

DATE: October 29, 2020**FILE:** 3090-20/DV 2A 20**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer*J. Warren* (for)**RE: Development Variance Permit – 7821 Ships Point Road (Ivan)
Baynes Sound – Denman/Hornby Islands (Electoral Area A)
Lot 72, District Lot 26, Newcastle District, Plan 18550, PID 003-758-052****Purpose**

To consider a Development Variance Permit (DVP) (Appendix A) to reduce the minimum front yard setback as it pertains to Baynes Drive from 4.5 metres to 2.5 metres for the foundation of a carriage house, and from 2.5 metres to 1.9 metres for the eaves of a carriage house.

Recommendation from the Chief Administrative Officer:

THAT the Board approve the Development Variance Permit DV 2A 20 (Ivan) to reduce the front yard setback pertaining to Baynes Drive from 4.5 metres to 2.5 metres for the foundation of a carriage house, and from 2.5 metres to 1.9 metres for the eaves of a carriage house, on property described as Lot 72, District Lot 26, Newcastle District, Plan 18550, PID 003-758-053 (7821 Ships Point Road);

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

Executive Summary

- A DVP application has been received to allow the construction of a carriage house with setbacks to the property line adjacent to Baynes Drive reduced from 4.5 metres to 2.5 metres for the foundation of the building, and from 2.5 metres to 1.9 metres for the eaves.
- The subject property is approximately 0.18 hectares in size and is developed with a single detached house. The location selected for the carriage house will allow adequate space for the new septic field without disturbing trees along the east side of the property.
- Applicants received permission from the Ministry of Transportation and Infrastructure (MOTI) to develop within 4.5 metres of a road right-of-way.
- The Advisory Planning Commission (APC) for Electoral Area A considered the file at their October meeting and voted unanimously to support the file moving forward, listing their reasons for support as the amount of forethought and consideration put into the application demonstrated by its design and the applicant's discussion with her neighbours.
- Staff are recommending that the variance be supported as the setback reduction that is requested would not negatively impact sightlines nor alter the rural character of the neighbourhood.

Prepared by:

Concurrence:

Concurrence:

D. Thiessen***T. Trieu******S. Smith***Dylan Thiessen, MA, MCP
PlannerTon Trieu, MCIP, RPP
Manager of Planning ServicesScott Smith, MCIP, RPP
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 DVP to reduce the front yard setback pertaining to Baynes Drive for the purposes of constructing a carriage house. The subject property is zoned R-1, is approximately 0.18 hectares in size, and is bounded by Baynes Drive to the west, Ships Point Road to the north, and other residential properties to the east and south (Figures 1 and 2). It currently has a driveway and a single detached dwelling. The requested variance for the foundation of the building is from 4.5 metres to 2.5 metres, and from 2.5 metres to 1.9 metres for the eaves of the building (Figures 3-9). This location will allow adequate space for the new septic field that will be required to service the carriage house without disturbing trees along the east side of the property.

In addition, applicants requesting to develop land within 4.5 metres of a MOTI right-of-way must get permission from MOTI to do so, which the applicant has already secured. Minimum setback distances are enforced in order to ensure sightlines to increase vehicular and pedestrian safety, to help provide privacy for property owners and their neighbours, and to provide adequate space to access and maintain buildings and structures.

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 the 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

Bylaw No. 337 and Bylaw No. 120, being the “Rural Comox Valley Official Community Plan, Bylaw No. 337, 2014” and the “Comox Valley Regional District Regional Growth Strategy, Bylaw No. 120, 2010,” respectively, both designate the subject property as being within a Rural Settlement Area. These are lands that form an integral part of the Comox Valley Regional District (CVRD) and are to be developed in a way that maintains the rural form and character of the neighbourhoods and a rural lifestyle for residents. The proposed development is not in conflict with the residential policies, objectives, and goals for the Rural Settlement Area within either of the Bylaws mentioned above.

Zoning Bylaw Analysis

Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” stipulates a minimum front yard setback of 4.5 metres for properties within the R-1 zone. For this development proposal, there are two relevant, subsidiary clauses within Bylaw No. 520:

1. The bylaw also defines a front yard lot line as any lot line that is adjacent to a roadway, meaning that the lot lines adjacent to Baynes Drive and Ships Point Road are both considered front yard lot lines.

