



# REPORT

To: Chair and Directors

Report Number: DS-BRD-247

From: Kathy Suggitt, RPP, General Manager of Development Services

Date: July 14, 2022

**Subject: Development Variance Permit No. 22-001, PRRD File No. 22-001 DVP**

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## **RECOMMENDATION: [Corporate Unweighted]**

That the Regional Board respectfully refuse to issue Development Variance Permit No. 22-001, for the property identified as PID 012-680-478, to allow a reduction in the following setbacks:

- a) From 3 metres to 2.09 metres for the southern interior side parcel line to allow for the construction of a 4.88 metre by 22.56 metre garage/addition to the home;
- b) From 5 metres to 2.91 metres for the northern exterior side parcel line on the northeast corner of the existing home;
- c) From 5 metres to 2.95 metres for the northern exterior side parcel line on the northwest corner of the existing home;
- d) From 1.5 metres to 1.19 metres for the southern interior side parcel line on the southwest corner of the existing shop; and
- e) From 1.5 metres to 1.21 metres for the southern interior side parcel line on the southeast corner of the existing shop.

## **BACKGROUND/RATIONALE:**

### **Proposal**

The applicant has applied to vary the setback on the interior side parcel line from 3 metres to 2.09 metres in order to build a 22.56 metre by 4.88 metre two-storey addition to the principal dwelling in place of an existing attached garage that currently sits 0.76 metres from the interior side parcel line.

### **File Details**

Owner: Christopher Harrison  
Ina Siebert  
Area: Electoral Area C  
Location: Fort St John Rural  
Legal: Lot 1 Block 3 Section 35 Township 83 Range 19 W6M PRD Plan 10411  
PID: 012-680-478  
Civic Address: 12293 Birch Ave  
Lot Size: 00.21 ha (00.52 ac)

### **Background**

Upon detailed review of the application, staff noted that the buildings on the subject property were already encroaching into the required setbacks. The home with an attached garage (by way of the roofline) sits 2.91 metres from the northern exterior side parcel line (whereas a setback of 5 metres is otherwise required) and 0.76 metres from the southern interior side parcel line (whereas a setback of

3 metres is required). The shop sits 1.19 metres from the southern interior side parcel line (whereas a setback of 1.5 metres is required).

The existing home, garage, and shop do not have building permits associated with their construction; however, it has been determined that the home and garage were likely constructed prior to building permits being required. The applicant originally applied to vary the interior side parcel line setback to 0.76 metres based on where the attached current garage sits but has altered his plan to allow a greater distance (2.09 metres) from the interior side parcel line after conversations with PRRD planning staff.

Staff informed the applicant of the other setback encroachments on the property and provided the option to further include these in this application for variance which the applicant has agreed to.

### **Rationale**

The proposal to build a two-storey addition to the home in place of the current attached garage 2.09 metres from the interior side parcel line does not comply with the Zoning bylaw, which has a minimum setback requirement of 3 metres for any principal building/structure. The neighboring property sharing the southern interior side parcel line contains a shop that was recently (2020) constructed in the required setback and without a variance or building permit. The proposed addition on the subject property is expected to sit partially adjacent to this shop along the parcel line making the two buildings very close to one another and could potentially cause a fire hazard, as has been noted by Fire Department staff. Staff have concerns with the large two-storey addition proposed within the required setback along with other existing setback contraventions on this property and the potential fire hazard of buildings/structures being built in close proximity to each other, and thus have recommended refusal of this request for variance.

### **Site Context**

The subject property is located approximately 245 metres southwest of the City of Fort St John and is zoned as R-3 within the PRRD Zoning Bylaw No. 1343, 2001. The property is adjacent to 269 Rd to the west, Birch Ave to the north, and residential properties to the east and south. An Agricultural (A-2) parcel sits across the 269 Rd to the west of the property. As noted above, the residential property to the south has a structure located within the required setback from the interior side parcel line, which has a Section 57 registered against title.

