



REGIONAL  
DISTRICT  
OF NANAIMO

**DEVELOPMENT VARIANCE PERMIT APPLICATION NO. PL2023-102  
5496 DEEP BAY DRIVE, ELECTORAL AREA H**

**RECOMMENDATIONS**

1. That the Board approve Development Variance Permit No. PL2023-102 to reduce the front 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. PL2023-102.

**BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from Chad and Erica Holtum to permit the construction of a dwelling on the property. The subject property legally described as Lot 64, District Lot 1, Newcastle District, Plan 20442, is approximately 1,011.7 m<sup>2</sup> in area and is zoned Residential 2 (RS2) Zone, pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is located on the harbour side of Deep Bay spit and is adjacent to other residential properties (see Attachment 1 – Subject Property Map).

The property will be serviced by Deep Bay Improvement District community water and will have onsite septic disposal at the front of the property.

The applicant previously submitted a building permit for the dwelling. However, to comply with setbacks to property lines, the dwelling would have been situated beside the 15.0 metre setback from the natural boundary of the sea required under “Regional District of Nanaimo Flood Hazard Mitigation Bylaw No. 1872, 2023” (Floodplain Bylaw) and the Marine Coast Development Permit Area (DPA). Under the Floodplain Bylaw, no fill supporting a habitable area may be within the setback and for the DPA no land alteration or vegetation removal may occur without a development permit. To rationalize the landfill support required for the building and access to the rear of the building, the applicant proposes to relocate the proposed building into the front lot line setback.

***Proposed Development and Variance***

The proposed dwelling will include the development of a septic system and an attached wooden deck. The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

**Section 3.4.62 – Minimum Setback Requirements** to reduce the minimum setback from 8.0 metres to 5.09 metres.

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

“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 the application, the applicant has identified that their proposal is for a small dwelling (1,700 square feet) on a small lot. The additional space from the setback will provide greater assurance that structural fill supporting the building will comply with setbacks and that alterations associated with the deck will not encroach into the DPA.

The applicants have submitted a Geotechnical Hazard Assessment by Lewkowich Engineering Ltd. dated December 12, 2022 with the building permit submission. The assessment recommends a Flood Construction Level (FCL) of 5.14 m (CGVD28) and confirms that the 15.0 metre Floodplain Bylaw setback is adequate for protecting the proposed building given the property is located on a well protected bay. As compliance with the FCL will result in over 1.5 metres of fill for elevating the building, the applicant has provided building plans demonstrating that a retaining wall containing the fill will be constructed underneath the location for the wooden deck, and that the deck will be outside of the DPA (see Schedule 3 – Building Plans and Elevations of Attachment 2 – Draft Development Variance Permit). Therefore, there will be no fill or excavation in the DPA.

The proposed variance will comply with Marine Coast DPA guidelines which require applicants to consider variances to the zoning bylaw to keep development outside of the DPA. To protect the DPA, the applicant proposes temporary fencing along the DPA to ensure that there will be no disturbance of the DPA, including excavation, fill placement, or destruction of vegetation. Given that the building is a modest size, avoids the environmentally sensitive area, and will have sufficient space for parking in front of the building, the applicants have made reasonable efforts to address Policy B1.5.

### ***Intergovernmental Implications***

The Deep Bay spit is a known archaeological site, and any land alterations require an Alteration Permit from the Archaeology Branch. The Archaeology Branch has issued a permit for the purposes of the construction of a dwelling.

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

Pending the Electoral Area Services 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 100.0 metre radius of the subject property will receive a direct notice of the proposal and will have an opportunity to comment on the proposed variance prior to the Board’s consideration of the application.

### **FINANCIAL IMPLICATIONS**

The proposed development has been reviewed and has no implications related to the Board 2023 – 2027 Financial Plan.

### **STRATEGIC PLAN ALIGNMENT**

The proposed development has been reviewed and has no implications for the 2019 – 2022 Board Strategic Plan.

**REVIEWED BY:**

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

**ATTACHMENTS:**

1. Subject Property Map
2. Draft Development Variance Permit