

DATE: December 14, 2006
TO: City Manager
FROM: Planning & Development Services Department
APPLICATION NO. DVP06-0205 **APPLICANT:** Lynn Hale
 DP06-0200
AT: 2174 Richter Street. **OWNERS:** Lynn Hale
 Timothy Hale

PURPOSE:

TO OBTAIN A DEVELOPMENT PERMIT IN ORDER TO LEGALIZE AN EXISTING SUITE IN ACCESSORY BUILDING;

TO OBTAIN A DEVELOPMENT VARIANCE PERMIT TO ALLOW A REDUCTION IN THE MINIMUM PARKING STALL DEPTH NEXT TO A LANE, FROM 7.2 M TO 5.9 M;

TO OBTAIN A DEVELOPMENT VARIANCE PERMIT TO ALLOW A SECONDARY SUITE FLOOR AREA OF 64 M² OR 79% OF THE FLOOR AREA OF THE PRINCIPAL DWELLING, WHERE THE MAXIMUM ALLOWABLE FLOOR AREA IS 61 M² OR 75% OF THE PRINCIPAL DWELLING;

TO OBTAIN A DEVELOPMENT VARIANCE PERMIT TO ALLOW PARKING WITHIN THE FRONT YARD.

EXISTING ZONE: RU6 – TWO DWELLING HOUSING ZONE

REPORT PREPARED BY: NELSON WIGHT

1.0 RECOMMENDATION

THAT Council authorize the issuance of Development Permit No. DP06-0200 and Development Variance Permit No. DVP06-0205 for Lot 2, District Lot 14, O.D.Y.D., Plan 3750, located on Richter Street, Kelowna, B.C., subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B"
3. Landscaping on the subject property to be permitted on the land be in general accordance with annotated Schedule "C";

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 8.1.11 (a) – Off Street Vehicle Parking-Size

To vary the off street parking space size from 6.0 m required to 5.9 m proposed.

Section 8.3.3 – Development Standards-Vehicle Parking

To vary the off street parking space setback where a lane is used for aisle access from 1.2 m permitted to 0.0 m proposed.

Section 9.5.4 Secondary Suites- Maximum Floor Area

To vary the maximum floor area for the secondary suite located in an accessory building to 64 m² or 79% of the principal building floor area proposed where the maximum floor area permitted is 61 m² or 75 % of the principal building.

AND THAT a variance to the following section of Zoning Bylaw No. 8000 NOT be granted:

Section 8.1.9 (b) – Off Street Vehicle Parking-Location

A variance is required to allow for proposed vehicle access to a surface parking space in the front yard where none is permitted.

Section 13.6.7 (f) – Two Dwelling House-Other Regulations

A variance is required to allow for proposed vehicle access to a surface parking space in the front yard where none is permitted if the development has access to a rear lane.

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

2.0 SUMMARY

This application seeks to allow variances to certain sections of the Zoning Bylaw, which are listed below:

1. Vary the parking stall depth next to the lane from 7.2 m to 5.9 m;
2. Vary the prohibition on parking in the front yard, in order to allow such parking; and
3. Vary the maximum floor area for a secondary suite from a maximum of 61 m² or 75 % of the principal dwelling to 64 m² or 79% of the floor area of the principal dwelling.

The principal dwelling and carriage house already exist. This application—in addition to an accompanying Development Permit application (DP06-0200) and Building Permit application—have been made by the Applicant in order to legalize this existing development.

3.0 ADVISORY PLANNING COMMISSION

Pursuant to *Advisory Planning Commission Bylaw No. 8456* Section 3.4 (c), the requirements for review by the Advisory Planning Commission have been waived by the Director of Planning and Development Services in this case because the application is minor in nature and confirmation from affected neighbours supporting the variance has been received (see attached letters in support attached to this report).

4.0 BACKGROUND

There is an existing ± 81 m² (874 ft²) single-storey home on the subject property as well as a 1 ½-storey accessory building containing a 64 m² (692 ft²) secondary suite with parking for one vehicle.

From the records that we have, it appears that the Applicant demolished an existing garage, and constructed a new accessory building in 2005. The building permit that was issued shows that there was to be a single car garage and workshop on the main floor, with bedrooms in the upper level. At the time, the Zoning Bylaw did not prohibit bedrooms in accessory buildings, as it does today. Sometime after receiving the building permit and making this application, the Applicant converted the workshop area to living space (see attached floor plans).

