

JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Wednesday, **April 2, 2025, at 6:00 pm**

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

AGENDA

1. Approval of Agenda
2. Adoption of Minutes of January 15, 2025
3. Planner's Report
4. Applications
 - a) BV000502 – Lot 51, Section 81, Renfrew District, Plan 26044 (2526 Seaside Drive)
 - b) BV000503 – Lot 2, Section 51, Otter District, Plan VIP81170 (8175 Tregear Road)
5. 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.



Making a difference...together

Minutes of a Meeting of the Juan de Fuca Board of Variance
Held Wednesday, January 15, 2025, at the Juan de Fuca Local Area Services Building,
#3 – 7450 Butler Road, Otter Point, BC

PRESENT: Paul Clarkston (Chair), Ali Alamolhoda
Staff: Iain Lawrence, Secretary to the Board of Variance;
Angela Petrie, Planning Assistant, Wendy Miller, Recorder
REGRETS: Axel Joosting
PUBLIC: 2 in-person

The meeting was called to order at 6:05 pm.

1. Election of Chair

Iain Lawrence called for nominations for the position of Chair of the Juan de Fuca Board of Variance (BOV) for 2025 and Paul Clarkston's name was put forward. Iain Lawrence called two additional times for further nominations and, as there was none, Paul Clarkston was acclaimed Chair.

In accordance with the BOV's bylaw, an Acting Chair will be determined at such time that the Chair is unable to attend a meeting.

2. Approval of the Agenda

MOVED by Paul Clarkston, **SECONDED** by Ali Alamolhoda that the agenda be approved.

CARRIED

3. Adoption of the Minutes of October 8, 2024

MOVED by Paul Clarkston, **SECONDED** by Ali Alamolhoda that the minutes of October 8, 2024, be adopted.

CARRIED

4. Planner's Report

Iain Lawrence introduced Angela Petrie, Planning Assistant.

5. Application

a) BV000501 – Lot 8, Section 36, Township 13, Renfrew District, Plan EPS8132 (16925 Beachview Close)

Iain Lawrence outlined the staff report and advised that the applicant has requested a variance to reduce the proximity of an accessory building to a principal building from 3 m to 2.33 m.

The Chair confirmed that the applicants were present.

The applicants spoke to the hardship statement, as included in the staff report.

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

MOVED by Ali Alamolhoda, **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 II, Section 10.1 of Bylaw No. 3109 were complied with, that application BV000501 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. 3109, Part II, Section 10.1, by reducing the proximity of an accessory building to a principal building from 3 m to 2.33 m on Lot 8, Section 36, Township 13, Renfrew District, Plan EPS8132, for an accessory building, be approved.

CARRIED

6. Adjournment

The meeting was adjourned at 6:10 pm.

P. Clarkston, Chair



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF APRIL 2, 2025**

File No: BV000502
Location: 2526 Seaside Drive – Shirley
Legal: Lot 51, Section 81, Renfrew District, Plan 26044
Zoning: Rural Residential 2 (RR-2) – Bylaw No. 2040
Land Use Designation: Settlement (S) – Bylaw No. 4001
Adjacent Uses: N – Seaside Drive S – Strait of Juan de Fuca
W – Residential: RR-2 Zone E – Residential: RR-2 Zone

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 3.65 m for the purpose of constructing a single-family dwelling (SFD) in the Rural Residential 2 (RR-2) 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 0.4 ha property is located in Shirley on Seaside Drive and is zoned RR-2 under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Appendix A). Portions of the parcel are designated as Steep Slope, Shoreline Protection, and Sensitive Ecosystem Development Permit (DP) Areas by the Shirley-Jordan River Official Community Plan (OCP), Bylaw No. 4001; however, all proposed works are located outside designated DP areas.

Previous development applications on the parcel include a Building Permit (#41831) and Board of Variance request for a SFD, and a Building Permit to demolish an unfinished SFD (BP004069). The subject property is currently vacant and accessed via an existing driveway off Seaside Drive. The new owners now plan to construct a SFD in the northwestern corner of the parcel (Appendix B).

A variance application to request a reduction from 6 m to 3.65 m for the side yard setback has been made (Appendix C). The site plan submitted with the application indicates a distance of 3.7 m from the side yard for the proposed structure; however, details provided on the application form and on the hardship letter specify a variance request of 3.65 m to allow for a buffer. The stated reasons for the variance are to minimize the disturbance to the Sensitive Ecosystem Development Permit area and minimize the number of trees that would need to be removed. The complete hardship statement provided by the applicant is attached as 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 was designed to preserve the natural environment and is outside all development permit areas identified by the OCP. The variance request to reduce the required side yard setback is also not anticipated to substantially alter the use and enjoyment of adjacent land, since the parcel to the west is currently vacant.

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 2, 2025, 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

