
CITY OF KELOWNA

MEMORANDUM

Date: April 29, 2004
File No.: DVP99-10,077
To: City Manager
From: Planning & Corporate Services Department
Subject:

APPLICATION NO. DVP99-10,077 **OWNER:** Suzan Einerssen
AT: 2420 Pandosy Street **APPLICANT:** John and Suzan Einerssen

PURPOSE: VARY MAXIMUM AREA FROM 90 M² TO 101.8 M² FOR AN
ACCESSORY BUILDING IN A RESIDENTIAL URBAN ZONE
VARY THE MINIMUM SIDE YARD SETBACK TO AN ACCESSORY
BUILDING FROM 1.0 M REQUIRED TO 0.0 M PROPOSED.

EXISTING ZONE: RU1 - LARGE LOT HOUSING

REPORT PREPARED BY: NELSON WIGHT

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT Council NOT authorize the issuance of Development Variance Permit No. DVP99-10,077 for Lot 2, District Lot 14, ODYD Plan 7336, located at 2420 Pandosy Street, Kelowna, B.C.

AND THAT variances to the following sections of Zoning Bylaw No. 8000 NOT be granted:

Section 6.5 – Accessory Development, Subsection 6.5.7,

Vary the maximum area from 90 m² to 101.8 m² for an accessory building in a Residential Urban zone.

Section 6.5 – Accessory Development, Subsection 6.5.8(b)

Vary the minimum side yard setback to an accessory building from 1.0 m required to 0.0 m proposed.

2.0 SUMMARY

In making renovations and repairs to an existing accessory building and fence, the Applicant constructed an addition, which extended the southerly wall to the lot line, in contravention of the side yard setback requirement, as well as the maximum permitted area for accessory buildings for that zone. Through this application, the Applicant wishes to have this illegal construction permitted, despite its non-compliance with the Zoning Bylaw.

3.0 BACKGROUND

This application has, unfortunately, remained active yet unresolved since 1999. The history of this file is detailed below:

- March 6, 1999 – the Landowner was contacted by one of our Bylaw Enforcement Officers due to an illegal building, and advised to remove the building or apply for a building permit (BP);
- April 15, 1999 – John Einerssen applied for a building permit, numbered BP#14925;

- April 22, 1999 – BP#14925 was issued to allow construction to close in a carport for a studio in an accessory building, but did not allow construction of that portion of the building located in the side yard;
- July 29, 1999 – due to subsequent complaints, a Bylaw Enforcement Officer contacted the Landowner about the illegal building (that being the portion constructed within the required setback area), which did not comply with the BP issued. John Einerssen indicated that he would be applying for a development variance permit (DVP);
- September 8, 1999 – John Einerssen applied for a DVP, numbered DVP99-10,077;
- January 2000 – application #DVP99-10,077 was put on hold, pending the outcome of an updated traffic bylaw, as there were possible implications with regard to the sight-lines at this intersection;
- August 26, 2002 - Traffic Bylaw No. 8120 adopted by Council
- January 2000 to February 2004 – file inactive.

3.1 The Proposal

The addition made to the accessory building on the subject property has resulted in a side yard setback of 0.0 m where 1.0 m is required. Through this application, the Applicant wishes to have this illegal construction permitted, despite its non-compliance with the Zoning Bylaw.

This application compares to the requirements of the City of Kelowna Bylaw No. 8000 for RU1 - LARGE LOT HOUSING as follows:

