

 4325 Blackcomb Way
 TEL
 604 932 5535

 Whistler, BC Canada V8E 0X5
 TF
 1 866 932 5535

 whistler.ca
 FAX
 604 935 8109

STAFF REPORT TO COUNCIL

PRESENTED:	May 14, 2024	REPORT:	24-045
FROM:	Planning – Development FILE: 3090-20-12		3090-20-1243
SUBJECT:	DVP01243 – 9151 EMERALD DRIVE – BUILDING SETBACK AND HARD		
	SURFACE COVERAGE VARIANCES		

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Climate Action, Planning and Development Services be endorsed.

RECOMMENDATION

That Council approve the issuance of Development Variance Permit DVP01243, attached as Appendix A to Administrative Report No. 24-045, to vary the front building setbacks for a detached dwelling and attached garage and hard surface coverage requirements within the front setback, with the exception of the non-staff-supported variance items 3.b) and 3.c) side setback variances; subject to architectural plan revisions detailing compliant side setbacks for the proposed building additions to the satisfaction of the General Manager of Climate Action, Planning and Development Services.

PURPOSE OF REPORT

This report provides Council with an analysis of the proposed variances and recommends that Council approve the issuance of Development Variance Permit (DVP) DVP01243, with the exception of the requested side setback variances, subject to architectural plan revisions detailing compliant side setbacks for the proposed building additions to the satisfaction of the General Manager of Climate Action, Planning and Development Services, to facilitate proposed additions to the existing detached dwelling at 9151 Emerald Drive.

□ Information Report

Administrative Report (Decision or Direction)

DISCUSSION

Key Ideas

The owner is seeking three staff supported variances to the "Zoning and Parking Bylaw No.303, 2015" (Zoning Bylaw) to:

- 1. Vary the front setback from 7.6 metres to 4.4 metres for proposed additions to the detached dwelling;
- 2. Vary the front setback from 5 metres to 2 metres for the proposed attached garage; and

3. Vary the percentage of asphalt, gravel or other hard surfaces within the front setback area from 60 per cent to 75 per cent.

The owner is also seeking two variances to the Zoning Bylaw that are not supported by Staff to:

- 4. Vary the (north) side setback from 3 metres to 2.13 metres for proposed additions to the detached dwelling; and
- 5. Vary the (south) side setback from 3 metres to 2.5 metres for proposed additions to the detached dwelling.

Staff support the front setback variances to support the owner's rationale for aging in place, as this will provide them with compliant covered parking, building entrance at street grade and elevator for improved accessibility. The non-staff supported side setback variances do not further this rationale and are inconsistent with the DVP evaluation criteria contained in the Analysis section of this report. The proposed building additions into the side setbacks can be made slightly narrower to meet the three-metre side setback and still achieve overall design goals to improve access and accessibility to the dwelling.

Background

The subject property is in the Emerald Estates neighbourhood and is bounded by parcels developed with detached residential development on each side and undeveloped Resort Municipality of Whistler (RMOW) park land at the rear parcel line. The property is zoned Single Family Residential One (RS1) with a parcel area of 894 square metres, typical of lots along Emerald Drive. A location map for the subject parcel is attached to this report as Appendix B.

Proposed Development Variances

Variance Request		Zoning Bylaw
1.	Vary the front setback from 7.6 metres to 4.4 metres for the detached dwelling.	Part 12 - Residential Zones, Section 1 RS1 Zone (Single Family Residential One), Subsection 13: (13) The minimum permitted front setback is 7.6 metres.
2.		 Part 5 – General Regulations, Section 14 – Relaxation of Siting Limitations, Subsection 14: (1) In all RS, RI and RT Residential zones, in the TB1 zone, and for detached and duplex dwellings in all RTA zones, an auxiliary or attached building for garage or carport use may be set back a minimum of 5 metres from the front parcel line.
3.	asphalt, gravel or other hard surfaces within the front setback area from 60 per cent	Part 6 – Parking and Loading Regulations, Section 4 – Location of Parking and Loading Spaces, Subsection 12: (12) In all RM, RI1, RS and TP Zones, asphalt, gravel, paved or other hard surfaces located within the front setback area shall not be greater than 60 per cent of the front setback.

