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JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Thursday, **August 31, 2017 at 6:00 p.m.**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

AGENDA

1. Approval of Agenda

2. Approval of the Supplementary Agenda

3. Adoption of Minutes of June 26, 2017

4. Planner's Report

5. Applications
   a) BV000450 – Lot 7, Section 97, Sooke District, Plan VIP82765 (1523 Willow Grouse Terrace)
   b) BV000451 – Lot A, Section 86, Sooke District, Plan VIP64561 (240 Becher Bay Road)

6. Adjournment

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Minutes of a Meeting of the Juan de Fuca Board of Variance
Held Monday, June 26, 2017, 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: Emma Taylor, Secretary to the Board; Wendy Miller, Recorder
PUBLIC: 3

The meeting was called to order at 6:00 p.m.

1. Approval of the Agenda

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

2. Approval of the Supplementary Agenda

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

3. Adoption of the Minutes of June 6, 2017

MOVED by Axel Joosting, **SECONDED** by Paul Clarkston that the minutes of June 6, 2017 be adopted. **CARRIED**

4. Planner's Report
No report.

5. Application
a) BV000449 – Lot A, Section 17, Otter District, Plan VIP66835 (3527 Otter Point Road)
Emma Taylor outlined the staff report and advised that the applicants are requesting relief from the Board of Variance (BOV) in accordance with Section 540 of the *Local Government Act (LGA)* to vary the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, by increasing the length of a manufactured or modular home used for a detached accessory suite from 13 m to 19.5 m.

Emma Taylor showed an overhead photo of the property as well as a photo of the road frontage, advising that the unit was purchased and placed on site prior to review of the building permit application. It was confirmed that the structure complies with the 90 m^2 maximum floor area, setbacks from property lines and all other land use requirements.

Emma Taylor responded to a question from the BOV advising that the bylaw requirement that a manufactured home or modular home used for a detached accessory suite be 13 m was set in response to comments received through consultation with the communities of Otter Point and East Sooke during review of the bylaw that amended Bylaw No. 2040 to establish the provision for detached accessory suites.

Emma Taylor directed attention to the letter from the applicant included in the staff report and the supplementary submission from Jessica Sinclair, Otter Point, stating no objection to the application.

BOV member comments included:
- unit was purchased and sited in good faith
- a structure of the same dimensions could be constructed and meet the requirements for a detached accessory suite
- Otter Point had the vision to restrict the length of a manufactured or modular home used for a detached accessory suite to avoid older, unsightly units being moved into the community
- no submissions were received stating objection to the application

The BOV considered the minor variance and found that undue hardship would result from compliance with the requirement in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 that the length of a manufactured or modular home used for a detached accessory suite not exceed from 13 m.

MOVED by Paul Clarkston, **SECONDED** by Axel Joosting that application BV000449 to request permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 4.20(k), by increasing the length of a manufactured home used for a detached accessory suite from 13 m to 19.5 m on Lot A, Section 17, Otter District, Plan VIP66835, be approved and that the building permit be substantially completed within two years of the approval of the variance or the variance will terminate.

The Chair confirmed that the applicants were present.

The applicants stated:
- appreciation for the fair consideration of the application
- that they were not aware of the contravention
- that the unit was brought onto the property to provide a residence for parents
- that the spirit of the bylaw is now understood
- that the structure has been recently renovated and will enhance the community

MOVED by Greg Whincup, **SECONDED** by Paul Clarkston that the main motion be amended to add, “This approval is specific to this application and should not be considered to set a precedent for any future applications.” after the sentence ending with “terminate”.

CARRIED

The question was called on the main motion, as amended.

CARRIED

6. Adjournment

The meeting was adjourned at 6:16 p.m.

G. Whincup, Chair

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REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF AUGUST 31, 2017

File No:	**BV000450**
Location:	1523 Willow Grouse Terrace
Legal:	Lot 7, Section 97, Sooke District, Plan VIP82765
Zoning:	Rural Residential 5 (RR-5)
Land Use Designation:	Settlement Containment Area
Adjacent Uses:	N – Rural Residential 5 S – Rural Residential 5 W – Rural Residential 5 E – Rural Residential 5

REQUESTED VARIANCE

The applicant is requesting relief from the Board of Variance in accordance with Section 540 of the *Local Government Act (LGA)* to vary the side yard setback of the Rural Residential 5 (RR-5) zone in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, from 6 m to 5.88 m for the purpose of allowing the siting of a garage.

STAFF COMMENTS

The 0.4 ha property is located at 1523 Willow Grouse Terrace in East Sooke (Attachment 1). The property is zoned Rural Residential 5 (RR-5) in the Juan de Fuca Land Use Bylaw No. 2040. A residence was constructed on the property in 2010 and the applicant received a building permit in July, 2017 to add a garage and studio to the dwelling (Attachment 2).

The building permit was approved based on compliance with the 6 m side yard setback requirement of the RR-5 zone. The location for the addition aligns with the existing house and utilizes an existing engineered platform approved for construction. The applicant was aware of the 6 m setback requirement and the limited margin of error for siting the structure, and took measures to ensure accurate siting of the foundation. However, upon receipt of the official surveyor's certificate of the foundation location, a 12 cm encroachment into the side yard setback was realized (Attachment 3). The applicant is now requesting relief from the Board of Variance for the resultant hardship and is requesting a minor variance from 6 m to 5.88 m for the purpose of legalizing the siting of the foundation (Attachment 4).

The building design will include projections into the side yard in compliance with Part 1, Section 4.10 of Bylaw No. 2040, which permits eaves and cantilevered balconies to project not more than 1 m into the required yard. The siting of the foundation at 5.88 m from the side property line will not result in the projections extending beyond 5 m, and will therefore comply with the bylaw.

