

SUNSHINE COAST REGIONAL DISTRICT STAFF REPORT

TO: Electoral Area Services Committee – November 21, 2024

AUTHOR: Devin Rajala, Planning Technician III

SUBJECT: **DEVELOPMENT VARIANCE PERMIT DVP00100 (798 MARINE DRIVE) - ELECTORAL AREA F**

RECOMMENDATIONS

- (1) THAT the report titled Development Variance Permit DVP00100 (798 Marine Drive) - Electoral Area F be received for information;**
 - (2) AND THAT Development Variance Permit DVP00100, to vary Zoning Bylaw No. 722 to allow construction of a deck on the property located at 798 Marine Drive, be denied:**
 - (a) To reduce the minimum setback under Section 5.14.1(b) of the minimum setback from a side parcel line from 1.5 metres to 0.38 metres**
 - (b) To reduce the minimum setback from the natural boundary of the ocean from 15 metres to 2.9 metres.**
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BACKGROUND

The SCRД has received a development variance permit application for 798 Marine Drive in Electoral Area F. The intent of the application is to allow for the completion of a partially constructed deck, and includes the following requested variances:

1. a reduction of the minimum setback from a side parcel line from 1.5 metres to 0.38 metres; and
2. a reduction of the minimum setback from the natural boundary of the ocean from 15 metres to 2.9 metres.

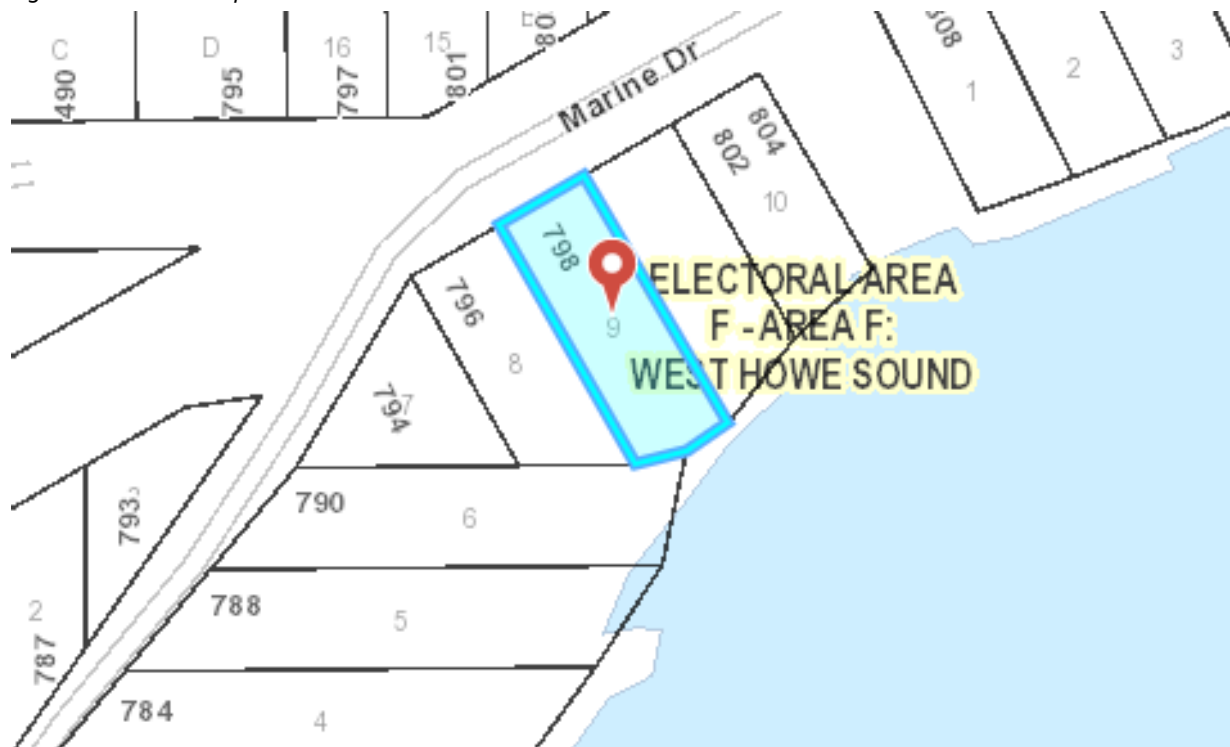
The purpose of this report is to present this application to the Electoral Area Services Committee for consideration.

