

**DATE:** July 30, 2019**FILE:** 3090-20 / DV 9B 19**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  
1919 Thurber Road (Barnsley)  
Electoral Area B (Lazo North)  
Lot 7, District Lot 91, Comox District, Plan 31278, PID 001-163-248****Purpose**

To consider a Development Variance Permit (DVP) to reduce the minimum rear yard setback for a secondary dwelling (Appendix A).

**Recommendations from the Chief Administrative Officer:**

THAT the Comox Valley Regional District Board approve the Development Variance Permit DV 9B 19 (Barnsley) to:

1. Reduce the minimum rear yard setback for the proposed secondary dwelling from 7.5 metres to 5.0 metres;
2. Reduce the minimum rear yard setback for the eaves of the proposed secondary dwelling from 5.5 metres to 4.5 metres;

for property described as Lot 7, District Lot 91, Comox District, Plan 31278, PID 001-163-248 (1919 Thurber Road);

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

**Executive Summary**

- The subject property is 0.27 hectares in size with frontage onto Thurber Road and Lupin Drive (unopened road allowance). The property contains a single detached dwelling and a small shed.
- The applicants would like to move on a one storey secondary dwelling. Due to the location of the existing dwelling, underground utilities, rear driveway and gardens, the applicants are requesting to reduce the minimum rear yard setback from 7.5 metres to 5.0 metres (from 5.5 metres to 4.5 metres for the eaves). The approximate height of the dwelling is 4.5 metres. In order to meet the rear yard setback, the applicants indicated they would likely have to build a taller dwelling with a smaller footprint, which may have a greater visual impact on adjacent properties.
- Larger setbacks in the Country Residential One (CR-1) zone are reflective of the minimum lot size for subdivision being two hectares. For comparison, the Residential One (R-1) zone requires a rear yard setback of 4.5 metres. Due to historical subdivision activities, there are many small CR-1 zoned properties that may have difficulty meeting the required setbacks if the density allowance is utilized (e.g. a principal and secondary dwelling).
- An accessory building of this height could have been sited a minimum of 1.0 metre from the rear lot line.
- The rear of the property is fenced and staff recommend the DVP contain a condition that a

fence or hedge remain along the rear property line.

- Based on the development patterns on adjacent parcels and size of proposed dwelling, the impact from the reduced rear setback is expected to be minimal. For these reasons, staff recommend issuance of the DVP with a condition that the rear lot line is delineated by a fence or hedge.

Prepared by:

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Brianne Labute, MCIP, RPP  
Planner

Concurrence:

**T. Trieu**

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Concurrence:

**S. Smith**

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General Manager of Planning  
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Branch

**Stakeholder Distribution (Upon Agenda Publication)**

Applicants	✓
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**Background/Current Situation**

An application has been received to consider a DVP to reduce the minimum rear yard setback. The 0.27 hectare property has a single detached dwelling and a small shed. In 2017, a variance was granted to reduce the minimum side yard setback (from Lupin Drive) from 7.5 metres to 6.5 metres to accommodate a new carport attached to the existing dwelling. The property is surrounded by Thurber Road to the north, Lupin Drive (unopened road) to the east, and residential properties to the south and west (Figures 1 and 2). The lot is constrained by the location of the existing dwelling, rear driveway, underground utilities (wiring, water line and irrigation lines) and gardens. The applicants would like to reduce the minimum rear yard setback from 7.5 metres to 5.0 metres (from 5.5 metres to 4.5 metres for the eaves) to accommodate the secondary dwelling (Figures 3 and 4).

**Planning Analysis**

Official Community Plan Analysis

The subject property is designated Settlement Expansion Area (SEA) in the Official Community Plan, being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”. The SEA has been identified as future growth areas for the adjacent urban municipalities. Development in SEA must generally maintain a rural character with on-site servicing and low densities until such time it is annexed into a municipal boundary.

Zoning Bylaw

The property is zoned CR-1 in Bylaw No. 2781, being the Comox Valley Zoning Bylaw, 2005 (Appendix B). The CR-1 zone permits a secondary dwelling limited to 90 square metres in floor area. The applicants have a number of reasons for requesting the variance, which are detailed in Appendix C. The requested setback reduction for the secondary dwelling is detailed below.

