



BOARD REPORT

TO: Chair and Directors

File No: DVP825-28 REVISED
PL20190096

SUBJECT: Electoral Area F: Development Variance Permit No. 825-28 - Revised (Nevokschonoff)

DESCRIPTION: Report from Laura Gibson, Planner I, dated January 6, 2020.
2868 Squilax-Anglemont Road, Lee Creek

RECOMMENDATION: THAT: in accordance with Section 498 of the Local Government Act, Development Variance Permit No. 825-28 - Revised for Lot 2, Section 30, Township 22, Range 11, and of Section 25, Township 22, Range 12, West of the 6th Meridian, Kamloops Division Yale District, Plan 5519, varying Scotch Creek/Lee Creek Zoning Bylaw No. 825 as follows:

- Section 5.7.3(f) Minimum setback from the front parcel boundary from 4.5 m to 1.3 m, only for the foundation of the accessory building, and from 4.5 m to 0.36 m, only for the eaves of the accessory building, and;
- Section 5.7.3(f) Minimum setback from the south interior side parcel boundary from 2.0 m to 1.29 m, only for the eaves of the accessory building,

be authorized for issuance this 16th day of January, 2020.

SHORT SUMMARY:

The subject property is located in Lee Creek, at 2868 Squilax-Anglemont Road, and is subject to Scotch Creek/Lee Creek Zoning Bylaw No. 825 (Bylaw No. 825) and Electoral Area 'F' Official Community Plan Bylaw No. 830. An accessory building to be used as a garage with storage and recreation room areas is currently under construction on the subject property. This accessory building replaces an older log structure which was demolished. The original Development Variance Permit No. 825-28 was issued on August 15, 2019 and approved a variance for the front parcel boundary setback from 4.5 m to 1 m for the proposed building. However, the site plan submitted with the Development Variance Permit application did not include the proposed building's eaves. Eaves are not exempt from setback regulations in Bylaw No. 825, and the property owners are now applying for a revision to their Development Variance Permit to recognize the eaves within the setback. The requested variance is for Section 5.7.3(f) of Bylaw No. 825, minimum setback for the front parcel boundary from 4.5 m to 1.3 m, only for the accessory building foundation, and from 4.5 m to 0.36 m, only for the eaves of the accessory building, and minimum setback from the interior side parcel boundary from 2 m to 1.29 m, only for the eaves of the accessory building.

VOTING:	Unweighted Corporate	<input type="checkbox"/>	LGA Part 14 (Unweighted)	<input checked="" type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (Weighted)	<input type="checkbox"/>
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BACKGROUND:

REGISTERED OWNER(S):

Glen and Wendy Nevokschonoff

APPLICANTS:

Glen and Wendy Nevokschonoff

ELECTORAL AREA:

F (Lee Creek)

LEGAL DESCRIPTION:

Lot 2 Section 30 Township 22 Range 11 and of Section 25 Township 22 Range 12 West of the 6th Meridian Kamloops Division Yale District Plan 5519

PID:

009-782-222

CIVIC ADDRESS:

2868 Squilax-Anglemont Road

SURROUNDING LAND USE PATTERN:

North = Waterfront Residential

South = Waterfront Residential

East = Shuswap Lake

West = Squilax-Anglemont Road, Rural Residential

CURRENT USE:

Single family dwelling, accessory building (under construction)

PROPOSED USE:

Recognize location of the new accessory building within the front and interior side parcel boundary setbacks

PARCEL SIZE:

0.173 ha (0.41 ac.)

DESIGNATION:

Electoral Area 'F' Official Community Plan Bylaw No. 830

WR - Waterfront Residential

ZONE:

Scotch Creek/Lee Creek Zoning Bylaw No. 825

Land = R1 – Residential 1

Foreshore = Lakes Zoning No. 900

FR1 - Foreshore Residential 1

AGRICULTURAL LAND RESERVE:

0%

SITE COMMENTS:

The subject property is waterfront to Shuswap Lake and highly vegetated, other than the existing building footprints and the existing driveway (see attached DVP825-28_Maps_Plans_Photos.pdf). The owners have stated in their application that by expanding the new accessory building over the existing driveway and into the front parcel boundary setback, the vegetation disturbance on the property has been minimized.

