



# Committee Report

**Date of Report:** 11, 16, 2021  
**Date & Type of Meeting:** 12, 08, 2021, Rural Affairs Committee  
**Author:** Eileen Senyk, Planner  
**Subject:** DEVELOPMENT VARIANCE PERMIT  
**File:** V2109B-03775.000-WIENS-DVP00215  
**Electoral Area/Municipality** B

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and RDCK Board to consider an application for a Development Variance Permit in Electoral Area 'B'. The application seeks approval to construct an accessory building 5.0m from the front lot line, where the required setback is 7.5m and 1.5m from the side lot line, where the setback is 2.5m.

Staff recommend that the Board approve the Development Variance Permit because (a) it does not adversely affect neighboring property owners, (b) is consistent with suburban residential policy and the other development regulations of that zone, and (c) reducing the setbacks in this instance would permit a more logical placement of the garage due to the topography of the site.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

**Property Owner:** H Wiens Contracting Ltd.

**Property Location:** 306 26th Ave North, Electoral Area 'B'

**Legal Description:** LOT 6 DISTRICT LOT 891 KOOTENAY DISTRICT PLAN 2012 (PID 012-982-776)

**Property Size:** 0.4 hectares

### SURROUNDING LAND USES

**North:** Suburban Residential

**South:** Suburban Residential

**East:** Suburban Residential

**West:** Suburban Residential and Electoral Area Boundary between Electoral Area 'B' and the Town of Creston

### Site Context

The subject property is located immediately east of the Town of Creston on 26th Ave North. It is zoned Suburban Residential (R1) and is located in an area that is not subject to the Agricultural Land Reserve Act. The property is serviced by the Erickson water system (an RDCK owned system). The proposal is to build an accessory building