2. Section 403(1) provides leniency with respect to setbacks specifically for features like eaves that protrude without adding floor area. The setback for these types of features can be reduced by up to 50 per cent or a maximum of 2.0 metres, so long as a minimum setback of 0.76 metres is retained. Given these two stipulations, the variances requested are summarized in the table below.

Table 1: Variance Summary

Zoning Bylaw	Variance	Zoning	Proposed	Difference
Section 701 (4)	Front yard setback	4.5 metres	2.5 metres	2.0 metres
Section 403 (1)	Siting exemptions	2.5 metres	1.9 metres	0.6 metres

Recommendation and Rationale

Staff are in support of the application and are recommending that the Electoral Areas Services Committee (EASC) support the application. Minimum setback requirements are primarily put in place to increase vehicular and pedestrian visibility and safety, increase privacy for and from adjacent properties, and to maintain a rural form and character. The applicant addressed each of these considerations by:

1. Designing the carriage home with main windows facing inward toward the property and discussing her plans and designs with adjacent neighbours.
2. Receiving permission from MOTI to construct within 4.5 metres of a road right-of-way prior to the submission of the variance application, which included an analysis of sightlines and visibility.
3. Proposing the carriage house within the allowed floor area and height maximums helps it more easily fit within the established rural form and character of the neighbourhood.

Options

The EASC could either approve or deny the requested variance. Based on the analysis above, staff recommend approving the variance as presented.

Financial Factors

Applicable fees have been collected for this application under Bylaw No. 328, being the “Comox Valley Planning Procedures and Fees Bylaw, No. 328, 2014.”

Legal Factors

The report and 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

This application does not have any implications for the Regional Growth Strategy, as the variance requested does not conflict with any of the residential policies, principles, or objectives outlined within Bylaw No. 120.

Intergovernmental Factors

Applicant must receive permission from MOTI to build within 4.5 metres of a road right-of-way. This process has been completed and the applicant has received permission to do so.

Interdepartmental Involvement

This DVP application was referred to staff within the bylaw enforcement, fire services, and engineering departments in order for them to provide comments and/or feedback. No issues or concerns were raised during this process.

Citizen/Public Relations

The APC for Electoral Area A met on October 13, 2020 to discuss this variance application. The commission voted unanimously to support the application going forward, listing as their main reasons the forethought and consideration of the applicant with respect to her consultation with neighbours and MOTI, as well as in the design of the carriage house to maximize privacy for the tenants and all adjacent neighbours.

Further, notice of the requested variance was mailed to adjacent property owners within 100 meters 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 on 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.