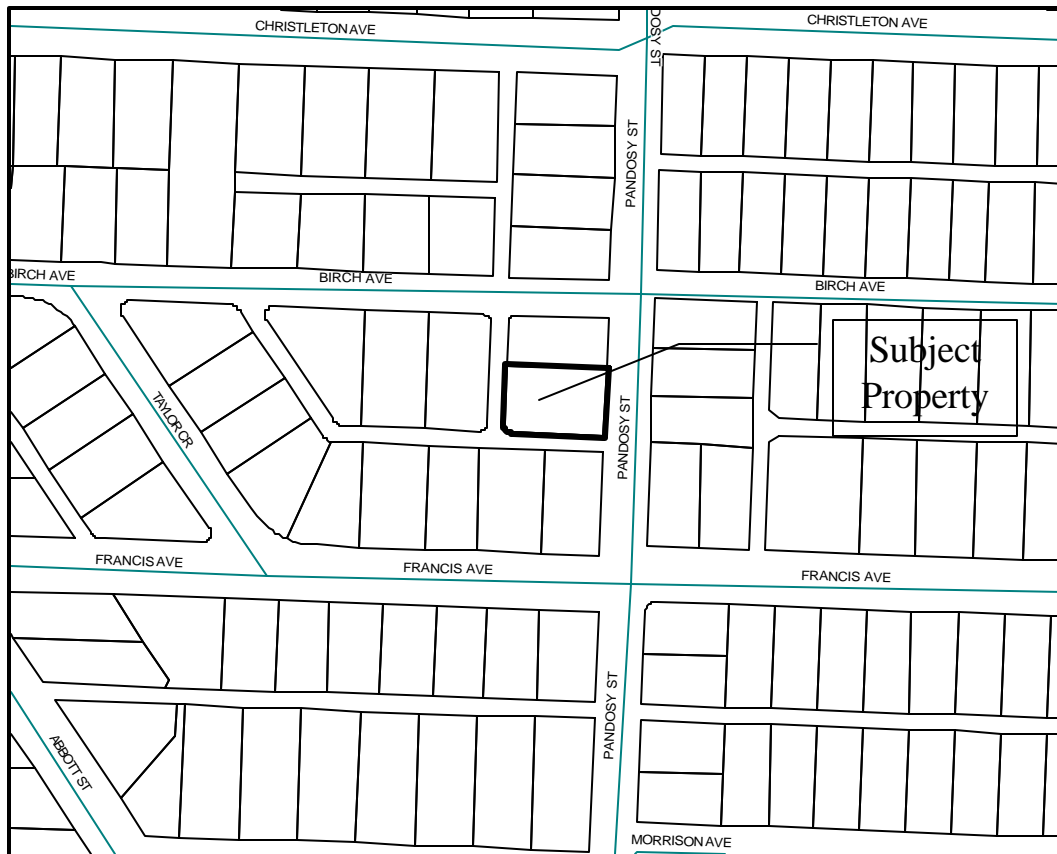
CRITERIA	PROPOSAL	RU1 ZONE REQUIREMENTS
Site Area (m ²)	891 m ²	400 m ²
Lot Width	24.4 m	13.0 m
Lot Depth	36.6 m	30.0 m
Existing dwelling	154 m ²	
Existing accessory bldg.	101.8 m ² ❶	90.0 m ²
Site coverage – existing accessory building	11%	14%
Site coverage – existing dwelling and proposed accessory building	29%	40%
Setbacks to Accessory Building		
Front Yard	22.2 m	18.0 m
Side yard (to flanking lane)	0.0 m ❷	1.0 m
Side yard (north)	10.0 m	1.0 m
Rear yard	5.0 m	1.5 m
Other Requirements		
Height of accessory building	3.7 m	4.5 m

❶ Note: Applicant is seeking to vary the maximum allowable area for accessory buildings.

❷ Note: Applicant is seeking to vary the minimum required setback from 1.0 m required to 0.0 proposed.

3.2 Site Context

Subject Property: 2420 Pandosy Street



The subject property is located on Pandosy Street, two blocks south of the Kelowna General Hospital, between Birch Avenue and Francis Avenue. Surrounding lands are developed almost exclusively for residential purposes, with RU1 - Large-Lot Housing being the predominant zone for the area west of Pandosy, and RU6 – Two-Dwelling Housing the predominant zone for the area east of Pandosy.

Adjacent zoning and existing land uses are as follows:

- North - RU1 – Large-Lot Housing
- East - RU6 – Two-Dwelling Housing
- South - RU1 – Large-Lot Housing
- West - RU1 – Large-Lot Housing

4.0 TECHNICAL COMMENTS

4.1 Fire Department

No concerns.

