

To: Electoral Area Services Committee
From: Ray Schipper, Planning Technician

Date: 2025-03-13
File Number: 3090-20 2025-02

Subject: Development Variance Permit 2025-02 to increase the maximum setback for an accessory dwelling unit at 42921 Frost Road, Electoral Area H

Reviewed by: Katelyn Hipwell, Manager of Planning
Graham Daneluz, Director of Planning & Development
Jennifer Kinneman, Chief Administrative Officer

RECOMMENDATION

THAT the Fraser Valley Regional District Board refuse Development Variance Permit 2025-02 at 42921 Frost Road.

BACKGROUND

On February 18, 2025, the owner of 42921 Frost Road applied for a Development Variance Permit (DVP) to vary zoning regulations for an accessory dwelling unit (ADU). The subject property is zoned Agricultural 1 (AG-1) in *Fraser Valley Regional District Zoning Bylaw No. 1638, 2021*. In this zone, ADU use is permitted. However, ADU use is regulated with a maximum setback of 30 metres between the principal dwelling unit and the accessory dwelling unit. The zoning regulations also state that an ADU must also share the same driveway access as the principal residential use. The applicant has requested a variance to the maximum setback regulation.

There is an active building permit application (BP015799) for an ADU A277 certified modular home. As part of the planning review initiated on February 4, 2025, it was noted that the proposed ADU was more than 30 metres away from the principal dwelling, leading to an inquiry regarding the proposed siting of the ADU. The applicant subsequently requested a variance to the maximum setback between the principal residence and ADU.

Staff acknowledge the applicant's family concerns and in recognition of the circumstances, have prioritized the application process to bring the variance request to the Committee and Board at the earliest possible meeting. However, it is important to note that while personal circumstances are considered, the variance application must be evaluated by staff based on its planning merits and compliance with relevant bylaws and regulations.

PROPERTY DETAILS			
Address	42921 Frost Road	Area	H
PID	008-975-353	Owner	Peter McGraa & Zsuzsana McGraa
Folio	733.02910.010	Applicants	Peter McGraa & Zsuzsana McGraa
Lot Size	3.5 acres (1.42 hectares)	Agent	Archie Anjo, Dwell Tech Industries
Current Zoning	Agricultural (AG-1)	Proposed Zoning	No change
Current OCP	Agricultural (AG)	Proposed OCP	No change
Current Use	Residential	Proposed Use	No change
Development Permit Areas	DPA 5-E Riparian Area		
Agricultural Land Reserve	Yes		

ADJACENT ZONING & LAND USES		
North	^	Agricultural (AG-1); Agricultural and Residential
East	>	Agricultural (AG-1); Residential
West	<	Agricultural (AG-1); Residential
South	v	Rural 3 (R-3); Residential

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

Property Information

42921 Frost Road is a 3.5-acre (1.42-hectare) parcel in Columbia Valley, Area H. There is currently one dwelling and four accessory structures on the site. The subject property is entirely within the Agricultural Land Reserve (ALR) and does not have farm status according to BC Assessment.

The applicant occupies a single family dwelling (SFD) on the property, the principal residential use. They propose to construct an accessory dwelling unit (ADU) near the property's southwest corner, approximately 59.32 metres from the existing dwelling. The ADU would be an A277 certified modular home. The property is zoned as Agricultural 1 (AG-1) in *Fraser Valley Regional District Zoning Bylaw No. 1638, 2021*, which permits ADU use. This use has a maximum setback of 30 metres between the principal and accessory dwelling units. Additionally, the zoning bylaw states that both dwellings must share the same driveway access.

FVRD Zoning Bylaw and ALR Regulations

The intent behind the 30 metre setback restriction and the shared driveway requirement for ADUs is multifaceted, addressing both practical and environmental concerns. These regulations ensure that

ADUs remain accessory to the principal residence, functioning as a unified homestead. By maintaining the 30 metre or less proximity, these rules help minimize the residential footprint on the agricultural parcel and mitigate potential nuisances for neighbours, such as increased noise, traffic, and reduced privacy concerns that may be associated with more dispersed development. The shared driveway reinforces the accessory nature of the unit while encouraging shared servicing, which helps limit environmental impacts. Furthermore, these regulations are designed to prevent pressure for unintended subdivisions and rural sprawl, preserving agricultural character in the area.

