

**DATE:** May 22, 2018

**FILE:** 3730-20 / BV 2A 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 - 3130 Cumberland Road (Freek)  
Baynes Sound – Denman / Hornby Islands (Electoral Area A)  
Lot A, District Lot 179, Comox District, Plan VIP60004, PID 018-982-051**

**Purpose**

To provide information on a Board of Variance (BOV) application to allow a proposed carriage house to have interior access between floors and to not provide an outdoor staircase.

**Executive Summary**

- The applicant is applying to the BOV to allow a proposed carriage house to have an interior staircase as the sole means of access to the second storey residential use.
- A carriage house is a two-storey building in which the top floor is a secondary dwelling unit and the bottom floor is used for an accessory use (e.g. garage, storage, workshop, etc.). As a means of keeping the residential and accessory uses separate, the Zoning Bylaw prohibits internal access between the two floors.
- The applicant intends to reside in the carriage house and cites physical mobility concerns as she ages as the reason for the requested variance.

Prepared by:

Concurrence:

*J. MacLean*

*A. Mullaly*

Jodi MacLean, MCIP, RPP  
Rural Planner

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 Zoning Bylaw to allow for a carriage house with interior access from the second storey residential floor area to the first floor where the accessory use is located and without the mandatory means of access and egress to the second storey residential use that is external to the structure. The applicant intends to reside in the carriage house and states that adherence to the regulations concerning external access from the second storey by means of an unclosed staircase would cause a hardship due to a physical impairment. The applicant's rationale is appended as Appendix A.

The subject property is 0.32 hectares in size and is developed with a single detached dwelling and a detached garage (Figures 1 and 2). The applicant intends to demolish the existing detached garage and construct a carriage house with a carport (with second floor deck above) in the garage's location (Appendix B). The floor plans (Appendix C) submitted with the application illustrate a proposed internal staircase that descends into an enclosed room, separated from the remainder of the first storey floor area, with an access door to the outside. These plans also illustrate no means of access and egress to the second storey residential area that is external to the structure.

### **Zoning Bylaw**

The property is zoned Residential Rural (R-RU). Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005” (Appendix D). The zone permits a principal dwelling and one of either a secondary suite or a carriage house or a secondary dwelling limited in floor area to 90 m<sup>2</sup>. A carriage house is an accessory building which has a dwelling unit located on the second storey and is regulated under section 313(6) of the bylaw. The application seeks relief from the following:

*“iii) The second storey floor area occupied by the residential use must have no interior access to any part of the accessory use below.*

*iv) The means of access and egress to the second storey residential use must be external to the structure and must not be enclosed by walls.”*

The intent of these regulations is to separate the 90 m<sup>2</sup> dwelling unit from the non-habitable space below.

### **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 Settlement Expansion Area in the Regional Growth Strategy (RGS), being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. The requested variance to the carriage house 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 February 12, 2018”

Appendix B – “Sketch plan, dated February 7, 2018”

Appendix C – “Elevations and floor plans, dated January 29, 2018”

Appendix D – “R-RU Zone”





Figure 2: Air Photo (2016)

February 12, 2018

Comox Valley Regional District  
600 Comox Rd, Courtenay, BC V9N 3P6

RE: Variance

Lot: APL: VIP60004DL: 179 PID: 018-982-051

Dear Regional District,

I am in the process of making application to build a carriage house on my property at 3130 Cumberland Road, Courtenay, BC. Lacasse Construction will be my Builders.

While in the process of the design, we realize we need to apply for a variance, to have the stairs to my carriage house be inside. In order to have this approved, I need to submit a reason for the request. My main reason is:

Safety & Comfort- I am a 65-year-old widow and am hoping to be able to live in the carriage house for many years as independently as possible. I shattered my wrist a year ago and although I am continuing with Physiotherapy I still suffer from limitations since my left hand is my dominant hand. By having stairs inside it will alleviate the possibility of slipping on wet slippery stairs during the rainy and winter season. To be able to live in a space free of worry that someone would be able to come up the usual outside stairs and enter my home unwanted. A concern I hope I will never have to deal with. Please consider my application. I look forward to your decision.

Thank you.

