

## JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Tuesday, **August 22, 2023, 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 28, 2023
4. Planner's Report
5. Application
  - a) BV000497 - Lot 38, Sections 2 and 4, Renfrew District, Plan VIP83894 (3680 Cormorant Way)
6. Adjournment

*PLEASE NOTE: The public may attend the meeting in-person or electronically through video or teleconference. To attend electronically, please contact us by email at [jdfinfo@crd.bc.ca](mailto:jdfinfo@crd.bc.ca) so that staff may forward meeting details.*



Making a difference...together

**Minutes of a Meeting of the Juan de Fuca Board of Variance  
Held Wednesday, June 28, 2023, at the Juan de Fuca Local Area Services Building,  
#3 – 7450 Butler Road, Otter Point, BC**

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**PRESENT:** Paul Clarkston (Chair), Axel Joosting (EP)  
**Staff:** Iain Lawrence, Senior Manager, JdF Local Area Services (EP);  
Darren Lucas, Planner; Wendy Miller, Recorder  
**PUBLIC:** 1 in-person; 4 EP

EP – Electronic Participation

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**

No supplementary items.

**3. Adoption of the Minutes of May 2, 2023**

**MOVED** by Axel Joosting, **SECONDED** by Paul Clarkson that the minutes of May 2, 2023, be adopted.

**CARRIED**

**4. Planner's Report**

No report.

**5. Applications**

**a) BV000494 - Lot 11, Section 2, Renfrew District, Plan VIP83339 (3505 Waters Edge Drive)**

Darren Lucas outlined the staff report and advised that the applicant has requested a variance to increase maximum floor area allowed for a detached accessory suite from 90 m<sup>2</sup> to 91 m<sup>2</sup> and increasing the maximum allowable height for an accessory building used for a detached accessory suite from 7 m to 7.9 m to the peak of the roof for the purpose of constructing a two-storey accessory building to accommodate a detached accessory suite and garage.

The subject property, site plan and building plans were highlighted.

Attention was directed to the applicant's hardship statement as included in the staff report and the letter of support provided by an adjacent property owner as submitted at application intake.

It was confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners/occupiers within 50 m of the subject property.

Staff confirmed that the applicant was present.

The BOV considered the requested variance and passed the following resolution:

**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 Part 1, Section 4.20 of Bylaw No. 2040 were complied with, that application BV000494 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 2040, Part 1, Section 4.20(f) by increasing the maximum floor area allowed for a detached accessory suite from 90 m<sup>2</sup> to 91 m<sup>2</sup> and Section 4.20(g) by increasing the maximum allowable height for an accessory building used for a detached accessory suite from 7 m to 7.9 m to the peak of the roof on Lot 11, Section 2, Renfrew District, Plan VIP83339 to permit construction of a two-storey detached accessory suite and garage, 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) BV000495 - Strata Lot A, District Lot 720, Renfrew District, Plan VIS6409 (9997 West Coast Road)**

Darren Lucas outlined the staff report and advised that the applicant has requested a variance to increase the maximum height of an accessory building from 6 m to 8.5 m for the purpose of constructing a 131.5 m<sup>2</sup> garage and storage building.

The subject property and requested variance were highlighted.

Attention was directed to the applicant's hardship statement as included in the staff report.

It was confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners/occupiers within 50 m of the subject property.

Staff confirmed that the applicant was present.

The applicant responded to questions from the BOV advising that:

- the roof extension would allow the garage roof to match the roof line of the existing dwelling
- the commissioned building plans incorrectly used the maximum height for residential buildings, as permitted by the property's zone, as opposed to the maximum height for accessory buildings
- letters of support from strata owners were submitted with the building permit application

Iain Lawrence responded to a question from the BOV advising that a variance would not be required if the accessory building was attached to the existing dwelling by a breezeway; however, an alteration to the footprint of the existing dwelling would likely require an amendment to the registered strata plan.

