

**DATE:** July 2, 2020**FILE:** 3090-20 / DV 1B 20**TO:** Chair and Directors  
Electoral Areas Services CommitteeSupported by Russell Dyson  
Chief Administrative Officer**FROM:** Russell Dyson  
Chief Administrative Officer*R. Dyson***RE: Development Variance Permit, 136 Croteau Road (Killam)  
Lazo North (Electoral Area B)  
Lot 1, District Lot 87, Comox District, Plan 45399, PID 008-079-544****Purpose**

To consider a Development Variance Permit (DVP) (Appendix A) for the reduction of the rear yard setback as it pertains to the conversion of an accessory building into a secondary dwelling.

**Recommendation from the Chief Administrative Officer:**

THAT the Board approve the Development Variance Permit DV 1B 20 (Killam) to reduce the minimum rear yard setback from 7.5 metres to 1.9 metres (and from 5.5 metres to 1.3 metres for the eaves), for the purposes of allowing the residential use of an existing accessory building on the property described as Lot 1, District Lot 87, Comox District, Plan 45399, PID 008-079-544, (136 Croteau Road) with a condition that fencing or vegetation be provided and maintained between the secondary dwelling and the lot line;

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

**Executive Summary**

- The subject property is located at 136 Croteau Road in Electoral Area B and is approximately 0.15 hectares in size (Figures 1 and 2).
- The property currently has a single detached dwelling and an accessory building used in the past as a workshop (Figures 3-11).
- The applicant is wanting to convert the accessory building into a secondary dwelling, but the residential use means the accessory building needs to meet the primary residence setbacks.
- The rear lot line setback reduction sought is from 7.5 metres to 1.9 metres as it pertains to the building footprint, and from 5.5 metres to 1.3 metres for the building's eaves.
- The applicant's rear lot line backs onto a large residential property that is heavily forested.
- There will be no changes to the accessory structure's height (one storey) or footprint, helping offset the setback reduction that is being requested.
- On condition that the applicant agrees to install fencing or vegetation on their side of the rear property line to ensure a buffer remains well into the future, planning staff recommend the DVP be issued for the variance requested.

Prepared by:

Concurrence:

Concurrence:

***D. Thiessen***

***T. Trieu***

***S. Smith***

Dylan Thiessen, MA  
Planner

Ton Trieu, RPP, MCIP  
Manager of Planning Services

Scott Smith, RPP, MCIP  
General Manager of Planning and  
Development Services Branch

**Stakeholder Distribution (Upon Agenda Publication)**

Applicant	✓
-----------	---

**Background/Current Situation**

An application has been received to consider a DVP for a 0.15 hectare parcel pertaining to the applicant’s rear yard setback. The house is located on Croteau Road and is bound by Croteau Road to the west and other residential lots in all other directions. The one property directly behind the applicant’s (139 Isabel Road) is largely undeveloped with dense tree and vegetation coverage. It is zoned Country Residential One (CR-1), and the applicants are seeking to vary the rear yard setback pertaining to an accessory building so it can be converted into a secondary dwelling. The primary setback reduction sought is 5.6 metres, from the newly-required 7.5 metres to the current 1.9 metres. There is a secondary setback required as it relates to the eaves of the structure which protrude out from the foundation, and that setback reduction is 4.2 metres, from 5.5 metres to 1.3 metres.

**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 a Settlement Expansion Area in both the Regional Growth Strategy (RGS) and the Official Community Plan, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010” and the “Rural Comox Valley Official Community Plan, Bylaw No. 337, 2104” respectively. This land use designation does not discourage the use of secondary suites, carriage houses, or secondary dwellings.

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 allows for accessory buildings, one of which can be used as an additional dwelling unit, either as a carriage house or secondary dwelling. The applicants have an accessory building which they have been using for non-residential purposes. Given this use, it meets the rear yard setback of 1.75 metres as outlined in Bylaw No. 520. However, the applicants want to convert this accessory building into a secondary dwelling and Section 315(3)(i) of the Zoning Bylaw stipulates that the “*siting of a secondary dwelling unit shall be in accordance with the principal structure setbacks.*” Given this stipulation, the necessary setback for any structure used as a dwelling is 7.5 metres from the front and rear yard lot lines.