**Table 1: Variance Summary**

Zoning Bylaw	Variance	Required	Proposed	Difference
Section 707 (4)	Rear yard setback	7.5 metres	5.0 metres	2.5 metres
Section 403 (2)	Eaves setback	5.5 metres	4.5 metres	1.0 metres

The CR-1 zone is intended for lots with a minimum lot size of 2.0 hectares, however, due to historical subdivision there are many undersized CR-1 zoned lots that may have difficulty meeting

the larger setbacks. For comparison, the Residential One (R-1) zone has a minimum front yard setback of 4.5 metres. The applicants are proposing to move on a rancher style dwelling approximately 4.5 metres in height, which is shorter than the average accessory building. The rear of the property is fenced and staff recommend the DVP contain a condition that a fence or hedge remain along the rear property line. The rear lot line abuts a 2.7 hectare property that fronts onto Anderton Road and Lupin Drive. This property is currently developed closer to the Anderton Road portion of the lot. Lupin Drive separates the subject property from the property to the east (1867 Thurber Road), which is developed with a dwelling secondary suite and accessory building. The proposed secondary dwelling would be sited across from their accessory building.

Considering the applicants could build a similar sized accessory building within 1.0 metre of the rear property line, a reduced rear yard setback of 5.0 metres for a dwelling of this scale is not anticipated to have an adverse impact on the adjacent properties. For this reason, staff recommend the issuance of the DVP with a condition that a fence or hedge be maintained along the rear lot line.

### **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 Comox Valley Regional District (CVRD) Board could either approve or deny the requested variance. Based on the analysis above, staff recommend approving the variance.

### **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 CVRD bylaws. DVPs are permitted in certain circumstances under Section 498 of the LGA.

### **Regional Growth Strategy Implications**

The subject property is designated Settlement Expansion Area (SEA) in the Regional Growth Strategy, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. The SEA designation permits residential uses that will not impact future annexation into municipal areas.

### **Intergovernmental Factors**

No intergovernmental factors.

### **Interdepartmental Involvement**

This DVP application was circulated to relevant departments within the CVRD for comment. No concerns were identified.

### **Citizen/Public Relations**

The Advisory Planning Commission (APC) reviewed the application at its July 23, 2019 meeting. The APC was in support of the application. The minutes from the meeting will be forwarded to the EASC.

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 9B 19”  
Appendix B – “Copy of CR-1 Zone”  
Appendix C – “Applicants’ Rationale Letter”