The proposed development meets the requirements of the RU6 – Two Dwelling Housing zone, as follows; conflicts with the Zoning Bylaw requirements are detailed immediately following the table:

Zoning Bylaw No. 8000		
CRITERIA	PROPOSAL	RU6 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	607 m ² (0.15 ac)	400 m ²
Lot Width	15.24 m	13.0 m
Lot Depth	40.2 m	30.0 m
Development Regulations		
Site Coverage (buildings)	27%	40%
Site Coverage (buildings/parking)	43%	50%
Height (existing house)	1 storey / 4.5 m	2 ½ storeys / 9.5 m
Front Yard	10.6 m	4.5 m or 6.0 m to a garage
Side Yard (north)	1.9 m ^A	2.0 m (1 – 1 ½ storey) 2.3 m (2 storey)
Side Yard (south)	2.0 m	2.0 m (1 – 1 ½ storey) 2.3 m (2 storey)
Rear Yard (accessory bldg.)	1.7 m	1.5 m
Separation Distance Between House and Accessory Building with Suite	5.3 m	5.0 m
Floor area of existing house	81.2 m ²	
Floor area of secondary suite	64 m ² (692 ft ²) 79 % ^B	The lesser of 90 m ² or 75% of the total floor area of the principal dwelling
Site Coverage (Accessory Building)	14% 84.5 m ²	max. 14% cannot exceed 90 m ²
Height (Accessory Building)	< 4.5 m / 1 ½-storey	An accessory building shall not be higher than the lesser of 4.5 m or the height of the existing principal dwelling unit on the same property,

Other Requirements		
Parking Stalls (#)	3 spaces	3 spaces
Private Open Space	meets requirements	30 ^{m2} of private open space per dwelling
Parking Stall Depth	5.9 m ^C	6.0 m
Setback to Parking	0.0 m	1.2 m next to lane
No Parking in Front Yard Lane Access Only	does not meet requirements ^D	No off-street parking shall be located in the required front yard. Where the development has access to a rear lane, vehicular access to the development is only permitted from the rear lane.

^A The existing house is sited in a non-conforming location, relative to this side yard setback.

^B The Applicant is seeking to vary this requirement in order to allow a suite area of 64 m² where the maximum allowable floor area is 61 m².

^C The Applicant is seeking to vary this requirement in order to allow a combined stall depth and setback to parking of 5.9 m, where 7.2 m is required.

^D The Applicant is seeking to vary this requirement in order to allow for a vehicle access to a surface parking area in the front yard.

4.1 **Site Context**

The subject property is located on the west side of Richter Street, just north of the intersection of Royal Avenue and Richter Street. The surrounding neighbourhood is developed primarily for single- and two-family residential uses, with the exception of the Mac's Convenience store one block north at the intersection of Glenwood Avenue and Richter Street. More specifically the surrounding land uses are as follows:

North-	RU6 – Two Dwelling Housing Zone
East	RU6 – Two Dwelling Housing Zone
South	RU6 – Two Dwelling Housing Zone
West	RU6 – Two Dwelling Housing Zone

4.2 **Existing Development Potential**

The purpose is to provide a zone for development of a maximum of two dwelling units per lot.

4.3 **Current Development Policy**

4.3.1 City of Kelowna Strategic Plan (2004)

Goal #1 – To maintain, respect, and enhance our natural environment.

Goal #2 – To foster a strong, stable, and expanding economy.

Goal #3 – To foster the social and physical well-being of residents and visitors.

4.3.2 Kelowna 2020 – Official Community Plan (OCP)

Future Land Use

The subject property is designated MULTIPLE UNIT RESIDENTIAL (low density).

Objectives for Residential Development

- All new development should respect the scale and general character of the houses and the landscape of the neighbourhood in which it is built.
- All new development should be sensitive to the privacy of adjacent neighbours and the privacy of individual dwelling units on a lot.
- The design of all new development should be derived from the existing building, in the case of an addition to a building and the addition of a new single detached building on a lot, or from surrounding buildings, in the case of new construction.
- All new development should contribute to the creation of pedestrian-oriented streets which in turn helps connect public spaces and fosters social interaction. - All new development should promote safety and security of persons and property within the urban environment.
- The design of new development is encouraged to be accessible for persons with physical disabilities.

5.0 TECHNICAL COMMENTS

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

5.1 Fire Department

Fire department access, fire flows, and hydrants as per the BC Building Code and City of Kelowna Subdivision Bylaw. Note; Fire Department access is never from a back lane, it is always from the main street. Fire fighter access from the front/street side of the property to the back building(s) is not to be impeded at anytime. The address for both residences is to be visible from the street.

Fire Department access to the back building must be free and clear from Richter Street.

5.2 Inspection Services Department

Building permit application applied for (no drawings). Also need plumbing and heating permits. Onsite inspection revealed existing suite constructed without permit or inspections. Registered professional to provide schedules related to architectural and structural requirements.

No concern on area of existing building related to conversion proposal. No concern with proposed access from the lane but Inspection Services does not support access to property from Richter Street. Building permit required for proposed addition and upgrade to existing building.

5.3 Works & Utilities

5.3.1 Domestic Water and Fire Protection

The existing lot is serviced with a small diameter (13-mm) copper water service, which is substandard. The applicant, at her cost, will arrange for the disconnection of the existing service and the installation of a larger metered water services.

5.3.2 Sanitary Sewer

Our records indicate that this property is serviced with a 150mm-diameter sanitary sewer service. The service is shared with, and also trespasses through, the neighbouring property to the south (Lot 3 Plan 3750). A Section 219 covenant must be obtained from the owner of Lot 3 Plan 3750 to secure the exiting service.

An inspection chamber (IC) complete with brooks box, must be installed on the service at the Rose Ave property line at the owner's cost as required by the sewer-use bylaw.

