



# WHISTLER

## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** October 6, 2020  
**FROM:** Resort Experience  
**SUBJECT:** DVP01196 – 9206 EMERALD DRIVE – VARIANCES FOR RETAINING WALL SETBACKS

**REPORT:** 20-094  
**FILE:** DVP01196

### 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 DVP01196 for the proposed development located at 9206 Emerald Drive to vary setbacks as follows:

1. Vary the north side setback from 3.0 metres to 1.2 metres for two retaining walls;
2. Vary the south side setback from 3.0 metres to 1.2 metres for one retaining wall; and
3. Vary the rear setback from 7.6 metres to 3.9 metres for one retaining wall;

all as shown on the Retaining Wall Survey Plan L-0072, dated May 15, 2020, prepared by Paul Bunbury, attached as Appendix “B” to Administrative Report to Council No. 20-094

### REFERENCES

Location: 9206 Emerald Drive  
Legal: PID 008-895-970, LOT 1 BLOCK D DISTRICT LOT 3625 PLAN 12376  
Owner(s): Robert H. Barnett  
Zoning: RS1 (Single Family Residential One)  
Appendices: “A” – Location Map  
                  “B” – Retaining Wall Survey Plan  
                  “C” – Site Photos  
                  “D” – Applicant’s Rationale

### PURPOSE OF REPORT

This Report seeks Council’s consideration for setback variances to “Zoning and Parking Bylaw No. 303, 2015” for existing retaining walls at 9206 Emerald Drive.

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

## **DISCUSSION**

### **Site Context**

As shown in Appendix “A”, the subject parcel is located on the west side of Emerald Drive near the second entrance to the Emerald neighbourhood. This parcel has an area of approximately 798 square metres and slopes uphill from the road to the rear of the site. The lot is zoned RS1 (Single Family Residential One). The existing two storey detached dwelling on the lands was authorized under Building Permit BP004386 in 2018. The Building Permit does not include any excluded basement gross floor area (GFA), and the retaining walls under consideration do not facilitate excluded GFA.

### **Description of Proposal**

The owner is seeking setback variances for existing retaining walls at 9206 Emerald Drive. The applicant has provided a rationale for these walls, citing the sloping site conditions as a driving factor. The applicant’s rationale is attached to this Report as Appendix “D”. The rationale states that, due to the slope of the site, the retaining walls have been constructed to stabilize the site, prevent erosion, and protect the dwelling from snow drift and runoff. The applicant has also advised that the retaining walls increase usability on the site, allow access around the northern side of the dwelling, and allow for increased landscaping opportunities.

The retaining walls requiring variances have been constructed within the rear setback and both side setbacks. The walls are a rock stack construction. Details about each retaining wall are provided below:

#### *1. North retaining wall*

Per the applicant’s rationale and other provided information, the north side retaining wall was constructed to stabilize the area along the northern boundary of the parcel, and allows for access to the basement door on the northern side of the dwelling. The maximum height of the wall is 1.92 metres at the west end, and the height decreases towards the east until the height becomes less than 0.6 metres.

#### *2. Rear retaining wall*

Per the applicant’s rationale, the rear retaining wall was constructed to protect the new residence from the snow drift and subsequent spring runoff from the parcels at the rear of the site. The maximum height of this retaining wall is 1 metre. Planting has been provided in the graded area behind the rear retaining wall.

A Survey Plan and site photos showing the retaining walls have been provided as Appendix “B” and “C” respectively.

### **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 1.2 metres for two retaining walls. 2. Vary the south side setback from 3.0 metres to 1.2 metres for one retaining wall. 3. Vary the rear setback from 7.6 metres to 3.9 metres for one retaining wall.	RS1 Zone (Single Family Residential One) Part 12 – Subsection 1 (14) The minimum permitted side setback is as follows:* <table border="1" style="margin-left: 40px;"> <thead> <tr> <th>GROSS FLOOR AREA OF DETACHED DWELLING</th> <th>MINIMUM SIDE SETBACK</th> </tr> </thead> <tbody> <tr> <td>325 square metres or less</td> <td>3 metres</td> </tr> <tr> <td>greater than 325 square metres</td> <td>6 metres</td> </tr> </tbody> </table> (15) The minimum permitted rear setback is 7.6 metres. General Regulations Part 5 – Subsection 7.(1), “Projections into Required Setback Areas” The following features are permitted in setback areas (d) landscape features including planters, stairs, walkways, decks, retaining walls and decorative walls, provided such features are not greater than 0.6 metres in height above any point of the adjacent grade and are set back at least one metre from any side parcel line and at least two metres from the front and rear parcel lines.	GROSS FLOOR AREA OF DETACHED DWELLING	MINIMUM SIDE SETBACK	325 square metres or less	3 metres	greater than 325 square metres	6 metres
GROSS FLOOR AREA OF DETACHED DWELLING	MINIMUM SIDE SETBACK						
325 square metres or less	3 metres						
greater than 325 square metres	6 metres						