Section 542 of the *LGA* outlines that a minor variance may be permitted if the Board of Variance:

(a) has heard from the applicant and any person notified under section 541;
(b) finds that undue hardship would be caused to the applicant if the bylaw or section 531(1) is complied with; and
(c) is of the opinion that the variance or exemption does not do any of the following:
    (i) result in inappropriate development of the site;
    (ii) adversely affect the natural environment;
    (iii) substantially affect the use and enjoyment of adjacent land;
    (iv) vary permitted uses and densities under the applicable bylaw;
    (v) defeat the intent of the bylaw.

The proposed addition of a garage and studio is in keeping with the residential use of the property and does not vary the use or density of the RR-5 zone. No adverse effects to the environment are anticipated as a result of the proposed variance to reduce the side yard setback by 0.12 m. There are no development permit areas affecting the property. Covenants EG119054 and EV58756 are registered on title restricting alteration of land within 15 m of Liisa Creek, which does not affect the subject property.

Pursuant to the Juan de Fuca Board of Variance Bylaw, Bylaw No. 3839, notification letters have been sent to owner and occupants within 50 m of the subject property. A letter of support has been received (Attachment 5). Subject to any further comments received by the public, the proposed renovation is not expected to substantially affect the use and enjoyment of adjacent land. Based on the above, staff concludes that granting the requested variance can be considered by Board of Variance.

OUTLINE MOTION

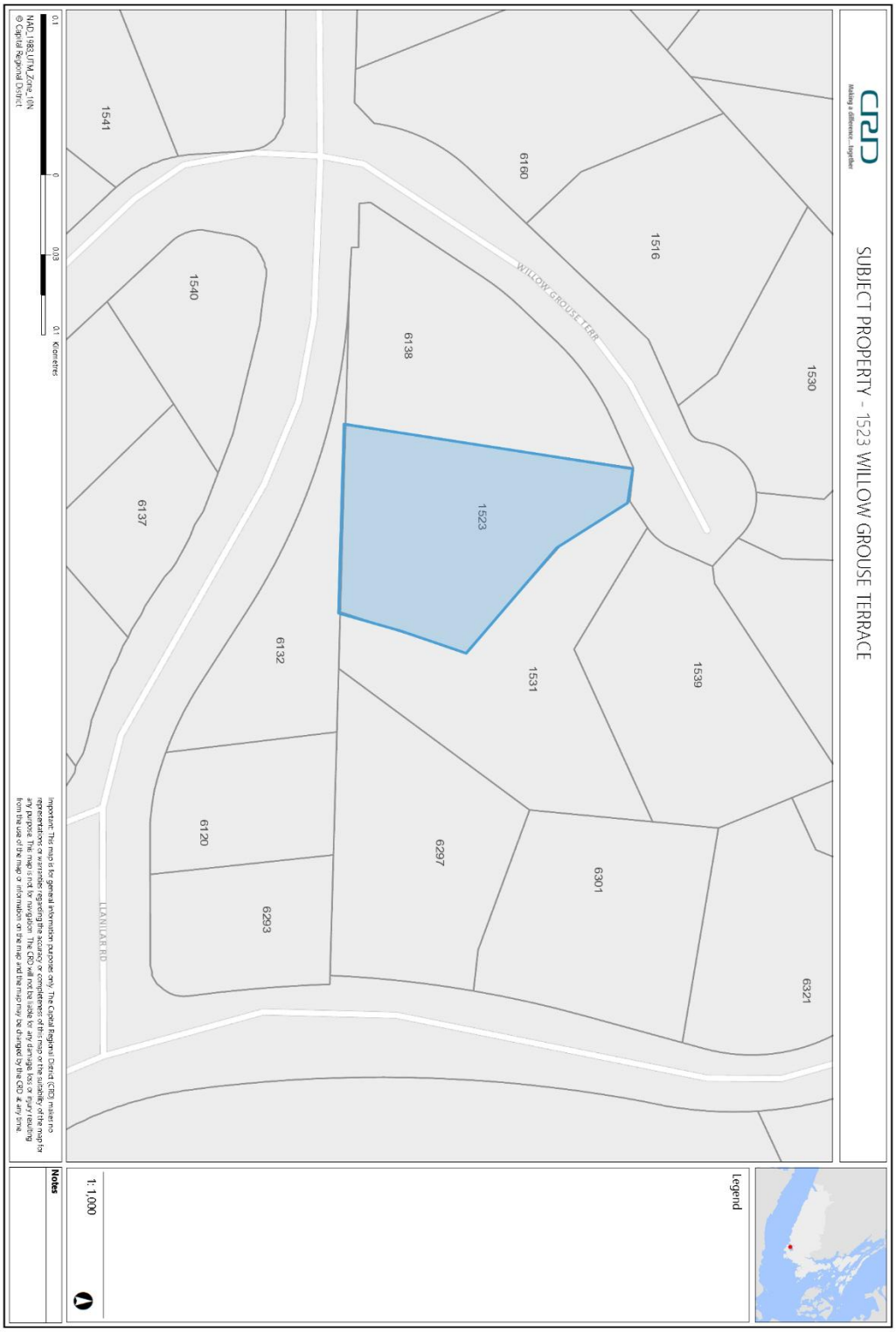
That application BV000450 to request permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to reduce the side yard setback requirement from 6 m to 5.88 m for the purpose of constructing an addition on Lot 7, Section 97, Sooke District, Plan VIP82765, as shown on the BC Land Surveyor's Building Location Certificate, sealed by Peter I. M. Broeren, BCLS, dated July 27, 2017, be <**approved/denied**> subject to the work being constructed in accordance with the *BC Building Code*, and that construction be substantially completed within two years of the approval of the variance or the variance will terminate.

Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance

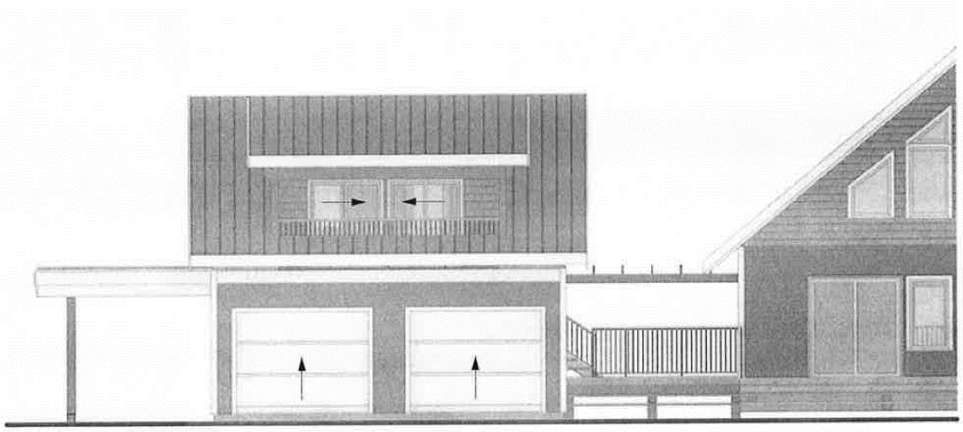
EM:wm

Attachments:
1. Subject Property Map
2. Building Plans
3. Building Location Certificate
4. Letter from Owner
5. Letter of Support

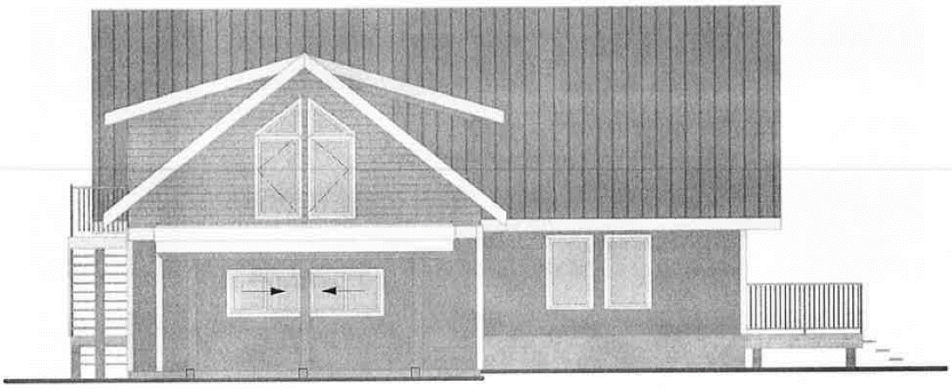
Attachment 1: Subject Property Map



Attachment 2: Building Plans

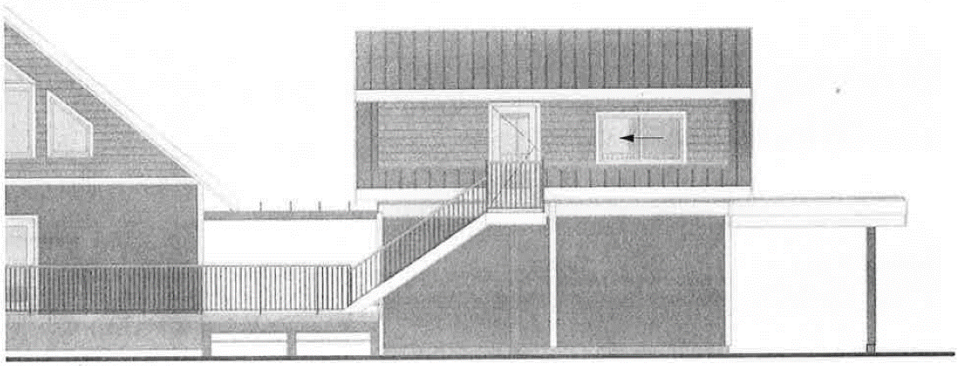


5 A1 ELEVATION
Scale: 1/8" = 1'-0"



NEW GARAGE

6 A1 ELEVATION
Scale: 1/8" = 1'-0"

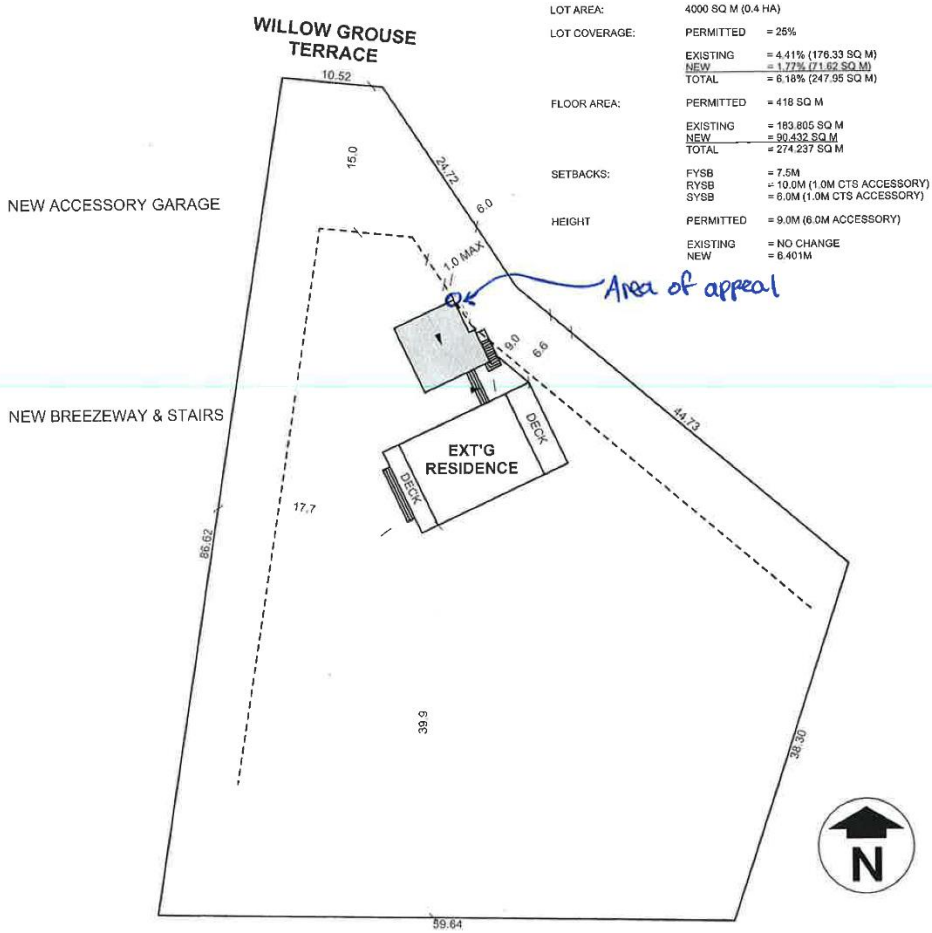


9'-4"

