

DATE: May 22, 2018

FILE: 3730-20 / BV 1C 18

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 - 6469 Bishop Road (Nelson)
Puntledge – Black Creek (Electoral Area C)
Strata Lot 2, Section 24, Township 6, Comox District, Strata Plan VIS5611
PID 026-055-384**

Purpose

To provide information on a Board of Variance (BOV) application to allow a height increase from 6.0 metres to 6.12 metres for a partially constructed accessory building.

Executive Summary

- The applicant has applied to the BOV to increase the height of a partially constructed accessory building from 6.0 metres to 6.12 metres (Appendix A).
- The building is under construction but an unanticipated amendment to the heel height of the trusses, combined with an unexpectedly higher average natural grade, and a misinterpretation of the maximum height referring to the building's finished height rather than the framed height has all combined to result in the building being an estimated 7 centimetres too high.
- The applicant is requesting a 12 cm variance to allow for an error factor in the estimated height.
- The accessory building is being constructed on a residential lot at the end of Bishop Road (Figures 1, 2 and 3) and is intended to be used for vehicle storage on the ground floor and personal storage in an attic space.

Prepared by:

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Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

A. Mullaly

Alana Mullaly, M.Pl., MCIP, RPP
Acting General Manager of Planning
and Development Services Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

An application has been received to consider a variance to the regulated maximum height of an accessory building, from 6.0 metres to 6.12 metres. The accessory building was under construction (Figures 4 and 5) when an amendment to the heel height of the trusses resulted in the building going over the height limit. According to the applicant (Appendix A), a misinterpretation of the height regulation referring to the finished height, not the framed height, and an unexpectedly higher average natural grade (the back corner is slightly higher than the front) all combined to result in the

building being an estimated 7 centimetres too high. The estimation is based on the current framed height plus the intended addition of a metal roof with continuous ridge venting on the peak. The applicant is requesting the variance be granted for an additional 12 cm above the regulated height limit to make up for the 7 cm estimated difference plus a 5 cm error factor.

The subject property is 1 hectare in size and located at the end of Bishop Road (Figure 1). The building site at the front end of the property is cleared and developed with a single detached dwelling which was constructed in 2016. The rear yard and northern side yard remains forested.

Zoning Bylaw

The property is zoned Country Residential One (CR-1). Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005” (Appendix B) permits an accessory building. The requested variance is detailed in Table 1 below.

Table 1

Zoning Bylaw No. 2781	Accessory Height	Requested Height	Variance
Section 707	6.0 metres	6.12 metres	0.12 metre

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 Area 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.

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, dated May 4, 2018”
Appendix B – “CR-1 Zone”