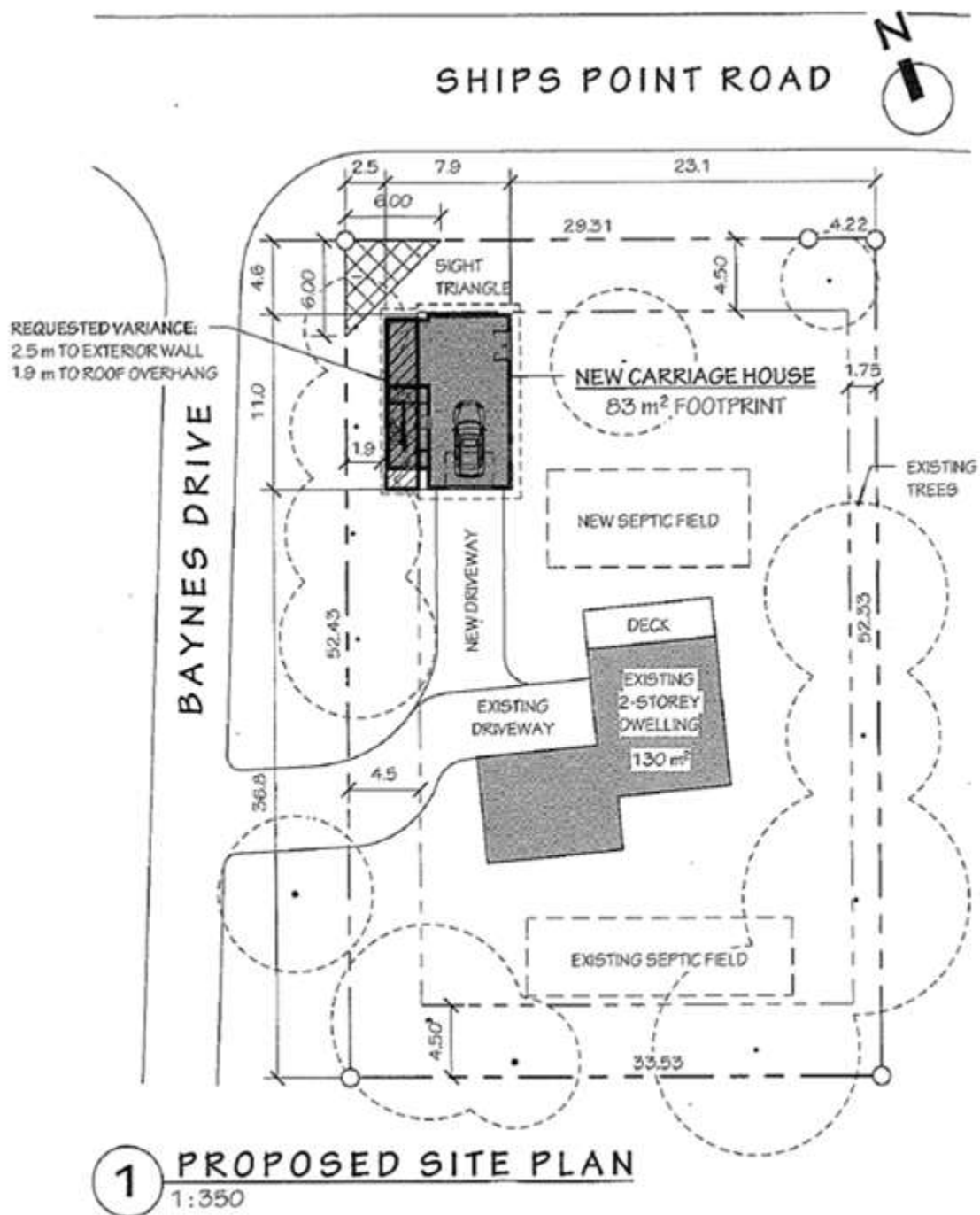
Attachments: Appendix A – “Development Variance Permit DV 2A 20”



Figure 1: Subject Property Map

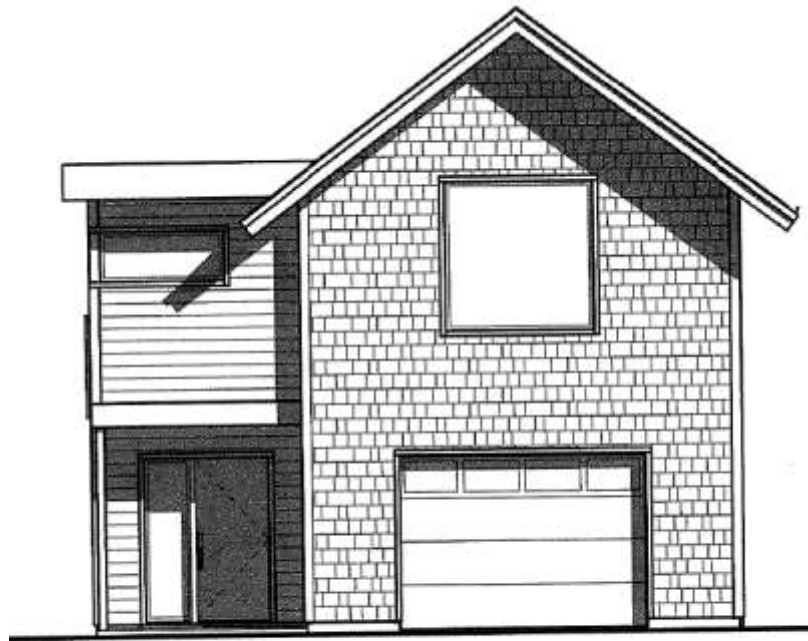


Figure 2: Air Photo



SUMMARY & SITE PLAN

Figure 3: Site Plan



1 SOUTH ELEVATION
3/16" = 1'-0"

Figure 4: Elevation Drawing (South)

