



# Committee Report

**Date of Report:** 09-08-2021  
**Date & Type of Meeting:** 09-22-2021, Rural Affairs Committee  
**Author:** Eileen Senyk, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2105F-03595.005-Baril\_&\_-DVP000211  
**Electoral Area/Municipality:** Electoral Area 'F'

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider approving a Development Variance Permit. The subject property is located at 3034 Miller Road in Electoral Area 'F'. The applicant has requested a variance to the 4.5 metre setback identified in Section 605.5 of RDCK Zoning Bylaw No. 1675. The proposal is to site a dwelling and a detached garage at zero metres from the front lot line as measured from the roofline.

The Ministry of Transportation and Infrastructure has issued a structure setback permit to allow for the proposed siting as described above. There have been no objections to the proposal. For these reasons, staff recommend that the Regional Board approve the variance.

## SECTION 2: BACKGROUND/ANALYSIS

### Background Information

#### GENERAL INFORMATION

**Property Owner:** Anne Baril and Nil Gagne

**Property Location:** 3034 Miller Road, North Shore, Electoral Area 'F'

**Legal Description:** LOT A DISTRICT LOT 788 KOOTENAY DISTRICT PLAN 13885 (PID 010-472-886)

**Property Size:** 0.52 hectares

#### SURROUNDING LAND USES

**North:** Suburban Residential (R1F)

**South:** West Arm of Kootenay Lake and Park

**East:** West Arm of Kootenay Lake

**West:** Suburban Residential (R1F)

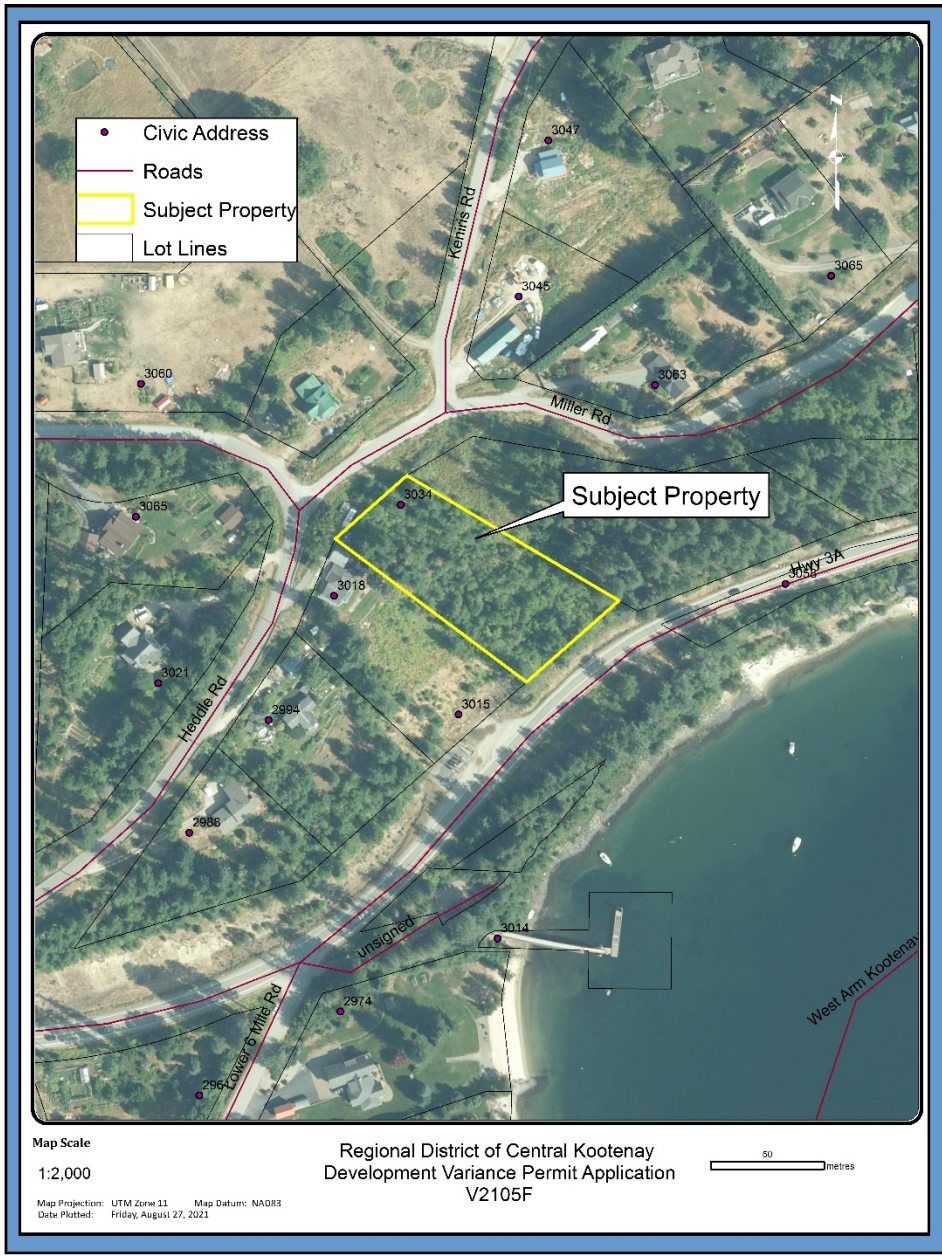


Figure 1: Overview Map

### **Site Context and Development Proposal**

The subject property is located at the junction of Heddle and Miller Road. The entire property sits on a steep slope making access and construction challenging. The Ministry of Transportation and Infrastructure (MoTI) issued a permit to construct a driveway within the road right of way. MoTI has also approved a structure setback permit to enable building to be situated at zero metres from the front lot line, subject to the roofline being built behind the lot line so that it does not encroach on the road right of way.

