

JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Tuesday, **May 2, 2023, 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 1, 2023
4. Planner's Report
5. Application
 - a) BV000493 - Lot 23, Section 42, Highland District, Plan VIP8166 Except Plan VIP78117 (7272 Mark Lane)
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 so that staff may forward meeting details.

**Minutes of a Meeting of the Juan de Fuca Board of Variance
Held Wednesday, March 1, 2023, at the Juan de Fuca Local Area Services Building,
#3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Paul Clarkston (Chair), Axel Joosting (EP)
Staff: Iain Lawrence, Senior Manager, JdF Local Area Services;
Wendy Miller, Recorder
ABSENT: Brad Fitchett
PUBLIC: 4

EP – Electronic Participation

The meeting was called to order at 6:00 pm.

1. Election of Chair

Noting that two members were present and that the person presiding at the meeting cannot attend electronically, Paul Clarkston agreed to be Chair of the Juan de Fuca Board of Variance for 2023.

2. Approval of the Agenda

MOVED by Paul Clarkston, **SECONDED** by Alex Joosting that the agenda be approved.

CARRIED

3. Approval of the Supplementary Agenda

No supplementary items.

4. Adoption of the Minutes of November 14, 2022

MOVED by Axel Joosting, **SECONDED** by Paul Clarkston that the minutes of November 14, 2022, be adopted.

CARRIED

5. Planner's Report

No report.

6. Applications

a) BV000491 - Lot B, Section 8, Otter District, Plan VIP25212 (8970 West Coast Road)

Iain Lawrence outlined the staff report and advised that the applicant has requested a variance to increase the maximum allowable height for accessory buildings and structures from 6 m to 6.4 m and increase the combined total floor area allowance for accessory buildings and structures from 250 m² to 296 m² on a lot with an area of more than 5,000 m² for the purpose of constructing a two-story accessory building.

Iain Lawrence highlighted the site plan and proposed building plans and directed attention 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 within 50 m of the subject property.

Staff confirmed that the applicants were present.

An applicant stated that:

- the property has seen increased extended family use
- the garage will be used for storage by multiple family members
- an older storage building will be demolished and tarped storage will be removed, should the variance be supported

The Board of Variance considered the requested variance and passed the following resolution:

MOVED by Axel Joosting, **SECONDED** by Paul Clarkston that having considered 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 BV000491 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 height permitted for accessory buildings and structures from 6 m to 6.4 m and Section 4.01 (2)(c) by increasing the maximum combined total floor area allowance for accessory buildings and structures on a lot with an area of more than 5,000 m² from 250 m² to 296 m² on Lot B, Section 8, Otter District, Plan VIP25212, to permit construction of a two-storey 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) BV000492 - Lot 3, Section 46, Otter District, Plan 14160 (2960 Robinson Road)

Iain Lawrence outlined the staff report and advised that the applicant has requested a variance to increase the maximum combined total floor area allowance for accessory buildings and structures from 250 m² to 350 m² on a lot with an area of more than 5,000 m², for the purpose of constructing a detached accessory suite.

Iain Lawrence highlighted the subject property and site plan and directed attention 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 within 50 m of the subject property.

Staff confirmed that the applicant was present.

The applicant stated that:

- the intent is to keep the property under one title at this time
- the parcel is large enough to plot existing structures and the proposed detached accessory suite, should subdivision be pursued in future

Kevin Trim, Otter Point

- is an adjacent property owner
- supports the variance request

The Board of Variance 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 of Bylaw No. 2040 were complied with, that application BV000492 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(c) by increasing the maximum combined total floor area allowance for accessory buildings and structures on a lot with an area of more than 5,000 m² from 250 m² to 350 m² on Lot 3, Section 46, Otter District, Plan 14160, for a proposed detached accessory suite, be approved and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

CARRIED

7. Adjournment

The meeting was adjourned at 6:12 pm.

P. Clarkston, Chair



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF MAY 2, 2023**

File No: BV000493
Location: 7272 Mark Lane – Willis Point
Legal: Lot 23, Section 42, Highland District, Plan VIP8166 Except Plan VIP78117
Zoning: Community Residential One (CR-1) Zone – Bylaw No. 3027
Land Use Designation: Residential (R) – Bylaw No. 3027
Adjacent Uses: N – Saanich Inlet S – Mark Lane
W – Residential E – Residential

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 front yard setback for an accessory building from 6 m to 1.52 m for the purpose of constructing a 7 m² utility shed.

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 0.28 ha property is located at 7272 Mark Lane in Willis Point (Appendix A) and is zoned Community Residential One (CR-1) under Schedule 'B' of the Comprehensive Community Plan for Willis Point, Bylaw No. 3027.

The property is partially designated as Steep Slopes and Foreshore, Wetlands and Riparian Areas development permit areas by Schedule 'A' of Bylaw No. 3027. DP000373 was issued on April 12, 2022, to authorize renovations to the existing dwelling and construction of a new detached garage within the development permit areas. While the utility shed would be located in an area designated as a Steep Slopes development permit area, the site plan indicates that the structure would be entirely contained within a flatter area of the property and site conditions were confirmed by the CRD Building Inspector. Therefore, an amendment to DP000373 is not required.