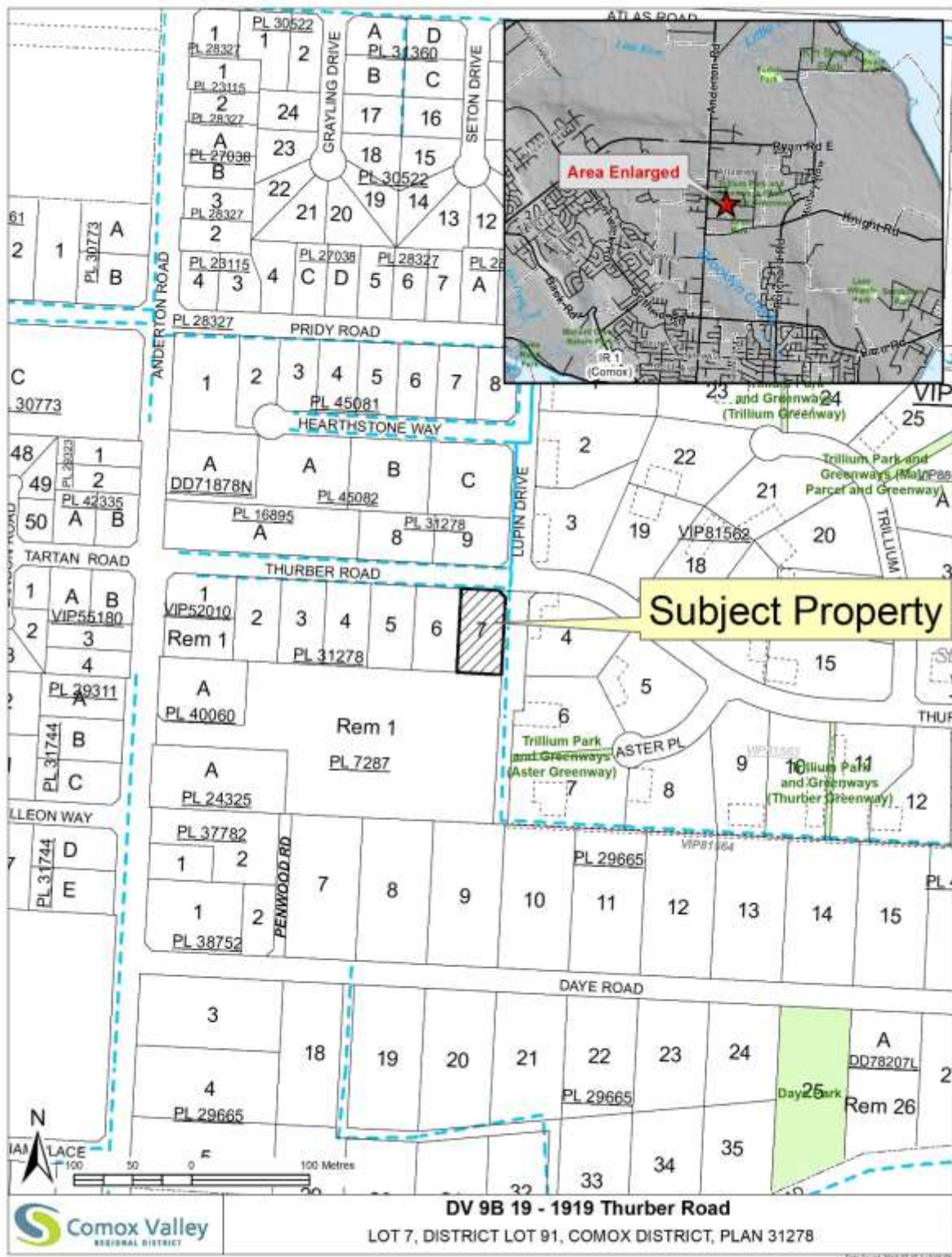


Figure 1: Subject Property Map





Figure 2: Aerial Photo





Figure 4: Building Drawings



**DV 9B 19**

**TO: Pamela and Walter Barnsley**

1. This Development Variance Permit (DV 9B 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 7, District Lot 91, Comox District, Plan 31278**  
**Parcel Identifier (PID): 001-163-248 Folio: 771 1367.140**  
**Civic Address: 1919 Thurber 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 the owners are required to maintain a fence or hedge along the rear property line as shown on Schedule B for the life of the secondary dwelling.
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 9B 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 – “Subject Property Map and Site Plan”

**Schedule A**

**File: DV 9B 19**

**Applicants:** Pamela and Walter Barnsley

**Legal Description:** Lot 7, District Lot 91, Comox District, Plan 31278, PID 001-163-248

**Specifications:**

THAT WHEREAS pursuant to Section 707 (4) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” the minimum rear yard setback for a secondary dwelling is 7.5 metres;

WHEREAS pursuant to Section 403(2) of Bylaw No. 2781, being the “Comox Valley Zoning Bylaw, 2005,” 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, Pamela and Walter Barnsley, wish to reduce the minimum rear yard setback to 5.0 metres for the secondary dwelling as shown on Schedule B;

THEREFORE BY A RESOLUTION of the Board of the Comox Valley Regional District on \_\_\_\_\_, 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:

