

DATE: June 12, 2019**FILE:** 3730-20/BV 1B 19**TO:** Chair and Members
Board of Variance**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer**R. Dyson****RE:** **Board of Variance Application – 6128 Aldergrove Drive
Bulman-Fleming and Bisson
Electoral Area B (Lazo North)
Lot 8, Block 29, Comox District, Plan 14086, PID 004-480-881****Purpose**

To provide information on a Board of Variance (BOV) application to reduce the minimum front yard setbacks for a proposed accessory building (Appendix A).

Executive Summary

- The subject property is located at 6128 Aldergrove Drive, and is approximately 0.11 hectares in size.
- The applicants would like to replace an existing accessory building (garage) with a new one.
- The location of the proposed accessory building does not meet the minimum front yard setback. The applicants are requesting to reduce the front yard setbacks of the proposed accessory building from 7.5 metres to 4.2 metres for its foundation and from 5.5 metres to 3.5 metres for its eaves.
- As the proposed front yard setback is less than 4.5 metres, the applicants will also need to request a variance from the Ministry of Transportation and Infrastructure (MoTI).
- Notification was sent to property owners within 100 metres of the subject property.

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Branch**Stakeholder Distribution (Upon Agenda Publication)**

Applicants	✓
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Background/Current Situation

The subject property, located at 6128 Aldergrove Drive, is approximately 0.11 hectares in size (Figures 1 and 2). An application has been received to consider a variance to reduce the front yard setbacks of a proposed accessory building (garage) from 7.5 metres to 4.2 metres for its foundation and from 5.5 metres to 3.5 metres for its eaves (Figures 3 to 5).

According to the applicants, the existing accessory building was built in the 1960s, and it is no longer usable and requires replacement. The front of the existing accessory building has a front yard setback of 4.2 metres and the side yard setback of 0.94 metres (Figures 6 and 7). The proposed accessory building will be at the same front yard setback, but will meet the minimum side yard setback of 1.75 metres. According to the applicants, they cannot shift the proposed accessory building farther back, as there is an existing accessory building to house their private water system infrastructure. Please refer to Appendix A for additional information from the applicants' written brief.

Planning Analysis

Official Community Plan Analysis

The subject property is designated Rural Settlement Area in the Official Community Plan, being the "Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014". It is one of the objectives of this designation to minimize the impact of new development on existing neighbourhoods. Policy 44(5) of this designation directs that new development maintains the rural character of the surrounding area. The proposed replacement of an accessory building does not detract from rural character.

Zoning Bylaw Analysis

The property is zoned Country Residential One (CR-1). Bylaw No. 2781, being the "Comox Valley Zoning Bylaw, 2005" permits an accessory building. For the CR-1 zone, the minimum front yard setback for an accessory building is 7.5 metres. The height of the proposed garage is approximately 5.5 metres, which is less than the maximum 6.0 metre height limit. In addition to the foundation of the accessory building, there is a consideration of the eaves.

For the eaves, Section 403(2) of the Zoning Bylaw states,

- "2. *Where eaves and sunlight controls project beyond the face of a building, the minimum distance to an abutting front, rear and side lot line as permitted elsewhere in this bylaw may be reduced by not more than 50% of such distance up to a maximum of 2.0 metres, provided that such reduction shall apply only to the projecting feature.*"

Therefore, the minimum setback for the eaves is 5.5 metres. The setback reduction requests are as follows:

Zoning Bylaw No. 2781	Accessory Front Yard Setback	Requested Front Yard Setback	Difference
Section 707(4) Foundation	7.5 metres	4.2 metres	3.3 metres
Section 403(2) Eaves	5.5 metres	3.5 metres	2.0 metres

In addition, as the proposed accessory building is less than 4.5 metres from the road right of way, the applicants will need to seek a separate variance approval from the MoTI. The applicants have been advised to make a separate variance application to MoTI.

The intent of minimum lot line setbacks is to provide a uniform streetscape, to improve privacy between neighbours and to ensure adequate space for building maintenance, and to provide visibility around the corner at intersections for traffic safety.

