

DATE: December 13, 2018

FILE: 3090-20/DV 5C 18

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Development Variance Permit - 4250 Marsden Road (Jancowski)
Puntledge – Black Creek (Electoral Area C)
Lot B, District Lot 136, Comox District, Plan 48662, PID 014-172-313**

Purpose

To consider a Development Variance Permit (DVP) to reduce the minimum side yard setbacks and increase the maximum height of a proposed accessory building (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve the Development Variance Permit DV 5C 18 (Jancowski) to:

1. Reduce the minimum right side yard setback of a proposed accessory building from 3.5 metres to 2.0 metres;
 2. Reduce the minimum right side yard setback of the eaves of the proposed accessory building from 1.75 metres to 1.4 metres; and
 3. Increase the maximum building height of the proposed accessory building from 6.0 metres to 7.0 metres;
- for a property described as Lot B, District Lot 136, Comox District, Plan 48662, PID 014-172-313 (4250 Marsden Road) with the condition that a visual buffer along the portion of the proposed accessory building be implemented and maintained for the life of this building;

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

Executive Summary

- The subject property is located at 4250 Marsden Road, and is approximately 0.46 hectares in area.
- The applicant would like to build an accessory building for workshop and storage.
- Prior to constructing this accessory building, the applicant wishes to reduce the right side yard setbacks of this building from 3.5 metres to 2.0 metres for the building, and its eaves from 1.75 metres to 1.4 metres. Additionally, they wish to increase the maximum building height from 6.0 metres to 7.0 metres.
- According to the applicant, the main reason for the setback reductions is to increase available space for their trucks and trailers to turn in order to access the accessory building. They also wish to protect a large cedar tree that impacts the turning radius and trees in the rear yard.
- It should be noted that the width of the lot is 31.8 metres, and if the width were less than 31 metres, the minimum side yard setback would be 1.75 metres. However, because the lot width is more than 31 metres, the setback is higher at 3.5 metres.
- The reason to increase the building height to 7.0 metres to have better use of the internal staircase. The proposed design is a shed roof design, so while the building height at the north elevation, facing away from the adjacent property, will be up to 7 metres, the height at

the south elevation, facing towards the adjacent property, will be less than 4 metres.

- The intent of the minimum side yard setback is to provide building separation between neighbours, and the intent of the maximum building height is to provide relative building scale between principal and accessory building.
- The proposed variances maintain the intent of the side yard setback and building height regulations, and it is in keeping with the rural character of the neighbourhood. Staff recommends the issuance of the DVP with a subject condition.
- As there is currently no visual buffer between the proposed accessory building and the adjacent property, a visual buffer, such as a solid fence or a thick hedge, should be implemented and maintained for the life of this building.

Prepared by:

Concurrence:

Concurrence:

B. Chow

T. Trieu

S. Smith

Brian Chow, MCIP, RPP
Rural Planner

Ton Trieu, MCIP, RPP
Manager of Planning Services

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

Stakeholder Distribution (Upon Agenda Publication)

| | |
|-----------|---|
| Applicant | ✓ |
|-----------|---|

Background/Current Situation

The subject property, located at 4250 Marsden Road, is approximately 0.46 hectare in size (Figures 1 and 2). An application has been received to consider a variance to reduce the side yard setbacks of a proposed accessory building from 3.5 metres to 2.0 metres, and its eaves from 1.75 metres to 1.4 metres. In addition, they wish to increase the building height from 6.0 metres to 7.0 metres (Figure 3).

Official Community Plan Analysis

The subject property is designated Settlement Expansion Area in the Official Community Plan (OCP), being the “Rural Comox Valley Official Community Plan Bylaw, No. 337, 2014.” Development in the Settlement Expansion Area designation must generally maintain a rural character and must not detract from future municipal compact growth until such time as the adjacent municipal area has obtained an approved boundary expansion. The proposed variance does not conflict with residential policies in the OCP.