Since the structure is proposed to be located within the required 6 m front yard setback specified by the CR-1 zone, a variance is requested. The stated hardship provided by the applicants is that the current location of the well is the best location for potable water and that there is no structure over the well to protect it from weather, wildlife and vandalism. While other land use bylaws in the JdF include exemptions for the siting of pumphouses/utility sheds, Bylaw No. 3027 includes no such exemption. The proposed shed currently exists on the property; however, it would be moved from its present location to the wellhead location, which is located within the front yard setback area.

Since the proposed utility shed is located within 4.5 m of a Provincial highway right-of-way, the owner is required to obtain siting approval from the Ministry of Transportation and Infrastructure. The owner obtained a permit from the Ministry on March 10, 2023, authorizing the siting.

Staff are of the opinion that the proposal is considered appropriate for the site and complies with the use of the CR-1 zone. The development is not expected to adversely affect the natural environment and no development permit is required for the siting of the utility shed. The variance 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 May 2, 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 a minor and finds that it meets the considerations of section 542(1)(c), an order granting a minor variance may be permitted.

OUTLINE MOTION

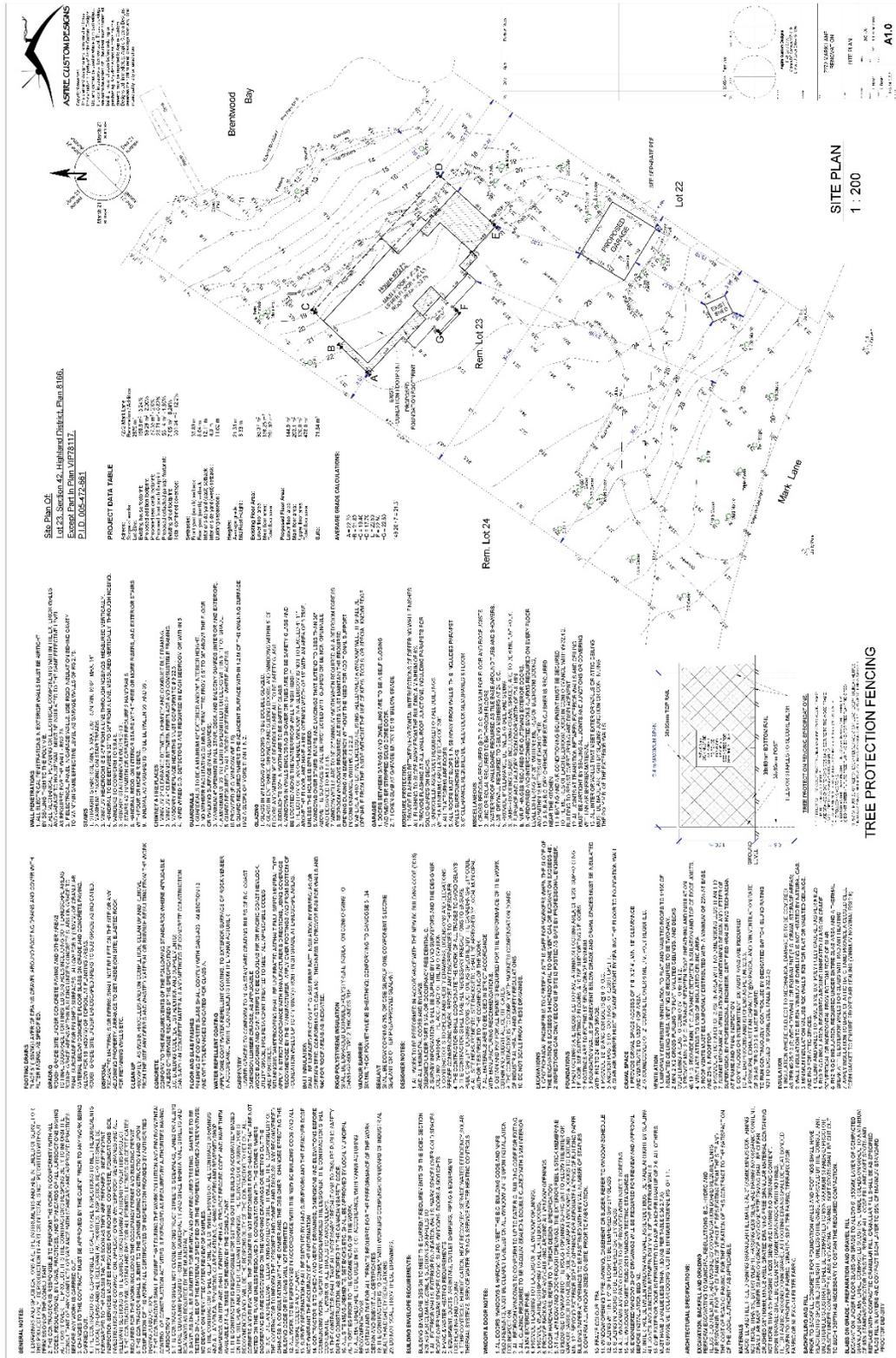
Having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship **<would/would not>** be caused to the applicant if Schedule 'B', Section 22.2(d) of Bylaw No. 3027 were complied with, that application BV000493 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to reduce the required front yard setback from 6 m to 1.52 m on Lot 23, Section 42, Highland District, Plan VIP8166 Except Plan VIP78117, for a proposed utility shed, be **<approved/denied>** and that if construction is not substantially started within 2 years after the date of this order, the order shall terminate.

