign was also installed on the property in accordance with the Development Application Procedures Bylaw No. 0260.

Three submissions in opposition to the application were received. These submissions have been attached to this report for review (Attachment 2). In general, these submissions oppose the variance due to:

- Concerns about the proposal taking the neighbours land;
- A procedural fairness for everyone to have to comply with Bylaw regulations; and
- A stated impact to the adjacent parcel.

CONCLUSION

Staff do not have site-specific concerns with this retroactive proposal and believe this is not a precedent-setting application. Staff acknowledge the importance of edge planning to separate non-compatible land uses at time of development. The intent of edge planning is to avoid conflicting uses by limiting the impacts of agriculture on residential uses and avoid nuisance-related conflict. Due to the length of time since this was constructed, the impact (i.e demolition) of implementing edge planning would be quite significant. In addition, since the variance is registered on title, it will form as additional notice of the reduced proximity to the adjacent agriculture and includes information on the nuisance related impacts for future owners.

The addition has existed for over 20 years with little to no impacts on any adjacent properties, and with the required BC Building Code improvements, the development of the adjacent property will not be limited.

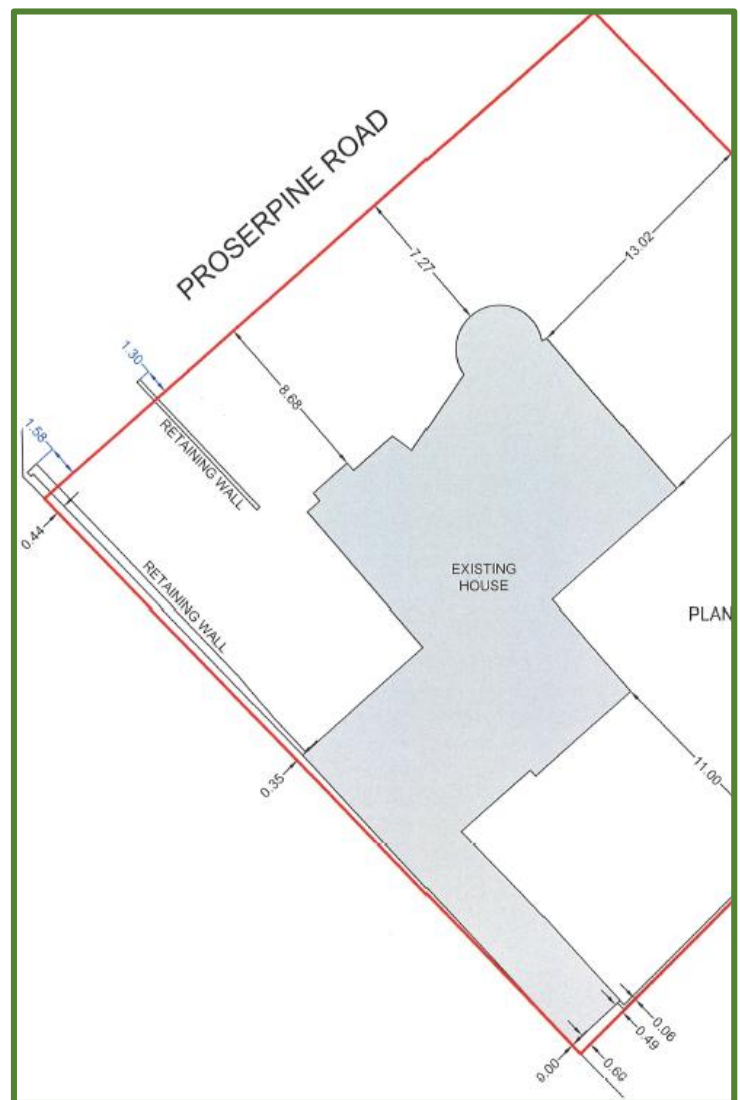


Figure 2: Surveyed Plan

Alternate Recommendation to Consider and Resolve:

1. **THAT** Council postpone consideration of the issuance of a Development Variance Permit (DVP 24-01) for 855 Proserpine to vary S.3.25.1 (a) of Zoning Bylaw No. 0265 to reduce in accordance with the attached permit attached and forming part of the Report dated May 21, 2024, from the Planner II.

Should Council postpone consideration of the requested variance, further Council direction to staff is requested.

2. **THAT** Council deny issuance of the Development Variance Permit (DVP 24-01) Should Council deny the requested variance, the file will be closed. As per the City's Development Applications Procedures Bylaw No. 0260, the applicant may re-apply for a similar proposal a minimum six months after initial consideration.

Should Council deny consideration of the requested variance, further Council direction to staff is requested.

REVIEWED BY

Chris Oliver, Planning Manager

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager / Corporate Officer

Trevor Seibel, Deputy CAO

APPROVED FOR THE AGENDA BY

Warren Everton, Acting CAO

PowerPoint: Yes ☒ No ☐

Attachments:

1. DVP 24-01 Development Variance Permit
2. Applicant's Rationale
3. Submissions