### **Site Features**

#### Land

The land is flat and is mainly clear of trees.

#### Structures

There is one single family dwelling on the property with an attached garage and an accessory building that acts as a shop to the rear of the property.

#### Access

The property is accessed from 269 Road and from Birch Ave. The shop is accessed from a separate driveway from Birch Ave.

Canada Land Inventory Soil Rating

The property is outside the Agricultural Land Reserve and Agricultural zoning area and no soil classifications were noted within the application.

**Comments & Observations**Applicant

The applicant is proposing to build an “addition to the house, to extend the existing foundation” to provide “extra room, extra storage, entertainment room for large family, larger garage, sauna, hot tub, mini gym”. The existing garage adjacent to the house is to be removed and replaced with the proposed addition. As mentioned above, the applicant has altered their plans slightly by proposing to build the addition to within 2.09 metres of the interior side parcel line rather than follow the existing foundation of the attached garage.

Agricultural Land Reserve (ALR)

The subject property is outside the Agricultural Land Reserve.

Official Community Plan (OCP)

Pursuant to the PRRD North Peace Fringe Area Official Community Plan Bylaw No. 1870, 2009, the subject property is designated High Density Residential. Land within this designation should be used for residential and home based business subject to zoning regulations. The minimum parcel size should be 8 ha (20 ac) for lands not connected to a community sewage system.

Therefore, the proposal is consistent with the Official Community Plan in terms of use, even though the subject property is undersized, however no subdivision is proposed.

Land Use Zoning

Pursuant to Zoning Bylaw No. 1343, 2001, the subject property is zoned R-3 (Residential). Land within this zone may be used for residential (dwelling unit). The minimum parcel size is 1.8 ha (4.5 ac).

Section 36.2(g) of Zoning Bylaw No. 1343, 2001 states that, no principal building shall be located within 7 metres of a front parcel line, 3 metres of an interior side parcel line, 5 metres of an exterior side parcel line, and 5 metres of a rear parcel line.

The existing principal dwelling (built in 1962) is located 2.91 metres from the exterior side parcel line (northern parcel line) which is within the 5 metre setback. At the time of construction, building permits were not required. The existing attached garage is currently located on the south end of the home and is 0.76 metres from the interior side parcel line (southern parcel line) and therefore does not meet the required 3m setback from that parcel line. The proposal to build an addition to the home 2.09 metres from the interior side parcel line, in place of and larger than the current attached garage, does not comply with Zoning Bylaw No. 1343, 2001 which indicates a 3 metre setback for the principal dwelling. Although the demolition and replacement of the garage with a two-storey addition does improve the existing setback non-conformity situation, it in fact intensifies the use on the property and thus encroachment into the required setback along the interior parcel line should be limited to ensure safety from a fire risk as mentioned, but also so as to minimize potential impact to the neighbouring property.

Pursuant to Section 36.2(h) of the zoning bylaw, no accessory building shall be located within 7 metres of a front parcel line, 1.5 metres of an interior side parcel line, 5 metres of an exterior side parcel line, and 3 metres of a rear parcel line. The existing shop at the rear of the property is currently located 1.19 metres from the south interior side parcel line which is within the required 1.5 metre setback. A Development Variance Permit has not previously been issued for that setback, nor did the applicant wish to add this request to the current application to address that situation.

The property is currently undersized as per the No. 1343, 2001 bylaw but no subdivision is proposed.

#### Fire Protection Area

The subject property is within the Charlie Lake Fire Protection Area.

#### Mandatory Building Permit Area

The subject property is within the Mandatory Building Permit Area. The applicant has not applied for a Building Permit for the proposed addition at this time.

#### Development Permit Area

The subject property is outside of all Development Permit Areas.

#### Development Cost Charge Area

The subject property is outside of the Development Cost Charge Area.

#### School District 60 School Site Acquisition Charge Area

The subject property is within the School District 60 School Site Acquisition Charge Area. However, the charge is not applicable at this time because no new residential lots are proposed.