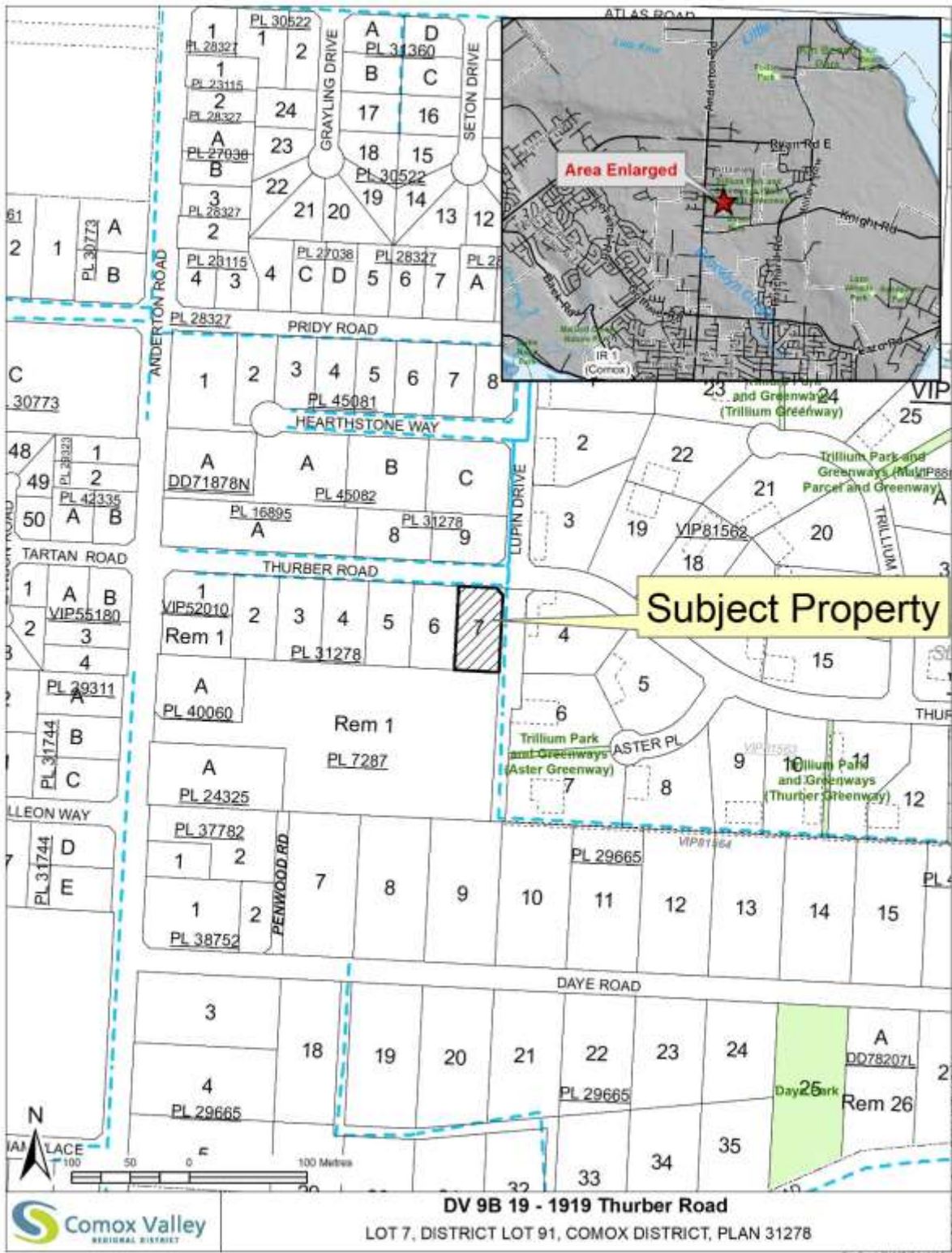
- 701(4) The minimum rear yard setback for the proposed secondary dwelling as shown on Schedule B is 5.0 metres.
- 403 (2) The minimum rear yard setback of the eaves of the proposed secondary dwelling as shown on Schedule B is 4.5 metres.

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 9B 19.

\_\_\_\_\_  
James Warren  
Corporate Legislative Officer

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

### Schedule B Subject Property Map and Site Plan





**707****Country Residential One (CR-1)****1. PRINCIPAL USE**

- i) **On any lot:**
  - a) Residential use.
- ii) **On any lot over 4000 metres<sup>2</sup> (1.0 acre):**
  - a) Agricultural use.

**2. ACCESSORY USES**

- i) **On any lot:**
  - a) Home occupation use;
  - b) Accessory buildings; and
  - c) Bed and Breakfast
- ii) **On any lot 2.0 hectares (4.9 acres) or larger:**
  - a) Animal kennels.

**3. DENSITY****Residential use is limited to:**

- i) **On any lot:** One single detached dwelling and secondary suite, or one single detached dwelling and one carriage house, or one single detached dwelling and one secondary dwelling limited in area to 90 metres<sup>2</sup> (968.8 feet<sup>2</sup>).
- ii) **On any lot 1.0 hectare (2.5 acres) and over:** Two single detached dwellings.

#112

**4. SITING AND HEIGHT OF BUILDINGS AND STRUCTURES**

The setbacks required for buildings and structures within the Country Residential One zone shall be as set out in the table below.

