

3.0 Land Use Management

This portion of Lakeshore Road has experienced development pressure in recent years with the construction of large lakeside estates and accompanying accessory buildings. The accessory building does deviate from the established rhythm of this section of Lakeshore Road.

A Building Permit was issued for a single storey accessory building. However, the contractor proceeded to build a two storey garage without the appropriate permissions in place. The applicant is seeking to vary the height of the accessory structure and retaining wall with a fence to legitimize the existing structures.

In principle, it is not preferred to provide support for an accessory building height variance given the building has been constructed without the appropriate permits. However, the City will benefit from the registration of a no-disturb covenant to protect the foreshore of this lakeshore property. As both the building and retaining wall have been constructed and completed, there are few options to convert them to conforming heights. The Building and Permitting branch will require updated structural engineering drawings to ensure that the additional building height and retaining wall meets code and safety requirements. While the most affected neighbour to the south west of the subject property has not provided support of the requested variances, the photos demonstrate that this shared property line is met with a comparatively large neighboring house that exceeds the height of both the retaining wall/fence and the accessory building. Therefore, minimal visual or privacy impact is expected by the western property given the siting and orientation of the neighboring single family dwelling.

4.0 Proposal

4.1 Project Description

A permit was issued by the Building and Permitting branch in 2009 to allow the construction of a single storey garage on the subject property, however, a two storey accessory building was erected. The Building and Permitting Branch has been actively pursuing compliance to ensure that applicant proceeds with a variance application and the corresponding permits to allow the building to remain in place.

During the construction of the garage, a retaining wall was erected to secure the garage and driveways. A fence is situated on the retaining wall to provide privacy for the home owner. Although the retaining wall is engineered, it in combination with the fence exceeds the permitted height from 2.0m allowed to 4.2m proposed.

4.2 Site Context

The subject property is located on the west side of Lakeshore Road in the Southwest Mission area of Kelowna. The surrounding properties are zoned as follows:

Orientation	Zoning	Land Use
North	RR3 - Rural Residential 3	Single Family Dwelling
East	RR3 - Rural Residential 3	Single Family Dwelling
South	A1 - Agriculture 1	Farm Use
West	W1 - Recreational Water Use	Okanagan Lake

Subject Property Map: 4962 Lakeshore Road



4.3 Zoning Analysis Table

The proposed application meets the requirements of RR2 - Rural Residential 2 zone as follows:

Zoning Analysis Table		
CRITERIA	RR2 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Lot Area	4000 m ²	3,370 m ² *
Lot Width	36 m	28 m *
Lot Depth	30 m	114 m
Accessory Development Regulations		
Floor Area		158.3 m ²
Height	4.5m	6.65m ①
Front Yard	18m unless it complies with the side yard requirements for a principal dwelling	37.8m
Side Yard (east)	1.0m	2.0 m
Side Yard (west)	1.0m	18.7 m
Rear Yard	3.0m	65 m
Other Regulations (Section 7.5 - Fencing and retaining)		
Maximum height of fence & retaining wall	3.0m	4.2 m ②
① Indicates a requested variance the height of the accessory building from 4.5m permitted to 6.65m proposed. *Existing non-conforming lot area and front lot line. ② Indicates a requested variance to both the height of the retaining wall and the overall height of the structure.		

5.0 Technical Comments

5.1 Building & Permitting Department

Development Services is in support of this variance(s) request(s), but council should be aware that there was a permit issued for this accessory structure as a one story structure (Aug 11, 2009). Our building inspectors were only called for two inspections after issuance of the permit. The inspections were footing & foundation (Aug 12, 2009) as well as backfill (Aug 25, 2009) then the project stalled and no other inspections were requested until we were alerted to construction being complete in May 2011.

Development services will require the owner to re apply for a new building permit if the variances are approved. We will require in addition to the new architectural drawings that the owner supply structural engineering drawings, specifications, schedules and inspection reports, since the second storey is a suspended garage floor and retaining walls were added.

5.2 Environmental Land Use

The Environment & Land Use Branch recommend that the foreshore of Okanagan Lake be protected via a no build/no disturb Section 219 Restrictive Covenant to be registered under the Land Title Act against the title of the subject property to effectively preserve the Riparian Management Area and adjacent steep slope.

5.3 Development Engineering Department

This development variance permit application to vary the garage height from 4.5m to 6.65m does not compromise any municipal services.