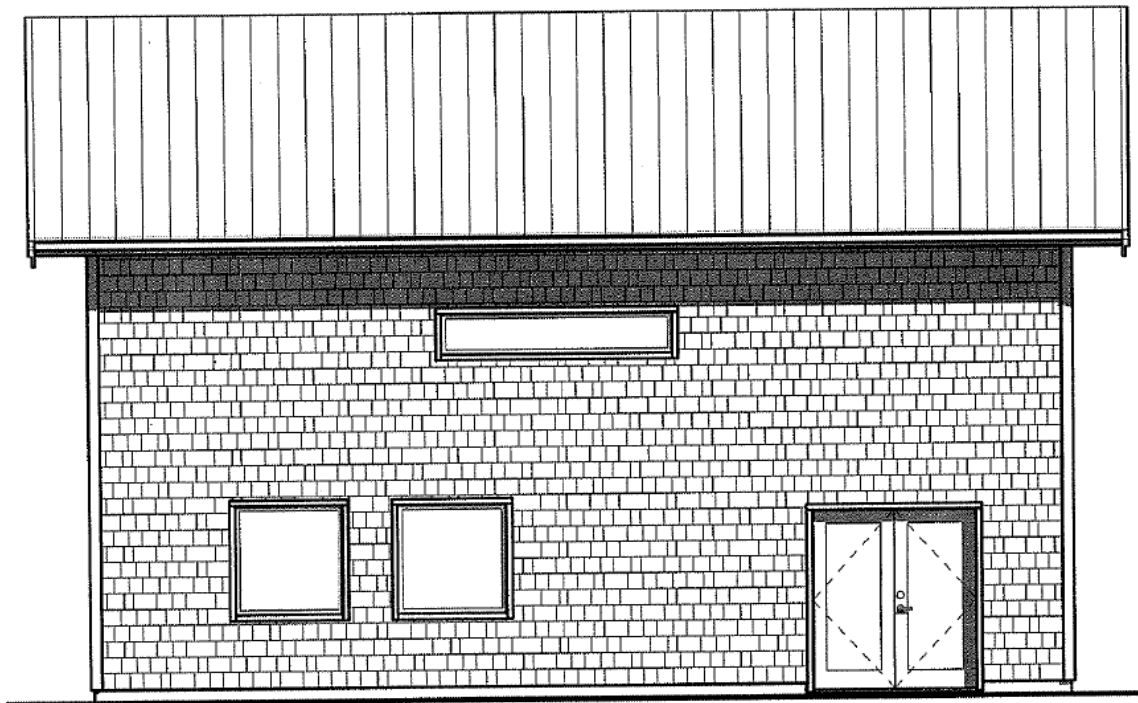


Figure 5: Elevation Drawing (East)

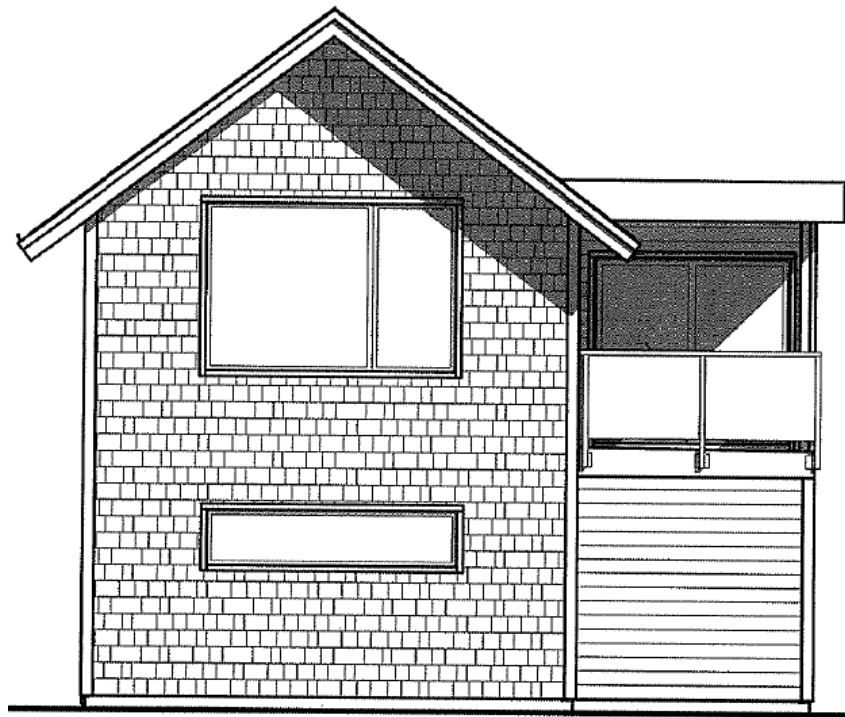


Figure 6: Elevation Drawing (North)

