

DATE: November 19, 2019

FILE: 3090-20 / DV 10B 19

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
1750 McDonald Road (Wyss)
Lazo North (Electoral Area B)
Lot B, Section 6, Comox District, Plan 43475, PID 003-622-100**

Purpose

To consider a Development Variance Permit (DVP) to decrease the minimum rear yard setback applicable to an accessory building (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve Development Variance Permit DV 10B 19 (Wyss) to decrease the minimum rear yard setback from 7.5 metres to 4.1 metres and the minimum rear yard setback applicable to the eaves and gutters from 5.5 metres to 3.6 metres applicable to the accessory building constructed on the property described as Lot B, Section 6, Comox District, Plan 43475, PID 003-622-100;

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

Executive Summary

- The owners of a 0.25 hectare residential lot are seeking to complete construction of an accessory building.
- A lean-to, that was not part of the original Building Permit application, was added to the building extending into the rear yard setback area.
- In order to complete the Building Permit, the owners have applied for a setback variance (Appendix B).
- Staff supports issuance of the permit, as proposed, as the addition of the lean-to will not affect the use or development of the neighbouring property.

Prepared by:

Concurrence:

Concurrence:

J. MacLean

T. Trieu

S. Smith

Jodi MacLean, RPP, MCIP
Rural Planner

Ton Trieu, RPP, MCIP
Manager of Planning Services

Scott Smith, RPP, MCIP
General Manager of
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Stakeholder Distribution (Upon Agenda Publication)

Applicant	✓
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Background/Current Situation

The subject property is a 0.25 hectare lot along McDonald Road between the Town of Comox and the City of Courtenay (Figure 1). The property is developed with a house (Figure 2). In 2003, the property owner began construction of an accessory building, sited 7.68 metres from the rear property line at its closest point. The project was not completed and the Building Permit expired in 2006. The property owner re-opened the Building Permit file in 2019. During its review, it was found that a lean-to (Figures 3 and 4) that was not in the original building plans was added to the rear of the accessory building. As part of the lean-to is sited within the rear yard setback area, a Development Variance Permit is required in order to complete the Building Permit.

Official Community Plan Analysis

Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP) designates the subject property within the Settlement Expansion Areas. It is the objective of this designation that development “must generally maintain a rural character with on-site servicing and low densities.” The proposed lean-to does not conflict with the objectives of this designation.

Zoning Bylaw Analysis

Bylaw No. 520 being the “Rural Comox Valley Zoning Bylaw No. 520, 2019”, zones the property Country Residential One (CR-1). This zone requires a rear yard setback of 7.5 metres. The 3.69 metre wide lean-to resulted in the accessory building being sited only 4.1 metres from the rear property line at its closest point, with eaves projecting a further 0.5 metres off the face of the lean-to.

Table 1: Variance Summary

Zoning Bylaw No. 520	Variance	Required	Proposed	Difference
Section 703 (5)(i)	Rear yard setback	7.5 metres	4.1 metres	3.4 metres
Section 403 (1)	Eaves and gutter setback	5.5 metres	3.6 metres	1.9 metres

The accessory building faces into the subject property and to the west side where there is a 13 metre setback to that western neighbour. There are no doors, windows or lights on the rear side, facing the neighbouring rear property. The lean-to is suitable for storing a vehicle or miscellaneous personal goods. Gutters along the main portion of the accessory building direct rainwater into the ground away from the building. The eaves of the lean-to addition do not have gutters so the rainwater drips off the edge into a vegetated area 3.6 metres from the property line. The neighbouring rear property is a long parcel that fronts onto Back Road. It does not have any buildings or structures located on it but is also zoned CR-1 which allows for up to two houses. Given these factors it is not expected that the structure will negatively impact the neighbouring properties.

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. Based on the analysis above, staff recommends to approve the variance.

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

Regional Growth Strategy Implications

Bylaw No. 120, being “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” (RGS) designates the subject property within Settlement Expansion Areas. The proposed setback reduction for the accessory building does not conflict with the designation’s policies.

Intergovernmental Factors

There are no intergovernmental factors with this DVP application.

Interdepartmental Involvement

This DVP application was referred to internal departments. No comments or concerns were received.

Citizen/Public Relations

As of the preparation of this staff report, no further Electoral Area B Advisory Planning Commission meeting are scheduled for the remainder of the year. Therefore, this application was not reviewed by the Advisory Planning Commission.

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 Elector Areas Services Committee (EASC) meeting. The notice informed 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.

