

JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Monday, **April 12, 2021 at 6:00 pm**

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 March 8, 2021
4. Planner's Report
5. Application
 - a) BV000475 - Lot B, Sections 7 and 118, Otter District, Plan VIP51493 (4527 Otter Point Road)
6. Adjournment

Please note that during the COVID-19 situation, the public may attend the meeting electronically through video or teleconference. Should you wish to attend, please contact us by email at jdfinfo@crd.bc.ca so that staff may forward meeting details. Written submissions continue to be accepted.



Making a difference...together

Minutes of a Meeting of the Juan de Fuca Board of Variance
Held Monday, March 8, 2021, at the Juan de Fuca Local Area Services Building,
#3 – 7450 Butler Road, Otter Point, BC

PRESENT: Paul Clarkston (Chair), Brad Fitchett, Axel Joosting (EP)
Staff: Regina Robinson, Planning Assistant/Acting Secretary to the Board of Variance (EP); Wendy Miller, Recorder (EP)
PUBLIC: Approximately 4 EP

EP – Electronic Participation

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

No supplementary items.

3. Adoption of the Minutes of January 20, 2021

MOVED by Axel Joosting, **SECONDED** by Paul Clarkson that the minutes of January 20, 2021, be adopted.

CARRIED

4. Planner's Report

No report.

5. Applications

a) BV000473 - Lot 121, Section 95, Renfrew District, Plan 26054 (2825 Denewood Place)

Regina Robinson outlined the staff report and advised that the applicant is requesting relief from the Board of Variance (BOV) by increasing the maximum combined total floor area allowance for accessory buildings and structures from 100 m² to 186 m² on a lot with an area of more than 2,000 m² and less than 5,000 m², for the purpose of constructing a detached accessory suite and garage.

Regina Robinson highlighted photos showing the location of existing outbuildings on the subject property, as well as the site plan for the proposed detached accessory suite and garage. It was reported that an unauthorized outbuilding, approximately 18 m² in size, will be removed to allow the new building to be constructed in the same location.

Karen and Noel Wickham, Shirley, stated:

- they own a property directly adjacent to the subject property
- the trees on their property are mature, providing a thick vegetative canopy
- the mature trees do not provide ground level screening from the subject property
- the proposed new building will have a direct view of the house on their property
- there is a stream between their property and the subject property
- not fully opposed to the application

- concerned for the stream
- support for the applicant mitigating privacy concerns

The Chair confirmed that the applicant was not present.

A BOV member stated that he viewed the subject property from the road. The concerns expressed by the adjacent property owners are not visible from the road.

BOV comments included:

- the subject property is 0.49 ha
- parcels less than 0.5 ha are permitted a maximum combined floor area of all accessory buildings of 100 m²
- parcels greater than 0.5 ha are permitted a floor area of 250 m²
- a variance would not be required if the property was 0.5 ha

Regina Robinson highlighted an aerial image of the subject property and adjacent properties.

Regina Robinson reported that:

- a stream was not indicated on the site plan submitted with the application nor identified when staff visited the subject property
- the mapping/aerial images did not indicate the presence of a stream or designated Development Permit Areas

MOVED by Axel Joosting , **SECONDED** by Brad Fitchett that having considered the 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 of Bylaw No. 2040 were complied with, that application BV000473 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary Bylaw No. 2040, Part 1, Section 4.01 by increasing the maximum combined total floor area allowance for accessory buildings and structures from 100 m² to 186 m² on a lot with an area of more than 2,000 m² and less than 5,000 m², on Lot 121, Section 95, Renfrew District, Plan 26054, for a proposed 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) BV000474 - Parcel "D" (DD 75728I), Sections 9, 12, and 133, Sooke District (6728 East Sooke Road)

Regina Robinson outlined the staff report and advised that the applicant is requesting relief from the BOV by reducing the side yard setback requirement for farm buildings from 15 m to 3 m for the purpose of constructing a barn.

Regina Robinson highlighted the subject property map and concept plan and reported that:

- the applicants propose to build a 87.8 m² barn in a previously cleared area, outside, but adjacent to a Steep Slope Development Permit Area
- the total maximum floor area for accessory buildings and structures is not considered for this request since the barn will be a principal building used for farm purposes within in the Agricultural (AG) zone

- letters of support from adjacent property owners were submitted at the time of application intake

The Chair confirmed that the applicant was present.

