

## **JUAN DE FUCA BOARD OF VARIANCE**

Notice of Meeting on Thursday, **September 12, 2019 at 6:00 pm**

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

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### **AGENDA**

1. Approval of Agenda
2. Approval of the Supplementary Agenda
3. Adoption of Minutes of June 17, 2019
4. Planner's Report
5. Applications
  - a) BV000462 – Lot A, Section 1, Township 11, Renfrew District, Plan VIP85252 (6657 Klannanith Street)
  - b) BV000463 – Lot 6, Section 27, Otter District, Plan 20955 (7750 West Coast Road)
6. Adjournment

**Minutes of a Meeting of the Juan de Fuca Board of Variance  
Held Monday, June 17, 2019, at the Juan de Fuca Local Area Services Building,  
#3 – 7450 Butler Road, Otter Point, BC**

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**PRESENT:** Greg Whincup (Chair), Paul Clarkston, Axel Joosting  
**Staff:** Emma, Planner; Wendy Miller, Recorder  
**PUBLIC:** 7

The meeting was called to order at 6:00 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 January 21, 2019**

**MOVED** by Axel Joosting, **SECONDED** by Paul Clarkston that the minutes of January 21, 2019, be adopted.

**CARRIED**

**4. Planner's Report**

Emma Taylor welcomed everyone to the meeting and reported that the CRD Board adopted Bylaw No. 4288 at its meeting of April 10, 2019. Bylaw No. 4288 establishes one Board of Variance (BOV) for entire Juan de Fuca Electoral Area. Membership terms under Bylaw No. 4288 expire April 10, 2022.

**5. Applications**

**a) BV000459 – Parcel C (DD82004I) of District Lot 51, Malahat District, Except Part in Plan EPP70066 (4365 Trans Canada Highway)**

Emma Taylor outlined the staff report and advised that the applicant is requesting relief from the BOV by varying the front yard setback requirement from 30 m to 15 m for the purpose of constructing a building for agriculture use. Emma Taylor confirmed that the property boundaries have recently been altered by the Ministry of Transportation and Infrastructure for the purpose of improvements to the Trans Canada Highway and extension of Okotoks Drive which has resulted in a change to the property's overall configuration and frontage.

Emma Taylor directed attention to the letter of hardship from the applicant and to letters of support as included in the staff report.

Emma Taylor presented a drawing of the proposed agricultural building, confirming that the setback for the proposed agricultural building is 30 m and that the building will be for keeping horses.

The Chair confirmed that the applicant was present.

The applicant stated that:

- he has approached adjacent neighbours and all have indicated support for the application
- building siting options are limited due to the improvements to the highway
- building location is flat
- building will not be seen from the highway as the property line and road dedication between the subject property and the highway are treed

**MOVED** by Axel Joosting, **SECONDED** by Paul Clarkston 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 Section 3.4.04(4) of Bylaw No. 980 was complied with, application BV000459, requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary the yard requirements for an agricultural building specified by Section 3.4.04(4) of Bylaw No. 980, from 30 m to 15 m for the east side yard setback on Parcel C (DD82004I) of District Lot 51, Malahat District, Except Part in Plan EPP70066, as shown on the Site Plan, is approved subject to construction being substantially started within 2 years.

**CARRIED**

**b) BV000460 – Lot A, Section 133, Sooke District, Plan 19599 (6638 East Sooke Road)**

Emma Taylor outlined the staff report and advised that the applicant is requesting relief from the BOV to relieve hardship resulting from the requirement that the maximum floor area for a detached accessory suite is not to exceed 90 m<sup>2</sup> for the purpose of converting the existing structure to a 99.751 m<sup>2</sup> detached accessory suite.

Emma Taylor directed attention to the letter of hardship from the applicant as included in the staff report and the letter from the applicant as included in the supplementary agenda.

Emma Taylor identified the area on the floor plan which would need to be removed to meet the maximum floor area for a detached suite. Photos of the area to be removed were presented.

The Chair confirmed that a representative for the application was present.

The representative stated that:

- the applicants have been working on converting the structure to a detached accessory suite since July 2018
- the applicants have experienced financial hardship related to meeting seismic upgrades required by the BC Building Code
- the structure has been perfectly usable since 2000
- finishes are in good condition
- deconstruction of the additional floor space would result in materials being routed to the landfill

The BOV stated that retaining the existing floor space does not substantially change the structure.