Sincerely,

*Dawn Marie Freek*

(Ms.) Dawn-Marie Freek

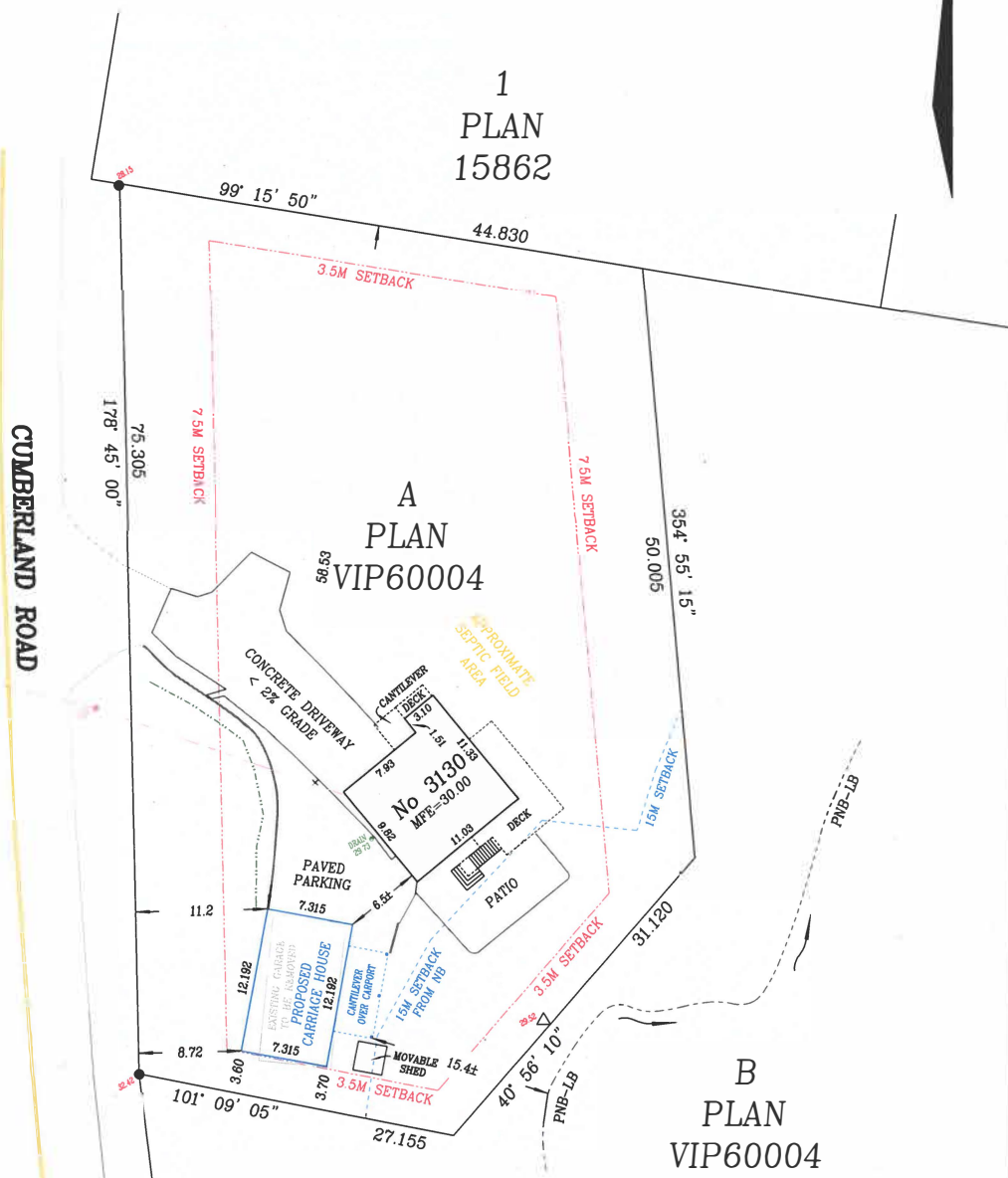
**SKETCH PLAN TO ACCOMPANY BUILDING PERMIT  
APPLICATION FOR: LOT A, DISTRICT LOT 179,  
COMOX DISTRICT, PLAN VIP60004**

DATE: FEBRUARY 7, 2018.

PID: 018-982-051  
OWNER: DAWN-MARIE FREEK  
CIVIC: 3130 CUMBERLAND ROAD

NOTE: ELEVATIONS ARE ON AN ASSUMED DATUM,  
REFERENCED TO MAIN FLOOR OF THE HOUSE  
WITH AN ELEVATION OF 30.0 M.

- LEGEND**  
LOT DIMENSIONS ARE BASED ON PLAN VIP60004
- - DENOTES - IRON POST FOUND
  - SP - DENOTES - SERVICE POLE
  - UP - DENOTES - UTILITY POLE
  - PNB-LB - DENOTES - PRESENT NATURAL BOUNDARY LEFT BANK
  - DENOTES - OVERHEAD WIRES



**ELEVATIONS**

ZONING: R-RU  
MAIN FLOOR HOUSE 30.00 M.  
GARAGE FLOOR HOUSE 29.85 M.