The applicant responded to questions from the BOV, reporting that:

- the barn will be used for storage of farm implements
- livestock is run on the adjacent AG zoned properties

BOV comments included:

- the subject property is narrow
- building sites are limited
- building will be sited in a previously cleared area

MOVED by Brad Fitchett, **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 4.08 (b) of Bylaw No. 2040 were complied with, that application BV000474 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 4.08 (b) by reducing the required side yard setback for farm buildings from 15 m to 3 m on Parcel "D" (DD 75728I), Sections 9, 12, and 133, Sooke District, for a proposed barn, 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 6:23 pm.

P. Clarkston, Chair

**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF APRIL 12, 2021**

File No: BV000475
Location: 4527 Otter Point Road
Legal: Lot B, Sections 7 and 118, Otter District, Plan VIP51493
Zoning: Agricultural (AG) – JdF Land Use Bylaw No. 2040
Land Use Designation: Rural (RUR)/Agricultural (ALR) – Otter Point OCP Bylaw No. 3819
Adjacent Uses: N – AG parcel S – AG parcel
W – AG parcel E – Otter Point Road

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 front yard setback requirement for accessory buildings from 15 m to 8.43 m for the purpose of constructing a studio.

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

Background:

The 3.42 ha property is located at 4527 Otter Point Road, is in the Agricultural Land Reserve (ALR), and is zoned Agricultural (AG) in the Juan de Fuca Land Use Bylaw No. 2040 (Appendix A). Portions of the property are designated as Steep Slopes, and Riparian Development Permit Areas in the Otter Point Official Community Plan, Bylaw No. 3819.

Structures on the property include an existing single family dwelling (38828), a chicken coop (44293), and barn (SK96-232) constructed with valid building permits. The site plan also shows the driveway, two septic fields, and several smaller accessory structures on the property (Appendix B). Improvements are generally located adjacent to the road on the eastern portion of the parcel; the steep slopes and riparian areas are located on the western rear boundary of the lot.

Variance Request:

Bylaw No. 2040, Section 4.01(d) –Accessory Building and Structures– specifies that, “No accessory building shall be located closer to the front lot line than the principal building, except that where the distance between the principal building and the front lot line is greater than 15 m, the accessory building shall be not less than 15 m from the front lot line.”

The owners propose to build a 55.74 m² accessory studio roughly between the barn and dwelling to the east of the driveway (Appendix C). Since the structure is proposed to be located within the required 15 m front yard setback specified by the Accessory Buildings and Structures regulations, a variance to reduce the front yard setback for an accessory building from 15 m to 8.43 m. is being requested.

The stated hardship provided by the applicants is that the chosen location of the studio is the rockiest and least usable site on the parcel with the aim to retain as much land for farm uses as possible; the septic field also required substantially more room than anticipated due to the rocky terrain (Appendix D).

If conversion of this structure to a detached accessory suite was to be considered in the future, an Agricultural Land Commission (ALC) application for a *non-adhering residential use* would be required. However, since the building is proposed to be constructed without kitchen facilities, the studio complies with ALC regulations.

Staff are of the opinion that the proposal is considered appropriate for the site and complies with the requirements of the AG zone. The development is not expected to adversely affect the natural environment and it will be located to avoid usable farm 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 April 12, 2021 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) of the *LGA*, an order granting a minor variance may be permitted.