The requested variances with staff support are described in the table below:

The requested variances are shown on the architectural plans attached to this report as Schedule A of Appendix A.

The requested variances without staff support are described in the table below:

Variance Request		Zoning Bylaw Regulation	
4.	Vary the (north) side setback from 3 metres to 2.13 metres for the detached dwelling.	Part 12 – Residential Zones, Section 1 RS1 Zone (Single Family Residential One), Subsection 14: (14) The minimum permitted side setback is as follows:	
		GROSS FLOOR AREA OF DETACHED DWELLING	MINIMUM SIDE SETBACK
		325 square metres or less	3 metres
5.	Vary the (south) side setback from 3 metres	Part 12 – Residential Zones, Section 1 RS1 Zone (Single Family Residential One), Subsection 14:	
	to 2.5 metres for the detached dwelling.	(14) The minimum permitted side setback is as follows:	
		GROSS FLOOR AREA OF DETACHED DWELLING	MINIMUM SIDE SETBACK
		325 square metres or less	3 metres

The requested variances, without staff support, are shown on the architectural plans (notably drawings D08, D10, D11 and D12) attached to this report as Schedule A of Appendix A and include the new building additions such as the garden shed (drawing D08), master bedroom addition (drawing D10), rooftop deck, entry and garage additions (drawing D11) and bedroom addition (drawing D12).

<u>Analysis</u>

The subject property is developed with an existing three-storey detached dwelling built on the property in 1997 (Building Permit B-5427-97, DVP.434 granted variances for the detached dwelling to be located 2.4 metres from each side property line). The property has some non-compliant surface parking fronting Emerald Drive that is supported by retaining walls. The existing dwelling is located at the base of the retaining walls, approximately 4.3 metres (1.5 stories) below the street elevation. A set of stairs provides access to the dwelling from the surface parking area. The steep topography of the parcel area is illustrated in architectural plans D13 and D15, attached as Schedule A of Appendix A, as well as Appendix C.

There are several site considerations that limit the owners' ability to reasonably develop the property in an efficient and effective manner, while strictly complying with the Zoning Bylaw requirements, including: a steep 44 per cent change in grade from the front of the parcel to the front of the existing dwelling, the location of the existing dwelling and the absence of compliant parking on the parcel.

As described in the owner's rationale (Appendix A, Plan D00), the existing dwelling has access difficulties with the use of outdoor wooden stairs, does not have a covered parking area and due to the location of the existing dwelling there is limited space for further development on the parcel between the existing dwelling and the street. The owner wishes to reside in the dwelling long-term, thus develop the dwelling for an "aging in place" scenario. In order to achieve this goal, the development proposal works with the steep down slope to allow for construction of a covered entry area and garage at street level. The entry area includes an indoor stairwell and elevator to access the dwelling in a safe manner. Since there is limited space at the front of the parcel, this proposal requests both front and side setback

variances to properly fit the structures. Further, due to the proposed additions being located in the front setback as well as the property using a wide driveway (11 metres), the percentage of hard surface areas is proposed to increase to 75 per cent in the front setback (Plan D06, Appendix A).

As there is currently no compliant parking provided on the parcel, staff support the reduced front setback for the garage and the increase in hard surface in the front setback. These two variances will enable relocation of parking meeting the required 1.5 metre setback from the front parcel line, resulting in safer vehicular and pedestrian traffic flow in the Emerald Estates neighbourhood, while avoiding costly and complex redevelopment of the site.

Further, staff also support the reduced front setback for the existing two-storey front entry addition as it enables accessible access to the dwelling, with a two-storey building height that is in character with the neighbourhood.

