

DATE: November 26, 2019

FILE: 3090-20 / DV 8C 19

TO: Chair and Members
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Development Variance Permit
2632 Rampion Road (Taylor)
Puntledge – Black Creek (Electoral Area C)
Lot 9, Block F, District Lot 95, Comox District, Plan 13540, PID 004-571-517**

Purpose

To consider a Development Variance Permit (DVP) to decrease the minimum rear yard setbacks applicable to a dwelling (Appendix A).

Recommendation from the Chief Administrative Officer:

THAT the board approve Development Variance Permit DV 8C 19 (Taylor) to decrease the minimum rear (southeast) yard setback from 4.5 metres to 2.36 metres with the applicable setbacks related to the eaves and gutters from 2.5 metres to 2.03 metres, and to decrease the minimum rear (southwest) yard setback from 4.5 metres to 1.29 metres with the applicable setbacks related to the eaves and gutters from 2.5 metres to 0.84 metres, for the purpose of converting the accessory building into a principal building on the property described as Lot 9, Block F, District Lot 95, Comox District, Plan 13540, PID 004-571-517;

AND THAT as a condition of the development variance permit, the owner install a fence along or adjacent to the lot lines beside the building to be converted;

AND FINALLY THAT the Corporate Legislative Officer be authorized to execute the permit upon confirmation that the fencing has been installed.

Executive Summary

- The owner of a 0.14 hectare residential lot is seeking to convert an accessory building into a dwelling (Appendix B).
- The building was constructed in accordance with the minimum regulated setbacks applicable to accessory buildings (at least 1.0 metre). A dwelling requires a minimum setback of 4.5 metres. Therefore, a setback variance is required to allow for the conversion.
- Staff supports issuance of the permit with the conditions that the yard area between the building and lot line remain unobstructed and a fence is to delineate the lot boundaries.

Prepared by:

J. MacLeanJodi MacLean, RPP, MCIP
Rural Planner

Concurrence:

T. TrieuTon Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

S. SmithScott Smith, RPP, MCIP
General Manager of Planning
and Development Services
Branch**Stakeholder Distribution (Upon Agenda Publication)**

Applicant	✓
-----------	---

Background/Current Situation

The subject property is 0.14 hectare lot, in the Lake Trail area south of the City of Courtenay (Figures 1 and 2). It is located within the Comox Valley Water Local Service Area and the Courtenay Fire Protection District. The property is developed with a house and an accessory building. The property owner would like to convert the accessory building (Figure 3) into a secondary dwelling. However, because the building does not meet the Zoning bylaw's minimum rear setback that applies to dwellings, a Development Variance Permit is required to allow for the conversion.

Planning AnalysisOfficial Community Plan Analysis

Bylaw No. 337, being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014" designates the subject property as 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 conversion does not conflict with the objectives of this designation.

Zoning Bylaw Analysis

The property is zoned Residential One (R-1) in Bylaw No. 520, being the Rural Comox Valley Zoning Bylaw No. 520, 2019. While the zone only requires a minimum accessory building setback of 1.0 metre to the relevant lot lines, a dwelling must be setback 4.5 metres. The setback reductions, including those necessary for projections, such as eaves and gutters, are necessary to convert the building into a dwelling are summarized below.

Table 1: Variance Summary

Zoning Bylaw No. 520	Variance	Required	Proposed	Difference
Southeast				
Section 701 (4)(i)	Rear (southeast) yard setback	4.5 metres	2.36 metres	2.14 metres
Section 403 (1)	Eaves and gutter setback	2.5 metres	2.03 metres	0.47 metres
Southwest				
Section 701 (4)(i)	Rear (southwest) yard setback	4.5 metres	1.29 metres	3.21 metres
Section 403 (1)	Eaves and gutter setback	2.5 metres	0.84 metres	1.66 metres

Secondary dwelling

The R-1 zone allows for a secondary dwelling limited in area to 90 square metres, with a maximum height of 8 metres and minimum lot line setbacks of 4.5 metres. According to the agent (who is the contracted builder for the project), they intend on retaining as much of the existing structure (e.g. foundation, structural elements, roof) as possible, which has an area of 56 square metres. They also intend on constructing a garage addition to the front so that the total area will amount to 90 square metres and keeping the building at one-storey.