The BOV considered the requested variance and passed the following resolution:

**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 Part 1, Section 4.01 2(a) of Bylaw No. 2040 were complied with, that application BV000495 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant

a minor variance to Bylaw No. 2040, Part 1, Section 4.01 2(a) by increasing the maximum permitted height of an accessory building from 6 m to 8.5 m to the mean level of the highest roof plane between the eaves and the ridge on Strata Lot A, District Lot 720, Renfrew District, Plan VIS6409, for a proposed garage and storage building, be approved and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

**CARRIED**

**c) BV000496 - Lot 19, Section 78, Renfrew District, Plan VIP58128 (10300 Block of West Coast Road)**

Darren Lucas outlined the staff report and advised that the applicant has requested a variance to reduce the required rear yard setback for a principle building from 15 m to 10 m for the purpose of constructing a one-family dwelling.

The subject property and requested variance were highlighted.

Attention was directed to the applicant's hardship statement as included in the staff report.

It was confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners/occupiers within 50 m of the subject property.

Staff confirmed that a geotechnical report confirming that the land is safe for the use intended has been submitted as part of the building permit application.

The applicant stated that the rear yard of the subject property abuts a large, vacant lot and that the proposed building location would minimize the need to bring in fill from an offsite location, reducing the need for compacting soil and reducing the introduction of invasive plant species.

The BOV noted that similar setback variances have been approved for other Forestry zoned properties in the area.

The BOV considered the requested variance and passed the following resolution:

**MOVED** by 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 2, Section 3.07 (b) of Bylaw No. 2040 were complied with, that application BV000496 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 2040, Part 2, Section 3.07 (b) by reducing the required rear yard setback from 15 m to 10 m on Lot 19, Section 78, Renfrew District, Plan VIP58128, for a proposed one-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**

## 6. Adjournment

The meeting was adjourned at 6:20 pm.

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P. Clarkston, Chair



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE  
MEETING OF AUGUST 22, 2023**

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**File No:** BV000497  
**Location:** 3680 Cormorant Way – Jordan River  
**Legal:** Lot 38, Sections 2 and 4, Renfrew District, Plan VIP83894  
**Zoning:** Rural Residential 2A (RR-2A) – Bylaw No. 2040  
**Land Use Designation:** Pacific Acreage (PA) – Bylaw No. 4001  
**Adjacent Uses:** N – West Coast Road                      S – Residential – RR-2A Zone  
W – Residential – RR-2A Zone                      E – Cormorant Way

**REQUESTED VARIANCE**

The applicant has requested 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 required side yard setback from 6 m to 5 m for the purpose of authorizing the completion of a single-family dwelling that does not conform with the siting requirements of the Rural Residential 2A (RR-2A) zone.

**LEGISLATIVE IMPLICATIONS**

Section 542(1) 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;
  - (vi) vary the application of an applicable bylaw in relation to residential rental tenure.

Section 542(3) of the *LGA* outlines that in relation to an order under Section 542(1),

- (a) if the order sets a time within which the construction of the building, structure or manufactured home park must be completed and the construction is not completed within that time, or
  - (b) if that construction is not substantially started within 2 years after the order was made, or within a longer or shorter time period established by the order,
- the permission or exemption terminates and the bylaw or section 531(1), as the case may be, applies.

### **STAFF COMMENTS**

The 1.18 ha property is located in Jordan River at the intersection of Cormorant Way and West Coast Road and is zoned RR-2A in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Appendix A). A small portion of the property adjacent to Cormorant Way is designated as a Riparian Development Permit (DP) Area by the Shirley-Jordan River Official Community Plan, Bylaw No. 4001; however, the proposed construction is located outside of the DP area.

The owners are currently building a single-family dwelling (File: BP008732) in the western portion of the parcel (Appendix B). A location certificate survey provided as part of the building permit process confirmed that the structure's foundation meets the required setbacks of the RR-2A zone, but that the deck is located 5.19 m from the side lot line and that the roofline projection measured to 4.58 m (Appendix C). A variance application to request a reduction from 6 m to 5 m for the side yard setback has been submitted to address the non-conforming siting.

Bylaw No. 2040, Part, 1, Section 4.10(1)(a) specifies that eaves may project up to 1 m into the required yard. If the variance to reduce the side yard setback from 6 m to 5 m is granted, the 0.61 m roofline projection will comply with the regulation. The stated hardship provided by the applicant is that the approved location of the dwelling was changed during construction of the foundation in response to the topography of the site (Appendix D).

