

DATE: June 28, 2017

FILE: 3090-20 / DV 4B 17

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

RE: Development Variance Permit – 5998 Aldergrove Drive (Mowbray)
Lazo North (Electoral Area B)
Lot 13, Block 29, Comox District, Plan 11986, PID 004-948-751

Purpose

To consider a Development Variance Permit (DVP) to decrease the minimum side yard setback from 4.5 metres to 2.24 metres for the foundation and from 2.5 metres to 1.84 metres for the eaves.

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.

Executive Summary

The applicants have applied to renovate an existing single detached dwelling including extending the eaves further into the side yard setback area. The dwelling was initially constructed in 1975, receiving final in 1978. There is no historic survey showing the foundation setback from the lot lines, however a recent survey shows the existing foundation to be 2.24 metres from the east lot line. The existing foundation does not comply with the original or the current zoning requirements for side yard setbacks. Further, there is no record of a Board of Variance or DVP granted to reduce the side yard setback. Consequently before a Building Permit can be issued, the siting of the existing dwelling must comply with the zoning requirements. The variance request is to decrease the minimum side yard (east) setback from 4.5 metres to 2.24 metres for the existing foundation and from 2.5 metres to 1.84 metres for the new eaves. Staff recommends the issuance of the DVP to allow the renovation of the dwelling. The proposed renovation will not encroach further into the side yard setback area and will protect existing site lines and visual buffers from the road and neighbours.

Recommendation from the Chief Administrative Officer:

THAT the Board approve the Development Variance Permit DV 4B 17 (Mowbray) to decrease the minimum southeast side yard setback from 4.5 metres to 2.24 metres for the foundation and from 2.5 metres to 1.84 metres for the eaves to allow the renovation of an existing dwelling on a property described as Lot 13, Block 29, Comox District, Plan 11986, PID 004-948-751, (5998 Aldergrove Drive);

AND FINALLY THAT once the CVRD has received the Ministry of Transportation and Infrastructure Permit To Reduce Building Setback, then the Corporate Legislative Officer be authorized to execute the permit.

Respectfully:

R. Dyson

Russell Dyson
Chief Administrative Officer

Background/Current Situation

An application has been received to consider a DVP (Appendix A) for a 0.17 hectare property located in Lazo North (Electoral Area B) (Figures 1 and 2). The property is zoned Country Residential One (CR-1). It is bounded by Aldergrove Drive to the west, Dinghy Road (unopened) to the south, Georgia Strait to the east and CR-1 zoned property to the north. The neighbourhood is predominately CR-1 zoned properties. There is no water or sewer service. The property is within the Merville Fire Protection District.

The property is currently developed with a singled detached dwelling and an accessory building (still under construction) (Figure 3). The actual side yard setback for the dwelling is 2.24 metres (Figure 4). The dwelling received a building permit in 1975 and received final in 1978. At that time, the property was zoned Residential Two (R-2) where the side lot line setback was 12 feet (3.65 metres) when the side yard flanks a street. Hence, the “as constructed” dwelling did not meet the zoning requirements from Bylaw No. 108 in force at the time of construction, being the “Electoral Area ‘B’ Comox North Interim Zoning Bylaw, 1973”. Further, there is no reference of a Board of Variance or DVP that reduced the side yard setback. The applicants have applied for a Building Permit to renovate their existing dwelling (Figure 5). This application proposes to address the 2.24 metre setback to the existing foundation and accommodate a further encroachment for the proposed eaves. The application is to vary the southeast side yard setback to 2.24 metres (versus 4.5 metres) for the existing foundation and 1.84 metres for the new eaves (versus 2.5 meters).

Regional Growth Strategy

The Regional Growth Strategy (RGS) Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”, designates the subject property within Rural Settlement Areas. Policies in this designation focus on managing growth through land use changes. The proposed renovations do not change the residential land use of the subject property. Therefore, the proposed variance is not in conflict with the RGS.

