

To: Board of Variance
From: Colin Martin, Planner
Date: October 5, 2026
Subject: Addition to a Single Detached Dwelling – 11 Osprey Place
Tracker No: PER-149

Recommendation:

THAT the requested variances under Section 540(c) of the *Local Government Act* allow for an addition while a non-conforming use is continuing within a principal structure be denied.

Executive Summary:

This application is seeking a variance to allow for an addition to an existing non-conforming use at the property at 11 Osprey Place (Lot 4, Plan KAP37639, Block 1, District Lot 2450S, SDYD) in order to undertake the development of an addition to a single detached dwelling in the form of a new garage and front entrance with wheel chair access.

In support of the application, the applicant has stated that:

- *The previous bylaw, 8.8 R6- Medium Density Residential allowed for a single detached dwelling provided that it existed prior to 2016. Under the new Bylaw the owners are not permitted to do the necessary upgrades to their home that would allow them to live comfortably throughout their senior years. The existing single detached dwelling has been on the property since 1956. Further undue hardship is already occurring since the bulk of the homeowner's wealth... has already been spent on this project and is non-refundable.*
- *The requested variance does not result in an inappropriate development of the site in that it is not applying to construct a new single detached dwelling, but to make necessary upgrades to an existing dwelling to allow for the owners to maintain their independence in their home while aging.*
- *The requested variance does not adversely affect the natural environment as the site was developed decades ago. In fact, it actually enhances the environment.*
- *The requested variance does not substantially affect the use and enjoyment of the adjacent land, as the majority of adjacent land is currently being used as single detached dwelling units with only one Medium Density Building in the area. All the surrounding neighbours, that have been contacted, have expressed their desire to keep the area Low Density.*
- *The requested variance does not vary the permitted uses or densities on the parcel nor defeat the intent of the bylaw, as it is not requesting the construction of a new single detached dwelling unit, simply requesting to do the necessary upgrades to allow the owners to live out their senior years in the comfort of their own home without having to relocate and sell the property.*

Statutory Requirements:

Under Section 540(c) of the *Local government Act*, a person may apply to the Board of Variance if the person alleges that the prohibition of a structural alteration or addition under section 531 (1) [restriction on alteration or addition while non-conforming use continued] would cause the person hardship.

In this instance, the applicant is alleging the prohibition of building an addition to the non-conforming single detached dwelling will prevent them from being able “to do the necessary upgrades to allow the owners to live out their senior years in the comfort of their own home without having to relocate and sell the property.”

In considering this appeal, the BoV may order that a minor variance be permitted to the requirements of the applicable bylaw. The BoV must be satisfied that it has heard the applicant and any notified person, that undue hardship would be caused to the applicant if the Zoning Bylaw is complied with, and the proposed variance does not:

1. result in inappropriate development of the site;
2. adversely affect the natural environment;
3. substantially affect the use and enjoyment of the adjacent land;
4. defeat the intent of the Bylaw; or
5. vary the application of the applicable bylaw in relation to residential tenure.

Under the Town of Osoyoos Board of Variance Bylaw No. 1398, 2024, a notice of Hearing shall be delivered to the Board of Variance members and all owners and occupiers of neighbouring properties. Owners and occupiers of adjacent lands will have been notified of this application and will have the opportunity to comment prior to or during the Board of Variance meeting.

The deliberations, and the decision of the Board to either grant or deny an order must be made in the presence of the applicant, and any other persons notified in connection with that application, if in attendance at the meeting.

Background:

The subject property is approximately 2051 m² in area and is situated on the northeast side of Osprey Place and 62nd Avenue, on the west shore of Osoyoos Lake. The property is currently developed with a single detached dwelling.

The surrounding pattern of development is characterized by medium density residential, some remaining single detached dwellings, and Legion Beach across the street to the east.

The current boundaries of the subject property date to a plan of subdivision that was deposited with the Land Title Office in Kamloops on September 24, 1956. Available records indicate that a building permit was previously issued for the replacement of fire damaged floor joists (2017).

Under the Town's Official Community Plan (OCP) Bylaw No. 1375, 2021, the subject property is designated as Medium Density Residential (MR) and is subject to a Multi-Family Residential Development Permit (MRDP) Area and a Hillside Development Permit (HDDPA) Area.