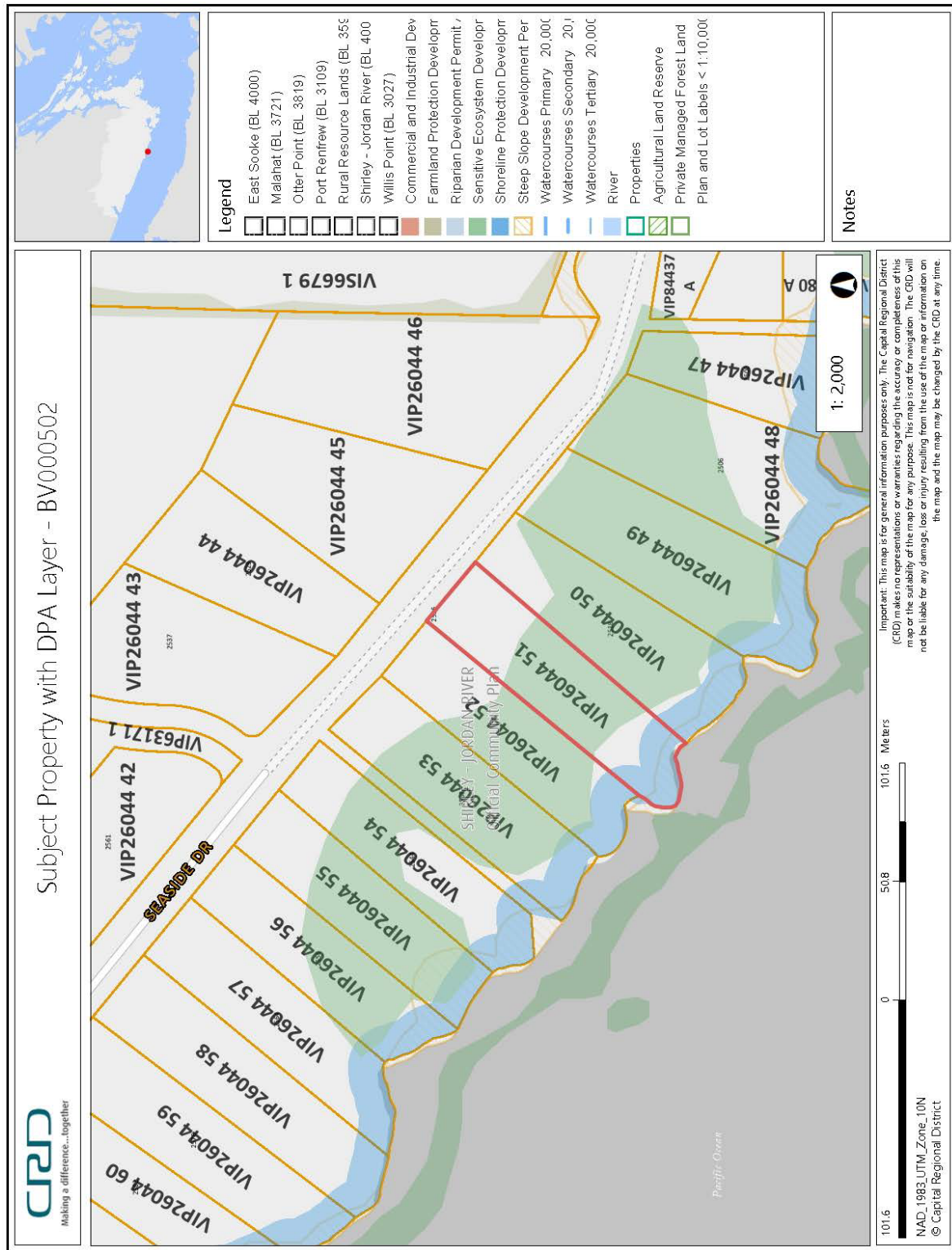
Having considered the matters set out in Section 542(1)(c) of the *Local Government Act*, and having found that undue hardship **<would/would not>** be caused to the applicant if Part 2, Section 6.07 (b) of Bylaw No. 2040 were complied with, that application BV000502 requesting permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to grant a minor variance to Bylaw No. 2040 Part 2, Section 6.07 (b) by reducing the required side yard setback from 6 m to 3.65 m on Lot 51, Section 81, Renfrew District, Plan 26044, 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

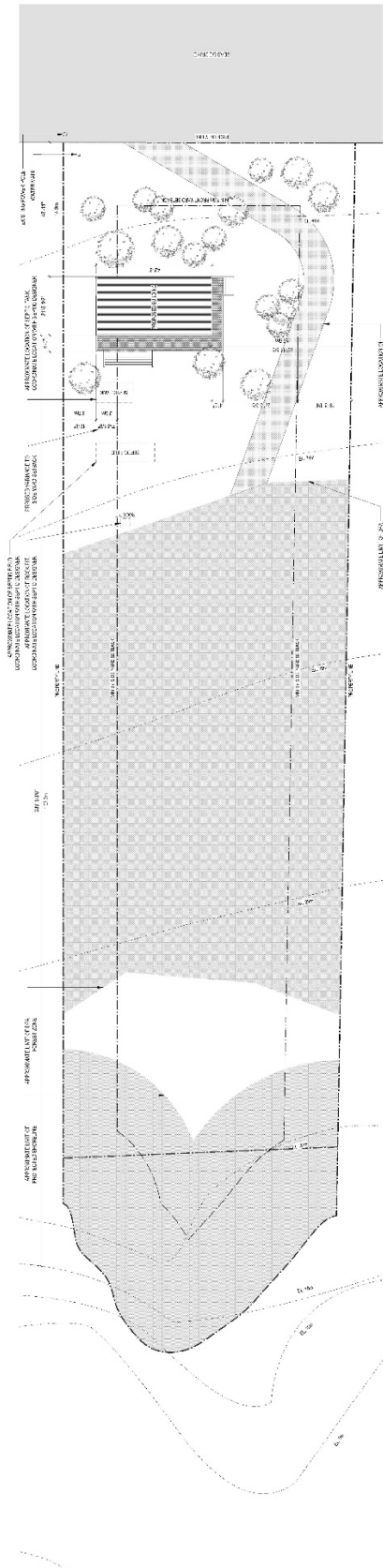
ATTACHMENTS

Appendix A: Subject Property Map with Development Permit Areas
Appendix B: Proposed Site Plan and Building Elevations
Appendix C: Requested Variance
Appendix D: Statement of Hardship

