



# WHISTLER

## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** February 16, 2021  
**FROM:** Resort Experience  
**SUBJECT:** DVP01203 - 9595 EMERALD PLACE – SIDE YARD SETBACK VARIANCE

**REPORT:** 21-016  
**FILE:** DVP01203

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Resort Experience be endorsed.

### RECOMMENDATION

That Council approve the issuance of Development Variance Permit DVP01203 for the development located at 9595 Emerald Place to:

1. Vary the north side setback from 3.0 metres to 2.44 metres for roof support posts;
2. Vary the north side setback from 3.0 metres to 1.73 metres for roof overhang;
3. Vary the north side setback from 3.0 metres to 2.72 metres for stair slab; and
4. Vary the north side setback from 3.0 metres to 2.44 metres for deck footing

All as illustrated on the Survey Plan 2113-03955-00-V-01-R2, prepared by McElhanney Associates Land Surveying Ltd. dated June 16, 2020, attached as Appendix “B” to Administrative Report to Council No. 21-015.

### REFERENCES

Location: 9595 Emerald Place  
Legal: PID 005-956-081; Lot 16 Block H District Lot 3625 Plan 12883  
Owner: Brown, Ursel  
Zoning: RS1 (Single Family Residential One)

Appendix “A” - Location Map  
Appendix “B” - Survey Plan  
Appendix “C” - Site Photos  
Appendix “D” - Correspondence Received

### PURPOSE OF REPORT

This Report seeks Council’s consideration for variances to “Zoning and Parking Bylaw No. 303, 2015” for existing roof support posts, roof overhang, stair slab and deck footing constructed within the north side yard setback at 9595 Emerald Place.

Council has the authority to vary “Zoning and Parking Bylaw No. 303, 2015” through Section 498 of the *Local Government Act*.

## DISCUSSION

The owner is seeking a side setback variance to legitimize existing roof support posts, roof overhang, stair slab and deck footing at 9595 Emerald Place in Emerald Estates.

### Site Context

The subject site is a relatively flat lot with a parcel area of approximately 832 square metres. The lot is zoned RS1 (Single Family Residential One) and fronts onto Emerald Place adjacent to Emerald Drive in the Emerald Estates neighbourhood. See Appendix “A” for the location of the subject property.

### Existing Development

The site is developed with a two storey detached dwelling containing an auxiliary residential dwelling unit. The existing dwelling was built on the parcel in 1996 (Building Permit B-96-4696), followed by an addition of an auxiliary residential dwelling unit in 2000 (Building Permit B-00-6709), a small addition with roof extension in 2011 (Building Permit BP002361) and most recently a roof extension in 2019 (Building Permit BP004563).

The 2019 roof extension Building Permit (BP004563) was issued re-using the approved roof extension Building Permit (BP002361) plans from 2011 as the roof support posts and roof overhang were proposed to be replaced in the same location. After construction was completed, the Building Department requested a site survey prior to granting occupancy. Staff review of the survey (attached to this report as Appendix “B”) confirmed the location of the roof, deck and stair were not in compliance with the required Bylaw setbacks. Compliance is required prior to completion of Building Permit BP004563.

Staff review of previously issued Building Permits for this property confirmed that Building Permit B-00-6709 and Building Permit BP002361 for the roof, deck and stair were issued and occupancy was granted, even though the surveys submitted for occupancy did not detail the location of the roof, deck and stair relative to the property line. Staff note that the previously approved roof, deck and stair were constructed to mitigate snow shed while providing safe and private access to the auxiliary residential dwelling unit.

### Description of Proposal

As seen in the survey plan (attached to this report as Appendix “B”) and site photos (attached to this report as Appendix “C”), the owners are proposing to legitimize the minor existing encroachments of roof support posts, roof overhang, stair slab and deck footing constructed within the north side yard setback.

The existing roof support posts, roof overhang, stair slab and deck footing variances are requested in response to the requirement for compliance prior to completion of Building Permit BP004563. As previous Building Permits were issued and received occupancy, resulting in long standing unintentional non-compliance issues, the owner pursued subsequent Building Permits and the proposed variances to bring the encroachments into compliance.

Letters of support for the requested variances have been received from the two immediately adjacent neighbouring property owners on the north and south sides as further discussed in the Community Engagement and Consultation section of this report.

Proposed Development Variance

The requested variances are described below:

Variance Request	Zoning and Parking Bylaw No. 303, 2015 Regulation
1. Vary the north side setback from 3.0 metres to 2.44 metres for roof support posts;	RS1 (Single Family Residential One) Zone  Part 12 – Subsection 1:  (14) The minimum permitted side setback, if the gross floor area of detached dwelling is 325 square metres or less, is 3 metres.
2. Vary the north side setback from 3.0 metres to 1.73 metres for roof overhang;  3. Vary the north side setback from 3.0 metres to 2.72 metres for stair slab;  4. Vary the north side setback from 3.0 metres to 2.44 metres for deck footing;	General Regulations  Part 5 – Subsection 7(1)(a)(b)(i), “Projections into Required Setback Areas”  (1) The following features are permitted in setback areas:  (a) eaves, gutters, cornices, sills, belt courses, chimneys, heating or ventilating equipment provided such projections do not project more than 1 metre, measured horizontally, into a required setback area;  (b) unenclosed stairwells, balconies, porches, canopies and sunshades, provided such projections do not project more than:  (i) 1.5 metres into required front and side setback areas; provided the foundations or supports for such projections do not encroach into a required setback area.