Under the Town's Zoning Bylaw No. 1395, 2024, the subject property is zoned Medium Density Residential One (RM1) which permits apartment buildings, community care facilities, and townhouses as permitted principal uses. A single detached dwelling is not a permitted use in the RM1 zone.

The property was rezoned from R7 to RM1 when the Town of Osoyoos Zoning Bylaw No. 1395, 2024, was introduced. The previous R7 zone did permit single detached dwelling until November 7, 2016.

BC Assessment has classified the property as "Residential" (Class 01).

Public Process:

Owners and occupiers of neighbouring properties will have received notification of this application in accordance with the requirements of the Town of Osoyoos Board of Variance Bylaw No. 1398, 2024.

Analysis:

The neighbourhood within which the subject property is located is in transition. Recent re-development of surrounding properties has been in the form of multi-family dwellings, consistent with the RM1 zone.

The *Local Government Act* allows non-conforming uses and buildings to be maintained and repaired to an extent but does not allow for structural alterations or additions while a non-conforming use is continued.

Therefore, during this transition single detached dwellings located in the RM1 zone that meet the criteria to be non-conforming will be able to remain with some restrictions. The non-conforming status is intended as a sunset provision.

As the long-term objective is to see vacant parcels or parcels comprising single detached dwellings re-developed to medium density residential (e.g. apartment buildings), an expansion of a single detached dwelling is inconsistent with this objective.

Moreover, altering, adding to, or renovating a non-conforming structure could extend the life of the single detached dwelling, potentially stalling the conversion of the land to future preferred uses consistent with the RM1 zone.

The proposed development is a substantial addition to the existing dwelling, including a sizable new workshop and garage. The existing dwelling is approximately 125 m² and it is proposed to increase the overall footprint of the dwelling to approximately 280 m².

It is understood that the existing garage may be aging and in need of repair. The LGA does allow for repairs to be made to existing non-conforming structures to a degree. Repairing the

existing garage, if within the scope of the LGA's regulations would reduce the expansion of the non-conforming use.

For these reasons, Administration considers the proposal to "defeat the intent of the bylaw" and is recommending the request be denied.

Alternative:

Conversely, Administration recognizes that a portion of the proposed addition is related to an approximately 21 m² accessible entryway as well as some lifestyle comforts to assist aging in place.

The existing garage may be in a state of disrepair and require significant maintenance beyond the LGAs allowances for non-conforming uses.

Summary:

In summary, Administration considers the proposed variance to undermine the intent of Council's land use bylaws by prolonging a non-conforming use on a parcel that has been designated for higher residential densities.

In light of the comments above, Administration does not support the requested variances and is recommending denial.

Options:

1. THAT the requested variance under 540(c) of the *Local Government Act* allow for an addition while a non-conforming use is continuing within a principal structure be denied; OR
2. THAT the requested variances under Section 540(c) of the *Local Government Act* allow for an addition while a non-conforming use is continuing within a principal structure be approved.

Others Consulted:

