



BOARD REPORT

TO:

Chair and Directors

File No: DVP800-34
PL20190239

SUBJECT:

Electoral Area F: Development Variance Permit No. 800-34 (Sierens)

DESCRIPTION:

Report from Laura Gibson, Planner I, dated December 17, 2019.
2356 Hillen Crescent, Magna Bay

RECOMMENDATION:

THAT: in accordance with Section 498 of the Local Government Act, Development Variance Permit No. 800-34 for Lot 3, Section 17, Township 23, Range 9, West of the 6th Meridian, Kamloops Division Yale District, Plan 27990, varying Section 5.5(2)(f) of Bylaw No. 800 as follows:

- Minimum setback from the north interior side parcel boundary from 2.0 m to 1.25 m, only for the eaves of the accessory building, and to 1.96 m, only for the posts of the accessory building,

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

SHORT SUMMARY:

The subject property is located in Magna Bay of Electoral Area F and is subject to the Electoral Area F Official Community Plan Bylaw No. 830 and Magna Bay Zoning Bylaw No. 800 (Bylaw No. 800). The property owners recently completed construction of an open-walled accessory building to store their boat. The accessory building was constructed too close to the interior side parcel line and as such, a Development Variance Permit is required. The applicants are requesting to vary Section 5.5(2)(f) of Bylaw No. 800, minimum setback from the north interior side parcel boundary from 2.0 m to 1.25 m, only for the eaves of the accessory building, and to 1.96 m, only for the posts of the accessory building.

VOTING:

Unweighted
Corporate

☐

LGA Part 14
(Unweighted)

☒

Weighted
Corporate

☐

Stakeholder
(Weighted)

☐**BACKGROUND:**

REGISTERED OWNER(S):

Andrew and Michelle Sierens

APPLICANT(S):

Andrew and Michelle Sierens

ELECTORAL AREA:

F

LEGAL DESCRIPTION:

Lot 3 Section 17 Township 23 Range 9 West of the 6th Meridian Kamloops Division Yale District Plan 27990

PID:

004-657-161

CIVIC ADDRESS:

2356 Hillen Crescent, Magna Bay

SURROUNDING LAND USE PATTERN:

North = Residential

South = Residential

East = Fransen Road

West = Hillen Crescent

CURRENT USE:

Single family dwelling, detached accessory building (garage), newly constructed accessory building (boat shelter).

PROPOSED USE:

Recognize location of the newly constructed accessory building within the north interior side parcel line setback.

PARCEL SIZE:

0.13 ha (0.32 ac)

DESIGNATION:

Electoral Area F Official Community Plan Bylaw No. 830

SSA – Secondary Settlement Area

ZONE:

Magna Bay Zoning Bylaw No. 800

RS - Residential

SITE COMMENTS:

The property has a unique shape, see attached "DVP800-34_Maps_Plans_Photos.pdf". Although the address is 2356 Hillen Crescent, the driveway access is off of Fransen Road.

POLICY:

Magna Bay Zoning Bylaw No. 800

1.0 Definitions

ACCESSORY BUILDING is a detached building or structure that is customarily incidental to, subordinate to and exclusively devoted to a principal use or a single family dwelling, is not used for human habitation and is used for an accessory use or where permitted, for a home business;

PARCEL BOUNDARY, INTERIOR SIDE is a parcel boundary other than a front parcel boundary or a rear parcel boundary that is not common to a highway other than a lane or a walkway;

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.

5.5 Residential (RS) Zone

(1) Permitted Uses

The uses stated in this subsection and no others are permitted in the Residential zone, except as stated in Part 3 General Regulations.

(a) Single family dwelling

(h) Accessory use

(2) Regulations

On a parcel zoned Residential: no land shall be used; no building or structure shall be constructed, located or altered; and no plan of subdivision approved; that contravenes the regulations stated in this subsection, except as stated in Part 3 General Regulations and Part 4 Off Street Parking and Off Street Loading Regulations.

