

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: July 26, 2022 **FILE NO.:** D2022.025-DVP

TO: Christopher Garrish, Planning Manager

FROM: Fiona Titley, Planner II

RE: Development Variance Permit (DVP) — Electoral Area “D”

Purpose: to allow for the construction of an addition to the existing garage.

Civic: 420 Panorama Crescent Legal: Lot 9, Plan KAP16380, District Lot 461, SDYD

Folio: D-02894.040 Zone: Low Density Residential Two (RS2)

Variance to reduce the minimum front parcel line setback from 7.5 metres to 0.0 metres.

Proposed Development:

This application is seeking a variance to the front parcel line setback that applies to the subject property in order to undertake the construction of an addition to the existing garage.

Specifically, it is being proposed to reduce the minimum front parcel line setback from 7.5 metres to 0.0 metres to the outermost projection.

In support of this request, the applicant has stated that “The proposed garage does not project far into views of nearby properties ... The eccentric property line is the mitigating factor. The variance would make an allowance for this ... [The variance] respects neighbours privacy and views while minimizing natural vegetation disturbance.”

Site Context:

The subject property is approximately 1,319 m² in area and is situated on the north side of Panorama Crescent. The property is currently developed to contain a single detached dwelling and attached garage.

The surrounding pattern of development is characterised by similar residential development with single detached dwellings.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on June 15, 1966, while available Regional District records indicate that a building permit has been issued for a garage (1977).

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated Low Density Residential (LR).

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Low Density Residential Two (RS2) which allows for a single detached dwelling and accessory buildings as permitted uses and establishes setbacks from property lines.

BC Assessment has classified the property as “Residential” (Class 01).

On August 20, 2021, the Ministry of Transportation and Infrastructure (MoTI) approved a reduced setback from Panorama Crescent for the proposed structure.

Under Section 3.49 of the Regional District’s *Chief Administrative Officer Delegation Bylaw No. 2793, 2018*, “the CAO or his designate shall ... be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* ...”

Public Process:

In accordance with Section 2.4 of Schedule 4 (Application for a Development Variance Permit) of the Regional District’s Development Procedures Bylaw No. 2500, 2011, adjacent residents and property owners were notified of this DVP application on June 24, 2022, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of July 15, 2022, being 15 working days from the date of notification, approximately one (1) representation has been received electronically or by submission at the Regional District office and is seen to be in support of the requested variance.

Delegated Authority:

Under Section 498.1(2) of the *Local Government Act*, a local government that has delegated authority to an officer or employee to issue a development variance permit (DVP) must include “criteria for determining whether a proposed variance is minor.”

Under Section 3.49 of the Regional District’s Chief Administrative Officer Delegation Bylaw No. 2793, 2018, staff are to consider if the variance would be “minor and would have no significant negative impact on the use of immediately adjacent or nearby properties” through the use of the following criteria:

1. *degree or scope of the variance relative to the regulation from which a variance is sought;*
2. *proximity of the building or structure to neighbouring properties; and*
3. *character of development in the vicinity of the subject property.*

With regard to the degree of the requested variance, a 100% decrease in the front setback from 7.5 metres to 0.0 metres is not minor, however, it is noted that the Regional District Board approved a variance from 7.5 metres to 0.0 metres for the front parcel line setbacks that applies to the subject property at their meeting of September 23, 2021 (Application No. D2021.032-DVP).

The current variance request is required as the applicants have updated their design for the garage by extending the east side of the garage by approximately 1.4 metres towards the interior side setback line.

With regard to the proximity of the proposed garage to neighbouring properties, the nearest parcel lines from the front parcel line of the subject property is approximately 22 metres to the south as the subject parcel has an irregular front parcel line with the location of the requested variance limited to the “recessed” portion of the front parcel line. For this reason, the requested variance is unlikely to adversely impact the use of adjacent properties through loss of privacy or overshadowing.

It is noted that there are several instances along Panorama Crescent of dwellings and accessory structures situated within the required front setback, thus contributing to a non-uniform streetscape. As such, the impact of the proposed variance on neighbourhood character is consistent with the character of development in the immediate vicinity.

For these reasons, the proposed variance is deemed to be minor, and consideration by staff of whether to issue a development variance permit (DVP) under delegation may proceed.

Analysis:

When considering a “minor” variance request, and in accordance with Section 498.1(2) of the *Local Government Act*, the Regional District Board requires that staff consider the following guidelines when deciding whether to issue a DVP:

1. *is the proposed variance consistent with the general purpose and intent of the zone;*
2. *is the proposed variance addressing a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);*
3. *is strict compliance with the zoning regulation unreasonable or unnecessary; and*
4. *would the proposed variance unduly impact the character of the streetscape or surrounding neighbourhood.*

The Zoning Bylaw’s use of setback regulations is generally to provide physical separation between neighbouring properties in order to protect privacy and prevent the appearance of overcrowding. When a parcel is also adjacent a roadway, setbacks are further employed to maintain adequate sightlines for vehicle traffic movements.

Minimum setbacks from parcel lines are used to maintain a minimum space between houses in a residential neighbourhood to allow access to sunlight, to provide separation for fire safety or to mitigate nuisances (like noise) that might come from an adjacent building.