The subject property is located entirely within the Agricultural Land Reserve (ALR). As such, the *Agricultural Land Commission Act* (ALCA) and ALR Regulations apply. The Agricultural Land Commission (ALC) regulates the maximum floor area of dwellings and has requirements for the placement of fill and removal of soil for accessory residential structures and dwellings. Applicants are encouraged to contact the ALC before any development on properties in the ALR.

Staff have referred to the ALC regarding Notice of Intent (NOI) requirements for secondary residences and the placement of fill. On February 25, 2025, ALC staff have confirmed that there is no fill allowance for additional residences under Section 35(a) of the ALR Use Regulation. As the ALC is a regulating authority of lands within the ALR, the applicant has been advised to contact the ALC regarding NOI or application requirements before and during the building permit and DVP application processes.

ADU regulations for both FVRD and the ALC are outlined below:

Accessory Dwelling Unit Regulations		
Required	Proposed	Complies
Must have the same highway access as the principal residential use	Same highway access (Frost Rd.)	Yes
Must share the same driveway access as the principal residential use	No driveway access for ADU. ADU will be accessed from the driveway installed for an accessory structure. Residents of ADU will walk from the driveway to ADU	No
Must have a maximum setback of 30 metres between the principal dwelling unit and accessory dwelling unit	Approximately 59.32 metres from the existing principal dwelling	No
Minimum servicing of onsite water and onsite sewer for lots greater than or equal to 1.0 ha	Onsite water and onsite sewer	Yes
Gross floor area < 90 m ² for secondary residences on parcels < 40 hectares (ALC regulation)	61.32 m ²	Yes

Applicant's Rationale for Variance

The applicant has advised the following reasons in support of the variance, which have also been included in Appendix B of this report.

- The ADU cannot be placed within 30 metres of the principal dwelling due to limitations caused by existing structures, septic systems, underground infrastructure, driveway, landscaping, mature trees, and topography.
- Siting the ADU within 30 metres of the principal dwelling would not align with the **applicant's aesthetic or privacy values.**
- **Due to health concerns with a member of the applicant's family, the applicant would like the ADU constructed as soon as possible.**

Variance Analysis

While staff prioritize maintaining the 30 metre maximum setback between the principal dwelling and an ADU, per the zoning bylaw, staff acknowledge that variances may be justified in limited instances due to specific site constraints. Examples include physical constraints such as steep slopes or watercourses and development constraints such as archaeological sites, easements, conservation covenants, or right of ways resulting in irregular development patterns. Staff recognize that meeting the intent of the zoning bylaw is typically the most straightforward path for issuance of a building permit, but site specific circumstances may necessitate consideration of a variance request.

Based on the attached site plan (Appendix C) and staff observations during a site visit on February 21, 2025, multiple factors may limit the subject **property's available area for residential development.** The topography slopes to the south and west sides of the principal residence, restricting potential development directly adjacent to these sides of the residence.

To the north of the principal residence, the applicant cites existing constraints with infrastructure for the septic tanks and field, along with the location of vegetation and recreational amenities. The attached site plan shows the approximate locations of the septic infrastructure and other features on the property. Staff have not received detailed septic plans, and without them, they cannot fully assess the extent of this constraint.

South of the dwelling and existing driveway appears to be a newly installed gravel path that leads to a prefabricated steel structure and storage container. The applicant cites these structures as constraints to the 30 metre ADU setback as placing the ADU in this area would require relocating the structures.

After visiting the site, staff determined that site development for the proposed ADU had begun. The works initiated include:

1. construction of a screw pile foundation for an A277 certified modular home.
2. earthworks to place a water line and electrical conduit from a utility pole beside the driveway to the storage container, then onward to the proposed dwelling site.
3. placement of gravel fill to connect the existing driveway to a prefabricated steel structure and storage container.

There is no driveway access for the proposed ADU. The applicant advises that the ADU would be accessed from a gravel driveway extending west from the existing driveway. The applicant proposes that residents of the ADU will be required to access the secondary dwelling by walking **from the accessory structure's** driveway to the ADU. Zoning regulations state that an ADU must share the same driveway access as the principal residential use. A second driveway access from the highway (Frost Road) would be prohibited. The applicant has not requested a variance to this regulation as part of their application.

