

JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Wednesday, **March 16, 2022, at 6:00 pm**

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

AGENDA

1. Election of Chair
2. Approval of Agenda
3. Approval of the Supplementary Agenda
4. Adoption of Minutes of November 3, 2021
5. Planner's Report
6. Application
 - a) BV000487 - Lot D, Sections 7, 8, and 18, Otter District, Plan 49471 (4684/4686 Otter Point Place)
7. Adjournment

PLEASE NOTE: During the COVID-19 situation, the public may attend the meeting in-person or electronically through video or teleconference. Should you wish to attend the meeting in-person, please contact the Juan de Fuca Community Planning Office at 250.642.8100 or by email at jdfinfo@crd.bc.ca. Should you wish to attend electronically, please contact us by email at jdfinfo@crd.bc.ca so that staff may forward meeting details. Written submissions continue to be accepted until 4:00 pm the day before the meeting.



Making a difference...together

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

PRESENT: Axel Joosting, Acting Chair (EP), Brad Fitchett
Staff: Regina Robinson, Planning Assistant/Acting Secretary to the Board of Variance (EP); Wendy Miller, Recorder (EP)
ABSENT: Paul Clarkston
PUBLIC: 3 EP

EP – Electronic Participation

The meeting was called to order at 6:01 pm.

1. Approval of the Agenda

MOVED by Brad Fitchett, **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 July 21, 2021

MOVED by Brad Fitchett, **SECONDED** by Axel Joosting that the minutes of July 21, 2021, be adopted.

CARRIED

4. Planner's Report

No report.

5. Applications

a) BV000483 - Strata Lot 24, Section 31, Otter District, Strata Plan 1239 (24-7871 West Coast Road)

Regina Robinson outlined the staff report and advised that the applicant is requesting relief from the BOV by reducing the required side yard setback from 1.5 m to 1.22 m and the rear yard setback from 1.5 m to 0.61 m on Strata Lot 24, Section 31, Otter District, Strata Plan 1239, for the purpose of authorizing construction of a deck. It was advised that the staff report incorrectly notes that the 0.61 m setback reduction is on the west side not on the south side.

Regina Robinson highlighted the subject property and site photos and reported that the site plans submitted as part of the building permit application (BP007203) showed that the recently repaired and expanded deck does not meet side and rear yard setbacks.

Regina Robinson directed attention to the applicant's hardship statement as included in the staff report and confirmed that no comments were received in response to the notice of intent mailed to the owners and occupiers of land within 50 m of the subject property. It was further confirmed that the Ministry of Transportation and Infrastructure has stated no concern with the deck being within 4.5 m of an undeveloped designated road right of way beyond the rear lot line to the south.

The Acting Chair confirmed that the applicant was present.

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 Section 4.9(3) of CRD Mobile Home Parks Bylaw No. 377, was complied with, that application BV000483 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. 377, 4.9(3) by reducing the required side yard setback from 1.5 m to 1.22 m and the rear yard setback from 1.5 m to 0.61 m on Strata Lot 24, Section 31, Otter District, Strata Plan 1239, for the purpose of authorizing construction of a deck, 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) BV000485 - Lot B, Sections 7 and 118, Otter District, Plan VIP51493 (4527 Otter Point Road)

Regina Robinson outlined the staff report and advised that the applicant is requesting relief from the Board of Variance by reducing the required front yard setback for accessory buildings from 15 m to 6.6 m for the purpose of authorizing the completion of a studio that does not conform with the siting requirements for accessory buildings and structures.

Regina Robinson highlighted the subject property, site plan, foundation survey and site photos. It was advised that the BOV recently approved a variance request for the studio (BV000475); however, the foundation survey required as part of the building permit process confirmed that a further variance was required.

Regina Robinson directed attention to the applicant's hardship statement as included in the staff report and confirmed that no comments were received in response to the notice of intent mailed to the owners and occupiers of land within 50 m of the subject property.

The Acting Chair confirmed that the applicant was present.

A BOV member stated that he viewed the property from the road. The structure will be sited adjacent to the road and will be shielded by a hedge.

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 4.01(d) of Bylaw No. 2040 were complied with, that application BV000485 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 4.01(d) by reducing the required front yard setback for accessory buildings from 15 m to 6.6 m on Lot B, Sections 7 and 118, Otter District, Plan VIP51493, for a proposed studio, 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 6:12 pm.

