

DATE: September 29, 2020

FILE: 3090-20/DV 2B 20

TO: Chair and Directors
Electoral Areas Services Committee

Supported by Russell Dyson
Chief Administrative Officer

FROM: Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Development Variance Permit – 1904 Mariner Road (Racine)
Lot 5, District Lot 128, Comox District, Plan 25907, PID 002-700-557**

Purpose

To consider a Development Variance Permit (DVP) (Appendix A) to reduce the minimum rear yard setback from 7.5 metres to 3.0 metres, to allow for the conversion of an accessory building into a secondary dwelling.

Recommendation from the Chief Administrative Officer:

THAT the Board approve the Development Variance Permit DV 2B 20 (Racine) to reduce the rear yard setback, to allow for the conversion of an accessory building into a secondary dwelling, from 7.5 metres to 3.0 metres for the foundation of the building, and from 5.5 metres to 2.7 metres for the eaves of the building, on property described as Lot 5, District Lot 128, Comox District, Plan 25907, PID 026-997-363 (1904 Mariner Road);

AND FINALLY THAT the Corporate Legislative Officer be authorized to execute the permit.

Executive Summary

- An application has been received to consider a DVP to reduce the rear yard setback, allowing an existing accessory building to be converted to a secondary dwelling.
- The subject property is approximately 0.17 hectares in size and features a detached dwelling unit, accessory building, and small outbuilding.
- The property is zoned Country Residential One (CR-1), which allows for a secondary dwelling, but all buildings used for residential purposes must meet the principal building setbacks per Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019”.
- The principal use setbacks are 7.5 metres for the front and rear yard lot lines
- The application went to the Advisory Planning Commission (APC) B September 22, 2020 meeting, and members unanimously voted to support the application moving forward.
- In addition, all properties within a 100.0 metre radius of the subject property were mailed a notice and provided with an opportunity to comment on the application.
- Staff are recommending that the variance be supported by the Electoral Areas Services Committee (EASC), as the existing setback leaves enough space for access and building maintenance without encroaching on the property’s rear neighbour.

Prepared by:

D. Thiessen

Dylan Thiessen, MA, MCP
Planner

Concurrence:

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

S. Smith

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

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
-----------	---

Background/Current Situation

An application has been received to consider a DVP in order to reduce the rear yard setback for the purpose of converting an accessory building into a secondary dwelling. The subject property is 0.17 hectares in size and is bounded by Mariner Road to the south and other similarly-sized residential lots to the west, north, and east (Figures 1 and 2). It features a primary dwelling unit toward the front of the property and an accessory building at the rear of the property (Figure 3-7). The main setback sought is for the foundation of the building and is a reduction of 4.5 metres, from 7.5 metres (required if the accessory building is used for residential purposes) to 3.0 metres. A secondary variance is required as the setback pertains to the eaves of the building. The setback reduction sought here is 2.8 metres, from 5.5 metres to 2.7 metres.

Should the variance be approved, a building permit application will need to be submitted in order for the new dwelling to receive its occupancy permit. At this stage, safety concerns regarding the structure, water capacity, and septic capacity will be identified and addressed, if any are present.

Policy Analysis

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider the issuance of a DVP that varies the provision of a bylaw, provided that the use or density of the land is not being varied, the land is not in a designated floodplain area, or the development is not part of a phased development agreement.

Official Community Plan and Regional Growth Strategy Analysis

The property is designated as a Rural Settlement Area in both the Regional Growth Strategy and the Official Community Plan, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” and the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2104” respectively. According to both documents, Rural Settlement Areas are designated as such in order to preserve a rural character and way of life through generally larger lot sizes and patterns of low density development.

Zoning Bylaw Analysis

The applicants have an accessory building which they have been using for non-residential purposes. Given this use, it meets the CR-1 zoning rear yard setback of 1.0 metre as outlined in Bylaw No. 520. However, the applicants want to convert this accessory building into a secondary dwelling and Section 315(3)(i) of the Zoning Bylaw stipulates that the “*siting of a secondary dwelling unit shall be in accordance with the principal structure setbacks.*” Given this stipulation, the necessary setback for any structure used as a dwelling is 7.5 metres from the front and rear yard lot lines, and a variance is now required to convert the accessory building into a secondary structure.

