

REPORT TO COUNCIL



Date: November 4, 2011
To: City Manager
From: Land Use Management, Community Sustainability (LT)
Application: DVP11-0178 **Owner/Applicant:** Lucy Wilson
Address: 185 Robson Road East
Subject: Development Variance Permit
Existing OCP Designation: Single/Two-Unit Residential
Existing Zone: RU1 - Large Lot Housing

1.0 Recommendation

THAT Council NOT authorize the issuance of Development Variance Permit No. DVP11-0178 for Lot 12, Section 23, Township 26, ODYD, Plan 17102, located at 185 Robson Road East, Kelowna, BC;

2.0 Purpose

This application seeks a Development Variance Permit to vary the minimum front yard to accommodate a carport.

3.0 Land Use Management

Building siting and setback regulations within the Zoning Bylaw aim to support Official Community Plan design objectives for residential areas, including the preservation and enhancement of the scale and character of individual neighbourhoods and streetscapes, as well as to ensure compatibility with existing dwellings and surrounding properties. The existing front yard street pattern is fairly uniform (see attached ortho photo) along Robson Road East, and the carport deviates into this established pattern. While it is appreciated that the property owner is attempting to create covered parking, a hardship was created when the original carport was filled-in to create additional living space. This limited the future potential for covered parking.

Given the above, and that there is no perceived hardship to justify the proposed variance for the subject property, the Land Use Management Department recommends that the variance not be supported.

4.0 Proposal

A carport is currently under-construction at the front of the existing home along Robson Road East. The work has taken place without a Building Permit. As constructed, the siting does not conform to the minimum front yard within the Zoning Bylaw. The applicant is seeking a variance to the minimum front yard setback to a carport from 6.0m required to 4.2m proposed. Affected

property owners have provided written confirmation that they do not object to the proposed variance.

4.1 Site Context

The site is located in the Rutland Urban Centre, south of the Rutland commercial core. Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU6 - Two Dwelling Housing	Duplex
East	RU1 - Large Lot Housing	Single Family Housing
South	RU1 - Large Lot Housing	Single Family Housing
West	RU1 - Large Lot Housing	Single Family Housing

Subject Property Map: 185 Robson Road East



Zoning Analysis Table		
CRITERIA	RU1 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	550m ²	913m ²
Lot Width	16.5m	22.8m
Lot Depth	30.0m	43.6m
Development Regulations		
Front Yard (to garage/carport)	6.0m	4.2m ①
Side Yard (west)	2.0m (1 - 1 ½ storey)	1.5m ②
Side Yard (east)	2.0m (1 - 1 ½ storey)	2.6m
Rear Yard	6.0m (1 - 1 ½ storey)	~20.0m
① Indicates a requested variance to minimum front yard setback from 6.0m required to 4.2m proposed. ② Legal non-conforming.		

5.0 Technical Comments

5.1 Building & Permitting Department

Full Plan check for Building Code related issues will be done at time of Building Permit. Foundations are required to be frost protected (24") with minimum 9" sonotubes & projecting 6" above grade. Timber posts to be a minimum of 6"x6" and the roof is to be laterally supported.

5.2 Development Engineering Department

The front yard setback variance from 6.0m to 4.2m does not compromise any municipal services or infrastructure. Should a sidewalk be installed along the frontage of the property, the back of the sidewalk will be located at 2.35m from the property line; the distance between the back of the sidewalk and the house would then be 7.225 m. which would exceed the minimum distance requirements established in the hillside zone regulations.

5.3 Fire Department

No comment.

6.0 Alternative Recommendation

Should Council consider the variance request favourably, an alternative recommendation is provided below:

THAT Council authorize the issuance of Development Variance Permit No. DVP11-0178 for Lot 12, Section 23, Township 26, ODYD, Plan 17102, located at 185 Robson Road East, Kelowna, BC;

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

Section 13.1.6(c) - RU1 Development Regulations: To vary the minimum front yard to a carport from 6.0m required to 4.2m proposed, as per Schedule "A".

AND FURTHER THAT Development Variance Permit issuance be subject to a Building Permit application being made for the carport.

7.0 Application Chronology

Date of Application Received: October 14, 2011
Advisory Planning Commission n/a

Report prepared by:



Luke Turri, Land Use Planner

Reviewed by:



Shelley Gambacort, Director, Land Use Management

Approved for inclusion:



Jim Paterson, GM, Community Sustainability

Attachments:

Survey Certificate
Ortho Photo of Robson Road East (100 Block)
Photos of Carport
Draft Development Variance Permit

BC LAND SURVEYOR'S CERTIFICATE OF LOCATION ON LOT 12,
SECTION 23, TOWNSHIP 26, ODYD, PLAN 17102

PID: 008-452-385

185 ROBSON ROAD EAST



SCHEDULE "A"
This forms part of development
Permit # DVP11-0178

THIS PLAN IS FOR THE USE OF THE BUILDING INSPECTOR AND/OR MORTGAGEE ONLY AND IS NOT TO BE USED FOR THE RE-ESTABLISHMENT OF PROPERTY BOUNDARIES.