The requested variances are identified on the survey plan attached as Appendix “B”.

**POLICY CONSIDERATIONS**

**Development Variance Permit Criteria**

Staff have established criteria for consideration of development variance permits. The proposed variances are considered to be consistent with these criteria as described in the table below.

Potential Positive Impacts	Comment
Complements a particular streetscape or neighbourhood.	The existing roof, stairs and deck are well integrated with the existing buildings design and finished to match. The siting, design and finishing of the structures are considered in keeping with the neighbourhood character visible from Emerald Place and Emerald Drive.
Works with the topography on the site, reducing the need for major site preparation or earthwork.	Issuance of a variance to permit the existing roof, stairs and deck to remain as they are currently constructed results in no site preparation or earthwork.

Maintains or enhances desirable site features, such as natural vegetation, trees and rock outcrops.	Issuance of a variance to permit the existing roof, stairs and deck to remain as they are currently constructed results in retention of all existing mature trees and vegetation on site. The existing structures are screened from view between neighbouring properties through the established landscape screening and mature trees in the north and south side yards.
Results in superior siting with respect to light access resulting in decreased energy requirements.	Issuance of a variance to permit the existing roof, stairs and deck to remain as they are currently constructed results in no change to light access. The existing structures were sited to complement the flat nature of the lot and respect light access through existing windows and doors.
Results in superior siting with respect to privacy.	The existing roof, stairs, deck and dwelling entrances are sited, oriented and setback from parcel lines to enhance privacy on the lot and between neighbouring properties.
Enhances views from neighbouring buildings and sites.	The existing roof, stairs and deck are well established and are not considered to affect neighbours views. The immediately adjacent neighbours have provided letters of support attached as Appendix “D”.

Potential Negative Impacts	Comments
Is inconsistent with neighbourhood character.	The existing roof, stairs and deck are designed to be low in profile, consistent with the character of the existing building and sited to be consistent with the Emerald Estates neighbourhood.
Increases the appearance of building bulk from the street or surrounding neighbourhood.	The existing roof, stairs and deck work with the flat nature the parcel, are integrated with the low profile two storey building and are not considered to increase the appearance of building bulk from the street.
Requires extensive site preparation.	n/a
Substantially affects the use and enjoyment of adjacent lands (e.g. reduces light access, privacy, and views).	n/a
Requires a frontage variance to permit greater gross floor area, with the exception of a parcel fronting a cul-de-sac.	n/a
Requires a height variance to facilitate gross floor area exclusion.	n/a
Results in unacceptable impacts on services (e.g. roads, utilities, snow clearing operations).	n/a

### **Zoning and Parking Bylaw No. 303, 2015**

The property is zoned RS1 (Single Family Residential One). The requested side yard setback variances to “Zoning and Parking Bylaw No. 303, 2015” are described in the Discussion section of this report. The proposal meets all other regulations of “Zoning and Parking Bylaw No. 303, 2015”.

### **Official Community Plan Bylaw 2199, 2018**

The recommended resolution included within this report is consistent with the goals, objectives and policies included within “OCP Bylaw 2199, 2018”. A Development Permit is not required.

### **BUDGET CONSIDERATIONS**

There are no significant budget implications with this proposal. Development Variance Permit application fees provide for recovery of costs associated with processing this application.

### **COMMUNITY ENGAGEMENT AND CONSULTATION**

A sign describing DVP01203 is posted on the property.

Notices were sent to surrounding property owners in January 2021. At the time of writing this report, two letters of support had been received from the immediately adjacent neighbouring property owners on the north and south sides, which states that they both support the variance and have no concerns. These letters are attached as Appendix “D”.

One letter of support was received from the affected neighbour to the north which states that they support the variance as it contributes to the community’s mountain character and provides additional safety and protection from weather. One letter of support was received from the neighbour directly to the south which states that they support the variance as it creates safe passage to the suite and the existing construction fits with the existing design of the house.

Any letters received following the preparation of this report will be presented to Council at the time of consideration of the application

### **SUMMARY**

Development Variance Permit DVP01203 proposes variances to “Zoning and Parking Bylaw No. 303, 2015” allow roof support posts, roof overhang, stair slab and deck footing within the north side yard setback at 9595 Emerald Place for Council’s consideration. This report recommends approving the issuance of the development variance permit.

Respectfully submitted,

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PLANNING ANALYST

for  
Mike Kirkegaard  
DIRECTOR OF PLANNING

for  
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GENERAL MANAGER OF RESORT EXPERIENCE