



REGIONAL DISTRICT OF CENTRAL KOOTENAY Committee Report

Date of Report: September 3, 2018
Date & Type of Meeting: September 19, 2018 Rural Affairs Committee
Author: Darcy Roszell, Planner
Subject: HERZIG – DEVELOPMENT VARIANCE PERMIT
File: V1810G-06020.010-HERZIG-DVP00171

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is to recommend that the Board issue a Development Variance Permit to an existing single-family dwelling under Section 94 of *Electoral Area G Rural Land Use Bylaw No. 1335, 1998* in order to vary the front lot line setback from 7.5 metres to 0.9 metres.

SECTION 2: BACKGROUND / ANALYSIS

Owner: Markus Herzig **Address:** 7602 Highway 6, Ymir **Electoral Area:** G

OCP Designation: Community Residential **Zoning:** Community Residential (R1)

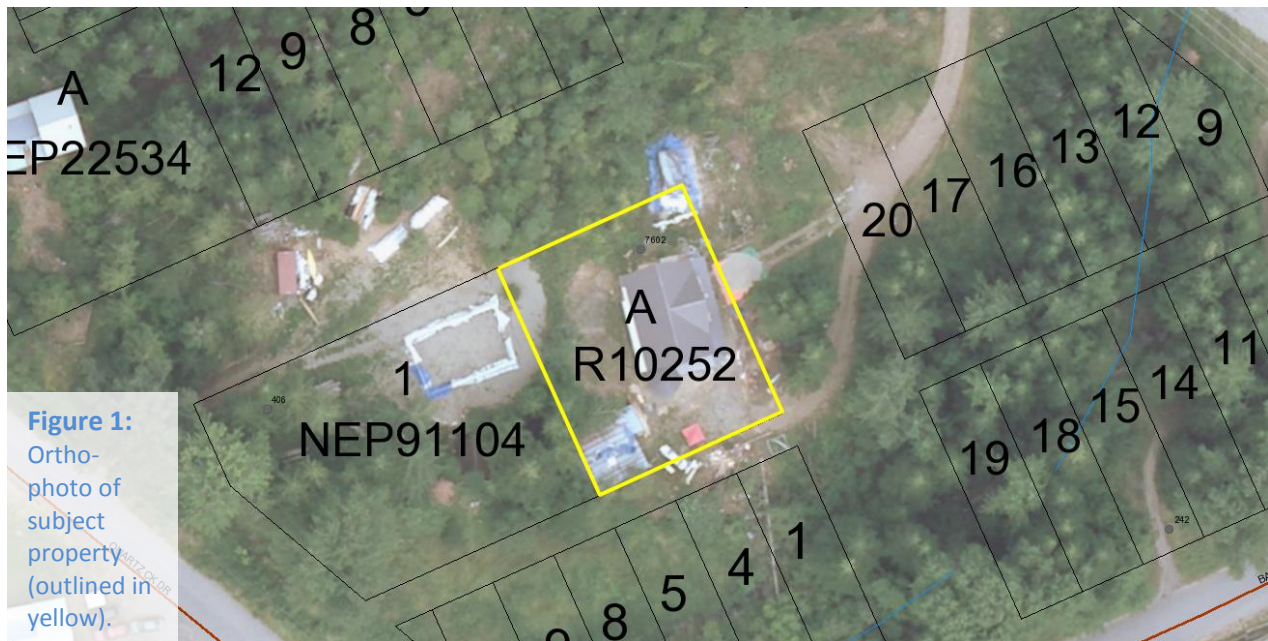


Figure 1:
Ortho-
photo of
subject
property
(outlined in
yellow).

2.1 PROPOSAL DESCRIPTION / SITE CONTEXT

The 0.09 hectare subject property is zoned Community Residential (R1) under *Electoral Area G Rural Land Use Bylaw No. 1335, 1998*. The parcel is accessed from Highway 6 in Ymir. The existing dwelling was constructed without a valid building permit. Properties surrounding the subject property are similarly zoned Community Residential (R1).

The applicant is seeking a Development Variance Permit (DVP) in order to bring an existing single-family

dwelling into compliance by varying the front lot line setback from 7.5 metres to 0.9 metres. Following referral to adjacent neighbours, no responses were received.



