

**DATE:** July 22, 2020**FILE:** 3090-20 / DV 4C 20**TO:** Chair and Directors  
Electoral Areas Services Committee**FROM:** Russell Dyson  
Chief Administrative OfficerSupported by Russell Dyson  
Chief Administrative Officer*R. Dyson***RE: Development Variance Permit, 6488 Eagles Drive  
Puntledge – Black Creek (Electoral Area C)  
Strata Lot 9, Section 24, Township 6, Comox District, Strata Plan VIS5611  
Together with an Interest in the Common Property in Proportion to the Unit  
Entitlement of the Strata Lot as Shown on Form V, PID 026-055-457****Purpose**

To consider a Development Variance Permit (DVP) for the reduction of the front yard setback pertaining to Lamb Road to allow for the construction of a single detached dwelling (Appendix A).

**Recommendation from the Chief Administrative Officer:**

THAT the Board approve the Development Variance Permit DV 4C 20 (Pastershank/Sawatzky) to reduce the minimum front yard setback pertaining to Lamb Road from 7.5 metres to 4.5 metres (and from 5.5 metres to 3.5 metres for the eaves) for the purpose of allowing the construction of a single detached dwelling on the property described as Strata Lot 9, Section 24, Township 6, Comox District, Strata Plan VIS5611 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V, PID 026-055-457 (6488 Eagles Drive);

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

**Executive Summary**

- The subject property is located at 6488 Eagles Drive, is approximately 1.0 hectare in size, and is zoned Country Residential One (CR-1) (Figures 1 and 2).
- The property has two front yard lot lines – the lot line adjacent to Eagles Drive (the access road) and the lot line adjacent to Lamb Road (an unopened Ministry of Transportation and Infrastructure Right-of-Way).
- Because of the two front yard lot lines, the dwelling must be situated at least 7.5 metres back from both lot lines.
- The variance sought is to allow the dwelling to be closer only to the front yard lot line adjacent to Lamb Road and the 7.5 metre setback will remain for the lot line adjacent to Eagles Drive.
- The variance sought is a reduction of 3.0 metres, from 7.5 metres to 4.5 metres (and from 5.5 metres to 3.5 metres for the eaves) (Figure 3).
- The intent of having sufficient setbacks from roads is to provide traffic safety, to ensure a uniform streetscape and to offer enough room for building maintenance.
- The application will head to the Advisory Planning Commission (APC) meeting after the Electoral Areas Services Committee (EASC), but the APC minutes will be included for consideration at the Comox Valley Regional District Board of Directors' August meeting.

- As this unopened road is unlikely to be used as a road in the future, the reduced setback maintains the intent of having the minimum setbacks from road and is unlikely to affect the neighbourhood's character. Staff supports the issuance of the DVP.

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	✓
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**Background/Current Situation**

An application has been received to consider a Development Variance Permit for a property located at 6448 Eagles Drive in the Merville area. The property is one hectare in size, is zoned Country Residential One (CR-1) and is designated as a Rural Settlement Area (Figures 1 and 2). The application is to reduce the front yard setback, pertaining to Lamb Road on the north side of the property, from 7.5 metres to 4.5 metres (and from 5.5 metres to 3.5 metres for the eaves of the roof). To clarify, both the lot line adjacent to Eagles Drive (access road) and Lamb Road (an unopened Ministry of Transportation and Infrastructure Right-of-Way) are considered front yard lot lines.

**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 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 Rural Settlement Area in both the Regional Growth Strategy (RGS) and the Official Community Plan (OCP), being the "Comox Valley Regional District Regional Growth Strategy, Bylaw No. 120, 2010" and the "Rural Comox Valley Official Community Plan, Bylaw No. 337, 2014," respectively. This land use designation does not discourage or prohibit the type of setback variance being sought, and the variance is not in conflict with any of the residential policies therein.