6.0 Application Chronology

Date of Application Received: July 26, 2012
Application refinement: August 29, 2012

Report prepared by:



Birte Decloux, Urban Land Use Planner

Reviewed by:



Danielle Noble, Manager of Urban Land Use

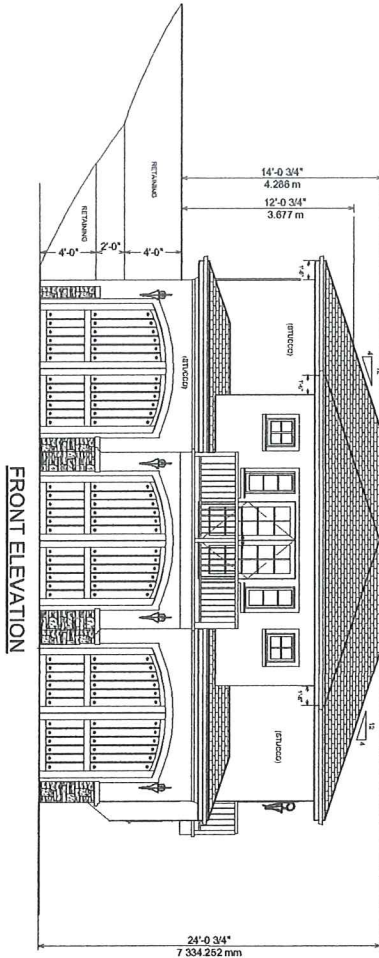
Approved for Inclusion:



Shelley Gambacort, Director of Land Use Management

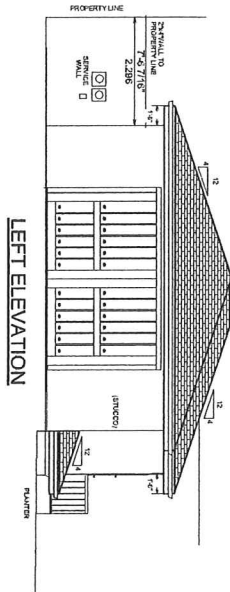
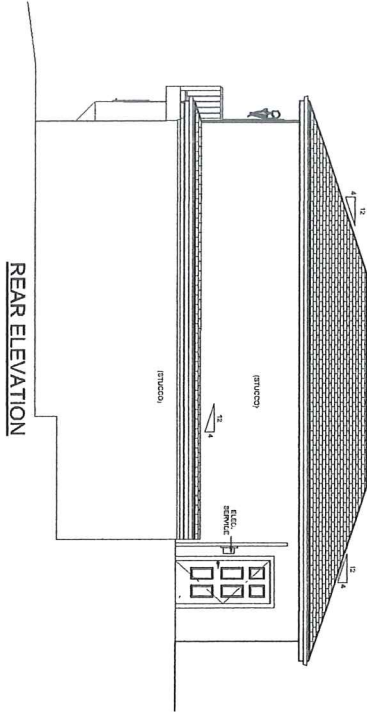
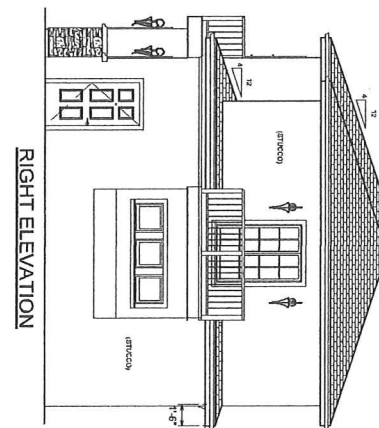
Attachments:

Site Plan
Elevations
Context/Site Photos



NOTE
 MINOR VARIATIONS IN CONSTRUCTION OR OTHER
 CONDITIONS FROM TO CORRECT TO SUIT
 THE CONTRACTOR'S DISCRETION.

NOTE
 CONTRACTOR SHALL ALLOW FOR
 FINISHES TO BE DETERMINED BY THE
 CLIENT.



GENERAL NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE CANADIAN BUILDCODE AND ALL LOCAL, PROVINCIAL AND FEDERAL REGULATIONS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY AND SHALL BE RESPONSIBLE FOR THE COST THEREOF.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES ON THE SITE.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES ON THE SITE.