Table 1: Variance Summary

Zoning Bylaw	Variance	Zoning	Proposed	Difference
Section 703 (5)	Rear yard setback	7.5 metres	3.0 metres	4.5 metres
Section 403 (1)	Siting exemptions	5.5 metres	2.7 metres	2.8 metres

Recommendation and Rationale

Staff are recommending support for the following reason:

1. The 3.0 metre setback being requested leaves sufficient space for the access and maintenance of the property and does not cause privacy concerns, especially with the applicants' willingness to plant cedar hedges along the rear property line should the rear neighbours want that to be added.
2. The addition of this secondary dwelling would work toward housing objectives outlined within Bylaw No. 120, particularly Objective 1-B (Increase affordable housing options) and Objective 1-C (Develop and maintain a diverse, flexible housing stock).

Options

The EASC could either support or deny the requested variance. Based on the analysis above, staff recommends approving the setback variance.

Financial Factors

Applicable fees have been collected for this application under the "Comox Valley Planning Procedures and Fees Bylaw, Bylaw No. 328, 2014."

Legal Factors

The report and the recommendations contained herein are in compliance with the LGA and applicable Comox Valley Regional District (CVRD) bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

This application does not have any implications for the Regional Growth Strategy, as the variance requested does not conflict with any of the residential policies, principles, or objectives outlined within Bylaw No. 120.

Intergovernmental Factors

There are no intergovernmental factors with this DVP application.

Interdepartmental Involvement

This application was forwarded to staff within the bylaw enforcement, fire services, and engineering departments for comment and no issues or concerns were raised.

Citizen/Public Relations

The APC for Electoral Area B met on September 22, 2020 to discuss this variance application. The Commission voted to support variance unanimously, listing the reasons below behind their decision:

1. There are similar secondary dwellings in the neighbourhood, so this would fit well within the neighbourhood and not detract from its character.
2. The applicants are willing to plant a privacy hedge at the rear of the property if adjacent neighbours would like that.
3. There is a building permit process to ensure the safety of the residential occupancy of the building.

Further, notice of the requested variance was mailed to adjacent property owners within 100 metres of the subject property at least 10 days prior to the EASC meeting. This notice informs those property owners and/or tenants as to the purpose of the permit, the land that is the subject of the permit, and that further information on the proposed permit is available at the CVRD office. It also provided the date and time of the EASC meeting where the permit will be considered. Consultation with these property owners and/or tenants is through their written comments received prior to the EASC meeting or their attendance at the EASC meeting.

Attachments: Appendix A – “Development Variance Permit DV 2B 20”