A. Joosting, Acting Chair



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF MARCH 16, 2022**

File No: BV000487
Location: 4684/4686 Otter Point Place
Legal: Lot D, Sections 7, 8, and 18, Otter District, Plan 49471
Zoning: Agricultural (AG) – Bylaw No. 2040
Land Use Designation: Rural/ALR – Otter Point Official Community Plan – Bylaw No. 3819
Adjacent Uses: N – Otter Point Place S – AG zone/ALR
W – AG zone/ALR E – AG zone/ALR

REQUESTED VARIANCE

The applicant is requesting relief from the Board of Variance in accordance with Section 540(a) of the *Local Government Act (LGA)* to relieve hardship resulting from the requirement that the maximum floor area for a secondary suite not exceed 90 m² in order to permit the conversion of a two-family dwelling (duplex) to a single-family dwelling containing a 130 m² secondary suite.

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 3.6 ha property is located at 4684/4686 Otter Point Place and is zoned Agricultural (AG) in the Juan de Fuca Land Use Bylaw No. 2040. The entire parcel is located within the Agricultural Land Reserve (ALR) (Appendix A). No development permit areas are designated on the parcel by the Otter Point Official Community Plan, Bylaw No. 3819.

Building Permit #40709 was issued in 1993 for the construction of a two-family dwelling and the structure was granted final occupancy in July 2000. The Planning division at that time considered the use and siting approval under the Rural (A) zone instead of the Agricultural (AG) zone (Appendix B). An accessory building (barn) was constructed in 2011 under Building Permit #JD-08-145. A number of smaller outbuildings are also located on the parcel.

The owners wish to construct an additional dwelling on the lot (Appendix C). The AG zone allows for additional dwellings subject to approval of the Agricultural Land Commission (ALC) as specified by Bylaw No. 2040, Part 1, Section 4.03. On December 31, 2021, changes to Part 4 of the ALR Use Regulation came into effect to allow for increased residential flexibility. The local government can now approve an additional dwelling on parcels designated as ALR without an application to the ALC under specific circumstances. The ALR Use Regulation states that on a property less than 40 ha, where there is a primary residence of 500 m² or less, one additional residence up to 90 m² may now be permitted subject to local government bylaws and filing of a Notice of Intent to place or remove soil and fill with the ALC.

The proposal cannot be considered under the current configuration since ALC regulations specify a maximum of two dwellings on a parcel of this size. For construction of an additional dwelling to be considered under local government bylaws, the two-family dwelling requires conversion into a single family dwelling with secondary suite.

Variance Request:

The applicant has provided as-built building plans that indicate the floor area of the proposed suite will be approximately 126 m² (Appendix D), and has requested a minor variance to increase the allowable floor area of a suite from 90 m² to 130 m². The applicant claims it would be a hardship to modify the suite to meet size requirements and notes that the structure has always been used as a single-family dwelling despite the two-family designation. Two letters were provided by the applicant outlining the rationale for the variance request (Appendix E). Floor area of the suite should be confirmed prior to the issuance of the change in use permit by the Building Division for the secondary suite.

The proposal is not expected to adversely affect the natural environment; in addition, the siting of the additional dwelling was chosen to minimize impact to lands used for agricultural purposes. The variance is not anticipated to substantially alter the use and enjoyment of adjacent land so long as the height and siting requirements outlined in the AG zone are adhered to. Juan de Fuca Land Use Bylaw No. 2040, designates a secondary suite as accessory to the single family dwelling it is contained in. The use and configuration of the existing structure would meet all other requirements of the AG zone and secondary suite regulations.

In accordance with 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 March 16, 2022 Board of Variance meeting. 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