FRONT HEIGHT: 18'-11 3/4" - 6.85 M
 RIGHT HEIGHT: 17'-9 1/4" - 5.43 M
 REAR HEIGHT: 15'-6 5/8" - 4.72 M
 LEFT HEIGHT: 10'-0" - 3.05 M
 AVERAGE HEIGHT: 5.0225 M

SPECIFICATIONS

- ROOF**
- 1. LAMINATED PLYWOOD SHEATHING
 - 2. 2" MINIMUM INSULATION
 - 3. 1/2" GYP. BOARD FINISH
 - 4. 6" MINIMUM ROOF TRUSSES
 - 5. 6" MINIMUM RAFTERS
 - 6. 6" MINIMUM BRACES
 - 7. 6" MINIMUM BRACES
 - 8. 6" MINIMUM BRACES
 - 9. 6" MINIMUM BRACES
 - 10. 6" MINIMUM BRACES
- EXTERIOR WALL**
- 1. 2" MINIMUM INSULATION
 - 2. 1/2" GYP. BOARD FINISH
 - 3. 6" MINIMUM ROOF TRUSSES
 - 4. 6" MINIMUM RAFTERS
 - 5. 6" MINIMUM BRACES
 - 6. 6" MINIMUM BRACES
 - 7. 6" MINIMUM BRACES
 - 8. 6" MINIMUM BRACES
 - 9. 6" MINIMUM BRACES
 - 10. 6" MINIMUM BRACES
- FOUNDATION**
- 1. 1/2" GYP. BOARD FINISH
 - 2. 1/2" GYP. BOARD FINISH
 - 3. 1/2" GYP. BOARD FINISH
 - 4. 1/2" GYP. BOARD FINISH
 - 5. 1/2" GYP. BOARD FINISH
 - 6. 1/2" GYP. BOARD FINISH
 - 7. 1/2" GYP. BOARD FINISH
 - 8. 1/2" GYP. BOARD FINISH
 - 9. 1/2" GYP. BOARD FINISH
 - 10. 1/2" GYP. BOARD FINISH

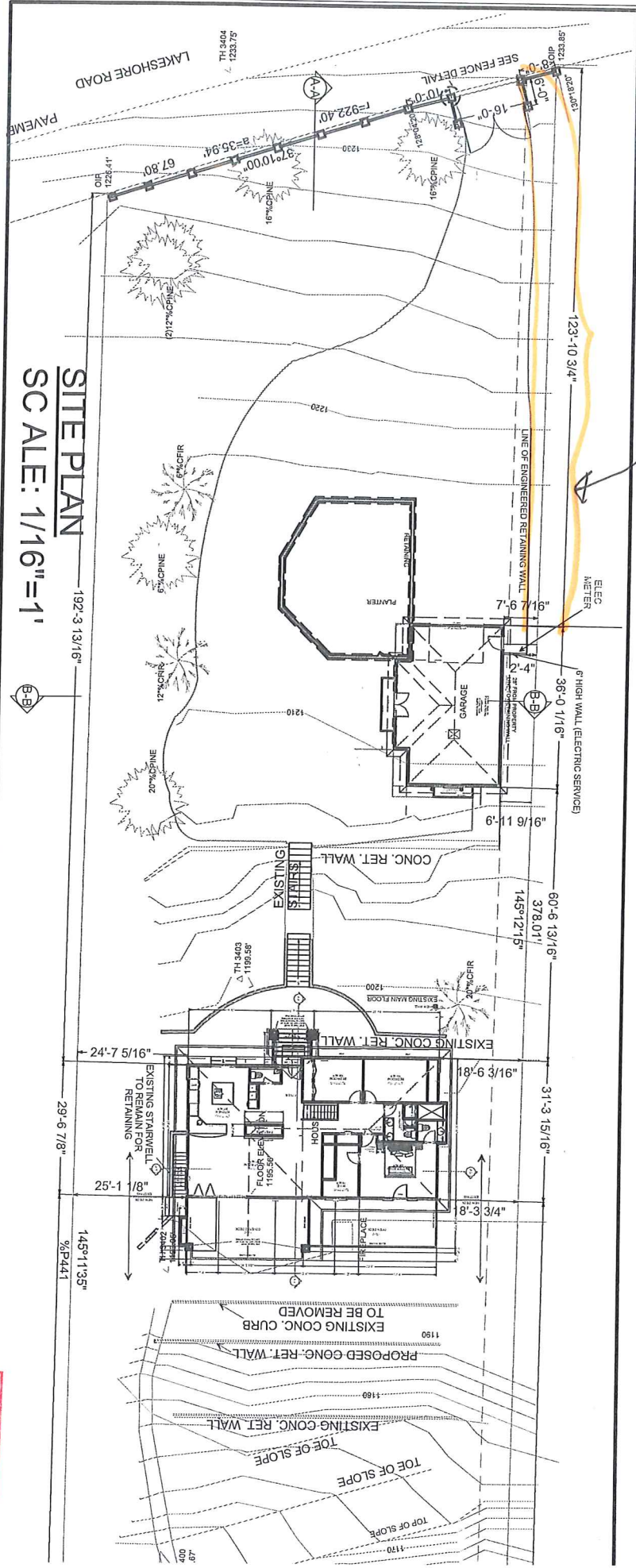


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PROPOSED PROJECT FOR
4962 LAKESHORE RD.