**MOVED** Paul Clarkston, **SECONDED** by Axel Joosting 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 1, Section 4.20(g) of Bylaw No. 2040 was complied with, application BV000460, requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary Part 1, Section 4.20(g) of Bylaw No. 2040, by increasing the maximum floor area permitted for detached accessory suites from 90 m<sup>2</sup> to 99.751 m<sup>2</sup>, on Lot A, Section 133, Sooke District, Plan 19599, to permit the construction of a detached accessory suite with a maximum of 2 bedrooms, or 1 bedroom and den, as shown on the Building Plans prepared by Chris Supeene, dated April 9, 2018, is approved.

**CARRIED**

**c) BV000461 – Lot A, District Lot 243, Section 97, Sooke District, Plan EPP75600 (71 Seagirt Road)**

Emma Taylor outlined the staff report and advised that the applicant is requesting relief from the BOV by reducing the flanking yard requirement from 6 m 'clear to sky' (CTS) to 2.8 m and by reducing the side yard requirement from 6 m to 2.9 m for the purpose of constructing an addition to the existing dwelling.

Emma Taylor directed attention to the letter of hardship from the applicant and to letters of support as included in the staff report and in the supplementary agenda. It was noted that one of the letters of support requests that there be no wood burning appliances or openings installed in the addition.

Emma Taylor responded to questions from the BOV advising that the:

- floor plans are preliminary
- front yard setback for properties zoned Rural Residential 6 (RR-6) is 7.5 m
- flanking yard setback for properties zoned RR-6 is 6 m CTS
- Building Inspection division would uphold the recommendation from the BOV

An adjacent property owner stated that he:

- does not support a wood burning appliance being installed due to cedar hedging that is planted along the property line
- does not have issue with a gas burning appliance
- does not support a heat pump being installed

The applicant stated that the:

- current dwelling has one bedroom
- addition will provide a master bedroom with a closet and laundry space
- addition can only be located towards the road due to the location of the septic field
- addition space cannot accommodate a door or windows due to the proposed closet space
- addition is one storey
- there is a propane fireplace on the property line in question

The BOV discussed the submission from a property owner that requests that there be no wood burning appliances or openings installed in the addition.

Emma Taylor responded to questions from the BOV advising that:

- a restrictive covenant could be registered on the title of the property requiring that no wood burning appliances or openings be installed in the addition
- the BOV's motion is referred to the Building Inspection division
- the record of the BOV's motion remains on the file for the property
- future building permit applications for the property would be referred to the Community Planning division for review and comment
- the Building Inspection division inspects wood burning appliance installations, ensuring that proper materials have been used and that safety requirements have been met

**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, Sections 10.09(b) and (c) of Bylaw No. 2040 were complied with, application BV000461, requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary the western side yard requirement specified by Part 2, Section 10.09(b) of Bylaw No. 2040 from 6 m to 2.9 m and to vary the flanking yard requirement specified by Part 2, Section 10.09(c) of Bylaw No. 2040 from 6 m 'clear to sky' to 2.8 m for a proposed addition to the single-family residence on Lot A, District Lot 243, Section 97, Sooke District, Plan EPP75600, as shown on the Site Plan, is approved provided that no openings be installed on the western wall of the addition and that there be no wood burning appliances installed within that part of the addition located within the setback specified by bylaw, and provided that construction be substantially started within 2 years.

Opposed: Axel Joosting  
**CARRIED**

## 6. Adjournment

The meeting was adjourned at 6:47 pm

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G. Whincup, Chair

**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE  
MEETING OF SEPTEMBER 12, 2019**

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**File No:** BV000462  
**Location:** 6657 Klannanith Street  
**Legal:** Lot A, Section 1, Township 11, Renfrew District, Plan VIP85252  
**Zoning:** Community Residential - One (CR-1) – Bylaw No. 3109  
**Land Use Designation:** Residential – Bylaw No. 3109  
**Adjacent Uses:** E – Pacheedaht First Nation  
S – CR-1 zone  
W – Klannanith Street/CR-1/CU zone  
N – Harris Cove Road/CR-1 zone

**REQUESTED VARIANCE**

The applicant is requesting that the Board of Variance approve a minor variance to relieve hardship, in accordance with Section 540(a) of the *Local Government Act (LGA)*, by reducing the exterior side yard setback of an accessory building specified by the Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 3109, Section Part IV, Section 22.1(g)(iii) from 4.6 m to 1.36 m.

