
MEETING TYPE AND DATE:

REGULAR COUNCIL MEETING – DECEMBER 7, 2021

AUTHOR:

TAMERA CAMERON, PLANNER

SUBJECT:

DVP2021-007 (12012 WILLETT ROAD) - DEVELOPMENT VARIANCE PERMIT APPLICATION TO VARY THE FRONT AND SIDE YARD SETBACKS FOR A NEW HOUSE AND TO VARY DOCK SHAPE AND MATERIALS TO ALLOW AN F-SHAPED DOCK WITH STEEL PILES

ESSENTIAL QUESTION:

Does Council support a variance to the front and south side yard setbacks to accommodate a house on a lot, which due to its shape and riparian setbacks has a reduced building envelope?

Does Council support the proposed variances to allow for a new F-shaped dock to be constructed with steel piles?

OPTIONS:

- A. THAT Development Variance Permit DVP2021-007 for property located at 12012 Willett Road, legally described as Lot A Section 23 Township 20 Osoyoos Division Yale District Plan 5457, Roll 2886000 for a new house and dock with the following variances to Zoning Bylaw 561, 2007:
 - 1. Section 14.2.6.(c) to reduce the front yard setback from 6m to 5.19m;
 - 2. Section 14.2.6.(d) to reduce the side yard setback from 3m to 2.11m;
 - 3. Section 10.12.4.(c) to allow an F-shaped dock; and
 - 4. Section 10.12.4.(h) to allow steel pilesbe approved.
- B. THAT Development Variance Permit DVP2021-007 for property located at 12012 Willett Road, legally described as Lot A Section 23 Township 20 Osoyoos Division Yale District Plan 5457, Roll 2886000 for a new house and dock with the following variances to Zoning Bylaw 561, 2007:
 - 1. Section 14.2.6.(c) to reduce the front yard setback from 6m to 5.19m;
 - 2. Section 14.2.6.(d) to reduce the side yard setback from 3m to 2.11m;
 - 3. Section 10.12.4.(c) to allow an F-shaped dock; and
 - 4. Section 10.12.4.(h) to allow a dock with steel pilesbe denied.
- C. THAT Development Variance Permit DVP2021-007 for property located at 12012 Willett Road, legally described as Lot A Section 23 Township 20 Osoyoos Division Yale District Plan 5457, Roll 2886000 for a new house and dock with the following variances to Zoning Bylaw 561, 2007:
 - 1. Section 14.2.6.(c) to reduce the front yard setback from 6m to 5.19m;
 - 2. Section 14.2.6.(d) to reduce the side yard setback from 3m to 2.11m;
 - 3. Section 10.12.4.(c) to allow an F-shaped dock; and
 - 4. Section 10.12.4.(h) to allow steel pilesbe approved in any combination as determined by Council.
- D. THAT Development Variance Permit DVP2021-007 for property located at 12012 Willett Road, legally described as Lot A Section 23 Township 20 Osoyoos Division Yale District Plan 5457, Roll 2886000 for a new house and dock with the following variances to Zoning Bylaw 561, 2007:

- Section 14.2.6.(c) to reduce the front yard setback from 6m to 5.19m;
 - Section 14.2.6.(d) to reduce the side yard setback from 3m to 2.11m;
 - Section 10.12.4.(c) to allow an F-shaped dock; and
 - Section 10.12.4.(h) to allow steel piles
- be referred back to staff to work with the applicants to reduce the need for variances.

EXECUTIVE SUMMARY:

The property owners applied for a Technical Development Permit and Development Variance Permit for a new house and dock. Due to the triangular shape of the lot and the riparian setbacks, the owners are requesting a minor front yard and side yard setback variance for the house.

The applicant is also proposing a new F-shaped dock with two boat lifts that uses steel piles rather than wood piles as is required per Section 10.12.4(h) of the Zoning Bylaw. A Foreshore Development Report prepared by a Qualified Environmental Professional was submitted with the application and notes that the dock is proposed in a “no colour” zone for Kokanee shore spawning. No adverse effects are anticipated if Best Management Practices are followed.

No unintended consequences are anticipated for the setback variances. Should Council approve the dock shape variance, it would allow for more boats to be docked than the existing L-shaped dock allows.

BACKGROUND/HISTORY

The property owner applied for a Technical Development Permit and a Development Variance Permit application to build a new house and dock. The Technical Development Permit application is under review by staff.

Although the proposal is located within the 15m Streamside Protection and Enhancement Area (SPEA), the owners applied to the Province for consideration of Undue Hardship to allow them to build partially into the SPEA given their reduced building envelope because of the shape of the lot and riparian setback. The Province accepted the argument of undue hardship and approved the Riparian Area Protection Regulation Assessment.