Among the purposes of establishing a minimum building setback is to have sufficient space for building maintenance, rainwater runoff, privacy between neighbours, ease of access, light and air infiltration, open space and landscaping. Dwellings typically require larger setbacks as these involve more activity in and around the building (e.g. windows, doors, lights, etc.). The building is to face into the subject property with a patio and exterior door on the northeast side and a garage door on the northwest side. The BC Building Code permits a limited aggregate area for windows on the building faces less than 1.5 metres from the lot line.

The surrounding properties all have the same size and zone as the subject property and are similarly developed. If converted, the dwelling would create windows looking at each neighbour's backyard (i.e. the area behind each property's principal dwelling). The boundary with the neighbour to the southwest currently has cedar hedging up to the front of the accessory building where the hedging ends. There is no fence or vegetation or other delineation of boundary beside the building other than an open-sided shelter (used for storage of wood and miscellaneous personal goods) that appears to be sited immediately at the boundary (Figure 4). If converted, the windows would likely face that structure. The boundary with the neighbour to the southeast (Figure 5) has a wire-fence and the setback area is cleared (there is currently some native vegetation on the neighbouring property). A fence along these lot lines would delineate yard areas and inhibit encroachment during construction and residential occupancy of the building.

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. Conditions may also be placed on an approval. Based on the analysis above, staff recommends to approve the variances. Planning staff also recommends approval be conditional on access around the setback area remaining unobstructed and a fence being placed between the building and the parcel lines.

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

Bylaw No. 120, being "Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010" designates the subject property within the Settlement Expansion Areas. The proposed setback reductions do 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 C 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 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.

Attachments: Appendix A – “Development Variance Permit – DV 8C 19”
Appendix B – “Development Proposal – DV 8C 19”