**STAFF COMMENTS**

The 0.1 ha property is located at 6657 Klannanith Road in Port Renfrew and is zoned Community Residential - One (CR-1) in the Comprehensive Community Development Plan for Port Renfrew Bylaw No. 3109 (Attachment 1).

In 2015, the accessory building, a sea-can on concrete foundation, was constructed without a permit, resulting in a stop work order. To comply with land use requirements, the owners applied for a building permit to construct a single family dwelling (BP001811). At that time, the owners stated that the accessory building would be used for temporary storage of construction materials and as a site office, and removed upon completion of the single family dwelling. Therefore, a building permit for the accessory building was not applied for at the time.

Given the narrow width of the lot, a variance for the single family dwelling was required in order to accommodate the siting of the structure. VA000137 was approved to reduce the exterior side parcel line setback from 4.6 m to 3 m. As a condition of final occupancy for the dwelling, the accessory building must either be removed, or be approved under a building permit.

The owners have decided to apply for a building permit (BP0005589); however, as part of the application a survey was submitted that shows that the accessory building does not comply with the siting requirements of the CR-1 zone (Attachment 2). Therefore, the owners are requesting a variance to reduce the exterior side parcel line setback for an accessory building from 4.6 m to 1.36 m.

Section 542 of the *LGA* outlines that the Board of Variance may order that a minor variance be permitted from the requirements of the applicable bylaw, 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 Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 3109, does not designate development permit areas, and no known site constraints have been identified for the subject property. The topography of the site is relatively level; however, the property is elevated above Harris Cove Road towards the east preventing construction of a suitable alternative access there. No significant environmental features or hazard areas were identified on the property as part of the subdivision process in 2007, and there are no encumbrances registered on the certificate of title.

The Ministry of Transportation and Infrastructure (MOTI) establishes permit requirements for structures within 4.5 m of a highway right-of-way to ensure safe and efficient operation of traffic. The owner has also made application to MOTI for a setback permit as the accessory building will be within 4.5 m of Harris Cove Road. MOTI reviews the permit application for safety concerns, planned road improvements and transportation objectives.

The existing building is suitable for the use intended and the applicant claims it would be a hardship to remove it or move it to meet the setback requirements (Attachment 3).

Pursuant to the Juan de Fuca Board of Variance Bylaw, Bylaw No. 4288, notification letters have been sent to the applicant, as well as to owners and occupants within 50 m of the subject property. Any responses received will be presented at the September 12, 2019 Board of Variance hearing.

The stated hardship for the owners is that the existing building is in good condition and adequate for the use intended. However, in order to meet the required 4.6 m exterior side yard setback, the structure would need to be moved. The variance is not anticipated to substantially alter the use and enjoyment of adjacent land as the building has been used since 2015. The proposal complies with the use and density provisions of the CR-1 zone.

If the Board of Variance finds that not granting the variance would result in undue hardship, considers the requested variance to be a minor and finds that it meets the considerations of section 542(c), a variance order may be permitted.

### **OUTLINE MOTION**

That application BV000462 to request permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary Bylaw No. 3109, Part IV, Section 22 1g) iii) by reducing the required exterior side yard setback from 4.6 m to 1.36 m on Lot A, Section 1, Township 11, Renfrew District, Plan VIP85252, as shown on the Survey Plan prepared by J.E. Anderson & Associates, dated July 11, 2019, be **<approved/denied>**.

Submitted by:	Regina Robinson, Planning Assistant
Concurrence:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance

Attachments:

