

DATE: September 10, 2020

FILE: 3730-20/BV 1A 20

TO: Chair and Members
Board of Variance

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Board of Variance Application – 7870 Ships Point Road
Hickman and Howick
Baynes Sound – Denman/Hornby Islands
Lot 10, District Lot 26, Newcastle District, Plan 18550, PID 003-761-711**

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 7870 Ships Point Road, and is approximately 0.17 hectares in size. It is a waterfront property that has a lane next to its northern lot line.
- The applicants would like to build a new accessory building (garage).
- The Zoning Bylaw defines highway to include lane, and considers all lot lines abutting a highway to be the front lot line.
- The location of the proposed accessory building does not meet the minimum front yard setback of 4.5 metres. The applicants are requesting to reduce the front yard setbacks of the proposed accessory building from 4.5 metres to 1.75 metres for its foundation and from 2.5 metres to 1.1 metres for its eaves.
- As the proposed setback to a highway 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.

Prepared by:

Concurrence:

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Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicants	✓
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Background/Current Situation

The subject property, located at 7870 Ships Point Road, is approximately 0.17 hectares in size (Figures 1 and 2). The applicants wish to construct a new accessory building at 1.75 metres from the northern lot line (Figures 3 to 6). The subdivision plan shows that the northern lot line of the subject property fronts onto an unopened 3 metre wide lane (Figures 7 and 8). In the Zoning Bylaw,

all lot lines that front onto a highway are considered as front lot lines, and the definition of a highway includes lane. Therefore, the minimum front lot line setback is 4.5 metres for an accessory building. The applicants therefore require a variance to reduce the minimum lot line setback requirements. The applicants are requesting a variance to reduce the front yard setbacks of the proposed accessory building from 4.5 metres to 1.75 metres for its foundation and from 2.5 metres to 1.1 metres for its eaves.

According to the applicants, the usual side yard setback for such an accessory building is 1.75 metres in the Residential One (R-1) zone. However, the aforementioned 3 metre wide lane increases the minimum lot line setback requirements to 4.5 metres. They state the 4.5 metre setback would yield insufficient turning radius for vehicles, creation of empty space in the northern yard, removal of mature vegetation, reduction of light and viewscape for them, and possible encroachment over an existing waterline. Please refer to Appendix A for additional information from the applicants' written brief.

Planning Analysis

Official Community Plan Analysis

Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014” designates the subject property within Rural Settlement Area. Policy 44(5) of this designation directs that new development maintains the rural character of the surrounding area. The proposed accessory building is consistent with the rural character of the community.

Zoning Bylaw Analysis

Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019” permits accessory buildings. The minimum front lot line setback of the proposed accessory building is 4.5 metres, and the applicants request a reduction to 1.75 metres. In addition to the minimum lot line setback for foundation, the Zoning Bylaw regulates the minimum lot line setback for its eaves. Section 403(1) of the Zoning Bylaw states,

“Where eaves and gutters and sunlight controls project beyond the face of a building, the minimum distance to an abutting front, rear and side lot line required elsewhere in this bylaw may be reduced by not more than 50 per cent 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 lot line setback for the eaves is 2.5 metres. The setback reduction requests are summarized as follows:

Zoning Bylaw No. 520	Accessory Front Yard Setback	Requested Front Yard Setback	Difference
Section 701(4) Foundation	4.5 metres	1.75 metres	2.75 metres
Section 403(2) Eaves	2.5 metres	1.1 metres	1.4 metres

In addition, for this variance, the Ministry of Transportation and Infrastructure (MoTI) has to approve this variance request under their jurisdiction. The applicants have submitted a separate variance application to MoTI.

The height of the proposed accessory building is approximately 5.5 metres, which is less than the maximum 7.0 metre height limit.

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

Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” designates the subject property within Rural Settlement Areas. MG Policy 2A-1 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.*” The proposed accessory building is consistent with the rural character of the community.