Appendix A: Subject Property Map with Development Permit Areas

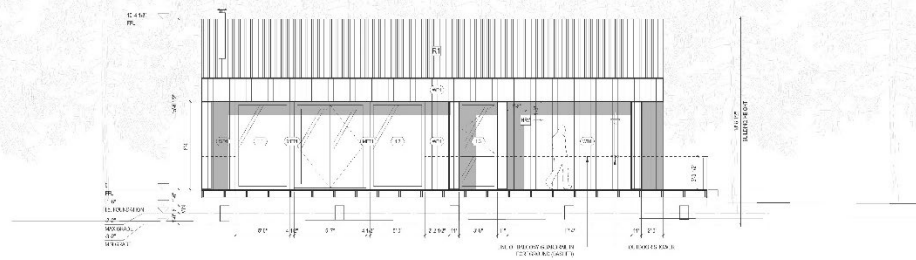


Appendix B: Proposed Site Plan and Building Elevations

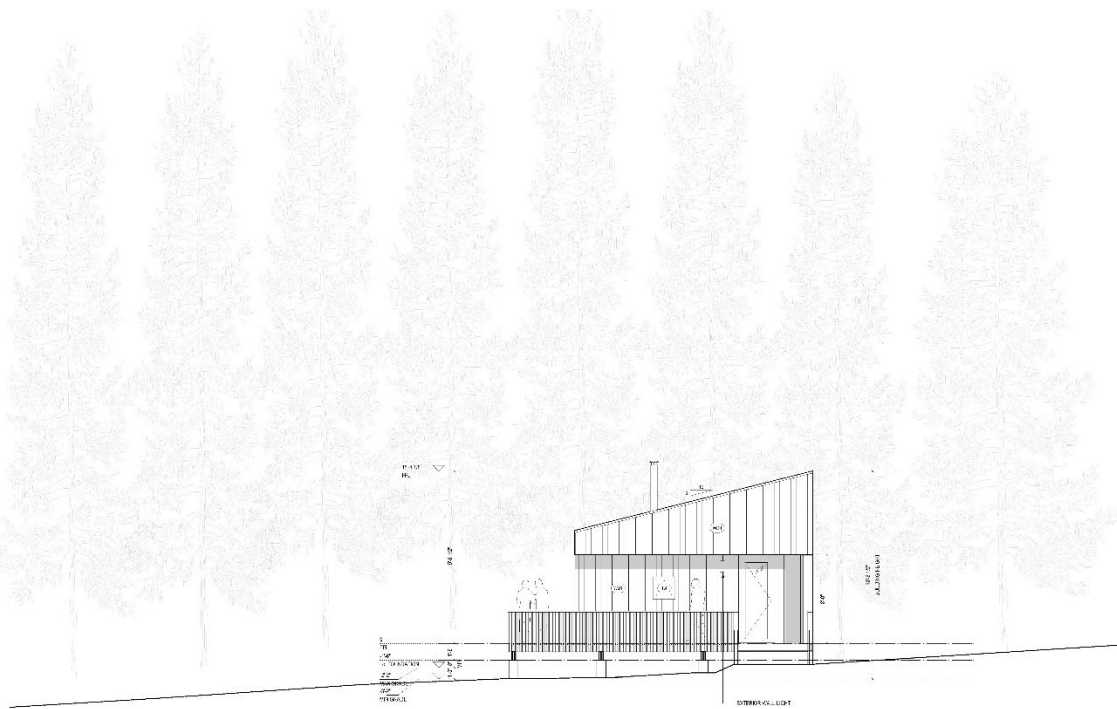


1 Site Plan
1/2025

CIVIC ADDRESS	2628 BRADSHAW DRIVE, BOONE, BC
LEGAL DESCRIPTION	PID 002713314, LOT 8, 81' REMFERN PL 2004
ZONING	RR-2
APPROXIMATE LOT SIZE	4.0111 ^{ac}
LOT COVERAGE	2%
NORTH (FRONT) YARD SETBACK	PERMITTED: 7.5m PROPOSED: 14.5m
EAST (SIDE) YARD SETBACK	PERMITTED: 6m PROPOSED: 14.5m
WEST (SIDE) YARD SETBACK	PERMITTED: 6m PROPOSED: 3.7m (VARIANCE 2.3m)
SOUTH (REAR) YARD SETBACK	PERMITTED: 10m PROPOSED: 102.3m
BUILDING AREA	73.8m ²
BUILDING HEIGHT	5.7m (MEASURED FROM MINIMUM GRADE TO TOP OF ROOF RIDGE)