**Zoning Bylaw Analysis**

The subject property is zoned Country Residential One (CR-1) within the Zoning Bylaw, being the "Rural Comox Valley Zoning Bylaw No. 520, 2019," which stipulates a minimum setback from the front yard lot line of 7.5 metres for any type of building or structure. However, the Zoning Bylaw also defines a front yard lot line in a way that can result in multiple front yard lot lines: "*Front lot line means the lot line which is common to the lot and a highway . . . Where two or more lot lines are common to a lot and a highway, they shall be deemed to be the front lot line.*" As such, the 7.5 metre setback prescribed in the Zoning Bylaw must, by default, be applied to the lot lines adjacent to both Eagles Drive and Lamb Road.

**Table 1: Variance Summary**

<b>Zoning Bylaw</b>	<b>Variance</b>	<b>Zoning</b>	<b>Proposed</b>	<b>Difference</b>
Section 703 (5)	Front yard setback	7.5 metres	4.0 metres	3.5 metres
Section 403 (1)	Siting exemptions	5.5 metres	3.0 metres	2.5 metres

Staff are in support of this application for the following reasons:

1. The road adjacent to the lot line that is the subject of the variance is an unopened MOTI right-of-way rather than a road with pedestrian and/or vehicular traffic.
2. The applicant specifically chose a distance that avoids needing to involve MOTI in the referral or decision-making process.
3. The 4.5 metre setback requested retains enough space between the dwelling and the lot line for maintenance and access.
4. There are no privacy concerns raised by the shorter setback being requested.

### **Options**

The EASC may either approve 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 Regional District 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**

Bylaw No. 120 designates the subject property as being within a Rural Settlement Area. The proposed variance to allow for a reduction in the front yard setback pertaining to Lamb Road does not conflict with the residential policies of the RGS.

### **Intergovernmental Factors**

There are no intergovernmental factors with this DVP application.

### **Interdepartmental Involvement**

This DVP application was referred to CVRD staff within the bylaw compliance and fire services departments. No concerns were raised. Staff within the parks department were consulted as well.

### **Citizen/Public Relations**

This report is presented to the EASC prior to the APC. The APC will review this file at their meeting on August 13, 2020. Their comments and recommendations will be forwarded to the CVRD Board for their decision.

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 of 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 4C 20”