Staff are of the opinion that the proposal is considered appropriate for the site and complies with the permitted uses of the zone. The development is not expected to adversely affect the natural environment and is outside of all development permit areas identified by the Official Community Plan. The variance request to reduce the required side yard setback from 6 m to 5 m is not anticipated to substantially alter the use and enjoyment of adjacent land.

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 August 22, 2023, Board of Variance hearing. 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(1)(c), an order granting a minor variance may be permitted.

### **OUTLINE MOTION**

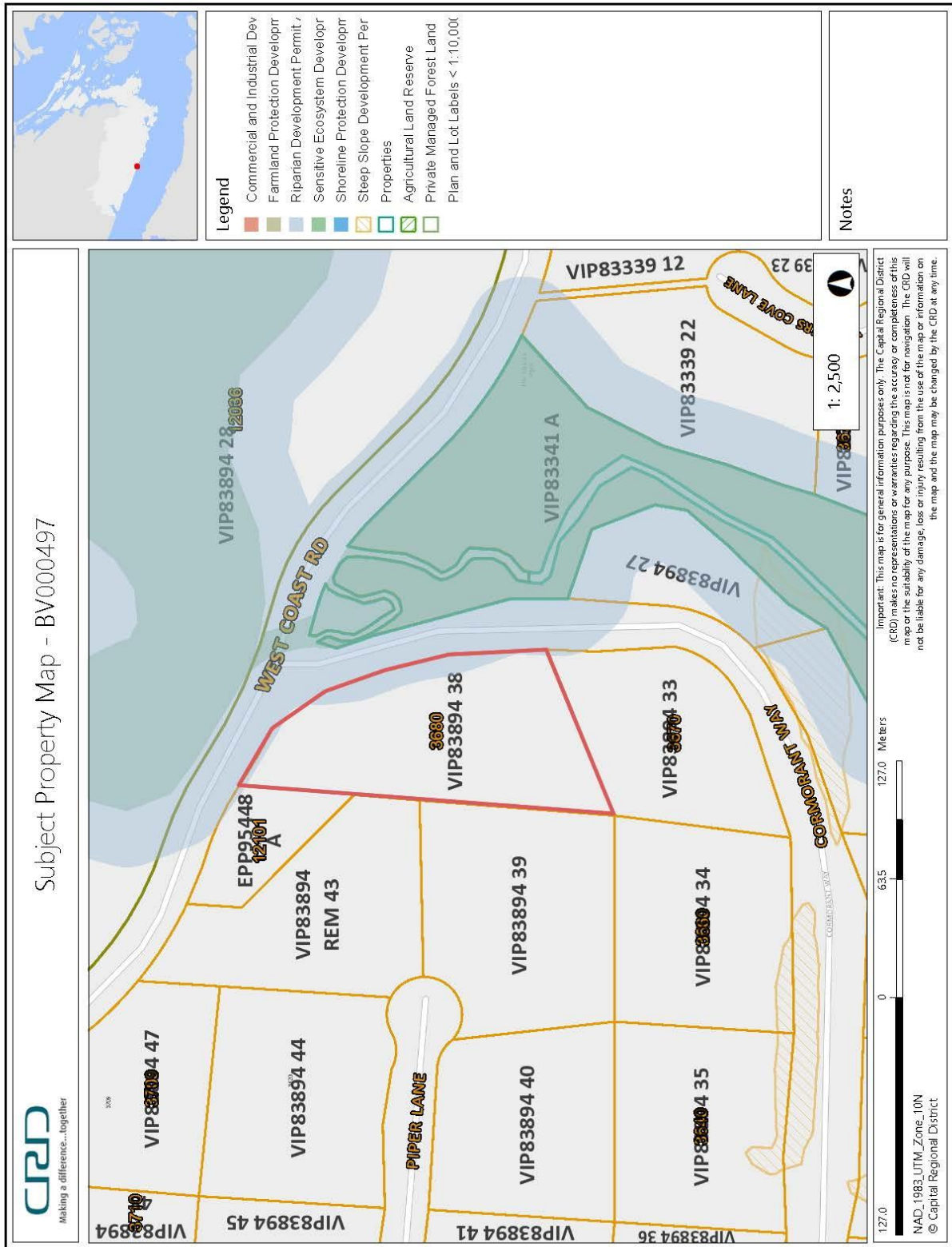
Having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship **<would/would not>** be caused to the applicant if Part 2, Section 6A.07 (b) of Bylaw No. 2040 were complied with, that application BV000497 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 2040 Part 2, Section 6A.07 (b) by reducing the required side yard setback from 6 m to 5 m on Lot 38, Sections 2 and 4, Renfrew District, Plan VIP83894, for a single-family dwelling, be **<approved/denied>** and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