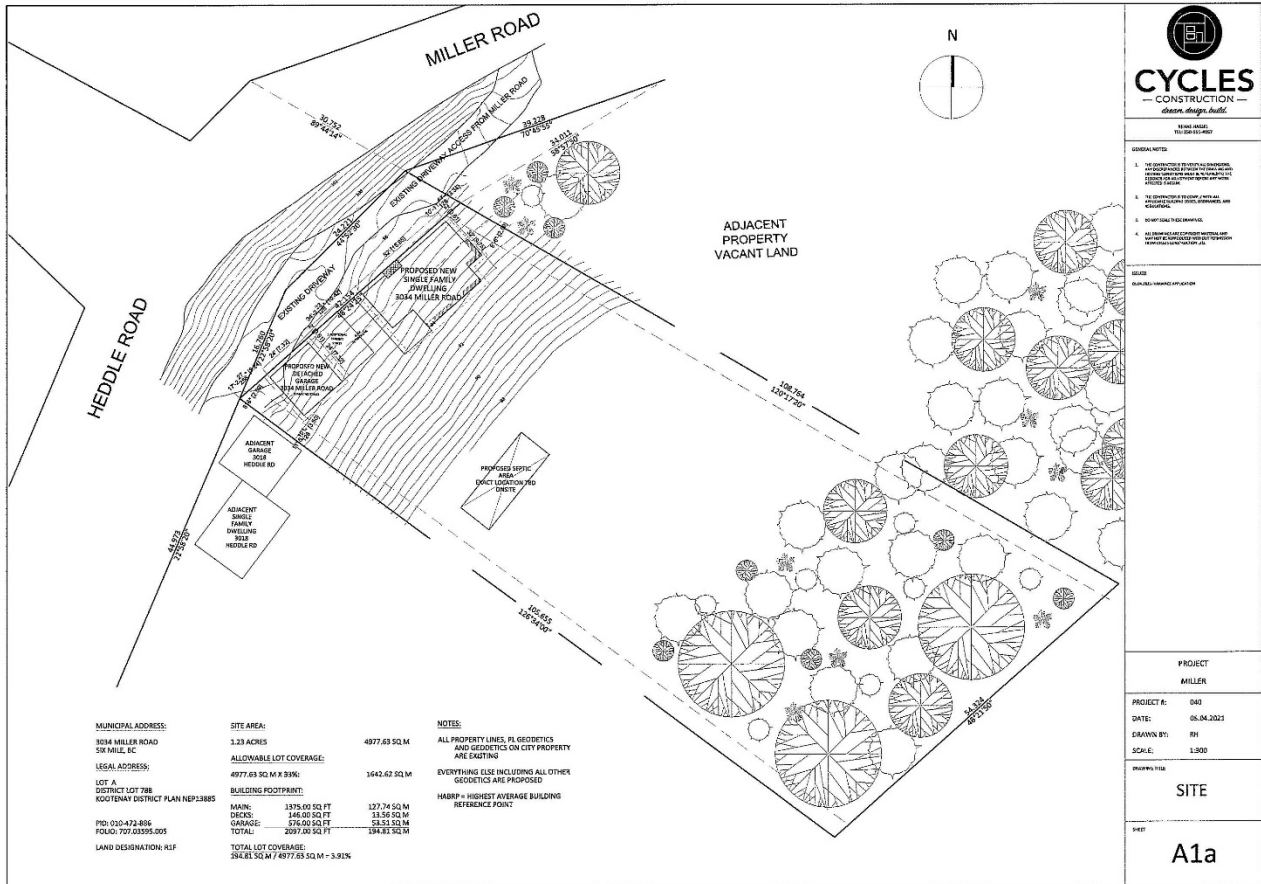


Figure 2: Site Plan



Figure 3: Proposed Building Location Facing N/E



Figure 4: Driveway relative to the location of Miller Road



Figure 5: Proposed Building Site Facing SW

## **Planning Policy**

Electoral Area 'F' Official Community Plan Bylaw No. 2214, 2011 includes the following residential policies:

### **11.4 Rural, Country, and Suburban Residential**

The Regional Board:

.1 Considers that new Rural, Country, and Suburban Residential development may be created in the rural area, but that the development must respect the character of the rural area, and therefore, the Regional Board will use the following criteria, in addition to those listed under General Residential policies where appropriate, to assess future development:

- a. location near parks or community facilities, and connected by pedestrian circulation to these amenities;
- b. exhibits an attractive and safe streetscape by providing for adequate off-street parking requirements, on-site landscaping and screening, and appropriate signage;
- c. respects lake and mountain views, and access to sunlight of adjacent properties; and,
- d. provides access without constructing new roads or utility corridors through Environmental Reserves, hazard areas, and without creating permanent scarring on slopes visible from major roads or residential areas.

Section 605.5 of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 reads as follows:

Despite Section 605(1), for all of Electoral Area F, unless otherwise stated in the zone, no principal or accessory building or structure except a fence may be located within 4.5 metres of a front or exterior side lot line or within 2.5 metres of any other lot line.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

The applicant has paid the application fee of \$500 pursuant to the Planning Procedures and Fees Bylaw No. 2457, 2015.

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

