



REGIONAL DISTRICT OF CENTRAL KOOTENAY

Committee Report

Date of Report: July 4, 2018
Date & Type of Meeting: July 18, 2018 Rural Affairs Committee
Author: Darcy Roszell, Planner
Subject: DEVELOPMENT VARIANCE PERMIT - HARTRIDGE
File: 09/4270/20/2018/V1803F-02445.060-HARTRIDGE-DVP00163

SECTION 1: EXECUTIVE SUMMARY

The property owner has applied for a Development Variance Permit to vary setbacks at 722 Stromme Lane and adjacent vacant property owned by the applicant, legally described as Lots 3 and 4, District Lot 372, Plan NEP11651 (PID 005-211-573 and PID 012-683-833). The application proposes to vary Regional District of Central Kootenay Zoning Bylaw No. 1675, 2004 for the following:

1. An existing covered walkway on Lot 4 which crosses the front property line onto the Stromme Lane Right of Way and is retroactively applying to vary the front lot line setback to 0.0 m from 4.5 m;
2. An existing tool shed on the east side of Lot 4 and is retroactively applying to vary the interior side lot line setback to 0.0 m from 1.5 m;
3. An existing shed at the rear of the property of Lot 4. The applicant seeks to retroactively vary the interior lot line setback to 0.0 m from 1.5 m.
4. An existing shed at the rear of the property of Lot 3. The applicant seeks to retroactively vary the interior lot line setback to 0.0 m from 1.5 m.

The purpose of this report is to recommend that the Board consider issuance of a Development Variance Permit for the existing structures.

SECTION 2: BACKGROUND / ANALYSIS

Owners: Brian Hartridge & Julie-Claire Hamilton

Address: 722 Stromme Lane and Vacant, North Shore of Kootenay Lake **Electoral Area:** F

OCP designation: Suburban Residential (SR) **Zoning:** Suburban Residential F (R1F)

2.1 PROPOSAL DESCRIPTION / SITE CONTEXT

The 0.25 acre (Lot 4) and 0.24 acre (Lot 3) subject properties are zoned Suburban Residential F (R1F) under RDCK Zoning Bylaw No. 1675, 2004. The surrounding properties to the west, north, and east are all within the City of Nelson. Lots to the south on Stromme Lane are zoned R1F (*see figure 1*).

Lot 4 is currently used for residential purposes and contains a single family dwelling and accessory buildings. The applicant is retroactively seeking a Development Variance Permit (DVP) in order to vary the front lot line setback requirements from 4.5 m to 0.0 m for a covered walkway structure which crosses the front lot line and encroaches 1.5m into Stromme Lane. On the eastern side of the property there is an existing shed which the applicant is seeking a side lot line setback relaxation from 1.5 m to 0.0 m. The Ministry of Transportation and Infrastructure has issued an encroachment permit for the covered walkway and fencing.



Figure 1: Location of subject property(ies)