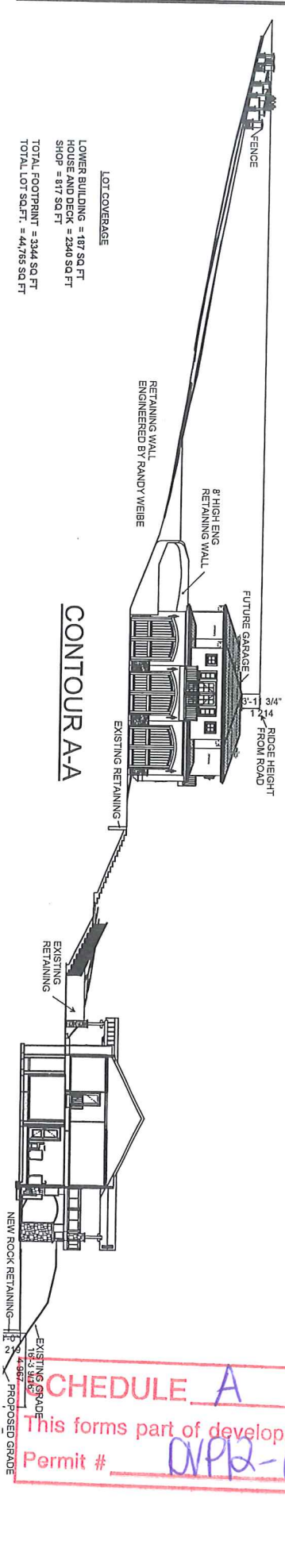
SCALE: 1/4" = 1'
 DATE: JUNE -20-2012

SHEET NUMBER
1/3



area of retaining wall variance

SITE PLAN
SCALE: 1/16"=1'



LOT COVERAGE

LOWER BUILDING = 187 SQ. FT.
HOUSE AND DECK = 2240 SQ. FT.
SHOP = 817 SQ. FT.
TOTAL FOOTPRINT = 3244 SQ. FT.
TOTAL LOT SQ. FT. = 44,755 SQ. FT.

CONTOUR A-A

SCHEDULE A
This forms part of development
Permit # 0V12-0139









CITY OF KELOWNA

APPROVED ISSUANCE OF A:

Development Variance Permit No. : DVP12-0139

EXISTING ZONING DESIGNATION:	RR2 - Rural Residential 2
WITHIN DEVELOPMENT PERMIT AREA:	N/A

ISSUED TO: K. Hannan APPLICANT: Mullins Drafting and Design (Lee Mullins)
LOCATION OF SUBJECT SITE: 4962 Lakeshore Road

	LOT	D.L.	PLAN	SECTION	TOWNSHIP	DISTRICT
LEGAL DESCRIPTION:	3		4493	26	28	SDYD

<u>SCOPE OF APPROVAL</u>	
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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:

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

Section 12.2.6(b) Development Regulations:

To vary the height of an accessory building from 4.5m permitted to 6.65m proposed.

Section 7.5.9 Fencing and Retaining Walls:

To vary the total height of a retaining wall 1.2m permitted to 2.4 m proposed.

Section 7.5.12 Fencing and Retaining Walls:

To vary the maximum height of a retaining wall with a fence from 3.0m permitted to 4.2m proposed.

2. The development shall commence by and in accordance with an approved Building Permit within ONE YEAR of the date of the Municipal Council authorization resolution.

3. 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.

4. 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 transferable 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.

5. 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 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.

6. APPROVALS:

DEVELOPMENT VARIANCE PERMIT AUTHORIZED BY COUNCIL ON THE ___th DAY OF OCTOBER, 2012.

ISSUED BY THE LAND USE MANAGEMENT DEPT. OF THE CITY OF KELOWNA THE ___TH DAY OF OCTOBER, 2012.

Shelley Gambacort
Director of Land Use Management