### Figure 1: Subject Property Map





Figure 2: Air Photo

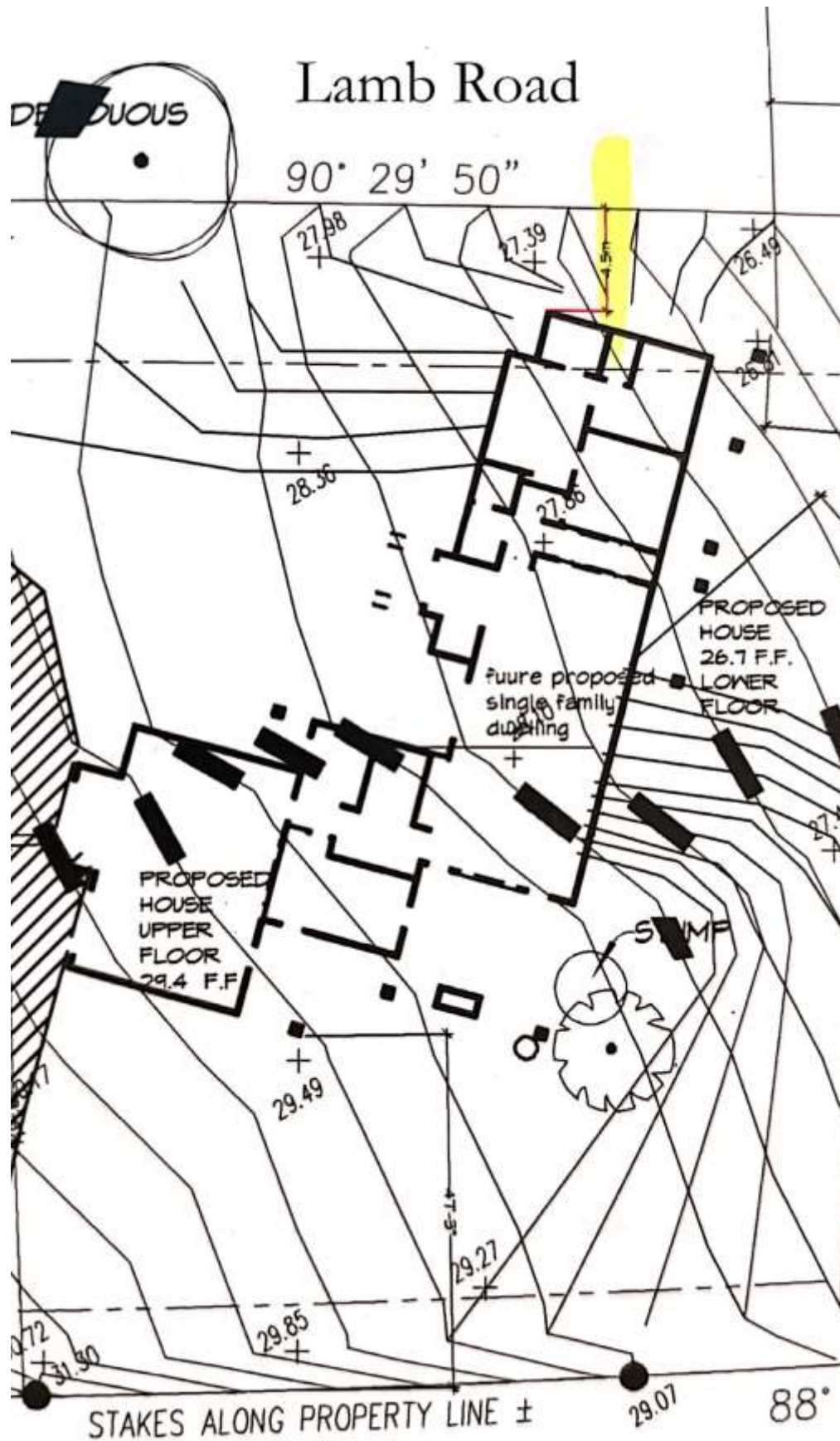


Figure 3: Site Plan

DV 4C 20

TO: Dean Sawatzky and Roma Pastershank

1. This Development Variance Permit (DV 4C 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:** Strata Lot 9, Section 24, Township 6, Comox District, Strata Plan VIS5611 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V  
**Parcel Identifier (PID):** 026-055-457 **Folio:** 05663.100  
**Civic Address:** 6488 Eagles Drive
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 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 4C 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 \_\_\_\_\_.

\_\_\_\_\_  
Jake Martens  
Deputy Corporate Legislative Officer

Certified on \_\_\_\_\_

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



## Schedule A

File: DV 4C 20

**Applicants:** Dean Sawatzky and Roma Pastershank

**Legal Description:** Strata Lot 9, Section 24, Township 6, Comox District,  
Strata Plan VIS5611 Together with an Interest in the  
Common Property in Proportion to the Unit Entitlement  
of the Strata Lot as Shown on Form V

### 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 front yard setbacks 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 front yard setback for features of construction that protrude toward the lot line without incorporating floor area is 5.5 metres;

AND WHEREAS the applicants, Dean Sawatzky and Roma Pastershank, wish to construct a single detached dwelling and the construction of which as proposed will created the following front yard lot line setbacks pertaining only to Lamb Road:

- Front yard lot line setback of 4.5 metres as it pertains to the foundation of the dwelling unit
- Front yard lot line setback of 3.5 metres as it pertains to the eaves of the dwelling unit;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on August 25, 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 front yard setback pertaining to Lamb Road for the dwelling unit shown on Schedule B is 4.5 metres for the foundation.”

403(1) “The minimum front yard setback pertaining to Lamb Road for the dwelling unit shown on Schedule B is 3.5 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 4C 20.

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Jake Martens  
Deputy Corporate Legislative Officer

Certified on \_\_\_\_\_

*Comox Valley Regional District*



Figure 2: Air Photo





Figure 3: Site Plan