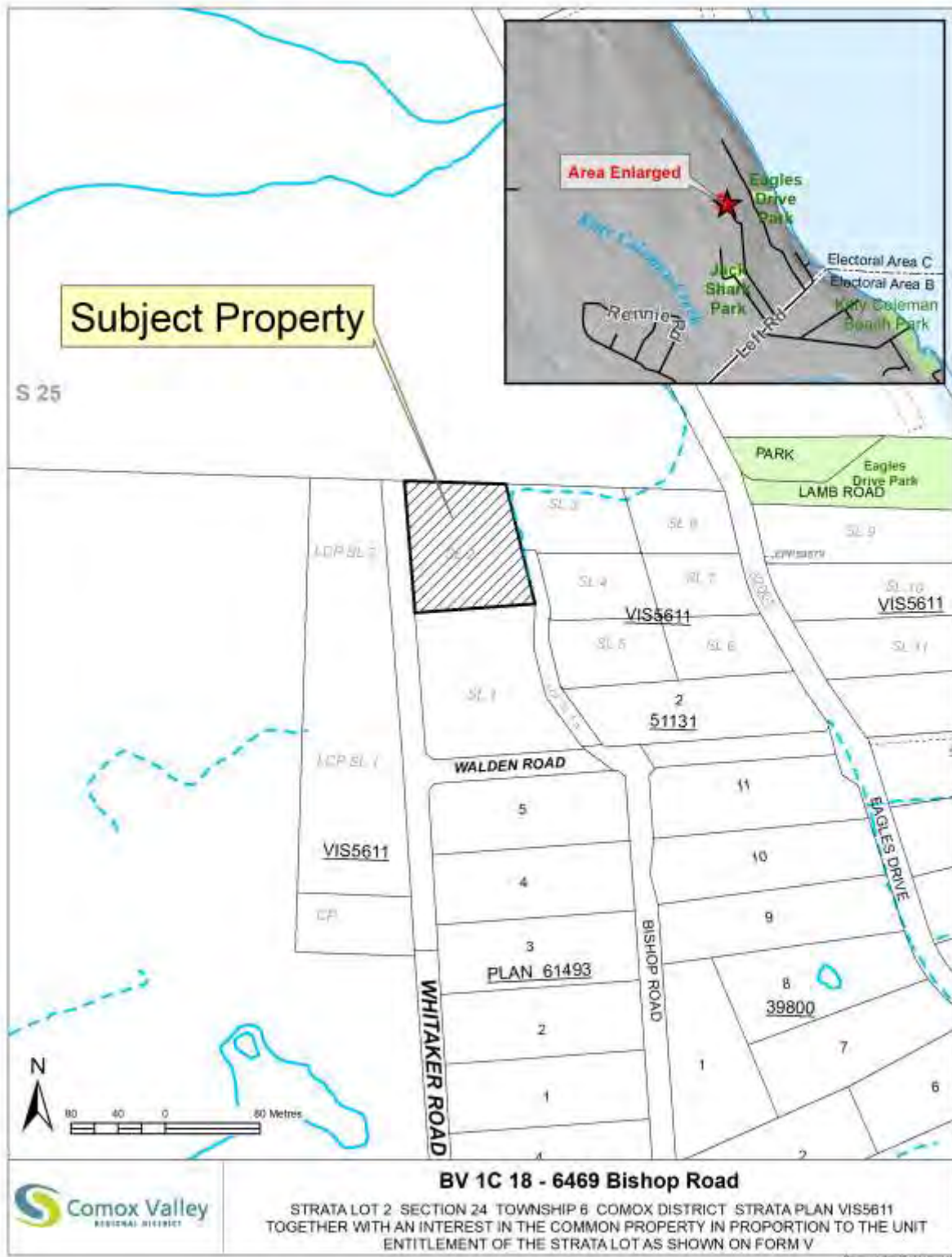


Figure 1: Subject Property Map



Figure 2: Air Photo (2016) Before Construction of Dwelling and Accessory Building

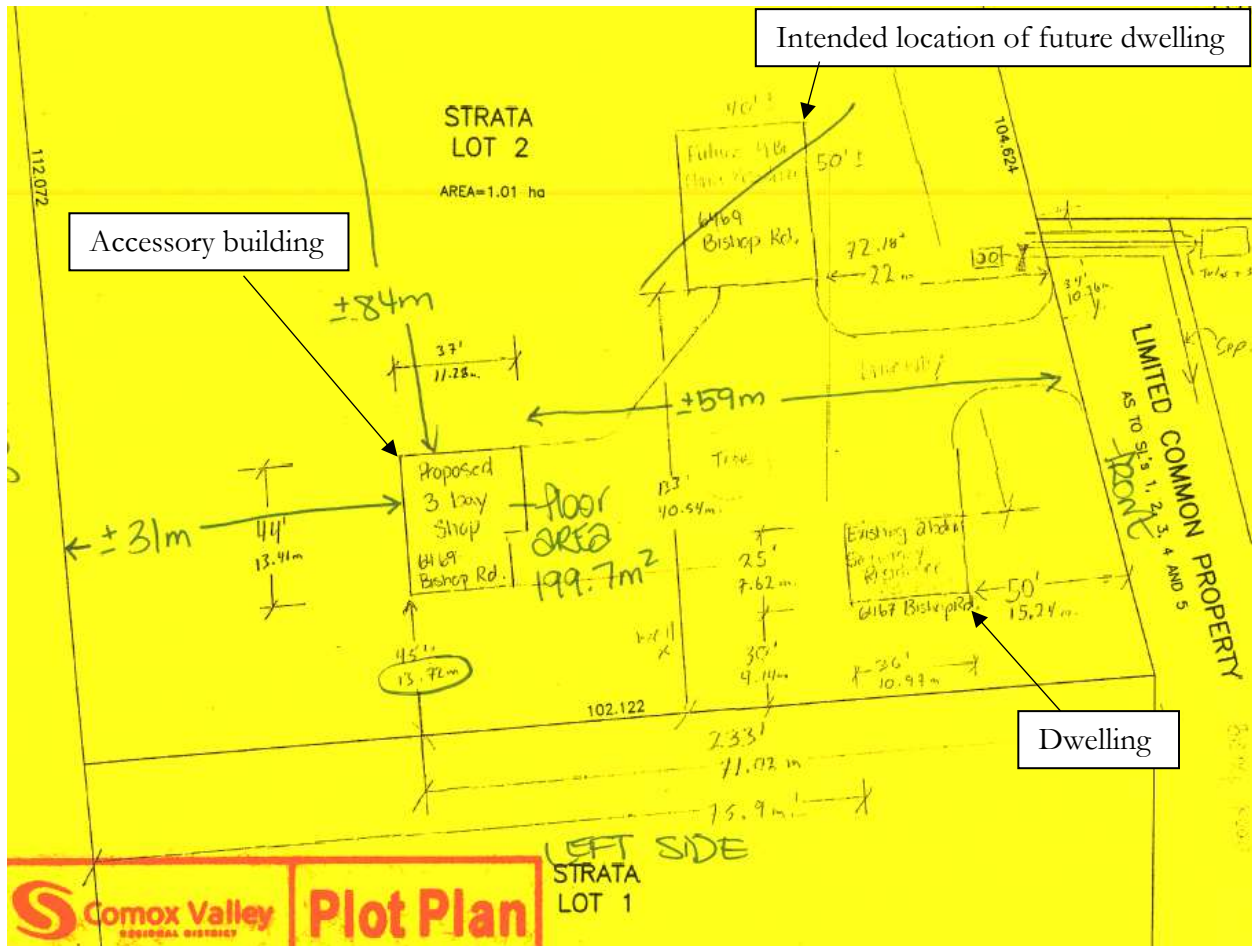


Figure 3: Site Plan that Illustrates Location of Accessory Building on Property



Figure 4: Accessory Building (front) that is Subject of this Application



Figure 5: Accessory Building (back) that is Subject of this Application

May 4, 2018

To Whom it may concern,

Present Use: New shop under construction.

