
MEETING TYPE AND DATE: REGULAR COUNCIL MEETING – DECEMBER 7, 2021
AUTHOR: TAMERA CAMERON, PLANNER
SUBJECT: **DVP2021-014 (4486 FINCH ROAD) - DEVELOPMENT VARIANCE PERMIT APPLICATION TO VARY THE SIDE YARD SETBACK TO ALLOW AN ACCESSORY BUILDING**

ESSENTIAL QUESTION:

Does Council support a variance to the Zoning Bylaw to reduce the side yard setback adjacent to the internal driveway to accommodate an accessory building?

OPTIONS:

- A. THAT Development Variance Permit DVP2021-014 for property located at 4486 Finch Road, legally described as Lot 6 and an Undivided 1/13th Share in Lot 14 Section 4 Township 20 Osoyoos Division Yale District Plan 25111, Roll 2189040 to vary Section 14.3.6(d) of Zoning Bylaw 561, 2007 to reduce the side yard setback from 3.0m to 0.98m for an accessory building be approved.
- B. THAT Development Variance Permit DVP2021-014 for property located at 4486 Finch Road, legally described as Lot 6 and an Undivided 1/13th Share in Lot 14 Section 4 Township 20 Osoyoos Division Yale District Plan 25111, Roll 2189040 to vary Section 14.3.6(d) of Zoning Bylaw 561, 2007 to reduce the side yard setback from 3.0m to 0.98m for an accessory building be denied.
- C. THAT Development Variance Permit DVP2021-014 for property located at 4486 Finch Road, legally described as Lot 6 and an Undivided 1/13th Share in Lot 14 Section 4 Township 20 Osoyoos Division Yale District Plan 25111, Roll 2189040 to vary Section 14.3.6(d) of Zoning Bylaw 561, 2007 to reduce the side yard setback from 3.0m to 0.98m for an accessory building be postponed and brought forward with the Development Permit application for consideration by Council.

EXECUTIVE SUMMARY:

The owners propose a side yard setback variance from 3.0m to 0.98m to accommodate a 1.5 storey accessory building. The property is split into three portions by an internal access road (Lot 14). The building will require a cut into the slope and the removal of approximately 8 trees. The slope will be retained by the building and a small retaining wall. The owners' rationale is attached. Letters of support from 8 neighbouring property owners were submitted with the application. No unintended consequences are anticipated should Council approve this variance.

BACKGROUND/HISTORY

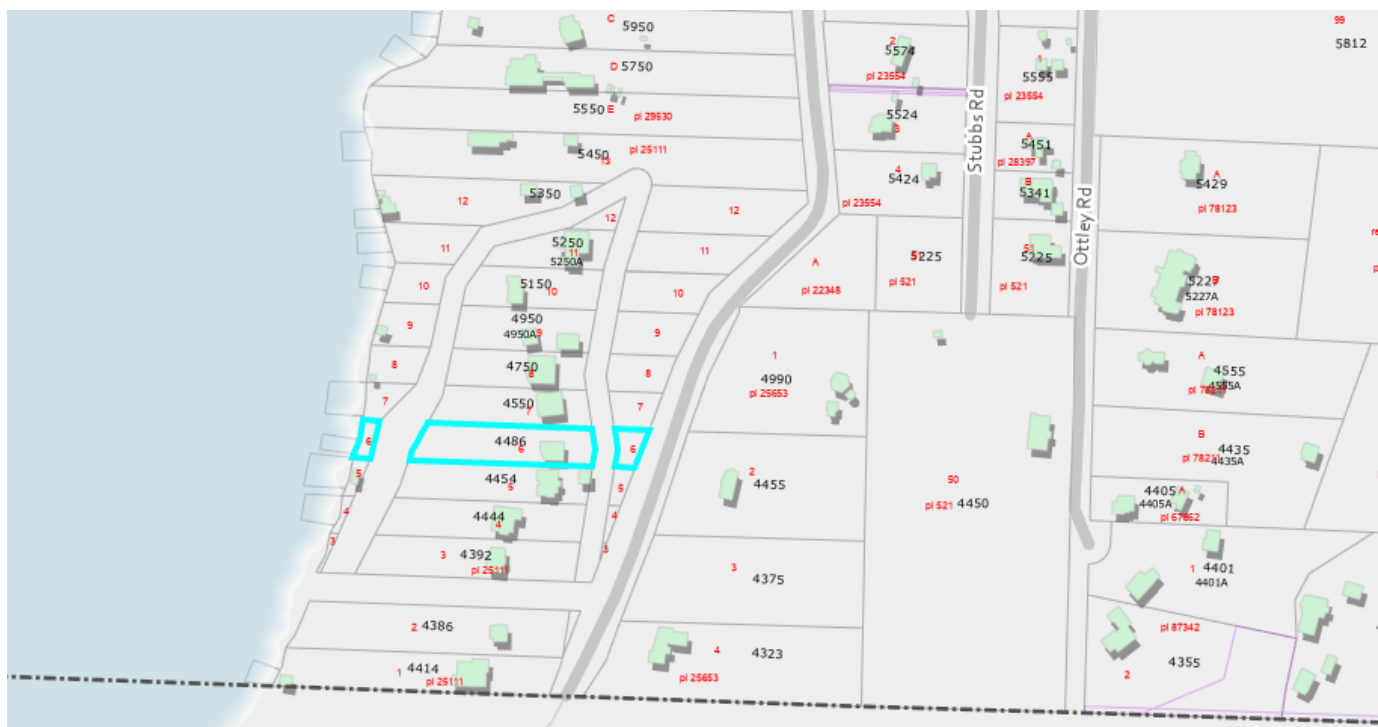
Should the Development Variance Permit be approved by Council, the owners will be required to apply for a Development Permit for Hillside, Wildland Fire, and Greenhouse Gas Reduction and Resource Conservation prior to being able to apply for a Building Permit. The owners have elected to proceed with the Development Variance Permit application first to avoid the cost of preparing detailed reports/plans based upon this concept, if Council does not support the variance.