Attachments: Appendix A – “Development Variance Permit – DV 10B 19”
Appendix B – “Development Proposal – DV 10B 19”

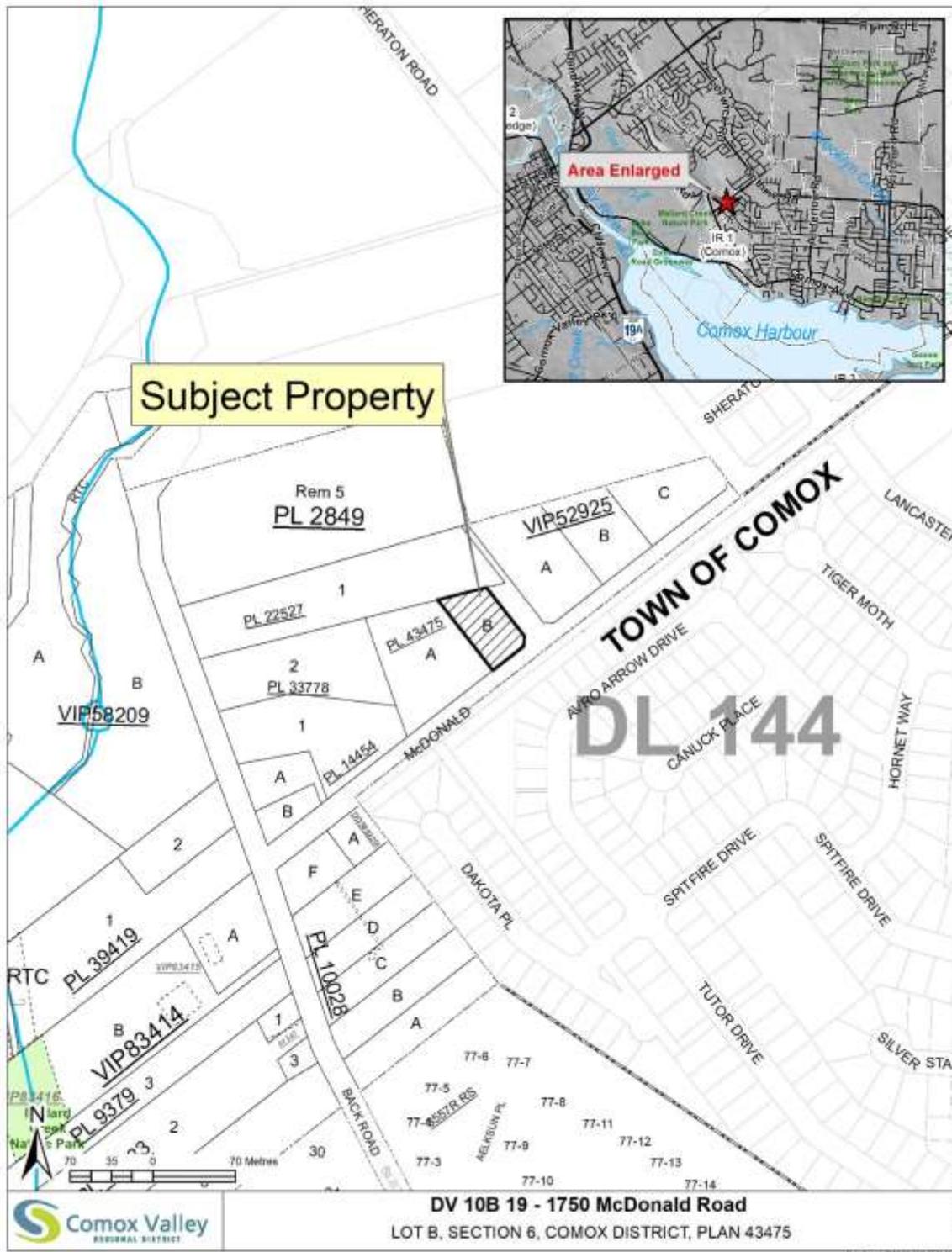


Figure 1: Subject Property Map



Figure 2: Air Photo (2018)



Figure 3: Photo of Accessory Building (west side and front)



Figure 4: Photo of Accessory Building (east side)

DV 10B 19

TO: William and Michelle Wyss

1. This Development Variance Permit (DV 10B 19) 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, Section 6, Comox District, Plan 43475

Parcel Identifier (PID): 003-622-100 Folio: 771 00066.075

Civic Address: 1750 McDonald Road

3. The land described herein 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 Schedule A.

5. This Development Variance Permit (DV 10B 19) 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 _____.

James Warren
Corporate Legislative Officer

Certified on _____

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

Schedule A

File: DV 10B 19

Applicants: William and Michelle Wyss

**Legal Description: Lot B, Section 6, Comox District, Plan 43475,
PID 003-622-100**

Specifications:

THAT WHEREAS pursuant to Section 703(5)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the rear yard setback for an accessory building over 4.6 metres in height is 7.5 metres;

WHEREAS pursuant to Section 403(1) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” 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 two metres;

AND WHEREAS the applicants, William and Michelle Wyss, wish to reduce the minimum rear yard setback to accommodate an addition to an accessory building as shown on Schedule B;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on _____, 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)(i) The minimum rear yard setback for the lean-to addition as shown on Schedule B is 4.1 metres.

