

DATE: October 31, 2018

FILE: 3730-20/BV 2C 18

TO: Chair and Members
Board of Variance

Supported by Marc Rutten Acting
Chief Administrative Officer

FROM: Marc Rutten
Acting Chief Administrative Officer

M. Rutten

**RE: Board of Variance Application - 9422 Martin Park Drive (Keylock)
Puntledge – Black Creek (Electoral Area C)
Lot 23, Section 22, Township 4, Comox District, Plan 26336, PID 002-748-673**

Purpose

To provide information on a Board of Variance (BOV) application to reduce the front yard setback for a recently constructed accessory building (garage) from 7.5 metres to 6.9 metres.

Executive Summary

- The applicant has applied to the BOV to reduce the front yard setback of a recently constructed accessory building from 7.5 metres to 6.9 metres (Appendix A).
- According to the owner, the building was surveyed and corner stakes were placed for construction. During construction, a stake was knocked over and then placed approximately to where it was surveyed.
- As part of the building inspection, siting confirmation from a BC Land Surveyor (BCLS) was required. The BCLS determined the accessory building was surveyed at 6.9 from the front lot line.
- The applicant is requesting a 0.6 metres variance for this error.

Prepared by:

Concurrence:

Concurrence:

B. Chow

T. Trieu

S. Smith

Brian Chow, MCIP, RPP
Rural Planner

Ton Trieu, MCIP, RPP
Manager of Planning Services

Scott Smith, MCIP, RPP
General Manager of Planning
and Development Services
Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
-----------	---

Background/Current Situation

An application has been received to consider a variance to reduce the front yard setback for a recently constructed accessory building from 7.5 metres to 6.9 metres. The subject property, located at 9422 Martin Park Drive, is approximately 0.37 hectares in size (Figures 1 and 2). The property backs onto Robinson Lake. Currently, there is a single detached dwelling and a recently completed accessory building (garage). The building permit for the accessory building was issued on May 3, 2017 (File: 10445). According to the applicant, the proposed garage was surveyed with corner markers prior to construction (Appendix A). During construction, the corner marker was knocked over, and then was placed approximately where it was surveyed. When a building official requested a

site survey, it was found that one corner of the garage was at 6.9 metres from the front lot line (Figures 3 to 5).

Official Community Plan Analysis

The subject property is designated Rural Settlement Areas in Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014.” The accessory building does not conflict with residential policies in this document.

Zoning Bylaw

The property is zoned Rural Eight (RU-8). Bylaw No. 2781, being the “Comox Valley Zoning Bylaw No. 2781, 2005” (Appendix B) permits an accessory building. The building height of the accessory building is approximately 5.8 metres, which is within the maximum building height limit. The requested front yard setback reduction request is as follows:

Zoning Bylaw No. 2781	Accessory Front Yard Setback	Surveyed Front Yard Setback	Difference
Section 801.6	7.5 metres	6.9 metres	0.6 metres

Policy Analysis

Division 15 of Part 14 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) requires a local government that has adopted a zoning bylaw to establish a BOV. A property owner may apply to the BOV for an order of variance if the owner alleges that compliance with provisions of the Zoning Bylaw regulating the siting, dimensions or size of a building or structure would cause hardship. Section 542(1) of the LGA states that the BOV may order that a minor variance be permitted if the board:

- a. Has heard the applicant and any person notified of the variance;
- b. Finds that undue hardship would be caused to the applicant if the subject bylaw is complied with; and
- c. Is of the opinion that the variance will not result in inappropriate development of the site, adversely affect the natural environment, substantially affect the use and enjoyment of adjacent land, vary permitted uses and densities, or defeat the intent of the bylaw.

Options

The BOV can either approve or deny the variance application.

Financial Factors

Applicable fees have been collected for this application under Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014.”

Legal Factors

The report and recommendations contained herein are in compliance with the LGA and the Comox Valley Regional District (CVRD) bylaws. BOV applications are permitted in certain circumstances under Division 15 of Part 14 of the LGA.

Regional Growth Strategy Implications

The property is designated Rural Settlement Areas in the Regional Growth Strategy (RGS), being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010.” The requested height increase for the accessory building does not conflict with the growth management policies of the RGS.

Intergovernmental Factors

There are no intergovernmental factors.

Interdepartmental Involvement

The application was circulated to applicable staff at the CVRD for comment. No concerns were identified. BOV approval is required for issuance of a building permit.