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

### **ATTACHMENTS**

- Appendix A: Subject Property Map
- Appendix B: Site Plan and Building Elevations from BP008732
- Appendix C: BCLS Foundation Location Certificate and Detail
- Appendix D: Statement of Hardship

Appendix A: Subject Property Map

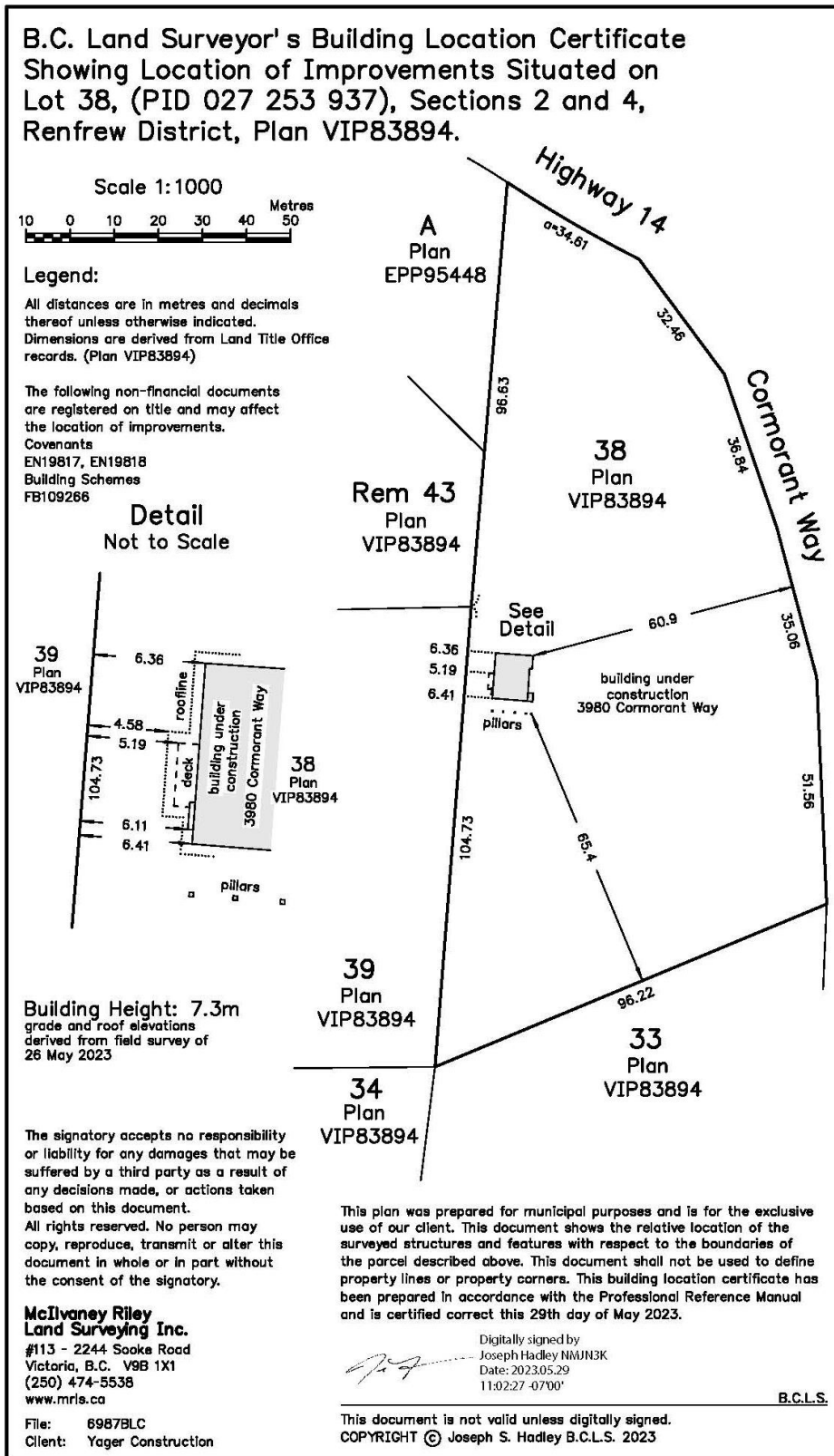






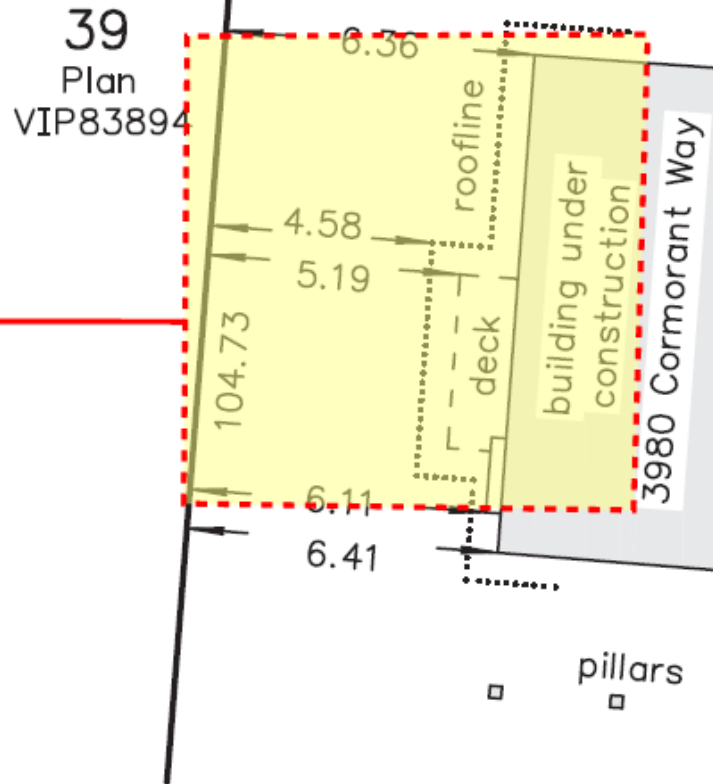


Appendix C: BCLS Foundation Location Certificate and Detail



Variance request to relax the side yard setback requirement from 6 m to 5 m

Existing roofline projection would meet regulations.



**Building Height: 7.3m**  
grade and roof elevations  
derived from field survey of  
26 May 2023

Appendix D: Statement of Hardship



**Date:** July 10<sup>th</sup>, 2023

**Address:** 3680 Cormorant Way

**Legal description:** Lot 38 Section 2 & 4 Renfrew District Plan VIP83894

**Subject: Statement of Hardship – Board of Variance Application**

Dear Sir,

Thanks for considering this application for Board of variance under BP008732.

The purpose of this application is to get approval from the board to reduce the side setback of the dwelling under zoning RR-2A, Bylaw no. 2040.

The dwelling was moved to the left side because of the steep drop on the other side at the time of laying the foundations and excavation. Currently, that right side has been backfilled to reduce the steep.

The current roof line on site is 4.58 and the deck is 5.19, so we are hereby requesting a relaxation from 6m to 5m for the dwelling and from 5m to 4 m for the projection.

Attached are some photos taken from the site showing the left and right sides of the house with marked roof line that needs an approval for variance from the Board.

Thanks,

A handwritten signature in blue ink, appearing to read "Ibraheem Ibraheem", written over a horizontal blue line.

Ibraheem Ibraheem – Authorized Agent/Applicant  
Yager Construction