7 A1 ELEVATION
Scale: 1/8" = 1'-0"

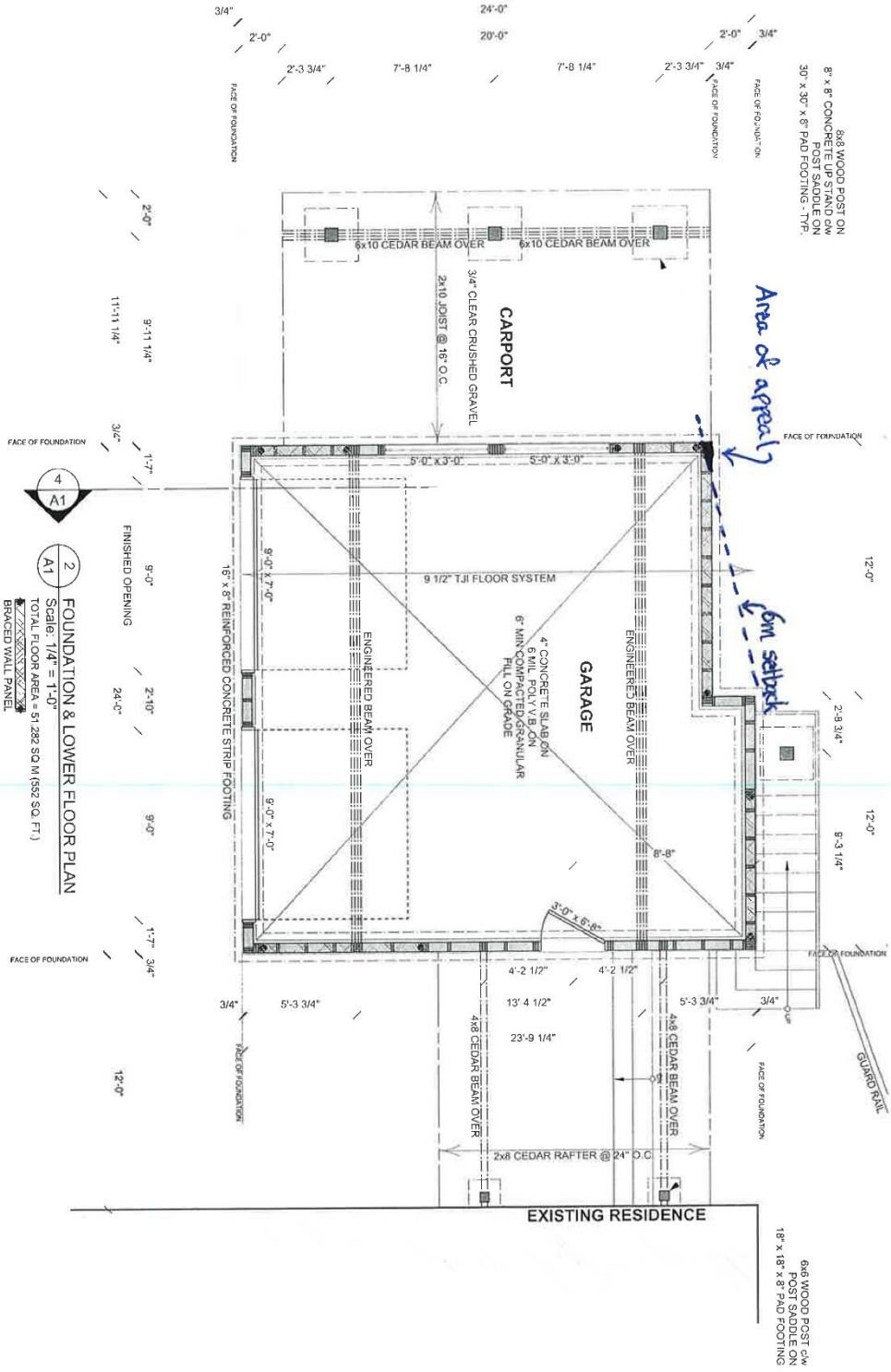
RR5 - RURAL RESIDENTIAL
ZONING DATA

CIVIC ADDRESS:	1523 WILLOW GROUSE TERRACE	
LEGAL DESCRIPTION:	LOT 7, SECTION 97, SOOKE DISTRICT, PLAN VIP82765 PID# 027-019-268	
LOT AREA:	4000 SQ M (0.4 HA)	
LOT COVERAGE:	PERMITTED	= 25%
	EXISTING	= 4.41% (176.33 SQ M)
	NEW	= 1.77% (71.62 SQ M)
	TOTAL	= 6.18% (247.95 SQ M)
FLOOR AREA:	PERMITTED	= 418 SQ M
	EXISTING	= 183.805 SQ M
	NEW	= 90.432 SQ M
	TOTAL	= 274.237 SQ M
SETBACKS:	FYSB	= 7.5M
	RYSB	= 10.0M (1.0M CTS ACCESSORY)
	SYSB	= 6.0M (1.0M CTS ACCESSORY)
HEIGHT	PERMITTED	= 9.0M (6.0M ACCESSORY)
	EXISTING	= NO CHANGE
	NEW	= 6.401M