Citizen/Public Relations

Notice of the requested variance will be mailed or otherwise delivered to the owners of the subject property, as well as adjacent property owners and legal tenants within 100 metres of the subject property, at least ten days prior to the BOV meeting. The notice includes the description of the requested variance, the land that is the subject of the requested variance, and the time and location of the BOV meeting. Any resident correspondence or comments received by staff will be provided to the members at the BOV meeting.

Attachments: Appendix A – “Letter from applicant, undated”
Appendix B – “RU-8 Zone”

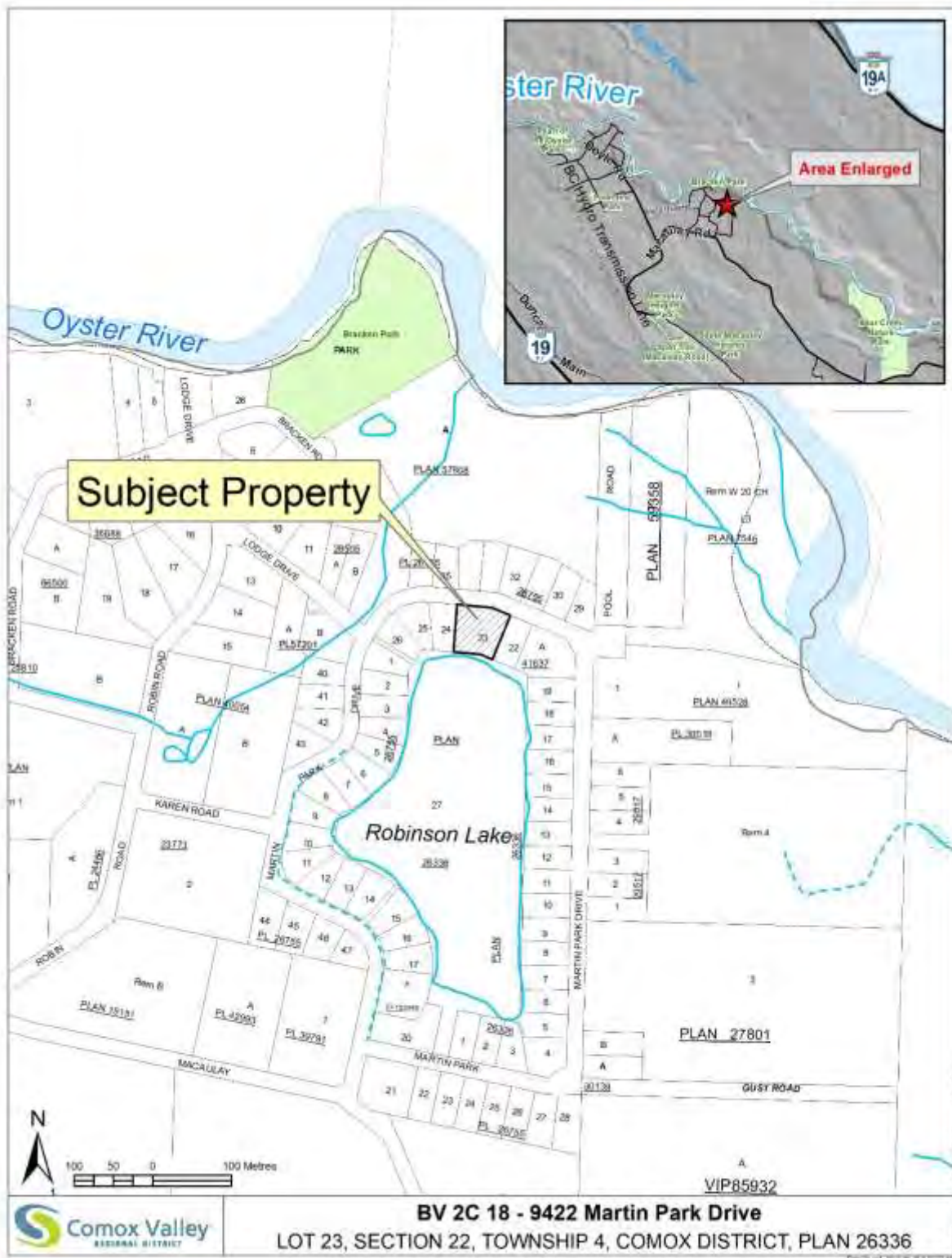


Figure 1: Subject Property Map



Figure 2: Air Photo

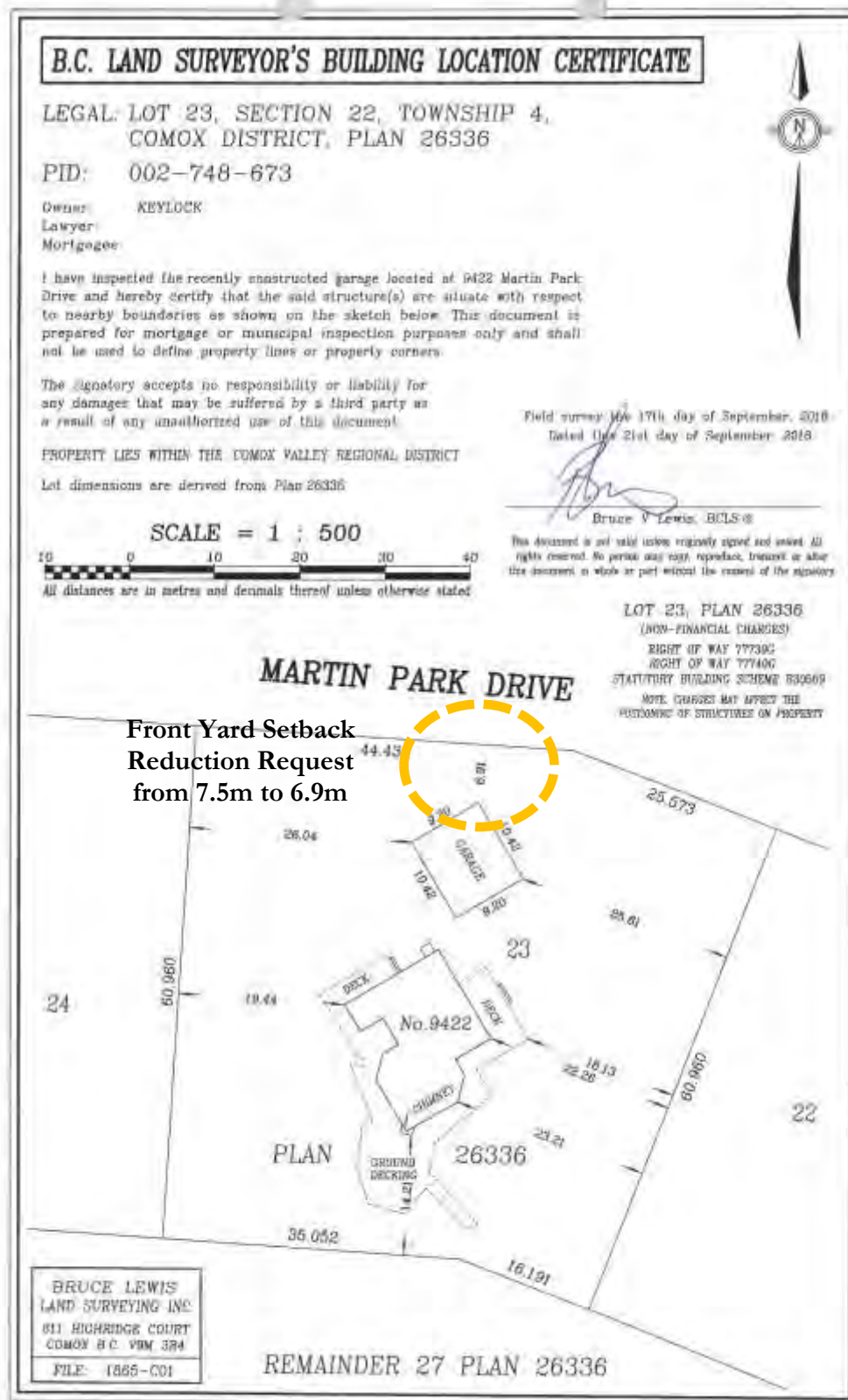


Figure 3: Site Survey

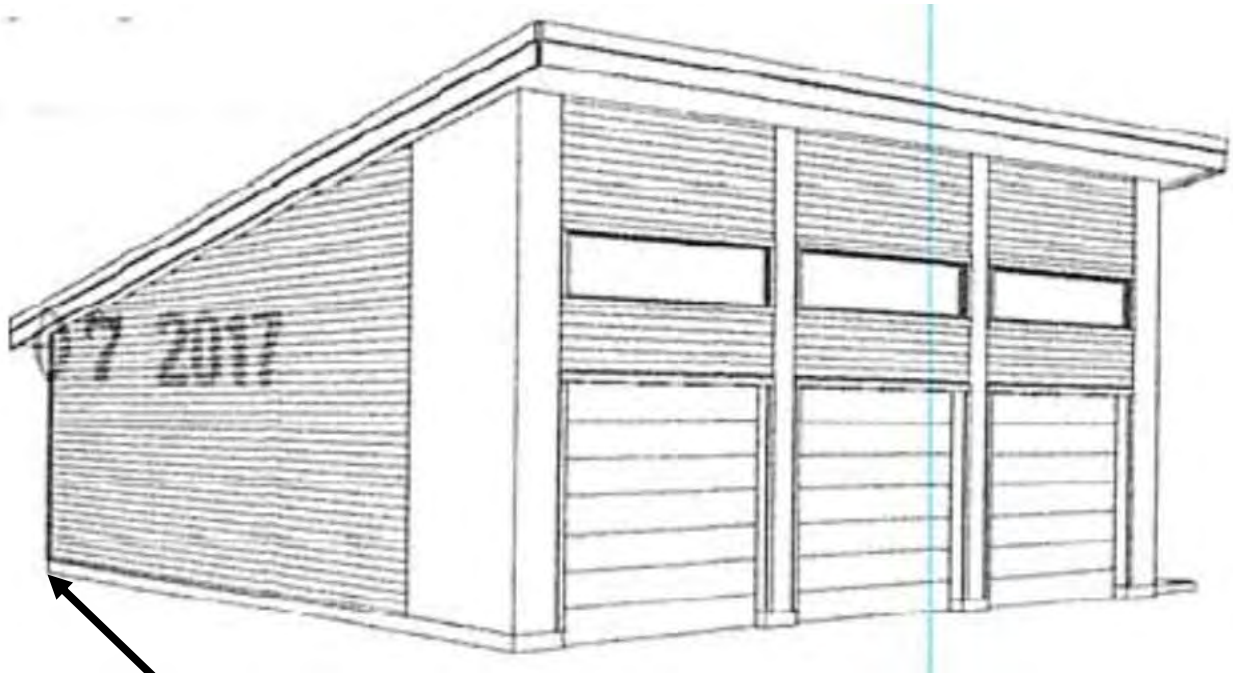


Figure 4: Drawing of the Accessory Building

This is the Corner at 6.9 metres
from the Front Lot Line



Figure 5: View of the Accessory Building from the Driveway

Variance Application
for
9422 Martin Park Drive
Black Creek BC

Permit # 10445 - New Garage on residential property

Dear Board Members,

Please accept this application requesting a 0.59 M front setback relaxation (from 7.5M to 6.91M) on our personal homesite garage at 9422 Martin Park Drive Black Creek.

We built the garage under building permit, using certified trades and workers, including our surveyor that marked out our property, prior to construction, for setbacks and all 4 corner pins.