I HEREBY CERTIFY THAT THE ABOVE SKETCH SHOWS THE REGISTERED DIMENSIONS OF THE ABOVE DESCRIBED PROPERTY AND RELATIVE LOCATION OF THE BUILDINGS THEREON.

CLIENT: LUCY WILSON DATE: SEPTEMBER 15, 2011

SCALE: 1:300 METRES FILE: 19138 DRAWN BY: Pvg

Ferguson Land Surveying & Geomatics Ltd.

BC AND CANADA LAND SURVEYORS 404-1630 PANDOSY STREET, KELOWNA, BC
PHONE: (250) 763-3115 FAX: (250) 763-0321

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Colin Ferguson
COLIN FERGUSON, BCLS
THIS DOCUMENT IS NOT VALID UNLESS ORIGINALLY SIGNED AND SEALED



City of Kelowna - Accuracy and correctness not guaranteed.

DVP11-0178 - 185 Robson Road East



DVP11-0178 - 185 Robson Road East
Photos of carport under-construction

CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No.: DVP11-0178

EXISTING ZONING DESIGNATION: RU1 - Large Lot Housing
DEVELOPMENT VARIANCE: To vary minimum front yard setback.

ISSUED TO: Lucy Wilson
LOCATION OF SUBJECT SITE: 185 Robson Road East

	LOT	DISTRICT LOT	TOWNSHIP	DIV & DIST	PLAN
LEGAL DESCRIPTION:	12	23	26	ODYD	17102

SCOPE OF APPROVAL

- This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.
- This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.
- Applicants for Development and Development Variance Permit should be aware that the issuance of a Permit limits the applicant to be in strict compliance with regulations of the Zoning Bylaw or Subdivision Control Bylaw unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations which are inconsistent with bylaw provisions and which may not have been identified as required Variances by the applicant or City staff.

1. TERMS AND CONDITIONS:

- a) THAT variances to the following section of Zoning Bylaw No. 8000 are granted as per Schedule "A":

Section 13.1.6(e) - RU1 Development Regulations: To vary the minimum front yard to a carport from 6.0m required to 4.2m proposed, as per Schedule "A".

2. PERFORMANCE SECURITY:

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Permittee and be paid to the Permittee if the security is returned. The condition of the posting of the security is that should the Permittee fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use the security to carry out the work by its servants, agents or contractors, and any surplus shall be paid over to the Permittee, or should the Permittee carry out the development Permitted by

this Permit within the time set out above, the security shall be returned to the Permittee. There is filed accordingly:

- (a) Cash in the amount of \$ N/A .
- (b) A Certified Cheque in the amount of \$ N/A .
- (c) An Irrevocable Letter of Credit in the amount of \$ N/A .

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

3. DEVELOPMENT:

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part hereof.

If the Permittee does not commence the development Permitted by this Permit within one year of the date of this Permit, this Permit shall lapse.

This Permit is not transferrable unless specifically Permitted by the Municipality. The authorization to transfer the Permit shall, if deemed acceptable, be granted by Council resolution.

THIS Permit IS NOT A BUILDING Permit.

4. APPLICANT'S AGREEMENT:

I hereby declare that all the above statements and the information contained in the material submitted in support of this Permit are to the best of my belief, true and correct in all respects. Upon issuance of the Permit for me by the Municipality, then in such case, I covenant and agree to save harmless and effectually indemnify the Municipality against:

- (a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality granting to me the said Permit.
- (b) All costs, expenses, claims that may be incurred by the Municipality if the construction by me of engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

I further covenant and agree that should I be granted a Development Permit or Development Variance Permit, the Municipality may withhold the granting of any occupancy Permit for the occupancy and/or use of any building or part thereof constructed upon the hereinbefore referred to land until all of the engineering works or other works called for by the Permit have been completed to the satisfaction of the Municipal Engineer and the Director of Land Use Management.

Should there be any change in ownership or legal description of the property, I undertake to notify the Land Use Management Department immediately to avoid any unnecessary delay in processing the application.

I HEREBY UNDERSTAND AND AGREE TO ALL THE TERMS AND CONDITIONS SPECIFIED IN THIS PERMIT.

Signature of Owner/Authorized Agent

Date

Print Name in Bold Letters

Telephone No.

5. APPROVALS:

AUTHORIZING RESOLUTION PASSED BY MUNICIPAL COUNCIL THE @ OF @, 20@@.

ISSUED BY THE LAND USE MANAGEMENT DEPARTMENT OF THE CITY OF KELOWNA THE @ DAY OF @, 20@@, BY THE DIRECTOR OF LAND USE MANAGEMENT.

Shelley Gambacort
Director of Land Use Management

