

THE CORPORATION OF THE DISTRICT OF PEACHLAND

**Special Open Council Meeting Minutes
held Tuesday, October 29th, 2002 at 4:00 p.m.
In the Council Chambers, Peachland Community Centre**

PRESENT: Mayor Waldo, Councillors Dionne, Fraser, Gough, Nielsen, Papineau and Whitelegg

Administrator Peter Jmaeff
Deputy Clerk/Administrative Assistant Betty Briggs
Director of Operations Joe Mocilac
Planning Technician Heidi Simkins

Member of the Media
Members of the Public

CALL TO ORDER: Mayor Waldo called the Special Open Council Meeting to order at 4:00 p.m.

REPORTS

**DEV. VARIANCE
APPL. #60 – 4449
LOGAN ROAD**

The Administrator advised that further information regarding the side yard set-back application at 4449 Logan Road has been provided to Council. The staff recommendation remains the same as in the report to the Regular Council Meeting, to approve the 2' variance. The Administrator advised that he has had conversations with the Mayors and Mr. Zelznick attempting to reach a compromise involving the contractor providing trees, and that efforts to that end have failed. He reported receipt of a letter from Mr. & Mrs. Mayo this morning, from Ponderoka Consulting this afternoon, and from Mr. and Mrs. Les Longate, next door neighbours at 4436 Logan Road, which expressed no concern with the new home construction.

Mayor Waldo asked if those present had new input for Council's information regarding this variance application.

Mr. Richard Mayo, adjacent property owner, provided Council with an overview of events beginning in May, 2002, when he noticed survey tape on the bushes and trees. It was determined that the site plan survey was done by a survey technician, with the resulting error that has placed the house in the wrong location. The District bylaw requires the survey to be done by a BCLS. Mr. Mayo contends that this was done on purpose with full knowledge, and requested that the variance request be deferred until a settlement can be reached. Mr. Mayo stated that he and his wife are willing to put work into a solution, but not money.

Mayor Waldo thanked Mr. Mayo for his presentation, and stated that there is no way to know whether the incorrect survey was done purposely or not. He stressed that Council has been called upon to determine whether the 2' relaxation request is reasonable or not. He advised that the District of Peachland has information CORD that our bylaw requires a licensed surveyor, and that CORD's Inspection Department will now ensure that a BCLS provides site surveys.

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DEV. VARIANCE
PERMIT #60 (CONT.)

Councillor Dionne noted that Mr. Mayo has highlighted deficiencies in bylaws and the prolonged process. This application is for a 2' variance, and it is noted that an error was made on the site survey.

Councillor Whitelegg noted that 2 drawings show different setbacks. The Administrator confirmed that there is an error on each and the Planning Technician used the maximum of 2'. Councillor Whitelegg asked if the wall was moved 2' to meet the setback and become legal, would Mr. Mayo be satisfied. Mr. Mayo responded no, and that to meet the setback, the house would move 30' down the hill.

Mr. James Zelznick, Jazel Enterprises and representing the owners Mr. & Mrs. Neil Payne, stated that he did not realize a survey technician was not recognized, as Jazel has used this survey tech for six years. Jazel hired a professional and it appears he has made an unintentional mistake. The survey is out on one side, but extra room on the other side – this was not intentional. The house was originally designed for a 1.5 m setback, then it was learned the setback was 4.5 m so the house was redesigned and pushed down the hill. Mr. Zelznick asked Council to approve the variance, allow the house to be finished and the Mayo property cleaned up.

Mayor Waldo advised that the removal of rock and debris from the Mayo property is a civil matter between the two parties. The bent survey pin is to be replaced, and there now is a BCLS survey.

Councillor Fraser asked why a stop work order was not issued when concerns were first expressed. The Administrator advised that this is a Regional District function through the Inspections Department.

Councillor Gough asked for clarification that the earlier offers from Jazel to Mayo are not on the table, and are a completely separate issue. The Mayor advised that although this is case, Jazel has made the offer anyway.

Councillor Whitelegg noted that CORD accepted the surveyor technician's report because CORD accepts them District-wide. This has to be considered, that Peachland is the only area that requires a BCLS. Councillor Dionne agreed, stating that our bylaw is unique in the valley in not recognizing technicians.

MOVED by Councillor Dionne, SECONDED by Councillor Papineau:

THAT Council approves Variance Permit Application #60 for a side yard setback variance of the RR-1 (Rural Residential) zone from 4.5 meters (15 feet) to 3.94 meters (13 feet) to allow for the compliance with building regulations in the construction of a new single family home at 4449 Logan Road, Lot 3, Plan 21887, DL 449.

CARRIED.

Mayor Waldo noted that the stop work order will be lifted by the Regional District.

BYLAWS:

Bylaw for Final Reconsideration and Adoption:

**#1604
SEWER LOAN
AUTHORIZATION**

The Administrator advised that approval for the bylaw was received from Victoria today.

MOVED by Councillor Dionne, SECONDED by Councillor Fraser:

THAT Phase 1-d and Phase 2 Sewer Collection System Specified Area Loan Authorization Bylaw Number 1604, 2001 be finally reconsidered and adopted.

CARRIED.

ADJOURN

MOVED by Councillor Nielsen, SECONDED by Councillor Fraser:

THAT the Special Open Council Meeting adjourn at 4:51 p.m.

CARRIED.

(original signed by Mayor and Clerk)

Certified Correct.

Mayor

Municipal Clerk

Dated at Peachland, B.C.
This 14th day of November, 2002.