The applicant is proposing an F versus L or T shaped dock.

Per Council’s Notice of Motion at the October 20, 2020, Regular Council Meeting, staff has prepared a Zoning Bylaw amendment, which proposes to remove Section 10.12.4(h), which requires that docks be constructed with wooden piles. The Zoning Amendment Bylaw No. 1168 was given First and Second Readings by Council at the Oct 19, 2021 Regular Council meeting and is scheduled for Public Hearing and Third Reading at the same meeting as this application on December 7, 2021. Although the Zoning Amendment would have the effect of allowing the use of steel piles for all future docks and boatlifts, this Development Variance Permit Report is being forwarded at this time since the applicant also requires a variance to the shape of the dock and wishes to proceed as soon as possible. A variance is required until the bylaw is amended.

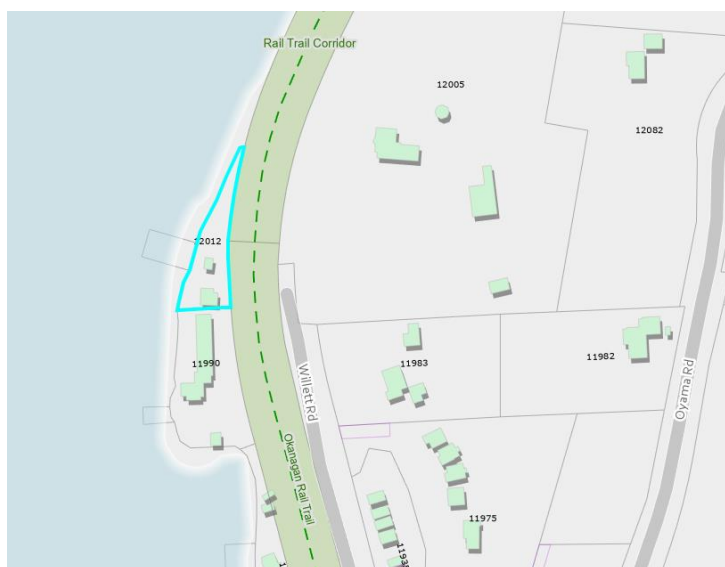
Application Type	Development Variance Permit
File Number:	DVP2021-007
Folio Number:	2886000
Legal Description:	Lot A Section 23 Township 20 Osoyoos Division Yale District Plan 5457
PID	010-355-588
Civic Address:	12012 Willett Road
OCP Designation:	Rural Residential
Zoning Designation:	RR2 – Rural Residential 2 W1 – Recreational Water Use

Land Use Contract	No	
ALR:	No	
Parcel Size:	0.18 ha	
DP Area(s):	Stability/Erosion/Drainage Hazard; Natural Environment; GHG Reduction and Resource Conservation	
Water Supply:	Private	
Sewer:	Private	
Site Summary:	Zoning:	Use:
<i>North:</i>	P1 – Public Park and Open Space	Rail Trail
<i>East:</i>	P1 – Public Park and Open Space	Rail Trail
<i>South:</i>	C9 – Tourist Commercial	Motel
<i>West:</i>	W1 – Recreational Water Use	Wood Lake

Site Context

The subject property is in the Winfield ward and is zoned RR2 and W1. It is adjacent to Wood Lake to the west and the Rail Trail to the east. A C9 – Tourist Commercial zoned property is located to the south with an existing motel. The property has an existing house and accessory building that will be demolished. The property's triangular shape and riparian setback limit the building envelope on the property. There is an existing L-shaped dock with one boat lift that is proposed to be replaced.

Map 1: Location Map



Map 2: Orthophoto



Map 3: Drone View**Context Photos**



Chronology:

<i>Date:</i>	<i>Event:</i>
2021-04-08	Application submission.
2021-07-13	Proposal review completed and site visit.
2021-07-15	Core Team Meeting
2021-08-19	Application incomplete. Additional information requested.
2021-09-13	Additional information provided.
2021-10-12	Internal and External Referrals sent.
2021-11-09	Referrals due.

DISCUSSION/ANALYSIS

Proposed Development

The proposed development is a new two-storey house with proposed variances to the south side yard and front yard setbacks. A new F-shaped dock with two boatlifts is also proposed to replace the existing L-shaped dock in approximately the same location. The dock is proposed to be constructed with steel piles.