OUTLINE MOTION

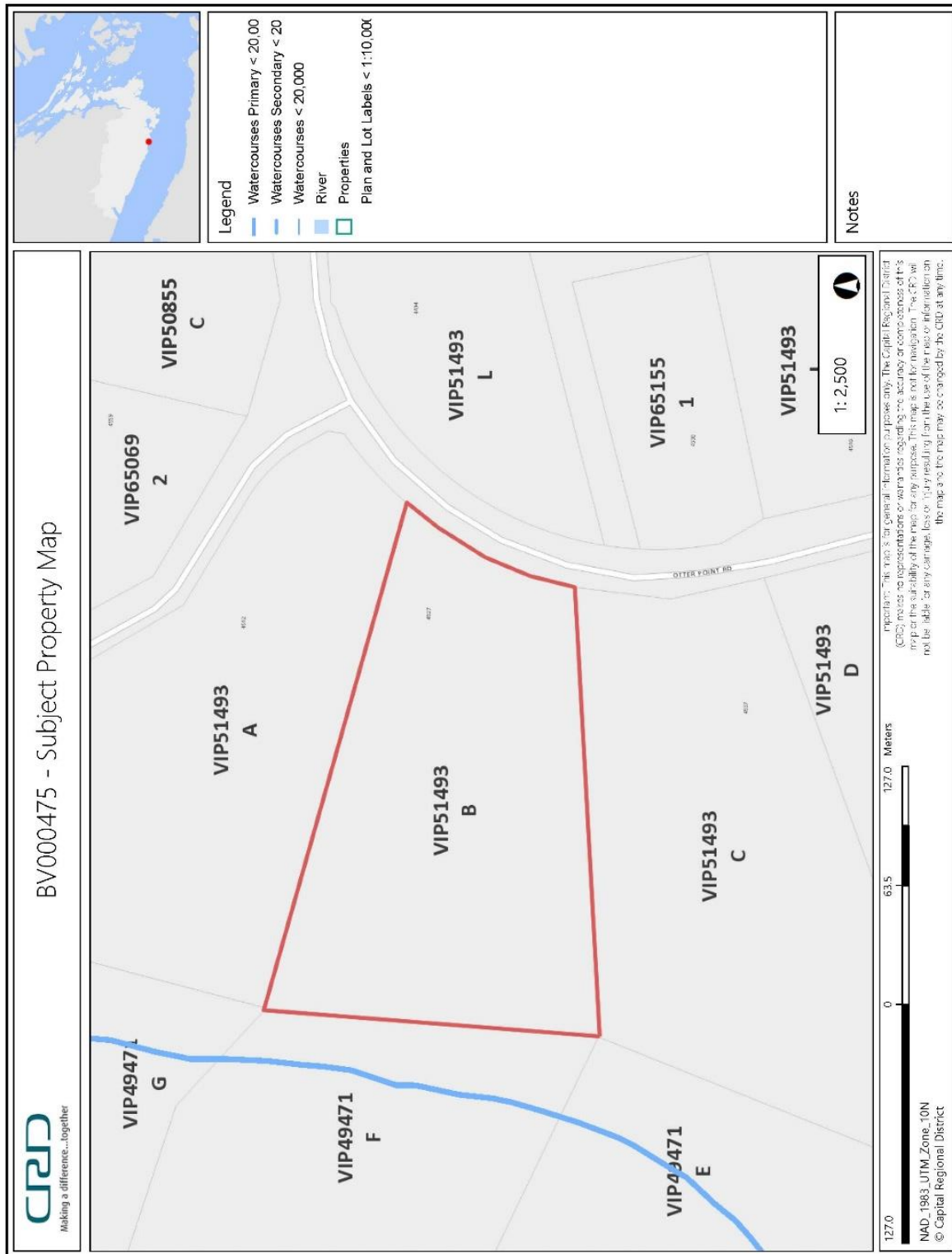
Having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship **<would/would not>** be caused to the applicant if Part 2, Section 4.01 (d) of Bylaw No. 2040 were complied with, that application BV000475 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary Bylaw No. 2040, Part 2, Section 4.01(d) by reducing the required front yard setback for accessory buildings from 15 m to 8.43 m on Lot B, Sections 7 and 118, Otter District, Plan VIP51493, for a proposed studio, 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