Official Community Plan

The subject property is designated Rural Settlement Area in the Official Community Plan, Bylaw No. 337, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”. The requested decrease to the side yard setback does not conflict with residential policies established in this bylaw.

Zoning Bylaw

The CR-1 zone in the Zoning Bylaw, Bylaw No. 2781 being the “Comox Valley Zoning Bylaw, 2005” establishes minimum setbacks, maximum height, maximum lot coverage and maximum combined floor area for all buildings and structures on the property. Specifically it sets the side yard setback to 4.5 metres when the property abuts a road and has a frontage less than 31 metres. See Table 1 for a summary of the variance requested.

Table 1: Variance Summary

Zoning Bylaw No. 2781	Variance	Zoning	Proposed	Difference
Section 402(2)(ii)(a)	Side yard setback-abutting a road	4.5 metres	2.24 metres	2.26 metres
Section 403(1)	Side yard setback - eaves	2.5 metres	1.84 metres	0.66 metres

The request does not significantly impact the intent of minimum setbacks which in part is to provide spatial separation between buildings on properties and between buildings and roads for fire separation, utility corridors, etc. Note that the applicant has also applied to the Ministry of Transportation and Infrastructure (MoTI) to relax their requirement for a 4.5 metre setback from any roadway.

Parks Analysis

The portion of Dinghy Road abutting the subject property is identified as a “Category 5” beach access in the *Comox Valley Regional District Beach Access Inventory* (March 2011). It is not a managed access and there are no improvements proposed to provide access. The reduced side yard setback for the existing dwelling and proposed eaves will not impact future access by pedestrians.

Options

The Board could either approve or deny the requested variance. Based on the analysis contained within this report, planning staff supports the approval of this variance application.

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

This report and recommendations contained herein are in compliance with the LGA and the Comox Valley Regional District (CVRD) bylaws. DVP’s are permitted in certain circumstances under Section 498 of the LGA.

Intergovernmental Factors

This property is also subject to MoTI requirements for setbacks. According to Section 12 of the *Provincial Public Undertaking Regulation* BC Reg. 513/2004, all structures must be placed at least 4.5 metres back from the right-of-way, in this case Dinghy Road. The applicants applied to MoTI to obtain relief from this setback requirement as provided for in Section 62 and Section 90 of the *Transportation Act*. Staff recommends that the DVP can be considered for approval but should not be executed until approval from MoTI for reducing their setback of 4.5 metres is granted.

Interdepartmental Involvement

The proposed DVP has been circulated to staff in the following internal departments:

- Building Services
- Park Services
- Bylaw Services
- Fire Services

These departments did not have any concerns regarding this proposal. A Building Permit is required for the proposed renovation.

Advisory Planning Commission

The Advisory Planning Commission will review this application at their meeting scheduled for June 29, 2017. The minutes from the meeting will be forwarded to the Electoral Areas Services Committee (EASC).

Citizen/Public Relations

Notice of the requested variance will be mailed to adjacent property owners 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.

Prepared by:

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Concurrence:

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Ann MacDonald, MCIP, RPP
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Attachments: Appendix A – “Development Variance Permit DV 4B 17”