4.2 Inspection Services

The wall with 0' setbacks is required to be rated - minimum 5/8 gypsum board with all joints taped or blocked behind. Roof rafters are over spanned. The rafters are

supported by the top fence board. A two ply 2 x 6 lintel should be fastened to the posts to support the roof rafters.

4.3 Parks Manager

No comments

4.4 Public Heath Inspector

No comments

4.5 Transportation Division

No concerns with regard to sight-lines. The hazards at this intersection are no greater than what exists at most locations where two lanes intersect.

4.6 Works and Utilities Department

No concerns

5.0 PLANNING AND CORPORATE SERVICES COMMENTS

The existing accessory building does not comply with two specific requirements of the Zoning Bylaw: (a) side yard setback requirement of 1.0 m; and (b) area of accessory building not to exceed 90 m²). Staff is recommending non-support of this application because of this conflict with the Bylaw.

Beyond the structural shortcomings of the accessory building, as identified by Inspections Services (see section 4.2 Inspection Services above), there appear to be no major concerns with this illegal construction, either on or off site. Under the provisions of the existing Traffic Bylaw, there is no longer an issue with regard to the sight lines at the intersection of the two lanes that flank this property. Furthermore, the adjacent landowners have not expressed any concerns with the existing illegal structure (see attached letters in support, noting that these were received in 1999). However, Staff cannot support the application due to conflicts with the Zoning Bylaw, and because the construction was done in advance of the necessary approvals.

6.0 ALTERNATE RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DVP99-10,077 for Lot 2, District Lot 14, ODYD Plan 7336, located at 2420 Pandosy Street, Kelowna, B.C.

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 6.5 – Accessory Development, Subsection 6.5.7,
Vary the maximum area from 90 m² to 101.8 m² for an accessory building in a Residential Urban zone.

Section 6.5 – Accessory Development, Subsection 6.5.8
Vary the minimum side yard setback to an accessory building from 1.0 m required to 0.0 m proposed.

Andrew Bruce
Development Services Manager

Approved for inclusion

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R.L. (Ron) Mattiussi, ACP, MCIP

Director of Planning & Corporate Services

RM/AB/nw

FACT SHEET

APPLICATION NO.:	DVP99-10,077
APPLICATION TYPE:	Development Variance Permit
OWNER:	Suzan Einerssen
. ADDRESS	2420 Pandosy Street
. CITY	Kelowna, BC
. POSTAL CODE	V1Y 1T8
. TELEPHONE/FAX NO.:	(250) 861-9562
APPLICANT:	John and Suzan Einerssen
. ADDRESS	2420 Pandosy Street
. CITY	Kelowna, BC
. POSTAL CODE	V1Y 1T8
. TELEPHONE/FAX NO.:	(250) 861-9562
Servicing Agreement Forwarded to Applicant:	N/A
Servicing Agreement Concluded:	N/A
Staff Report to APC:	N/A
Staff Report to Council:	March 17, 2004
LEGAL DESCRIPTION:	Lot 2, District Lot 14, ODYD Plan 7336
SITE LOCATION:	The subject property is located on Pandosy Street, two blocks south of the Kelowna General Hospital, between Birch Avenue and Francis Avenue
CIVIC ADDRESS:	2420 Pandosy Street
AREA OF SUBJECT PROPERTY:	891 m ²
EXISTING ZONE CATEGORY:	RU1 - LARGE LOT HOUSING
TYPE OF DEVELOPMENT PERMIT AREA:	N/A
PURPOSE OF THE APPLICATION:	VARY MAXIMUM AREA OF ACCESSORY BUILDINGS FROM 90 M ² REQUIRED TO 101.8 M ² PROPOSED VARY THE MINIMUM SIDE YARD SETBACK TO AN ACCESSORY BUILDING FROM 1.0 M REQUIRED TO 0.0 M PROPOSED
MIN. OF TRANS./HIGHWAYS FILES NO.:	N/A
NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY	
DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS	N/A

ATTACHMENTS

(not attached to the electronic version of the report)

- Subject Property Map
- State of Title

- Site Plan and Elevations
- Signed petition from adjacent landowners