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

1. The unusual panhandle shape of the property makes it particularly difficult for the applicant to make use of allowable secondary uses while meeting the standard 7.5 metre setback.
2. Despite the difficulty highlighted in the first point, the panhandle driveway does work well toward increasing separation and in creating a significant buffer between the accessory

building and the access road (Croteau Road), the importance of which increases if this accessory building is used for residential purposes.

3. The applicant has agreed as a condition of the variance to install fencing at the rear property lot line at a length that extends beyond the length of the accessory building, increasing privacy and screening.
4. The look and character of the accessory building is not out of character with the rest of the neighbourhood and does not detract from an overall rural character.
5. The addition of an affordable rental unit in the Comox Valley works toward Objective 1-B (increasing affordable housing options) and Objective 1-C (develop and maintain a diverse, flexible housing stock) as listed in Bylaw No. 120.

### **Options**

The Electoral Areas Services Committee (EASC) could either approve or deny the requested variance. Based on the analysis above, staff recommends approving the setback variance on condition that a fence or vegetation is installed.

### **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 the recommendations contained herein are in compliance with the LGA and applicable 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 an existing accessory building to be converted into a secondary dwelling 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 two departments: fire services and bylaw compliance. Neither department has concerns with the application as presented.

### **Citizen/Public Relations**

The Advisory Planning Commission (APC) met on June 23, 2020, to review this application. The APC was not in support the application, listing the following reasons: *“The property is small in size with a large variance and a subsequent change of owners could have other impacts.”*

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 Comox Valley Regional District office. It also provides 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.

Attachments: Appendix A – “Development Variance Permit – DV 1B 20”