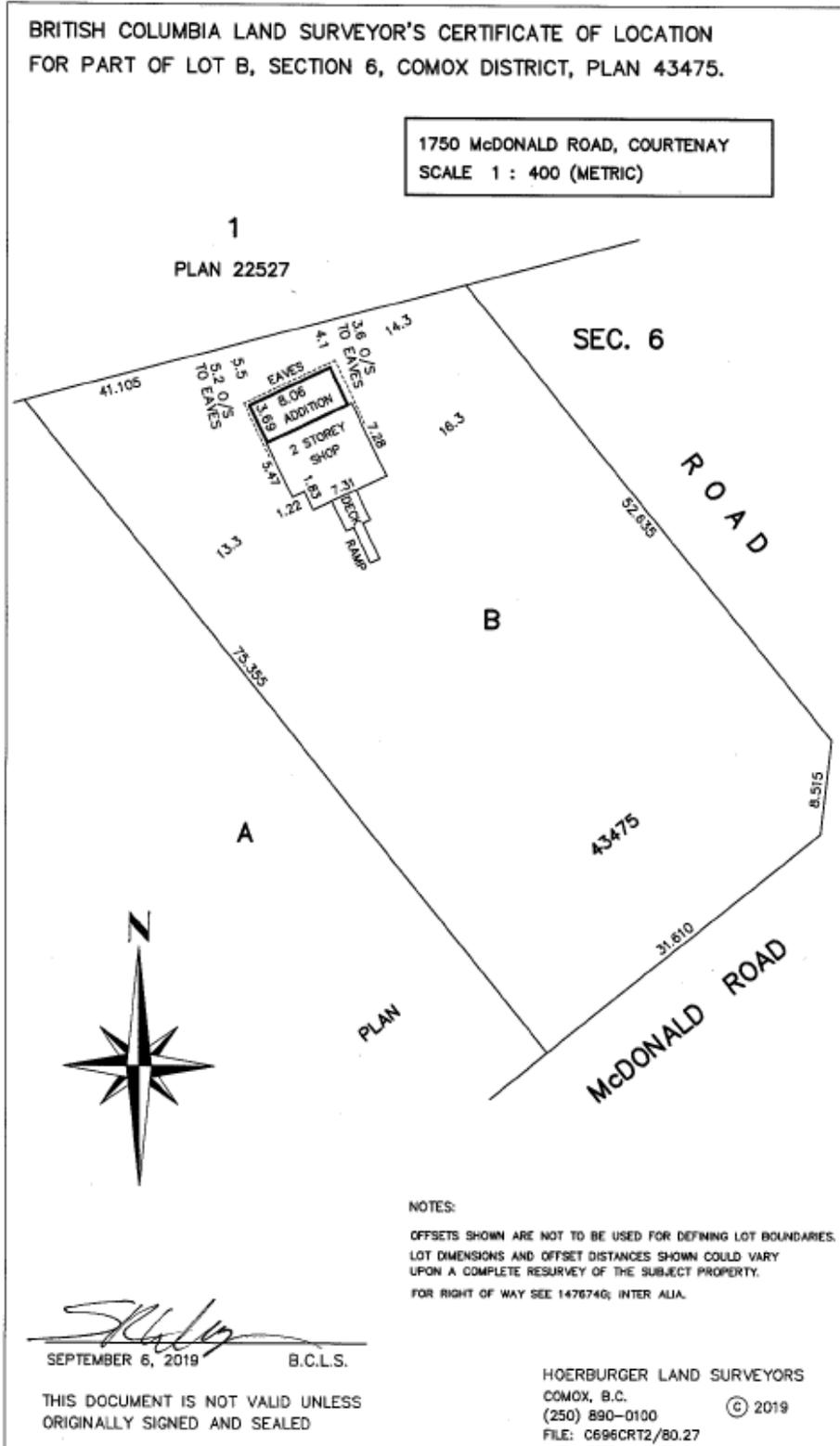
403 (1) The minimum rear yard setback of the eaves of the lean-to addition as shown on Schedule B is 3.6 metres.

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 10B 19.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B



Development Proposal Submitted by the Applicants

In 2005 the applicant constructed a temporary lean-to carport on the side of the workshop. This lean-to encroaches by about 3.5m into the 7.5m rear yard setback, and about 1.6m into the 7.5m side yard setback. The applicant has now sold the property and the new owner would like to retain the lean-to instead of having it removed.

The lean-to provides additional covered parking and storage. The lean-to was sited in this particular location because the property has significant grade and there is very little level ground that is usable, making this the only feasible location. The property is surrounded by forest and large, rural lots and was not visible to any neighboring buildings. There is a forested 20m road allowance between this property and the nearest neighbor. A review of the CVRD aerial mapping data base shows this clearly. The applicant has never received any comments or complaints from any neighbors since the time it was built 14 years ago.

As the setbacks are significant, and as the encroachment has had no negative impact on the surrounding neighbors, we ask that a variance be considered in this situation.