The garage work was performed during very wet and muddy conditions and we believe now, that the original stake for the corner marker had been knocked over during the excavating part of the job, and likely replaced 'close' to where it was pinned originally.

I accept full responsibility for this as it was myself and our subtrades performing the work. I have enclosed pictures of the garage and location to the 7.5m mark, which you will see, one corner infringes on the setback line. It is only the one corner that is into the setback area.

You will notice from the opposite side pics, we had ample room for our sidewalk and planter, so had no reason to build this garage too close as we have done, other than we made a mistake, and correcting it now will be a rather large problem as you can imagine.

We have spoken with most of our direct neighbors and they will support the request knowing the story and will reply to the mailouts the CVRD will send /sent.

No one we spoke with objected or seemed upset at us, rather commented in a positive way, on the site improvements and work done on our home and lot.

We respectfully ask for your help supporting this as well and apologize for the work, and extra effort over my mistake.

Regards


Kip Keylock

PART 800
RURAL / RESOURCE ZONES
801
Rural Eight (RU-8)
1. PRINCIPAL USE
i) On any lot:

- a) Residential use;
- b) Agricultural use;
- c) Garden nurseries;
- d) Riding academies;
- e) Silviculture;
- f) Aquaculture;
- g) Animal hospital;
- h) Fish hatchery (including community based).

ii) On any lot 2.0 hectares (4.9 acres) or larger:

- a) Animal kennels.

iii) On any lot 8.0 hectares (19.8 acres) or larger:

- a) Wood processing or permanent sawmills occupying an area of not more than 1000.0 metres² (0.3 acres) including vehicle parking, and log sort and lumber storage areas; and
- b) Crushing and screening of sand and gravel.

iv) On any lot 20 hectares (49.5 acres) or larger:

- a) Horse-related event where paid admission to view the event is required including rodeos, equestrian shows, dances, concerts, and a licensed facility pursuant to the *Liquor Control and Licensing Act* during the time of the horse-related event and subject to:
 - 1) the event being sponsored by the registered property owner or registered organization, association, club, or group registered under the *Society Act*;
 - 2) the event being no longer than three days in duration;
 - 3) notifying the Regional District in writing prior to the holding of a licensed event pursuant to the *Liquor Control and Licensing Act* for the first two events in a calendar year under this section;
 - 4) obtaining written approval of the Regional District at least 30 days prior to the holding of a licensed event pursuant to the *Liquor Control and Licensing Act* for each event after the two events have been held in a calendar year under Subsection 3.