Application Type	Development Variance Permit		
File Number:	DVP2021-014	Folio:	2189040
Legal Description:	Lot 6 and an Undivided 1/13 th Share in Lot 14 Section 4 Township 20 Osoyoos Division Yale District Plan 25111 (See plan as to limited access)		
PID	003-916-049		
Civic Address:	4486 Finch Road		
OCP Designation:	Rural Residential		
Zoning Designation:	RR3 – Rural Residential 3		
Land Use Contract	No		
ALR:	No		
Parcel Size:	0.4 ha (1 acre)		
DP Area(s):	Hillside, Wildland Fire, Greenhouse Gas Reduction and Resource Conservation		
Water Supply:	Private		
Sewer:	Private		
Site Summary:	Zoning:	Use:	
	<i>North:</i> RR3	Residential	
	<i>East:</i> RR2	Residential	
	<i>South:</i> RR3	Residential	
	<i>West:</i> Okanagan Lake	Lake	

Site Context

The subject property is a steeply sloped lot in the Okanagan Centre ward and has an existing house. It is surrounded by rural residential properties to the north, south and east and Okanagan Lake to the west. The property is split into three parts by a privately owned internal access road (Lot 14), which the subject property and neighbouring properties all use for access and own an undivided 1/13th share in. The house is located on the middle segment of the lot and the accessory building is proposed on the smaller eastern segment of the property adjacent Finch Road. The existing small shed is proposed to be removed.

