
CITY OF KELOWNA

MEMORANDUM

Date: September 28, 2005
File No.: **DVP05-0086**

To: City Manager

From: Planning & Corporate Services Department

Subject:

DEVELOPMENT VARIANCE PERMIT OWNER: MARYANNA PRODAN
APPLICATION NO. DVP05-0086

AT: 2292 SCENIC ROAD APPLICANT: MARYANNA PRODAN

PURPOSE: TO SEEK A DEVELOPMENT VARIANCE PERMIT TO VARY
FRONT YARD FROM 4.5 M TO 1.48 M, AND TO VARY REAR
YARD FROM 4.5 M TO 0.90 M TO EXISTING DECK

EXISTING ZONE: RR3 – RURAL RESIDENTIAL 3
(REVIEWED AS IF RU1 – LARGE LOT HOUSING ZONE)

REPORT PREPARED BY: PAUL McVEY

1.0 RECOMMENDATION

THAT Development Variance Permit No. DVP05-0086, as outlined in the report dated September 23, 2005 from the Planning & Development Services Department on lands described as Lot 1, Sec. 4, Twp. 23, O.D.Y.D., Plan 18959, located on Scenic Road, Kelowna, B.C., **not** be approved by the Municipal Council;

2.0 SUMMARY

The applicant has an issued building permit for a building addition to enclose a proposed swimming pool adjacent to Brenda Road, as well as to convert a portion of an old garage into living space and to add living space above the old garage.

This application is for a Development Variance Permit has been made to deal with the non-conforming front yard setback to Brenda Road, and to address the non-conforming rear yard setback to the new deck. The non-conforming setback issues became apparent when the survey certificate was delivered to the Inspection Services Department for review after the foundation was poured.

2.1 Advisory Planning Commission

The above noted application (DVP05-0086) was reviewed in the original configuration provided by the applicant, by the Advisory Planning Commission at the meeting of June 21, 2005 and the following recommendations was passed:

THAT the Advisory Planning Commission not support Development Variance Permit Application No. DVP05-0086, 2292 Scenic Road, Lot 1, Plan 18959, Sec. 4, Twp. 23, ODYD, by Maryanna Prodan, to obtain a Development Variance Permit to reduce the front yard setback from the 4.5 m required, to the 1.48 m proposed for the pool enclosure, and to reduce the rear yard setback from the 7.5 m required to the 0.90 m proposed to the elevated deck..

3.0 BACKGROUND

3.1 The Proposal

Clause 1.7.1 of City of Kelowna Zoning Bylaw 8000 allows existing non-conforming rural residential lots that are less than 2.0 ha which existed prior to August 10, 1976 to be developed in accordance with the provisions and regulations of the RU1 – Large lot housing zone. This clause applies to this application, as the subject property was created by subdivision plan no. 18959, which was registered in March 1969.

The original dwelling was constructed in 1972. In 2000, there was a building permit issued (#15930) to construct an attached double garage with an office on the second floor of the new garage addition. This new garage was attached to an existing garage that was part of the existing dwelling.

The applicant received a building permit (#20980) in 2003 which authorized construction of a building addition to enclose a proposed swimming pool which was designed to be located adjacent to Brenda Road, as well as to add some additional second floor area above the old garage that was part of the original building.

When the survey certificate was provided to the Inspection services department, it became apparent that the location of the swimming pool enclosure did not conform to the setback requirements of the RU1 – Large Lot Housing zone for the Front Yard setback from Brenda Road. The RU1 – Large Lot Housing zone requires a minimum 4.5 m front yard setback, where the survey certificate indicated that the wall for the swimming pool enclosure is located 1.48 m from the lot line adjacent to Brenda Road.

The survey certificate also noted a non-conforming rear yard setback of 0.90 m to an elevated second floor deck area, where the RU1 zone requires a minimum rear yard of 4.5 m. for lots which have a lot width which exceeds lot depth.

This application for a Development Variance Permit has been made to address the above noted non-conforming setback issues. The application has been forwarded to the Advisory Planning Commission for review as there was not unanimous support for the variances at the time of application.

The neighbourhood residents have raised a number of concerns regarding the physical size of the resulting dwelling, especially the resulting height, as well as site coverage. A review of the building plans indicate that the resulting building height is 2 ½ storeys, as defined by the City of Kelowna zoning Bylaw 8000. However, this resulting height is also at the maximum permitted in the zoning bylaw, and when compared to other dwellings in the neighbourhood, the resulting building is the highest building in the area. A review of the site plan also indicates that the resulting site coverage complies with the maximum permitted in the RU1 zone. However, the resulting site coverage does approach the maximum permitted by the zone (37% existing, 40% permitted).

