

MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT



DATE: September 6, 2023

FILE NO.: I2023.025-DVP

TO: Christopher Garrish, Senior Manager of Planning

FROM: Ben Kent, Planner I

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

Owner: Kaleden Community Association Agent: Justin Shuttleworth Folio: I-01512.000

Civic: 320 Lakehill Road Legal: Parcel A, Plan KAP719, DL 104S, SDYD, (DD419 18F & PL B3069) Of Lot 70

Proposed Development:

This application is seeking a variance to the interior side parcel line setback that applies to the subject property in order to formalize an existing shed and replace the emergency access stairs.

Specifically, it is being proposed to vary the interior side setback for a principal structure from 4.5 metres to 2.82 metres and to vary the interior side setback for an accessory structure from 4.5 metres to 2.2 metres.

In support of this request, the applicant has stated that the purpose of the requested variances is to:

- *Replace emergency egress stairs as they are currently unsafe*
- *Shed to be brought into conformance as it was built within setback.*

Site Context:

The subject property is approximately 2021m² in area and is situated on the south side of Lakehill Road and on the east side of Linden Avenue, in Kaleden. The property is understood to contain one civic facility (Kaleden Community Hall) and one accessory building.

The surrounding pattern of development is characterised by low density residential development to the south and west, commercial development to the east, and agriculture to the north.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on March 12, 1910, while available Regional District records indicate that building permits for additions to the community centre (1974, 1989, 1992), replacement of the fire access stairs (2009) and renovations of the community centre (2011, 2014) have previously been issued for this property.

Under the Electoral Area “I” Official Community Plan (OCP) Bylaw No. 2683, 2016, the subject property is currently designated Administrative, Cultural and Institutional (AI).

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Administrative and Institutional (AI) which lists civic facility as a permitted principal use and accessory building or structure as a permitted accessory use.

BC Assessment has classified the property as “Business and Other” (Class 06).

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 Jul 20, 2023, and provided 15 working days to submit comments electronically or in-person to the Regional District.

As of August 11, 2023, being 15 working days from the date of notification, no representations have been received electronically or by submission at the Regional District office.

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 variances it is considered that a 51% reduction in the interior side setback is not minor.

With regard to the proximity of accessory building and emergency access stairs addition to neighbouring properties, the nearest parcel lines is approximately is 2.2 metres to the south. The requested variance is seen to be minor as it will not impact adjacent uses.

With regard to the final criteria and the character of development in the vicinity of the subject property, the placement of structures within 2.2 metres of the interior parcel line setback appears to be common in this area.

For these reasons, the proposed variances are 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;*

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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 un-necessary; 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.

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 case, similarly sized adjacent properties are generally zoned Low Density Residential Two (RS2), which allows an interior side setback of 1.5 metres for principal buildings and 1.0 metres for accessory buildings.

Accordingly, the placement of accessory structures within 2.2 metres of an interior side parcel line appears common in this area.

The placement of one accessory building and one set of emergency access stairs in this location is seen to maintain adequate separation between neighbouring structures and is not seen to create any nuisances that might adversely impact adjacent properties.

It is further noted that repair of the emergency access stairs is required to maintain adequate safety of the civic building, which has been located on the property for several decades.

Conversely, it is recognised that the accessory building could be relocated elsewhere on the property to achieve compliance with the bylaw regulation.

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

Recommendation:

THAT Development Variance Permit No. I2023.025-DVP, to formalize an accessory building and replace the emergency access stairs, be approved.

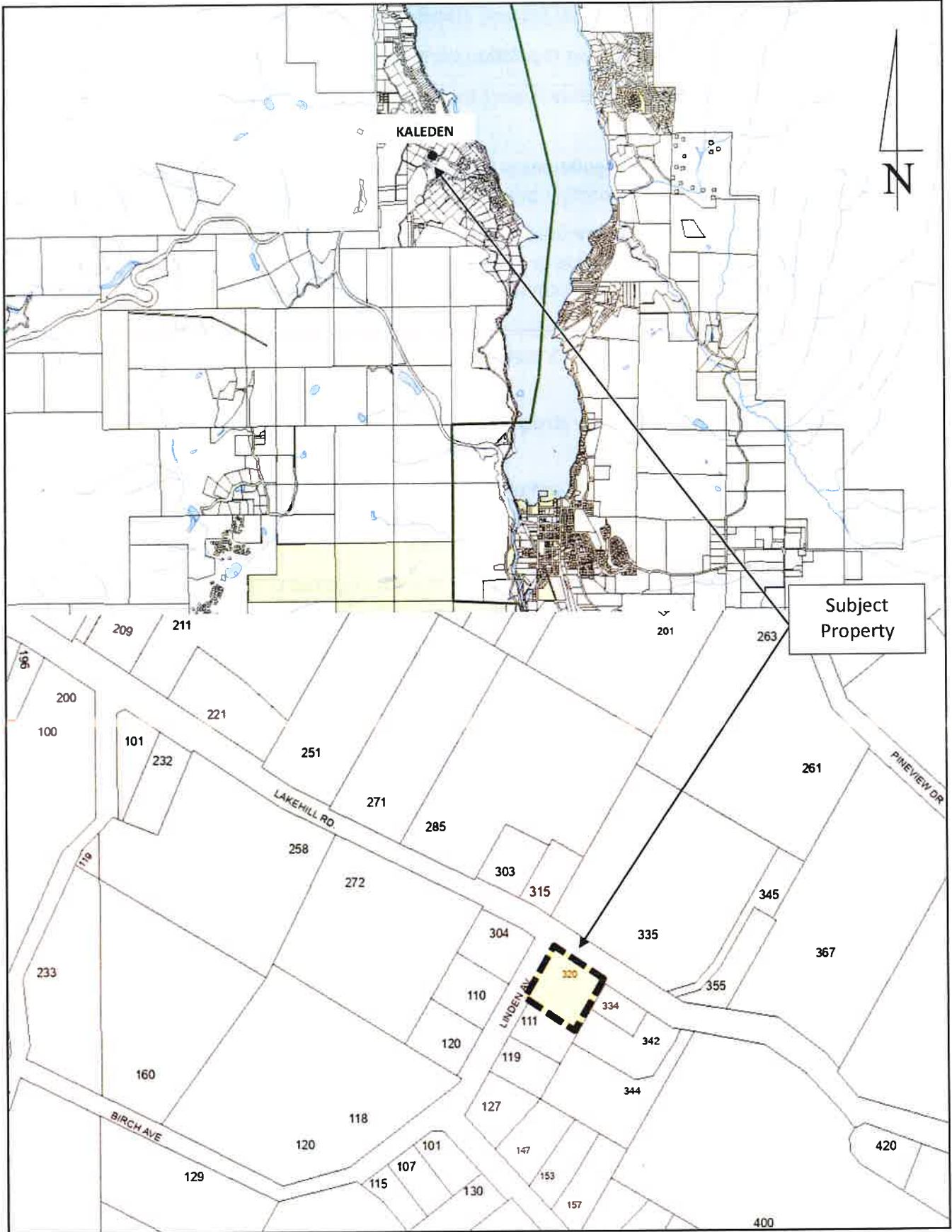
Respectfully submitted:

Ben Kent

Ben Kent, Planner I

Attachments: No. 1 — Context Maps
No. 2 — Aerial Photo
No. 3 — Site Photo

Attachment No. 1 – Context Maps



Attachment No. 2 – Aerial Photo



Attachment No. 3 – Site Photo (Google Street View – 2012)