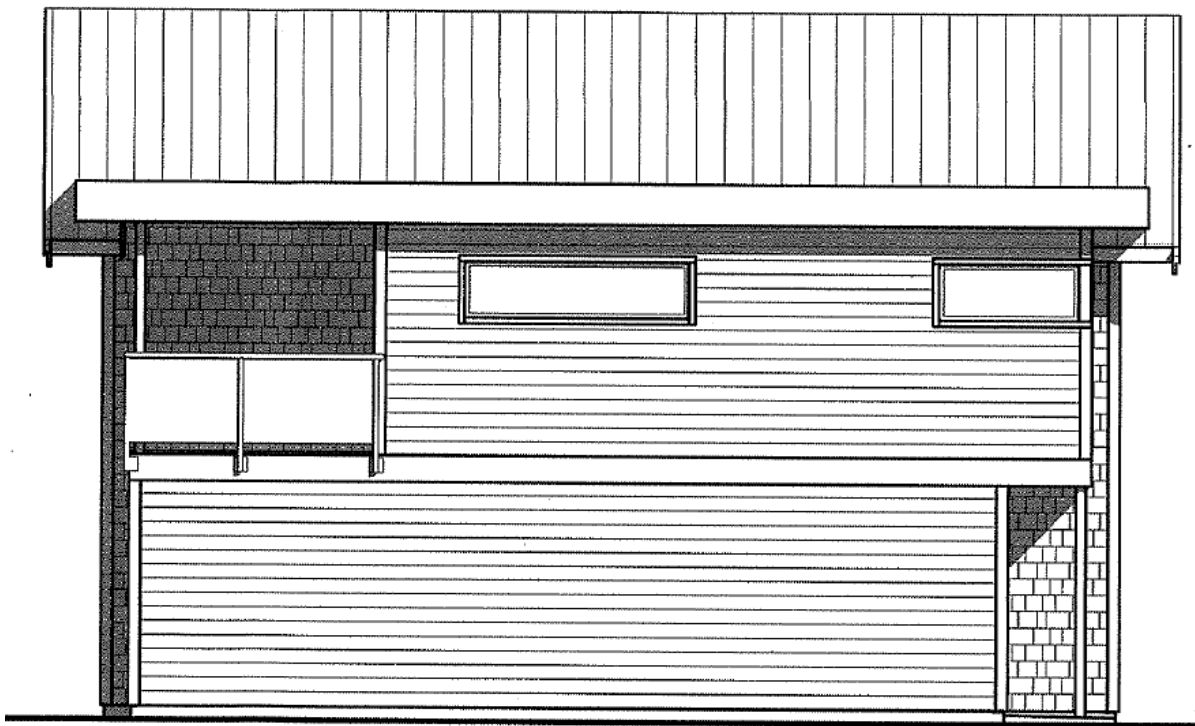


Figure 7: Elevation Drawing (West/Baynes Drive)



Figure 8: 3D Rendering (South)



Figure 9: 3D Rendering (North)

DV 2A 20**TO: Jennifer Ivan**

1. This Development Variance Permit (DV 2A 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 72, District Lot 26, Newcastle District, Plan 18550
Parcel Identifier (PID): 003-758-052 **Folio:** 11961.000
Civic Address: 7821 Ships Point 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.
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 2A 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, Site Plan, and Design Drawings”

Schedule A

File: DV 2A 20

Applicants: Jennifer Ivan

Legal Description: Lot 72, District Lot 26, Newcastle District, Plan 18550

Specifications:

THAT WHEREAS pursuant to Section 701(4)(i) of Bylaw No. 520, being the “Rural Comox Valley Zoning Bylaw No. 520, 2019,” the minimum front yard setback for all front yard lot lines is 4.5 metres;

AND WHEREAS the applicant, Jennifer Ivan, wishes to construct a carriage house within the prescribed setback pertaining to the lot line adjacent to Baynes Drive;

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

- 701(4)(i) The minimum front yard setback for the carriage house shown on Schedule B and pertaining to Baynes Drive is 2.5 metres for the foundation of the structure; and
- 403(1) The minimum front yard setback for the carriage house shown on Schedule B and pertaining to Baynes Drive is 1.9 metres for the eaves of the structure.

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 2A 20.