The proposal as compared to the RU1 zone requirements is as follows:

CRITERIA	PROPOSAL	RU1 ZONE REQUIREMENTS
Site Area (m ²)	1,021 m ²	Min Lot area 550 m ²
Site Width (m)	39.423 M	17 m
Site Coverage (%)	37%	40% for buildings 50% for buildings and driveways and parking areas
Total Floor Area (m ²)	484 m ² ±	
F.A.R.	N/A	N/A
Storeys (#)	2 ½ Storeys	Max. 2 ½ storeys, (9.5m)
Setbacks (m)		
- Front (Brenda Rd)	1.48 m ❶	4.5 m, 6.0 m to garage or carport
- Rear	0.9 m ❷	4.5 m where lot is width exceeds lot depth
- North East Side	3.3 m	2.0 m for 1 or 1 ½ storey ht. 2.3 m for 2 or 2 ½ storey ht.
- South West Side (Scenic Rd)	7.76 m	4.5 m
Parking Stalls (#)	2 stalls provided	2 stalls required
Loading Stalls (#)	N/A	

Variances Requested;

❶ Request that the front yard be varied from the 4.5 m required to 1.48 m requested to the swimming pool area,

❷ Request that the rear yard be varied from 4.5 m required to a minimum of 0.90 m to the open deck area.

NOTE:

If the front yard had been taken from the Scenic Road frontage, the following variances would have been required:

West flanking side yard	1.48 m where 4.5 m is required
East side yard	0.90 m where 2.3 m is required
Rear Yard	3.2 m where 7.5 m is required.

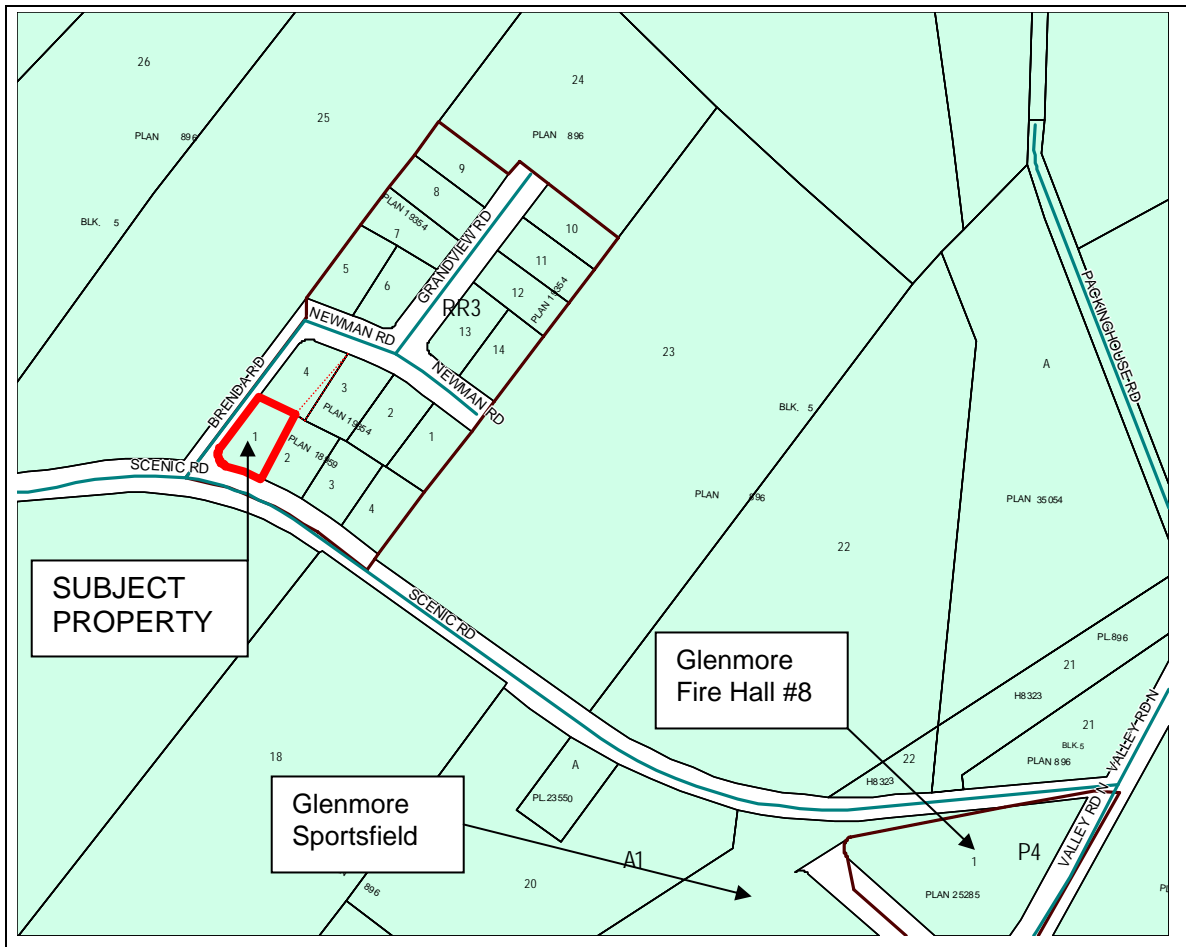
3.2 Site Context

The subject property is located at the entrance to a small 18 lot rural residential subdivision which was created in the 1970's. The area is surrounded by agricultural properties.

