

**TO:** Electoral Area Services Committee      **MEETING:** June 12, 2018

**FROM:** Stephen Boogaards  
Planner      **FILE:** PL2018-055

**SUBJECT: Development Variance Permit Application No. PL2018-055  
609 Hawthorne Rise – Electoral Area ‘G’  
Lot 10, District Lot 49, Nanoose District, Plan 24289**

---

#### **RECOMMENDATIONS**

1. That the Board approve Development Variance Permit No. PL2018-055 to reduce the Other Lot Line setback subject to the terms and conditions outlined in Attachments 2 to 4.
2. That the Board direct staff to complete the required notification for Development Variance Permit No. PL2018-055.

#### **SUMMARY**

The applicant requests a variance to the setback to the Other Lot Line from 5.0 metres to 4.8 metres, as measured to the foundation. Due to a construction error, the building foundation encroaches 0.2 metres into the required 5.0 metre setback from an unconstructed road right of way adjacent to the property. The encroachment into the setback is small and the road right-of-way has not been constructed. Given that the Board Policy has been met and no negative impacts are anticipated as a result of the proposed variance, it is recommended that the Board approve the development variance permit pending the outcome of public notification and subject to the terms and conditions outlined in Attachments 2 to 4.

#### **BACKGROUND**

The Regional District of Nanaimo (RDN) has received an application from Krystan and Allison Arbanas to permit the construction of an accessory building under construction to be completed in its current location. The subject property is approximately 0.1 of a hectare in area and is zoned Residential 1 Zone (RS1), pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The property is on Hawthorne Rise to the west and adjacent to an unconstructed road right-of-way to the north (see Attachment 1 – Subject Property Map). The property contains a dwelling unit, an existing accessory building and the proposed shop, which has been constructed to the foundation stage.

### ***Proposed Development and Variance***

The proposed development is a 72.3 m<sup>3</sup> accessory building to be used as shop. The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 3.4.61 – Minimum Setback Requirements** to reduce the setback for the accessory building to the Other Lot Line from 5.0 metres to 4.8 metres as measured from the foundation.

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

The applicant has begun construction of a 72.3 m<sup>3</sup> accessory building on the property under building permit (PR2017-269). During construction the foundation was located within the setback in error. The applicant has supplied a survey, as per the building permit requirement for a survey prior to the drainage inspection, which shows that the foundation for the shop is 4.8 metres from the property boundary. To continue with the proposed construction the applicant requests a 0.2 metre variance to the required 5.0 metre setback (see Attachment 3 – Survey Plan and Variances).

“Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation” for 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. The applicant requests the recognition of the current siting of the foundation through the variance, rather than having the foundation removed and reconstructed 0.2 metres further from the property line. Given that the variance would recognize the existing foundation and no impacts are anticipated for the neighbouring properties or the adjacent unconstructed White Pine Way, the requested variance complies with the intent of Policy B1.5.

### ***Intergovernmental Implications***

The application was referred to the Ministry of Transportation and Infrastructure to confirm that the building complies with the setbacks within the *Provincial Public Undertakings Regulations*. The Ministry has confirmed that its required setback is 3.0 metres, given that the White Pine Way unconstructed road right of way provides secondary access to the property. The building from its most exterior portion will comply with the Ministry’s setback (see Attachment 4 – Building Elevations).

### ***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 Approvals and Notification Procedures Bylaw No. 1432, 2005”, property owners and tenants of parcels located within a 50.0 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.

## **ALTERNATIVES**

1. To approve Development Variance Permit No. PL2018-055 subject to the conditions outlined in Attachments 2 and 3.
2. To deny Development Variance Permit No. PL2018-055.

## **FINANCIAL IMPLICATIONS**

The proposed development has been reviewed and has no implications related to the Board 2018 – 2022 Financial Plan.

## **STRATEGIC PLAN IMPLICATIONS**

The proposed development has been reviewed and has no implications for the 2016 – 2018 Board Strategic Plan.



---

Stephen Boogaards  
sboogaards@rdn.bc.ca  
May 16, 2018

### Reviewed by:

- J. Holm, Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

### Attachments

1. Subject Property Map
2. Terms and Conditions of Permit
3. Survey Plan and Variances
4. Building Elevations



**Attachment 2**  
**Terms and Conditions of Permit**

The following sets out the terms and conditions of Development Variance Permit No. PL2018-055:

Bylaw No. 500, 1987 Variance

With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” is varied as follows:

