

**DATE:** August 15, 2017

**FILE:** 3090-20 / DV 5B 17

**TO:** Chair and Directors  
Electoral Areas Services Committee

**FROM:** Russell Dyson  
Chief Administrative Officer

**RE:** Development Variance Permit – 2029 Stevedor Road (Vuorela)  
Lazo North (Electoral Area B)  
Lot A, District Lot 177, Comox District, Plan VIP78574, PID 026-236-753

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### **Purpose**

To consider a Development Variance Permit (DVP) to decrease the minimum side yard setback from 7.5 metres to 3.5 metres to allow the construction of an accessory 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.

### **Executive Summary**

The applicants wish to construct an accessory building (garage/workshop) in the north-west corner of their property. This is the preferred location because of the existing development of the property. The zoning requirement for the north lot line side yard setback is 7.5 metres because it is bounded by a dedicated road. This road is a dead end providing access to an otherwise 'land locked' property. The application is to reduce the side yard setback to 3.5 metres. Staff support this application because the reduced side yard setback does not conflict with the intent of the zoning bylaw to provide spatial separation between buildings on adjacent properties and between buildings and roads.

### **Recommendation from the Chief Administrative Officer:**

THAT the board approve the Development Variance Permit DV 5B 17 (Vuorela) to decrease the minimum north side yard setback from 7.5 metres to 3.5 metres to allow the construction of an accessory building on a property described as Lot A, District Lot 177, Comox District, Plan VIP78574, PID 026-236-753 (2029 Stevedor Road).

AND FINALLY THAT once the Comox Valley Regional District 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***

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Russell Dyson  
Chief Administrative Officer

### Background/Current Situation

An application has been received to consider a development variance permit (Appendix A) for a 1.02 hectare property. It is located in Lazo North (Electoral Area B) (Figures 1 and 2). The property is zoned Residential Rural (R-RU). It is bounded by roads on three sides – Stevedor Road to the west, Huband Road to the south, and a dedicated right-of-way (ROW) to the north. There is an R-RU zoned property to the east. The neighbourhood is predominately R-RU zoned properties. The property is connected to the Comox Valley Water service. There is no sewer service. It is located within the Bates/Huband Road Fire Service Area.

The property is currently developed with a single detached dwelling. The application is to vary the north side yard setback from 7.5 metres to 3.5 metres to allow the construction of an accessory building (garage-workshop) (Figures 3 and 4). This is the preferred location because of the existing driveway and principal residence.

### Regional Growth Strategy and Official Community Plan

The subject property is designated “settlement expansion area” in both the Regional Growth Strategy, Bylaw No. 120, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” and 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 these bylaws.

### Zoning Bylaw

The R-RU zone in 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 7.5 metres when the property abuts a road and has a frontage greater than 31.0 metres. See Table 1 for a summary of the variance.

**Table 1: Variance Summary**

<b>Zoning Bylaw No.</b> 2781	<b>Variance</b>	<b>Zoning</b>	<b>Proposed</b>	<b>Difference</b>
Section 402(2)(ii)(b)	Side yard setback-abutting a road	7.5 metres	3.5 metres	4.0 metres

The requested variance is to reduce the side yard setback from the dedicated ROW along the north property line to allow the construction of an accessory building (Figure 5). This location minimizes the disruption to the existing development of the property. 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. The ROW is a dead-end road serving as an access for an otherwise ‘land locked’ property. This ROW was created in 2014 by the subdivision plan EPP32410. Note that the applicant also requires a variance from the Ministry of Transportation and Infrastructure as the requested 3.5 metres is less than their requirement for a 4.5 metre setback from any roadway.

### 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**

The 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.

**Regional Growth Strategy Implications**

The Comox Valley Regional Growth Strategy (RGS) designates the subject property within Settlement Expansion Areas. The proposed accessory building and the requested lot line setback reduction do not conflict with the growth management policies of the RGS.