Type of Structure	Height	Required Setback			
		Front yard	Rear yard	Side yard	
				Frontage <31m	Frontage >31m
Principal	10.0m (32.8ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)
Accessory	4.5m-or less (14.8ft)	7.5m (24.6ft)	1.0m (3.3ft)	1.0m (3.3ft)	1.0m (3.3ft)
Accessory	6.0m-4.6m (19.7ft)	7.5m (24.6ft)	7.5m (24.6ft)	1.75m (5.8ft)	3.5m (11.5ft)

Except where otherwise specified in this bylaw, no building or structure shall be located in any required front and side yard setback areas. [Note: Part 400, Siting Exceptions, of this bylaw and Bylaw No. 1836 being the "Floodplain Management Bylaw, 1997" may affect the siting of structures adjacent to major roads and the natural boundaries of watercourses and the sea, respectively.]



**5. LOT COVERAGE**

- i) The maximum lot coverage of all buildings and structures shall not exceed 35% of the total lot area.

**6. FLOOR AREA REQUIREMENTS**

- i) The maximum combined gross floor area of all accessory buildings shall not exceed 200.0 metres<sup>2</sup> (2152.9 feet<sup>2</sup>).

**7. SUBDIVISION REQUIREMENTS**

- i) Despite any other provision of this bylaw, the minimum permitted lot area within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010” is 4.0 hectares. #200

- ii) Despite any other provision of this bylaw, for the purpose of subdivision, the following sections of this bylaw do not apply to lots within areas designated as “settlement expansion areas” under “Comox Valley Regional Growth Strategy Bylaw No. 120, 2010”:

- a) Section 503 Subdivision Standards 1. AREA AND FRONTAGE REQUIREMENTS i);  
 b) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS i) a); and  
 c) Section 503 Subdivision Standards 2. LOT SIZE EXCEPTIONS iii).

iii) **Lot Area**

The minimum lot area permitted shall be 2.0 hectares (4.9 acres)

Despite (iii), a subdivision with lots smaller than identified above may be created by subdivision provided that the average lot area within the subdivision is equal to the minimum lot area permitted.

*End • CR-1*

## Development Proposal

We are applying for our rear property line setback to be reduced from 7.5m to 5m to allow the siting of a secondary dwelling on our smaller Country Residential 1 lot. This variance would allow us to situate a cottage of approx. 853 sq ft in the rear corner of our lot, with minimal impact to our neighbours and our existing home.

- We are a corner lot, and thus have larger setbacks on three sides of our property. The rear corner where we propose siting the secondary dwelling, borders on the undeveloped, dead-end section of Lupin Dr. All property owners adjacent access their properties from other roads: two from Aster Place, one from Thurber Rd, and one from Anderton Rd. The impact of our placing a secondary dwelling within a reduced setback would be minimal. All adjacent properties have been developed, with the exception of the six-acre lot directly behind our rear property line, which has a driveway and access off Anderton Rd. The other two properties adjacent, have houses well over 150' distant from our proposed location.
- At .66 acre, we are one of the smallest sized lots for our zoning of Country Residential 1, which we understand was intended for lots of 2-5 acres. In all other Zones, lots of our size require rear setbacks of only 4.5 m.
- After considerable searching we have found a moved-on home/re-purposed home, from Nickel Bros Movers, which we would hope to move onto our lot. We have done all the due diligence, engineer's reports, etc, and are confident after speaking with the CVRD Building and Planning departments that this particular home meets all requirements. It is a lovely heritage home which would be a positive addition to our property and to the neighbourhood. We are committed to recycling an older, well-loved home to save it from the landfill, and creating a beautiful cottage here. We very much appreciate the CVRD's encouragement of recycled homes for all their benefits to sustainability. However, the width of this home is 31'4", which with the standard 7.5 m setback would push it down into the area we use for our rear driveway.
- Allowing us the smaller setback of 5 m would allow us to place this cottage-style home, with its lower roof, rather than having to build a narrower but taller building that would impact our neighbours more.
- As my husband Jaak (Walter John Barnsley) and I are currently 70 and 65 years old, we are hoping to age in place on this property, and this cottage would in future become our home with easy access and no stairs; while our daughter and grandson would occupy the rancher we currently occupy, which will be larger than we need in future and which has stairs inside the building.
- Allowing the smaller setback would also save us from having to relocate existing underground wiring, water line, and irrigation lines.
- It would also allow us to situate the cottage's septic field in the best location, as per advice from ROWP Bruce Nichol.
- It would also prevent the cottage from shading our established strawberry, blueberry, raspberry and vegetable beds.

- We currently have a full fence along the rear property line, and would landscape further with evergreen Nandina bamboo and hedging cedars. With the low roof of approx. 14'6" the visual impact of this cottage would be minimal from every direction.