Adjacent zones and uses are, to the:

North West	-	A1 – Agriculture 1 / Brenda Road - hay field
North East	-	RR3 – Rural Residential (as if zoned RU1)
South West	-	A1 – Agriculture 1 / Scenic Road
South East	-	RR3 – Rural Residential (as if zoned RU1)

SUBJECT PROPERTY MAP



3.3 Current Development Policy

3.3.1 Kelowna Official Community Plan

This proposal is consistent with the Official Community Plan which designates the subject property as Single / Two Unit Residential.

3.3.2 City of Kelowna Strategic Plan (2004)

The City of Kelowna Strategic Plan 2004 describes a vision of what residents hope Kelowna will be like in the future and has identified as one of the themes that overall, residents aspire to live in a community that:

- Fosters the social and physical well-being of residents and visitors

The City of Kelowna Strategic Plan 2004 also states as an Objective;

- Realize construction of housing forms and prices that meet the needs of Kelowna Residents.

4.0 TECHNICAL COMMENTS

The application has been circulated to various technical agencies and City departments and the following relevant comments have been submitted:

4.1 Inspection Services Department

1. The site coverage seems to exceed the allowable zoning bylaw limit; a proper calculation is required to identify the accurate coverage. This needs to be addressed by this DVP application.
2. All variances to the approved Building Permit Drawings to be added to this DVP like: dormers, decks, site yards encroachments etc?.
3. It appears that a secondary suite is designed on the second floor; a site visit shall verify this issue.
4. What is the future plan for the door opening into a sloped roof? This door to be removed or the drawings to be modified to clarify the intend.
5. The existing BP is expired. After DVP result, the applicant is required to apply for a BP to continue the construction as per approved and/or modified drawings as the result of City Council Decision.

NOTE; The site plan has been reviewed, and the site coverage meets the maximum site coverage permitted in the zone.
The revised building permit application and drawings will deal with the above noted concerns of the Inspection Services Department, should Council support this application.

4.2 Irrigation District (G.E.I.D.)

The subject property is located within GEID boundaries. We have no concerns.

- If the office space should become a secondary suite in the future, GEID will require it to be reviewed and assess any applicable Capital Expenditure Charges at that time.
- This property is serviced by a single 19 mm service and it should be confirmed by the Plumbing Department that this is adequate for the number of fixtures within the home.
- The pool will require assessment for cross connection control device requirements and compliance.

4.3 Public Health Inspector

Our file indicate that an onsite sewage disposal system, sized to accommodate a 2 bedroom home, was installed at the above noted property in 1969.

4.4 Works and Utilities Department

No Comment.

5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS

The builder of the approved building permit #23980 has made some unauthorized changes to the building program that did not become apparent until the survey certificate was provided and the non-conforming setback issues were identified.

This application for a Development Variance Permit has been made to deal with these non-conforming setback issues. However the applicant was not able to provide unanimous support for the variances from the affected neighbours at the time of the application, so this application was presented before the Advisory Planning Commission. The APC did not support this application for variances, as there was notable opposition from the neighbourhood regarding the “monster house” at the gateway to their neighbourhood.

There have been concerns raised regarding the performance of the existing septic system, and the increase in size of the building located on the lot. At this time, there is record of some problems there, but there is also record of repairs occurring there as well.

The Planning and Corporate Services Department is not able to support this application owing to the neighbourhood opposition to this proposal and the significant departure from the approved building permit. However, should Council support this application, the following recommendations are supplied for consideration;

6.0 ALTERNATIVE RECOMMENDATIONS

THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP05-0086; Maryanna Prodan; Lot 1, Sec. 4, Twp. 23, O.D.Y.D., Plan 18959, located on Scenic Road, Kelowna, B.C.;

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

- a) Section 13.1.6.(c) Development Regulations be varied from minimum 4.5 m front yard required to 1.48 m front yard provided,
- b) Section 13.1.6.(e) Development Regulations be varied from minimum 4.5 m rear yard required where the lot width exceeds the lot depth, to the 0.90 m proposed to the elevated deck.

Andrew Bruce
Manager of Development Services

Approved for inclusion

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R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning and Corporate Services

PMc/pmc
Attach.

Attachments

Subject Property Map

Survey certificate

6 pages of site plans, building elevations, and diagrams

copy of Building Permit #15930 – site plan

copy of Building Permit #23980 – site plan