

Supplementary Information

Development Variance Permit Application

Elenko 2497 Tallus Heights Drive
Slater 2501 Tallus Heights Drive

Background

The owners of the 2497 and 2501 Tallus Heights Drive wish to construct a decorative privacy fence along their interior side property lines, in the rear portions of their properties. Both homes are new and are of high quality and appearance, and both properties have a swimming pool in the rear yard. The owners of the two lots respect each other's privacy and both owners want a decorative privacy fence that will screen their rear yards and complement the appearance of their homes.

Proposal

Variance to Section 3.10.1 a) of Zoning Bylaw 0154

The height and construction material of fences in West Kelowna is governed by section 3.10 – Fences, in the City of West Kelowna Zoning Bylaw. Presently, section 3.10.1 a) of the Zoning Bylaw indicates that within residential zones, no fence can contain corrugated metal.

The owners of the subject properties are requesting a variance to section 3.10.1 a) to allow the fences in their rear yards to be constructed with powder coated corrugated metal panels.

The proposed decorative fences in their rear yards will be constructed of 5½ inch by 5½ inch cedar fence posts with powder coated corrugated metal panels placed between the cedar posts and complemented by horizontal 2x6 cedar board on the top and bottom of the corrugated metal panels.

The proposed fence will be similar to the fence in the image with heavy 5½ inch by 5½ inch cedar posts. The proposed vertical cedar posts will not have an angled top as shown in the image, but rather will have black metal caps to protect the post tops from water damage. The proposed fences will also contain one 2x6 cedar horizontal



board at the bottom of the metal panel fence and two cedar 2x6 horizontal boards at the top of the metal panel. The corrugated metal panels facing 2497 Tallus Heights will be black, with the corrugated metal panels facing 2501 Tallus Heights Drive being black or possibly a "gun metal" grey color.

The treatment of the fences facing 2493 and 2505 will be wood but colored corrugated metal panels could be provided if there is a cost sharing agreement.

The houses adjacent to 2497 and 2501 Tallus Heights Drive contain a variety of external materials including metal, and the house at 2493 Tallus Heights contains corrugated metal very similar to the metal proposed for the fence panels.

The neighbors will not see the decorative metal panels in the fence and because the fences in the rear yards, the public will not be able to see the decorative metal panels.

Variance to Section 3.12.4 a) of Zoning Bylaw 0154

Section 3.12.4 a) of the West Kelowna Zoning Bylaw indicates that fences on retaining walls cannot exceed 1.2 meters.

The portion of Tallus Heights Drive on which the two subject properties are located slopes down from north to south and this has resulted in short retaining walls being required in the rear yards on each of the subject properties. The retaining wall between 2493 and 2497 is 0.6 m (2') high as noted in photo 3, while the retaining wall between 2501 and 2505 is 1.3 m (4'2"), as noted in photo 7.

The proposed fence between 2493 and 2497 will be situated entirely on the 2497 property and approximately 2/3 of the length of the fence will be situated on the short retaining wall. As such, in accordance with section 3.12.4 a) of the Zoning Bylaw, the fence is only allowed to be 1.2 m.

The owners of the subject properties are requesting a variance to section 3.12.4 a) of the Zoning Bylaw to allow the fence to be constructed 2 m in height, which is the height allowed for fences residential zones.

The restriction on the height of a fence on a retaining wall is for the benefit of the lower property owner to prevent the creation of an excessively tall vertical surface comprised of a retaining wall and fence. As the 2497 property is the lower property between 2497 and 2493, the increased vertical surface will be on the 2497 (Elenko) side of the fence. The Elenkos are comfortable with the increased vertical height created by the 0.6 m retaining wall and a 2 m high fence, and as such there is no practical reason to restrict the height of the fence to 1.2 m which will only serve to allow the neighbors to view into the Elenko's back yard. The Elenkos and Slaters are wanting privacy in their back yards and restricting the fence height to 1.2 m between 2493 and 2497 will not allow privacy to the Elenkos back yard but will allow privacy to the adjacent 2493 property owners back yard. Allowing the standard height 2 m high fence to be constructed on the retaining wall between 2497 and 2493 will provide privacy to both lots and will not pose an imposition to the 2493 property as a 2 m high fence is the normal height permitted in residential zones and is the height of a fence that is allowed to be constructed on the 2493 property.

The owners of 2501 have discussed the proposed fence with their neighbors at 2505, and their neighbors indicated they have no concerns with allowing a 2 m fence on the top of the 1.3 retaining wall.

Rationale and Justification

Fence Material

- The proposed cedar fence with decorative corrugated metal insert panels will be attractive, durable, and low maintenance. The corrugated metal proposed for the fence will be new material and will be custom made to fit the fence panels.
- The metal proposed for the fence will be similar to some of the exterior cladding that is on the adjacent house at 2493.
- Although the proposed fences will be attractive, they will be in the rear yards of the subject properties and not visible from the public, so there should be no concerns with public opinion.
- As the adjacent neighbors at 2493 and 2505 have advise they are not interested in cost-sharing in the construction of the proposed fences, the fence material facing 2493 and 2505 will contain wood panels between the cedar posts rather than metal panels. As such, the adjacent property owners will not see the metal panels and therefore they should have no concern with the placement of decorative metal panels on the fencing facing the 2497 and 2501 properties.
- The proposed fences with the decorative metal panels will not have a negative visual impact on the adjacent properties or the neighborhood, as the decorative metal panels will not be visible from the surrounding properties.

Fence Height on a Retaining Wall

- I believe the purpose of the fence height restriction on a retaining wall is to protect the owner of the lower property from the enhanced vertical height of the wall and a fence. As the 2497 property (Elenko) is the lower than the 2493 property, the 2493 property will not be impacted or effected by the requested variance to allow a normal height 2.0 m fence.
- The 2497 property owners have a swimming pool and want to obtain privacy from the neighboring 2493 property. Imposing a maximum fence height of 1.2 meters on the 2497 property retaining wall removes the possibility of the 2497 property having privacy but does provide privacy to the 2493 property. This would simply not be fair, as property owner paying for the fence would not have privacy and would essentially be building a fence to provide privacy for the neighboring 2493 property.
- The proposed variance to allow a 2-meter fence to be constructed on the 0.6 m retaining wall between the 2497 and 2493 properties will not have a negative impact on the use and enjoyment of the 2493 property or any other surrounding property. On the contrary, restricting the fence height to 1.2 m will have a negative impact on the use and enjoyment of the 2497 property.

- The proposed fence height on the retaining wall on the 2497 property is exactly the same height that is allowed to be built on the 2493 property, immediately beside the retaining wall.
- The owners of 2505 have advised the owners of 2501 that they are not concerned with a 2-meter fence on the 1.3 m retaining wall.