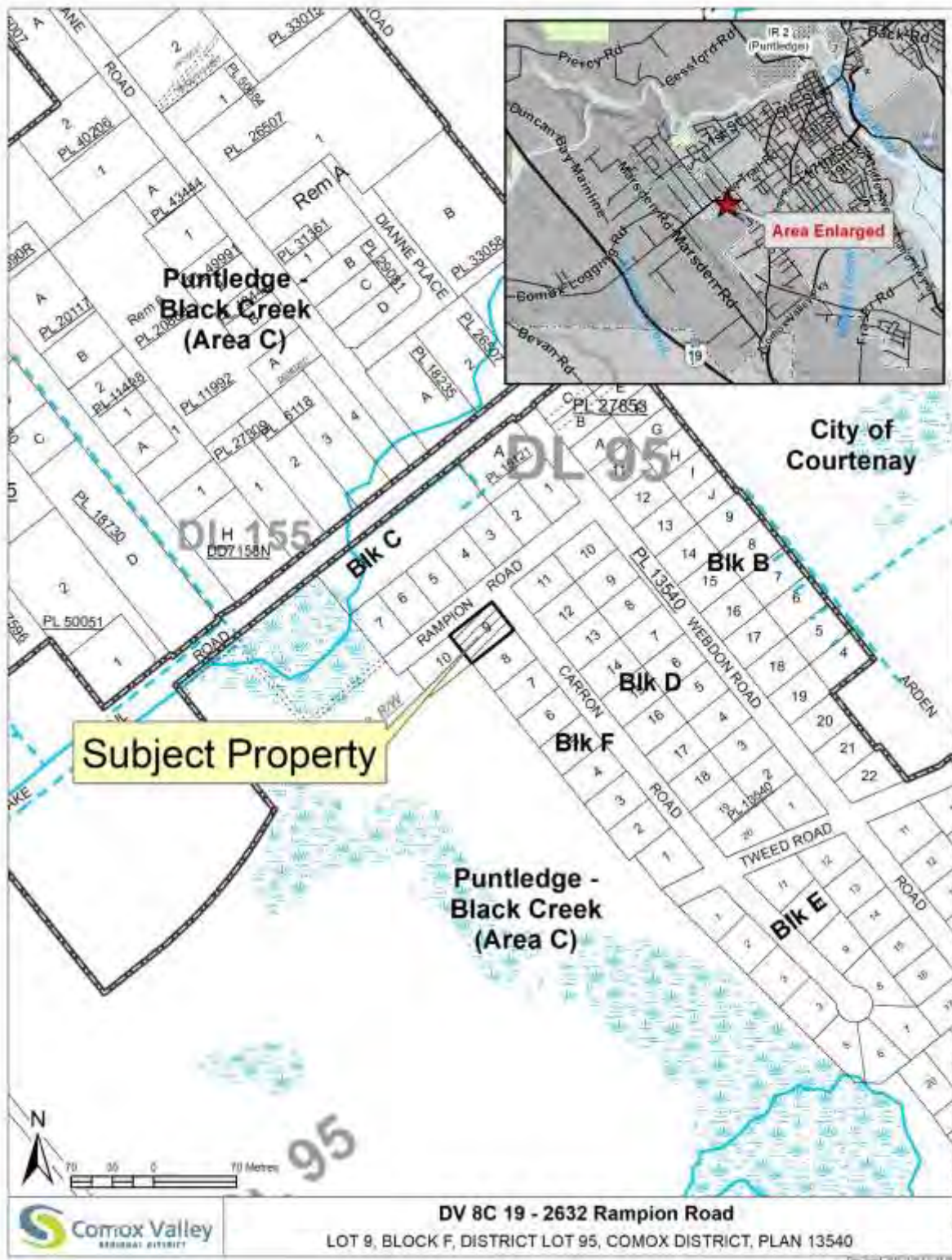


Figure 1: Subject Property Map



Figure 2: Aerial Photo



Figure 3: Photo of Accessory Building as Seen From the Road (Google Streetview)



**Figure 4: Photo of Accessory Building (southwest rear)
1.29 metres from side of building to lot line.**



**Figure 5: Photo of Accessory Building (southeast rear);
2.36 metres from side of building to lot line.**

DV 8C 19**TO: Fiona Taylor**

1. This Development Variance Permit (DV 8C 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 9, Block F, District Lot 95, Comox District, Plan 13540
Parcel Identifier (PID): 004-571-517 Folio: 771 01560.000
Civic Address: 2632 Rampion 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 specifications attached hereto which form a part of this permit as the attached Schedule A;
 - ii. THAT a fence be installed along or adjacent to the lot lines beside the “shop on concrete foundation” identified in Schedule B;
 - iii. AND THAT the rear yard setback areas referred to in Schedules A and B otherwise remain unobstructed.
4. This Development Variance Permit (DV 8C 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.
5. 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 8C 19

Applicants: Fiona Taylor

Legal Description: Lot 9, Block F, District Lot 95, Comox District, Plan 13540, PID 004-571-517

Specifications:

THAT WHEREAS pursuant to Section 701(4)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the rear yard setback for a principal building is 4.5 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 and gutters 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 applicant, Fiona Taylor, wishes to reduce the minimum rear yard setbacks to accommodate the conversion of an accessory building to a principal 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:

701(4)(i) The minimum rear yard setback for the building labelled as “shop on concrete foundation” and “garage addition” identified in Schedule B is 2.36 metres from the southeast lot line and 1.29 metres from the southwest lot line.