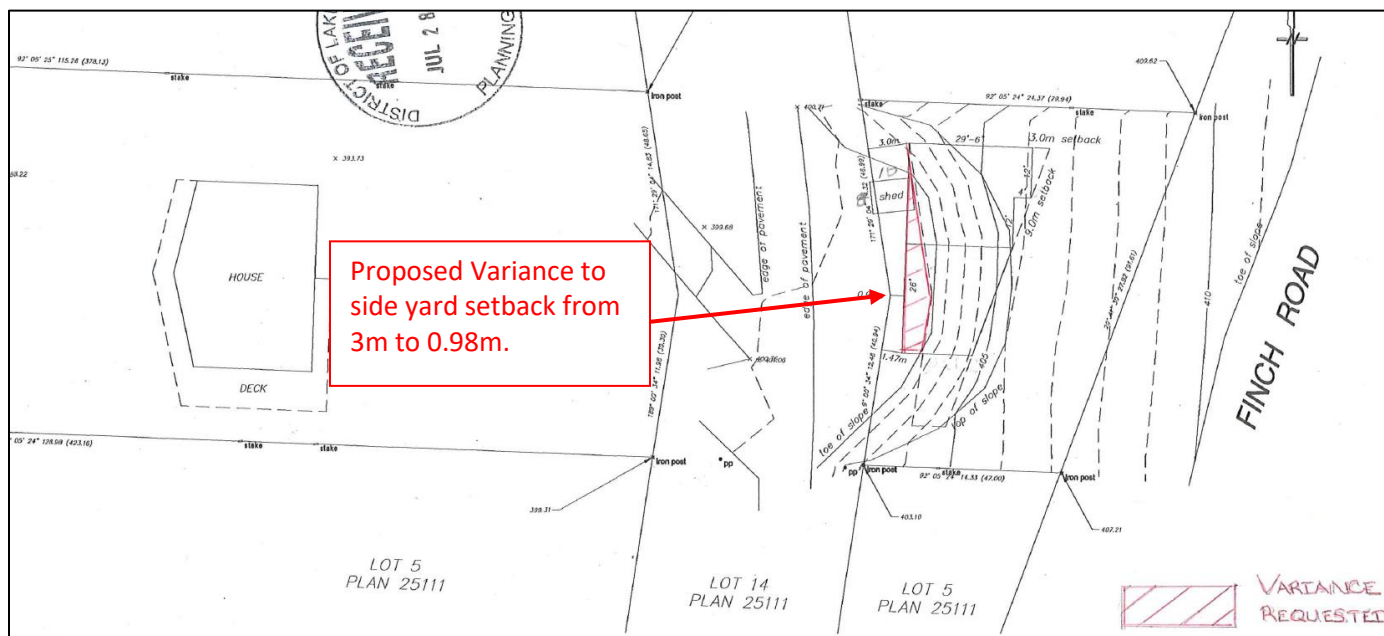
Map 1: Location Map



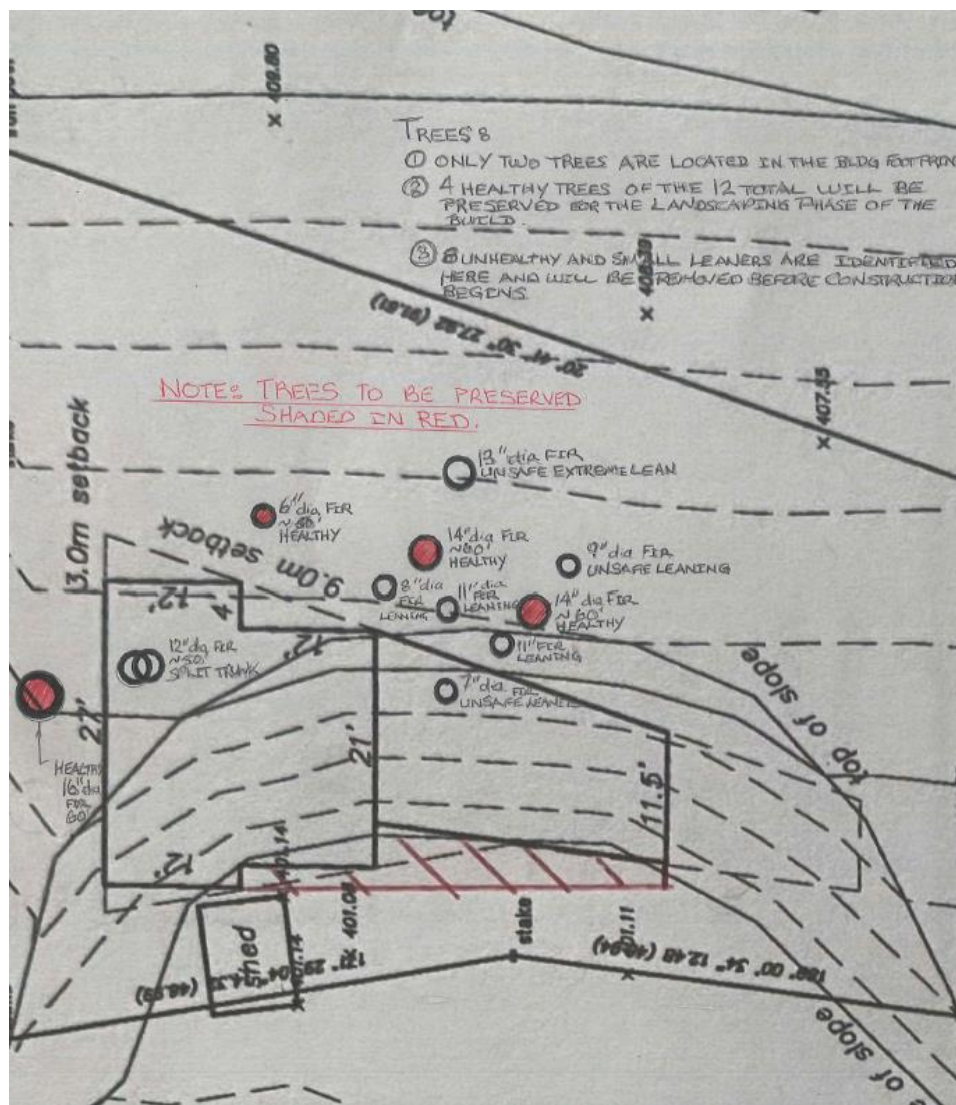
Map 2: Orthophoto**Context Photos**



Survey Plan



Tree Management Plan



Chronology:

<i>Date:</i>	<i>Event:</i>
2021-07-28	Application submission.
2021-10-05	Site visit.
2021-10-08	Proposal review and internal and external referrals sent.
2021-11-05	Referrals due.

DISCUSSION/ANALYSISProposed Development

The proposed development is a 1.5 storey accessory building with a 151m² gross floor area (91m² on the first level and 60m² loft area). The accessory building is proposed to be a garage/workshop on the main floor and will have a loft above accessed by exterior stairs. As the property is less than 1 hectare in size and is not connected to community sewer, no accessory suite is permitted in this building.

The accessory building is proposed to be built into the slope and will require the removal of approximately 8 trees, seven of which are small, leaning, or otherwise compromised from the original cut into the slope by the previous property owner (see Attachment C – Tree Management Plan). The rear wall of the accessory building will retain most of the slope. A retaining wall between 0.91m to 1.2m in height will be required to retain the remainder of the slope (see Attachment D - Building Elevations).

Should Council grant the proposed variance, a DP will still be required for the Hillside, Wildland Fire, Greenhouse Gas Reduction and Resource Conservation development permit areas.

Side Yard Setback Variance