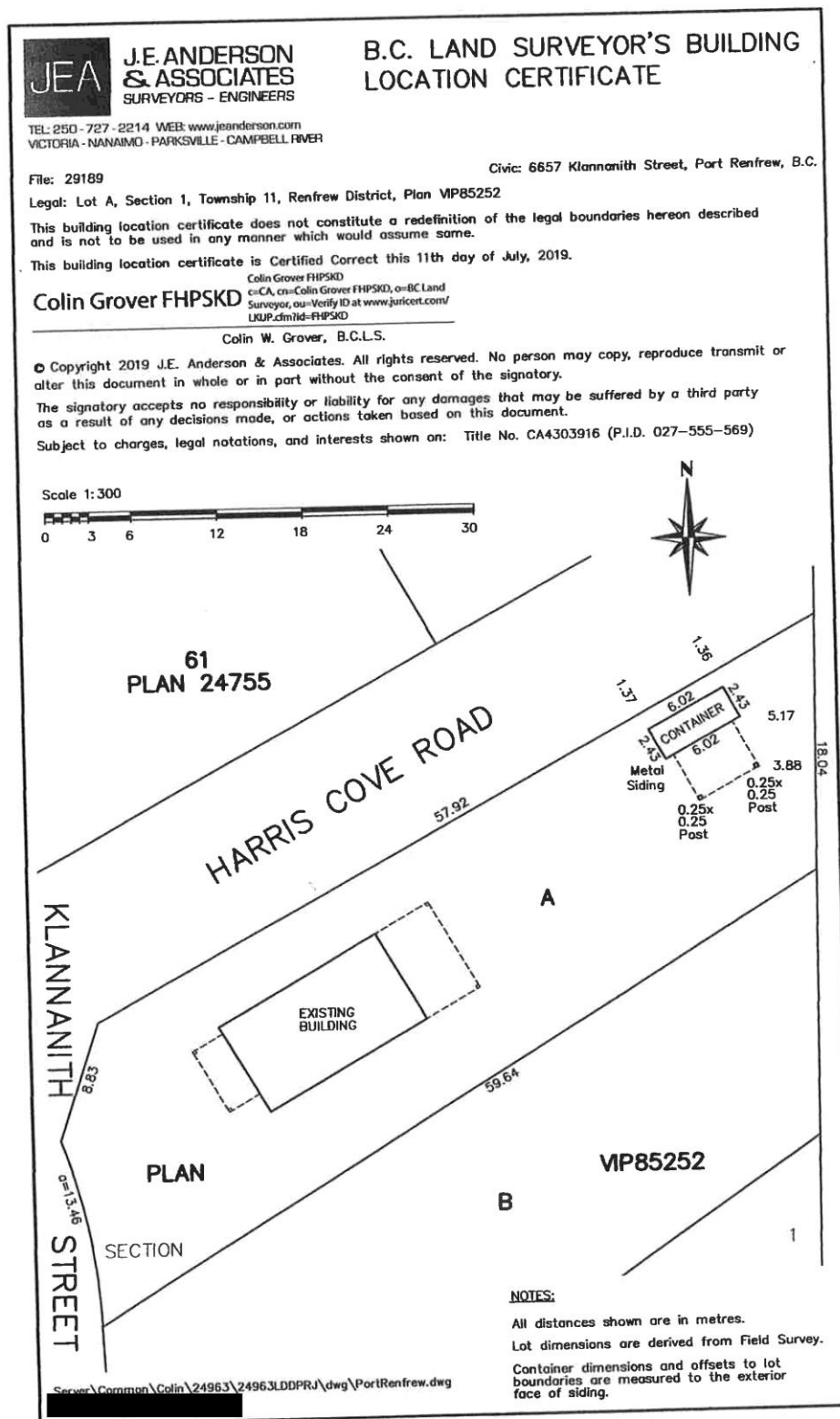
1. Subject Property Map
2. Survey Plan
3. Statement of Hardship

Attachment 1: Subject Property Map





Attachment 2: Survey Plan



Attachment 3: Statement of Hardship

Attachment to CRD variance application, 6657 Klannanith Rd, Port Renfrew

Purpose of Application:

To request a variance in property setback for the Seacan (accessory building) from 3 metres to 1.36 metres. Seacan is 8' X 20' for 160 sq ft. The cost to hire a crane and pay for travel and fuel and crane to Port Renfrew is over \$5,000.00. There are services for sewage under the driveway and a heavy crane driving over the driveway to access the backyard and lift the seacan would break the sewage lines.



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE  
MEETING OF SEPTEMBER 12, 2019**

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**File No:** BV000463  
**Location:** 7750 West Coast Road  
**Legal:** Lot 6, Section 27, Otter District, Plan 20955  
**Zoning:** Rural Residential 2 (RR-2) – Bylaw No. 2040  
**Land Use Designation:** Settlement Area 1 (SA-1) – Bylaw No. 3819  
**Adjacent Uses:** N – Rural Residential (Rural A) S – West Coast Road  
W – Rural Residential (RR-2) E – Rural Residential (RR-2)

**REQUESTED VARIANCE**

The applicant is requesting that the Board of Variance approve a minor variance to relieve hardship, in accordance with Section 540(a) of the *Local Government Act (LGA)*, by increasing the length of a manufactured or modular home used for a detached accessory suite specified by Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part I, Section 4.20(k) from 13 m to 18.24 m.