Figure 1: Subject Property Map

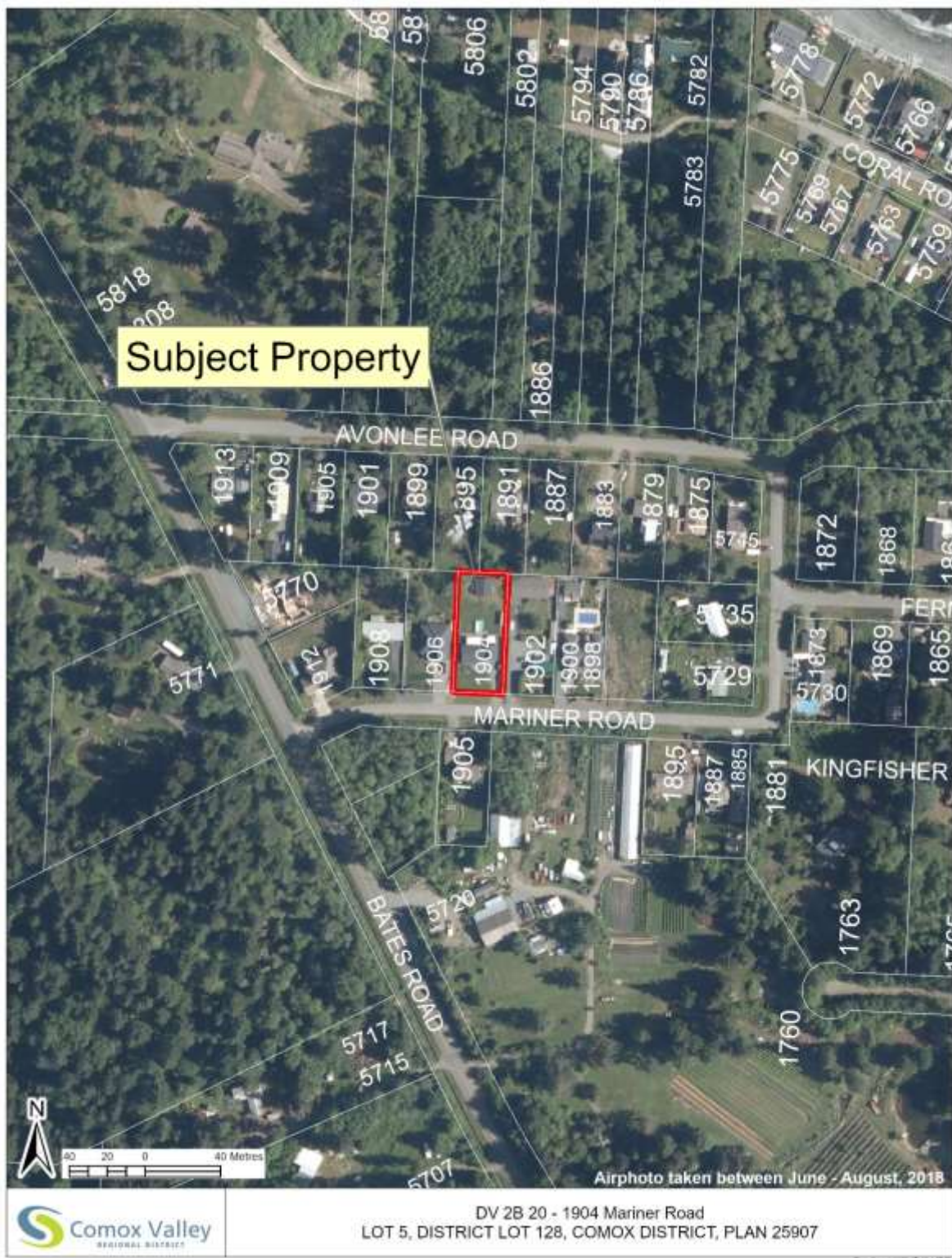


Figure 2: Air Photo

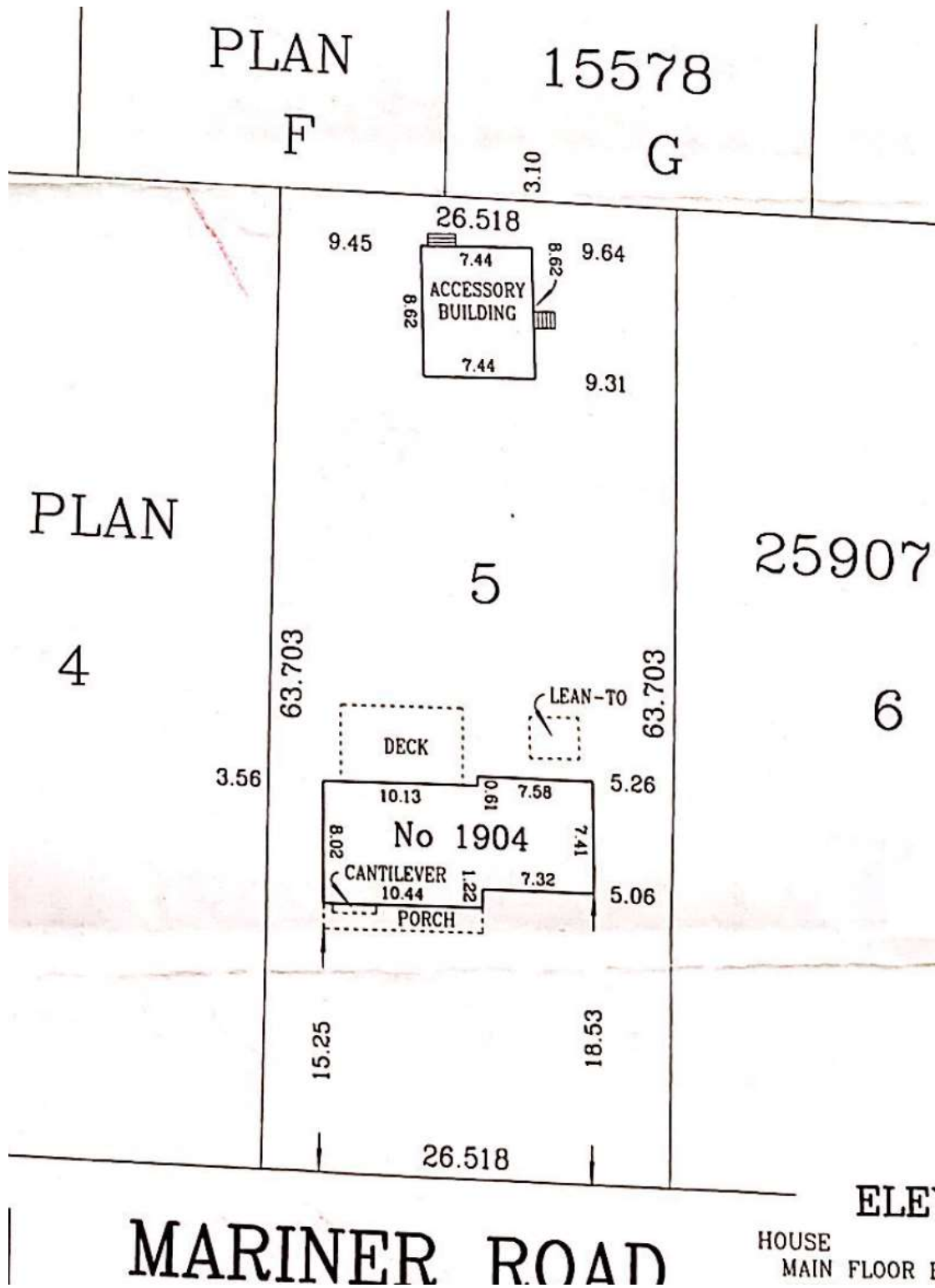


Figure 3: Site Plan



Figure 4: View of Main Access of Accessory Building (eastern side)



Figure 5: Accessory Building & Rear Lot Line (northern side)



Figure 6: Accessory Building Looking Toward the House (western side)



Figure 7: Southern (front-facing) Side of Accessory Building

DV 2B 20

TO: Amanda Racine

1. This Development Variance Permit (DV 2B 20) is issued subject to compliance with all of the bylaws of the Comox Valley Regional District applicable thereto, except as specifically varied or supplemented by this permit.
2. This Development Variance Permit applies to and only to those lands within the Comox Valley Regional District described below:
Legal Description: Lot 5, District Lot 128, Comox District, Plan 25907
Parcel Identifier (PID): 002-700-557 Folio: 02117.220
Civic Address: 1904 Mariner Road
3. The land described herein (Schedule B) shall be developed strictly in accordance with the following terms and provisions of this permit:
 - i. THAT the development shall be carried out according to the plans and specifications attached hereto which form a part of this permit as the attached Schedules A and B;
4. This Development Variance Permit is issued following the receipt of an appropriate site declaration from the property owner.
5. This Development Variance Permit (DV 2B 20) shall lapse if construction is not substantially commenced within two (2) years of the Comox Valley Regional District Board's resolution regarding issuance of the Development Variance Permit (see below). Lapsed permits cannot be renewed; therefore application for a new development permit must be made, and permit granted by the Comox Valley Regional District Board, in order to proceed.
