



COUNCIL REPORT  
Development Services  
For the September 17, 2019 Council Meeting

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DATE: August 30, 2019  
TO: Paul Gipps, CAO  
FROM: Levan King Cranston, Planner I  
RE: Application: Development Variance Permit (DVP 19-13)  
Legal: Lot B, DL 1118, ODYD, Plan 29578  
Address: 2335 Thacker Drive  
Owner: Kevin Gouwenberg

File no. DVP 19-13

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**RECOMMENDED MOTION:**

**THAT** Council authorize a Development Variance Permit (DVP 19-13) for Lot B, DL 1118, ODYD, Plan 29578 (2335 Thacker Drive) to reduce the minimum required side yard setback regulation in Section 10.4.5 (g).3 of Zoning Bylaw No. 0154 from 1.5 m to 1.31 m.

**RATIONALE:**

The recommended motion is based on the following:

- The grade of the subject property is lower than the adjacent property to the north. As a result, the accessory building appears lower when viewed from the adjacent property.
- The accessory building's roof angles up and away from the adjacent property to the north. Because of this, the height of the building is lower on this side reducing the visual impact of the proposed accessory building.
- Existing vegetation located on the adjacent property to the north will help screen the accessory building.
- The impact the accessory building will have on the subject property and adjacent properties would be the same if the accessory building met the 1.5 m required interior side yard setback. The distance being varied is 19 cm.

**LEGISLATIVE REQUIREMENTS:**

Section 498 of the *Local Government Act* gives Council the authority to issue a development variance permit that varies, in respect to the land covered in the permit, the provisions of the Zoning Bylaw.

**BACKGROUND:**

**History**

The applicant has nearly completed the construction of an accessory building located in the north east corner of the subject property. The construction was done without a building permit, and is sited within the interior side yard setback. The applicant has now applied for a Building Permit,

and Development Variance Permit as the siting of the accessory building does not meet the requirements of Zoning Bylaw No. 0154.

### Location and Surrounding Uses

The 1173.59m<sup>2</sup> (0.29 acres) property is located in the Lakeview Heights neighbourhood (Attachment 2). It is Zoned Single Detached Residential (R1) and is surrounded by similarly zoned R1 parcels. The subject property is designated Single Family Residential in the Official Community Plan (OCP).

### Proposal

The applicant has applied to vary Zoning Bylaw no. 0154 Section 10.4(g).3 to allow for the interior side yard setback to be reduced from 1.5 m to 1.31 m for the purpose of maintaining the current siting of the recently constructed accessory building. The accessory building has a sloped roof and is 4.2 m at the highest point, and is a total of 36.87m<sup>2</sup>. The accessory building will be used as office space so the applicant can work from home.



Figure 1: Site Plan

### Applicant Rationale

As part of the application, the applicant submitted a rationale letter (Attachment 5). To summarize the applicant has noted that the accessory building will be used as office space so he can work from home. The siting of the accessory building was measured from the fence, rather than the property line, and is why a variance for the interior side yard setback is required.

### DISCUSSION

As seen in Figure 2: *Accessory Building*, the grade of the subject property where the accessory building is sited is lower than that of the adjacent property to the north. The slope of the roof angles up and away from the adjacent property. In addition, there are shrubs and other vegetation that run along the fence line between the two properties. The lower grade combined with the angled roof and existing vegetation assists in limiting the visual impact the accessory building will have to the neighbouring residential property. The impact this development will have on the subject property and adjacent properties would be similar if the 1.5 m resulted interior side yard setback had been met. The distance being varied is 19 cm and is not anticipated to make a significant impact to the area.



Figure 1: *Accessory Building*

- 1) Change in grade
- 2) Angled roof
- 3) Existing vegetation

#### POLICY, LEGISLATION AND BYLAW REVIEW:

##### **Official Community Plan (OCP) Bylaw No. 0100**

The proposed variance to allow the interior side yard setback to be reduced from 1.5 m to 1.31 m does not compromise the intent of the Official Community Plan.

##### **Zoning Bylaw No. 0154**

The development of the accessory building meets the allowable height of 5 m (4.2 m proposed), and the requirements for maximum allowable area of 50 m<sup>2</sup> (36.87 m<sup>2</sup> proposed). The accessory building meets the requirements of a major home based business as a secondary use on the subject property. All other regulations have been met aside from the requested variance to reduce the interior side yard setback.

#### PUBLIC NOTIFICATION:

In accordance with the *Local Government Act*, 30 notification letters were sent to all property owners and their tenants within 100 metres of the subject property and a notice of application sign has been placed on the subject property in accordance with the Development Applications Procedures Bylaw No. 0260. At the time of writing this report, phone conversations with the

neighbour to the north have taken place. The neighbour is concerned that the accessory building will block their view of Okanagan Lake. A site visit by staff have confirmed that even if the accessory building met the 1.5m interior yard setback requirement the neighbour's view of Okanagan Lake would still be obstructed.

**ALTERNATE MOTION(S):**

**THAT** Council deny a Development Variance Permit (DVP 19-13) for Lot B, DL 1118, ODYD, Plan 29578 (2335 Thacker Drive) to reduce the minimum required side yard setback regulation in Section 10.4.5 (g).3 of Zoning Bylaw No. 0154 from 1.5 m to 1.31 m.

If this motion is supported by Council, the applicant will be required to relocate the accessory building to meet the required 1.5 m interior side yard setback. The accessory building has already been constructed, moving the building may be costly for the applicant.

**REVIEWED AND APPROVED BY:**

Brent Magnan, Planning Manager  
Shelley Schnitzler, Legislative Services Manager  
Paul Gipps, CAO

Powerpoint: Yes  No

Attachments:

- 1) Draft Permit (DVP 19-13)
- 2) Context Map
- 3) Subject Property Map
- 4) Site Plan
- 5) Applicant Rationale
- 6) Site Photos