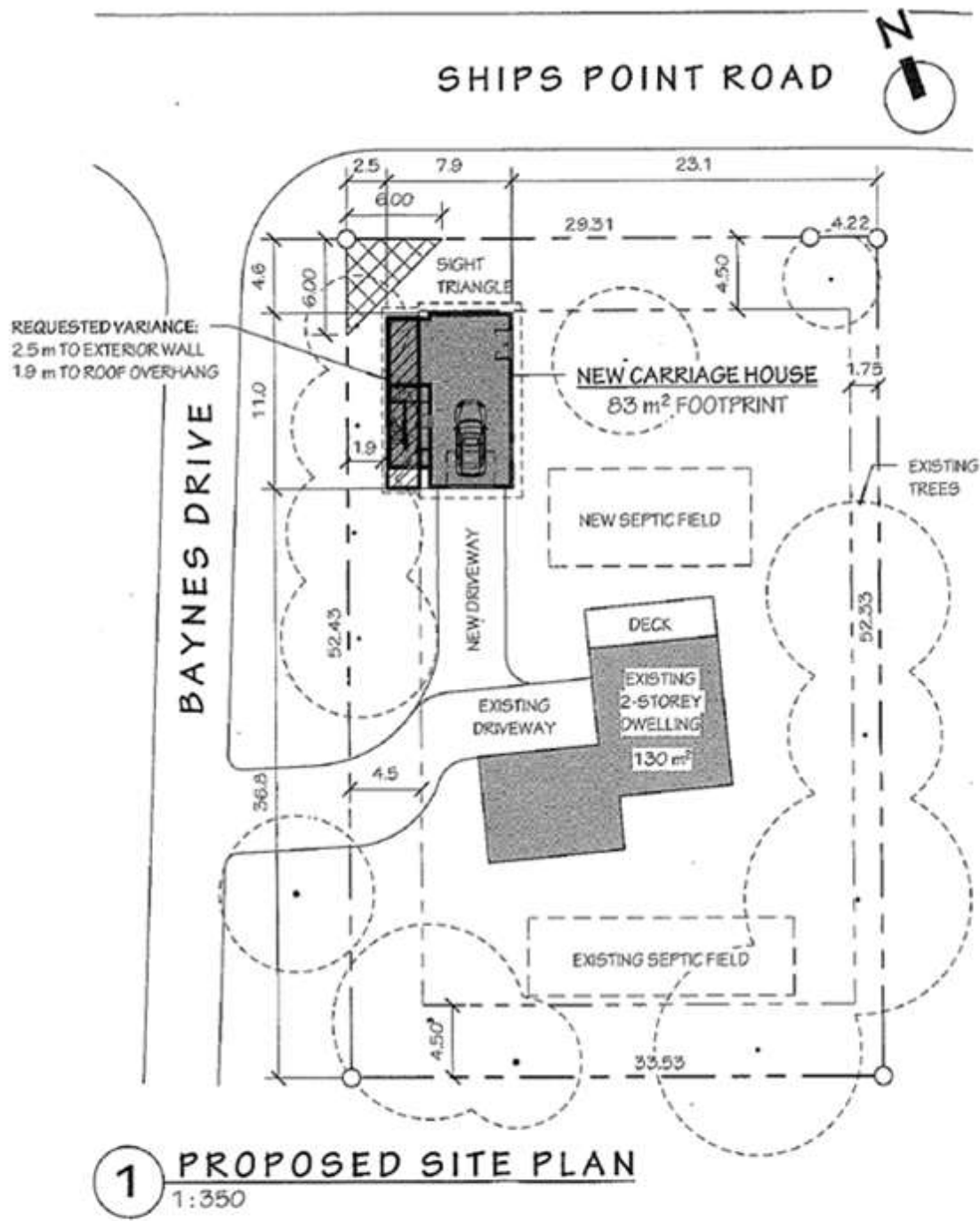
Jake Martens
Deputy Corporate Legislative Officer