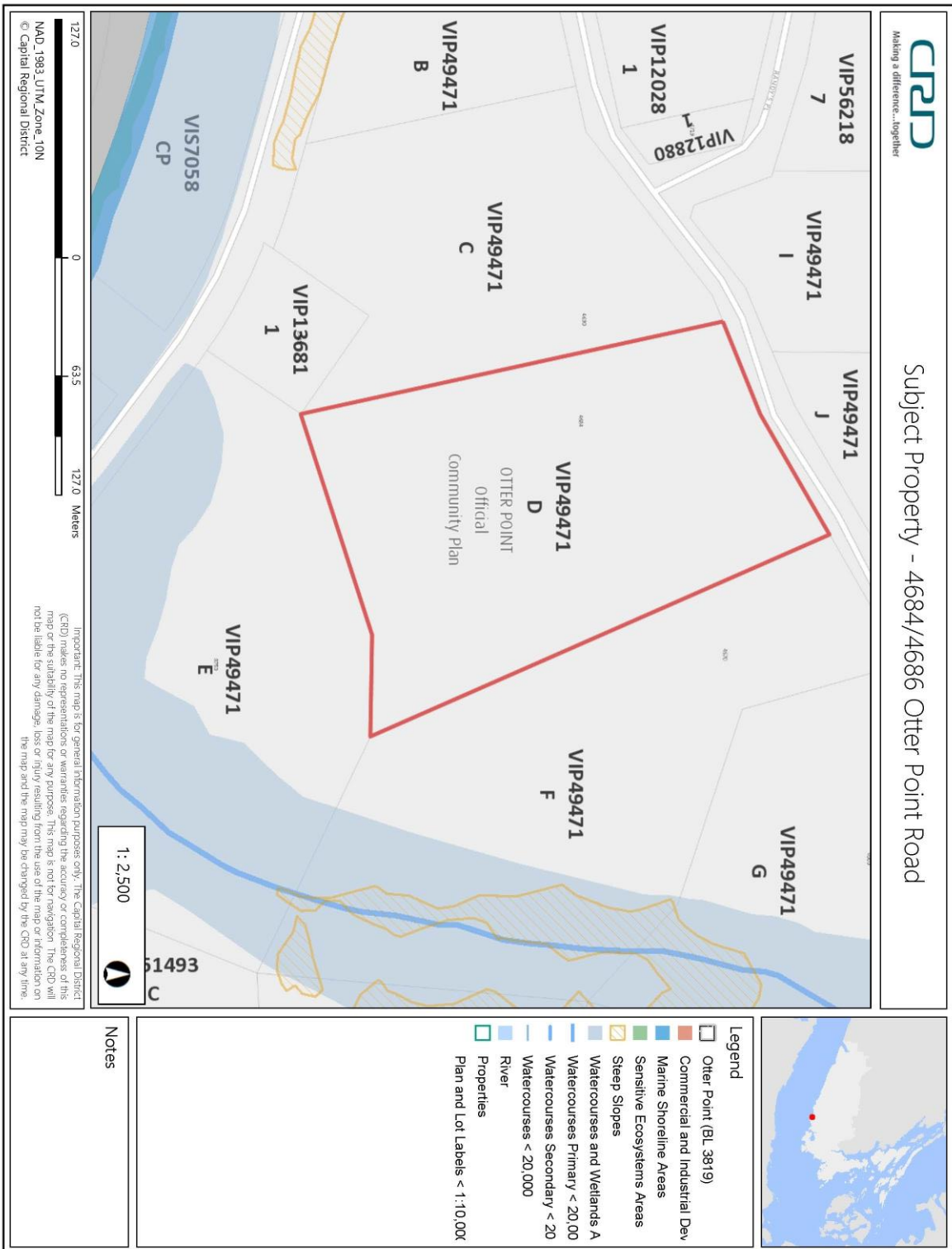
Having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship **<would/would not>** be caused to the applicant if Part 1, Section 4.19(1)(d) of Bylaw No. 2040 was complied with, application BV000487, requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary Part 1, Section 4.19(1)(d) of Bylaw No. 2040, by increasing the maximum floor area permitted for secondary suites from 90 m² to 130 m², on Lot D, Sections 7, 8, and 18, Otter District, Plan 49471, to permit the conversion of an existing two-family dwelling into a single family dwelling with secondary suite is **<approved/denied>** subject to the internal floor area of the suite being confirmed by survey prior to the issuance of a building permit for the additional dwelling.