Intended Use: 3 bay garage which includes 1 RV bay and a two bay car garage.

Reason for proposal: The shop was inadvertently built slightly higher than the 6 meter maximum.

Currently the roof is waterproofed but not completed. My best estimation is the completed building will be approximately 7 cm over the 6 meter maximum allowable height.

I am asking for a 12cm variance as I do not have the means to have the shop surveyed until completion. Using a laser and tape measure, I feel my estimation is close, but may not be exact.

The reasons for this are as follows-

- I feel the surveying company has my average grade too low and I was trying to build the shop as high as possible without going over the six meter height restriction. I did this to reduce excavator work required to remove dirt in order to get the grade sloping away from the building.
- The drawings were done up to take advantage of the maximum 6 meter height to allow for storage above the two bay car garage.
- After the shop was framed and the trusses were being constructed, I found out the trusses were being made with 2x6 bottom cord instead of 2x4 bottom cord, and the heel height was changed from 5 3/8" to 7 1/8". This was done to stop the deflection over the long span. The maximum amount of deflection allowable is 5/8". With these changes my trusses are at the 5/8" maximum. I did not realize until the trusses were in production that the changes were made, nor did I realize how this would affect the final height.
- I misinterpreted the note on my drawings from the regional district. Next to where the plans show top of roof framing as 19'-7 3/4", the building inspector added a note stating the maximum height is 6.0 meters or 19'-8 1/4" from natural grade. I mistakenly thought they were referring to framing height, not finished height. Until recently I thought I was going to be under the maximum height.

- I have purchased a 2500 gallon water tank to capture rain water for irrigation in the summer months. For this I require a metal roof which I have already purchased but not installed. The roof build up is part of the problem. The standing seams of the roof are 1 ½ high plus I have continuous ridge venting that requires another 1” of height. A small amount of height will also be added due to the buildup of flashings.
- My property sits on the highest point in the neighborhood. The properties in this area are above average sized home lots, and no neighbors will be impacted by the minimal extra height. I own the two acres of natural forested land behind the shop.

Thank you for taking the time to read my request for a height variance. If any of the above requires clarification, or you have any further questions, the best number to reach me at is

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis Nelson', with a long, sweeping horizontal stroke extending to the right.

Dennis Nelson

707**Country Residential One (CR-1)****1. PRINCIPAL USE**

- i) **On any lot:**
 - a) Residential use.
- ii) **On any lot over 4000 metres² (1.0 acre):**
 - a) Agricultural use.

2. ACCESSORY USES

- i) **On any lot:**
 - a) Home occupation use;
 - b) Accessory buildings; and
 - c) Bed and Breakfast
- ii) **On any lot 2.0 hectares (4.9 acres) or larger:**
 - a) Animal kennels.

3. DENSITY**Residential use is limited to:**

- i) **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 metres² (968.8 feet²).
- ii) **On any lot 1.0 hectare (2.5 acres) and over:** Two single detached dwellings.

#112

4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES

The setbacks required for buildings and structures within the Country Residential One zone shall be as set out in the table below.

Type of Structure	Height	Required Setback			
		Front yard	Rear yard	Side yard	
				Frontage <31m	Frontage >31m
Principal	10.0m (32.8ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)
Accessory	4.5m-or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [Note: 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.]

5. LOT COVERAGE

- i) The maximum lot coverage of all buildings and structures shall not exceed 35% of the total lot area.

6. FLOOR AREA REQUIREMENTS

- i) The maximum combined gross floor area of all accessory buildings shall not exceed 200.0 metres² (2152.9 feet²).

7. SUBDIVISION REQUIREMENTS

- i) Despite any other provision of this bylaw, the minimum permitted lot area within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010” is 4.0 hectares. #200

- ii) Despite any other provision of this bylaw, for the purpose of subdivision, the following sections of this bylaw do not apply to lots within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010”:

- a) Section 503 Subdivision Standards 1. AREA AND FRONTAGE REQUIREMENTS i);
 b) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS i) a); and
 c) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS iii).

iii) **Lot Area**

The minimum lot area permitted shall be 2.0 hectares (4.9 acres)

Despite (iii), a subdivision with lots smaller than identified above may be created by subdivision provided that the average lot area within the subdivision is equal to the minimum lot area permitted.

End • CR-1