

# REPORT TO COUNCIL



**Date:** September 17, 2019

**To:** Council

**From:** City Manager

**Department:** Development Planning - Urban

**Application:** DVP18-0247

**Owner:** Martin Len Soleski  
Deanna Dawn Soleski

**Address:** 107 Clifton Rd N

**Applicant:** Martin Len Soleski  
Deanna Dawn Soleski

**Subject:** Development Variance Application

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## 1.0 Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP18-0247 for Lot 38 Section 6 Township 23 ODYD Plan 25017, located at 107 Clifton Rd N, Kelowna, BC;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

### Section 6.5.3 (d): Accessory Development

To vary the required front yard setback from 9.0 m to 4.43 m;

### Section 6.5.3 (e): Accessory Development

To vary the required minimum side yard from 1.5 m to 1.33 m;

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

## 2.0 Purpose

To consider a Development Variance Permit to vary the side yard setback from 1.5 m to 1.33 m and the front yard setback from 9.0 m to 4.43 m for an existing above ground pool, deck, and pumphouse.

## 3.0 Development Planning

Development Planning Staff are supportive of the requested Development Variance Permit to vary the side yard setback from 1.5 m to 1.33 m and the front yard setback from 9.0 m to 4.43 m for an existing above ground pool, deck, and pumphouse as it will bring a non-conforming structure into conformity. The impact on the neighbourhood is deemed to be minimal, and the applicants are proposing to insulate the pool pumphouse to mitigate any noise impacts for the adjacent neighbour.

The owners have investigated other options to come into compliance avoid the need for a variance, however, due to topography and construction constraints the only other option would be to remove the pool and related structures in their entirety.

#### **4.0 Proposal**

##### **4.1 Background**

The above ground pool and surrounding structure was constructed between 2006 and 2009 by the previous owners. A bylaw complaint regarding noise from the pool pumphouse was received in 2009, and it was discovered at that time that the pool and related structures had been erected without required permits. Due to a clerical error, the complaint was not resolved at that time.

In 2015, the new property owners were made aware that the pool structure did not have required permits. As such, they have worked with Staff over the past few years to determine the best course of action to bring the pool into conformity. Under direction from Staff, the owners have made an application for two setback variances to legalize the siting of the pool and surrounding structure.

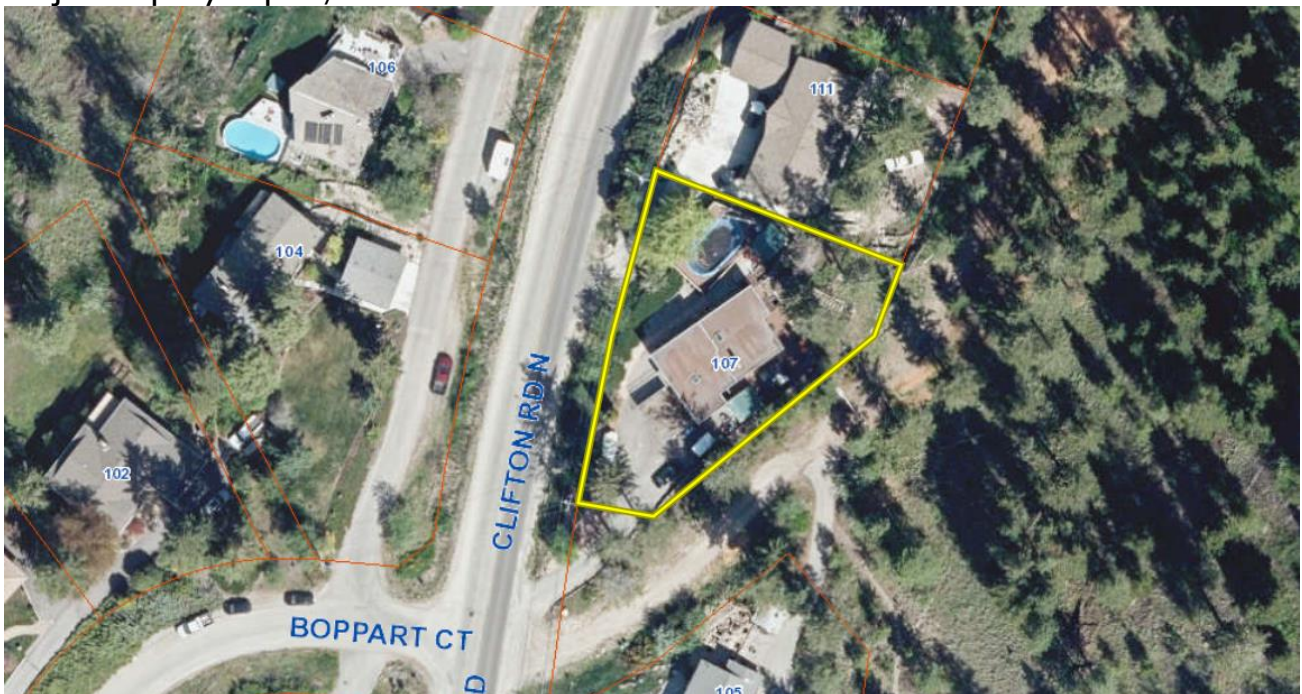
##### **4.2 Project Description**

The requested Development Variance Permit is to vary the side yard setback from 1.5 m to 1.33 m and the front yard setback from 9.0 m to 4.43 m for an existing above ground pool, deck, and pumphouse. The pool and deck are considered accessory structures while the pumphouse is an accessory building. There is an easement on the subject property in favour of the adjacent neighbour for driveway access that will not be impacted by the requested variances.

##### **4.3 Site Context**

The subject property is located in the Clifton City Sector, north of Magic Estates. The area is characterized by large single family residential lots and steep hillsides.

**Subject Property Map:** 107 Clifton Rd N



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	ACCESSORY BUILDING REQUIREMENTS	PROPOSAL
Max. Height	4.8 m	1.7 m
Min. Front Yard	9.0 m	4.43 m ❶
Min. Side Yard (south)	1.5 m	>1.5 m
Min. Side Yard (north)	1.5 m	1.33 m ❷
Min. Rear Yard	1.5 m	>1.5 m
❶ Indicates a requested variance to the front yard setback from 9.0 m to 4.43 m.		
❷ Indicates a requested variance to the side yard setback from 1.5 m to 1.33 m.		

5.0 **Application Chronology**

Date of Application Received: December 6, 2018

Date Public Consultation Completed: August 6, 2019

**Report prepared by:** Trisa Atwood, Planner II

**Reviewed by:** Laura Bentley, Urban Planning & Development Policy Manager

**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

**Attachments:**

Attachment "A": Applicant's Letter of Rationale

Attachment "B": Draft Development Variance Permit DVP18-0247