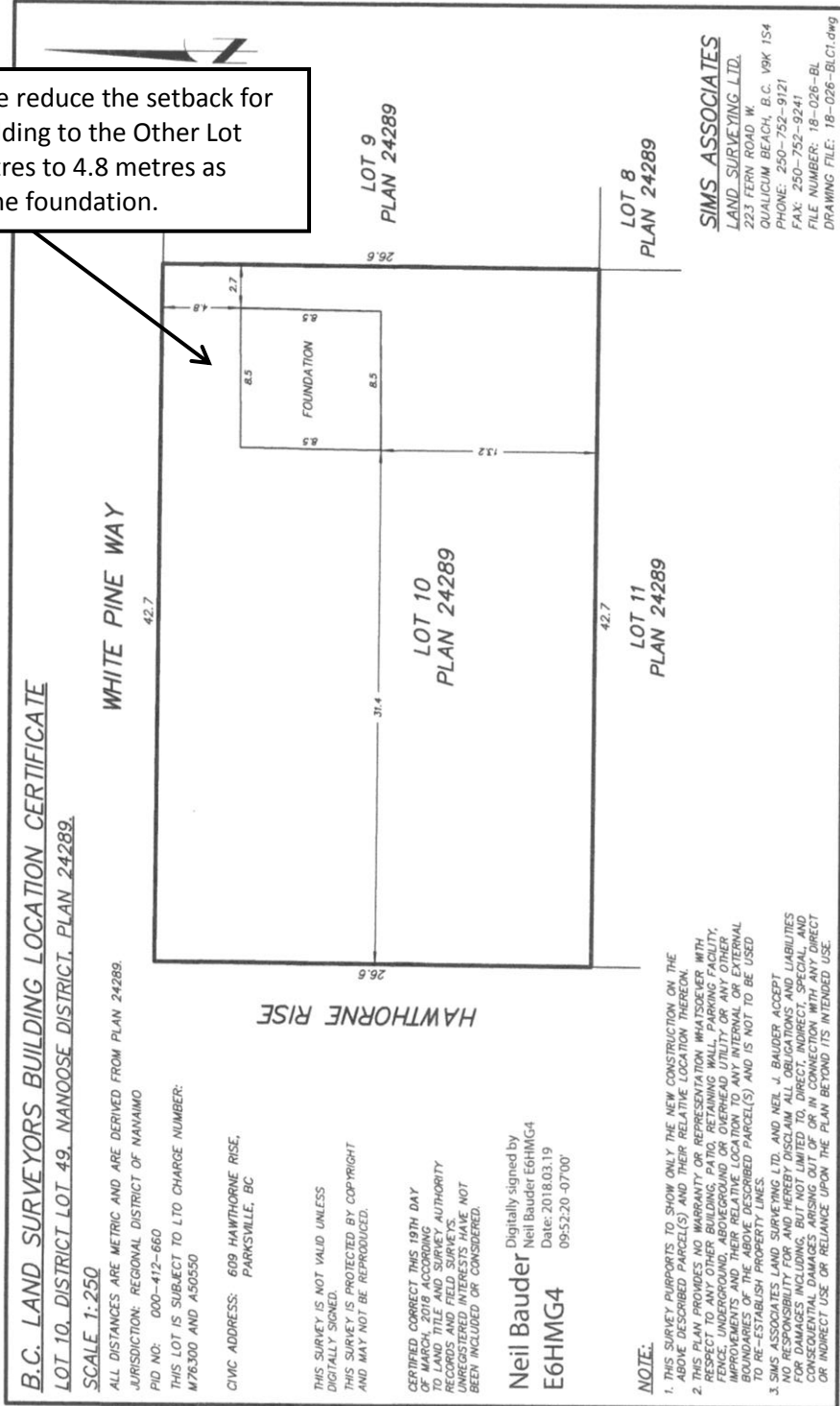
1. **Section 3.4.61 – Minimum Setback Requirements** to reduce the setback for the accessory building to the Other Lot Line from 5.0 metres to 4.8 metres as measured from the foundation.

Conditions of Approval

1. The site is developed in accordance with the survey plan prepared by Sims Associates Land Surveying Ltd., dated March 19, 2018 and attached as Attachment 3.
2. The proposed development is in general compliance with the plans and elevations prepared by Evergreen Home Design, dated July 3, 2017 and attached as Attachment 4.

**Attachment 3  
 Survey Plan and Variances**

Proposed variance reduce the setback for the accessory building to the Other Lot Line from 5.0 metres to 4.8 metres as measured from the foundation.



**Attachment 4  
 Building Elevations**



<b>A-2</b>	SHEET:	1/4" = 1'-0"	DATE: 07/03/2017	DRAWINGS PROVIDED BY: Evergreen Home Design (250) 722-3587	PROJECT DESCRIPTION: Krystan Arbanas 609 Hawthorne Rise	SHEET TITLE: FLOOR PLANS	NO. DESCRIPTION BY DATE		