6. This Development Variance Permit is *not* a Building Permit.

CERTIFIED as the **DEVELOPMENT VARIANCE PERMIT** issued by resolution of the Board of the Comox Valley Regional District on October 27, 2020.

Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Subject Property Map, Aerial Photo, Site Plan, and Site Images”

Schedule A

File: DV 2B 20

Applicants: Amanda Racine

Legal Description: Lot 5, District Lot 128, Comox District, Plan 25907

Specifications:

THAT WHEREAS pursuant to Section 703(5)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum rear yard setback for principal dwellings on this property is 7.5 metres;

AND WHEREAS pursuant to Section 403(1) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum rear yard setback for features of construction that protrude toward the lot line without incorporating floor area is 5.5 metres;

AND WHEREAS pursuant to Section 315(3)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the siting of a secondary dwelling unit shall be in accordance with the principal structure setbacks;

AND WHEREAS the applicant, Amanda Racine, wishes to convert an existing accessory building used as a workshop into a secondary dwelling unit as shown on Schedule B, and the conversion will create the following lot line setbacks for a residential use:

- Rear lot line setback of 3.0 metres as it pertains to the secondary dwelling foundation,
- Rear lot line setback of 2.7 metres as it pertains to the eaves of the secondary dwelling;

THEREFORE BY A RESOLUTION of the Board of the Comox Valley Regional District on October 27, 2020, the provisions of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” as they apply to the above-noted property are to be varied as follows:

703(5) “The minimum rear yard setback of the secondary dwelling shown on Schedule B is 3.0 metres for the foundation.”