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

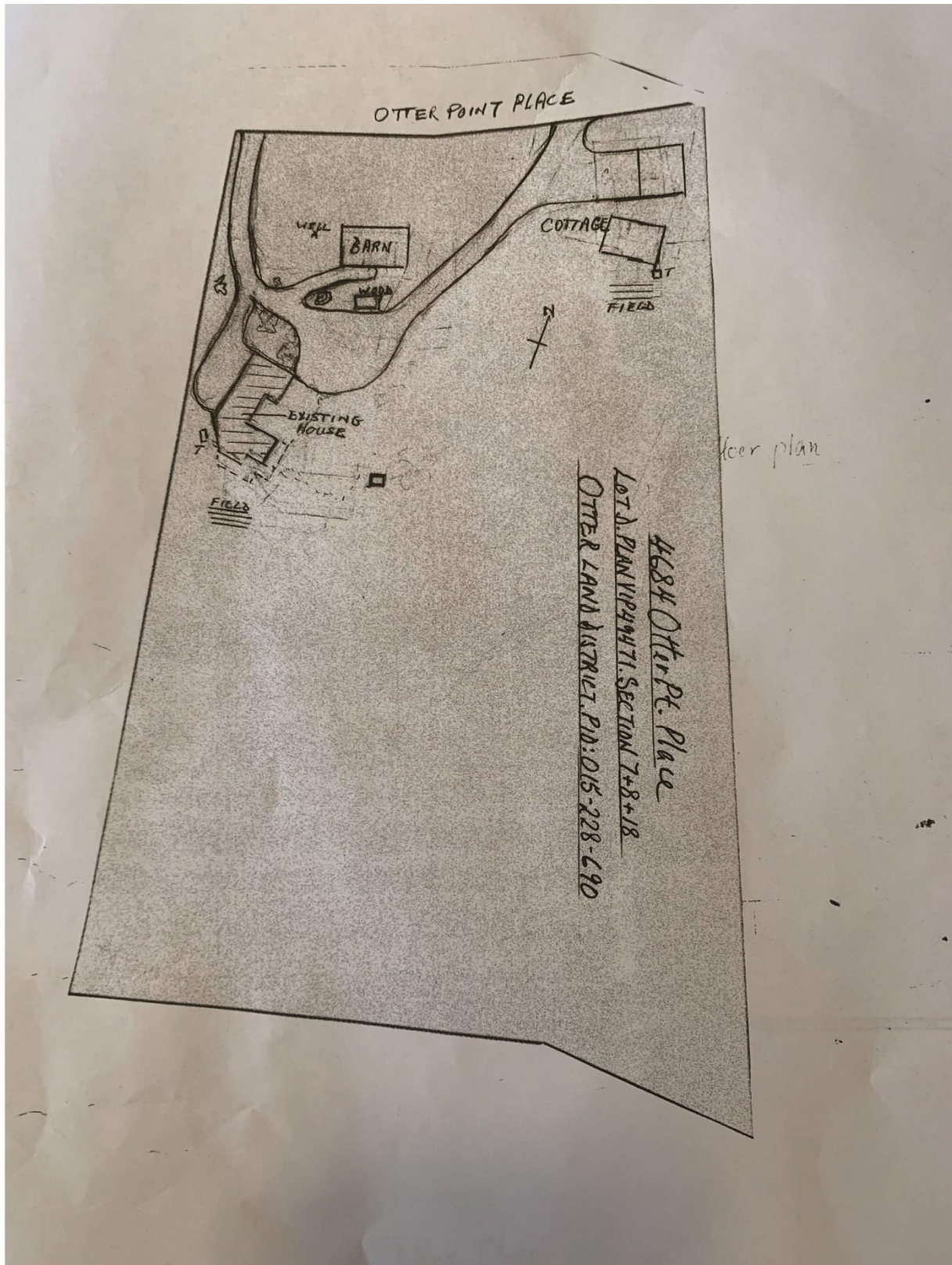
ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Site Plan from Building Permit
Appendix C: Proposed Site Plan
Appendix D: As-Built Building Plans
Appendix E: Hardship Statement Letters