The Ministry of Transportation and Infrastructure has issued a Structure Setback permit to enable the building to be situated at a zero metre setback.

### 3.3 Environmental Considerations

The property is situated on a steep hill and is treed. Building the house as close as possible to the road will minimize the amount of disturbance on the site. This siting is thought to have the least environmental impact as it will enable the majority of the property to remain in its natural state.

### 3.4 Social Considerations:

None anticipated.

### 3.5 Economic Considerations:

None anticipated.

### 3.6 Communication Considerations:

The application was referred to 13 neighboring property owners within a 100 metres of the property. No responses were received from neighboring property owners. The only comments received from government agencies were as follows:

#### Ministry of Transportation and Infrastructure - District Technician - August 4, 2021

*Nil Gagne has requested a 0 metre setback relaxation from property line. The ministry approves the request however it shall be noted that the home shall be constructed in such a way that there is no roof overhang beyond the zero metres and parking shall be accommodated on the Gagnes' property, not ministry right of way.*

#### RDCK Fire Services Department - Acting Fire Chief North Shore Fire Service - July 7, 2021

*Not sure what to say about this lot development. From a fire department road safety is important. If road barriers are in place like the other homes that would be okay.*

*We have had a couple of accidents of cars sliding down heddle & Keniris road and falling over the embankment.*

### 3.7 Staffing/Departmental Workplace Considerations:

If the Board approves the Development Variance Permit staff will register the permit on the property's title. The building permit process can then begin.

### 3.8 Board Strategic Plan/Priorities Considerations:

None anticipated.