403(1) “The minimum rear yard setback of the secondary dwelling shown on Schedule B is 2.7 metres for the eaves.”

I HEREBY CERTIFY this copy to be a true and correct copy of Schedule A being the terms and conditions of Development Variance Permit File DV 2B 20.

Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Draft



Figure 1: Subject Property Map

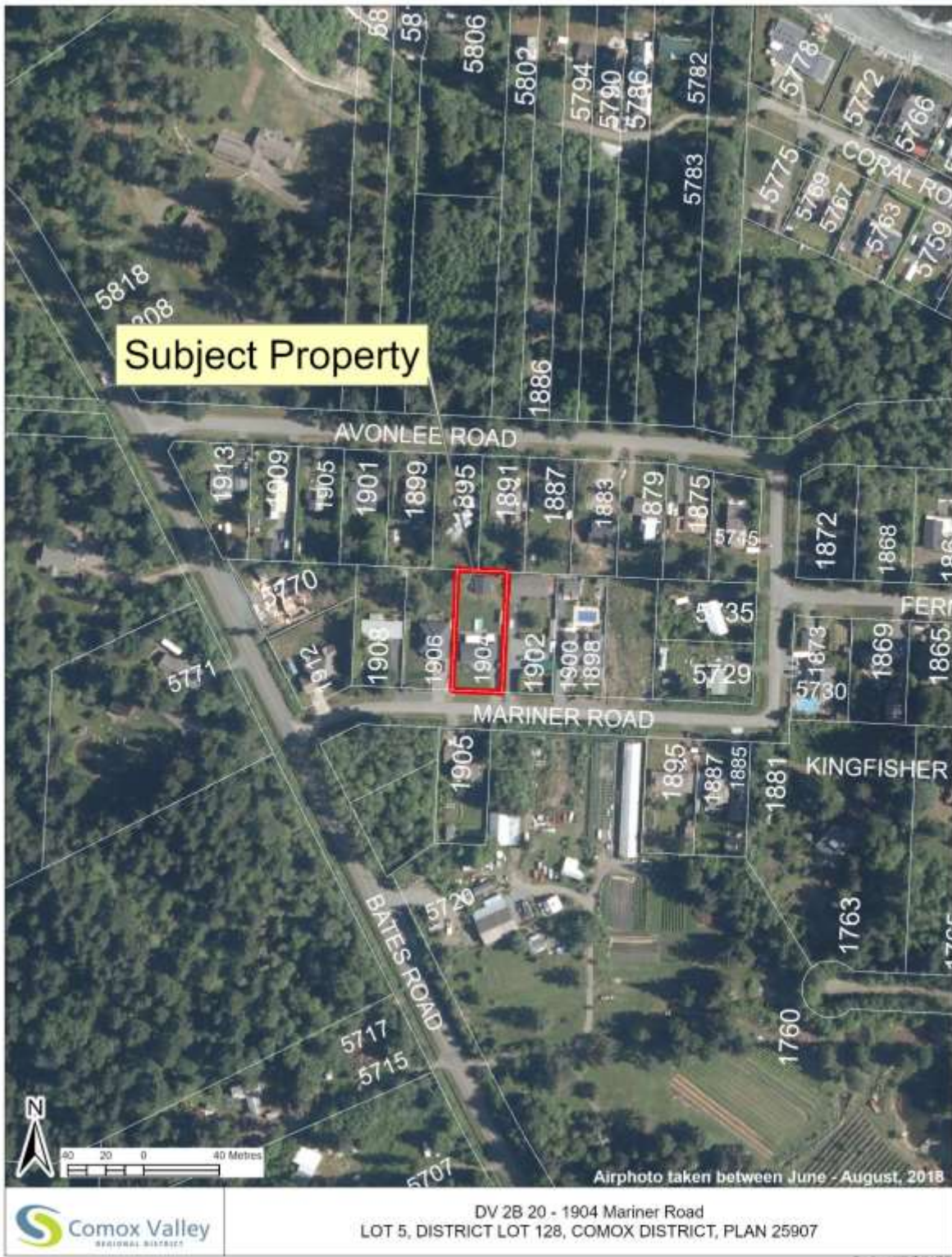


Figure 2: Air Photo

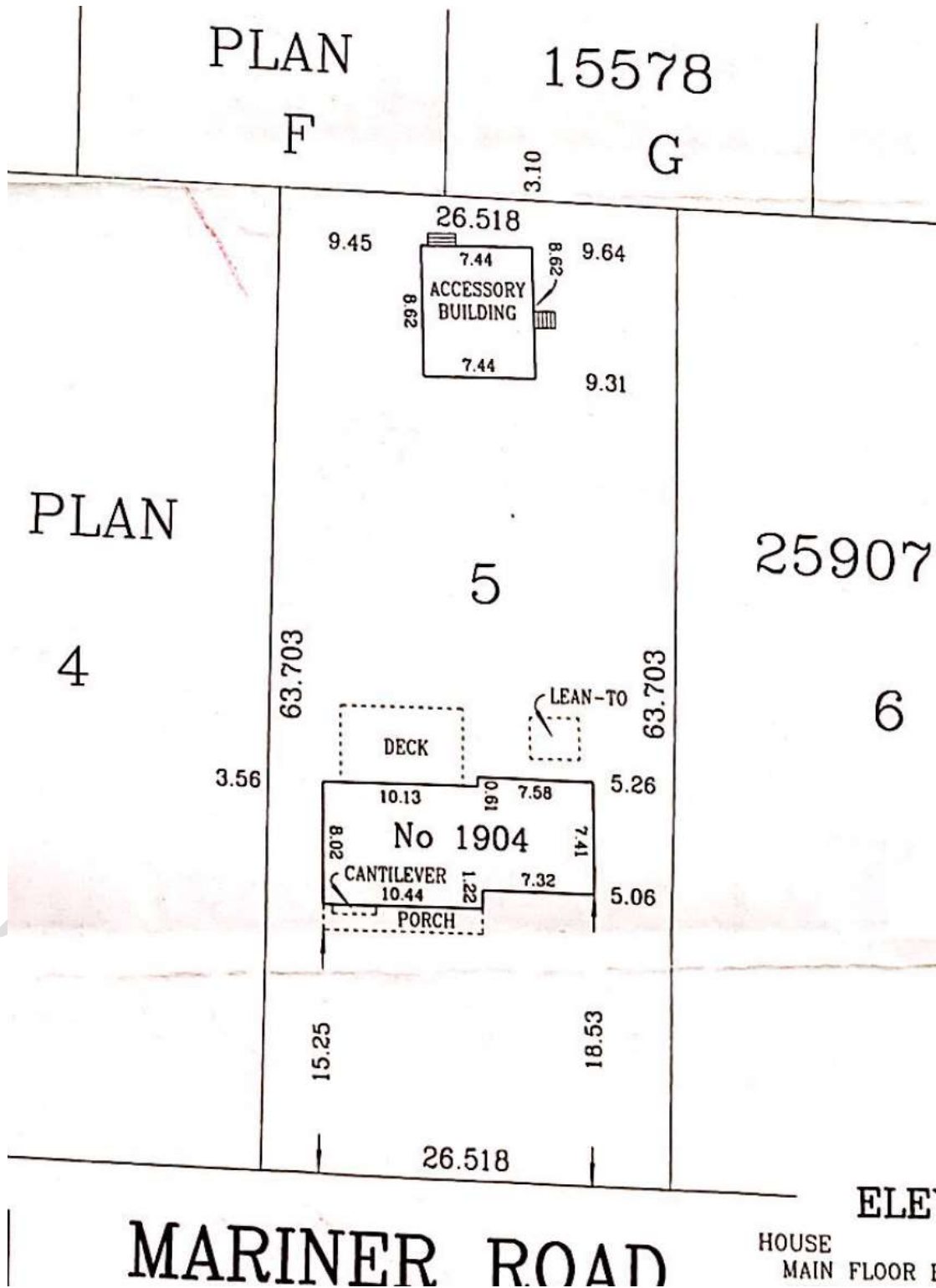


Figure 3: Site Plan



Figure 4: View of Main Access of Accessory Building (eastern side)



Figure 5: Accessory Building & Rear Lot Line (northern side)



Figure 6: Accessory Building Looking Toward the House (western side)



Figure 7: Southern (front-facing) Side of Accessory Building