

Dr. Catherine A. Hagen, Dr. Ernst C. Fibich  
11 Little Bear Way, Royston, BC V0R 2V0  
October 2, 2019

Jodi MacLean  
Rural Planner, Planning and Development Services Branch  
Comox Valley Regional District  
600 Comox Road, Courtenay BC V9N 3P6

Dear Mr. MacLean:

Re: File 3090-20 / DV 4A 19, Variance Permit Application 9 Little Bear Way, Strata Lot 5, Section 33  
Township 11 Nelson District, Strata Plan VIS5591, PID 026-010–836

We have received your letter dated September 25th, and today, an agenda package concerning a revised application for building permit at Number 9 Little Bear Way. I note that you, and two other members of the Planning and Development Services Branch, have now recommended this application for approval following changes to the requested side variance and roof angle of the proposed structure. I note the EASC committee has three options, including approving both rear and side variances, approving the rear variance alone, or rejecting the application.

While we appreciate the efforts of the applicants to address our concerns mentioned in our last correspondence, neither yourself nor the applicants have addressed our fundamental concern that the excavation and construction of the proposed building within 3 metres of the property line will destabilize our property wall and the foundation of our own garage, which is at a higher elevation and adjacent, on the opposite side of the south property line. The area of concern is readily seen in Figure 4. of the current application package, which shows the property line wall on the right, a steep incline down to the existing driveway upon which an RV is currently parked. The project would require additional excavation for a concrete slab foundation.

We have examined the agenda package but found no provision for a retaining wall on the south side of the proposed structure, and no geotechnical assessment of soil or stability. As such, we remain opposed to the side variance. There are, however, two sets of circumstances under which we would be content to withdraw our opposition to the granting of the side variance. The first would be a geotechnical assessment with attention to likely damage to our fence and garage foundation. The second would be the negotiation of a legal agreement and or bond against damage, should the construction cause our fence to fall or our garage foundation to be damaged by construction within our side protection zone of 3.75 metres. If neither of these conditions can be met by the applicants, we recommend the committee choose option 2, which allows granting the rear property variance but not the side variance. We would much prefer to prevent damage than be forced to seek legal recourse should property damage occur as result of this proposed excavation and construction.

Sincerely,

Catherine A. Hagen,  
Ernst C. Fibich