**Intergovernmental Factors**

This property is also subject to MoTI requirements for setbacks. According to Section 12 of the *Provincial Public Undertaking Regulation* BC Reg. 5123/2004, all structures must be placed at least 4.5 metres back from the right-of-way, in this case the unnamed road to the north of the subject property. The applicants have applied to MoTI to obtain relief from this setback requirement as provided for in Section 62 and 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:

- Bylaw Services
- Fire Services
- Long Range Planning

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

**Advisory Planning Commission**

The Advisory Planning Commission will review this application at their meeting scheduled for August 31, 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 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:

***C. Halbert***

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Connie Halbert, MCIP, RPP  
Rural Planner

Concurrence:

***A. Mullaly***

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Alana Mullaly, M.PL, MCIP, RPP  
Manager of Planning Services

Concurrence:

***A. MacDonald***

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Ann MacDonald, MCIP, RPP  
General Manager of  
Planning and Development  
Services Branch

Attachments: Appendix A – “Development Variance Permit DV 5B 17”

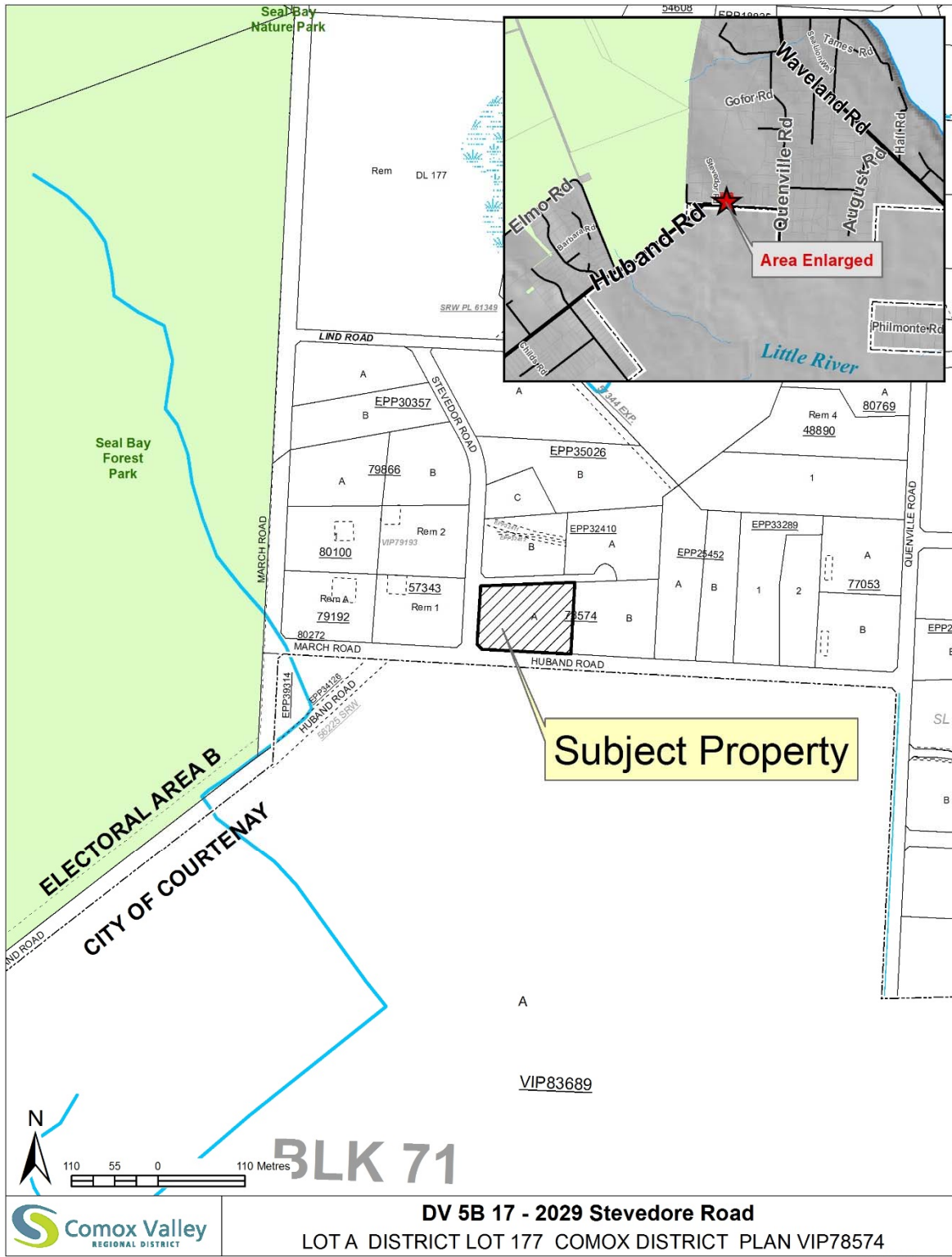


Figure 1: Subject Property Map



Figure 2: Air Photo Map

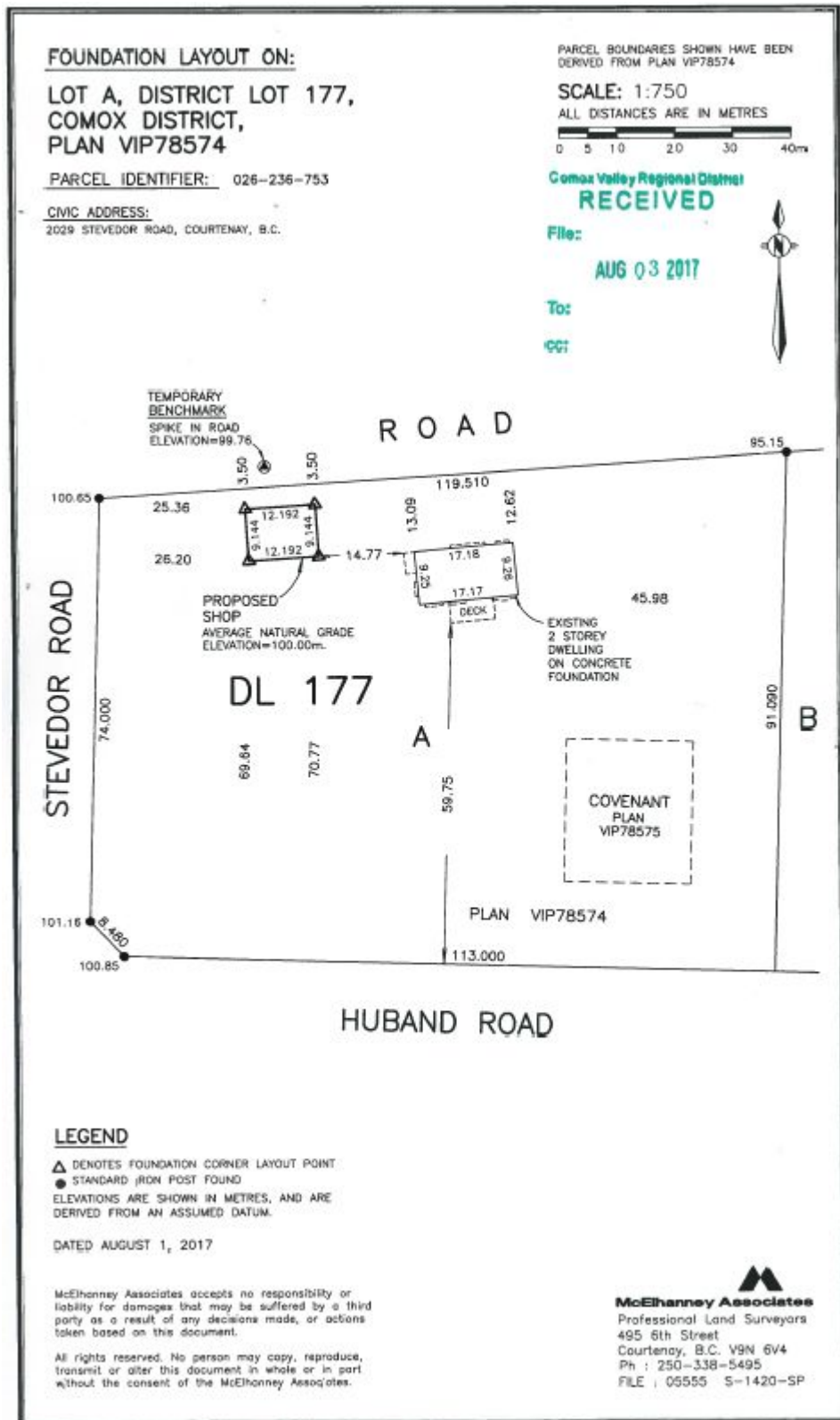


Figure 3: Site Plan

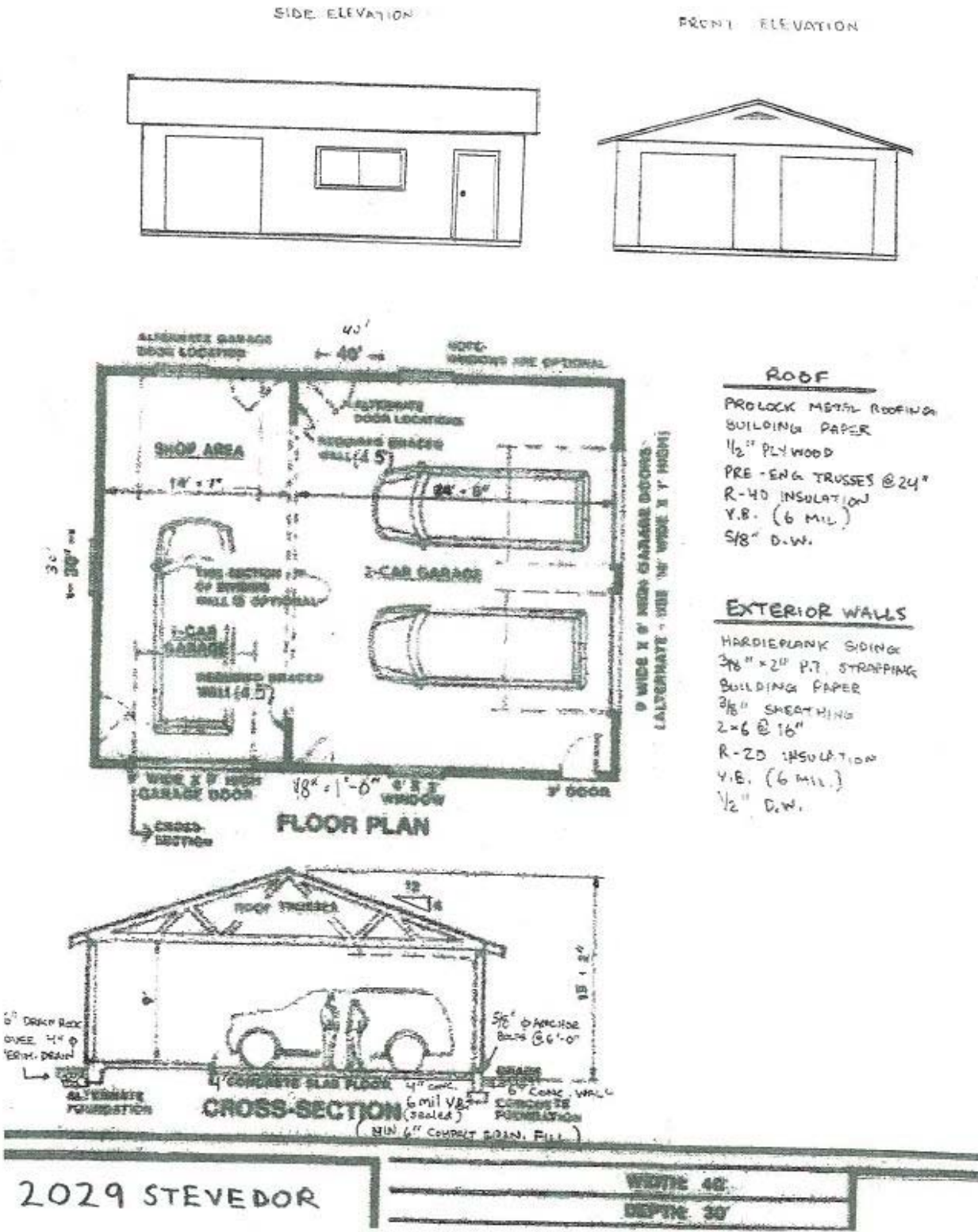


Figure 4: Building Design



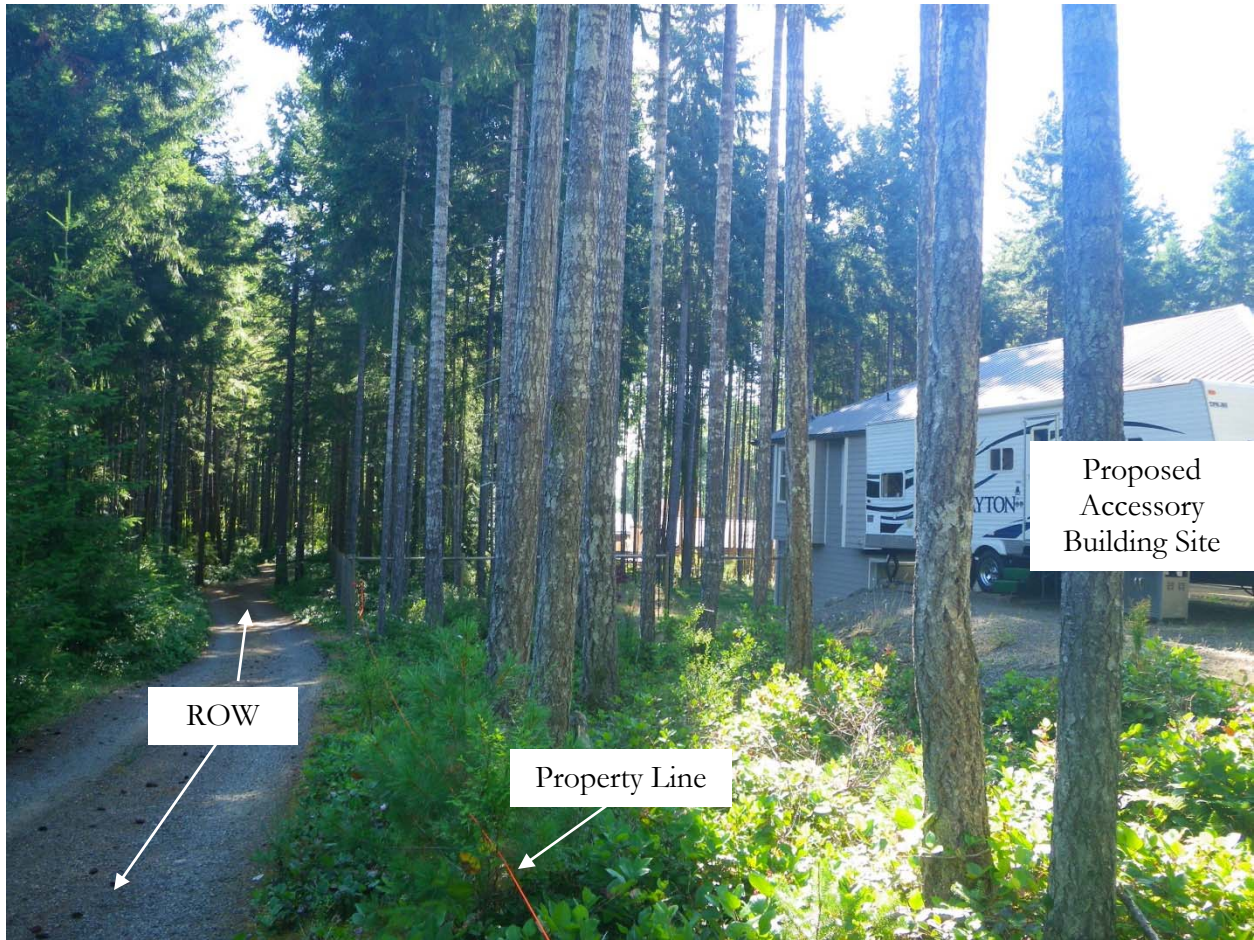


Figure 5: Photo of ROW and Proposed Site

**DV 5B 17**

**TO: Rodney and Crystal Vuorela**  
**OF: 2029 Stevedor Road, Courtenay, BC V9J 1Y4**

1. This development variance permit (DV 5B 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 Comox Valley Regional District described below:  