2. ACCESSORY USES

On any lot:

- i) Home occupations;
- ii) Bed and breakfast;
- iii) Accessory buildings;
- iv) Domestic business use;
- v) Domestic industrial use;
- vi) Pet crematorium.

3. CONDITIONS OF USE

- i) **All gravel and sand processing operations or animal kennels shall be subject to the following conditions:**
 - a) Maintain a minimum yard setback of 15.0 metres (49.2 feet) along all property lines.
 - b) Uses abutting riparian areas shall be setback a minimum of 30.0 metres (98.4 feet) from the top of bank.
 - c) No parking, loading or storage areas shall be located in any required yard setbacks.
 - d) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation.
 - e) The maximum lot coverage for the above uses shall not exceed 25%.
- ii) **All sawmill uses or portable sawmill uses shall be subject to the following conditions:**
 - a) Minimum yard clearance along all property lines of 30.0 metres (98.4 feet).
 - b) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation of not less than 2.0 metres (6.6 feet) in height.
 - c) Uses abutting an area zoned under Part 700 Residential Zones shall be screened and buffered from adjacent properties through the use of fencing, berming and evergreen vegetation being not less than 1.5 metres (4.9 feet) in height. All screening shall be well maintained and painted as required.
- iii) **All buildings and structures related to gravel, or sand crushing and screening operations shall be subject to the following conditions:**
 - a) Minimum yard clearance along all property lines of 30.0 metres (98.4 feet).
 - b) Minimum yard clearance of 60.0 metres (196.9 feet) from any lot where gravel, sand or soil extraction occurs within or abutting an area zoned under Part 700 Residential Zones.
 - c) No parking, loading or storage areas shall be located in any required yards.
 - d) Uses shall be screened and buffered from adjacent properties through maintenance of natural vegetation of not less than 2.0 metres (6.6 feet) in height.

- e) Uses abutting an area zoned under Part 700 Residential Zones shall be screened and buffered from adjacent properties through the use of fencing, berming and evergreen vegetation being not less than 2.0 metres (6.6 feet) in height. All screening shall be well maintained and painted as required.
- f) Uses abutting riparian or environmentally sensitive areas (ESA’s) shall be setback a minimum of 30.0 metres (98.4 feet).

iv) **Residential use is limited to:**

- a) **On any lot:** One single detached dwelling and secondary suite, or one single detached dwelling and one carriage house, or one single detached dwelling and one secondary dwelling limited in area to 90.0 metres² (968.8 feet²).
- b) **On any lot 1.0 hectare (2.5 acres) and over:** Two single detached dwellings.

5. **FLOOR AREA REQUIREMENTS**

- i) The maximum combined gross floor area of all accessory buildings shall not exceed 300.0 square metres (3229.3 square feet).

6. **SITING OF BUILDINGS AND STRUCTURES**

The setbacks required for buildings and structures within the Rural Eight zone shall be as set out in the table below.

Type of Structure	Heights	Required Setback				
		Front yard	Rear yard	Side yard		Side yard abutting road
				Frontage <31m	Frontage >31m	
Principal	10.0m (32.8ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.7ft)	3.5m (11.5ft)	7.5m (24.6ft)
Accessory	4.5m or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)	7.5m (24.6ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.7ft)	3.5m (11.5ft)	7.5m (24.6ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [Part 400, Siting Exceptions, of this bylaw and Bylaw No. 1836 being the “Floodplain Management Bylaw, 1997” may affect the siting of structures adjacent to major roads and the natural boundaries of watercourses and the sea, respectively.]

7. **LOT COVERAGE**

- i) The maximum lot coverage of all buildings and structures shall not exceed 15%.

8. **SUBDIVISION REQUIREMENTS**

- i) Minimum lot area: 8.0 hectares (19.8 acres)

Existing lots below the minimum lot area within this zone may be used for the permitted uses within this zone, subject to compliance with the other requirements of this zone.

End – RU-8