Table 1 Application Summary

Applicant:	Ben Smale
Civic Address:	798 Marine Drive, Gibsons, BC
Legal Description:	LOT 9 BLOCK 7 DISTRICT LOT 687 PLAN 2075
Electoral Area:	F – West Howe Sound
Parcel Area:	661 m ²

OCP Land Use:	Residential
Land Use Zone:	R1 (Residential One)
Application Intent:	To retroactively vary a zoning bylaw setback to accommodate the construction of a deck.

Figure 1 Location Map



DISCUSSION

Analysis

The applicant is seeking retroactive approval to continue constructing a deck on the property at 798 Marine Drive.

Zoning Bylaw No. 722 contains the following regulations:

5.14.1 The setback of building or structure shall be:

b) the minimum setback from a parcel line not adjacent to a highway, an internal private road, a waterbody or a watercourse shall be 1.5m for buildings and structures less than or equal to 8.5 metres in height

5.16.1 No, building or structure or any part thereof, except a boathouse located within an intertidal zone or within the I13 Zone, shall be constructed, reconstructed, moved, located or extended within:

a) 15 m of the natural boundary of the ocean

The setback requirement from the natural boundary of the ocean is intended to address matters associated with sea-level rise and the environmental interface with the shoreline.

Figure 2: Aerial Photo



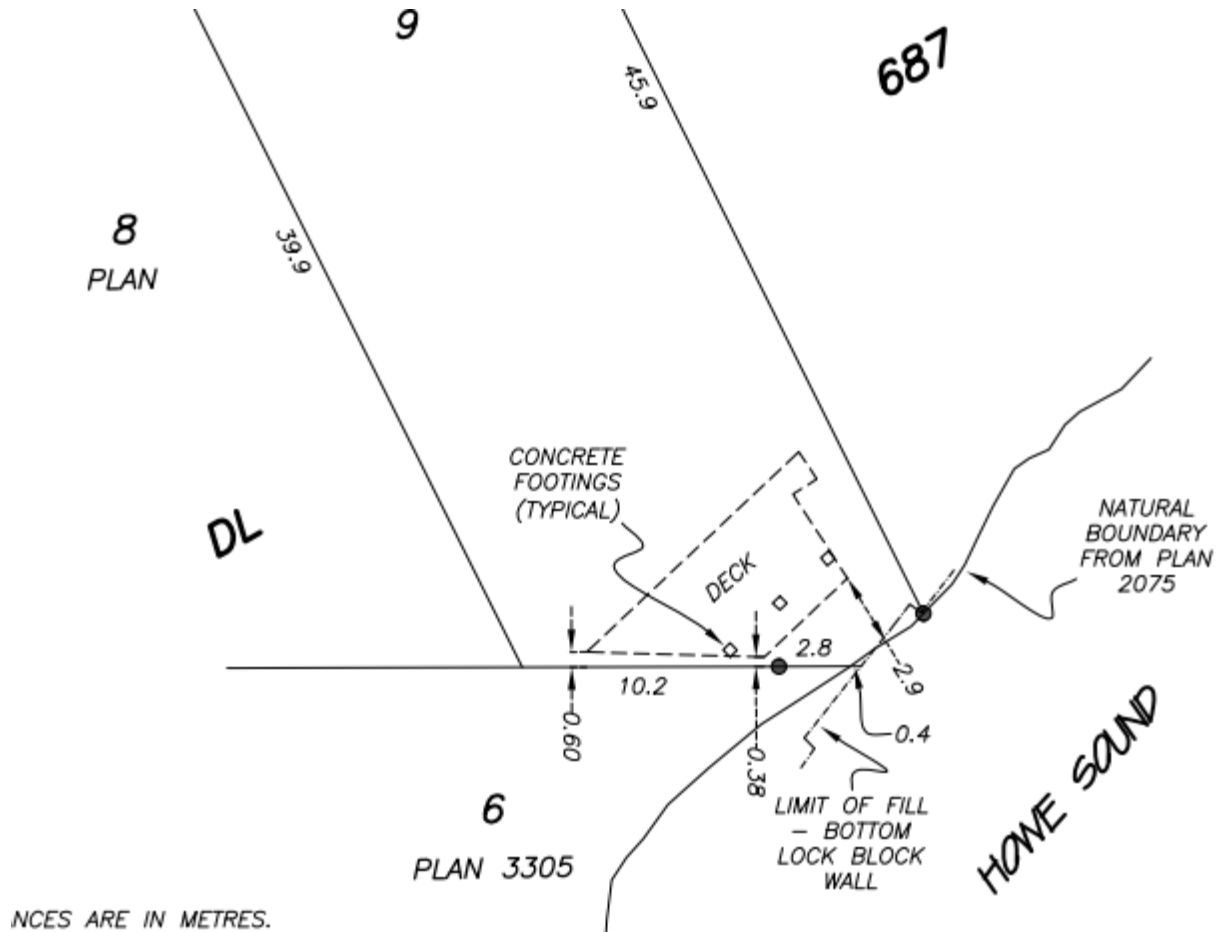
The parcel is 661 m² and a portion of the southern property line fronts onto the ocean. The parcel currently contains an existing single unit dwelling and the owners are seeking approval for the construction of a deck structure near the rear (shoreline) property line.