### **Impact Analysis**

#### Context

The proposal would have the greatest impact on the parcel immediately to the south of the subject property because this proposed two-storey addition would be located 2.09 metres from this interior side parcel line. The proposal would intensify the use on the property and increase the potential fire risk.

#### Population & Traffic

No change to population and/or traffic is anticipated.

#### Sewage & Water

The property has an existing septic and cistern which are not likely to be impacted by the addition as no additional washrooms or bedrooms are proposed.

### **Comments Received from Agencies**

#### Bylaw Enforcement:

The only construction on the property that has the mandatory building permit is the basement repair under the existing dwelling. The proposed removal of the existing garage and roof that attaches it to the dwelling that was built without the mandatory building permit will eliminate some (but not all) of

the setback contraventions. The PRRD should not approve living area of a dwelling to extend into this setback. In this same area on the property to the South, a detached garage was also built without the mandatory building permit and is within the same interior parcel line setback. By approving a DVP for new construction there will be risks related to the proximity of a dwelling on one property to an accessory structure on another.

The existing 119.2m<sup>2</sup> shop appears to have an addition to the East that is not reflected on the survey. If this is the case, the shop is larger than shown. This shop is near the rear of the parcel, was also built without the mandatory building permit, and is in the mandatory interior parcel line setback.

The Building Inspector should recommend a Section 57 pursuant to the *Local Government Act* for the construction of the dwelling, the 119.2m<sup>2</sup> shop (size to be confirmed) and the existing garage with roof attaching it to the dwelling without a building permit.

If the PRRD intends to consider a DVP for the interior parcel line setback, it should be to reduce the setback from 1.5m to 1.19m for the 119.2m<sup>2</sup> (size to be confirmed) shop and to reduce the exterior parcel line setback for the dwelling from 5m to 2.91m ONLY and be conditional to the removal of the roof that attaches the existing garage to the dwelling and the relocation of the existing garage outside of the mandatory parcel line setbacks.

#### Building Inspector:

For a building within close proximity of a property line the Exposed building face will need to meet the requirements of 9.10.14 of the BC Building Code.

These requirements determine the Fire Resistance Rating (FRR) of the construction and cladding used as well as the percentage of unprotected openings allowed (windows and doors without a FRR). Based on the building length and height the construction and cladding would need to be non-combustible. The restriction on materials is not lessened until a setback of 4m is reached.

#### Charlie Lake Fire Department:

Consider approval only if the following condition is placed on the permit:

Pathway between the addition and property line shall be clear of debris at all times. This will help aid in fire protection and allow fire services to work between the building and property line.

### **ALTERNATIVE OPTIONS:**

1. That the Regional Board issue Development Variance Permit No. 22-001, for the property identified as PID 012-680-478, to allow a reduction in the following setbacks:
  - a) From 3 metres to 2.09 metres for the southern interior side parcel line to allow for the construction of a 4.88 metre by 22.56 metre garage/addition to the home;
  - b) From 5 metres to 2.91 metres for the northern exterior side parcel line on the northeast corner of the existing home;
  - c) From 5 metres to 2.95 metres for the northern exterior side parcel line on the northwest corner of the existing home;
  - d) From 1.5 metres to 1.19 metres for the southern interior side parcel line on the southwest corner of the existing shop; and

- e) From 1.5 metres to 1.21 metres for the southern interior side parcel line on the southeast corner of the existing shop.

2. That the Regional Board provide further direction.

**STRATEGIC PLAN RELEVANCE:**

☒ Not Applicable to Strategic Plan.

**FINANCIAL CONSIDERATION(S):**

None at this time.

**COMMUNICATIONS CONSIDERATION(S):**

The Regional Board's decision will be communicated to the applicant.

**OTHER CONSIDERATION(S):**

None at this time.

**Attachments:**

1. Maps, PRRD File No. 22-001 DVP
2. Application, PRRD File No. 22-001 DVP
3. Development Variance Permit No. 22-001