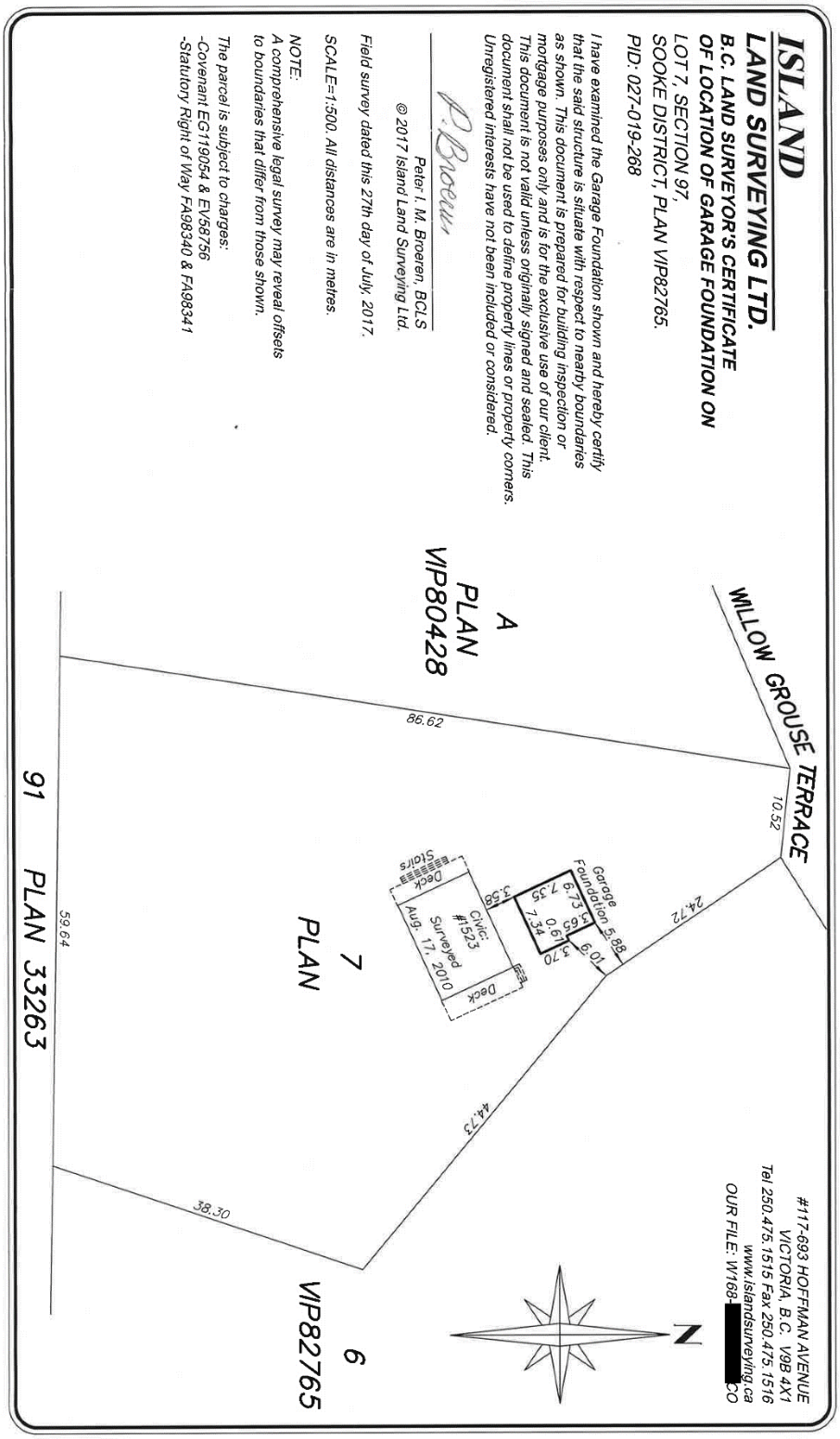


1/A1 SITE PLAN
Scale: 1'-0" = 1/32"
NOTE: DIMENSIONS ON SITE PLAN SHOW IN METERS

3/4" 24'-0"


FOUNDATION & LOWER FLOOR PLAN
Scale: 1/4" = 1'-0"
TOTAL FLOOR AREA = 51.282 SQ.M (552 SQ. FT.)
BRACED WALL PANEL
CARPORT
GARAGE
6x10 CEDAR BEAM OVER
2x10 JOIST @ 16" O.C.
3/4" CLEAR CRUSHED GRAVEL
9 1/2" TJI FLOOR SYSTEM
4" CONCRETE SLAB ON 6 MIL POLY V.B. ON 6" MIN COMPACTED GRANULAR FILL ON GRADE
ENGINEERED BEAM OVER
16" x 8" REINFORCED CONCRETE STRIP FOOTING
8x8 WOOD POST ON 8" x 8" CONCRETE UP STAND c/w POST SADDLE ON 30" x 30" x 8" PAD FOOTING - TYP.
6x6 WOOD POST c/w POST SADDLE ON 18" x 18" x 8" PAD FOOTING
4x8 CEDAR BEAM OVER
2x8 CEDAR RAFTER @ 24" O.C.
GUARD RAIL
EXISTING RESIDENCE
FACE OF FOUNDATION
FINISHED OPENING
Area of appeal
6m setback

Appendix 3: Building Location Certificate



Attachment 4: Letter from Owner

[redacted]

August 2, 2017
Juan de Fuca Board of Variance
Capital Regional District

Dear Board members,

I submit to you this application for relaxation of the side yard setbacks denoted in Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, from 6.0 m to 5.8 m for the purpose of constructing a garage.

Planning for siting this project has been carried out very carefully since I was aware of the setback requirements from the start and aware of how close the building would be coming to the affected side yard setback line. My original intention was to build a simple 24' square garage. The first round of drawings showed this plan would create an encroachment of the NE corner into the side yard setback of an estimated 20". Based on that knowledge, the plan was modified to its current form such that the rear wall of the garage (faces the affected side yard) is stepped in by 24" at the approximate mid-point. Upon laying this footprint out on the ground and measuring carefully to the side lot boundary where the lot pins are clearly visible and accessible, I was satisfied that the required setback would be attained with approximately 4" to spare. This matched the numbers shown on the garage site plan, which was based off the survey certificate from the construction of the house in 2010. The setback boundary as measured was marked clearly on the site for the framers to reference during form work.