POLICY:**Electoral Area 'F' Official Community Plan Bylaw No. 830**

The subject property is designated 'WR - Waterfront Residential' in the Electoral Area F Official Community Plan (OCP) Bylaw No. 830. The proposed accessory building and use is consistent with the policies of the OCP.

11.6 Waterfront Residential (WR)

Policy 3 The maximum net density for any new dwelling not on community water and sewer is one unit per 2.5 acres (1 unit per hectare).

Policy 5 For aesthetic purposes, and to create a visual buffer from the water's edge, all new buildings or structures within the Waterfront Residential designation should maintain a minimum setback of at least 15 metres (49.2 feet) from the natural boundary of the water.

Development Permit Areas**13.3 Lakes 100m Development Permit Area**

Section 13.3 of the OCP, designates all areas within 100 m of Shuswap Lake as Lakes 100 m Development Permit Area. The objective of the Lakes 100 m DPA is to prevent or mitigate potential negative impacts on the lake environment from larger scale development and sewerage systems. A DP may be issued following submission of a report from a qualified professional registered with APEGBC with experience in hydrogeology.

13.4 Riparian Areas Regulation (RAR) Development Permit Area

Section 13.4 of the OCP, designates all areas within 30 m of a watercourse as Riparian Areas Regulation Development Permit Areas. The purpose of this designation is to regulate development activities in watercourses and their riparian areas in order to preserve natural features, functions and conditions that support fish life processes. A DP may be issued when the following guidelines have been met:

- Assessment by a Qualified Environmental Professional (QEP) in accordance with the Riparian Areas Regulation established by the Provincial and or Federal Governments; and
- Provincial notification that a QEP has submitted a report certifying that he or she is qualified to carry out the assessment, that the assessment methods have been followed, and provides in their professional opinion that a lesser setback will not negatively affect the functioning of a watercourse or riparian area and that the criteria listed in the Riparian Areas Regulation has been fulfilled.

Scotch Creek/Lee Creek Zoning Bylaw No. 825**Section 1 – Definitions**

ACCESSORY BUILDING is a detached structure, not used for human habitation; that is subordinate to, customarily incidental to, and exclusively devoted to the use with which it relates;

DWELLING UNIT is the use of one or more habitable rooms in a building that constitute a single self-contained unit with a separate entrance, and used together for living and sleeping purposes for not more than one family, and containing a bathroom with a toilet, wash basin, and a bath or shower and only one room which due to its design, plumbing, equipment and furnishings may be used primarily as a kitchen. This use does not include a tourist cabin, a tourist suite, or a sleeping unit in a hotel or motel;

GUEST ACCOMMODATION is the use of a guest cottage or guest suite on the same parcel as a single family dwelling, for temporary rent free accommodation on a non-commercial basis by guests of the residents of the single family dwelling;

GUEST COTTAGE is the use of a detached building for guest accommodation;

GUEST SUITE is the use of a self-contained suite within a single family dwelling for guest accommodation;

SETBACK is the shortest horizontal distance between any portion of a building or structure that is above finished ground level and each of the respective parcel boundaries.

Section 3.11 – Guest Accommodation General Regulations

(1) A guest accommodation must:

- (a) have a floor area of less than 50 m² (538.21 sq. ft.);
- (b) have a door direct to the outdoors;
- (c) have a maximum of one sleeping unit;
- (d) be located on a parcel 1.0 ha (2.47 ac.) or larger in area;
- (e) be located on the same parcel as a single family dwelling that is a principal use; and
- (f) there shall be a maximum of one guest cottage or one guest suite per parcel.

Section 5.7 – 'Residential – 1' Zone

(1) Permitted Uses – Principal Uses:

- (a) single family dwelling

(2) Permitted Uses – Secondary Uses:

- (a) accessory use
- (c) Guest accommodation

(3)(f) Minimum setback from:

- front parcel boundary: 4.5 m
- interior side parcel boundary: 2 m

FINANCIAL:

If the Board does not issue the requested variance, and the owner does not bring the property into compliance by moving or modifying the accessory building, staff will consider bylaw enforcement options.