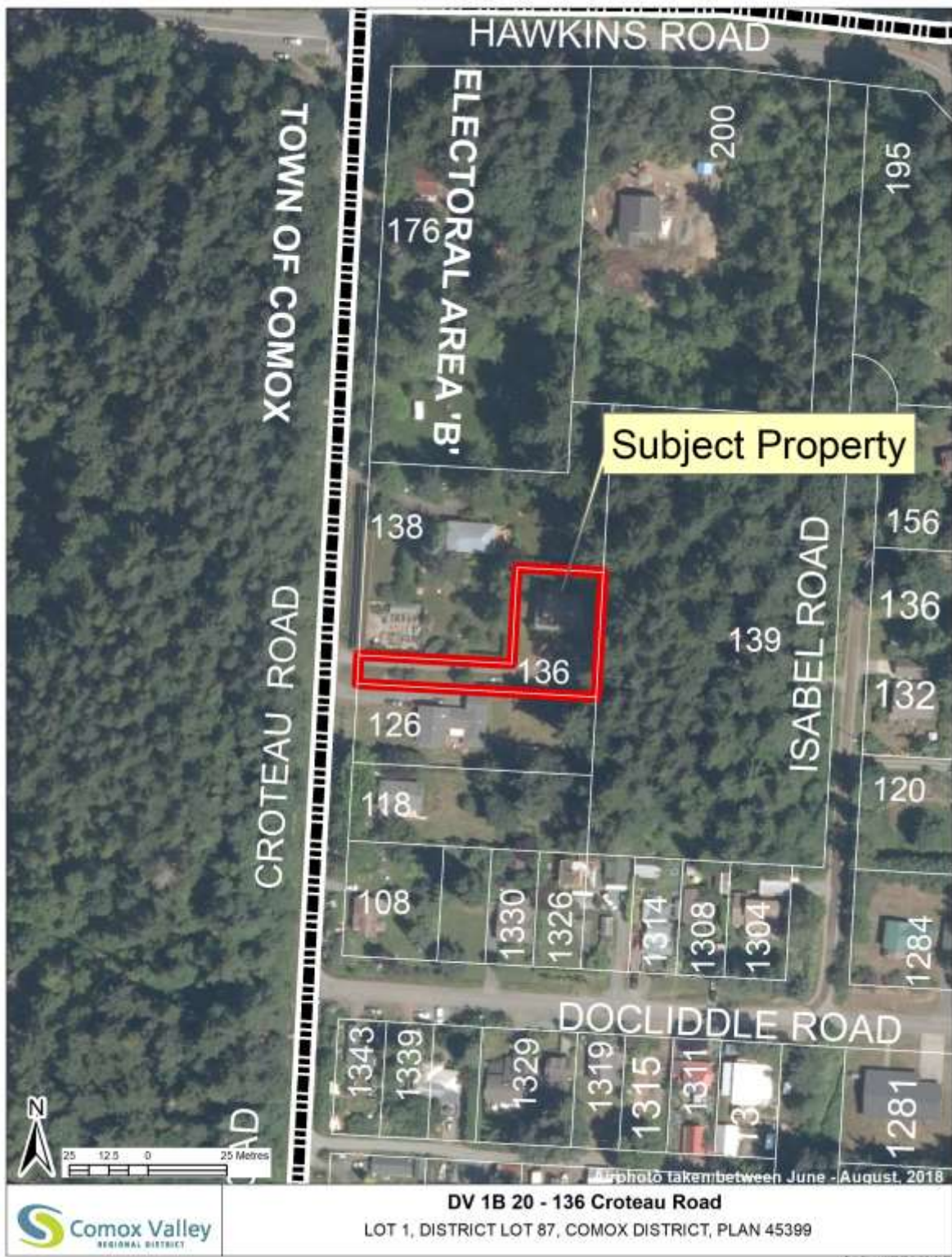


Figure 2: Property Aerial Photo





**Figure 4: View of Accessory Building from Croteau Road**



**Figure 5: View of Accessory Building from Principal Dwelling**



**Figure 6: View from Accessory Building to Croteau Road**



**Figure 7: View of Property to the Northwest**





**Figure 8: The North Corner of the Lot**



**Figure 9: View North with Hedge and Principal Dwelling**



**Figure 10: Protected Forest to the Rear of the Property**



**Figure 11: South (side) Property Line**

**DV 1B 20**

**TO: Brenda Killam**

1. This Development Variance Permit (DV 1B 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:** Lot 1, District Lot 87, Comox District, Plan 45399  
**Parcel Identifier (PID):** 008-079-544 **Folio:** 01248.150  
**Civic Address:** 136 Croteau 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 development be accompanied by the construction of a fence that extends three metres (3.0) beyond the length of the accessory structure.
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 1B 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 \_\_\_\_\_, 2020.

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

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

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

## Schedule A

**File: DV 1B 20**

**Applicants: Brenda Killam**

**Legal Description: Lot 1, District Lot 87, Comox District, Plan 45399**

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

AND WHEREAS pursuant to Section 315(3)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the siting of a secondary dwelling unit shall be in accordance with the principal structure setbacks;

AND WHEREAS the applicant, Brenda Killam, wishes to convert an existing accessory building used as a workshop into a secondary dwelling unit as shown on Schedule B, and the conversion will create the following lot line setbacks for a residential use:

- Rear lot line setback of 1.9 metres as it pertains to the secondary dwelling foundation
- Rear lot line setback of 1.3 metres as it pertains to the eaves of the secondary dwelling

THEREFORE BY A RESOLUTION of the Board of the Comox Valley Regional District on \_\_\_\_\_, 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 rear yard setback of the secondary dwelling shown on Schedule B is 1.9 metres for the foundation.”

403(1) “The minimum rear yard setback of the secondary dwelling shown on Schedule B is 1.3 metres for the eaves.”