The Zoning Bylaw requires a side yard setback of 3.0m. The proposed side yard setback is 0.98m, a proposed variance of 2.02m.

The property line adjacent to the internal access road (Lot 14) is considered a side yard. Lot 14 is 15m wide and the paved portion of the access road is approximately 4m wide. The beginning of the owners' property is well set back from the paved portion of the driveway as can be seen in the survey plan and the context photos; therefore, there is adequate room for vehicles and the building will appear to have a larger setback than 0.98m. The portion in red on the survey plan is the portion of the building that is proposed to be closer than 3.0m to the side property line.

The owners explored alternative locations that would not require a variance; however, the owners have selected this location as it is flatter, so they do not have to navigate steep driveways in winter with their vehicle and it requires the removal of fewer healthy, mature trees. See Attachment B for the Owner's Variance Rationale Letter.

Legislation & Applicable PoliciesZoning Bylaw:

The setback fronting the interior shared access driveway (Lot 14) is considered a side yard setback. The RR3 zone requires a 3.0m side yard setback. The accessory building meets all other Zoning Bylaw regulations.

Technical Considerations:

- **Impact on Infrastructure and Other Municipal Services**

There is no impact on infrastructure or other municipal services expected if this proposal is approved.

- **Impact on Staff Capacity and Financial Resources (Cost/Benefit Analysis)**

Regular staff time has been used to process this application.