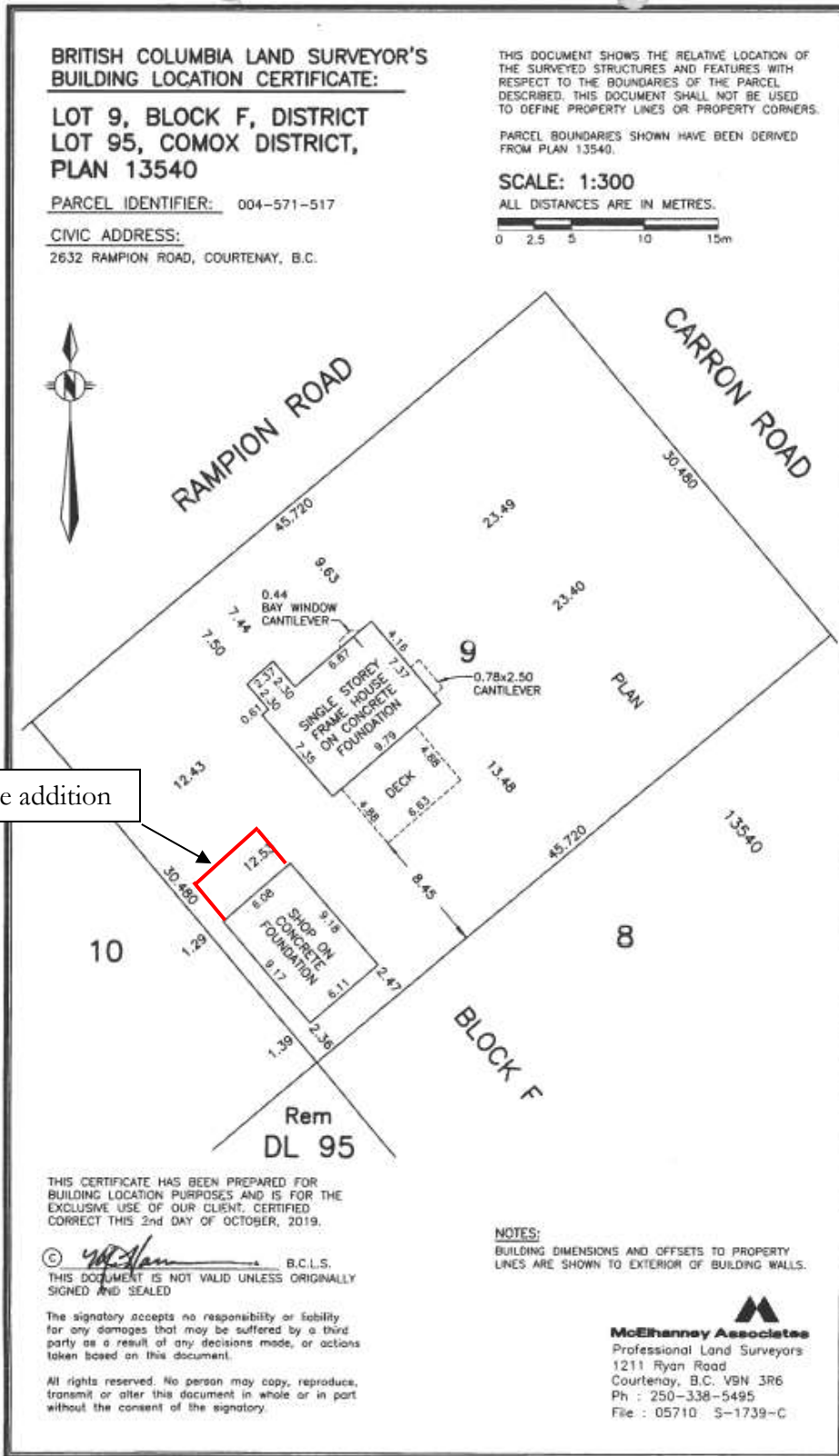
403(1) The minimum lot line setback of the eaves and gutters on the building labelled as “shop on concrete foundation” and “garage addition” identified in Schedule B is 2.03 metres from the southeast lot line and 0.84 metres from the southwest lot line.

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 8C 19.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B



Development proposal (Describe the present and intended uses, and reasons for proposal. Attach additional pages if needed.)

We are proposing to convert an existing shop into a secondary suite. The shop does not meet required setbacks for a residence in its current location. We believe it will not negatively impact any neighbours or cause any concerns to convert the building to a second suite. This building has been there since the property was bought and as such, there was no choice in its location. The building does not front and side yard setbacks and the rear setback in question will not meet minimum egress setback of 1.2 meters. We think this will be a good addition to rental properties in Courtenay to assist with the shortage of rentals in the Valley.