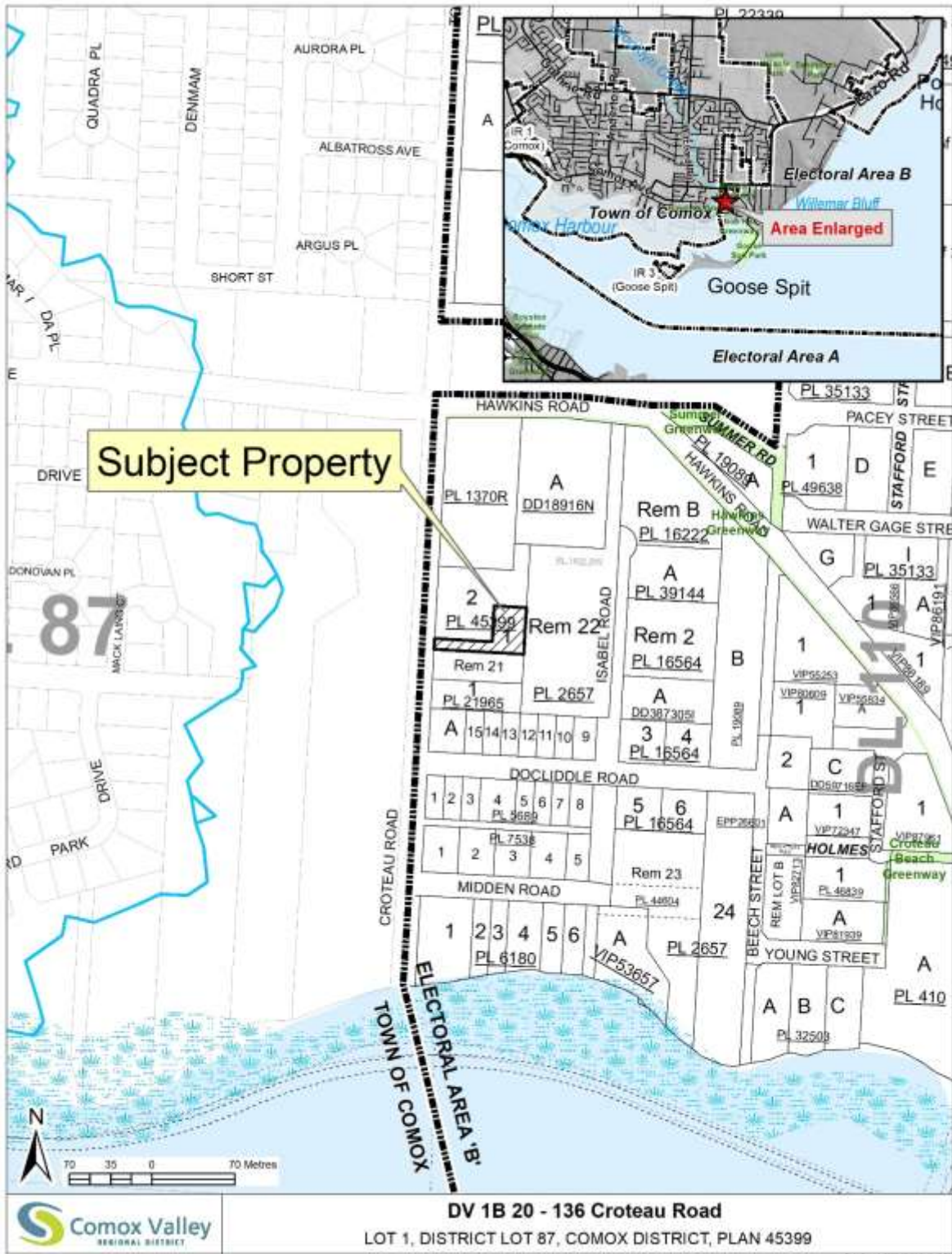
I HEREBY CERTIFY this copy to be a true and correct copy of Schedule A being the terms and conditions of Development Variance Permit File DV 1A 20.

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

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

Draft

### Schedule B Subject Property Map



Aerial Photo







**View of Accessory Building from Croteau Road**



**View of Accessory Building from Principal Dwelling**



**View from Accessory Building to Croteau Road**



**View of Property to the Northwest**



**The North Corner of the Lot**



**View North with Hedge and Principal Dwelling**



**Protected Forest to the Rear of the Property**



**South (side) Property Line**