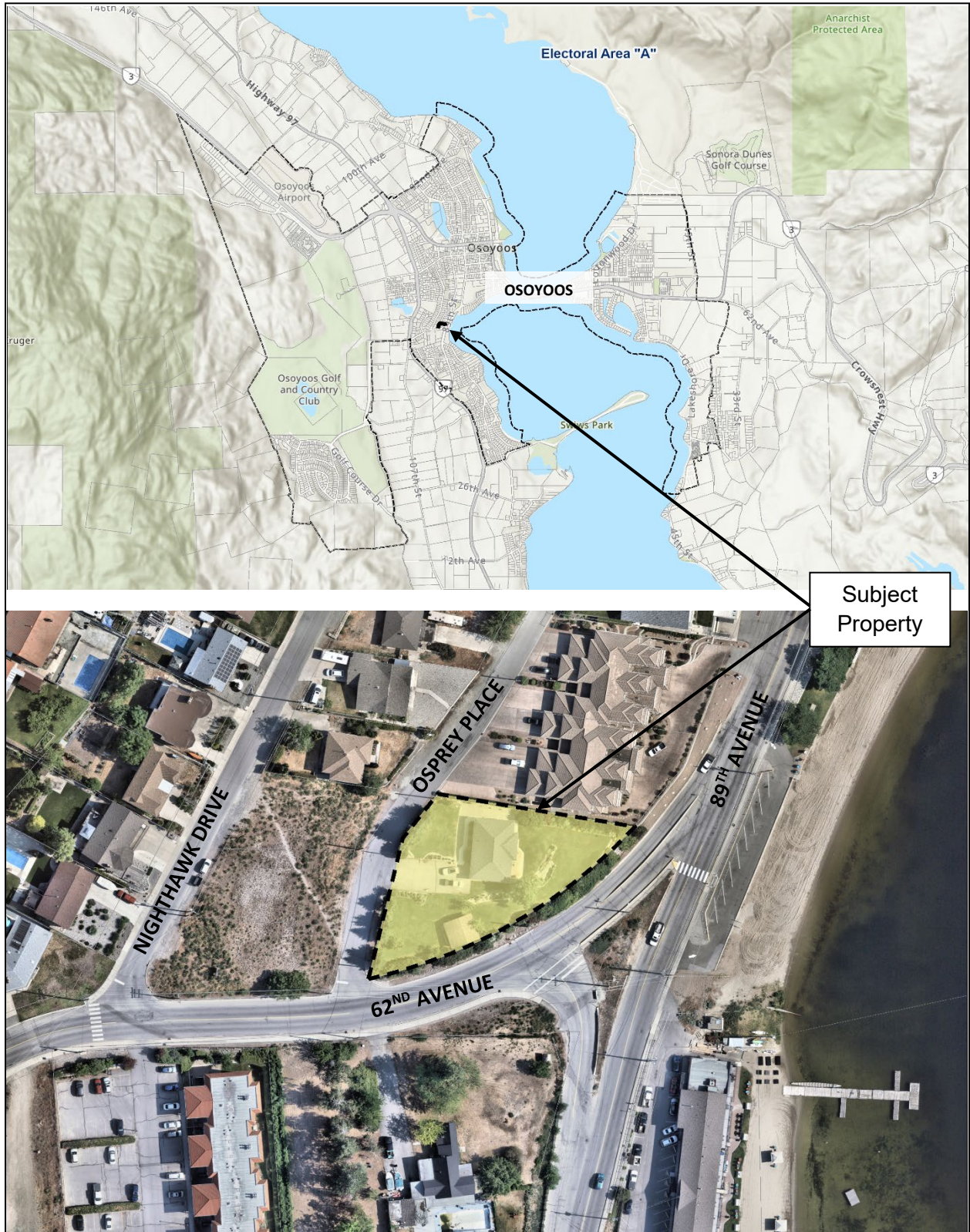
Building Inspector

Additional consultation is expected to continue through the building permit stage if the Permit is issued.