## SECTION 4: OPTIONS

### Planning Discussion

The proposal seeks to develop a dwelling and detached garage on a steep property. In consultation with builders and designers, the owners have determined that situating the house as close as possible to the front lot line will result in a more stable construction design, as it will eliminate the need for retaining walls. It is also the most cost effective and environmentally sensitive siting.

There were no objections raised during the referral period and the Ministry of Transportation and Infrastructure has already provided a structure setback permit. The proposal aligns with residential objectives identified in the Official Community Plan. Electoral Area 'F' setback requirements are more liberal than those in other zoned areas within the Regional District. This is likely in recognition of the fact that many properties in Electoral Area 'F' are constrained by size and/or topography. This property is a good example of a property that is difficult to develop due to steep topography.

There have been no objections to the proposal. The Ministry of Transportation and Infrastructure has issued a structure setback permit. For these reasons, staff recommend that the Regional Board approve the variance.

### Option 1

That the Board APPROVE the issuance of Development Variance Permit V2106J-07289.338-RDCK-DVP00212 to Anne Baril and Nil Gagne for the property located at 3034 Miller Road, North Shore, Electoral Area 'F' and legally described as LOT A DISTRICT LOT 788 KOOTENAY DISTRICT PLAN 13885 (PID 010-472-886) to vary Section 605.5 of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 FROM 4.5 metres TO 0 metres as measured from the roof line.

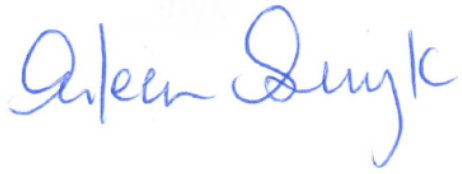
### Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2106J-07289.338-RDCK-DVP00212 to Anne Baril and Nil Gagne for the property located at 3034 Miller Road, North Shore, Electoral Area 'F' and legally described as LOT A DISTRICT LOT 788 KOOTENAY DISTRICT PLAN 13885 (PID 010-472-886) to vary Section 605.5 of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 FROM 4.5 metres TO 0 metres as measured from the roof line.

## SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2106J-07289.338-RDCK-DVP00212 to Anne Baril and Nil Gagne for the property located at 3034 Miller Road, North Shore, Electoral Area 'F' and legally described as LOT A DISTRICT LOT 788 KOOTENAY DISTRICT PLAN 13885 (PID 010-472-886) to vary Section 605.5 of Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 FROM 4.5 metres TO 0 metres as measured from the roof line.

Respectfully submitted,



Eileen Senyk

## **CONCURRENCE**

Planning Manager – Nelson Wight

General Manager Development and Community Sustainability – Sangita Sudan

Chief Administrative Officer – Stuart Horn

## **ATTACHMENTS:**

**Attachment A – Draft Permit**





**REGIONAL DISTRICT OF CENTRAL KOOTENAY**

**DEVELOPMENT VARIANCE PERMIT**

**Planning File No. V2105F-03595.005-Baril\_&\_Gagne-DVP000211**

Date: September 23, 2021

Issued pursuant to Section 498 of the *Local Government Act*

TO: Anne Baril & Nil Gagne

**ADMINISTRATION**

1. This Development Variance Permit (DVP) is issued subject to compliance with all of the bylaws of the Regional District of Central Kootenay (RDCK) applicable thereto, except as specifically varied or supplemented by this Permit.
2. The land described shall be developed strictly in accordance with the terms and conditions and provisions of this DVP, and any plans and specifications attached to this Permit that shall form a part thereof.
3. This DVP is not a Building Permit.

**APPLICABILITY**

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1' and '2':

Address: 3034 Miller Road, North Shore, Electoral Area 'F'  
Legal: LOT A DISTRICT LOT 788 KOOTENAY DISTRICT PLAN 13885  
(PID 010-472-886)

**CONDITIONS**

5. Development Variance

Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004, Section 605.5 is varied as follows:

From: 4.5 metres from a front or exterior lot line

To: 0 metres from a front or exterior lot line, as shown on Schedule '1' and '2' and measured from the roofline

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

Authorized resolution [*enter resolution number*] passed by the RDCK Board on the day of \_\_\_\_\_, 20\_\_\_\_\_.