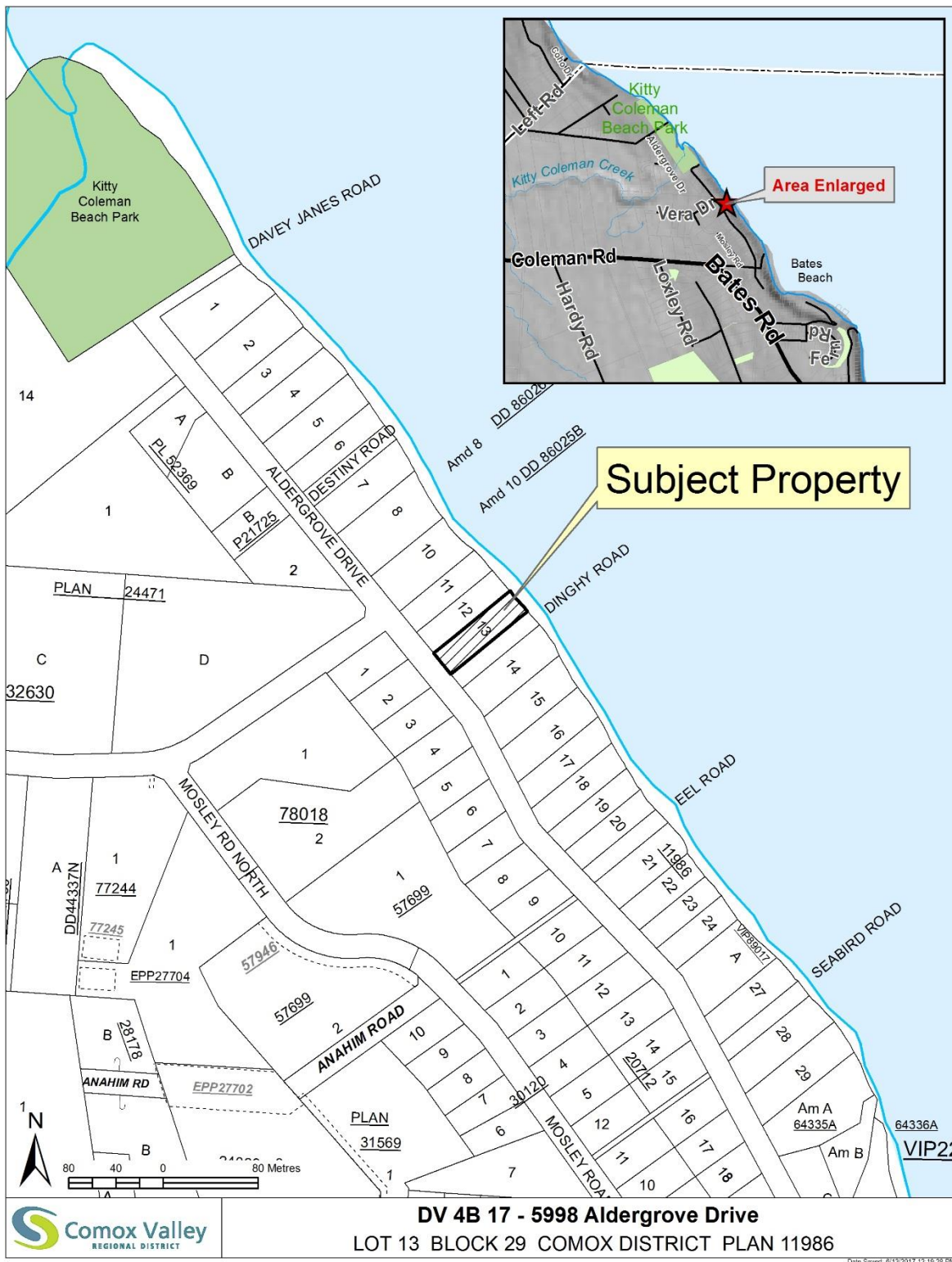


Figure 1: Subject Property Map



Figure 2: Air Photo Map



Figure 3: Photo of Existing Dwelling

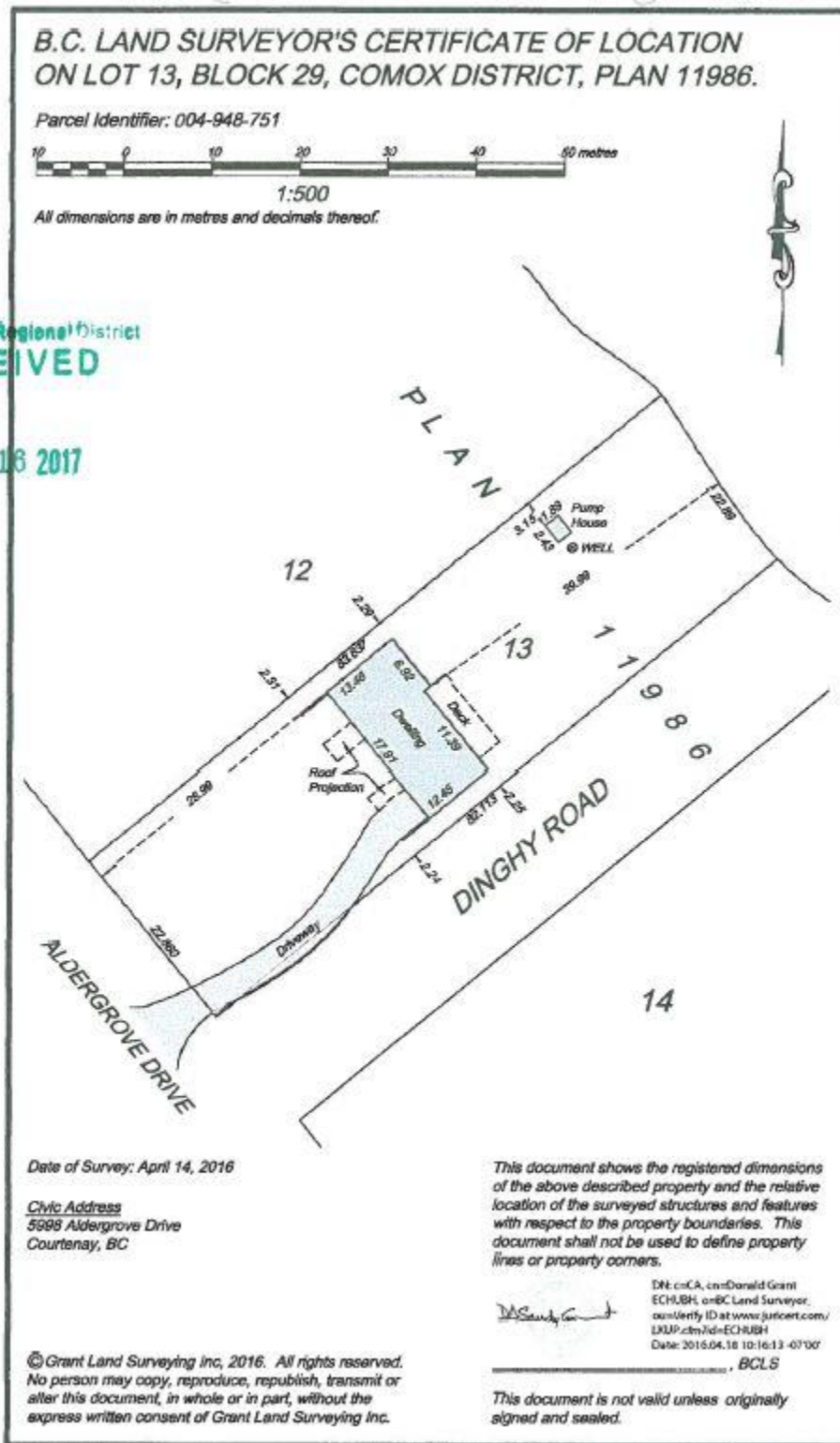


Figure 4: Site Survey

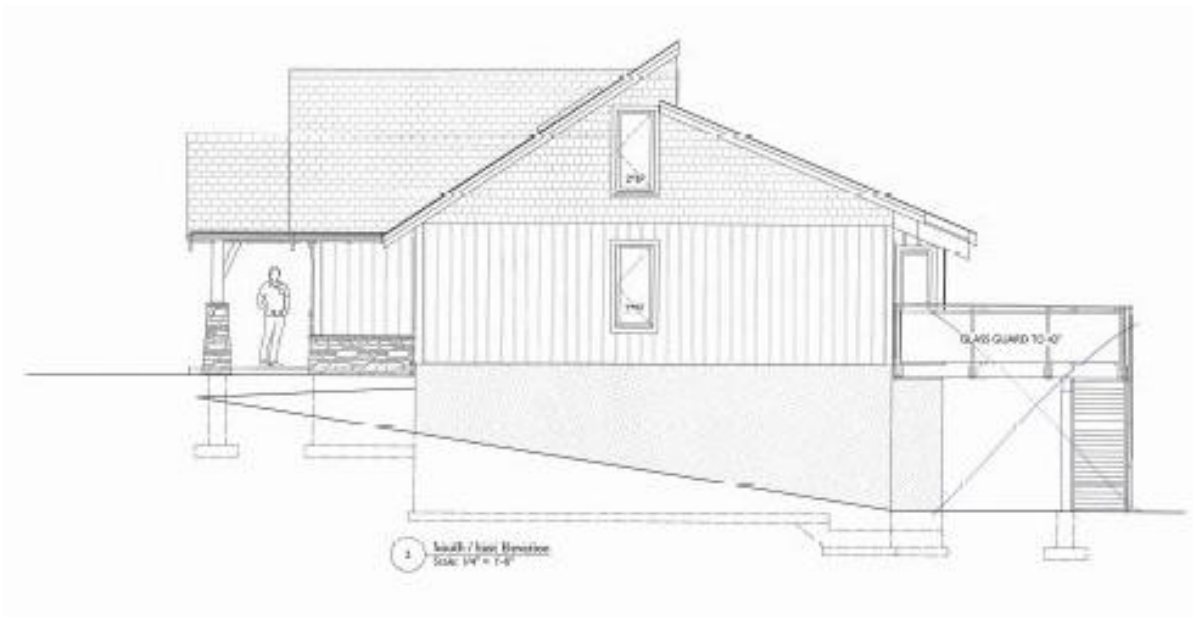


Figure 5: Front and East Side Elevations

DV 4B 17

TO: Clinton and Michelle Mowbray

OF: 5998 Aldergrove Drive, Courtenay BC V9J 1W3

1. This Development Variance Permit (DV 4B 17) 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 regional district described below:

Legal description: Lot 13, Block 29, Comox District, Plan 11986

Parcel identifier (PID): 004-948-751 Folio: 771 04427.000

Civic address: 5998 Aldergrove 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;
- ii. THAT all other buildings and structures must meet zoning requirements.

4. This Development Variance Permit (DV 4B 17) 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 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 July xx, 2017.

