



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 21, 2015**

SUBJECT Development Variance Permit For Strata Lot 10, Section 76, Renfrew District, Plan VIS4766 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1

ISSUE

A request has been made for a development variance permit (VA000133) to relax the side yard setback requirement for a principal building in the Forestry (AF) zone from 15 m to 10 m for the purpose of constructing an addition to the existing dwelling.

BACKGROUND

The 1.01 ha property is located at 2900 Fishboat Bay Road in Shirley and is zoned Forestry (AF) in the Juan de Fuca Land Use Bylaw, Bylaw No. 2040 (Appendix A). The property fronts onto Fishboat Bay Road to the north, AF properties to the east and west, and the Strait of Juan de Fuca to the south. There is an existing house to the east and a house under construction to the west; both residences previously received side yard setback variances.

A new dwelling was constructed on the subject property in 2010 in compliance with the AF regulations. This dwelling replaced an older residence that had received approval from the Board of Variance to be located within the western side yard setback (BVJ-07-00). A subsequent variance was granted for construction of an over-height accessory building within the eastern side yard setback (BVJ-09-01). The applicant is now proposing to construct an addition to the existing dwelling as noted on the site plan and building plans (Appendices B and C) and is requesting a development variance permit to relax the west side yard setback from 15 m to 10 m.

The property is subject to a Foreshore and Marine Shoreline Development Permit Area and Floodplain specifications; however, all development proposed is outside the 15 m setback.

ALTERNATIVES

That the Land Use Committee recommends to the CRD Board:

1. That Development Variance Permit VA000133 for Strata Lot 10, Section 76, Renfrew District, Plan VIS4766, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1, to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.07, to relax the western side yard setback for the principal dwelling from 15 m to 10 m for the purpose of constructing an addition to the dwelling as shown on the attached site plan and building plans (Appendices B and C), be approved.
2. That the development variance permit be denied and require the proposed addition to comply with zoning requirements.
3. That the application be referred back to staff for more information.

LEGISLATIVE IMPLICATIONS

Juan de Fuca Land Use Bylaw, Bylaw No. 2040, in Section 3.07 specifies the front, side, rear and flanking yard requirements for all principal structures be a minimum of 15 m. A development variance permit is required in order to allow the proposed addition to be constructed 10 m from the western side parcel boundary.

PUBLIC CONSULTATION IMPLICATIONS

Pursuant to the *Local Government Act*, Section 922(4), if a local government is proposing to pass a resolution to issue a development variance permit it must give notice to each resident/tenant within a given distance as specified by bylaw. Capital Regional District Bylaw No. 3110, Fees and Procedures Bylaw, states that the Board at any time may refer an application to an agency or organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 metres. Any responses received from the public will be presented at the July 21, 2015 Land Use Committee meeting.

LAND USE IMPLICATIONS

The existing 142.5 m² dwelling was constructed in 2010 in accordance with the Forestry (AF) regulations. The proposed addition includes a 64.8 m² double garage with expanded second-storey living space above plus an 11.2 m² exterior deck. The proposed addition conforms to the height requirements and to the front, rear and east side yard requirements for the AF zone; however, the applicants are requesting a development variance permit for the structure to encroach into the 15 m western side yard setback.

There is a covenant on title requiring geotechnical engineering to confirm building sites are safe for the use intended. This will be required as part of the building permit process. The proposed addition complies with covenants on title respecting floodplain setbacks and elevations. As the strata lots share a common septic field, approval from the strata will be required for the building permit. The applicant is also aware there is a building scheme registered on title which is an agreement between the owners and developer of the lots.

The property was created through bareland strata with lot averaging. Therefore, although the AF zone has a minimum parcel size of 4 ha for subdivision, the subject property is 1.01 ha in size and is long and narrow. The parcel frontage is 52.3 m along Fishboat Bay Road and 52.64 m along the waterfront south of the proposed dwelling. There is a limited building envelope available to situate a house towards the waterfront. Adjacent properties have also received variances due to the limitations of the narrow property and setback requirements.

The adjacent parcel to the west, Lot 9, received a variance to relax the eastern side yard setback to 13 m and the western side yard setback to 10 m for the construction of a new dwelling in 2014 (VAR-04-14). The adjacent parcel to the east, Lot 11, also received Board of Variance approval to relax the eastern side yard setback to 7.69 m and the western side yard setback to 11.47 m for the construction of a dwelling in 2000 (BVJ-10-00). While the AF zone establishes a 15 m side yard setback, it should be noted that many rural residential zones in Bylaw No. 2040 require 6 m for properties of a similar size.

Due to existing vegetation and slope, the proposed addition will not be visible from the road and the impact of the proposed addition on the rural character of the neighbourhood is expected to be minimal; however, as the impact will be largely on adjacent properties, staff recommends approval of the variance subject to public notification and consideration of comments from neighbouring residents.

CONCLUSION

The applicant has requested a variance to relax the side yard setback requirement from 15 m to 10 m for a 64.8 m² addition to the dwelling plus 11.2 m² exterior deck. The property is narrow with limited opportunity for expansion of the existing house. However, as the proposed addition is expected to have minimal impact on the neighbourhood, staff recommends approval of the variance request subject to public notification.

RECOMMENDATION

That the Land Use Committee recommends to the CRD Board:

That Development Variance Permit VA000133 for Strata Lot 10, Section 76, Renfrew District, Plan VIS4766, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1, to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.07, to relax the western side yard setback for a principal building from 15 m to 10 m for the purpose of constructing an addition to the dwelling as shown on the attached site plan and building plans (Appendices B and C), be approved.

Submitted by:	Emma Taylor, MCIP, RPP, Planner
Concurrence:	June Klassen, MCIP, RPP, Manager Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

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Appendices:

- A. Subject Property Map
- B. Site Plan
- C. Building Plans

Appendix A: Subject Property Map