The Corporate Seal of  
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY  
was hereunto affixed in the presence of:

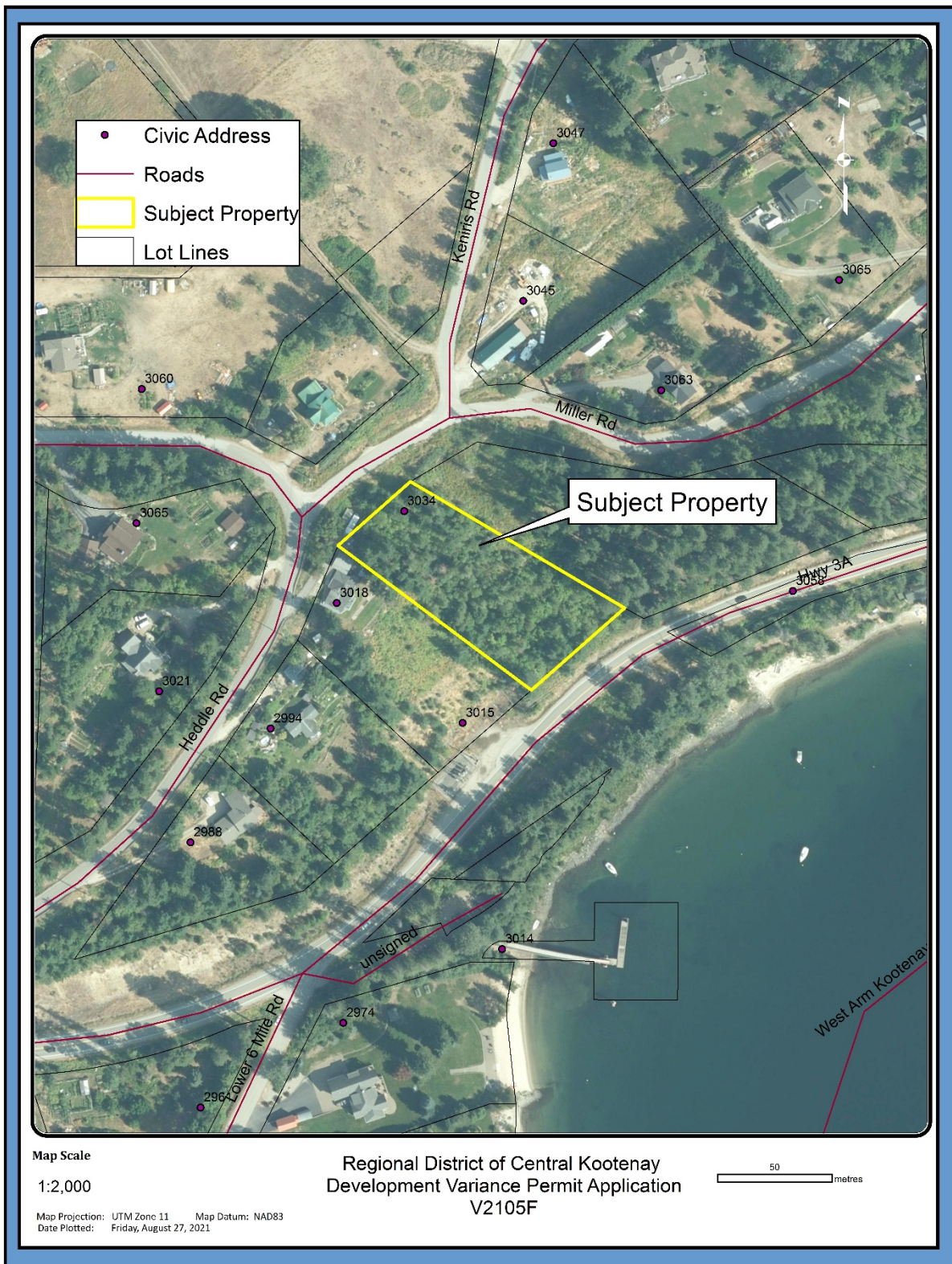
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Aimee Watson, Board Chair

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Mike Morrison, Corporate Officer

Schedule 1: Subject Property



Schedule 2: Site Plan