1 Elevation - South
7.50



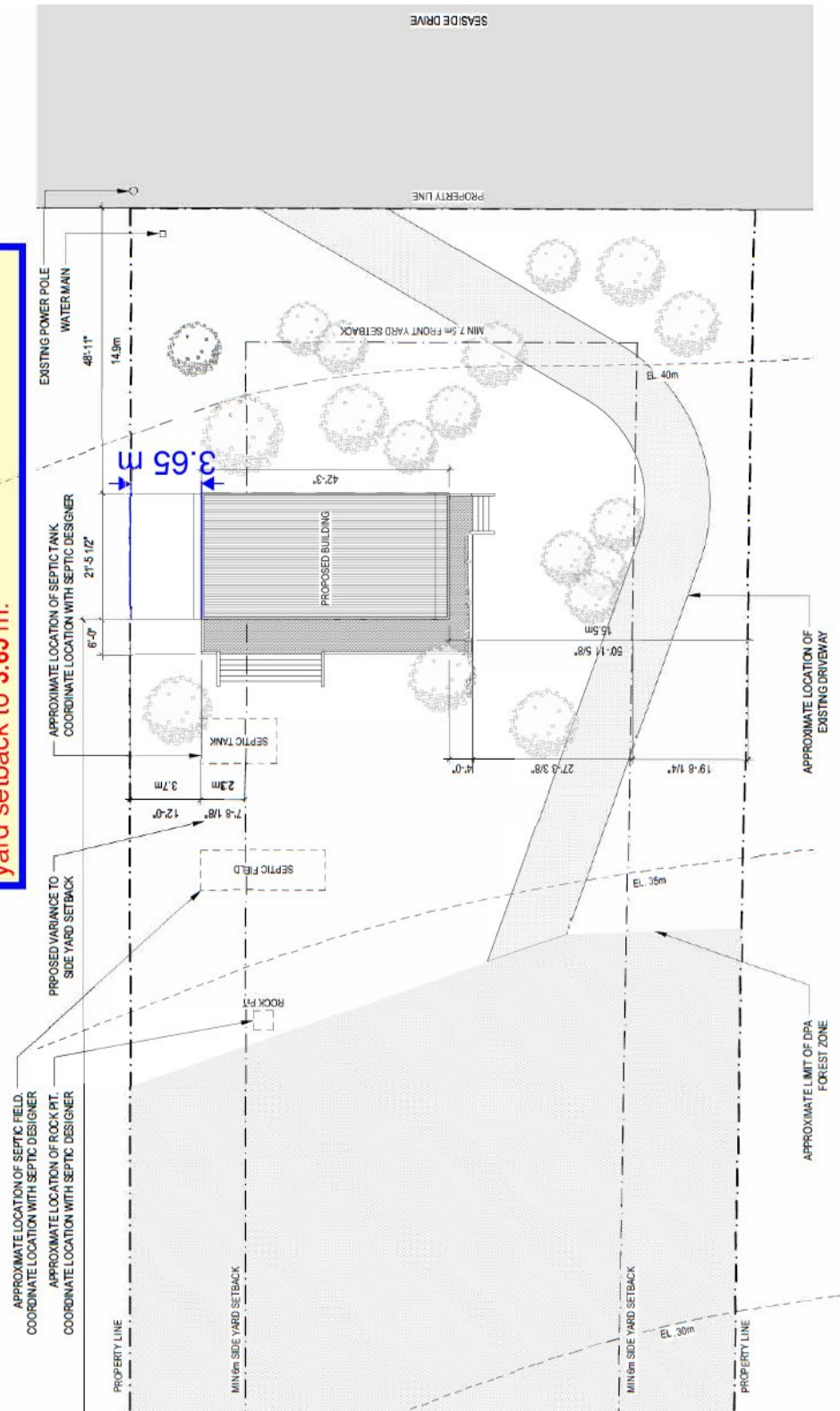
1 Elevation - East
7.50

[illegible]

Appendix C: Requested Variance

Part 2, Section 6.07 (b) of JdF Land Use Bylaw No. 2040 specifies that side yards shall be a minimum of 6.0 m.

Requested variance - to reduce the required side yard setback to 3.65 m.



Appendix D: Statement of Hardship

Registered Property Owners:

[REDACTED]

February 5, 2025

Capital Regional District

Planning and Development Department

3-7450 Butler Road

Sooke BC, V9Z 1N1

Subject: Variance Application Hardship Letter – 2526 Seaside Drive

Dear Members of the Board of Variance,

We are writing to formally request a minor variance to reduce the required side yard setback from 6m to 3.65m for our planned cabin at 2526 Seaside Drive. This request is made in consideration of the unique characteristics of our property and our commitment to minimizing environmental impact while ensuring a functional and sustainable family dwelling.

Our property contains a sensitive ecosystem development permit area (DPA), which includes mature conifer forests and ecologically significant vegetation. In order to minimize our footprint and preserve as much of the natural environment as possible, we have designed a shallow but wide building that allows for efficient use of space while avoiding unnecessary disruption to the surrounding ecosystem. This shallow design which allows us to leave the DPA undisturbed, combined with our efforts to maintain the integrity of the existing tree canopy next to the build site, has created the hardship resulting in this variance request.

The requested reduction in the side yard setback would allow us to:

- Construct our home without encroaching on the sensitive DPA, thereby avoiding unnecessary land disturbance.
- Retain as many mature trees as possible, both within the development permit area and around the build site.
- Ensure that the design remains harmonious with the surrounding landscape and adjacent properties. Notably, the facade of the structure facing our neighboring property is quite thin, measuring 21.5 feet, helping to reducing any potential visual or privacy impact.

Granting this variance would not result in inappropriate development of the site, nor would it negatively affect neighboring properties or the natural environment. Rather, it would allow us to maintain the ecological integrity of the land.

We sincerely appreciate your time and consideration of our request. Please do not hesitate to contact us should you require any additional information.

Sincerely,





**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF APRIL 2, 2025**

File No: BV000503
Location: 8175 Tregear Road – Otter Point
Legal: Lot 2, Section 51, Otter District, Plan VIP81170
Zoning: Rural Residential 3 (RR-3) – Bylaw No. 2040
Land Use Designation: Settlement Area 2 (SA-2) – Bylaw No. 3819
Adjacent Uses: N – Undeveloped - Rural A Zone S – Tregear Road
W – Residential – RR-3 Zone E – Residential – RR-3 Zone

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 rear yard setback from 1 m to 0.5 m clear to sky (CTS) for the purpose of authorizing an accessory building.

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 0.8 ha property is located in Otter Point at 8175 Tregear Road and is zoned RR-3 under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Appendix A). Portions of the parcel are designated as Steep Slope and Sensitive Ecosystem Development Permit (DP) areas by the Otter Point Official Community Plan, Bylaw No. 3819.

The subject property is accessed via driveway from Tregear Road. A single-family dwelling and a shed are shown on the site plan survey completed as part of Building Permit #JD-14-093 (Appendix B).

An assessment letter, prepared by a Qualified Environmental Professional (QEP), and a location certificate survey for an additional accessory building were provided to JdF Planning by the owners in support of a separate development proposal that has since been halted. Historical orthophoto imagery shows that the land clearing on the parcel was completed sometime between 2014 and 2015 and that an additional accessory building was erected near the rear of the parcel by 2017. The Environmental Assessment letter identifies all existing improvements located on the parcel and updates the Sensitive Ecosystem polygons within the subject property (Appendix C). The location certificate survey confirms that the accessory building (woodshed), as constructed, does not meet the 1 m rear yard setback requirement (Appendix D).

In preparation of listing the property for sale, the owners now wish to have the accessory building authorized; as such, a variance request was made to reduce the required rear yard setback for accessory buildings and structures. Upon referral, CRD Building Inspection confirmed to Planning that Building Permit application (BP010557) is in progress; Building Inspection identified BC Building Code regulations related to fire protection for structures located closer than 1.2 m from a property line that will be addressed through the Building Permit application. Building concept plans show that the eaves project approximately 19 cm beyond the foundation of the structure (Appendix E); as such, the requested variance of 0.5 m is different than the 0.7 m setback shown on the survey to meet the clear to sky (CTS) specification. The stated hardship provided by the applicants is also attached in support of the request (Appendix F).

