



BOARD REPORT

TO: Chair and Directors **File No:** DVP701-89
PL20190000071

SUBJECT: Electoral Area C: Development Variance Permit 701-89

DESCRIPTION: Report from Christine LeFloch, Planner II, dated May 29, 2019.
3230 Berke Road, Blind Bay.

RECOMMENDATION THAT: in accordance with Section 498 of the Local Government Act, Development Variance Permit 701-89 for Lot 16, Section 30, Township 22, Range 10, West of the 6th Meridian, Kamloops Division Yale District, Plan KAP56039, varying South Shuswap Zoning Bylaw No. 701 as follows:

1. Section 7.2.5 Minimum setback from an interior side parcel line from 2 m to 0 m only for the existing single family dwelling and attached deck; and
2. Section 3.5.8 Minimum setback from an interior side parcel line from 1 m to 0 m only for the eaves and gutters of the existing single family dwelling and attached deck;

be approved this 20th day of June, 2019;

AND THAT: issuance of Development Variance Permit 701-89 be subject to registration of an easement over a portion of Lot 15, Section 30, Township 22, Range 10, West of the 6th Meridian, Kamloops Division Yale District, Plan KAP56039, to include the encroaching portions of the existing single family dwelling and attached deck plus an additional 2 metres along the west side of the structure, and the easement wording is to include provisions for a 2 m building setback from the western edge of the easement to maintain the zoning setback standards for future development of Lot 15.

SHORT SUMMARY:

The applicant would like to resolve a building encroachment that occurred prior to his purchase of the subject property (Lot 16). The western side of the existing single family dwelling constructed on Lot 16 is encroaching 5 m onto Lot 15 and the deck attached to the single family dwelling is encroaching 6.9 m onto Lot 15. The applicant purchased Lot 15 after learning that the single family dwelling and attached deck encroach onto that property. The applicant is requesting variances to allow these structures to be sited at 0 m from the interior side lot line and is offering to register an easement over Lot 15 to allow the structure to remain in its current location, as shown on the easement plan (included in the attached document Maps_Plans_Photos_DVP701-89.pdf).

VOTING:

Unweighted
Corporate

☐

LGA Part 14
(Unweighted)

☒

Weighted
Corporate

☐

Stakeholder
(Weighted)

☐

BACKGROUND:

REGISTERED OWNER(S):

Svend Lojstrup

APPLICANT:

Cates Ford EPP Barristers and Solicitors c/o Morgan R. Elander

AGENT:

Morgan R. Elander

ELECTORAL AREA:

C

LEGAL DESCRIPTION:

Lot 16, Section 30, Township 22, Range 10, West of the 6th Meridian, Kamloops Division Yale District, Plan KAP56039

PID:

023-292-687

CIVIC ADDRESS:

3230 Berke Road, Blind Bay

SURROUNDING LAND USE PATTERN:

North = Berke Road, Rural Residential

South = Rural Residential

East = Rural Residential

West = Rural Residential

CURRENT USE:

Single family dwelling and attached deck on Lot 16 is encroaching onto Lot 15

PROPOSED USE:

Resolve encroachment of single family dwelling through a Development Variance Permit and an easement over Lot 15 for the area of the encroachment and 2.0 m setback areas.

PARCEL SIZE:

Lot 16 – 0.53 ha

Lot 15 – 0.6 ha

PROPOSED PARCEL SIZE:

N/A

DESIGNATION:

Electoral Area C Official Community Plan Bylaw No. 725

RR2 Rural Residential 2

ZONE:

South Shuswap Zoning Bylaw No. 701

RR1 Rural Residential (.4 ha)

PROPOSED DESIGNATION:

N/A

PROPOSED ZONE:

N/A

AGRICULTURAL LAND RESERVE:

0%

SITE COMMENTS:

The subject property is located on Berke Road in the MacArthur Heights subdivision in Blind Bay. According to CSRD slope mapping the lot contains slopes between 35-50%. The steeper portions of the lot are well treed. Access to the property is on Lot 16 via Berke Road and other than the encroaching portions of the house Lot 15 remains undeveloped.