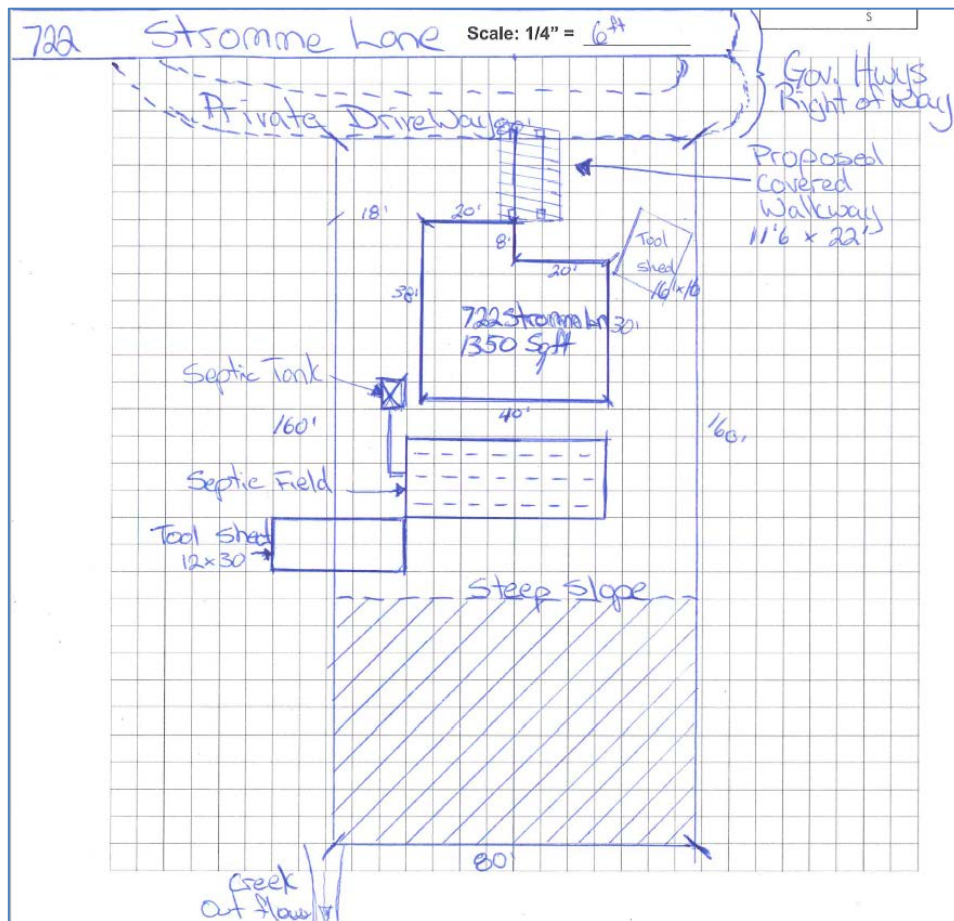


Figure 2: Site Plan indicating existing and proposed developments



Figure 3: Covered walkway build within Stromme Lane right-of-way

2.3 REFERRAL COMMENTS

Neighbourhood Impact:

Adjacent Neighbour

March 24, 2018

I do not agree with this variance being approved on this empty lot. I feel he should not be able to vary the front line setback from 4.5 m to 0.0. He should have to abide by the rules.

Please clarify for me that this carport cannot be built until a house is built on this property.

As for the already constructed covered walkway he has built he should not have constructed it without getting permission from RDCK but I guess that will have to be your decision as to whether you approve it or not.

Staff Clarification: *As this file was re-referred due to changes in the application, there is no longer a front lot line setback variance for a carport being requested for Lot 3.*

Agency Impact:

Interior Health Authority

Healthy Communities

May 29, 2018

Interests are unaffected by the proposal.

**Ministry of Transportation
& Infrastructure**

District Development
Technician
June 12, 2018

The Ministry of Transportation and Infrastructure issued an encroachment permit on January 23, 2018, (MOTI Permit # 2018-00134) for 722 Stromme Lane (Lot 4 DL 372 Plan NEP11651 (PID 012-683-833)) for the existing covered walkway on Lot 4 and an existing fence on the Lot 3. As long as the two existing sheds on the property are at least 4.5m from Stromme Lane right-of-way, we do not have concerns with the granting of a side property line setback variance.

City of Nelson

Senior Planner
March 12, 2018

Interests are unaffected.

2.4 CURRENT DEVELOPMENT POLICIES

RDCK Zoning Bylaw No. 1675, 2004

The subject properties are zoned Suburban Residential F (R1F) in Electoral Area F, under Zoning Bylaw No. 1675, 2004. Section 605 regulates setback requirements as follows:

- 1 Unless otherwise stated, no principal or accessory building or structure except a fence may be located within 7.5 metres of a front or exterior side lot line or within 1.5 metres of any other lot line.
- 2 Despite Section 605(1), on all lots adjacent to land zoned Agriculture, a minimum of a ten (10) metre setback shall be required from any portion of the Agricultural Land Reserve boundary.
- 3 Unless otherwise stated no portable sawmill may be located within 100 metres from a property line.
- 4 Despite Section 605(1), on all lots having a residential zone and are less than 0.2 hectares in area, the minimum setback to front or exterior lot lines shall be 4.5 metres.
- 5 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 1.5 metres of any other lot line.

Electoral Area 'F' Official Community Plan Bylaw No. 2214, 2011

The subject Property is designated Suburban Residential (R1) under the Electoral Area 'F' Official Community Plan Bylaw No. 2214, 2011. Applicable General Residential Objectives consist of:

- 11.2.4 Protect the existing quality of life and character of existing neighbourhoods.
- 11.2.6 Encourage high quality design, building, development and landscaping standards that improve energy efficiency and maintain and enhance rural character.

SECTION 3: DETAILED ANALYSIS

a. Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Financial Plan Amendment: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Debt Bylaw Required: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Public/Gov’t Approvals req’d: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

As per Planning Procedures and Fees Bylaw No. 2457, 2015 the application fee of \$500 was paid in full.

b. Legislative Considerations (Applicable Policies and/or Bylaws):

Under Section 498 of the *Local Government Act*, the Board has the authority to vary provisions of a zoning bylaw (other than use or density) through Development Variance Permits.

c. Environmental Considerations:

The lots have been cleared of all natural vegetation, thus there are no environmental concerns.

d. Social Considerations:

None anticipated.

e. Economic Considerations:

None anticipated.

f. Communication Considerations:

This application was circulated to property owners and occupiers within 150 meters of the subject property in accordance with the *Local Government Act*. The decision of the Board will be communicated to the applicant.

g. Staffing/Departmental Work Plan Considerations:

Should the Board grant the Development Variances staff would issue the permit and register Notice of Permit on the Land Title.