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. 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 1A 20”



Figure 2: Air Photo

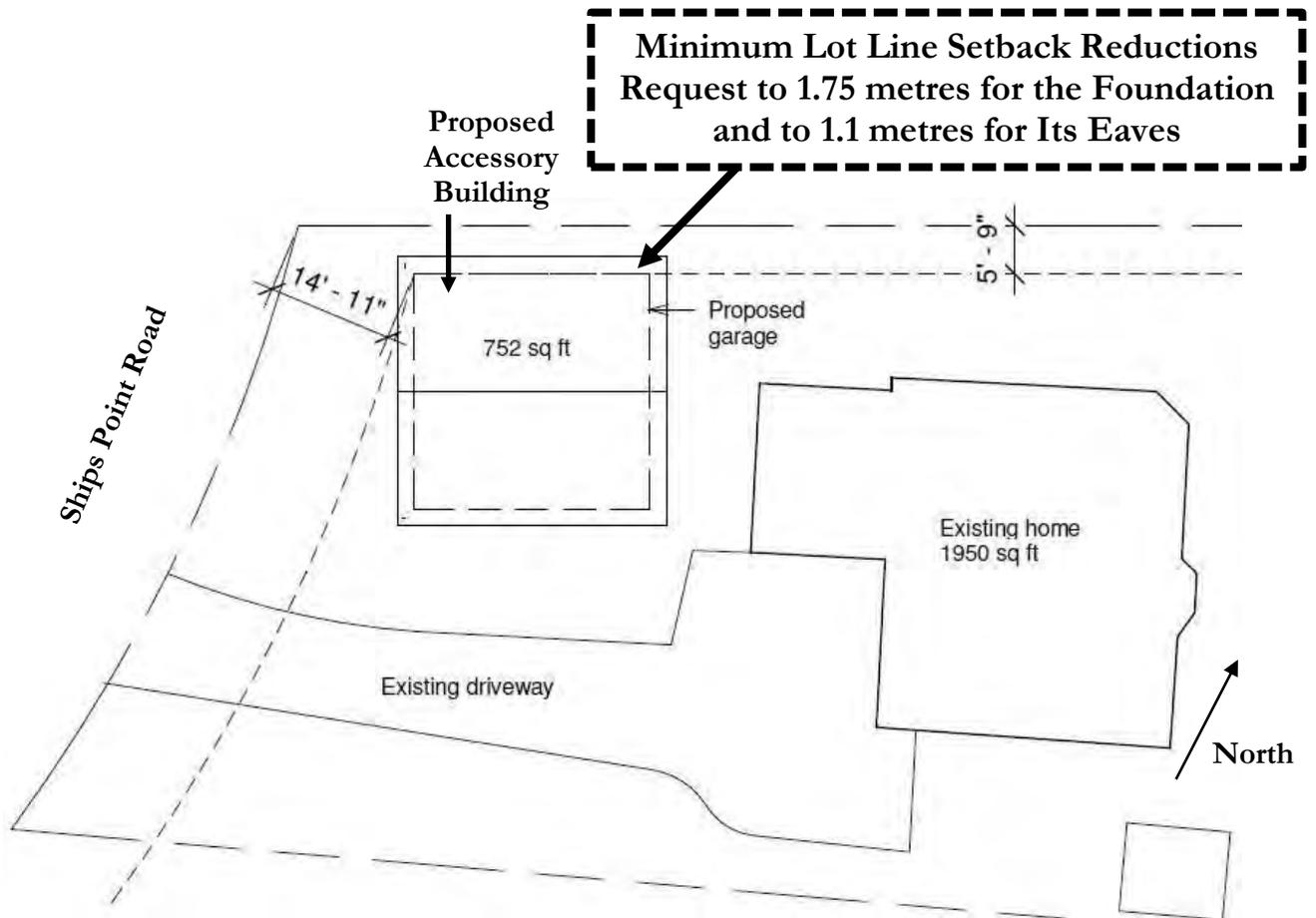
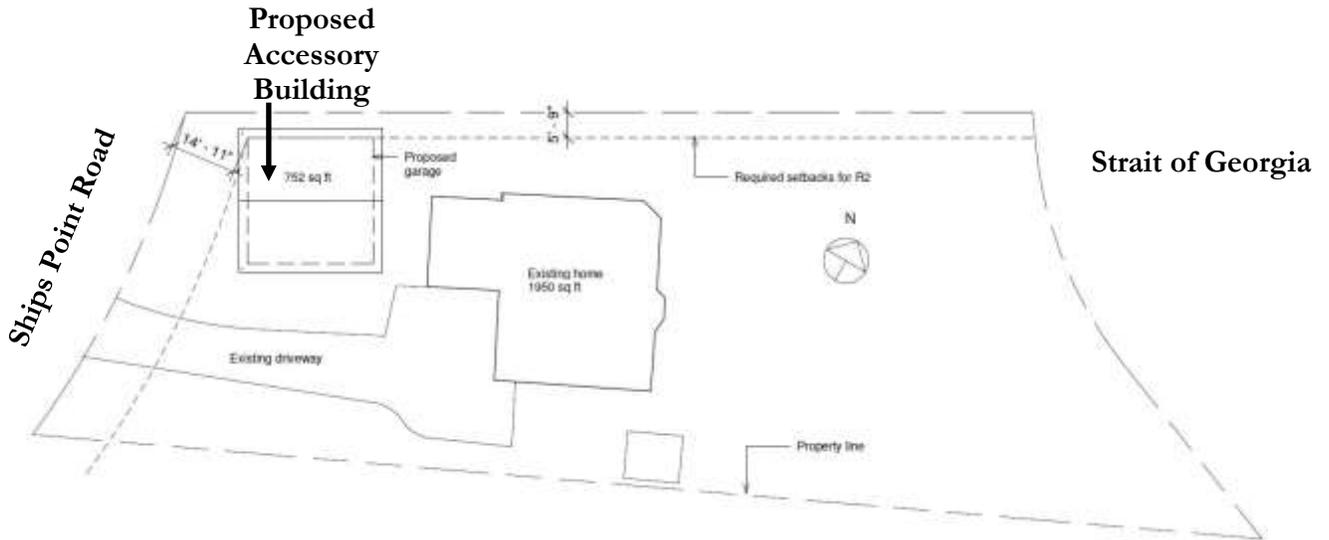