To support the application, the applicant submitted a Foreshore Development Report completed by a Qualified Environmental Professional (QEP). The Foreshore Development Report notes the dock is in a 'No Colour Zone' for Kokanee shore spawning. The report states that "no adverse effects are anticipated if BMPs [Best Management Practices] and Habitat Officer's guidelines are followed." The design complies with all other Zoning Bylaw regulations.

Front Yard Setback

The Zoning Bylaw requires a front yard setback of 6m. The proposed front yard setback is 5.19m, a proposed variance of 0.81m.

Given the restrictions to the building envelope due to the triangular shape of the lot and the riparian setbacks the property owner is requesting a reduced front yard setback. As the property fronts the rail trail, which already has a

significant vegetative buffer, the reduction of the front yard setback by 0.81m will likely have no negative impact on the character of the neighbourhood or the use and enjoyment of the Rail Trail.

Side Yard Setback

The Zoning Bylaw requires a side yard setback of 3m. The proposed side yard setback (south property line) is 2.11m, a proposed variance of 0.89m.

The proposed location of the new house is the same location as the existing house but is proposed slightly closer to the side property line. The south side yard is adjacent the side yard of the adjacent property at 11990 Willett Road and the carport of the motel building. It is staff's opinion that reduction to the side yard setback will have negligible impact on the neighbouring property to the south.

Dock Shape

The Zoning Bylaw requires docks to be L or T-shaped. The dock is proposed to be F-shaped to provide a safer, more functional dock design for the owner and his family. Neither the District nor the Province regulates the number of watercraft lifts that can be placed on a dock; however, the F-shape would allow more boats to be parked than a typical L or T-shaped configuration.

Dock Materials

The Zoning Bylaw requires docks to be constructed with wood piles. The applicant is proposing to construct the dock with steel piles, which last longer. Steel piles may soon be permitted outright if Zoning Amendment Bylaw No. 1168 is adopted.

Legislation & Applicable Policies

FLNRORD General/Specific Permissions for Private Moorage:

A General Permission may be granted for ocean, lake and river docks located on aquatic Crown land. If a person constructs and uses their dock in accordance with the terms and conditions contained in the General Permission, they will be deemed to be authorized. A Crown land application is not required. If the proposed dock does not meet the conditions and requirements stated in the General Permission, an application for a Specific Permission will be required to be submitted to the Authorizing Agency before the dock can be authorized.

Water Sustainability Act:

Work "in and about a stream" requires permission from the Province under the *Water Sustainability Act*. A Water Sustainability Act application must be approved by the Province before any work can take place. According to the Act, a stream "includes a natural watercourse or source of water supply, whether usually containing water or not, and a lake, river, creek, spring, ravine, swamp and gulch."

Zoning Bylaw:

The property is adjacent to Okanagan Lake in an area zoned W1 – Recreational Water Use. This zone allows private docks as a secondary use. Section 10.12 sets out the regulations for docks within Lake Country, including provisions for shape and pile materials as follows:

- Section 10.12.4 (c) L or T shaped dock structures are permitted if the length of the structure which is parallel to the shoreline does not exceed the lesser of 10m or one half the width of frontage of the upland parcel. This proposed dock is F-shaped and is 9.75m in length parallel to the frontage of the upland parcel.
- Section 10.12.4 (f) Dock structures shall be supported by wooden piles and be made of non-toxic materials (solid core docks will not be allowed). The dock extension and boat lift would use steel piles.

Technical Considerations:

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

There is no significant 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.

Comments from Other Government Agencies, Council Committees and Relevant Stakeholders:

No comments were received from external agencies or stakeholders regarding his Development Variance Permit application. Staff has 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 property owners and tenants within 50m.

ANALYSIS OF OPTIONS FOR CONSIDERATION:

OPTION A: If Council approves the variances, the applicant will be able to build the new dock. Once the Technical Development Permit is approved by staff, the property owner could apply for a Building Permit for the new house.

OPTION B: If Council denies the variances, the applicant will still have the option to apply to the Board of Variance. If the owners do not receive approval for the proposed variances, they will have to comply with the Zoning Bylaw regulations or apply again with a revised Development Variance Permit application.

OPTION C: Council may approve any combination of the proposed variances. For example, if Council does not support the dock variance(s) but supports the setback variances, Council may approve only those variances that it supports.

OPTION D: If Council refers the application back to staff, Staff will work with the applicant to revise the proposal to reduce or eliminate the variances.

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
Acting Director of Planning & Development	Gary Penway
Manager of Planning	Corine (Cory) Gain

ATTACHMENTS:

Attachment A – Draft Development Variance Permit

Attachment B – Foreshore Development Report

Attachment C – Applicant’s Variance Rationale Letter