Following the requirements of my Building Permit, I had an official survey performed of the new concrete garage foundation. The survey is only official after concrete is placed and cannot be issued based on cribbing or form work. Upon receiving the survey certificate I was shocked to see that the NE corner of the foundation was over the setback by 12cm. I am at a loss to explain how this could have occurred, but an error was made somewhere along the line, likely by myself.

The hardship I face in order to comply with the bylaw regarding this setback is the financial cost and lost time required to modify the concrete foundation that is already in place. This would result in a further reduction in the area of the garage beyond

that already removed by the staggered rear wall which was employed to prevent this exact situation, though unsuccessfully. I advised CRD planning of the encroachment immediately and it was suggested that I submit this variance application. Work on the garage has stopped by my order until this situation is resolved.

I have discussed the situation with my neighbor to the east at 1531 Willow Grouse Terrace and they have no concern with such a minor encroachment. See below.

Thank you for considering my application.

Attachment 5: Letter of Support

Further to the letter from [redacted] I confirm I have reviewed his plan and am aware of the variance request. I have no concern with the variance and with him proceeding with his current plans.

Ulises V. J. Schmill

[redacted]

Sooke, BC [redacted]

Cell: [redacted]

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REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF AUGUST 31, 2017

File No:	**BV000451**	
Location:	240 Becher Bay Road	
Legal:	Lot A, Section 86, Sooke District, Plan VIP64561	
Zoning:	Rural A	
Land Use Designation:	Settlement Area	
Adjacent Uses:	N – Rural A W – Rural A	S – Rural A E – Becher Bay Road

REQUESTED VARIANCE

The applicant is requesting relief from the Board of Variance in accordance with Section 540 of the *Local Government Act (LGA)* to vary the maximum height regulation for accessory buildings specified by the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Section 4.01(2)(a), from 6 m to 7.88 m, for the purpose of constructing a garage.

STAFF COMMENTS

The 0.654 ha property is located at 240 Becher Bay Road in East Sooke (Attachment 1). The property is zoned Rural A in the Juan de Fuca Land Use Bylaw No. 2040. There is an existing residence on the property and the applicants received a building permit in June, 2017, to construct a two-storey, 133 m^2 accessory building (Attachment 2). The building will be used as a workshop on the main floor and studio space with an exterior deck on the second floor (Attachment 3).

The building permit was approved based on compliance with the 6 m height requirement for accessory buildings, as outlined in Part 1, Section 4.01(2)(a) of the Juan de Fuca Land Use Bylaw No. 2040. Height is measured as the average vertical distance from natural grade at the outermost corners of a building to the mean level of the highest roof plane, as defined in Part 1, Section 2 of Bylaw No. 2040.

Construction is currently underway and the applicants are experiencing challenges related to excavating into the subgrade material and are trying to minimize potential impacts to the use of the neighouring property. The applicants are now requesting relief from the Board of Variance for hardship and are requesting a minor variance for the purpose of increasing the height of the accessory building from 6 m to 7.88 m (Attachment 4).

Section 542 of the *LGA* outlines that a minor variance may be permitted if the Board of Variance:

(a) has heard from the applicant and any person notified under section 541;
(b) finds that undue hardship would be caused to the applicant if the bylaw or section 531(1) is complied with; and
(c) is of the opinion that the variance or exemption does not do any of the following:
    (i) result in inappropriate development of the site;
    (ii) adversely affect the natural environment;
    (iii) substantially affect the use and enjoyment of adjacent land;
    (iv) vary permitted uses and densities under the applicable bylaw;
    (v) defeat the intent of the bylaw.

Portions of the property are designated within the Steep Slopes and the Watercourses and Wetlands development permit areas by the East Sooke Official Community Plan Bylaw No. 3718.

The accessory building is situated outside these areas and no adverse effects to the environment are anticipated as a result of the proposed variance to increase the height. The proposed workshop and studio space is in keeping with the residential use of the property and does not vary the use or density of the Rural A zone.

Pursuant to the Juan de Fuca Board of Variance Bylaw, Bylaw No. 3839, notification letters have been sent to owner and occupants within 50 m of the subject property. Subject to any comments received by the public, the proposed renovation is not expected to substantially affect the use and enjoyment of adjacent land. Based on the above, staff concludes that granting the requested variance can be considered by Board of Variance.

OUTLINE MOTION

That application BV000451 to request permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to increase the accessory building height requirement from 6 m to 7.88 m for the purpose of constructing a two-storey accessory building on Lot A, Section 86, Sooke District, Plan VIP64561, as shown on the Building Plans prepared by T-Square Holdings Inc., January 27, 2017, be <**approved/denied**> subject to the work being constructed in accordance with the *BC Building Code*, and that construction be substantially completed within two years of the approval of the variance or the variance will terminate.