As explained to the owner, staff do not support the proposed side setback variances. The proposed building additions can be modified to respect the required three metre side setbacks. Further, as discussed in the Community Engagement section of this report, staff have received two letters from neighbours not supporting the variance with the immediate neighbour specifically opposed to the requested south side setback variance. Setbacks are used to maintain separations between properties and dwellings; it is important to maintain the side setbacks for privacy, views, light access, snow-shed and fire spread.

Staff's evaluation of the proposal relative to the established criteria is provided below under the Policy Considerations section of this report. Staff maintain that the proposed side setback variances are inconsistent with the evaluation criteria and that there is no strong rationale by the owner for the side setback variances.

Therefore, this staff report recommends approval of the three staff-supported variances, and revisions to the architectural plans detailing compliant side setbacks for the proposed building additions to the satisfaction of the General Manager of Climate Action, Planning and Development Services.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

Council has the authority to vary the Zoning Bylaw through section 498 of the Local Government Act.

This DVP application is before Council as the proposal does not meet the established criteria for a minor variance delegated to staff through the "Land Use Procedures and Fees Bylaw No. 2205, 2022" (Procedures Bylaw).

Development Variance Criteria

Staff have established criteria for consideration of DVPs. The proposed staff-supported variances are consistent with these criteria as described in the tables below.

General guidelines to consider:	Staff comments
The variance should be consistent with the goals, objectives and policies in the Official Community Plan (OCP) and any other relevant	As discussed below in the Community Vision and OCP section of this report, staff consider the staff-supported proposal to be consistent with these guidelines.

Council-approved municipal policy documents.	
The variance application should be supported by a sound justification based on the applicant's inability to reasonably develop the site in an efficient and effective manner while complying with bylaw requirements, or on the provision of a benefit to the community or adjacent properties in the form of a preferable development outcome that is attributable to the variance.	The steep downward slope from the road to the existing detached dwelling, the location of existing development, and parking requirements on the parcel are all considered to be sound justification as to why the owner is unable to reasonably develop the site in strict compliance with the Zoning Bylaw.
	By developing the entry area and garage at street level the accessibility for the dwelling is improved as the entry area will have an indoor elevator and stairwell. As described by the owners, this intent of the renovations is to support an "aging in place" scenario for the occupants.
	The property has a 44 per cent downslope from the front property line to grade at the front of the existing dwelling (Appendix C). Per Zoning Bylaw Part 5, section 14(2), there is a relaxation of siting to 2 metres from the front parcel line for detached garages whenever the average slope over a distance of 10 metres from the front parcel line or edge of pavement of the road fronting the parcel is 20 per cent or more. In this case, the proposal is for an attached garage, but the principle remains the same. Further, the height of the proposed attached garage is less than the maximum 3.5 metres required for a garage to be sited at 2 metres from the front parcel line.
	The request for side setback variances is considered to be inconsistent with this guideline. Based on review of the plans it appears the proposed additions can proceed efficiently and effectively while meeting the required three metre side setback. If the proposed garage is revised to be 87 cm narrower to meet the three-metre setback (north side), then there is still approximately 6.6 metres of garage width available to sufficiently develop the garage with two parking spaces. If the entry area and upper loft bedroom (south side) illustrated on Plans D11, D12 of Appendix A is made 50 cm narrower to meet the three-metre setback, then this would not seem to substantially disrupt the development of the building on the south side. Similarly with the other proposed additions into the side setback: garden shed (Drawing D08 of Appendix A), master bedroom addition (Drawing D10 of Appendix A) and rooftop deck (Drawing D12 of Appendix A) these could be made slightly narrower.
The variance should not defeat the express or implicit intent of the bylaw requirement or restriction being	The staff-supported proposal is not considered to defeat the intent of the Zoning Bylaw as the front setback reductions do not directly face neighbours.
varied.	The non-staff supported proposal is considered to defeat the intent of the Zoning Bylaw. The requested side setback variances for the proposed additions (garden shed (Drawing