Certified on _____

Air Photo

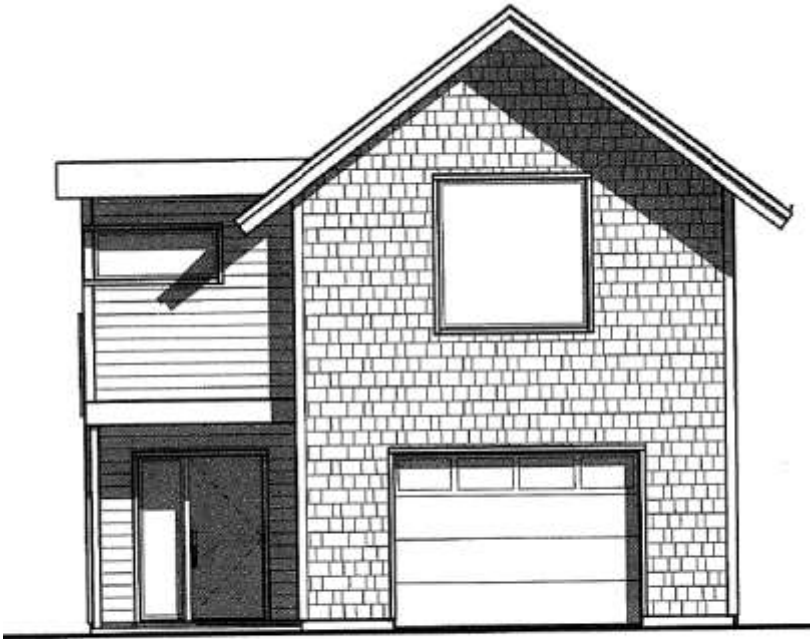


Site Plan



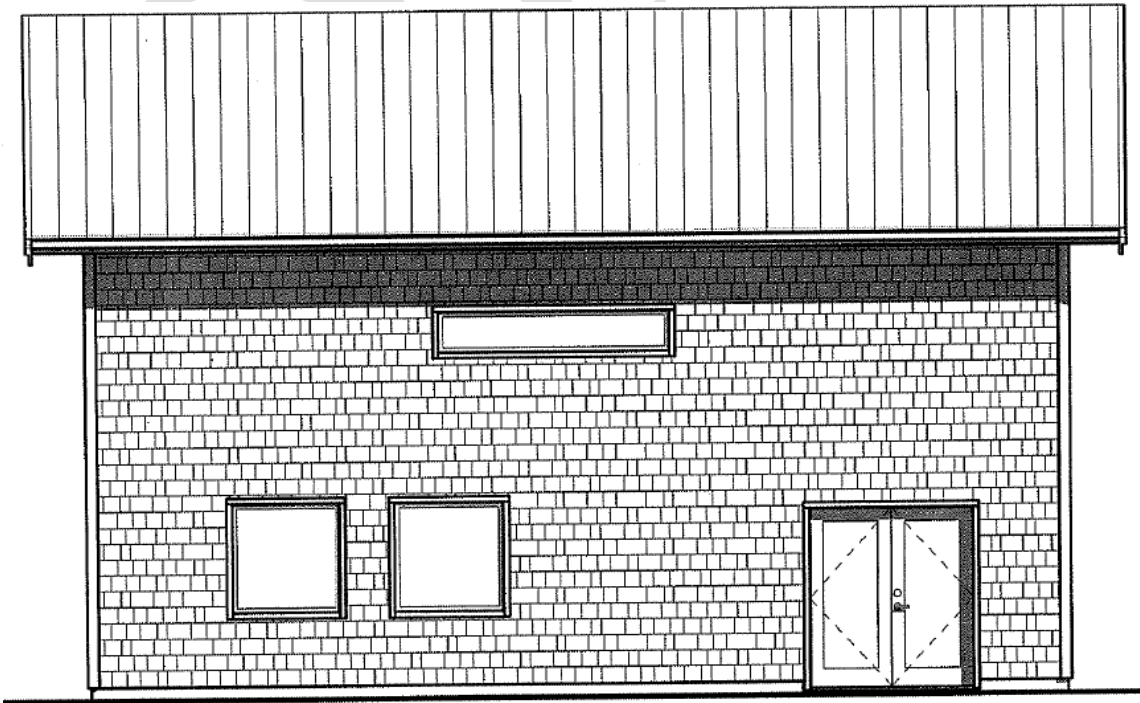
SUMMARY & SITE PLAN

Elevation Drawing (South)