(f) Minimum setback for all other uses from:

- Front parcel boundary: 4.5 m
- Interior side parcel boundary: 2.0 m
- Exterior side parcel boundary: 4.5 m
- Rear parcel boundary: for an *accessory building* 3m

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 recently completed construction of an accessory building to store their boat. A Hazardous Lands (Flooding and Debris Flow Potential) Development Permit and a Building Permit were issued prior to construction. The applicants were informed during the Development Permit application process that the accessory building, including any eaves, would need to be located at least 2.0 m from the interior side parcel boundary as per the setback requirements in Bylaw No. 800, otherwise they would require a successful Development Variance Permit (DVP) application prior to issuance of the Development Permit and Building Permit. The applicants confirmed that the new accessory building would be constructed a minimum of 2.0 m from the interior side parcel line in order to avoid requiring a DVP, as they did not want the timing of construction to be delayed by the DVP process.

The Development Permit and Building Permit were issued based on a site plan which showed the new accessory building as being located at least 2.0 m from the interior side parcel line. In Bylaw No. 800, the setbacks apply to any portion of a building and there is no exemption for eaves. A building location certificate was completed by a surveyor once construction of the building was finished (a standard requirement for a Building Permit), and it shows that the building eaves are located 1.25 m from the north interior side parcel line for the north east corner of the accessory building. An after-the-fact DVP is now required to consider making the location of the building lawful.

The applicants have acknowledged that they were aware the new building was going to be located within the allowable setback. See attached letter submitted by the applicants, "Sierens_Letter_DVP800-34.pdf".

In response to the Sieren's letter, Development Services staff note that the Building Permit could not be issued until the Development Permit was issued. The Development Permit was applied for on May 24, 2019, and issued May 30, 2019. The Building Permit was ready to be issued upon payment on June 26, 2019 (and a reminder was sent July 11, 2019 when the application had yet to be picked up by the applicants). The 3.5 week timeline for the Building Permit to be issued following issuance of the Development Permit was due to the influx of Building Permit applications during that time.

SUMMARY:

The applicants are requesting to vary Section 5.5(2)(f) of Bylaw No. 800 as follows:

- Minimum setback from the north interior side parcel boundary from 2.0 m to 1.25 m, only for the eaves of the accessory building, and to 1.96 m, only for the posts of the accessory building,

as shown on the Site Plan included in attached "DVP800-34_Maps_Plans_Photos.pdf".

Development Services staff are recommending approval of the application for the following reasons:

- In several other CSRD zoning bylaws, eaves are exempt from the setback requirements to within 1.0 m of a property line and the subject accessory building would only require a 4 cm variance for the building posts;
- The variance should have little to no impact on the adjacent vacant residential lot, as there is a retaining wall and trees providing a buffer between the lots.

Development Services staff acknowledge that the property owners were made aware of the setback regulations prior to construction and chose to proceed with building too close to the parcel line regardless, despite being in contravention of the Development Permit, Building Permit, and Magna Bay Zoning Bylaw No. 800. However, if the property owners had applied prior to construction, staff would have recommended approval for the reasons outlined above.

IMPLEMENTATION:

If Development Variance Permit No. 800-34 is issued by the Board, no further action will be required by the property owners. 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.

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 DVP800-34 application at their meeting on December 18, 2019, and passed a motion in support of the application, their reasoning being that the variance should not

impact other property owners and similar variances have been granted in the past. See attached "APC_F_Minutes_2019-12-18.pdf".

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.*

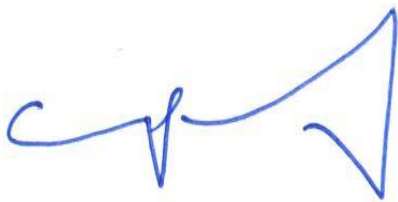
LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Electoral Area F Official Community Plan Bylaw No. 830
2. Magna Bay Zoning Bylaw No. 800

Report Approval Details

Document Title:	2020-01-16_Board_DS_DVP800-34_Sierens.docx
Attachments:	- DVP800-34.pdf - Sierens_Letter_DVP800-34.pdf - Maps_Plans_Photos_DVP800-34.pdf
Final Approval Date:	Jan 8, 2020

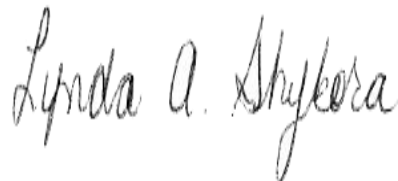
This report and all of its attachments were approved and signed as outlined below:



Corey Paient



Gerald Christie



Lynda Shykora

No Signature - Task assigned to Charles Hamilton was completed by assistant Lynda Shykora

Charles Hamilton