	D08 of Appendix A), master bedroom addition (Drawing D10 of Appendix A), rooftop deck, entry and garage additions (Drawing D11 of Appendix A) and bedroom addition (Drawing D12 of Appendix A) will be in line with the exterior side walls of the existing detached dwelling setbacks granted in 1997 under DVP.434. However, these will add additional building bulk and deck overlook into the side setbacks and based on review of the plans it appears the proposed additions can proceed efficiently and effectively while meeting the required three metre side setback.
The variance should not impose any additional costs on the RMOW such as additional cost to provide services to the development site or adjacent properties.	As discussed below in the Budget section of this report, staff confirm there are no additional costs to the RMOW associated with the proposal.
The variance should not create or exacerbate any risk to public safety.	The staff-supported proposal is considered to improve public safety as the proposed garage will enable relocation of parking on the parcel to meet the required 1.5 metre setback from the front parcel line, resulting in safer vehicular and pedestrian traffic flow in the Emerald Estates neighborhood.

Potential positive impacts to consider:	Staff comments
Complement the streetscape or neighbourhood.	The staff-supported proposal complements the Emerald neighbourhood streetscape as it works with the existing topography and development on the site. Further, the proposed two-storey building height (garage portion 3.5 metres and entry area 6.14 metres) visible from the street is similar to neighbouring dwellings.
Work with the topography of the site without major site preparation or earthworks.	The staff-supported proposal is considered to respond to the steep sloping topography of the site by filling the existing gap between the existing non-compliant parking area to provide the required parking on the parcel that meets the required 1.5 metres setback from the front parcel line, and accessible access to the dwelling from the street, as well as within the dwelling. The staff-supported proposal does not result in site preparation or earthworks beyond the proposed additions.
Maintain or enhance desirable site features such as natural vegetation, trees and rock outcrops.	The staff-supported proposal maintains desirable site features to the extent that the natural vegetation and mature trees are retained on the parcel in alignment with the high- risk area guidelines of the Wildfire Protection DPA.
Use superior building siting in relation to light access, reducing building energy requirements.	The staff-supported proposal is considered to respond to existing building siting and energy requirements to the extent that the staff-supported variances allow existing construction

The variance should enable the applicant's development to do one or more of the following:

	to remain thereby reducing potential negative energy impacts related to demolition and reconstruction.
Use superior building siting in relation to the privacy of occupants and neighbours.	The staff-supported proposal is considered to use superior building siting as the front building addition does not impact front facing neighbours across the street.
	Based on neighbour letters received (refer to Community Engagement section of this report), there are concerns with privacy in the side setback areas due to the proposed increase in building size, deck overlook and windows that will face neighbours. The non-staff supported proposal will be in line with the exterior side walls of the existing detached dwelling setbacks granted in 1997 under DVP.434, but will add additional building bulk and deck overlook into the side setbacks, and as already described in this table, based on review of the plans it appears the proposed additions can proceed efficiently and effectively while meeting the required three metre side setback. The non-staff supported proposal will be in line with the exterior side walls of the existing detached dwelling setbacks granted in 1997 under DVP.434 but will add additional building bulk and deck overlook into the side setbacks. As already described in this table and based on review of the plans, it appears the proposed additions can proceed efficiently and effectively while meeting the required three metre side setback.
Preserve or enhance views from neighbouring buildings and sites	The staff-supported proposal is considered to have limited and reasonable impacts to existing views and sight lines from neighbouring buildings and sites.
	The non-staff supported proposal will add additional building bulk and deck overlook into the side setbacks and may worsen views from neighbouring buildings.

The variance should not result in a significant negative impact on the streetscape or neighbourhood and should incorporate mitigation measures to reduce any identified negative impact.

Potential negative impacts to consider:	Staff comments
Inconsistency of the development with neighbourhood character.	The staff-supported proposal is consistent with the Emerald neighborhood character as it works with the existing topography and existing development on the site. The proposed building works with site topography and steps down with the existing slope as is consistently done by other dwellings in this neighbourhood.
Increased apparent building bulk as viewed from the street or surrounding neighbourhood.	The staff-supported proposal results in building bulk closer to the street, however, the proposed two-storey building height (garage portion 3.5 metres and entry area 6.14 metres) visible from the street is not taller or bulkier than surrounding dwellings.