KEY ISSUES/CONCEPTS:

The property owners are in the process of constructing an accessory building on the subject property for use as a garage with storage and recreation room areas. A Riparian Areas Regulation and Lakes 100 m Development Permit was issued prior to construction, as well as a Building Permit and a Development Variance Permit (DVP) to vary the front parcel boundary setback.

The DVP was issued based on a site plan which staff had understood included the eaves, however, the site plan was only showing the building foundation. Eaves are not exempt from the setback regulations in Bylaw No. 825, and therefore the DVP requires a revision to recognize the location of the eaves within the parcel boundary setbacks. A BCLS Certificate of Location confirms that the new accessory building foundation is constructed 1.3 m from the front parcel boundary (see attached "DVP825-28_Maps_Pans_Photos.pdf"). However, as per the building plans and the issued building permit, the eaves extend to 0.36 m from the front parcel boundary and 1.29 m from the south interior side parcel boundary.

The Building Permit was issued subject to compliance with the DVP. Staff noticed the discrepancy between the DVP and building plans after receiving an inquiry from a property owner in the vicinity of the subject property.

The previously existing accessory building, which was torn down, was an old log structure used for storage and as a recreation room and contained a wet bar and washroom. The owners wanted to have a garage to store their vehicles and boat over the winter without losing their storage and recreation room spaces. The new accessory building is a garage with parking spaces for 2 vehicles and a boat and includes storage and recreation room areas. The recreation room area includes a wet bar (sink and fridge) and washroom. Zoning Bylaw No. 825 does not allow the proposed accessory building to be used as a dwelling unit, as the parcel is not the 1 ha minimum parcel size that is required for Guest Accommodation. A dwelling unit would contain a full kitchen, including stove. The wet bar and washroom proposed in the new accessory building are acceptable. The applicants have confirmed that the new accessory building is not intended to be used as a dwelling unit.

The new accessory building covers the footprint of the previous existing accessory building as well as the existing driveway where the owners previously parked their vehicles. The building foundation extends into the front parcel boundary setback, and the eaves of the building encroach into the front and interior side parcel boundary setbacks. The garage doors face north, not towards Squilax-Anglemont Road to the west.

The applicant is proposing to vary Bylaw No. 825:

- Section 5.7.3(f) Minimum setback from the front parcel boundary from 4.5 m to 1.3 m, only for the foundation of the accessory building, and from 4.5 m to 0.36 m, only for the eaves of the accessory building, and;
- Section 5.7.3(f) Minimum setback from the south interior side parcel boundary from 2.0 m to 1.29 m, only for the eaves of the accessory building.

A 4.5 m setback from Squilax-Anglemont Road is also required by the Ministry of Transportation and Infrastructure (MOTI). A setback permit was approved and issued by MOTI for the accessory building to be located 1 m from the front parcel boundary.

Development Permit Areas

The proposed accessory building required a Lakes 100 m Development Permit due to the historical and proposed vegetation removal exceeding 30% of parcel area within 100 m of Shuswap Lake and a Riparian Areas Regulation (RAR) Development Permit for development within 30 m of Shuswap Lake (the riparian area). Approval of technical development permits such as these has been delegated to the

Manager of Development Services for review and issuance. The Lakes 100 m and RAR Development Permit was issued by the Manager of Development Services following issuance of the original DVP by the CSRD Board.

The Lakes 100 m Development Permit application was accompanied by a report from a Hydrogeologist, a professional who understands soil, drainage and hydrogeology. The Hydrogeology report concluded that stormwater discharge from the proposed development is unlikely to have any detrimental impact on Shuswap Lake if addressed in a controlled and managed manner.

The Riparian Areas Regulation Development Permit application included a report from a Qualified Environmental Professional (QEP), who assessed the proposed development and its potential to impact the riparian area. The QEP established the streamside protection and enhancement area (SPEA), within which no further development is to occur, as 15 m from the high water mark of Shuswap Lake. The proposed development is occurring entirely outside of the 15 m SPEA. The report concluded that there will be no harmful alteration, disruption or destruction of natural features, functions and conditions that support fish life processes in the riparian assessment area in which the development is located.