Figure 2:
 Site Plan

2.2 AGENCY REFERRAL

Agency	Comment
<p>Ministry of Transportation & Infrastructure Development Technician, August 15/18</p>	<p>MOTI issued an encroachment permit (MOTI #2018-02080) for the septic system on this property on May 8, 2018. This permit was only for the septic system located within the unconstructed Hemlock St. right-of-way. Required building setbacks from right-of-way are 4.5 metres from the street paralleling the front property line and 3 metres from side streets. This setback relaxation was not addressed with permit 2018-02080.</p>
<p>Interior Health Authority Team Leader, Healthy Communities, August 21/18</p>	<p>Our interests are unaffected by this proposal.</p>

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 RDCK 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 property has already been cleared of native vegetation and further clearing of vegetation is not anticipated by this proposal.

d. Social Considerations:

The dwelling is located on a section of the parcel which would not have direct impact to adjacent neighbours.

e. Economic Considerations:

None anticipated.

f. Communication Considerations:

This application was circulated to property owners and occupiers within 100 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 variance, staff would issue the permit and register Notice of Permit on the Land Title.

SECTION 4: OPTIONS & PROS / CONS

Approving the requested variance would bring the subject property into compliance and allow the RDCK Building Department to issue a Building Permit for the dwelling. Denial of the requested variance would initiate the process of bylaw compliance with the RDCK Building Department. It is the opinion of staff that the requested variance be permitted due to the property location and the lack of neighbourhood opposition. The dwelling was built without a building permit and is now in the process of seeking compliance, with a building permit application having been submitted and awaiting an approved Development Variance Permit prior to issuance. The Ministry of Transportation & Infrastructure issued an encroachment permit for the septic system located in the unused Hemlock Street right-of-way, the issuance of which did not include the dwelling. An application will need to be submitted to MOTI to receive an encroachment permit for the dwelling.

Option 1: Issue Development Variance Permit

That the Board ISSUE Development Variance Permit V1810G to Markus Herzig for the property at 7602 Highway 6, Ymir and legally described as Block E, Plan NEP640, District Lot 1242, Kootenay Land District Parcel A (PID: 016-169-760) to vary the front lot line setback from 7.5 metres to 0.9 metres under Section 94 of *Electoral Area G Rural Land Use Bylaw No. 1335, 1998*.

Issuing the Development Variance Permit would allow the RDCK Building Department to issue a building permit for the subject dwelling and bring the property into compliance. An application will need to be submitted to MOTI to receive an encroachment permit for the dwelling.

Option 2: Denial of Development Variance Permit

That the Board NOT ISSUE Development Variance Permit V1810G to Markus Herzig for the property at 7602 Highway 6, Ymir and legally described as Block E, Plan NEP640, District Lot 1242, Kootenay Land District Parcel A (PID: 016-169-760) to vary the front lot line setback from 7.5 metres to 0.9 metres under Section 94 of *Electoral Area G Rural Land Use Bylaw No. 1335, 1998*.

Denial of the Development Variance Permit would not allow the RDCK Building Department to issue a Building Permit for the subject dwelling and would initiate a compliance file with the RDCK Bylaw Department. A Stop Work Order and potential for an injunction to bring the property into compliance would be required.

SECTION 5: RECOMMENDATION(S)

That the Board ISSUE Development Variance Permit V1810G to Markus Herzig for the property at 7602 Highway 6, Ymir and legally described as Block E, Plan NEP640, District Lot 1242, Kootenay Land District Parcel A (PID: 016-169-760) to vary the front lot line setback from 7.5 metres to 0.9 metres under Section 94 of *Electoral Area G Rural Land Use Bylaw No. 1335, 1998* SUBJECT TO the applicant obtaining the required encroachment permit for the dwelling from the Ministry of Transportation and Infrastructure.

Respectfully submitted,

Signature:



Name: Darcy Roszell, Planner

CONCURRENCE

Initials:

Planning Manager
General Manager of Community Services
Chief Administrative Officer

ATTACHMENTS:

Attachment A – DRAFT Development Variance Permit V1810G