	The requested side setback variances for the proposed additions (garden shed (Drawing D08 of Appendix A), master bedroom addition (Drawing D10 of Appendix A), rooftop deck, entry and garage additions (Drawing D11 of Appendix A) and bedroom addition (Drawing D12 of Appendix A) will be in line with the exterior side walls of the existing detached dwelling setbacks granted in 1997 under DVP.434, but will add additional building bulk and deck overlook into the side setbacks, and as already described in this table, based on review of the plans it appears the proposed additions can proceed efficiently and effectively while meeting the required three metre side setback. The requested side setback variances for the proposed additions (garden shed (Drawing D08 of Appendix A), master bedroom addition (Drawing D10 of Appendix A), rooftop deck, entry and garage additions (Drawing D11 of Appendix A) and bedroom addition (Drawing D12 of Appendix A) will be in line with the exterior side walls of the existing detached dwelling setbacks granted in 1997 under DVP.434, but will add additional building bulk and deck overlook into the side setbacks. Based on review of the plans it appears the proposed additions can proceed efficiently and effectively while meeting the required three metre side setback.
Extensive additional site preparation or earthworks.	The staff-supported proposal is considered to work with existing topography and result in limited site preparation and earthworks consistent with the development rights of the property.
Substantial impact on the use or enjoyment of adjacent land such as reduction of sunlight access or privacy or obstruction of views.	The staff-supported proposal is considered to result in reasonable impacts to privacy and views to the extent that the addition will extend the building towards the street and does not impact front facing neighbours across the street and is not expected to impact south facing views to the lake and mountains for neighbours.
	Due to neighbour concerns and the increase in building bulk and deck overlook into the side setbacks, it is considered there may be negative impacts to enjoyment of adjacent lands for neighbours abutting the subject property's side yards as a result of the non-staff-supported side setback variances.
Impact on services such as roads, utilities and snow clearing operations	The staff-supported proposal is considered to reduce impacts to Emerald Drive, services and snow clearing as all parking required for the development will be located on the parcel, meeting required parking setbacks from parcel lines, which is an improvement for snow clearing operations.

Guidelines for particular regulations to consider:	Staff comments
Off-Street Parking Design Standards A variance of the design standard for off- street parking spaces should not create or exacerbate any safety hazard related to the operation of motor vehicles or other forms of transportation.	The staff-supported proposal is considered to improve safety as the proposed garage will enable relocation of parking on the parcel to meet the required 1.5 metre setback from the front parcel line, resulting in safer vehicular and pedestrian traffic flow in the Emerald Estates neighborhood.
Building Siting Regulations A variance should not reduce the livability of existing residential units or units in the development. The applicant should	The staff-supported variances are not expected to reduce livability for neighbouring residential units. Due to neighbour concerns and the increase in building bulk and deck overlook into the side setbacks, it is
demonstrate with appropriate drawings and calculations that the variance would not significantly interfere with privacy or access to sunlight.	considered there may be negative impacts to enjoyment of adjacent lands for neighbours abutting the subject property's side yards as a result of the non-staff- supported side setback variances. The effects of privacy or sunlight on neighbours has not been demonstrated.

Zoning Bylaw

The property is zoned RS1. The requested variances to the Zoning Bylaw are described in the Discussion section of this report. The proposal meets all other regulations of the Zoning Bylaw.

2023-2026 Strategic Plan

The 2023-2026 Strategic Plan outlines the high-level direction of the RMOW to help shape community progress during this term of Council. The Strategic Plan contains four priority areas with various associated initiatives that support them. This section identifies how this report links to the Strategic Plan.