Zoning Bylaw Analysis

The property is zoned Country Residential One (CR-1). Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005” permits accessory buildings. The requested variances are as follows:

| Zoning Bylaw No. 2781 | Zoning Bylaw Regulations | Request | Difference |
|-----------------------------------|---|------------|-------------|
| Section 707(4) | Minimum Side Yard Setback of Accessory Building: 3.5 metres | 2.0 metres | 1.5 metres |
| Section 403(2) | Minimum Side Yard Setback of Eaves: 1.75 metres | 1.4 metres | 0.35 metres |
| Section 309(3) and Section 707(4) | Maximum Building Height of Accessory Building: 6.0 metres | 7.0 metres | 1.0 metre |

According to the applicant, the main reason for the setback reductions is to increase available space

for their trucks and trailers to turn in order to access the accessory building. There is a large cedar tree (Figures 3 and 4) that would make it challenging for large vehicles to turn, and by shifting the accessory building closer to the side, there would be more room for the turning radius. The applicant prefers not to shift the proposed accessory building farther into the rear yard, as they wish to protect the existing trees and vegetation located in the middle and rear of their lot.

In addition, it should be noted that the width of the lot is 31.8 metres, and if the width were less than 31 metres, the minimum side yard setback would only be 1.75 metres. However, because the lot width is more than 31 metres, the setback is increased to 3.5 metres. Therefore, a request to reduce the side yard setback to 2.0 metres would be in keeping with the general side yard setback of lots with similar width. Note that the proposed accessory building would face the neighbour's wood shed, and the proposed accessory building would not be in line with the neighbour's single detached dwelling.

The reason for the applicant to request an increase of the building height to 7.0 metres is to provide a better use for the internal staircase. The proposed design is a shed roof with 4/12 pitch, so while the building height at the north elevation, facing away from the adjacent property, will be up to 7 metres, the height at the south elevation, facing towards the adjacent property, will be less than 4 metres (Figure 5).

The intent of minimum setback requirements is to provide adequate room for building maintenance and repair; and to provide sufficient separation between adjacent owners to minimize visual and noise impacts. The intent of the maximum building height is to provide relative building scale between principal and accessory building. The proposed variances maintain the intent of the side yard setback and building height regulations, and it is in keeping with the rural character of the neighbourhood. Staff recommends the issuance of the DVP with a subject condition. As there is currently no visual buffer between the proposed accessory building and the adjacent property, a solid fence or a thick hedge along the portion of this proposed building should be implemented and maintained for the life of this proposed building.

Lastly, as part of the comprehensive zoning bylaw review, staff is recommending the maximum height of an accessory building is increased from 6.0 metres to 7.0 metres. The proposal is consistent with this recommended change.

Policy Analysis

Section 498 of the *Local Government Act* (RSBC, 2015, c.1) (LGA) authorizes a local government to consider 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 designated floodplain, or the development is not part of a phased development agreement.

Options

The board could either approve or deny the requested variance. The board is recommended to approve the variance.

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. DVPs are permitted in certain circumstances under Section 498 of the LGA.

Regional Growth Strategy Implications

The subject 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.” Development in the Settlement Expansion Area designation must generally maintain a rural character and must not detract from future municipal compact growth until such time as the adjacent municipal area has obtained an approved boundary expansion. The proposed variance does not conflict with residential policies established in the RGS.

Intergovernmental Factors

As the property is within the Settlement Expansion Area, a referral was sent to the City of Courtenay on November 23, 2018, for their comment. Their comment indicates that they do not have any concerns with the proposed variances.

Interdepartmental Involvement

This DVP application was referred to relevant internal departments. No concerns were identified. The outcome of this application will determine next steps in the building permit process.

Citizen/Public Relations

As of the preparation of this staff report, an Advisory Planning Commission has not been formed for Electoral Area C.

Notice of the requested variance will be mailed to adjacent property owners within 100 metres of the subject property at least 10 days prior to the Electoral Areas Services Committee (EASC) meeting. The notice informs these property owners/tenants as to the purpose of the permit, the land that is the subject of the permit and that further information of the proposed permit is available at the CVRD office. It also provides the date and time of the EASC meeting where the permit will be considered. Consultation with these property owners/tenants is through their written comments received prior to the EASC meeting or their attendance at the EASC meeting.