While the applicant has cited various factors influencing their decision to apply for the setback variance, including initiated earthworks, existing structures and utilities, topography, personal preferences, and privacy concerns, these do not

constitute unavoidable site-specific constraints that would necessitate a variance. The privacy concerns raised by the applicant could potentially be addressed by landscaping or screening, without **requiring a variance to the setback. The bylaw's intent is to ensure that secondary dwellings function** with the principal residence as a single, undivided property. This proximity requirement not only maintains agricultural viability and minimizes residential footprint but also reinforces the integrated nature of the principal and secondary dwellings within the property. Therefore, based on the intent of the zoning bylaw, staff recommend exploring alternative siting options closer to the principal residence. For reference, the ensuing map generated in ArcGIS Online estimates a 30 metre buffer around the principal residence.





Additional Regulatory Considerations

The subject property is within Development Permit Area (DPA) 5-E (Riparian Areas) under *FVRD Official Community Plan Bylaw No. 1115, 2011*. There do not appear to be any watercourses near the property or proposed ADU site, therefore, Riparian Areas DPA 5-E does not apply.

The property is within the application area of *FVRD Floodplain Management Bylaw No. 1669, 2022*. The proposed ADU site appears to meet Flood Construction Level and Floodplain Setback regulations for both Frosst Creek and any other watercourse.

NEIGHBOURHOOD NOTIFICATION AND INPUT

All property owners within 30 metres of the subject property will be notified by the FVRD of the development variance permit application. They will have the opportunity to provide written comments or attend the Board meeting to state their comments. There are five properties within 30 metres of 42921 Frost Road.

FVRD staff have encouraged the applicant to advise neighbouring property owners and residents of the requested variance before sending out the mail-out notification. To date, no letters of support or objection have been submitted.

COST

The application fee of \$1,650 has been received.

CONCLUSION

While the subject property is subject to certain constraints that may affect the siting of an ADU within 30 metres of the principal residence, staff identify that there are alternative siting locations that meet the intent of the zoning bylaw. The applicant has indicated aesthetic considerations and personal preference for the proposed siting location instead of alternatives. The following factors have been considered:

1. The applicant has initiated site preparation work for the proposed ADU location, but this does not justify granting a variance. While staff understand this represents a financial investment, it is important to note that work undertaken prior to permit issuance is done at the applicant's own risk. Staff must evaluate the variance request based on planning merits rather than pre-existing site alterations. We encourage all property owners to secure necessary permits before commencing any construction or site preparation work to avoid potential complications in the development process.
2. While the applicant cites constraints near the principal residence, including sloped topography, existing structures, septic infrastructure, and vegetation, some may not constitute unavoidable site-specific constraints that would necessitate a variance. Staff analysis and a site visit have identified suitable locations north and south of the principal residence that would meet the maximum setback and shared driveway access requirements of the zoning bylaw. These alternative sites demonstrate that compliant ADU placement is possible without compromising the intent of the bylaw or the property's functionality. Privacy concerns can be addressed with fencing or landscaping. Therefore, the applicant's preferred location, which requires approval of a variance, is based on convenience rather than necessity.
3. ALR considerations impact this application due to regulations on the placement of fill for accessory residences and structures. ALR regulations apply in addition to zoning requirements, adding complexity to the development process. The applicant has been advised to contact the ALC throughout the building permit and DVP processes to ensure compliance with provincial regulations. An applicant must provide a Notice of Intent approval as part of the building permit application. The applicant has not yet submitted this.

Given these considerations, staff find it challenging to support the requested variance. The application does not demonstrate that the variance is necessary due to unavoidable site-specific constraints. While the applicant has already completed some work, this does not justify granting a variance that deviates from established zoning regulations. Furthermore, approving this variance undermines the intent of the zoning bylaw requirements.

Staff recommend that the applicant explore options for siting the ADU closer to the principal residence using the same driveway access as the principal residential use, ensuring compliance with

zoning regulations. This approach would better align with the intent of the bylaw while still allowing for the development of an ADU on the property.

Option 1: Refuse (Staff Recommendation)

MOTION: **THAT** the Fraser Valley Regional District Board refuse Development Variance Permit 2025-02 at 42921 Frost Road, Electoral Area H.

Option 2: Issue

MOTION: **THAT** the Fraser Valley Regional District Board issue Development Variance Permit 2025-02 to vary the zoning regulations for an accessory dwelling unit by increasing the maximum setback between a principal dwelling unit and accessory dwelling unit from 30 metres to 59.32 metres at 42921 Frost Road, Electoral Area H, subject to consideration of any comments or concerns raised by the public.