**STAFF COMMENTS**

The one hectare subject property fronts onto West Coast Road to the south and is located adjacent to similar rural residential properties to the north, east and west (Attachment 1).

The mobile home that is the subject of this variance request was approved as a single family dwelling in 1994 under CRD Building Inspection file #39990. A variance from the planning department was granted to reduce the side yard setback from the western property line to 4.1 m (BVS-42-94). The owners are in the process of building a new single family dwelling on the parcel (BP005475) and have applied to designate the mobile home as a detached accessory suite. The RR-2 zone permits a density of one single-family dwelling and either one secondary suite or one detached accessory suite.

The Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part I, Section 4.20(k) specifies that a “detached accessory suite may be in the form of manufactured or modular home but shall not exceed a length of 13 m.” The manufactured home has a length of 18.24 m; therefore, a variance is required in order to authorize its use as a detached accessory suite. The structure has a floor area of 53 m<sup>2</sup> and complies with the 33.4 m<sup>2</sup> minimum and 90 m<sup>2</sup> maximum floor area specified by Section 4.20(f).

Portions of the property are designated within the Steep Slope Development Permit Area, as defined in the Otter Point Official Community Plan, 2014, Bylaw No. 3819. The location of the mobile home is outside of the development permit area and there are no known environmental features affected by the requested variance.

The bylaw requirement that a manufactured home used for a detached accessory suite be 13 m was discussed during review of the amendment to Bylaw No. 2040 establishing the provision for detached suites, Bylaw No. 3605 adopted in 2010. The 13 m length provision was drafted in response to architectural and aesthetic concerns over the use of manufactured homes as detached suites and, specifically, to prevent the placement of overly narrow modular units.

The applicant states that the existing building is in good condition and claims that it would be a hardship to remove and replace it to meet the length requirements of a manufactured home used as an accessory suite (Attachment 4).

Section 542 of the *LGA* authorizes the Board of Variance to order that a minor variance from the requirements of the applicable bylaw 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.

Pursuant to the Juan de Fuca Board of Variance Bylaw, Bylaw No. 4288, notification letters have been sent to the applicant, as well as to owners and occupants within 50 m of the subject property. Any responses received will be presented at the September 12, 2019 Board of Variance hearing. Subject to any comments received by the public, the proposed development is not expected to substantially affect the use and enjoyment of adjacent land nor adversely affect the natural environment as the building footprint will not change.

If the Board of Variance finds that not granting the variance would result in undue hardship, considers the requested variance to be minor and finds that it meets the considerations of Section 542(c) of the *LGA*, a variance order may be permitted.

#### **OUTLINE MOTION**

That in accordance with Section 540 of the *Local Government Act*, that the Juan de Fuca Board of Variance application BV000463 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 or modular home used for a detached accessory suite from 13 m to 18.24 m on Lot 6, Section 27, Otter District, Plan 20955, as shown on the Survey Plan prepared by Island Land Surveying, dated May 1, 2019, be **<approved/denied>**.

Submitted by:	Regina Robinson, Planning Assistant
Concurrence:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance

RG:wm

Attachments:

1. Subject Property Map
2. Proposed Site Plan
3. Site Plan from BVS-42-94 – Manufactured Home Variance Approval
4. Statement of Hardship

**Zoning - 7750 West Coast Road**

**Legend**

- SSI SGI Zoning
- <all other values>
- AGRICULTURE
- Agriculture
- Agriculture 1
- Agriculture 1 (zone variant a)
- Agriculture 1 (zone variant b)
- Agriculture 1 (zone variant c)
- Agriculture 1 (zone variant d)
- Agriculture 1 (zone variant e)
- Agriculture 1 (f)
- Agriculture 2
- Agriculture 2 (zone variant a)
- Automotive Commercial
- COMMERCIAL 1
- COMMERCIAL 2
- COMMERCIAL 2 (a)
- Commercial
- Commercial 1
- Commercial 1 (zone variant a)
- Commercial 1 (zone variant b)
- Commercial 1 (zone variant c)
- Commercial 1 (zone variant d)
- Commercial 1 (zone variant f)
- Commercial 1 (zone variant g)
- Commercial 1 (zone variant a & b)