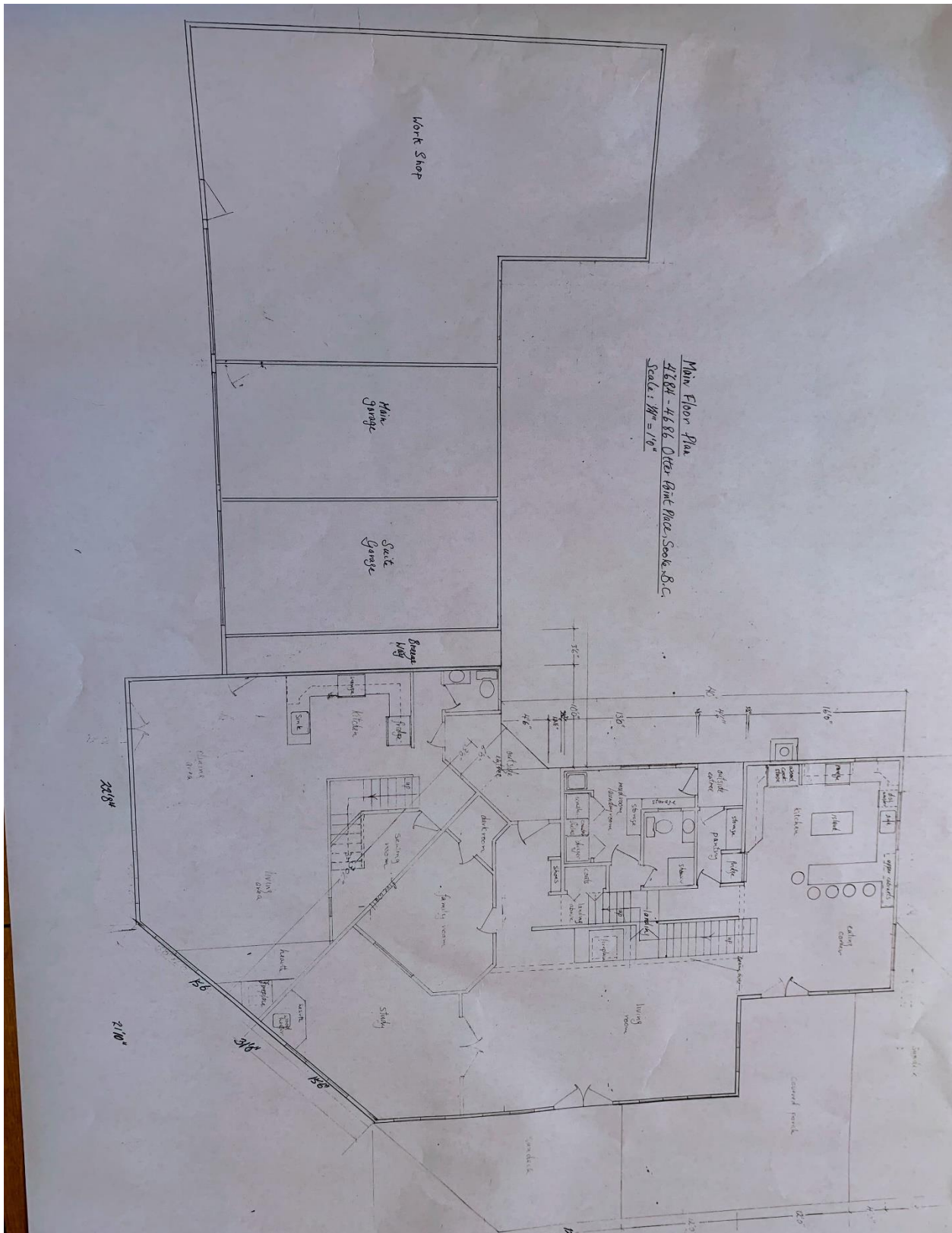
Appendix A: Subject Property Map

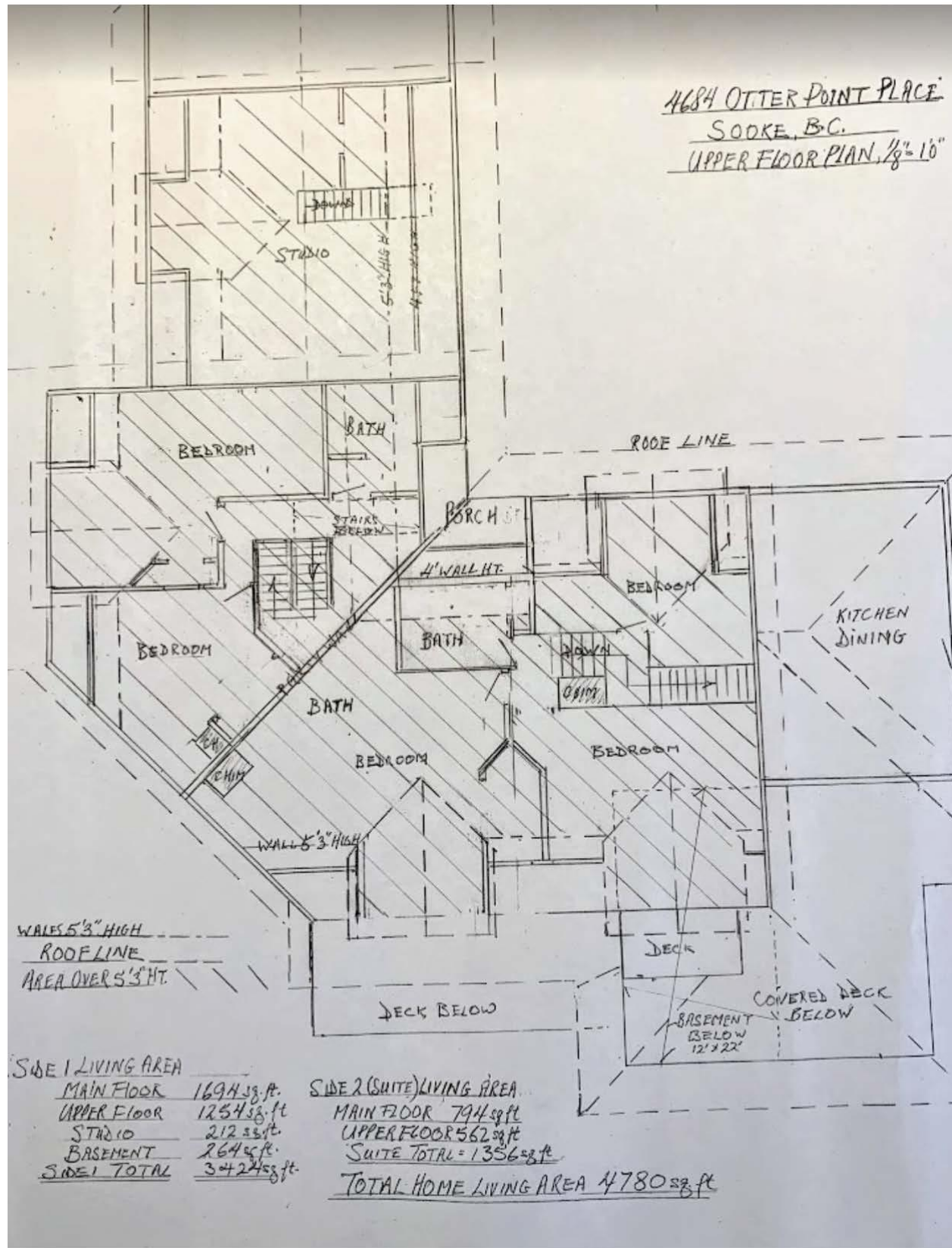


Appendix C: Proposed Site Plan



Appendix D: As-Built Building Plans





Appendix E: Hardship Statement Letters

January 14th, 2022

To the Members of the Board of Variance Committee:

The purpose of this letter is to explain the reason for asking for a variance to the zoning bylaw in regards to the suite in our home.

We have resided in our home since we built it in 1993. At the time we built it as a legal duplex but it has always been occupied solely by us as a family home. Our property is zoned ALR and we have cleared our land and farmed it for the last two decades. Within our home the legal suite exceeds the current zoning regulation size in order to build a second dwelling for our son and daughter in law, [REDACTED]. They are enthusiastic to become a part of the farm and help us continue and hopefully expand the farm during our later years.

To attempt to reduce the area of the suite at this time would be extremely difficult and very expensive. We are therefore hoping you will allow us to re-zone our home to a single family dwelling with a suite which exceeds the current requirements. This would allow us to build our children's home and continue to live here. We would love to be able to remain here and be part of this wonderful community in the future with the help of our children and create a bright future for all of us while contributing to the enhancement of agriculture in our area.

Yours sincerely,

[REDACTED]
4684 Otter Point Place
Sooke, BC
V9Z 0K6
[REDACTED]

To Whom It May Concern,

My name is [REDACTED] and I am writing on behalf of myself and my partner regarding our desire to build a home on my parent's property in Sooke.

We would like to express how strongly we feel about moving to assist with, and eventually take over, the maintenance and running of the farm. My parents are approaching retirement and we are keen to be on hand to take on more of the physical labour and reduce the burden on them. Additionally, we hope to expand the farm's output and capacity, which would require more time and energy in the coming years. As these goals would be greatly facilitated by our living on the property, we are hoping that this application for a variance is approved. If there is anything we can do to assist in this effort, please don't hesitate to reach out to us.

Thank you for your time,

[REDACTED]

[REDACTED]