



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, MARCH 19, 2013**

SUBJECT **DEVELOPMENT VARIANCE PERMIT FOR LOT 2, SECTION 17, OTTER DISTRICT, PLAN VIP87777**

ISSUE

A request has been made for a development variance permit to reduce the required side yard setback from 6.0 m to 5.7 m in order to legalize the non-conforming siting of a newly constructed single-family dwelling.

BACKGROUND

The 0.979 ha property is located at 3525A Otter Point Road in Otter Point and is zoned Rural Residential 2 (RR-2) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Appendix 1). The property fronts onto Otter Point Road to the south and lies adjacent to rural residential properties to the north, east and west. The adjacent parcels are also zoned RR-2.

The applicant submitted a building permit to construct a single-family dwelling on the subject property in September 2011. At the time Planning staff reviewed the proposed development, the plans indicated that the side yard setback in question would be 9.5 m, easily satisfying the 6 m requirement. However, the foundation location certificate (Appendix 2) submitted for final sign-off of the building permit shows the setback to be 5.7 m. In order to legalize the non-conforming siting, a development variance permit is required.

ALTERNATIVES

1. Approve the development variance permit to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(b), to reduce the required side yard setback from 6 m to 5.7 m for the purpose of legalizing the siting of an existing single-family dwelling;
2. Deny the development variance permit and require the structure to comply with zoning requirements.
3. Refer the application back to staff for more information.

LEGISLATIVE IMPLICATIONS

Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(b) specifies a minimum side yard setback of 6 m for RR-2 zoned parcels. A development variance permit is required in order to allow a reduced setback of 5.7 m.

PUBLIC CONSULTATION IMPLICATIONS

Pursuant to the *Local Government Act*, Section 922(4), if a local government is proposing to pass a resolution to issue a development variance permit, it must give notice to each resident/tenant within a given distance as specified by bylaw. Capital Regional District Bylaw No. 3110, Fees and Procedures Bylaw, states that the Board at any time may refer an application to an agency or organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500

metres. Any responses received from the public will be presented at the March 19, 2013 Land Use Committee meeting.

LAND USE IMPLICATIONS

The applicant submitted a building permit application for a single-family dwelling in September 2011. At the time the application was reviewed by Planning staff to ensure conformity with zoning requirements, the site plan indicated that the building would be located 9.5 m from the eastern side lot line. The foundation location certificate submitted for final sign-off of the building permit, however, shows that the side yard setback is 5.7 m. While the size of the building has not changed since the plans were first reviewed, the home has been rotated such that the south-east corner of the home encroaches into the side yard.

It is noted that the applicant also owns the parcel located to the east. Furthermore, that part of the adjacent parcel that would be affected by the encroachment is used as a common driveway access for the two lots. Since the impact on the use of the neighbouring parcel should be minimal, staff recommend approval of the requested variance, subject to public notification.

CONCLUSION

The applicant is requesting a variance to reduce the required side yard setback from 6 m to 5.7 m, in order to legalize the non-conforming siting of a newly constructed single-family dwelling. Since the impact of the encroachment is expected to be minimal, staff recommend approval of the variance request subject to public notification.

RECOMMENDATION

That the Land Use Committee recommends to the Capital Regional District Board:

1. That Development Variance Permit VAR-01-13 for Lot 2, Section 17, Otter District, Plan VIP87777 to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(b), by reducing the required side yard setback from 6 m to 5.7 m as shown on the attached BC Land Surveyors Certificate of Location of Foundation, signed by Jason Kozina, BCLS, be approved.

****ORIGINAL SIGNED****

Iain Lawrence
Planner

June Klassen, MCIP
Manager, Local Area Planning
Concurrence

Marg Misk-Evans, MCIP
Acting General Manager
Planning & Protective Services
Concurrence

Robert Lapham, MCIP
Chief Administrative Officer
Concurrence

Appendices:

1. Subject Property Map
2. BC Land Surveyors Certificate of Location of Foundation

Appendix 1: Subject Property Map



Appendix 2: BC Land Surveyors Certificate of Location of Foundation

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 OUR FILE: W148-SULLIVAN-CO

B.C. LAND SURVEYORS CERTIFICATE
OF LOCATION OF FOUNDATION ON

LOT 2, SECTION 17,
 OTTER DISTRICT, PLAN VIP87777.
 PID: 028-179-391

RECEIVED
 JAN 0 2 2013

CAPITAL REGIONAL DISTRICT
 JOF E.A. BUILDING INSPECTION

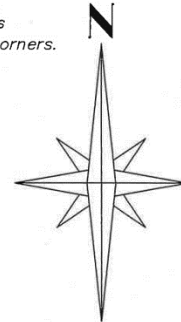
I have examined the foundation shown and hereby certify that the said structure is situated with respect to nearby boundaries as shown. This document is prepared for building inspection or mortgage purposes only and is for the exclusive use of our client. This document is not valid unless originally signed and sealed. This document shall not be used to define property lines or property corners. Unregistered interests have not been included or considered.


 Jason C. Kozina, BCLS.
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Field survey dated this 10th day of February, 2012.

SCALE=1:1500. All distances are in metres.

NOTE: A comprehensive legal survey may reveal offsets to boundaries that differ from those shown. The parcel is subject to charges: Covenant EM22155 & FB338162 Easement FB338168



DETAIL
 SCALE=1:250