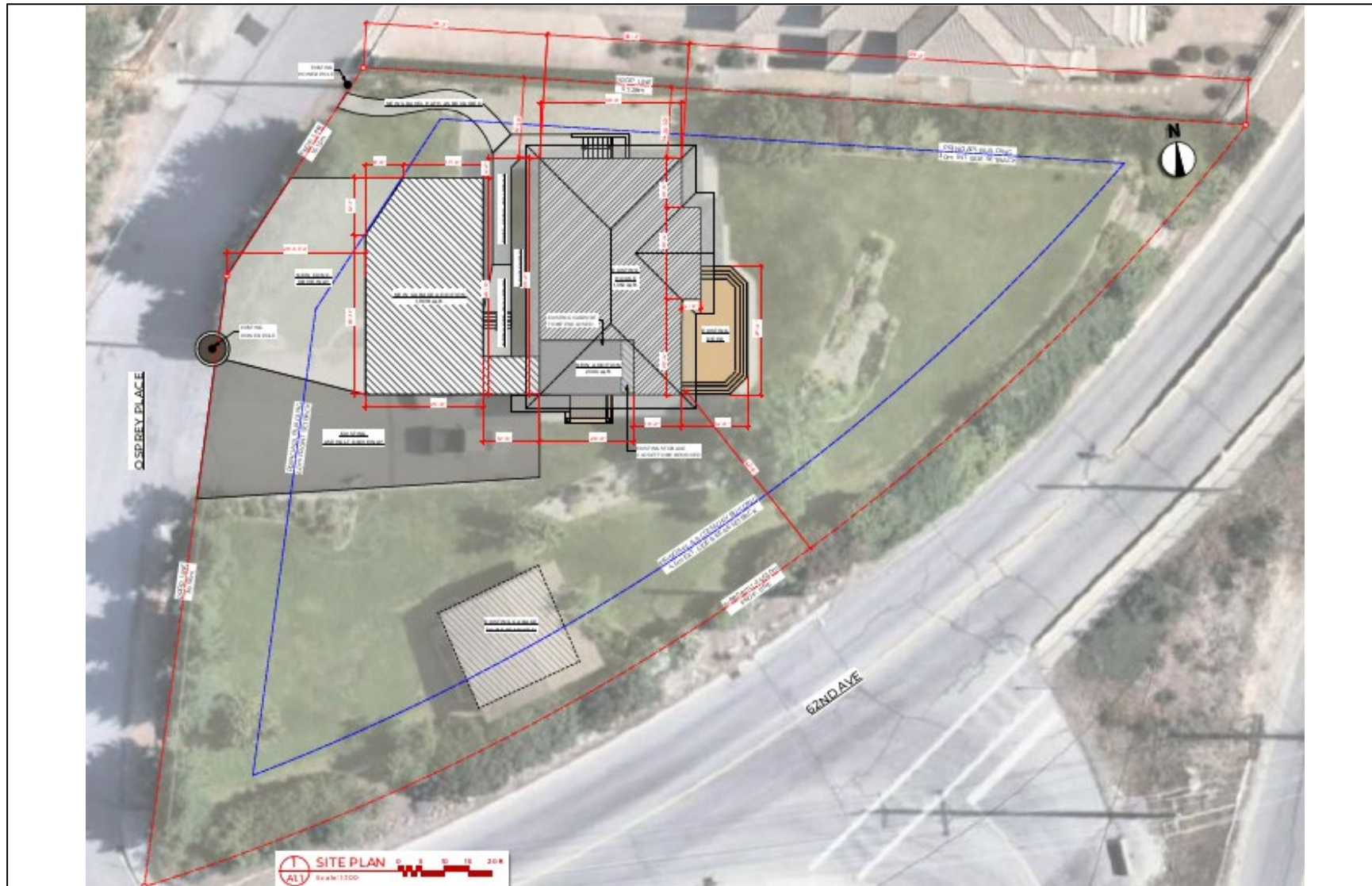
Attachments:

- | | |
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| 1. Context Maps | 4. Applicant's Elevations 2 |
| 2. Applicant's Site Plan | 5. Applicant's Floor Plan |
| 3. Applicant's Elevations 1 | 6. Representations |

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant's Site Plan



Attachment No. 3 – Applicant's Elevations 1

EXTERIOR MATERIAL LEGEND

SUGGESTED MATERIALS ONLY - EXACT SPEC S.T.B.D.

ITEM # DESCRIPTION

1. CORRUGATED HORIZONTAL PLANK SIDING (TO MATCH EXISTING)
2. BRUCCO SIDING (TO MATCH EXISTING)
3. BRUCCO SIDING - CORRUGATED HORIZONTAL PLANK SIDING
4. SOLID THERMO FORTIFIED HIGH CLASS BUILD UP POINT
5. SOLID THERMO THERMO
6. FIBREGLASS DOWN ALTING ORING (TO MATCH EXISTING)
7. VINYL WINDOWS
8. VINYL SIDING DOORS
9. INSULATED METAL VERTICALLY CORRUGATED
10. INSULATED FIBREGLASS W/ METAL CLAD VERTICALLY CORRUGATED
11. METAL VERTICALLY CORRUGATED (TO MATCH EXISTING)
12. FIBRE FINISHED METAL CUT TOOLS (TO MATCH EXISTING)
13. FIBREGLASS DOWN ALTING ORING (TO MATCH EXISTING)