Strategic Priorities

□ Housing

Expedite the delivery of and longer-term planning for employee housing

 $\hfill\square$ Climate Action

Mobilize municipal resources toward the implementation of the Big Moves Climate Action Plan

□ Community Engagement

Strive to connect locals to each other and to the RMOW

□ Smart Tourism

Preserve and protect Whistler's unique culture, natural assets and infrastructure

 \boxtimes Not Applicable

Aligns with core municipal work that falls outside the strategic priorities but improves, maintains, updates and/or protects existing and essential community infrastructure or programs

Community Vision and Official Community Plan

The OCP is the RMOW's most important guiding document that sets the community vision and longterm community direction. This section identifies how this report applies to the OCP. The recommended resolution included within this report is consistent with the goals, objectives and policies included within the OCP, specifically:

Policy 4.1.1.3 (i). Maintain a high quality of urban design, architecture and landscape architecture that are complementary to the mountain environment.

Policy 7.1.1.7. During development or significant redevelopment, the preferred outcome is avoidance of negative environmental impacts, followed by minimization or mitigation, thirdly, by restoration, and lastly, by compensation for impacts.

Development Permit Areas (DPA)

A Development Permit is not required; however, the applicant has demonstrated that the proposal would meet the high-risk area guidelines of the Wildfire Protection DPA. Specifically, there is no coniferous vegetation located within three metres of the principal building additions, and no new coniferous vegetation is proposed. Further, the building addition is comprised of fire-resistant (Class A, non-combustibility) roofing and siding.

BUDGET CONSIDERATIONS

There are no significant budget considerations with this proposal. DVP application fees provide a recovery of costs associated with processing this application.

LÍĽWAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Lílwat People, known in their language as *L'il'wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumixw* to: create an enduring relationship; establish collaborative processes for Crown land planning; achieve mutual objectives; and enable participation in Whistler's resort economy.

There are no specific considerations to include in this report.

COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

 \boxtimes Inform \Box Consult \Box Involve \Box Collaborate

Empower

A sign describing DVP01243 is posted on the property.

An initial inquiry was received from adjacent neighbour at 9147 Emerald Drive about concerns with a proposed upper floor deck (above master level) and a multi-level window for the stairwell, both proposed to encroach into the side setback on the west elevation of the dwelling. The owner agreed to use obscured glass for the window and will consider use of high glass or opaque railing to screen the deck from neighbours to the west side. The inquirer was satisfied with this response.

Notices were sent to surrounding property owners and tenants in April 2024 as required by the *Local Government Act* for DVPs. At the time of writing this report, two letters have been received: one from the adjacent neighbour at 9147 Emerald Drive and one anonymous. One writer is opposed to the

requested south side setbacks and one writer is opposed to the requested setback variances, specifically siting the requested setback variance for the garage. The letters are attached as Appendix D. Any correspondence received following the preparation of this report will be presented to Council at the time of considerations of this application.

REFERENCES

Location:	9151 Emerald Drive
Legal:	PID: 008-028-362, LOT 11 BLOCK C of DISTRICT LOT 3625 PLAN 13694
Owner:	Martin Stockley; Lynn Gentile
Zoning:	RS1 (Single Family Residential One)

Appendix A – DVP01243 Permit Appendix B – Location Map Appendix C – Site Profile Appendix D – Neighbour Letters

SUMMARY

This report presents Development Variance Permit DVP01243 with three staff-supported variances for Council's consideration to vary the front building setbacks for a detached dwelling and attached garage and to increase the percentage of hard surfaces in the front setback at 9151 Emerald Drive.

This report also presents two non-staff-supported variances for Council's consideration, to vary the side setbacks for building additions at 9151 Emerald Drive.

This report recommends that Council approve the staff-supported variances and issuance of DVP01243, subject to architectural plan revisions detailing compliant side setbacks for the proposed building additions to the satisfaction of the General Manager of Climate Action, Planning and Development Services.

SIGN-OFFS

Written by:

Brook McCrady, Planning Analyst

Reviewed by:

Melissa Laidlaw, Director of Planning

Dale Mikkelsen, General Manager of Climate Action, Planning and Development Services

Virginia Cullen, Chief Administrative Officer