Construction of a deck near the bottom of the property had already begun but was halted in October 2023 due to a stop work order issued by the Sunshine Coast Regional District (SCRD). Footings, posts, and joists were installed prior to the stop work order being issued. The applicant is now seeking retroactive approval to vary the two bylaw requirements in order to complete the construction of the deck.

The subject parcel is located within the Development Permit Area 1A: Coastal Flooding and 1B: Coastal Slopes, therefore a development permit is required for remediation of the work already conducted without a permit. A development permit application has been received and may be issued under delegated authority pending the outcome of the development variance permit application process. It is also noted that should the Development Variance Permit be approved for issuance as a condition of this a covenant will be registered on title which will include a liability release for the SCR D, related to the DPA matters.

The proposed development plans and site photos are included in Attachment A.

Figure 3: Survey location



Applicant Rationale

The applicant provided the following rationale in support of their variance request:

- The location of the deck does not impact the vision line of neighboring properties.
- The encroachment into the setback area is not adjacent to habitable space.
- The encroachment into the setback area does not set a precedent as neighbouring properties have similar setback encroachments.
- The deck location utilizes an existing retaining wall foundation reviewed for suitability by a geotechnical engineer. There are no other reasonably safe locations for this deck that would not create further slope stability issues.
- The development occurs over a previously developed area and does not require clearing of natural vegetation for construction.

Variance Criteria

Staff have evaluated this application using SCRD Board Policy 13-6410-6 (Development Variance Permits) criteria. Staff provide the following comments on the proposed variances and applicant's rationale:

1. *The variance should not defeat the intent of the bylaw standard or significantly depart from the planning principle or objective intended by the bylaw;*

The proposed variance defeats the intent of provincial guidelines intended to inform local governments of industry standards that mitigate risks associated with climate adaptation.

The intent of the 15-metre setback from the natural boundary of the ocean is to address sea level rise, as well as enhance environmental protection.

2. *The variance should not negatively affect adjacent or nearby properties or public lands;*

The purpose of the side setbacks between parcels is for practical reasons such as privacy and overlook and providing space for access between the side of the building or structure and the property line. That it is also proposed the reduce the shoreline setback for the structure to 2.9 m has the potential for further impacts on neighbouring properties as well as from the shoreline.