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 applicants and any person notified of the variance;
- b. Finds that undue hardship would be caused to the applicants 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 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 subject property is designated Rural Settlement Area in the Regional Growth Strategy, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. MG Policy 2A-1 of this designation states, *“All new development within Rural Settlement Areas must maintain the rural character of its surroundings... This requires careful consideration of the permitted uses, the form and scale of development and lot sizes.”*

Intergovernmental Factors

The applicants are required to obtain a separate variance approval from the MoTI. Should the MoTI deny their variance application, the applicants will have to reconsider their location options for the proposed accessory building.

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 has been 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 10 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.

Attachment: Appendix A – “Applicants’ Written Brief – BV 1B 19”

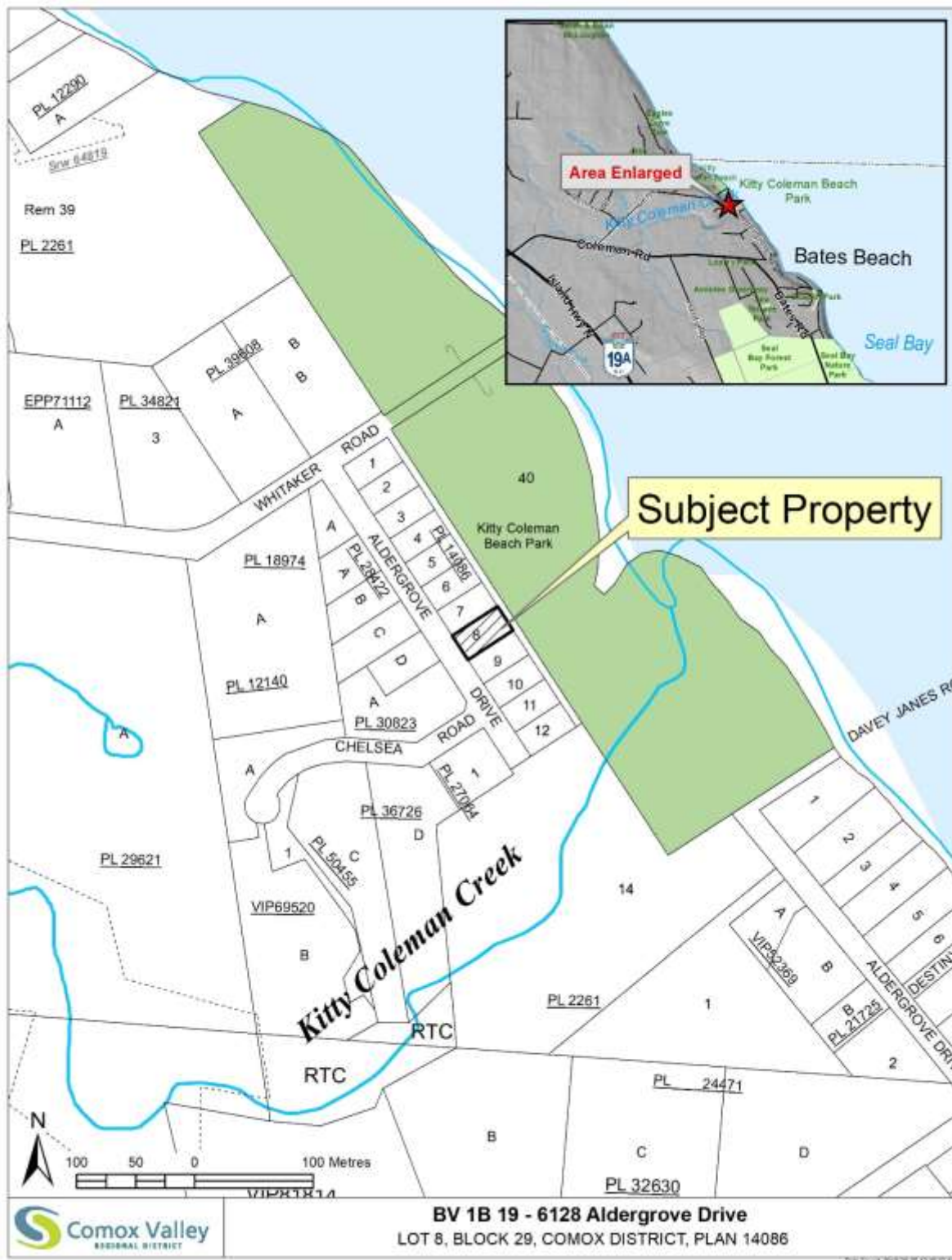


Figure 1: Subject Property Map



Figure 2: Air Photo

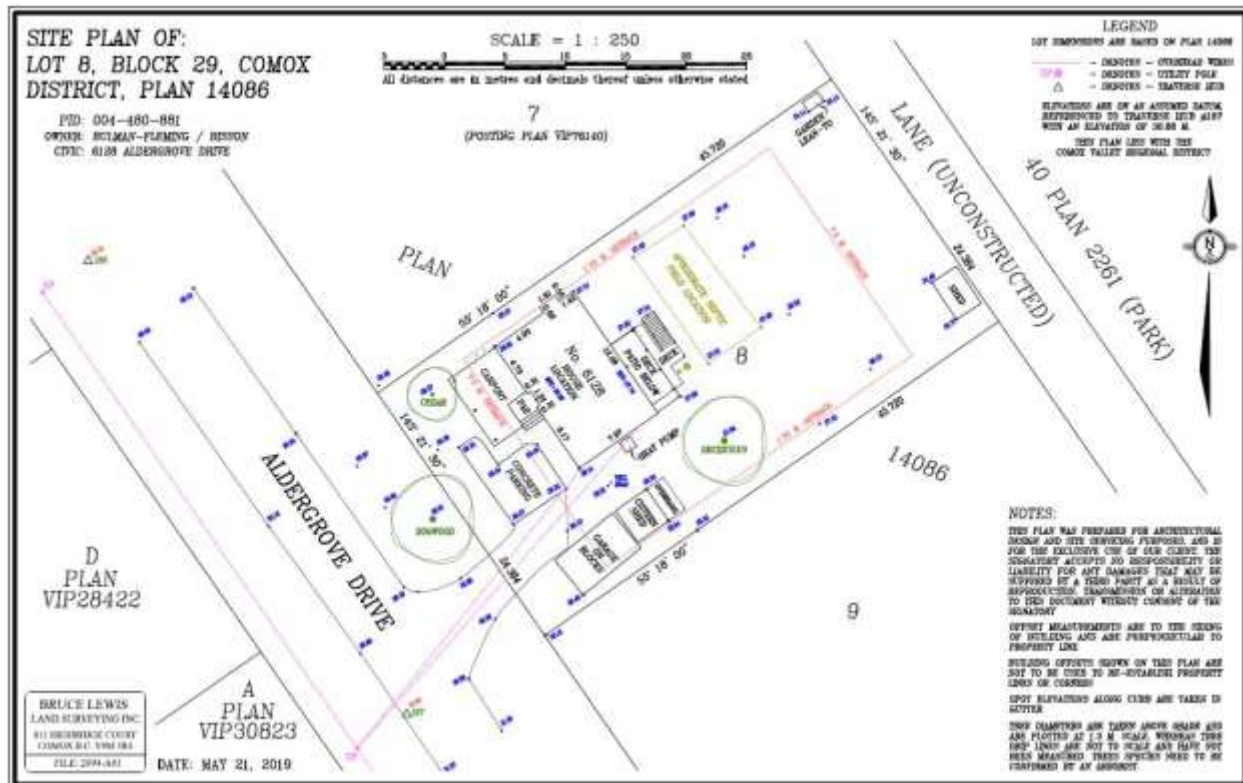


Figure 3: Site Survey



Figure 4: Site Survey Enlarged to Show the Existing Accessory Building

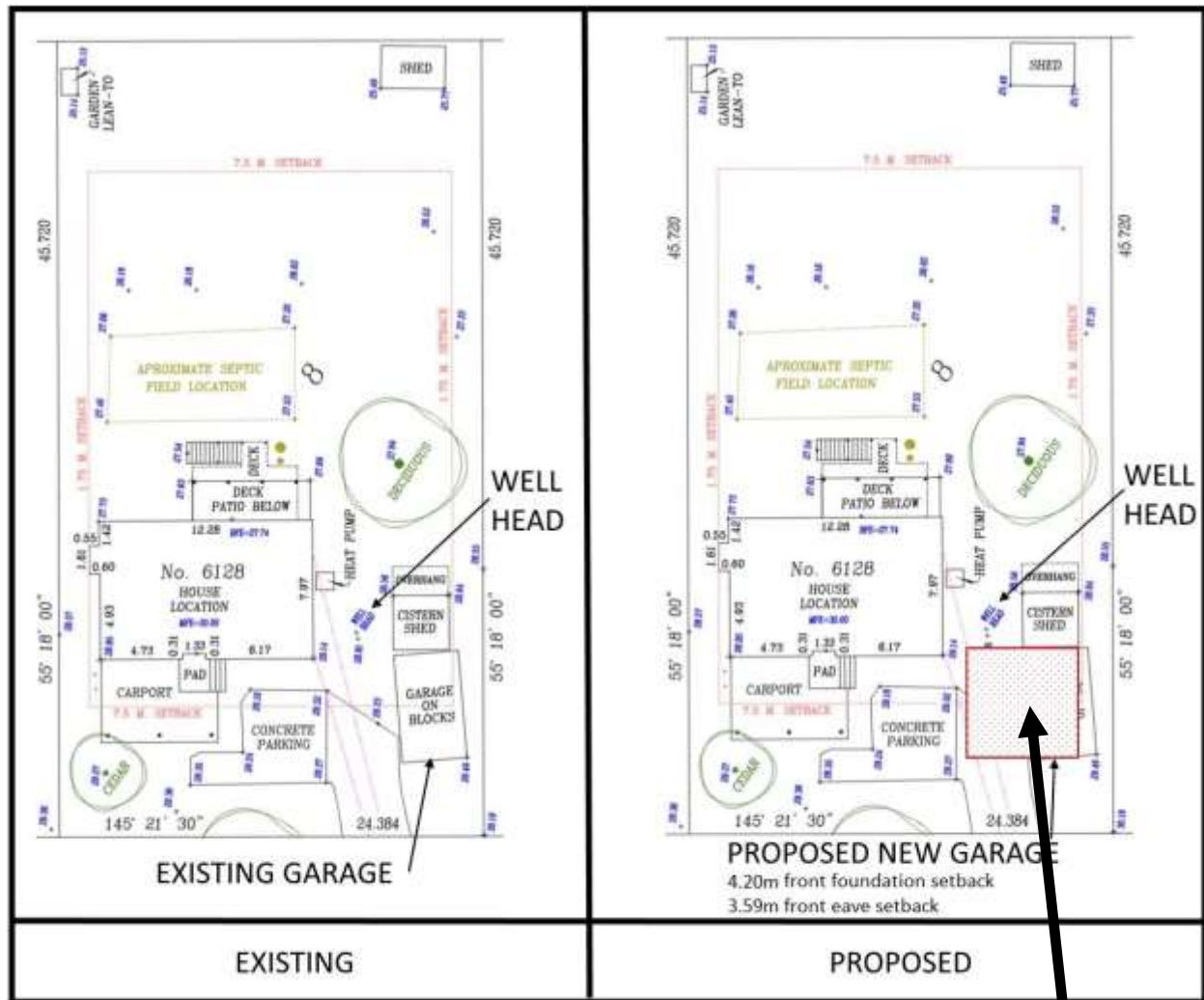


Figure 5: Existing and Proposed Accessory Building

Proposed
Location of the
Accessory
Building



Figure 6: View of the Existing Accessory Building from the Road



Figure 7: View of the Existing Accessory Building from across the Road

Appendix A
Applicants' Written Brief for BV 1B 19

"The existing garage, built in the 1960s, is no longer usable and requires replacement. The front of the existing garage has a road setback of 4.2m, which is less than the required setback of 7.5m, and a minimum side property setback of 0.94m, which is less than the required setback of 1.75m.

There would be undue hardship if a new garage were built with a 7.5m setback because the well-head would be in the way, and the garage would not be large enough to be useful. The well cannot be moved because there is no location on the property that achieves the required separation from the existing septic field.

The variance requested is to maintain the existing road setback to the front of the proposed garage at 4.2m (which is less than the required 7.5m setback). This variance is considered minor because it is the same as the setback to the existing garage. The proposed garage would be in conformance with the required side property setback of 1.75m.

A new building would be a cosmetic improvement over the existing garage as it would match the updated house exterior finish, and would not show the signs of age and wear that the existing garage shows. The proposed construction would not result in inappropriate development of the site, adversely affect the natural environment, or substantially affect the use and enjoyment of adjacent land.

The intent of the bylaw is to ensure consistent setbacks in adjacent properties. As this house was one of the original houses on the street, and neighbours have lived with the existing garage setback up to this point without any issues, the intent of the bylaw would be maintained with the proposed new garage."