SECTION 4: OPTIONS & PROS / CONS

Approval of all requested variances would permit the existing walkway cover and existing sheds to remain in place. Discussions with the RDCK Building and Bylaw Departments have indicated their support for the Development Variance Permit in order to bring the property into compliance after a lengthy period of contravention with RDCK Zoning Bylaw No. 1675.

Refusal of the Development Variance Permit would require the RDCK Bylaw Department to ensure that the applicant remove the covered walkway and sheds from the subject property or re-locate them to comply with land use requirements.

The Ministry of Transportation & Infrastructure (MOTI) has issued a permit to authorize existing structures constructed within the right-of-way of a provincial road right-of-way for 722 Stromme and the existing covered walkway which encroaches approximately 1.5 m. As MOTI has issued a permit for the existing structure, RDCK staff is willing to support the setback variance request.

The shed which is straddling the property line of the two subject properties requires a side lot line setback from 1.5 m to 0.0 m for both properties to bring the structure into compliance. A condition of the Development Variance Permit will be that the applicant puts in place an easement on the properties

to allow access to the shed from both properties. The applicant will be given 60 days from the date of issuance to provide the easement to Planning staff should the variance be granted.

Option 1: That the Board ISSUE Development Variance Permit V1803F to Brian Hartridge for properties at 722 Stromme Lane and legally described as Lot 4, District Lot 372, Plan NEP11651 (PID 012-683-833) and Lot 3, District Lot 372, Plan NEP11651 (PID 005-211-573) to retroactively vary the front and side lot line setback requirements under RDCK Zoning Bylaw No. 1675 Section 605 (5) for:

1. An existing covered walkway on Lot 4 which crosses the front property line onto the Stromme Lane Right of Way and is retroactively applying to vary the front lot line setback to 0.0 m from 4.5 m;
2. An existing tool shed on the east side of Lot 4 and is retroactively applying to vary the interior side lot line setback to 0.0 m from 1.5 m;
3. An existing shed at the rear of the property of Lot 4. The applicant seeks to retroactively vary the interior lot line setback to 0.0 m from 1.5 m.
4. An existing shed at the rear of the property of Lot 3. The applicant seeks to retroactively vary the interior lot line setback to 0.0 m from 1.5 m.

Option 2: That the Board NOT ISSUE Development Variance Permit V1803F to Brian Hartridge for properties at 722 Stromme Lane and legally described as Lot 4, District Lot 372, Plan NEP11651 (PID 012-683-833) and Lot 3, District Lot 372, Plan NEP11651 (PID 005-211-573).

SECTION 5: RECOMMENDATION(S)

THAT the Board ISSUE Development Variance Permit V1803F to Brian Hartridge for properties at 722 Stromme Lane and legally described as Lot 4, District Lot 372, Plan NEP11651 (PID 012-683-833) and Lot 3, District Lot 372, Plan NEP11651 (PID 005-211-573) to retroactively vary the front and side lot line setback requirements under RDCK Zoning Bylaw No. 1675 Section 605 (5) for the following:

5. An existing covered walkway on Lot 4 which crosses the front property line onto the Stromme Lane Right of Way and is retroactively applying to vary the front lot line setback to 0.0 m from 4.5 m;
6. An existing tool shed on the east side of Lot 4 and is retroactively applying to vary the interior side lot line setback to 0.0 m from 1.5 m;
7. An existing shed at the rear of the property of Lot 4. The applicant seeks to retroactively vary the interior lot line setback to 0.0 m from 1.5 m.
8. An existing shed at the rear of the property of Lot 3. The applicant seeks to retroactively vary the interior lot line setback to 0.0 m from 1.5 m.

SUBJECT TO An easement between the properties legally described as Lot 4, District Lot 372, Plan NEP11651 (PID 012-683-833) and Lot 3, District Lot 372, Plan NEP11651 (PID 005-211-573) which allows access to the shed at the rear of the lots which straddles the shared property line AND that the easement be received by RDCK Planning staff within 60 days of the RDCK Board decision.

Respectfully submitted,



Signature:

Name: Darcy Roszell, Planner

CONCURRENCE

Initials:

Planning Manager
General Manager of Development Services
Chief Administrative Officer

ATTACHMENTS:

Attachment A – DRAFT Development Variance Permit V1803F

Attachment B – Ministry of Transportation & Infrastructure Permit