The variance request to reduce the required rear yard setback is not anticipated to substantially alter the use and enjoyment of adjacent land, since the Rural (A) zoned parcel to the north is currently vacant. Staff are of the opinion that the proposal is considered appropriate for the site and complies with the permitted uses of the zone and otherwise complies with the regulations for accessory buildings and structures.

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 2, 2025, 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 1, Section 4.01 (1)(h)(i) of Bylaw No. 2040 were complied with, that application BV000503 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 (1)(h)(i) by reducing the required rear yard setback requirement for accessory buildings and structures from 1 m to 0.5 m on Lot 2, Section 51, Otter District, Plan VIP81170, to authorize an accessory building, 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: 2014 Site Plan Survey
Appendix C: Environmental Assessment Letter
Appendix D: Location Certificate/Requested Variance
Appendix E: Building Plans/Elevations
Appendix F: Statement of Hardship

Appendix A: Subject Property Map



Appendix C: Environmental Assessment Letter



May 6, 2022

To: Regina Robinson
Capital Regional District
3-7450 Butler Road
Sooke, BC, V9Z 1N1

From: Julie Budgen, R.P.Bio.
Corvidae Environmental Consulting Inc.
6526 Water Street
Sooke, BC V9Z 0X1

Letter of Assessment for Proposed Dwelling at 8175 Tregear Rd

Dear Regina,

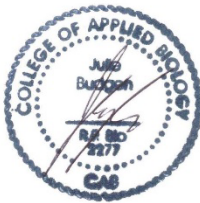
This letter is regarding a proposed workshop construction at 8175 Tregear (the property). The building location has been identified in Figure 1 with the green square.

A site visit was completed on April 22nd, 2022, by a Qualified Environmental Professional (QEP). The figure below shows the habitat types. The property is within the Sensitive Ecosystem 3475 – Woodlands Ecosystem. From review of the *Otter Point Sensitive Ecosystem Inventory* (Raincoast Applied Ecology and HB Lanarc, 2011), Corvidae can confirm the undisturbed areas on the property are part of the Woodlands Ecosystem. The characteristics of this ecosystem are bedrock close to the surface and thin soil layers with protruding bedrock. There is a sparse canopy layer that is 10-30% in tree cover due to restricted rooting in crevices. There is a diverse community of bryophytes on the bedrock areas, and thick salal, mosses, wildflowers, salmon berry and small alders in the areas with some soil. From the detailed assessment, the open areas characteristic of the Woodland Ecosystem have been delineated and shown in Figure 1.

From the property assessment, it was confirmed there are no watercourses in the vicinity of the proposed workshop. The area where it is proposed to be constructed is directly beside the gravel driveway in an area of thick salal, salmon berry and alder. Directly behind that area is a rocky outcrop (covered in moss) that will not be disturbed. See Figure 1 and photos for details. The rest of the natural areas on the property are in exceptional shape with respect to native vegetation, with the exception of the southern section of the property where the powerline and driveway were cut in (see Figure 1). In that location there are blackberries and broom. This would also be a suitable location for a secondary dwelling.

The landowner is maintaining the property well by keeping the areas outside of the lawn, home, driveway and garage naturally vegetated and removing invasive species (black berry and broom). The location of the proposed workshop is preferred from an environmental perspective because it is thick salal, with no potential for rare plants or mosses in this area. The rocky outcrop areas are of greater value and are to be left undisturbed.

Best regards,



Julie Budgen, R.P.Bio., B.Sc.
Corvidae Environmental Consulting Inc., 250-415-8553