SERVICING:

The property is serviced by a septic system and MacArthur Heights Water System. The septic system is located on Lot 16 on the east side of the house.

POLICY:

Please see BL701_BL725_Excerpts_DVP701-89.pdf, attached.

FINANCIAL:

There are no financial implications for the CSRD as a result of this application.

KEY ISSUES/CONCEPTS:

The owner of the subject property purchased Lot 16 in October of 2012. At that time the property was already developed with the existing house in its present location. It is noted that there was no building inspection in Electoral Area C at that time. The encroachment issue was not realized until 2016 at which time the owner purchased Lot 15.

In order to regularize and permit the encroachment the owner is seeking the following variances:

- Section 7.2.5 Minimum setback from the interior side parcel line from 2 m to 0 m only for the existing single family dwelling and attached deck; and
- Section 3.5.8 Minimum setback from the interior side parcel line from 1 m to 0 m only for the eaves and gutters of the existing single family dwelling and attached deck.

The owner has looked into other options for resolving the encroachment issue, including a boundary adjustment between the two parcels. However, there is a Statutory Building Scheme on title of both parcels along with 34 other lots in MacArthur Heights. This building scheme precludes subdivision, and because a boundary adjustment is considered to be a form of subdivision an application to adjust the boundary would entail obtaining consent from either the developer, or in their absence, all other owners

and mortgage holders within the building scheme. The other option considered was consolidation of Lots 15 and 16, which is combining the two lots to create one larger lot. Despite the encroachment there is still enough usable area on Lot 15 for another single family dwelling. Consolidating the lots would entail a loss of value to the owner, who would be able to sell the lot if the encroachment issue is resolved. For these reasons the owner has opted to apply for the above noted variances.

The owner has offered to register an easement over a portion of Lot 15 including the encroaching portions of the house plus an additional 2 metres along the west side. The easement wording would include provisions for a 2 m setback from the edge of the easement to maintain the zoning setback standards for future development of Lot 15. Registration of the easement would be included as a condition of DVP issuance.

SUMMARY:

Staff are recommending that DVP701-89 be approved for the following reasons:

- The proposed variances would permit a 0 m setback for the existing single family dwelling and attached deck located on Lot 16;
- The easement being offered would permit the encroachment of the existing single family dwelling and attached deck located on Lot 15 and establishes a 2 m setback as if the easement boundary were a lot line; and
- The applicant currently owns the subject property (Lot 16) and the adjacent Lot 15 which is the property most affected by the proposed variances.

IMPLEMENTATION:

If Development Variance Permit 701-89 is approved by the Board, staff will notify the applicant of the conditional approval. Once the applicant provides documentation to the CSRSD showing registration of the easement, staff will prepare a notice to be sent to the Land Titles and Survey Authority for registration of the DVP on title.

COMMUNICATIONS:

Notice of the proposed Development Variance Permit has been sent to all owners of property lying within 100 m of the subject property in accordance with Section 499 of the Local Government Act advising of the opportunity to comment on the proposed variances.

This application was sent to the Electoral Area C Advisory Planning Commission (APC) for review. The APC recommended approval of the proposed variances.

DESIRED OUTCOMES:

The Board approve the staff recommendation.

BOARD'S OPTIONS:

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*

4. *Any other action deemed appropriate by the Board.*


LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. South Shuswap Zoning Bylaw No. 701
2. Electoral Area C Official Community Plan Bylaw No. 725

Report Approval Details

Document Title:	2019-06-20_Board_DS_DVP701-89_Lojstrup.docx
Attachments:	- DVP 701-89.pdf - BL701_BL725_Excerpts_DVP701-89.pdf - Maps_Plans_Photos_DVP701-89.pdf
Final Approval Date:	Jun 7, 2019

This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Jun 7, 2019 - 9:59 AM



Gerald Christie - Jun 7, 2019 - 1:07 PM

No Signature - Task assigned to Lynda Shykora was completed by assistant Jennifer Sham

Lynda Shykora - Jun 7, 2019 - 1:24 PM



Charles Hamilton - Jun 7, 2019 - 3:13 PM