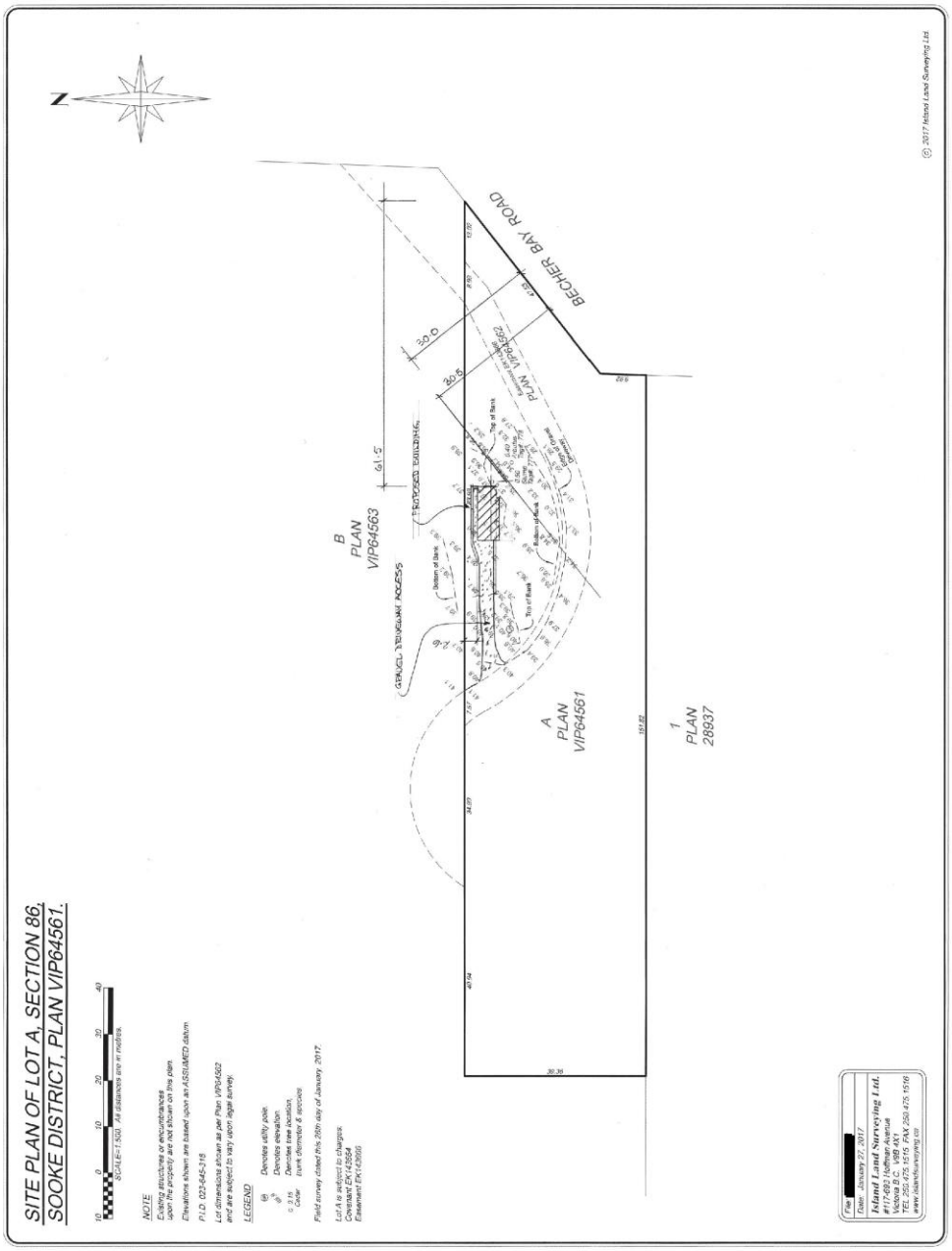
Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance

EM:wm

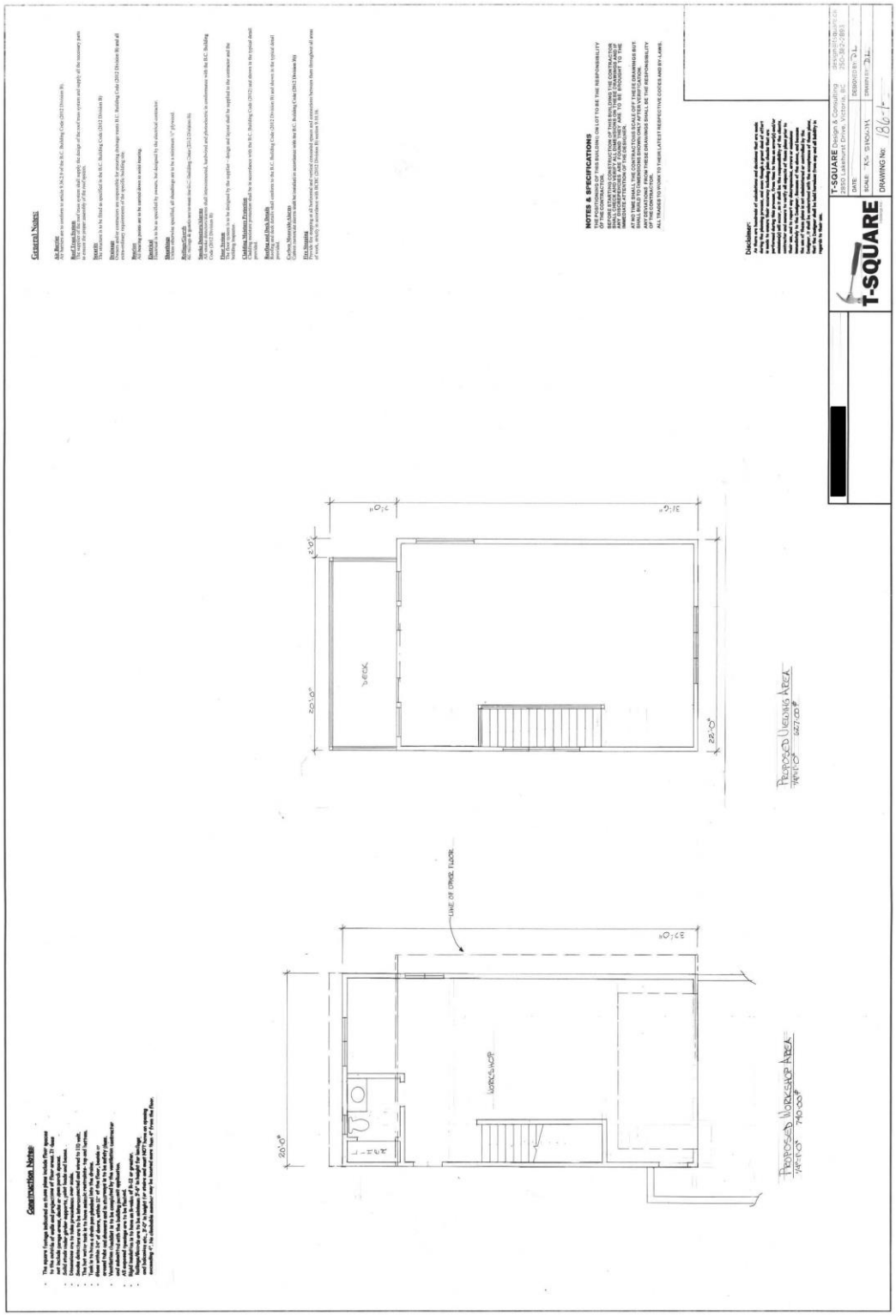
Attachments:
1. Subject Property Map
2. Site Plan
3. Building Plans
4. Letter from Owner