Photo 1. Proposed location of the dwelling

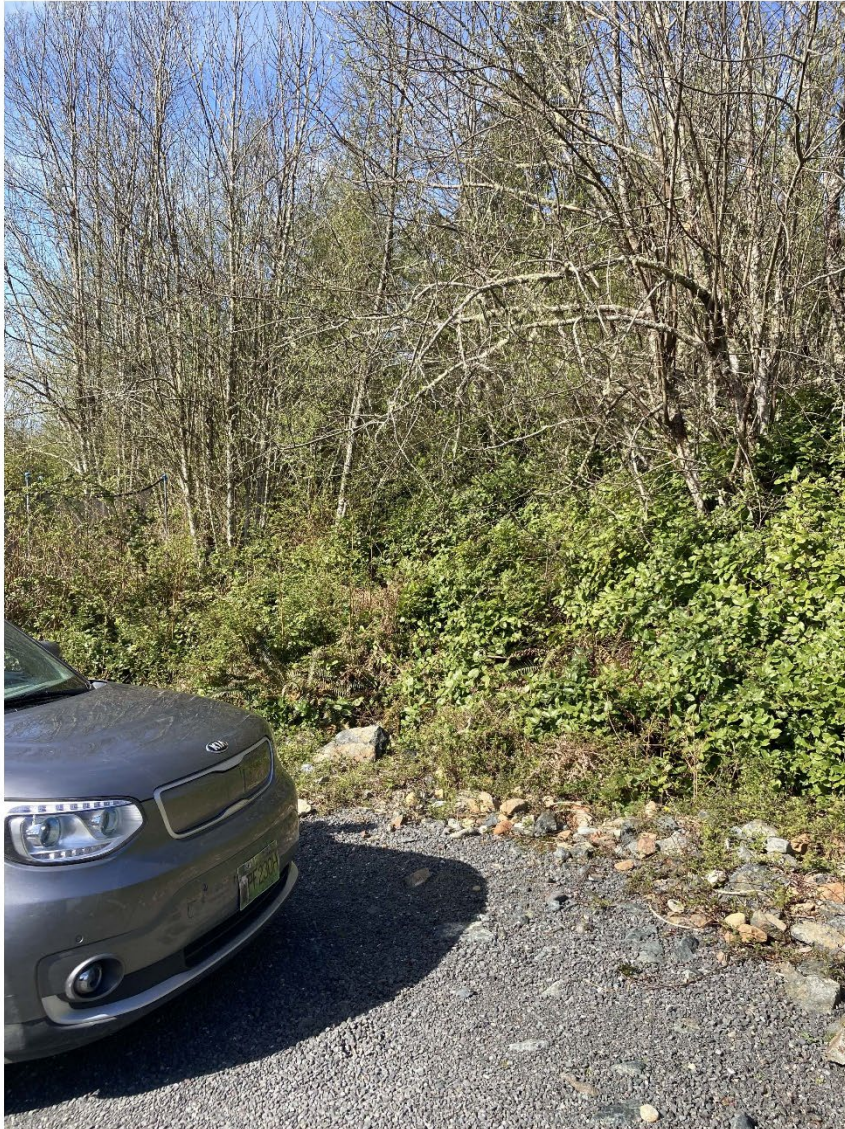


Photo 2. View of area proposed to be cleared with view from lawn (view to north from south).



Photo 3. Rocky outcrop areas surrounding the dwelling location. To remain untouched.



Photo 4. Rocky outcrops behind (north) of the home. To remain untouched.

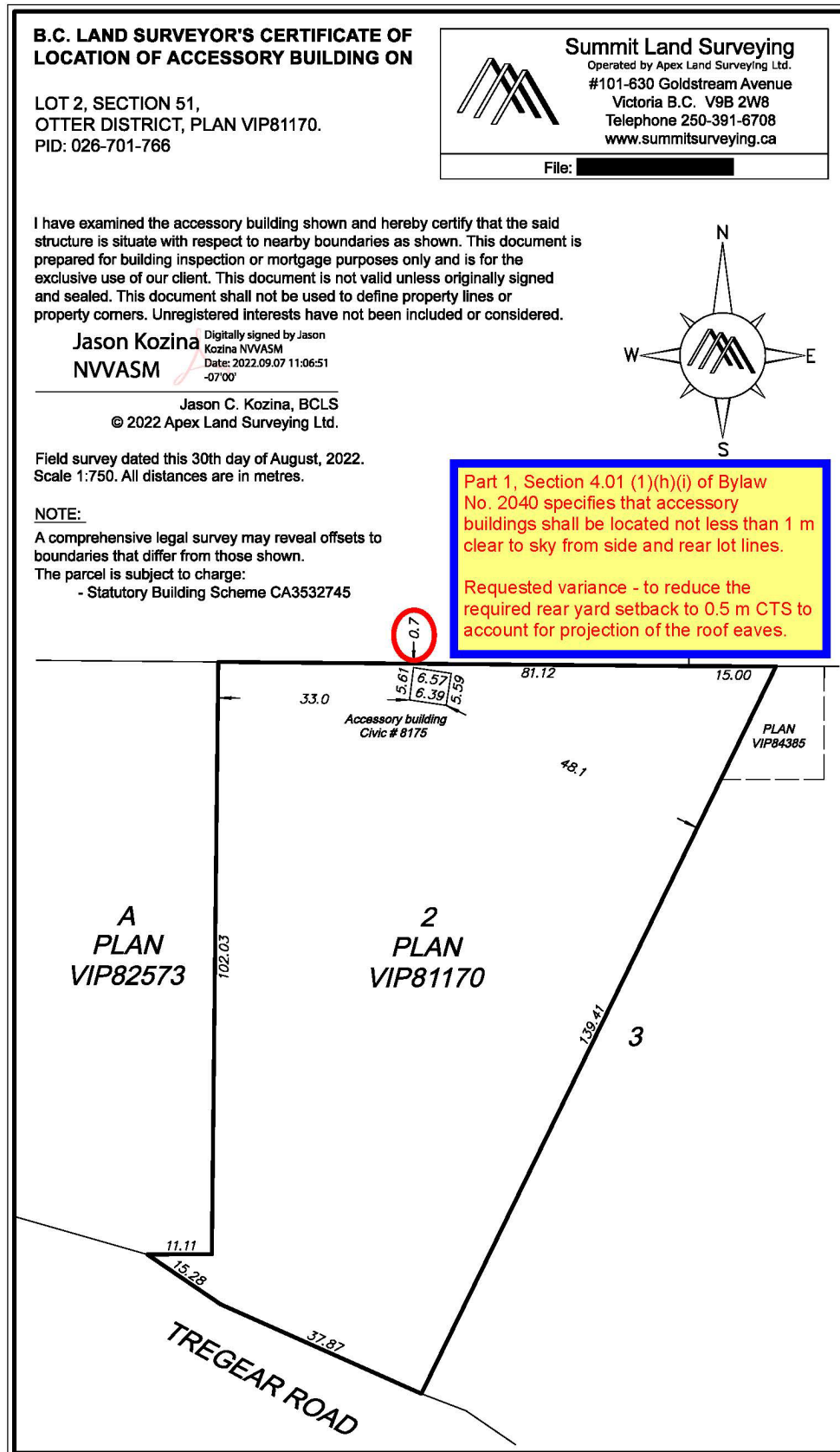


Photo 5. Area of blackberry infestation from road and powerline clearing.