Figure 3: Site Plan with Proposed Accessory Building Area Enlarged



Figure 4: Elevation Drawings of the Proposed Accessory Building



Figure 5: View of the Proposed 1.75 metre Setback: Looking towards the Ships Point Road



Figure 6: View of the Proposed 1.75 metre Setback: Looking towards the Strait of Georgia

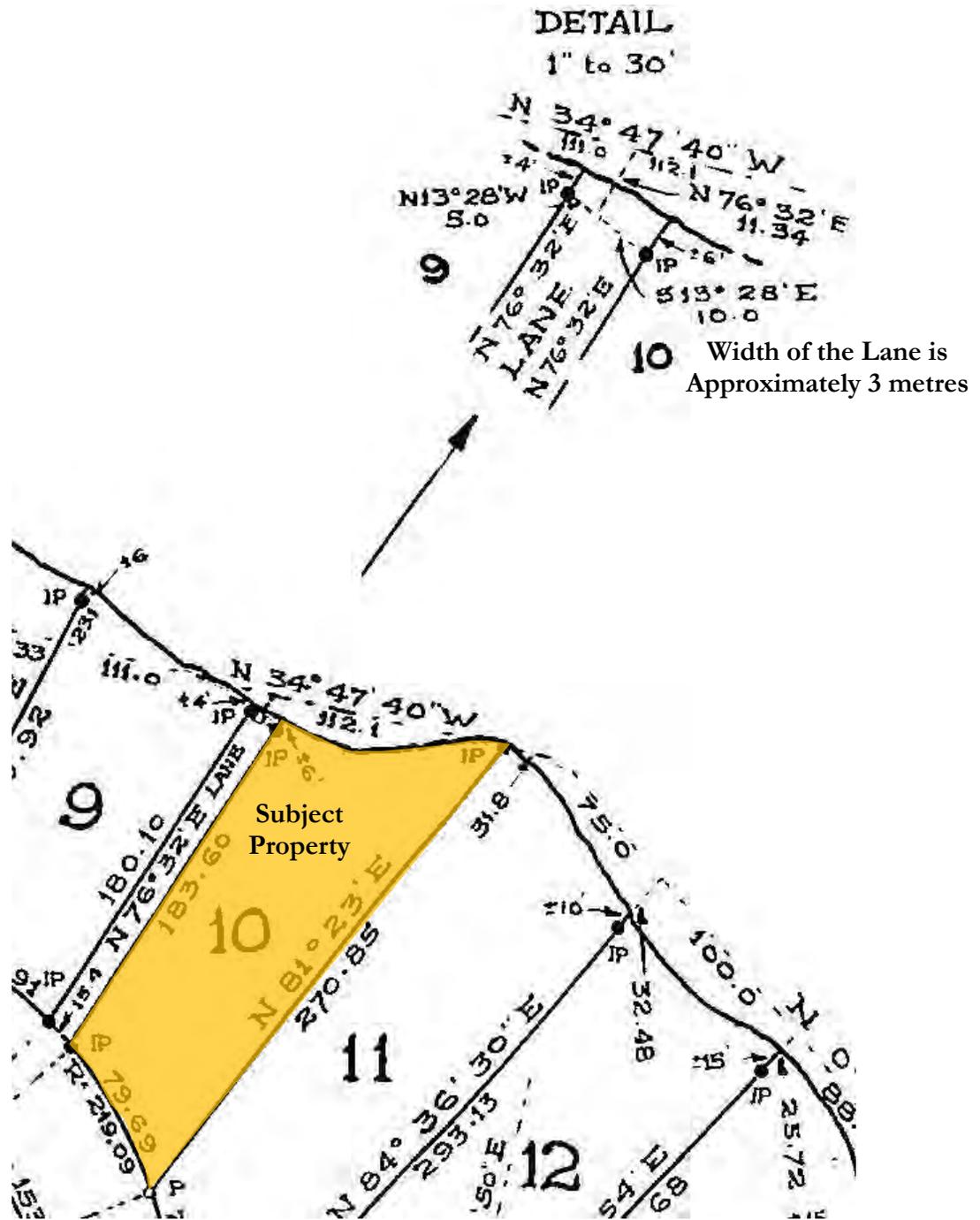


Figure 7: Part of Plan 18550 to Show the Identification of a Lane on the Subdivision Plan



Figure 8: View of the Lane: Looking towards the Strait of Georgia

September 10, 2020

Board of Variance
Comox Valley Regional District

Re: Board of Variance Appeal (File: BV 1A 20)

Please accept this letter to support our request for a minor variance to the side-yard setback for our property at 7870 Ships Point Road, Fanny Bay. We are requesting this variance to build a combined workshop for Harry's woodworking hobby and a garage to store a collector truck.

We believe that our request is a minor variance to R1 zoning for the following reasons:

- adjacent to our northerly boundary is a small right of way for a drainage ditch which is interpreted as a "lane" and therefore requires a 4.5m side-yard setback.
- our building design includes a side-yard setback of 1.75 m (the usual setback). With this setback, the garage/workshop fits into a section of our yard that minimizes its visual impact to our neighbours to the north and west of us and to community members walking by.
- The Ministry of Transportation has granted a permit "to allow the building of an accessory building (garage/workshop) 752 sq ft in size to be located within the 4.5m setback from a small ROW located north of 7870 Ships Point Road." (Permit #2020-04243 Sep 9, 2020.)

If we are not granted this minor variance and have to move the building location further south, the implications ("hardships") of adhering to the 4.5m setback include:

- Removal of mature rhododendrons, azaleas and magnolias. We are trying to work within the existing mature rhododendron garden to minimize the visual impact of the building from the street
- Creation of a larger "dead" garden space along the north side of the garage/workshop
- Insufficient turning radius for vehicles entering the garage using the existing paved driveway. We would need to remove existing green space, then redesign, move and repave the driveway.
- Reduction of natural light and field of view to the street from the western windows of residence, including from Susannah's quilting studio
- Possible encroachment over existing main waterline

We appreciate your consideration of our request and look forward to hearing from you.

Yours truly,

Harry Hickman
Susannah Howick
7870 Ships Point Rd.
Fanny Bay, B.C. V0R 1W0