**Scale:** 0.1 Kilometres

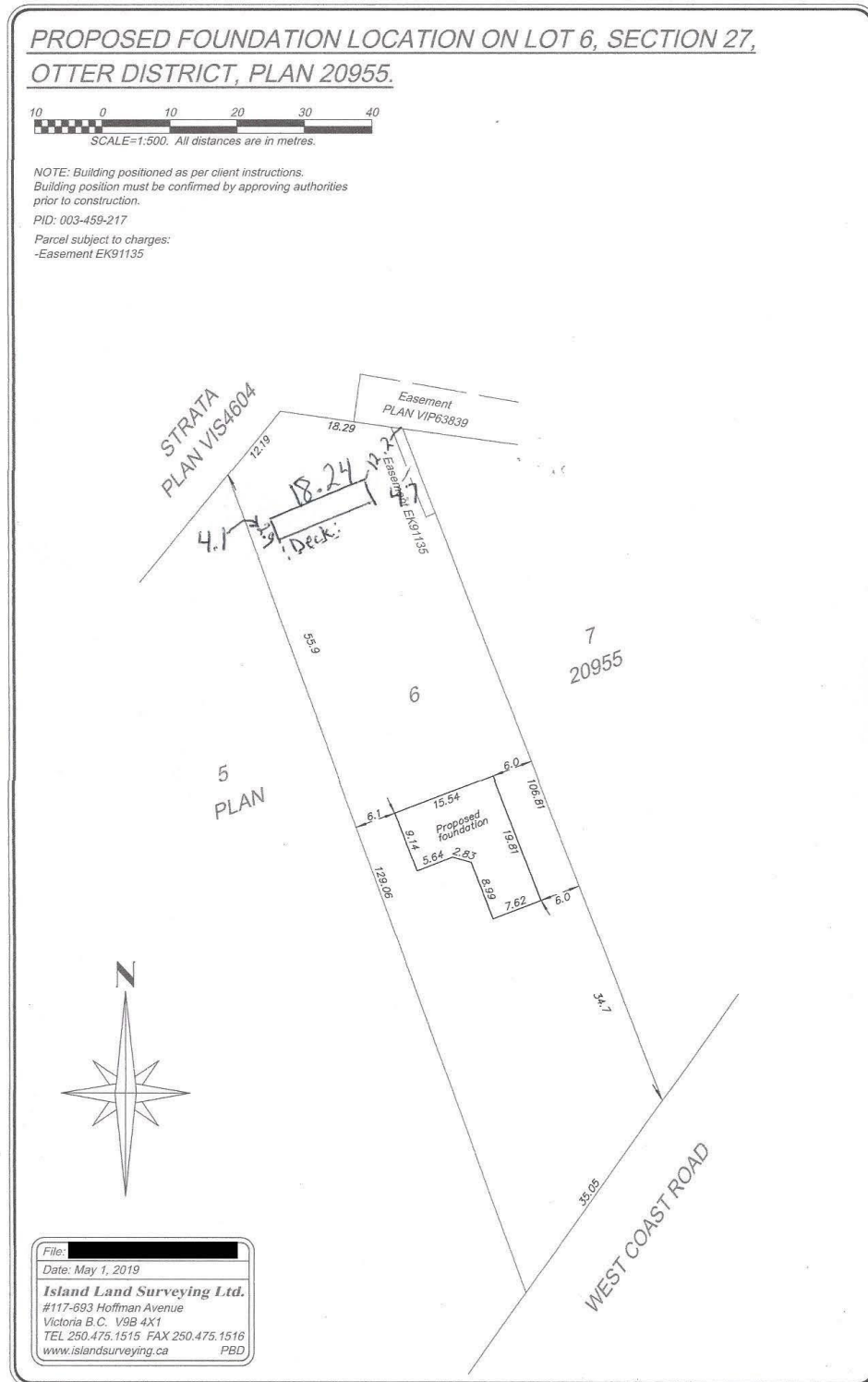
**North Arrow**

**Scale:** 1: 2,000

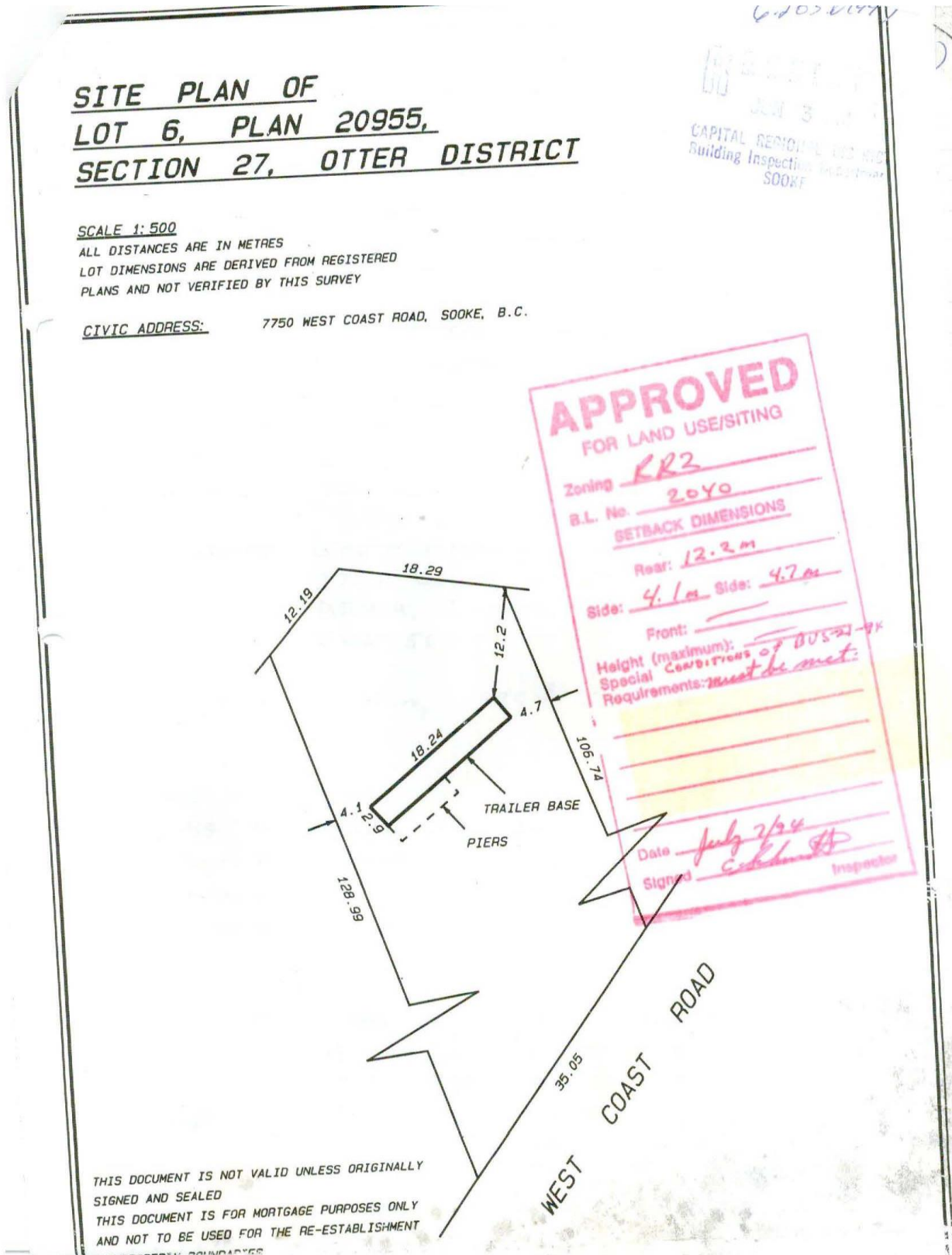
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Attachment 2: Proposed Site Plan



Attachment 3: Site Plan from BVS-42-94 – Manufactured Home Variance Approval



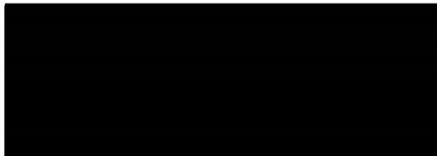
Attachment 4: Statement of Hardship

To the CRD planning department.

We are applying for a Board of Variance for the maximum length of a mobile home at the address 7750 West coast rd.

The total length of the trailer is over the maximum allowed length, but is under the maximum square footage.

The mobile home is in good condition and has always been maintained. It will be used for family to stay in when they come visit and an art studio. It will not be a rental in anyway. Since the mobile home is in good condition it would be a shame to waste money and tear it down.



2019-08-07