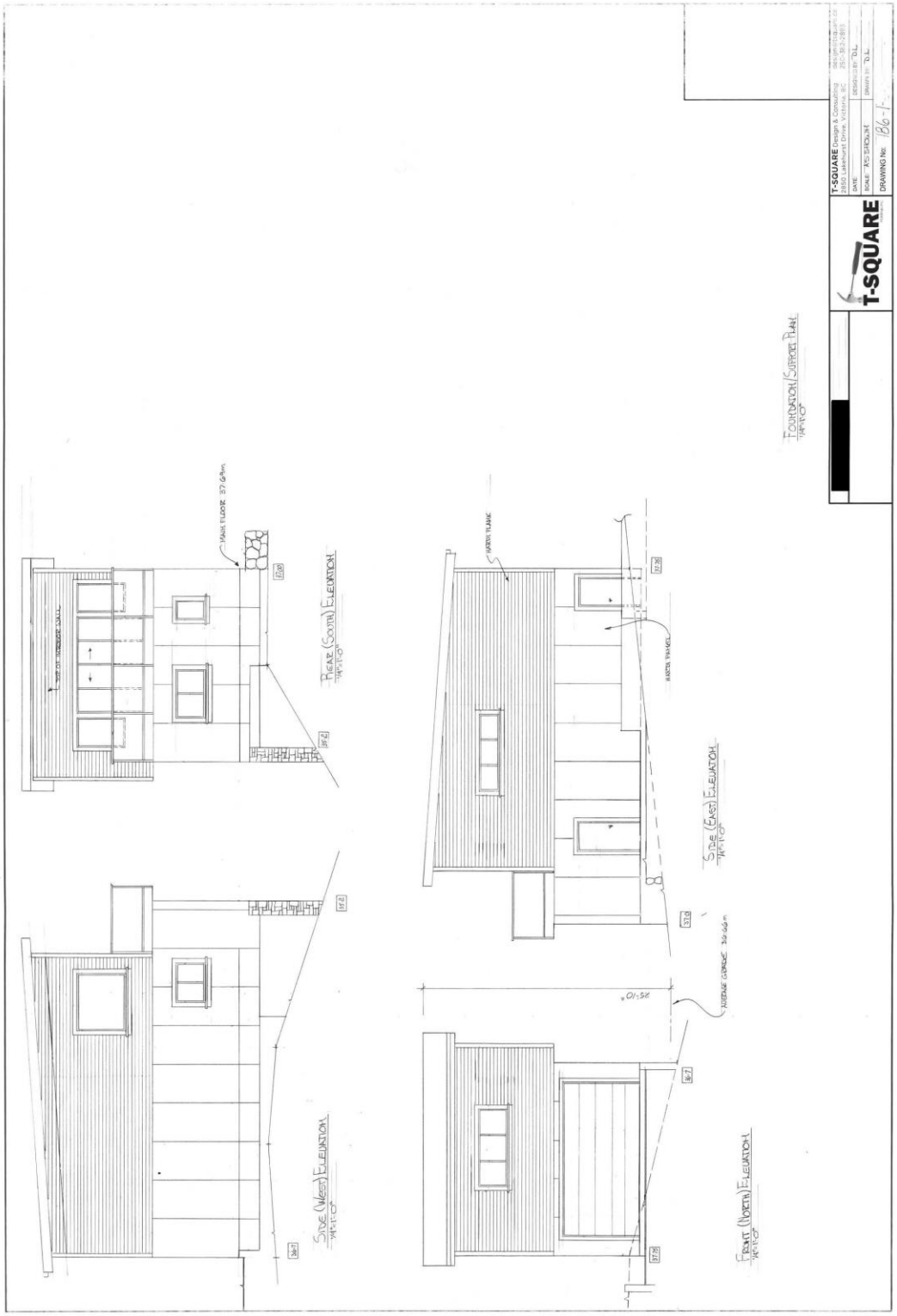
Attachment 1: Subject Property Map

Attachment 2: Site Plan



Appendix 3: Building Plans




T-SQUARE
Rear (South) Elevation
Side (West) Elevation
Side (East) Elevation
Front (North) Elevation
Foundation/Support Plan
T-SQUARE Design & Consulting
2950 Lakehurst Drive, Victoria, BC
DATE
SCALE 1/2" = 1'-0"
DRAWN BY D.L.
DRAWING No. 186-1

Attachment 4: Letter from Owner

Emma Taylor

From: [redacted]
Sent: Friday, August 11, 2017 4:02 PM
To: Emma Taylor
Subject: Variance application - 240 Becher Bay Rd

Hi Emma
Thanks for your assistance today in understanding the variance application process
We have a couple of reasons for our application:

1. We have gotten prices for the excavation and blasting that would be required to keep the building height as it is, and it is really too expensive for an outbuilding which is going to be a simple workshop.
2. Our neighbour uses part of our property to access their back yard to store their camper, boat trailer, etc... We would like to keep this area as close as possible to the original layout so they can gain access easily.

Thanks [redacted]