Attachment: Appendix A – “Development Variance Permit – DV 5C 18”

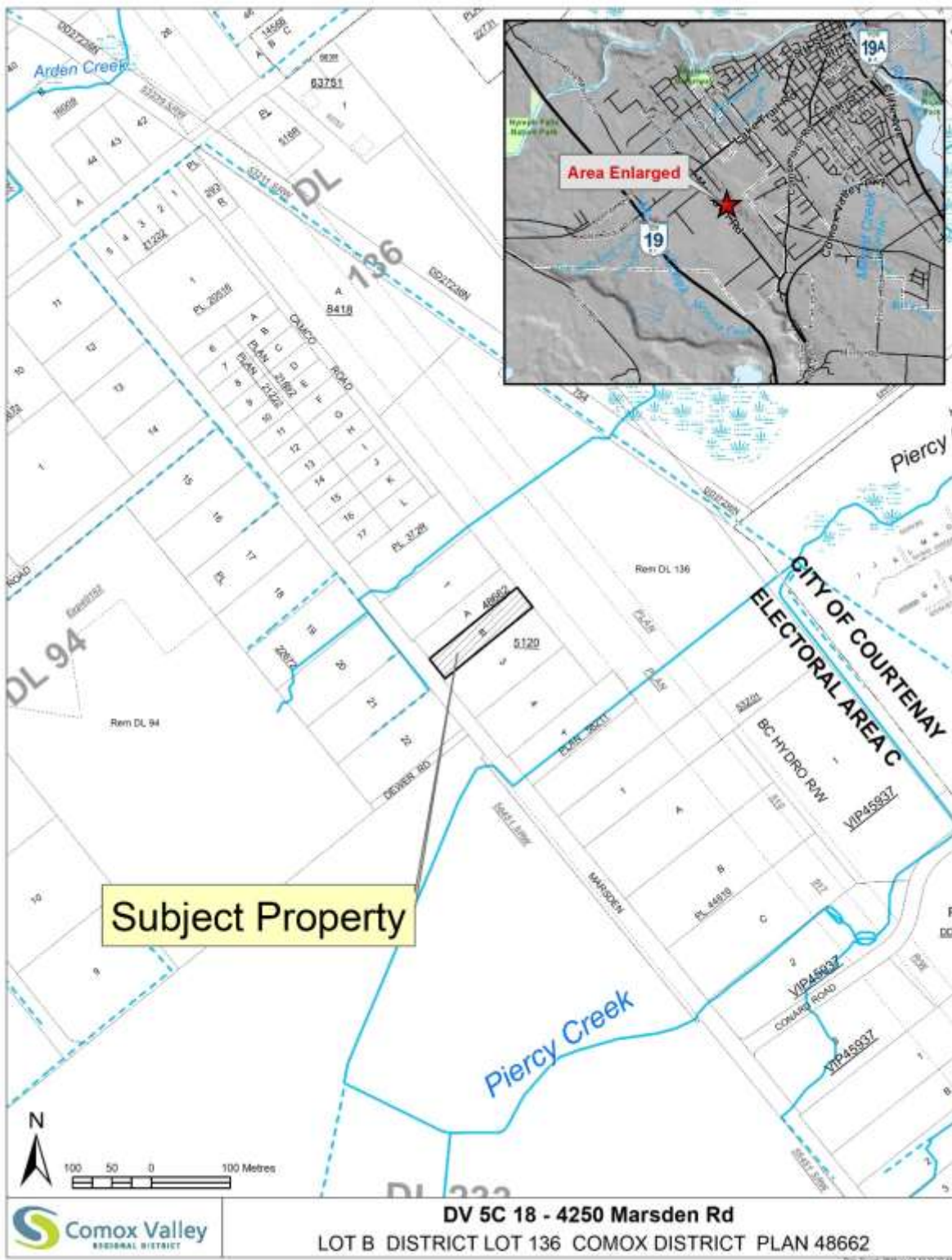


Figure 1: Subject Property Map



Figure 2: Air Photo

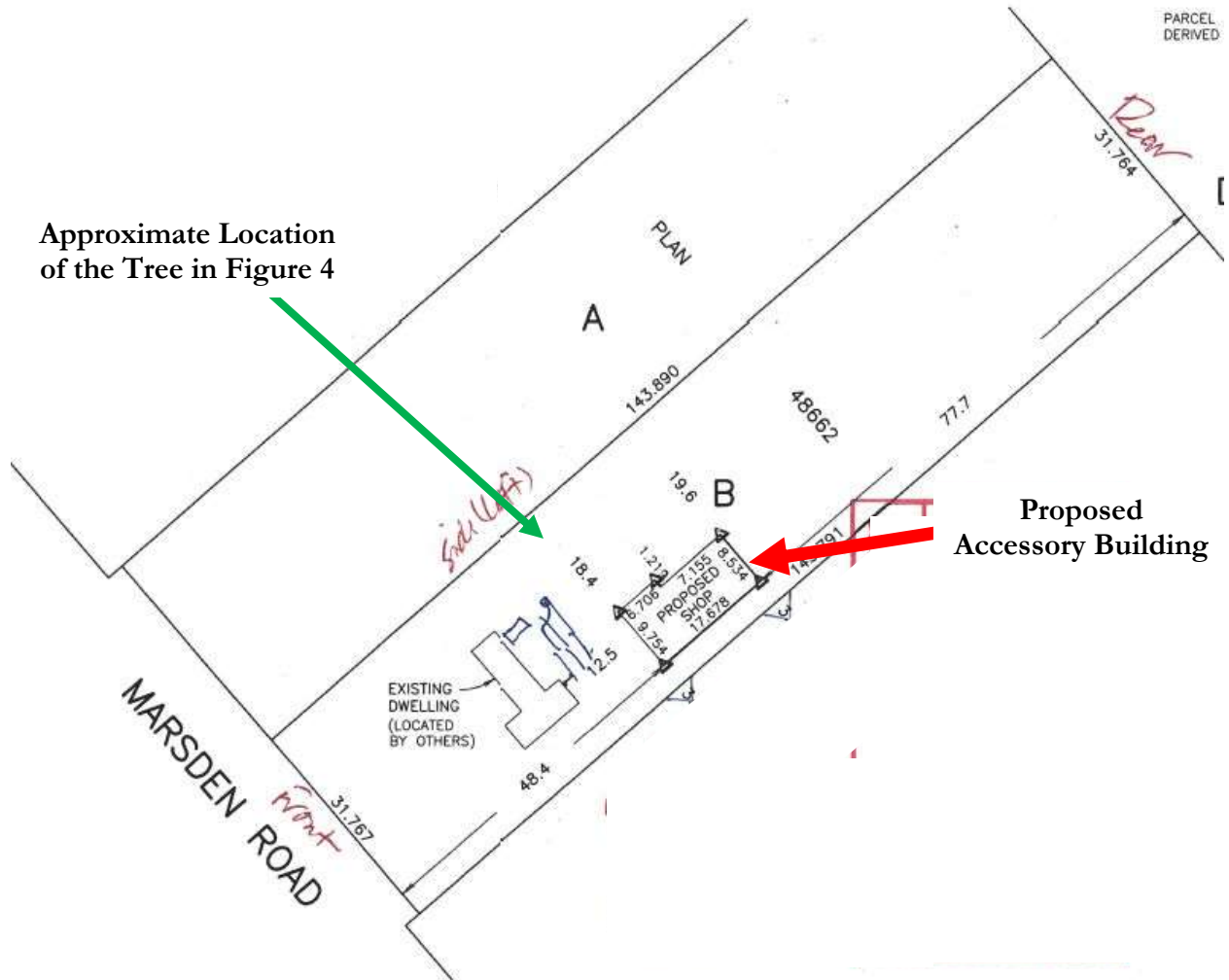


Figure 3: Site Survey



Figure 4: Cedar Tree to be Protected

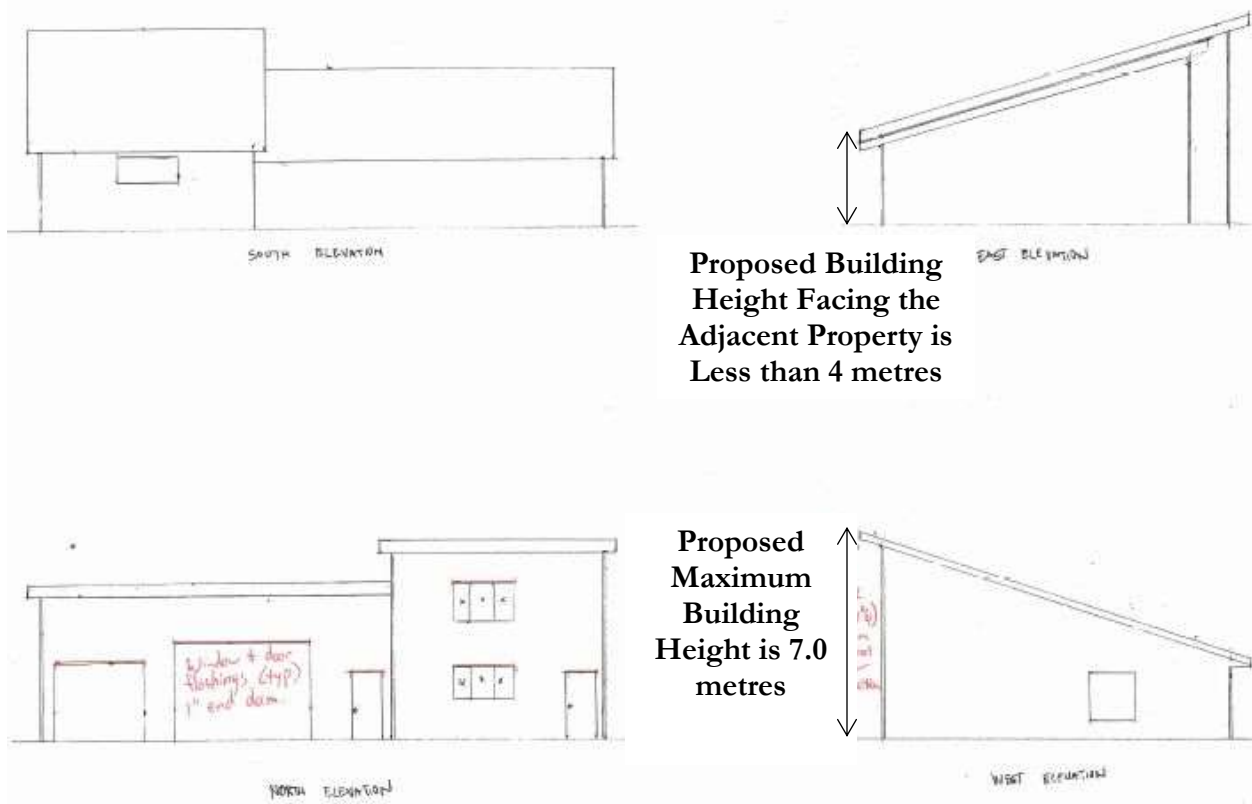


Figure 5: Elevation Drawing of the Proposed Accessory Building

DV 5C 18

TO: Sean Fredrick Jancowski

1. This Development Variance Permit (DV 5C 18) 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 B, District Lot 136, Comox District, Plan 48662
Parcel Identifier (PID): 014-172-313 Folio: 771 02242.305
Civic Address: 4250 Marsden Road
3. The land described herein shall be developed 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;
 - ii. THAT a solid fence or a thick hedge to achieve a visual buffer be implemented along the portion of the accessory building shown on Schedule B;
 - iii. THAT the solid fence or a thick hedge be maintained for the life of the accessory building shown on Schedule B;