SUMMARY:

The property owners are proposing to vary the Scotch Creek/Lee Creek Zoning Bylaw No. 825 as follows:

- Section 5.7.3(f) Minimum setback from the front parcel boundary from 4.5 m to 1.3 m, only for the foundation of the accessory building, and from 4.5 m to 0.36 m, only for the eaves of the accessory building, and;
- Section 5.7.3(f) Minimum setback from the south interior side parcel boundary from 2.0 m to 1.29 m, only for the eaves of the accessory building.

Development Services staff are recommending that the Board consider issuance of revised Development Variance Permit No. 825-28 for the following reasons:

- The change from the original issued variance is for the eaves only, not the foundation or walls of the accessory building;
- The variance to the front parcel boundary setback should have minimal impact on surrounding properties;
- The variance to the south interior side parcel boundary setback is relatively minor and only for the eaves of the accessory building;
- The owners have stated in their application that they chose the location of the accessory building to minimize vegetation disturbance on the waterfront property;
- The Riparian Areas Assessment and the Hydrogeology report completed for the Riparian Areas Regulation and Lakes 100 m Development Permit support the location of the accessory building.

IMPLEMENTATION:

If the revised Development Variance Permit (DVP) No. 825-28 is issued by the Board, the owners may continue to build the accessory building as currently proposed. If the Board does not issue the revised DVP, and the owner does not bring the property into compliance by modifying the accessory building, staff will consider bylaw enforcement options.

COMMUNICATIONS:

Property owners and tenants in occupation within 100 m of the subject property will be given notification a minimum of 10 days prior to the CSRD Board Meeting at which the variance will be considered. All interested parties will have the opportunity to provide comments regarding this application prior to the Board Meeting.

Referrals have been sent to the following:

- Area F Advisory Planning Commission (APC)

The Electoral Area F APC reviewed the original DVP825-28 application at their meeting on July 24, 2019, and passed a motion in support of the application. The revised DVP825-28 application was reviewed by the Area F APC at their December 18, 2019 meeting. The APC was not supportive of the revised application and would prefer to see the eaves cut back. General reasons provided by the APC include: the eaves towards the neighbouring property are not a problem but the eaves towards the road are problematic, the community road is now too narrow near the northwest corner of the building, difficulty for emergency vehicles to access neighbouring properties, water runoff from the large roof may affect the road, and the size of the eaves are only aesthetic. See full details in attached "APC_F_Minutes_2019-12-18.pdf".

Development Services staff note that the community road access referenced above is not registered on title as a right-of-way or easement, and the neighbouring properties appear to have their own access from Squilax-Anglemont Road. Additionally, the drainage for the accessory building was addressed through the Hydrogeology report completed for the required Lakes 100 m Development Permit (see attached "DP830-266.pdf"). The runoff generated from the accessory building is to be directed through two downspouts into two infiltration pits and therefore should not impact the road. The CSRD Fire Services Coordinator completed a site visit on January 6, 2020, and has no concerns regarding access for a fire truck should it be necessary.

DESIRED OUTCOMES:

That the Board endorse 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.*

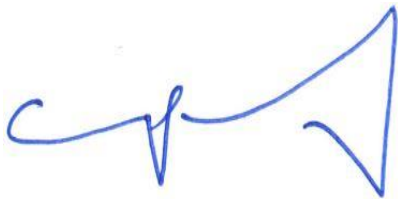
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Electoral Area F Official Community Plan Bylaw No. 830
2. Scotch Creek/Lee Creek Zoning Bylaw No. 825
3. Electoral Area F APC July 24, 2019 Meeting Minutes

Report Approval Details

Document Title:	2020-01-16_Board_DS_DVP825-28_Revised_Nevokschonoff.docx
Attachments:	<ul style="list-style-type: none">- DVP825-28_Revised.pdf- DVP825-28_Original.pdf- DP830-266.pdf- APC_F_Minutes_2019-12-18.pdf- Maps_Plans_Photos_DVP825-28.pdf
Final Approval Date:	Jan 7, 2020

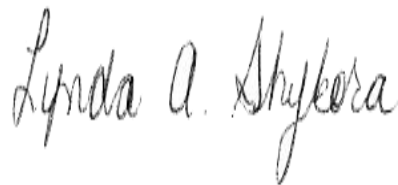
This report and all of its attachments were approved and signed as outlined below:



Corey Paiment



Gerald Christie



Lynda Shykora



Charles Hamilton