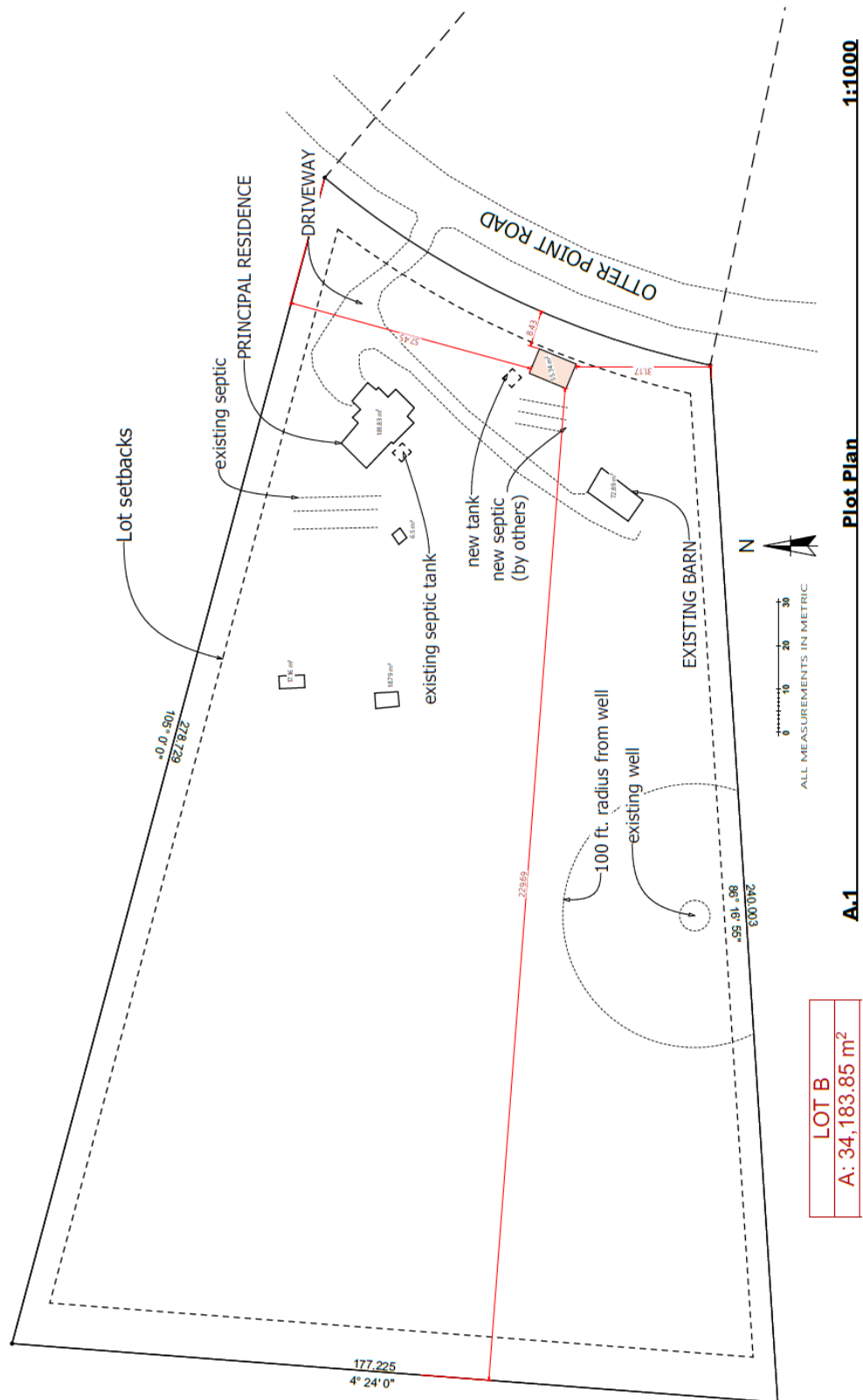
ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Site Plan
Appendix C: Building Plans and Elevations
Appendix D: Hardship Statement from Applicant