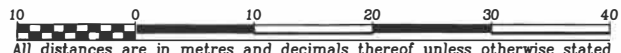
**PROPOSED CARRIAGE HOUSE**  
GARAGE FLOOR 30.05 M.  
SECOND FLOOR 32.80 M.  
PEAK 36.85 M.  
AVERAGE NATURAL GRADE 30.40 M.  
HEIGHT (36.85-30.40) 6.45 M.

AVERAGE NATURAL GRADE OF A STRUCTURE IS THE AVERAGE ELEVATIONS OF THE FOUR BUILDING CORNERS IF THE ELEVATION AT THE BUILDING CORNERS ARE DISTURBED THEN THE ELEVATION OF THE CORNERS ARE DERIVED FROM THE NEAREST UNDISTURBED SOIL.

LOT A, PLAN VIP60004  
(NON-FINANCIAL CHARGES)  
COVENANT EH136389  
NOTE: CHARGES MAY AFFECT THE  
POSITIONING OF STRUCTURES ON PROPERTY

**BRUCE LEWIS  
LAND SURVEYING INC.**  
811 HIGHRIDGE COURT  
COMOX B.C. V9M 3R4  
FILE: 1917-A01

**SCALE = 1 : 400**



All distances are in metres and decimals thereof unless otherwise stated

THIS PLAN LIES WITH THE  
COMOX VALLEY REGIONAL DISTRICT  
**Bruce Lewis  
BQLTHV**  
Digitally signed by Bruce Lewis BQLTHV  
DN: cn=Bruce Lewis, o=BQLTHV, ou=B.C.  
Land Surveyor, ou=Yearly CA, c=Canada  
www.brucelewis.com/BQLTHV, email=BQLTHV  
Date: 2018.02.08 09:11:04 -0800  
Bruce V. Lewis, BCLS









**706 Residential-Rural (R-RU)**

**1. PRINCIPAL USE**

- i) **On any lot:**
  - a) Residential use.
- ii) **On any lot over 4000 metres<sup>2</sup> (1.0 acre):**
  - a) Agricultural use.

**2. ACCESSORY USES**

**On any lot:**

- i) Secondary suite;
- ii) Home occupation use;
- iii) Accessory buildings;
- iv) Bed and Breakfast.

#4

**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 90.0 metres<sup>2</sup> (968.8 feet<sup>2</sup>).

#112

**4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES**

The setbacks required for buildings and structures within the Residential Rural 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 (32.8 ft)	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. [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 metres<sup>2</sup> (2152.9 feet<sup>2</sup>).

**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 0.8 hectares (2.0 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 • R-RU*

### **312 Residential Use**

1. A secondary dwelling, carriage house nor secondary suite carry with them the privilege of separate ownership in fee simple and further, permission for the above forms of residential units is not to be construed in any way as a justification for future subdivision or change in land use designation. All subdivision requirements and land use designations are applicable

### **313 Secondary Residential Use**

Where permitted in this bylaw, secondary suites must meet the following criteria:

1. They shall be located within a building of residential occupancy containing only one other dwelling unit and shall have a total floor space of not more than 90.0 metres<sup>2</sup> (968.8 feet<sup>2</sup>) in finished living area. (This area does not include the areas used for common storage, common laundry facilities or common areas used for access).
2. They shall have a floor space less than 40% of the habitable floor space of the building. (Floor area for the purposes of this calculation does not include attached storage garages).
3. The secondary suite use must be located within the same real estate entity as the principal residential use.
4. One off-street parking space shall be provided for the exclusive use of the secondary suite.
5. The proposal has the approval of the local Health Authority.
6. Where permitted in this bylaw, carriage houses must meet the following criteria:
  - i) The siting of carriage houses shall be in accordance with principal structure setbacks.
  - ii) The residential use of carriage houses must be located within the second storey of a building accessory to an existing residential use on the subject property.
  - iii) The second storey floor area occupied by the residential use must have no interior access to any part of the accessory use below.
  - iv) The means of access and egress to the second storey residential use must be external to the structure and must not be enclosed by walls.
  - v) The total floor area occupied by the residential use must not exceed 90.0 metres<sup>2</sup> (968.8 feet<sup>2</sup>).
  - vi) The floor area of the ground level of the structure must not exceed the floor area of the second storey.
  - vii) The carriage house cannot be subdivided from the building it is part of under the *Strata Property Act*.
  - viii) One off-street parking space shall be provided for the exclusive use of the carriage house.
  - ix) The proposal has the approval of the local Health Authority.