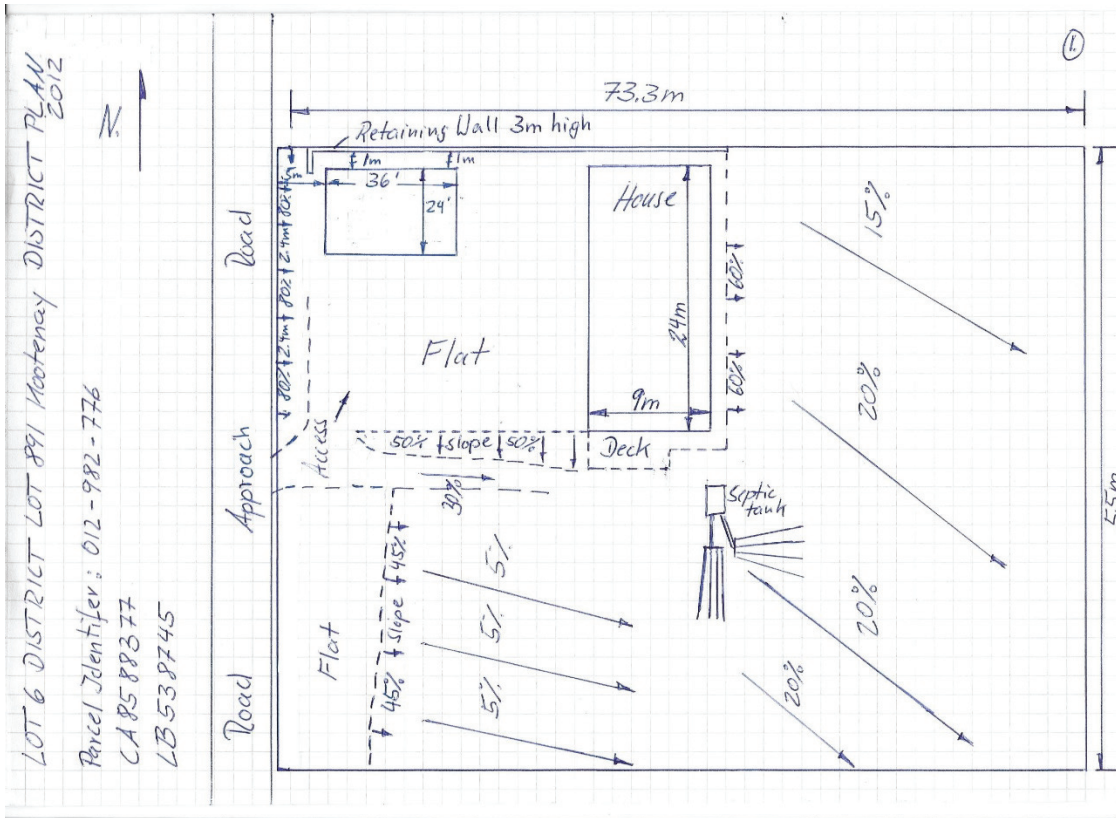


Figure 2: Site Plan - Full Property

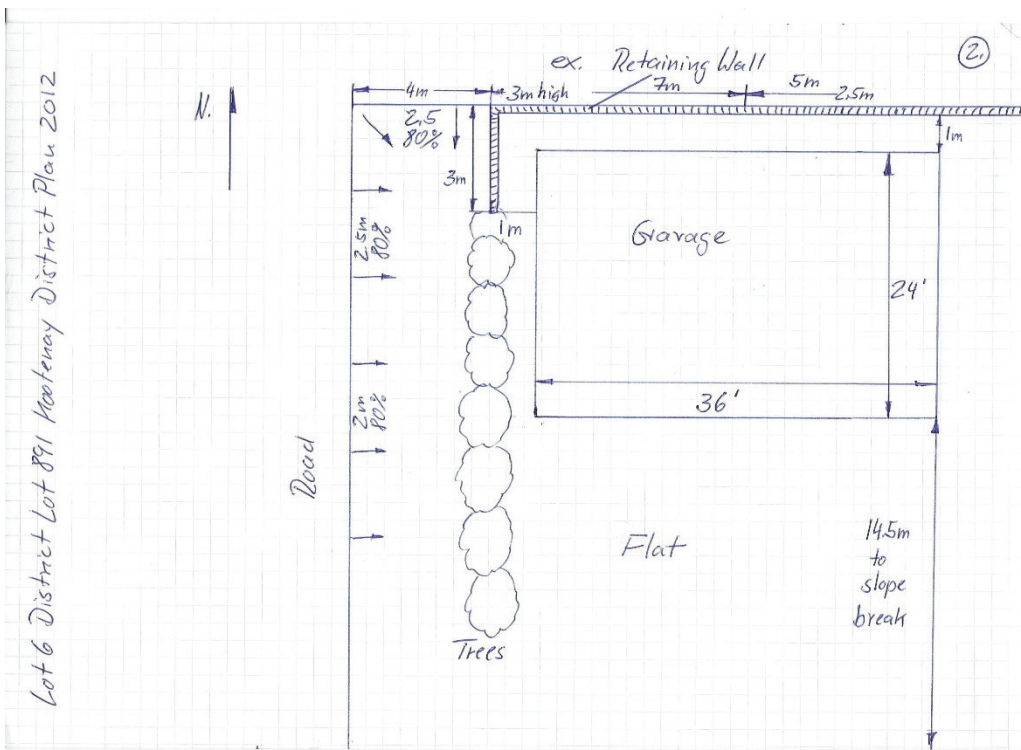


Figure 3: Site Plan - Area of Interest



Proposed location of  
accessory building  
relative to 26th Ave  
North

Figure 4: View from end of driveway



Proposed location of  
accessory building

Figure 5: Proposed location of structure



Figure 6: House on subject property

## **Planning Policy**

### **Suburban Residential Policy, Comprehensive Land Use Bylaw No. 2316, 2013**

The Regional Board:

14. Directs that the principal use shall be single-family or two-family dwellings.
15. Supports medium density residential development with lot sizes for subdivision purposes being determined by the level of available or proposed servicing, with density increasing with the provision of community water and/or waste water disposal.
16. Encourages directing development of this type to municipalities or existing or proposed residential nodes where infrastructure services are available or can be provided.

### **Development Regulations Suburban Residential Zone**

The following table identifies Development Regulations as presented in Section 17 of Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013. The table demonstrates that the proposed development as identified in the site plan is below the maximum allowable thresholds.

Table 1: Development Regulations in the Suburban Residential Zone

Development Regulation	Maximum Allowable in R1 Zone	Proposed
Maximum height	10 m	4.2 m
Maximum gross floor area for any accessory building	100 m <sup>2</sup>	80.19 m <sup>2</sup>
Maximum cumulative gross floor area of all accessory buildings	200 m <sup>2</sup>	80.19 m <sup>2</sup>
Maximum site coverage	50%	30%
Percentage of property which buildings and structures shall not cover	33%	16%
Front lot line setback	7.5 m	5 m
Interior side lot line setback	2.5 m	1.5m

## 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 paid the \$500 fee pursuant to RDCK Fees and Procedures Bylaw No. 2457, 2015.

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

The original application was for a variance from 2.5m to 1m from the interior side lot line. However, comments received from the Building Department noted that the BC Building Code requires a minimum of 1.2m for spatial separation. Upon further discussion with the Planning department, the applicant has agreed to adjust this distance to 1.5m.

### 3.3 Environmental Considerations

None anticipated. The proposed building site is a portion of the property that is already part of the existing residential footprint and therefore will not increase the site coverage.

### 3.4 Social Considerations:

None anticipated.

### 3.5 Economic Considerations:

None anticipated.