 - iv. THAT all other buildings and structures must meet zoning requirements.
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 5C 18) 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 _____, 201_.

James Warren
Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Site Plan”

Draft

Schedule A

File: DV 5C 18

Applicant: Sean Fredrick Jancowski

Legal Description: Lot B, District Lot 136, Comox District, Plan 48662,
PID 014-172-313

Specifications:

THAT WHEREAS pursuant to Section 309(3) and 707(4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the maximum building height of all accessory buildings is 6.0 metres;

WHEREAS pursuant to Section 403(2) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the setback of the eaves of a structure can be reduced by not more than 50 per cent of the minimum setback, up to a maximum of 2 metres;

WHEREAS pursuant to Section 707(4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum side yard setback of an accessory building with highway frontage greater than 31 metres and building height between 4.6 metres and 6.0 metres is 3.5 metres;

AND WHEREAS the applicant, Sean Fredrick Jancowski, wishes to reduce the minimum right side yard setback and to increase the maximum building height of a proposed accessory building shown on Schedule B;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on _____ the provisions of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” as they apply to the above-noted property are to be varied as follows:

- 309(3) & 707(4) The maximum building height of the proposed accessory building shown on Schedule B is increased from 6.0 metres to 7.0 metres; and
- 403(2) The minimum right side yard setback of the eaves of the proposed accessory building shown on Schedule B is reduced from 1.75 metres to 1.4 metres; and
- 707(4) The minimum side yard setback of the proposed accessory building shown on Schedule B is reduced from 3.5 metres to 2.0 metres.

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 5C 18.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B Site Plan

