

**DEVELOPMENT PERMIT WITH VARIANCE APPLICATION NO. PL2023-050
2295 WIDGEON ROAD, ELECTORAL AREA H**

RECOMMENDATIONS

1. That the Board approve Development Permit with Variance No. PL2023-050 to permit a second-storey addition to the existing dwelling and the construction of a second dwelling to the terms and conditions outlined in Attachment 2.
2. That the Board direct staff to complete the required notification for Development Permit with Variance No. PL2023-050.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Rina Knoesen on behalf of Ronald and Carol Elloway to permit a second-storey addition to the existing dwelling and the construction of a second dwelling. The subject property, legally described as Lot 12, District Lot 81, Newcastle District, Plan 1967, is approximately 2.5 hectares in area and is zoned Rural 1 (RU1), Subdivision District 'D', pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is located to the north of Widgeon Road, borders the Straight of Georgia and is surrounded by rural residential properties (see Attachment 1 – Subject Property Map).

The property contains an existing dwelling unit, detached garage and woodshed and is serviced by a well and onsite wastewater disposal.

The proposed development is subject to the Hazard Lands Development Permit Area (DPA) as per the "Regional District of Nanaimo Electoral Area 'H' Official Community Plan Bylaw No. 1335, 2017".

Proposed Development and Variance

The proposed development includes the construction of a second-storey addition to an existing dwelling unit on the subject property which requires a variance. The applicant proposes to vary the following regulations from the "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987":

- **3.4.81 – Minimum Setback Requirement** to decrease the minimum setback requirement from 8.0 metres to 3.0 metres to allow the construction of a second-storey addition onto an existing dwelling unit.

Land Use Implications

The applicant has applied for a Development Permit with Variance to allow for a second-storey addition to an existing dwelling and to allow for the construction of a second dwelling on the subject property. The existing dwelling was built in 1952, prior to the implementation of zoning and building inspection in Electoral Area H. The

existing dwelling encroaches 1.3 metres onto the undeveloped road right of way or Seal Road. In order to build a second-storey addition to this dwelling, the applicant has requested to reduce the lot line setback from 8.0 metres to 3.0 meters.

To address the DPA guidelines the applicant has submitted a Geotechnical Slope Stability Assessment prepared by Lewkowich Engineering Associates Ltd. (the Report), dated July 20, 2023. The Report evaluated the current global stability of the slope under both static and seismic conditions to determine a safe setback from the crest of the slope for residential development.

The Report recommends a minimum 24.0 metres setback from the slope's main crest. In accordance with this recommendation, the proposed addition to the existing dwelling will be located 24.7 metres from the crest of the slope and the proposed new dwelling will be located 24.1 metres from the slope. The Report recommends that the setback be surveyed and marked on-site by a qualified professional before construction. To protect the slope stability, the report recommends that water sources such as fountains, ponds, swimming pools and in-ground lawn irrigation be prohibited within the 24.0 metres setback from the crest of the slope. Additionally, the Report states that no vegetation or trees may be removed from the slope and that the disposal of fills, yard waste, organic debris or excavation soil must not be discharged or dumped onto the slope or placed along the crest of the slope.

It is recommended that the applicant be required to register, at the applicant's expense, a Section 219 Covenant on the property title containing the Geotechnical Slope Stability Assessment prepared by Lewkowich Engineering Associates Ltd., dated July 20, 2023, and includes a save harmless clause that releases the RDN for all losses and damages as a result of the potential hazard (see Schedule 1 of Attachment 2 – Draft Development Permit)

"Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation" (Policy B1.5) for the evaluation of development variance permit applications requires that there is an adequate demonstration of an acceptable land use justification prior to the Board's consideration. In support of this application, and to address this policy, the applicant has provided a letter of rationale for the requested variances, a permit for encroachment from the Ministry of Transportation and Infrastructure (MOTI) , a survey plan showing the proposed location of the second-storey addition to the existing dwelling, the proposed location of the second dwelling as well as building plans and elevations for both the proposed addition and the proposed dwelling (see Attachment 2 – Draft Development Permit).

With respect to the applicant's proposal to reduce the lot line setback from 8.0 metres to 3.0 meters, the applicants have indicated that the structure of the existing dwelling would support a second-storey addition where it is currently proposed. The applicant has also chosen a second storey addition over expanding on the west side of the existing dwelling in order to protect a well-established oak tree.

Given that the applicants have provided sufficient rationale, the proposed development meets all of the requirements of the RU1 zone, and the variances are not anticipated to result in negative implications for adjacent property owners, the applicants have made reasonable efforts to address Policy B1.5, it is recommended that the Development Permit with Variance subject to the terms and conditions in the Draft Development permit (see Attachment 2 – Draft Development Permit).

Intergovernmental Implications

The applicant has received a permit from MOTI to use and maintain a 1.3-metre encroachment of the existing dwelling into the road right of way, a 0.5-metre setback of the existing woodshed, a 3.2-metre setback to the existing garage and a 3.0-metre setback to the proposed addition fronting a provincial public highway.

Public Consultation Implications

Pending the Electoral Area Services Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Application, Notification Procedures and Fees Bylaw No. 1845, 2022", property owners and tenants of parcels located within a 100.0 metre radius of the subject property will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board's consideration of the application.

FINANCIAL IMPLICATIONS

The proposed development has no implications related to the Board 2023-2027 Financial Plan.

STRATEGIC PLAN ALIGNMENT

The proposed development has been reviewed and advances the strategic plan priorities through Environmental Stewardship - Protect and enhance the natural environment, including land, water, and air quality for future generations.

REVIEWED BY:

G. Keller, Acting Manager, Current Planning
L. Grant, General Manager, Development and Emergency Services
T. Osborne, Acting Chief Administrative Officer

ATTACHMENTS:

1. Subject Property Map
2. Draft Development Permit with Variance