### **3.6 Communication Considerations:**

The application was referred to 23 surrounding land owners, internal RDCK departments and relevant government agencies. The following responses were received:

#### **RDCK Environmental Services – Water Services Supervisor** October 13, 2021

*Please see the attached water distribution map and water service valve location card, the proposed garage location (NW corner of property) is not in conflict with any Erickson Water System infrastructure. Having said that we do not know where the water service lines are located inside the property, looking at the location of the service valve card it appears that it is located well away from the proposed area. That would be for the property owner to figure out and deal with.*

#### **RDCK Building Department – Building Official, Creston** November 9, 2021

*To conform to BC Building Code the minimum distance for Spatial Separation to the property line is 1.2 metres. High probability that a site survey will be required.*

#### **RDCK Emergency Services Department – Regional Deputy Fire Chief** October 15, 2021

*The only consideration I see here is the 1 m setback, the drawings do not show if the set back is to eave or to foundation.*

*I would assume the set back would be to eave .*

*Otherwise I have no concerns.*

#### **Ministry of Transportation and Infrastructure - Development Officer** October 25, 2021

*Thanks for the opportunity to review this variance proposal. MOTI does not have any concerns with the proposal as long as the structure remains at least 4.5m from the front property line.*

#### **Interior Health Authority – Environmental Health Officer** November 5, 2021

*The IH Healthy Community Development Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at Healthy Built Environment.*

*An initial review has been completed and no health impacts associated with this proposal have been identified. As such, our interests are unaffected by this proposal.*

### **3.7 Staffing/Departmental Workplace Considerations:**

Should the Development Variance Permit be approved, staff will register the permit on the property's title and a building permit may be issued.

### **3.8 Board Strategic Plan/Priorities Considerations:**

Not applicable.

## SECTION 4: OPTIONS & PROS / CONS

### Planning Discussion

The subject property is zoned Suburban Residential (R1) and is 0.4 hectares in size. The R1 zone is subject to more stringent development regulations than other residential zones. The applicant wishes to situate the proposed accessory structure on a section of the property that is currently used as a driveway in order to make the best use of the flat portion of the property. The other advantage of this location is that it is already calculated into site coverage which is defined as *'the area of a lot covered by structures, buildings, driveways, parking areas and outdoor storage;'* The R1 zone identifies a maximum site coverage of 50% and the total site coverage would not change from its current 30% should the Development Variance Permit be approved.

There were no responses received from neighboring land owners during the referral period. Internal RDCK departments had no objections nor did external government agencies. The one adjustment that has been made to the original application was to increase the requested variance to the exterior side lot line from 1m to 1.5m in order to comply with BC Building Code for spatial separation and to provide some additional space on top of that. For these reasons staff recommend that the Board approve the Development Variance Permit.

### Option 1

That the Board APPROVE the issuance of Development Variance Permit V2109B to H Wiens Contracting Ltd. for the property located at 306 26th Ave North and legally described as LOT 6 DISTRICT LOT 891 KOOTENAY DISTRICT PLAN 2012 (PID 012-982-776) to vary Section 16.17 of Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013: FROM 7.5m TO 5m and to vary Section 16.20 of Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013: FROM 2.5m TO 1.5m.

### Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2109B to H Wiens Contracting Ltd. for the property located at 306 26th Ave North and legally described as LOT 6 DISTRICT LOT 891 KOOTENAY DISTRICT PLAN 2012 (PID 012-982-776) to vary Section 16.17 of Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013: FROM 7.5m TO 5m and to vary Section 16.20 of Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013: FROM 2.5m TO 1.5m.

## SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2109B to H Wiens Contracting Ltd. for the property located at 306 26th Ave North and legally described as LOT 6 DISTRICT LOT 891 KOOTENAY DISTRICT PLAN 2012 (PID 012-982-776) to vary Section 16.17 of Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013: FROM 7.5m TO 5m and to vary Section 16.20 of Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013: FROM 2.5m TO 1.5m



Respectfully submitted,  
Originally signed by

Eileen Senyk - Planner

## CONCURRENCE

Planning Manger – Digitally approved by Nelson Wight

General Manager Development and Community Sustainability – Digitally approved by Sangita Sudan

Chief Administrative Officer – Digitally approved by Stuart Horn

### ATTACHMENTS:

Attachment A – Draft Permit



**REGIONAL DISTRICT OF CENTRAL KOOTENAY**

**DEVELOPMENT VARIANCE PERMIT**

**Planning File No. V2109B-03775.000-Wiens-DVP00215**

Date: December 9, 2021

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

TO: H Wiens Contracting Ltd.

**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: 306 26<sup>th</sup> Ave North, Electoral Area 'B'

Legal: LOT 6 DISTRICT LOT 891 KOOTENAY DISTRICT PLAN 2012  
(PID 012-982-776)

**CONDITIONS**

5. Development Variance

Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013, Section 16.17 for a front lot line is varied as follows:

From: 7.5 metres

To: 5 metres, as shown on Schedule '1' and '2'

And

Electoral Area 'B' Comprehensive Land Use Bylaw No. 2316, 2013, Section 16.17 for an interior lot line is varied as follows:

From: 2.5 metres

To: 1.5 metres, as shown on Schedule '1' and '2'

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:

\_\_\_\_\_  
Aimee Watson, Board Chair

\_\_\_\_\_  
Mike Morrison, Corporate Officer

Schedule 1: Subject Property



Schedule 2: Site Plan