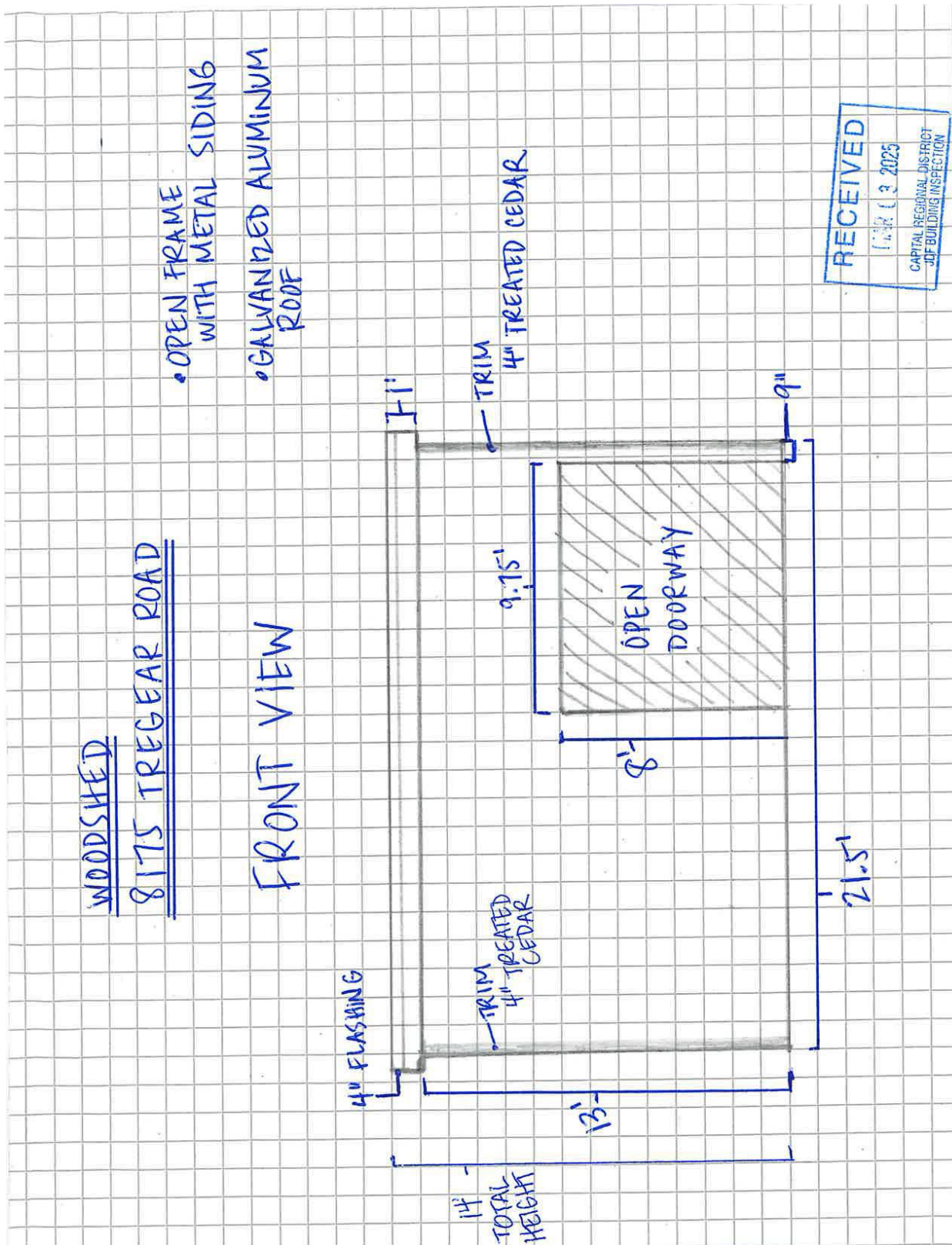




Appendix D: Location Certificate/Requested Variance

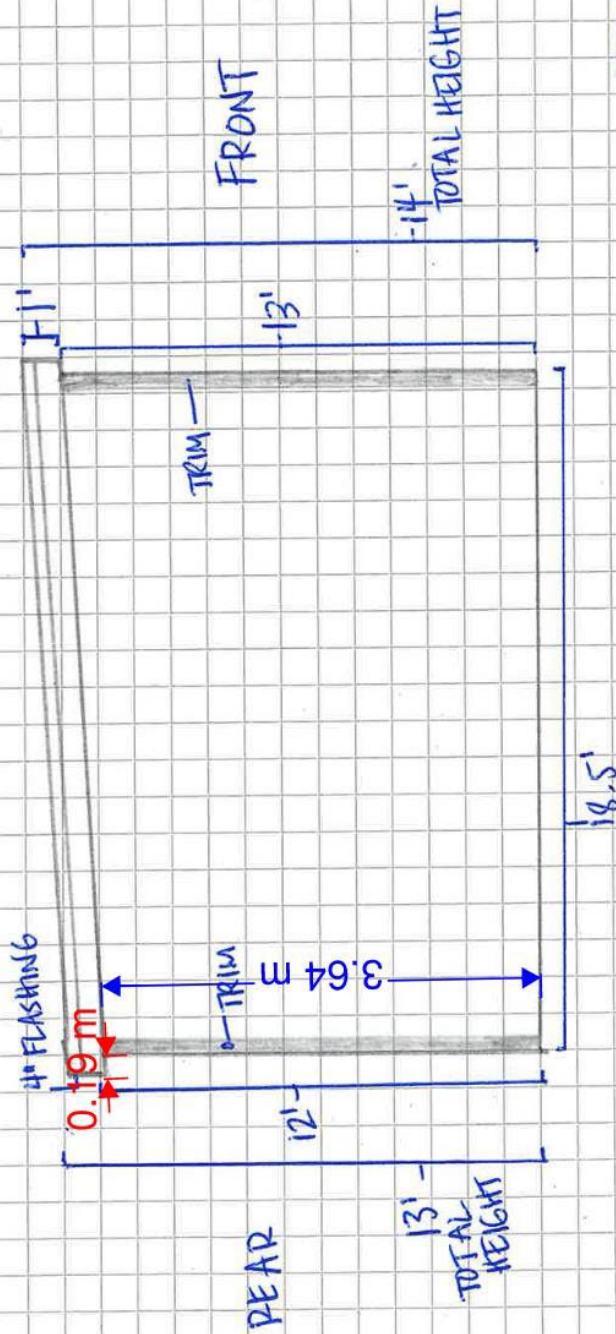


Appendix E: Building Plans/Elevations

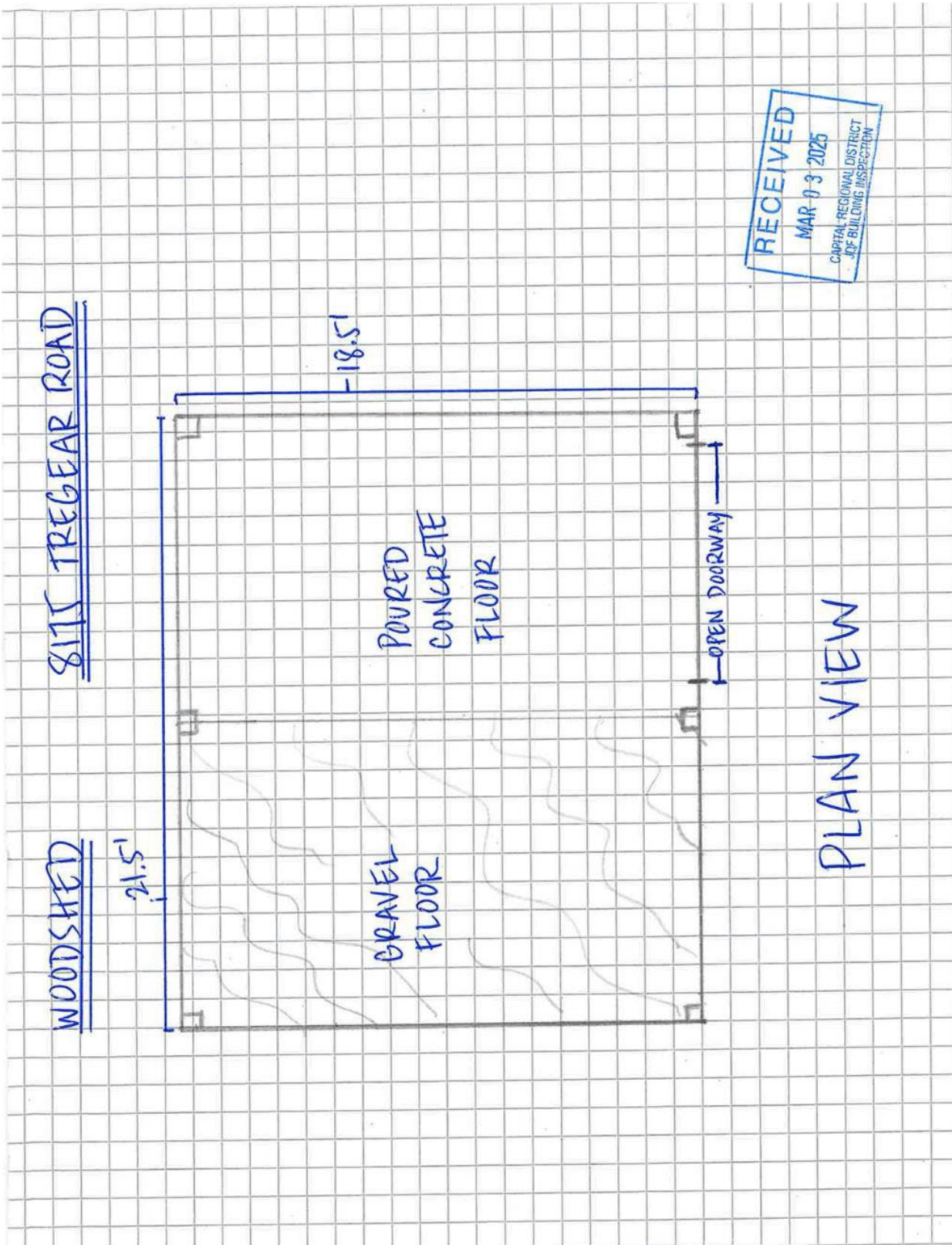


WOODSHED
8175 TREGAR ROAD

SIDE VIEW



RECEIVED
MAR 03 2025
CAPITAL REGIONAL DISTRICT
JDF BUILDING INSPECTION



Appendix F: Statement of Hardship

February 26, 2025

Statement of Hardship – Variance Request for Woodshed Setback

To Whom It May Concern,

We, the property owners of 8175 Tregear Road, are submitting this statement of hardship in support of our variance request regarding the existing woodshed, which is currently located closer to the back property line than permitted under the CRD Zoning Bylaw. While we recognize the importance of compliance with zoning regulations, we believe that strict adherence in this case would impose an undue hardship as defined under Section 498 of the BC Local Government Act.

Hardship Justification

1. Environmental Sensitivity

Our property is located within a sensitive ecosystem, and removal or relocation of the woodshed would likely result in disturbance to the natural habitat, soil stability, and surrounding vegetation. The process of deconstructing and rebuilding the structure would require excavation and disruption that could have lasting environmental consequences, contrary to the intent of responsible land stewardship. Section 488(1)(a) of the BC Local Government Act recognizes the protection of the natural environment as a valid consideration in land use decisions, and we urge the board to consider the ecological impact of enforcing compliance in this instance.

2. Existing Conditions and Practical Limitations

The placement of the woodshed was determined based on the natural landscape and available space on the lot. Relocating the structure would not only be costly but also logistically impractical due to site constraints, including areas designated as sensitive ecosystems, existing infrastructure, and topographical challenges. The shed is non-intrusive and does not negatively affect neighbouring properties, nor does it impact public access or safety.

3. Imminent Sale of Property and Unnecessary Hardship

We are currently in the process of selling our home, and compliance with the setback requirements at this stage would create a significant financial and logistical burden, causing undue delays and uncertainty in the transaction. This hardship is not self-imposed but rather a result of existing conditions and the timing of enforcement. Section 498(2) of the BC Local Government Act allows for variances where compliance would cause undue hardship, and in this case, the requirement to relocate the shed would impose unnecessary financial and personal strain with no clear benefit to the community.

Conclusion

Given the environmental sensitivities, the physical limitations of the property, and the impending sale, we respectfully request approval of this variance. Granting the variance would align with the intent of the BC Local Government Act by preventing unnecessary hardship while ensuring that the integrity of the local ecosystem remains intact.

We appreciate your time and consideration of this request and are happy to provide any further information if needed.

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]