May 12, 2024

Dear Mr. Garish,

Re: F2024.004-DVP

We appreciate the opportunity to review this variance permit application as per the process outlined in the Development Procedures Bylaw. Our comments question the interpretation of the Zoning Bylaw with respect to allowable parcel coverage, allowable structures, and existing land use versus potential changes imposed by the Province.

First, the application's diagrams showing area of existing buildings do not appear to include the substantial deck area on the house, a structure that would be included in *parcel coverage* as defined in the Zoning Bylaw. Doing so brings the parcel coverage near the allowable 30% threshold. More accurate measurements and calculations are needed to determine if it the proposed structure would meet allowable parcel coverage if existing structures are properly measured.

However, it is likely a moot point. The property already has an accessory building, and the Zoning Bylaw only allows for one. A second one is not allowed, so why is a variance being considered?

Section 7.0 Specific Use Regulations, details in Section 7. 1 what Accessory Buildings and Structures are permitted:

> Section 7.1. 5 No accessory building or structure shall be situated on a parcel unless:
>
> . . . c) the *accessory building or structure* does not exceed 10.0m^3 in area, one storey in *building height*, and **is limited to one (1) per *parcel*.** [bold added for clarity]

Having only one accessory building is also consistent with the terminology in the SH5 Zoning provisions, which acknowledges allowed Accessory Uses as:

> "accessory building or structure, subject to Section 7.1"

The referenced Section 7.1 is already noted above.

Both clauses read together are complementary with details specific to the SH5 Zone and reinforce that the intent of the Bylaw allows only one accessory building per parcel in SH5. To emphasize this, the clause in the SH5 section is written in the singular rather than the plural: singular and plural wording do have legal bearing and should not be disregarded. A quick scan shows that this is the neighbourhood norm, and any rare examples with a third building would almost certainly be grandfathered from older, deleted bylaw provisions.

Additionally, the Zoning Bylaw and RDOS Building Bylaw both reference areas of 10.0m^3. The Building Bylaw clarifies that this means 107 square feet, which agrees with scientific notation. Using that interpretation, the Zoning Bylaw would only allow for garden sheds and chicken coops as accessory structures, buildings too small to require building permits. Thus, this shop technically would not be allowed. Consistency between RDOS bylaws would be helpful.

Regarding land use, it was curious that there was no request for the applicant to substantiate the intended use of the proposed shop.

Industrial shops often lead to business or industrial uses, and this is first and foremost a residential area. Unfortunately, recent enforcement actions terminated businesses on two area properties because of non-permitted home industries. In one case, the owner sold and moved.

In fairness to the applicant, he should be aware of bylaw provisions if a home business is intended. Did staff explain the difference between a home business and a home industry, the latter not being allowed? Is he aware that the number of patrons is capped, and that all home business activities are to be carried out within buildings? That there is a noise bylaw that applies to any activity in the area? Etc. We would not want an applicant to waste their capital investment only to find out their intended use is a no-go.

While we understand that properties change hands and future intent cannot be predicted, the Regional District should be taking every opportunity, including on application forms, to draw attention to relevant land use provisions, warding off enforcement actions.

Enforcement creates headaches for everyone involved: the owner, the area residents, and RDOS. The residual negativity can linger for years in a community that is largely owner-occupied and has low turnover. Staff should always keep in mind that information and prevention are key to liveable communities.

With the Zoning Bylaw, and the OCP for that matter, having been through public process to determine acceptable land uses, second accessory buildings are not permitted nor are they desired in the neighbourhood. We don't believe most of the area residents want this community turned into a light industrial area. Approving this application will set a precedent that most do not want, and RDOS may have raised inappropriate expectations by considering the application.

As for the recent changes being imposed by the Province on municipalities and select Regional Districts, our understanding is that these are intended to increase housing opportunities - as opposed to additional accessory / industrial buildings in residential areas - and that RDOS has not (yet) been impacted by these. As such, we interpret existing bylaws to be in effect on a "business as usual" basis. We ask that any changes imposed by the Province be communicated by staff to the community and Board in an open, transparent manner in advance of implementation. To date, there has not been any announcement to that effect by either the Province or staff, and we assume if they did that they would allow additional dwellings, not accessory buildings.

To summarize,we cannot support this applicaton. Our opinion is that;

- should this application proceed, parcel coverage be adequately assessed to include all applicable structures
- the Zoning Bylaw does not permit second accessory buildings
- the terminology in the Zoning Bylaw (erroneously) doesn't allow for any accessory buildings over 107 square feet if it agrees with the RDOS Building Bylaw
- related bylaws impacting intended use be noted during the application process in fairness to both the applicant and the community
- this application would set a negative precedent in the West Bench as it increases the potential of light industrial uses in a residential area
- Provincial changes to OCPs and Zoning Bylaws neither apply to Area "F", nor would they apply to encouraging industrial buildings on residential properties if imposed, and
- staff should advise of any bylaw changes in an open, transparent manner.

Again, thank you for the opportunity to provide comments on this application.

Sincerely,

Scott Smith, M.Sc., P. Ag,
Anne Hargrave, B.Sc.