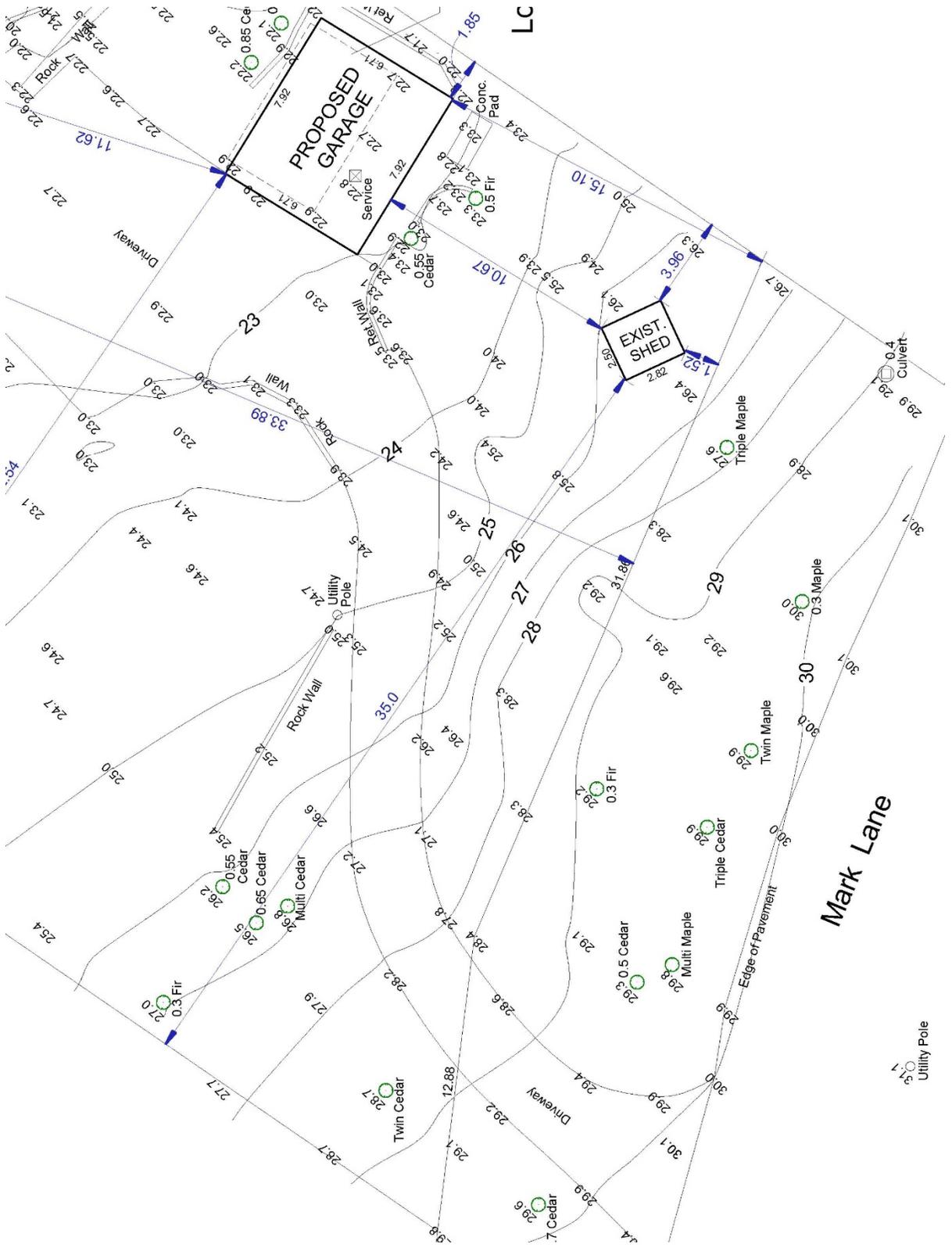
Submitted by:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance
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Attachments:

- Appendix A: Subject Property Map
- Appendix B: Site Plan
- Appendix C: Statement of Hardship

Appendix B: Site Plan





Board of Variance Application

*7272 MARK LANE
Capital, BC*

Numerous consultations and water testing confirm the current well location is the best location for potable water. Currently, there is no building protecting the well from the elements, wild life and vandalization. At the proposed shed location, a water treatment system will be installed by Cullen Water which includes a pressure tank and pump in addition to electrical sub panel. Reverse Osmosis system will be located in the house mechanical room.

We are requesting a variance as the current well is our only potable water source on the property. Proposed shed is already located on the property and fits the style of the new build. Minimal excavation is required and no removal of trees is required.

Thank you for your consideration.