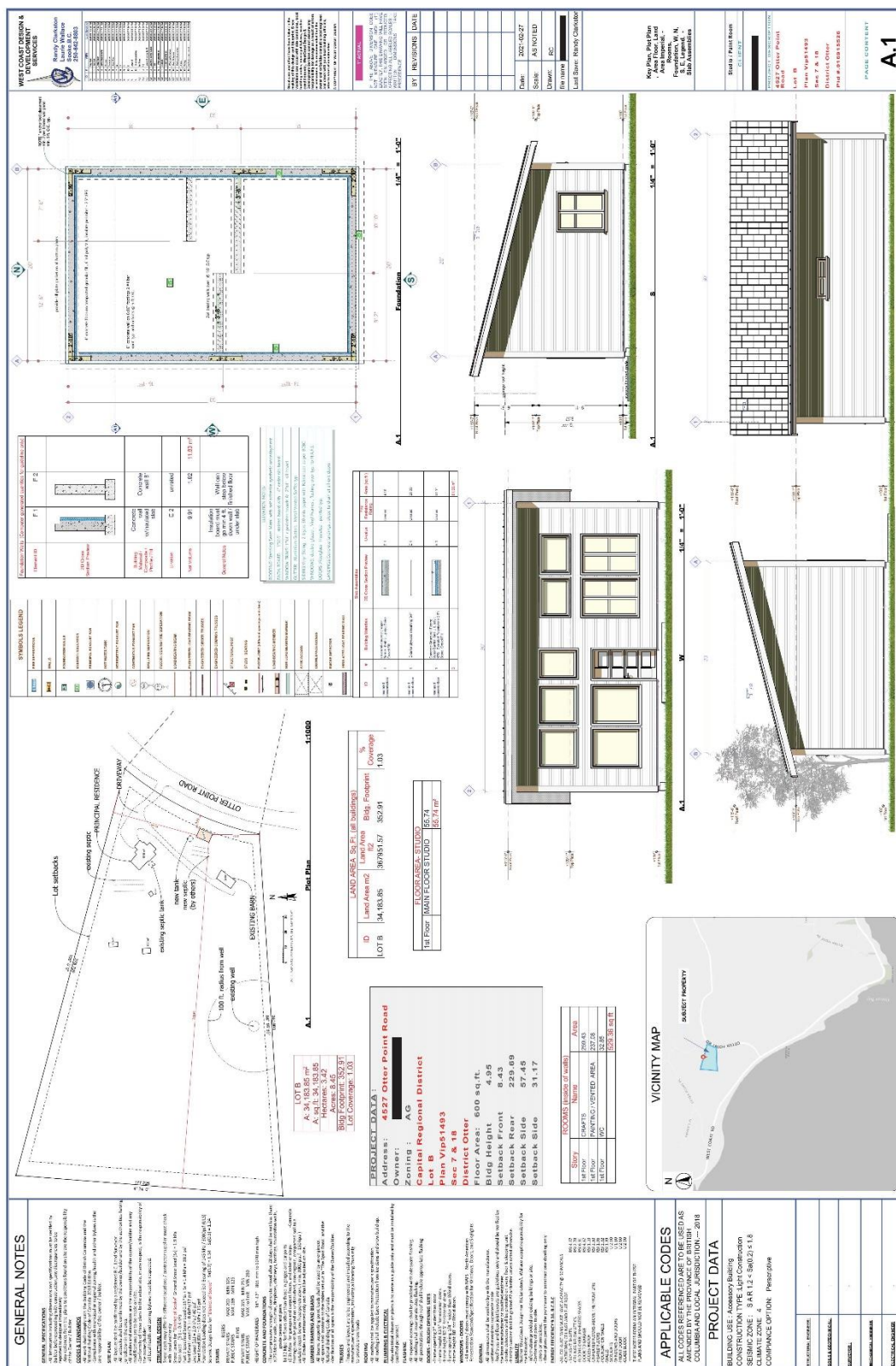
Appendix A: Subject Property Map

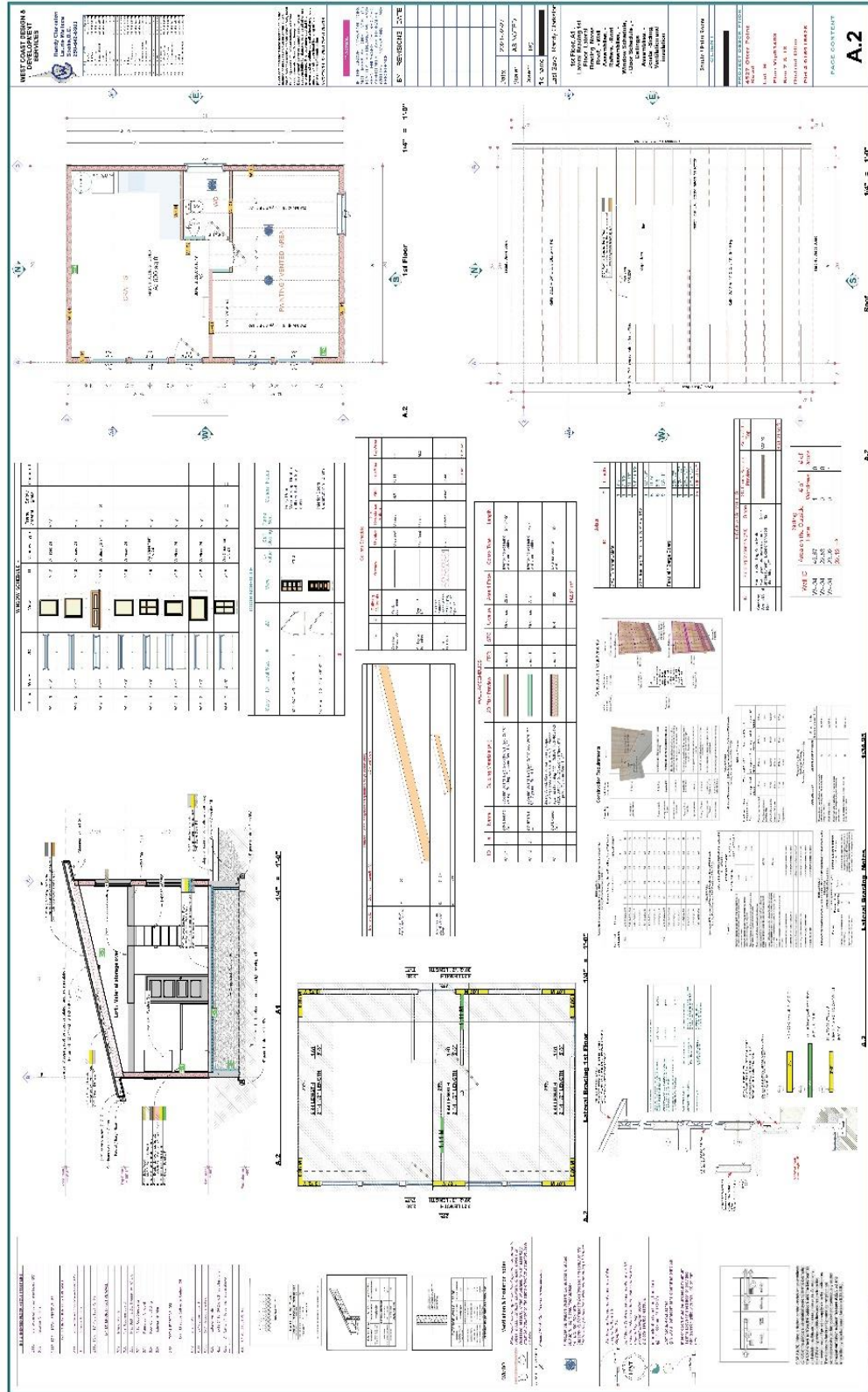


Appendix B: Site Plan



Appendix C: Building Plans and Elevations





Appendix D: Hardship Letter from Applicant

From: [REDACTED]
Sent: Wednesday, March 17, 2021 8:38 AM
To: Regina Robinson <rrobinson@crd.bc.ca>
Subject: Re: CRD Board of Variance Application File BV000475 (4527 Otter Point Rd)

Hi Regina. Here is our hardship letter. Thanks.

When we first started this project, the area seemed more than large enough for a septic field and a small studio and still allow for a 15m distance from the front property line. However, there was a significant amount of rock and scrub so that by the time the excavator had cleared the area and begun putting in the septic field lines, it turned out that the lines needed to angle towards the front property line instead of parallel to it. Unfortunately, this left us with only being able to have a 9m clearance from the road.

The proposed building site is shielded from the front of the property by a very tall, thick hedge, standing about 25 feet. It is not visible from the road. In addition we are a small farm, fully fenced, with sheep, pigs, chickens and horses. So while it might seem that a 9 acre piece of land would have other potential building sites, that is not the case. The one we chose was the one area furthest away from the fields and animals. It is also the rockiest and least usable site on the property. It was shaping up to be the ideal location for a small studio until the angle of the septic lines encroached on the building site.

To not be able to move forward would negate 2 years of hard work and result in significant expense to no end. Given this and the fact that the building will not be visible from the road and further given that this site is the best area in terms of the continued operation of our farm, we hope that a variance will be granted. Thanks for your consideration.

[REDACTED]