\* The gross floor area of the detached dwelling is 276 square metres.

As noted in the table above, the General Regulations section of “Zoning and Parking Bylaw No. 303, 2015” permits retaining walls in setback areas under the specified limitations. While the proposed retaining walls do not fully comply with these requirements, staff recognize that setback relaxations for retaining walls are permitted provided they are located at least 1 metre from the side parcel line, and less than 0.6 metres in height. Some parts of the retaining wall are located at least 1 metre from the side parcel line, and are greater than 0.6 metres in height. The requested variances are identified on the Retaining Wall Survey Plan attached as Appendix “B”.

## POLICY CONSIDERATIONS

### Development Variance Permit Criteria

The Resort Municipality of Whistler (RMOW) has 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	Comments
Complements a particular streetscape or neighbourhood.	The retaining walls are primarily located behind the detached dwelling and are visible only in partial sections from the street. These retaining walls allow for planting opportunities.
Works with the topography on the site, reducing the need for major site preparation or earthwork.	The development works with the sloping topography of the lot. The retaining walls have already been completed.
Maintains or enhances desirable site features, such as natural vegetation, trees and rock outcrops.	Not applicable, the retaining walls do not affect any site features.
Results in superior siting with respect to light access resulting in decreased energy requirements.	Not applicable, the retaining walls do not affect light access.
Results in superior siting with respect to privacy.	The retaining walls enable the lower level of the building to be located below the existing grade of the site. This results in increased privacy as the ground floor is below the height of the adjoining parcels.

Enhances views from neighbouring buildings and sites.	Not applicable, the retaining walls do not affect views from neighbouring properties.
<b>Potential Negative Impacts</b>	<b>Comments</b>
Is inconsistent with neighbourhood character.	The development is considered consistent with neighbourhood character.
Increases the appearance of building bulk from the street or surrounding neighbourhood.	The retaining walls are generally located behind the detached dwelling and allow the ground floor of the dwelling to be below the existing grade of the site.
Requires extensive site preparation.	Some site preparation was required for retaining wall foundations and construction. Overall, the design is consistent with the sloped nature of the lot.
Substantially affects the use and enjoyment of adjacent lands (e.g. reduces light access, privacy, and views).	The retaining walls are oriented inwards and do not affect the use and enjoyment of adjacent lands.
Requires a frontage variance to permit greater gross floor area, with the exception of a parcel fronting a cul-de-sac.	Not applicable, a frontage variance is not requested.
Requires a height variance to facilitate gross floor area exclusion.	Not applicable, a height variance is not requested.
Results in unacceptable impacts on services (e.g. roads, utilities, snow clearing operations).	The retaining walls are located behind the existing dwelling and do not affect RMOW snow clearing operations. A Geotechnical Memo has been provided in support of the application; this memo confirms that the retaining walls do not result in unacceptable impacts to utilities in the area.

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

The property is zoned RS1 (Single Family Residential One). The requested 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 No. 2199, 2018**

The recommended resolutions included within this Report are consistent with the goals, objectives and policies included within “OCP Bylaw No. 2199, 2018”. The proposed retaining walls are exempt from any development permit requirements under Chapter 13.

**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 DVP01196 is posted on the property.

Notices were sent to the registered owners and civic addresses of surrounding properties in September 2020. At the time of writing this Report, no correspondence has been received.

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 DVP01196 requests Council's consideration of variances to "Zoning and Parking Bylaw No. 303, 2015" for reduced setbacks for existing retaining walls at 9206 Emerald Drive.

Respectfully submitted,

Clancy Sloan  
PLANNING ANALYST

For  
Mike Kirkegaard  
DIRECTOR OF PLANNING

For  
Toni Metcalf  
INTERIM GENERAL MANAGER OF RESORT EXPERIENCE