3. *The variance should not be considered a precedent, but should be considered as a unique solution to a unique situation or set of circumstances;*

The variance does not meet these criteria. All existing decks within 15m of the natural boundary of the ocean are now deemed non-conforming. Approving this variance could set a precedent for more properties to request a variance in the future when rebuilding failing decks/structures.

4. *The proposed variance represents the best solution for the proposed development after all other options have been considered; and*

Construction of the deck began without any permits. As a result, staff did not have the opportunity to make any recommendations to consider other areas on the lot for the location of the deck.

5. *The variance should not negatively affect the natural site characteristics or environmental qualities of the property*

Future sea level rise may increase the risk of coastal erosion and accelerate the retreat of shorelines. Ultimately, sea level rise planning needs to be considered as part of new development/redevelopment in these coastal interface areas

The variance would have a negative affect on managing the retreat of shoreline properties in light of sea level rise, and would not work to enhance the natural environment and limit the opportunity to establish a more naturalized shoreline environment.

Summary

In summary, staff are not supportive of the requested variance as proposed, given the proximity of the proposed structure to the natural boundary of the ocean and to a parcel line bordering a neighbouring property. Further to approve the variance application as proposed could create a precedent for allowing such structures in proximity to the natural boundary of the ocean.

Options

Possible options to consider:

Option 1: Issue the permit.

This would permit construction of the deck on the property to proceed.

Option 2: Deny the permit.

Staff Recommendation.

The zoning bylaw regulations would continue to apply, and the construction of the deck would be required to comply with the required setback and any construction within the setback area would need to be removed.

Timeline for next steps or estimated completion date

Figure 4 Application Timeline



Communications Strategy

This application has been referred to the following agencies for comment:

Table 2 Referral Comments

Referral Agency	Comments
SCRD Building Division	A building permit will be required if the variance application is approved.
Squamish Nation	Comments not received at time of report writing.

Gibsons & District Volunteer Fire Department	The Gibsons & District Volunteer Fire Department has no fire safety concerns associated with this application.
West Howe Sound Advisory Planning Commission	<p><i>Recommendation No. 1</i></p> <p>The Area F APC recommends that this application not be supported and agree with the staff comments that the extent of the proposed variance is seen as extensive, and that the proposed variance is seen as defeating the intent of provincial guidelines.</p> <p>The Area F APC agrees that given the proximity of the proposed structure to the natural boundary of the ocean and to a parcel line bordering a neighbouring property, staff are not supportive of the variance application as proposed and recommend removal of the structure.</p>
Neighbouring Property Owners/Occupiers	Notifications were mailed on October 31, 2024, to owners and occupiers of properties within a 100 m radius of the subject property. Comments received prior to November 14 th at 12pm are attached.

Notifications to surrounding properties were completed in accordance with Section 499 of the *Local Government Act* and the Sunshine Coast Regional District Bylaw No. 522.

Those who consider their interests affected may attend the Electoral Area Services Committee meeting and speak at the call of the Chair.

STRATEGIC PLAN AND RELATED POLICIES

The proposed variance was evaluated using the criteria provided in SCRD Board Policy 13-6410-6 (Development Variance Permits).

CONCLUSION

The proposed development variance permit to vary the setback line from the natural boundary of the ocean, and from a parcel line not adjacent to a highway, an internal private road, a waterbody or a watercourse, would facilitate the construction of a deck on the property. As set out above, staff are not supportive of the variance application as proposed and recommend removal of the structure, given the proximity of the proposed structure to the natural boundary of the ocean and to a parcel line bordering a neighbouring property.

ATTACHMENTS

Attachment A – Survey Plan & Photos
 Attachment B – Neighbour
 Comments

Reviewed by:			
Manager	X – J. Jackson	Finance	
GM	X – I. Hall	Legislative	X – S. Reid
CAO	X -T. Perreault	Assistant Manager	X – K. Jones