James Warren
Corporate Legislative Officer

Certified on _____

Attachments: Schedule A – “Resolution”
Schedule B – “Site Plan of 5998 Aldergrove Drive”

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Schedule A

File: DV 4B 17

APPLICANTS: Clinton and Michelle Mowbray

LEGAL DESCRIPTION: Lot 13, Block 29, Comox District, Plan 11986, PID 004-984-751

SPECIFICATIONS:

THAT WHEREAS pursuant to Section 402(2)(ii)(a) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum setback for the side yard abutting the road shall be 4.5 metres;

THAT WHEREAS pursuant to Section 403(2) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum lot line setback for the eaves of a building may be reduced by not more than 50 per cent of such distance up to a maximum of 2.0 metres;

AND WHEREAS the applicants, Clinton and Michelle Mowbray, wish to reduce the minimum side yard setback to 2.24 metres for the existing foundation and 1.84 metres for the new eaves;

THEREFORE BY A RESOLUTION of the board of the Comox Valley Regional District on July xx, 2017, 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:

402(2)(ii)(a) Where the width of the lot is 31.0 metres or less at the required front yard setback, the minimum side yard abutting the road is reduced from 4.5 metres to 2.24 metres in accordance with the survey plan dated April 14, 2016, prepared by Grant Land Surveying and attached to this permit as Schedule B; and

403(2) Where the eaves project beyond the face of a building, the minimum side yard abutting the road is reduced from 2.5 metres to 1.84 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 4B 17.

James Warren
Corporate Legislative Officer

Certified on _____

Schedule B: Site Plan

