



**DEVELOPMENT VARIANCE PERMIT APPLICATION NO. PL2022-075  
5224 GAINSBERG ROAD, ELECTORAL AREA H**

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**RECOMMENDATION(S)**

1. That the Board approve Development Variance Permit No. PL2022-075 to recognize the location of an existing dwelling, permit the reduction of an existing trellis, and permit the construction of a new deck within the interior lot line setback, subject to the terms and conditions outlined in Attachment 2.
2. That the Board direct Staff to complete the required notification for Development Variance Permit No. PL2022-075

**BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from Peter Mason Geomatics on behalf of Margaret Miriam Logan and Allen Watt Leong to recognize the location of an existing dwelling, permit the reduction of an existing trellis, and the construction of a new deck within the interior lot line setback. The subject property is legally described as Lot 1, District Lot 27, Newcastle District, Plan 13438. The property is 0.12 hectares in size and is zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987" (Bylaw 500). The property is located to the east of Hembrough Road and Gainsberg Road and is surrounded by residential properties (see Attachment 1- Subject Property Map).

The property contains a dwelling unit and two accessory buildings and is serviced by community water and an onsite wastewater disposal system.

***Proposed Development and Variance***

The proposed development includes recognizing the location of the existing dwelling unit, reducing the size of an existing trellis, and constructing a new deck on the subject property. The applicant proposes to vary the following regulations from Bylaw No. 500:

- **Section 3.4.62 – Interior Side Lot Line Setback** to decrease the minimum interior side lot line setback from 2.0 metres to 0.16 metres to allow an existing trellis to be reduced in size and remain in its existing location on the subject property.
- **Section 3.4.62 – Interior Side Lot Line Setback** to decrease the minimum interior side lot line setback from 2.0 metres to 0.16 metres to recognize the location of the existing dwelling on the subject property.
- **Section 3.4.62 – Interior Side Lot Line Setback** to decrease the minimum interior side lot line setback from 2.0 metres to 0.61 metres to allow for the construction of a new deck on the subject property.

### ***Land Use Implications***

The dwelling unit and accessory buildings located on the subject property were constructed by previous owners prior to the implementation of Building Inspection in 2011. Upon having the property surveyed in 2021 it was brought to the current owner's attention that there are some encroachments onto the neighbouring property to the west and that the structures do not adhere to the setback requirements of the RS2 zone.

The applicant is requesting to vary the interior lot line setback for the existing dwelling to remain in its current location at 0.16 metres from the property line. Also, an existing trellis attached to the dwelling unit is encroaching on the neighbouring property to the west. The applicant proposes to reduce the size of the trellis and is requesting to vary the interior lot line setback from the trellis to 0.16 meters so it can remain in its location attached to the house. The existing deck also slightly encroaches on the neighbouring property to the west. The applicant is proposing to remove the existing deck and replace it with a new deck which will be located further from the property line. The owner is requesting to reduce the interior lot line setback from 2.0 metres to 0.61 meters to allow for the construction of a new deck which still allows for access from the dwelling to the backyard.

The property currently has two sheds located within the interior lot line setback. The RS2 zone allows for one accessory building not exceeding a floor area of 10 m<sup>2</sup> and with a maximum height of 3.0 metres to be located within the interior or rear lot line setback. In order to reduce the number of variances requested, the property owner is proposing to move the shed in the rear of the property by 0.75 meters to adhere to the setback requirement.

"Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation" (Policy B1.5) for the evaluation of development variance permit applications requires that there is an adequate demonstration of an acceptable land use justification prior to the Board's consideration. In support of this application, and to address this policy, the applicant has provided a letter of rationale for the requested variance.

The letter of rationale submitted in support of the application states that the dwelling and accessory building were built prior to the implementation of building inspection in Electoral Area H and property owners were unaware of the setback and encroachment issues when they purchased the property. They are seeking to remove the encroachments and rectify the setback issues and the applicant has worked with staff to reduce the number of variances being requested.

Given that the applicants have provided sufficient rationale, and the variance is not anticipated to result in negative implications for adjacent property owners, the applicants have made reasonable efforts to address Policy B1.5 guidelines.

### ***Public Consultation Implications***

Pending the Electoral Area Service Committee's recommendation and pursuant to the *Local Government Act* and the "Regional District of Nanaimo Development Application, Notification Procedures and Fees Bylaw No. 1845, 2022", property owners and tenants of parcels located within a 100 metre radius of the subject property will receive a direct notice and will have an opportunity to comment on the application prior to the Board's consideration of approval.

### **FINANCIAL IMPLICATIONS**

The proposed development has no implications related to the Board 2022-2026 Financial Plan.

### **STRATEGIC PLAN ALIGNMENT**

The proposed development has no implications related to the Strategic Plan.

### **REVIEWED BY:**

P. Thompson, Manager of Current Planning  
L. Grant, General Manager of Planning and Development  
D. Holmes, Chief Administrative Officer

### **ATTACHMENTS:**

1. Subject Property Map
2. Draft Development Variance Permit