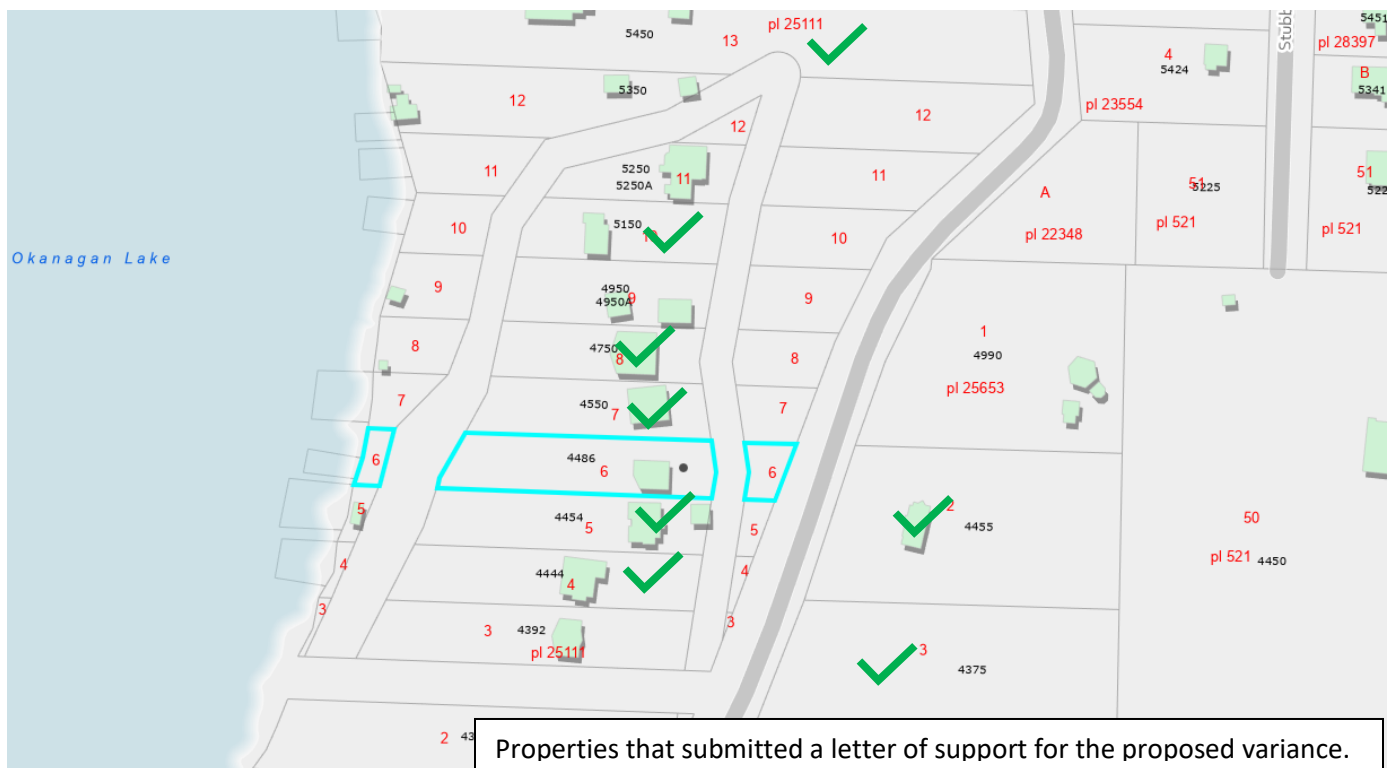
The proposed Development Variance Permit application did not require referrals to be sent to any government agencies, Council Committees, or any other stakeholders. Staff had no concerns regarding the proposal.

Consultation, Public Feedback, and Communication to and from the Public and the Applicant:

As per the *Local Government Act* and the Development Application Procedures Bylaw, a development notice sign has been installed on the property and letters have been sent out to neighbouring properties and tenants within 50m.

Letters of Support Received

The owners have also submitted 8 letters of support from the neighbouring properties with a checkmark on the map below (see Attachment E). They were not able to contact the owners of Lots 1, 2, 3, 9, or 11.



ANALYSIS OF OPTIONS FOR CONSIDERATION:

OPTION A: If Council approves the variance, the applicant will still be required to apply for a Development Permit application, which will require Council approval for the Hillside Development Permit Area.

OPTION B: If Council denies the variance, the applicant will be required to modify their design to comply with the Zoning Bylaw regulations. This is possible but would create a building shape that is less functional.

OPTION C: If Council refers the application back to staff to bring it forward again with the Development Permit, staff will work with the applicant to ensure the application is submitted and the required information is obtained. Staff will schedule the application for consideration at an upcoming Council meeting.

Respectfully Submitted,

Tamera Cameron, MPPA
Planner

Planning & Development Department

This report has been prepared with the collaboration of the following individuals:

COLLABORATORS	
TITLE	NAME
Engineering Technician	Evan Smith

This report has been prepared in consultation with the following departments:

CONCURRENCES	
DEPARTMENT	NAME
Chief Administrative Officer	Tanya Garost
Director of Planning & Development	Gary Penway
Manager of Planning	Corine (Cory) Gain

ATTACHMENTS:

- Attachment A – Draft Development Variance Permit
- Attachment B – Owner’s Variance Rationale Letter
- Attachment C – Tree Management Plan
- Attachment D – Building Elevations
- Attachment E – Letters of Support from Neighbouring Properties