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**Minutes of a Meeting of the Juan de Fuca Board of Variance
Held Monday, December 2, 2019, at the Juan de Fuca Local Area Services Building,
#3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Greg Whincup (Chair), Paul Clarkston, Axel Joosting
Staff: Iain Lawrence, Manager, Juan de Fuca Community Planning;
Regina Robinson, Planning Assistant; Wendy Miller, Recorder
PUBLIC: 4

The meeting was called to order at 6:01 pm.

1. Approval of the Agenda

MOVED by Paul Clarkston, **SECONDED** by Axel Joosting that the agenda be approved.

CARRIED

2. Approval of the Supplementary Agenda

MOVED by Axel Joosting, **SECONDED** by Paul Clarkston that the supplementary agenda be approved.

CARRIED

3. Adoption of the Minutes of October 29, 2019

MOVED by Paul Clarkston, **SECONDED** by Greg Whincup that the minutes of October 29, 2019, be adopted.

CARRIED

4. Planner's Report

No report.

At this time, the Chair requested that application BV000467 be considered first, followed by application BV000466.

5. Applications

a) BV000467 – Strata Lot 3, Section 90, Renfrew District, Strata Plan EPS614 (9259 Invermuir Road)

Iain Lawrence outlined the staff report and advised that the applicant is requesting relief from the Board of Variance (BOV) by reducing the side yard setback requirement from 15 m to 13 m for the purpose of constructing an addition to the existing dwelling. It was advised that the proposal is to build a full kitchen and expand the liveable area from what was required for operating a vacation rental unit to what is needed for a full-time residence.

Iain Lawrence responded to questions from the BOV confirming that the subject property is part of a three-lot building strata and, as a building strata, lot coverage and total floor area are calculated based on the full parcel.

Iain Lawrence directed attention to legal plan EPS614, as included in the staff report, identifying principal and accessory structures on each private yard area. It was advised that the staff report incorrectly notes that variance application DVP-07-08 was granted by the CRD Board to increase the height requirement of the barn on Strata Lot 2 from 6 m to

8 m. It was confirmed that the maximum height for accessory buildings at that time was 4 m, and that DVP-07-08 increased the maximum height of the barn from 4 m to 6 m.

Iain Lawrence directed attention to the supplementary submissions from Shirley residents Leigh and Karen Ostrom, Dave and Melody Hensman, and Elfie Kirste. It was confirmed that two of the letters are from strata members, with one supporting the application and the other opposing it. The third letter was from the owner of the property located to the east of the proposed addition and was submitted in support.

Iain Lawrence confirmed that the applicants were present.

Regina Robinson responded to questions from the BOV advising that:

- the three homes were built first followed by the two accessory buildings
- the existing structures exceed the Total Floor Area of 418 m² which results in a minimum side yard of 15 m
- the proposed addition could have proceeded without a variance, if the existing accessory buildings were not in place

The applicants stated that:

- a previous property owner developed the property with the intent that the largest home be the main dwelling and the two smaller homes be used as accommodation units
- the previous owner added the strata property lines through a Building Strata Conversion (ST-02-11)
- the strata bylaws have been modified to allow more independent living than would be typical in a building strata development
- all current strata owners were aware that there was no strata bylaws in place to regulate changes to buildings when they purchased
- the only shared property is the driveway
- the property layout supports privacy
- the proposed addition was intentionally sited on the eastern site of the existing structure to minimize the impact on the other strata members
- the property owner to the east, who is the neighbour that would be the most affected, has submitted a letter supporting the proposal
- the strata property to the west is listed for sale
- strata members met to review the proposed addition and no concerns were raised at that time
- design and exterior finishes will be in keeping with the existing structure

The agent for the building permit application stated that:

- the addition will not affect the use and enjoyment of adjacent land
- the addition will not impact the natural environment
- construction is anticipated to take 5-5.5 months

BOV comments included:

- there is opportunity to implement a strata bylaw, if desired
- the BOV does not make recommendations related to form and character

MOVED by Paul Clarkston, **SECONDED** by Greg Whincup that having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship would be caused to the applicant if Part 2, Section 2.07 (b) of Bylaw No. 2040 were complied with, that application BV000467 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary Bylaw No. 2040, Part 2, Section 2.07 (b) by reducing the required side yard setback, where residential uses exceed a Total Floor Area of 418 m², from 15 m to 13 m on Strata Lot 3, Section 90, Renfrew District, Strata Plan EPS614, for a proposed addition to a single family dwelling, be approved; and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

CARRIED

b) BV000466 – Lot 10, Section 97, Sooke District, Plan 15281 (119 Seagirt Road)

Regina Robinson outlined the staff report and advised that the applicant is requesting relief from the BOV by reducing by reducing the side yard setback requirement from 6 m to 5.21 m for the purpose of constructing an addition to the existing dwelling.

Regina Robinson confirmed that:

- the existing dwelling, constructed prior to the adoption of the current zoning bylaw, is considered legal non-conforming as the side yard setback on the south western property boundary is 2.98 m
- the applicants initially wanted to convert the garage into a detached accessory suite; however, the subject property is not large enough (< 0.4 ha) to permit a detached accessory suite
- the building permit application was amended to include a breezeway to connect the house to the garage
- a breezeway would support conversion of the garage into a secondary suite as an accessory building attached to the principal building by a breezeway is considered part of the principal building

Regina Robinson confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners within 50 m of the subject property. It was further confirmed that the applicant was not present.

Iain Lawrence responded to a question from the BOV confirming that:

- the garage currently meets the minimum siting requirements for an accessory building (1 m); however, it does not meet the siting requirements for a principal residential building (6 m), when it becomes part of the dwelling
- the legal non-conforming siting status for the existing dwelling applies to that part of the dwelling that is located within the side yard setback

MOVED Axel Joosting, **SECONDED** by Greg Whincup that having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship would be caused to the applicant if Part 2, Section 10.09(b) of Bylaw No. 2040 were complied with, that application BV000466 requesting permission from the Board of Variance, in accordance with Section 540 of the *Local Government Act*, to vary Bylaw No. 2040, Part 2, Section 10.09(b) by reducing the required side yard setback from 6 m to 5.21 m for a proposed addition and from 6 m to 2.98 for a proposed breezeway on Lot 10, Section 97, Sooke District, Plan 15281, be approved and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

CARRIED

6. Adjournment

The meeting was adjourned at 6:27 pm.

G. Whincup, Chair