**Legal Description: Lot A, District Lot 177, Comox District, Plan VIP78574**  
**Parcel Identifier (PID): 026-236-753 Folio: 771 02827.150**  
**Civic Address: 2029 Stevedor 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 Schedules A and B;
  - ii. THAT all other buildings and structures must meet zoning requirements.
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 5B 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.
6. 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 September xx, 2017.

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James Warren  
Corporate Legislative Officer

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

Attachments: Schedule A – “Resolution”  
Schedule B – “Site Plan of 2029 Stevedor Road”

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**Schedule A**

**File: DV 5B 17**

**Applicants: Rodney and Crystal Vuorela**

**Legal Description: Lot A, District Lot 177, Comox District, Plan VIP78574, PID 026-236-753**

**Specifications:**

THAT WHEREAS pursuant to Section 402(2)(ii)(b) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum side yard setback for the side yard abutting the road shall be 7.5 metres when the width of the lot is greater than 31.0 metres at the required front yard setback;

AND WHEREAS the applicant(s), Rodney and Crystal Vuorela, wish to reduce the minimum side yard setback to 3.5 metres;

THEREFORE BY A RESOLUTION of the Board of the Comox Valley Regional District on September 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)(b) Where the width of the lot is greater than 31.0 metres at the required front yard setback, the minimum side yard abutting the road is reduced from 7.5 metres to 3.5 metres for the proposed accessory building in accordance with the survey plan dated August 1, 2017 prepared by McElhaney Associates and attached to this permit as Schedule B.

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 5B 17.

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James Warren  
Corporate Legislative Officer

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

## Schedule B Site Survey