In this instance, the subject parcel has an irregular front parcel line, creating a varied setback requirement for structures on the property. It is noted that the edge of Panorama Crescent is at a distance of approximately 12.5 metres from the recessed property line, which mitigates the perception of a reduced setback and the appearance of overcrowding. Also, the proposed variance has no impact to vehicular movement from the parcel.

Further, minimum setbacks from parcel lines are used to maintain a minimum space between houses in a residential neighbourhood to allow access to sunlight, to provide separation for fire safety or to mitigate nuisances (like noise) that might come from an adjacent building.

In this instance, there are no immediate neighbouring properties that are anticipated to have concerns of overshadowing or loss of privacy if the proposed variance is approved.

Conversely, Administration recognises that there is room on the rear portion of the subject parcel to construct additional accessory structures that would meet the setback requirements. Thus, the variance is not considered a necessity for the enjoyment of the property. However, Administration notes that development on the northeast side *may* prove challenging for the landowner due to the presence of steep slopes.

For these reasons, it is recommended that the requested variances be approved.

Recommendation:

THAT Development Variance Permit No. D2022.025-DVP, to allow for the construction of an addition to an existing garage at 420 Panorama Crescent, be approved.

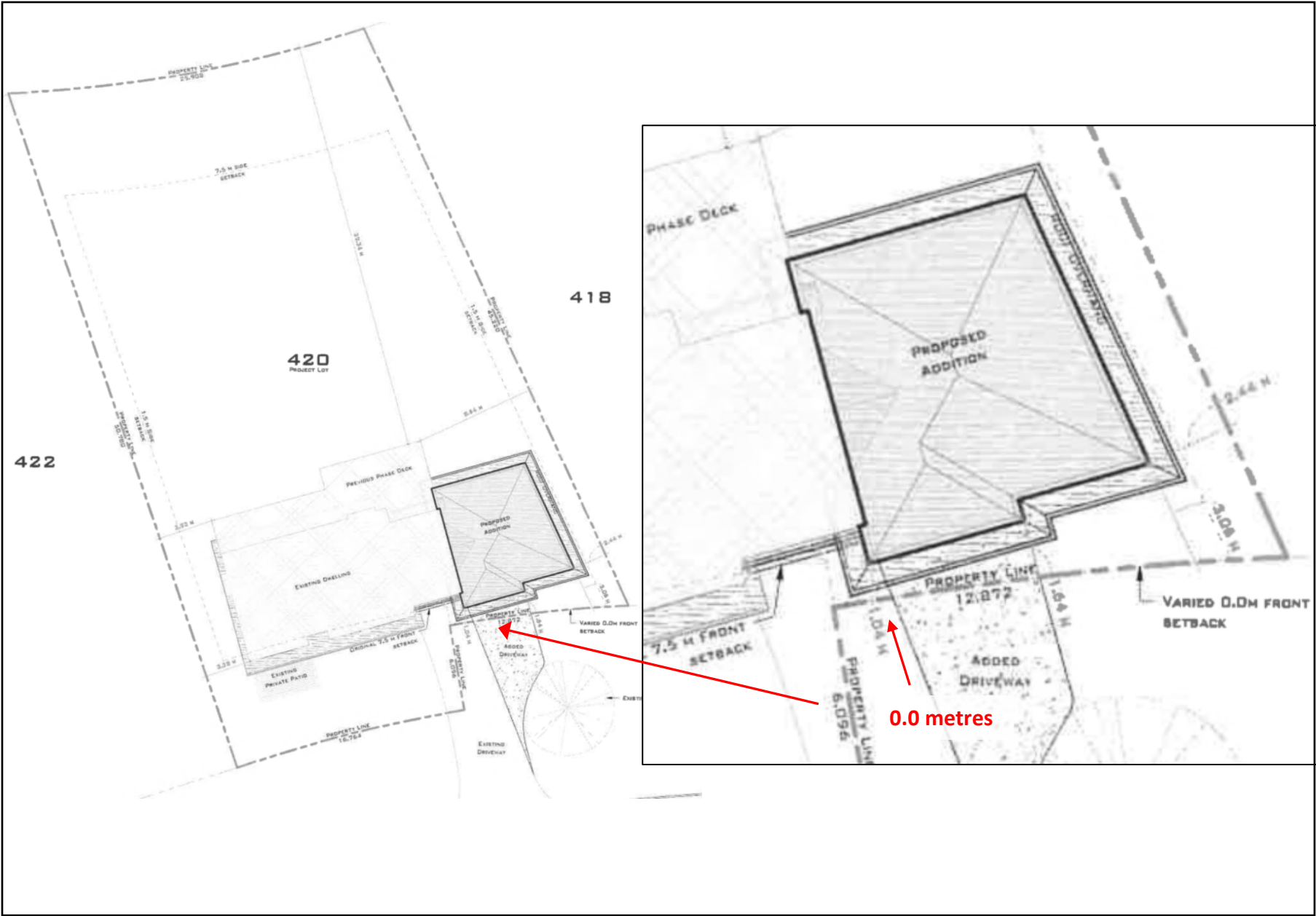
Respectfully submitted:

Fiona Titley

Fiona Titley, Planner II

Attachments: No. 1 — Applicant's Site Plan
 No. 2 — Site Photo (Google Streetview 2012)
 No. 3 — Aerial Photo

Attachment No. 1 – Applicant’s Site Plan



Attachment No. 2 – Site Photo (Google Streetview 2012)



Attachment No. 3 – Aerial Photo