The applicant will be required to sign a Third Party Work Order for the cost of installing the (IC) prior to issuance of a Building Permit.

5.3.3 Electric Power and Telecommunication Services

It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for service upgrades to these services which would be at the applicant's cost.

5.3.4 Development Permit/Development Variance Permit and Site Related Issues

- The proposed garage parking space must meet minimum by-law size requirement.
- The Works and Utilities Department does not support the requested variance to reduce the parking regulation from the required minimum stall depth of 7.2 m to 5.87 m.
- The Works and Utilities Department does not support the requested variance to allow parking in the front yard, where this space does not lead to an existing covered parking space.

6.0 **PLANNING AND DEVELOPMENT SERVICES DEPARTMENT COMMENTS**

Development Permit Issues

Staff are satisfied that this project has been developed in accordance with the *Development Permit Guidelines for Form and Character of Secondary Suite and Two Dwelling Housing Development* as detailed in Section 8 of the Kelowna 2020 – Official Community Plan.

Floor Area of Secondary Suite

The conversion of portions of the accessory building to accommodate a secondary suite were done without approval by the City. Were this proposal to come forward prior to construction, Staff would require that the suite area conform to all relevant requirements. However, at this point there is little to gain by requiring that the Applicant reduce those floor areas in order to comply with the Zoning Bylaw regulations. Consequently, Staff supports this variance request.

Inadequate Parking Stall Depth Next to Lane

Were this application to come forward prior to construction, Staff would ensure that this requirement of the Zoning Bylaw be met. At this point, the only option besides seeking approval of a variance would be to deconstruct portions of the accessory building. Staff, therefore, are supportive of this requested variance, due to the limited remedial options available. It should be stressed, however, that the purpose of this regulation is to maximize the functionality and safety of the lane for vehicle movements.

Parking in Front Yard & Rear Lane Access Only

The relevant section of the Zoning Bylaw that speak to this issue are included below:

Section 8.1.9 (b) - No off-street parking shall be located in the required front yard except that a maximum of two required spaces may be located on a driveway which provides access to a required off-street parking space that is not in the front yard; and

Section 13.6.7 (f) - Where the development has access to a rear lane, vehicular access to the development is only permitted from the rear lane, except for developments in hillside areas where the topography would require the slope of such access to exceed 15%.

The Zoning Bylaw regulations above are intended to guarantee pedestrian safety, while permitting necessary vehicle ingress/egress to private property. These provisions attempt to minimize conflict between pedestrians and vehicles, as well as ensuring safe vehicle movements on and off the street. Using this site as an example, vehicles exiting the property from this parking area would be backing into traffic, across a sidewalk, which is considered a less desirable alternative.

Because there are safer alternatives for vehicle parking available (i.e.: the required 3 parking stalls are provided next to the lane), Staff sees no merit in supporting this variance request.

Unless approved by Council, Staff would require that the Applicant decommission this parking space.

Summary of Recommendation

Staff recommend approval of the Development Permit, as well as the following variances:

1. Secondary suite floor area of 64 m², where the maximum is 61 m²; and
2. Reduced parking stall depth/setback to parking next to lane of 5.9 m, where 7.2 m is required.

Staff DO NOT support the variance to allow:

3. Parking in the front yard.

Should Council wish to approve all the variances, and alternate recommendation is provided in the section below.

7.0 ALTERNATE RECOMMENDATION

THAT Council authorize the issuance of Development Permit No. DP06-0200 and Development Variance Permit No. DVP06-0205 for Lot 2, District Lot 14, O.D.Y.D., Plan 3750, located on Richter Street, Kelowna, B.C., subject to the following:

4. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
5. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B"
6. Landscaping on the subject property to be permitted on the land be in general accordance with Schedule "C";

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

**Section 8.1.11 (a) – Minimum Parking Space Dimensions, and
Section 8.3.3 – Setback to Parking Next to Lane**

The combination of these two regulations requires that parking spaces next to a lane be 6.0 m (stall depth) plus 1.2 m (setback) = 7.2 m total. A variance to these requirements is necessary to accommodate a combined parking stall and setback dimension of 5.9 m; and

Section 9.5.4 Maximum Floor Area of Secondary Suite

A variance is required to allow a secondary suite floor area of 64 m² or 79% of the principal dwelling floor area, where the maximum floor area permitted is 61 m² or 75 % of the principal dwelling.

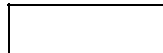
**Section 8.1.9 (b) – No Parking in Front Yard
Section 13.6.7 (f) – Rear Lane Access Only**

A variance is required to allow for vehicle access to a surface parking space in the front yard.

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Shelley Gambacort
Acting Development Services Manager

Approved for inclusion



Mary Pynenburg, MRAIC MCIP
Director of Planning & Development Services

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ATTACHMENTS

Location of subject property
Schedule "A" Site Plan (1 of 4)
Schedule "A" Floor Plans (3 pages)
Schedule "B" Elevations (4 pages)
Schedule "C" Landscape Plan
Photos of Existing Development
Letter in Support (2 pages)