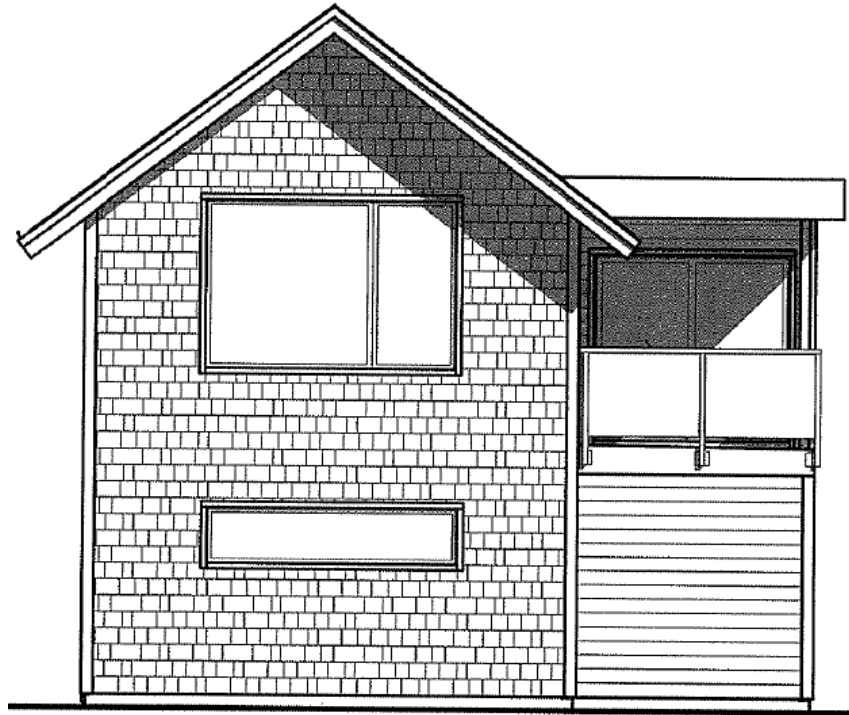


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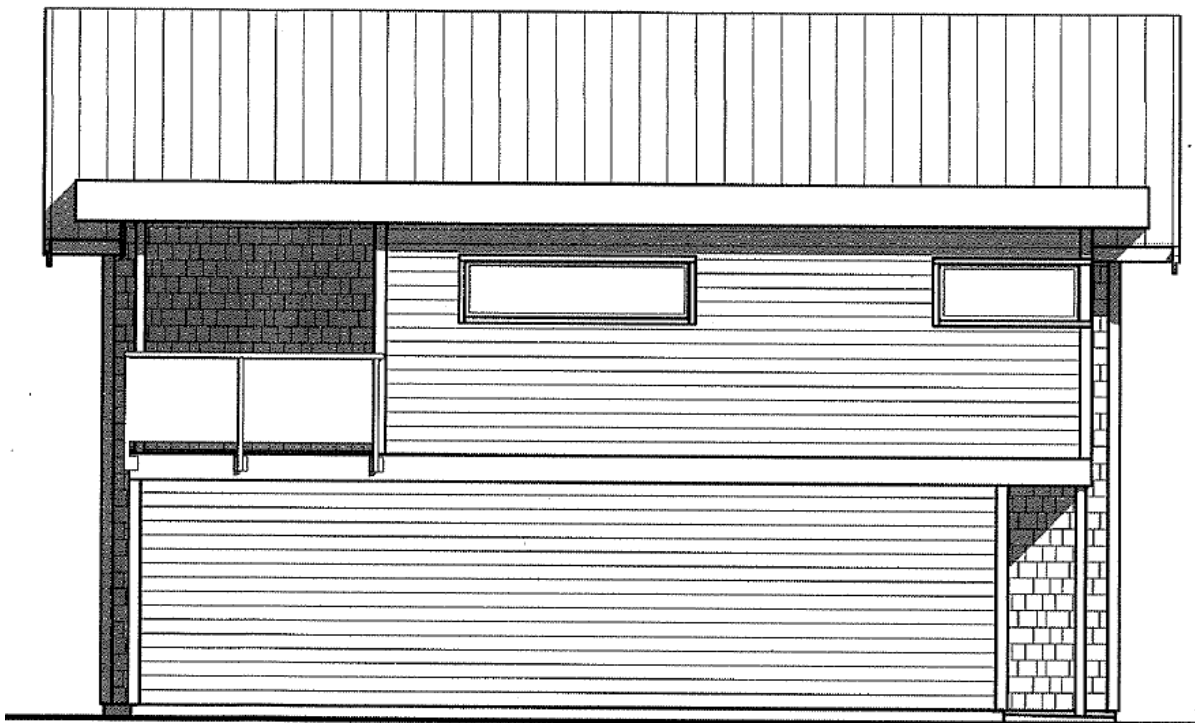
Elevation Drawing (East)



Elevation Drawing (North)



Elevation Drawing (West / Baynes Drive)



3D Rendering (South)



3D Rendering (North)

