

**TO:** Electoral Area Services Committee      **DATE:** October 2, 2018

**FROM:** Stephen Boogaards  
Planner      **FILE:** PL2018-142

**SUBJECT: Development Variance Permit Application No. PL2018-142  
6425 Island Highway West – Electoral Area H  
That Part of Lot 1, District Lot 22, Newcastle District, Plan 12132 Lying To  
The South East Of A Boundary Parallel To And Perpendicularly Distant 200  
Feet From the North Westerly Boundary of Said Lot 1**

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## **RECOMMENDATIONS**

1. That the Board approve Development Variance Permit No. PL2018-142 to increase the maximum floor area for accessory buildings and reduce the setback to the Other Lot Line for an accessory building addition 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. PL2018-142.

## **SUMMARY**

The applicants request to vary the Other Lot Line setback from 5.0 metres to 1.4 metres and to vary the maximum combined floor area of accessory buildings from 250 square metres to 320 square metres to allow for an addition to an existing accessory building. The proposed addition is situated within the required setback from an unconstructed road right-of-way. As 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 Keith Finholm and Kerry Parker to permit the construction of an addition to an accessory building. The subject property is 9,835 square metres in area and is zoned Residential 2 Zone (RS2), pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The property is adjacent to Crane Road, Island Highway West, the Strait of Georgia and other residential properties (see Attachment 1 – Subject Property Map). The property also contains an unconstructed road right-of-way adjacent to the northwest property line.

The property contains a dwelling unit and accessory buildings, and is serviced with community water from the Bowser Waterworks District.

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

The applicant requests variances to the Other Lot Line setback and the maximum floor area for accessory buildings to allow on the addition to an existing garage. 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 – Maximum Number and Size of Buildings and Structures** to increase the combined floor area of accessory buildings from 250 m<sup>2</sup> to 320 m<sup>2</sup> for the existing studio, existing garage, and proposed addition.
- **Section 3.4.62 – Minimum Setback Requirements** to reduce the minimum Other Lot Line setback from 5.0 metres to 1.4 metres for the roof overhang.

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

The applicant proposes to construct a 111 square metre addition onto an existing 90 square metre accessory garage. The property also contains an existing 119 square metre studio. The RS2 zone limits the total maximum combined accessory building floor area to 10 percent of the lot, up to a maximum of 250 square metres. The applicant has requested a variance to increase the maximum permitted combined accessory building floor area from 250 square metres to 320 square metres in order to accommodate the proposed garage addition. Due to the location of the existing accessory building, the proposed addition will also be within the required 5.0 metre setback from the Other Lot Line, which is an unconstructed road right-of-way.

“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. With respect to the setback variance request, the building addition is situated within the setback to an unconstructed road right-of-way, which is the only portion of the northern property line that requires a 5.0 metre setback. The unconstructed road right-of-way, which was dedicated in 1969, cannot be developed without further road dedication as it is surrounded by private land and is disconnected from the public road network. As such, it would be appropriate to consider a variance to treat the property line adjacent to the unconstructed road right-of-way as an Internal Lot Line as opposed to an Other Lot Line as required by Bylaw 500. The requested variance would result in the outermost portion of the proposed addition being 1.4 metres for the property boundary, which is consistent with the required setback for an Internal Lot Line.

With respect to the variance to accessory building floor area, the requested 320 square metres of accessory building floor area would equal to 3.2 percent of the lot area, which is well below the 10 percent accessory building floor area density provision in the zone and would result in development which is generally consistent with the character of the surrounding residential neighbourhood. The applicant has provided a sufficient land use justification according to RDN Board Policy B1.5.

### ***Intergovernmental Implications***

The application has been referred to the Ministry of Transportation and Infrastructure for comments, as the *Provincial Public Undertakings Regulations* establishes a 3.0 metre setback

for the property line adjacent to the unconstructed right-of-way. The Ministry has no concerns with the proposal, though the development will require a setback permit from the Ministry. As a condition of approval, the issuance of the development variance permit will be withheld until a setback permit has been approved by the Ministry.

The application was referred to the provincial Archaeology Branch due the presence of a recorded archaeological site on the property. The Archaeology Branch issued a Section 12 Site Alteration Permit (2018-0210) for the land clearing that occurred on June 27, 2018 to accommodate the addition. The Archaeology Branch reviewed a report prepared by the applicant's archaeologist, and confirms that no archaeological materials were observed in any of the work conducted to prepare the area where the proposed construction is taking place. The Archaeology Branch has no concerns with the RDN proceeding with this application. Qualicum First Nation was also made aware of the development proposal.

### ***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. PL2018-142 subject to the conditions outlined in Attachments 2 to 4.
2. To deny Development Variance Permit No. PL2018-142.

### **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 – 2020 Board Strategic Plan.



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Stephen Boogaards  
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September 12, 2018

Reviewed by:

- J. Holm, Manager, Current Planning
- G. Garbutt, A/Chief Administrative Officer

Attachments

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





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

The following sets out the terms and conditions of Development Variance Permit No. PL2018-142:

### Bylaw No. 500, 1987

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

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- **Section 3.4.62 – Maximum Number and Size of Buildings and Structures** to increase the combined floor area of accessory buildings from 250 m<sup>2</sup> to 320 m<sup>2</sup> for the existing studio, existing garage, and proposed addition.
- **Section 3.4.62 – Minimum Setback Requirements** to reduce the minimum Other Lot Line setback from 5.0 metres to 1.4 metres for the roof overhang.

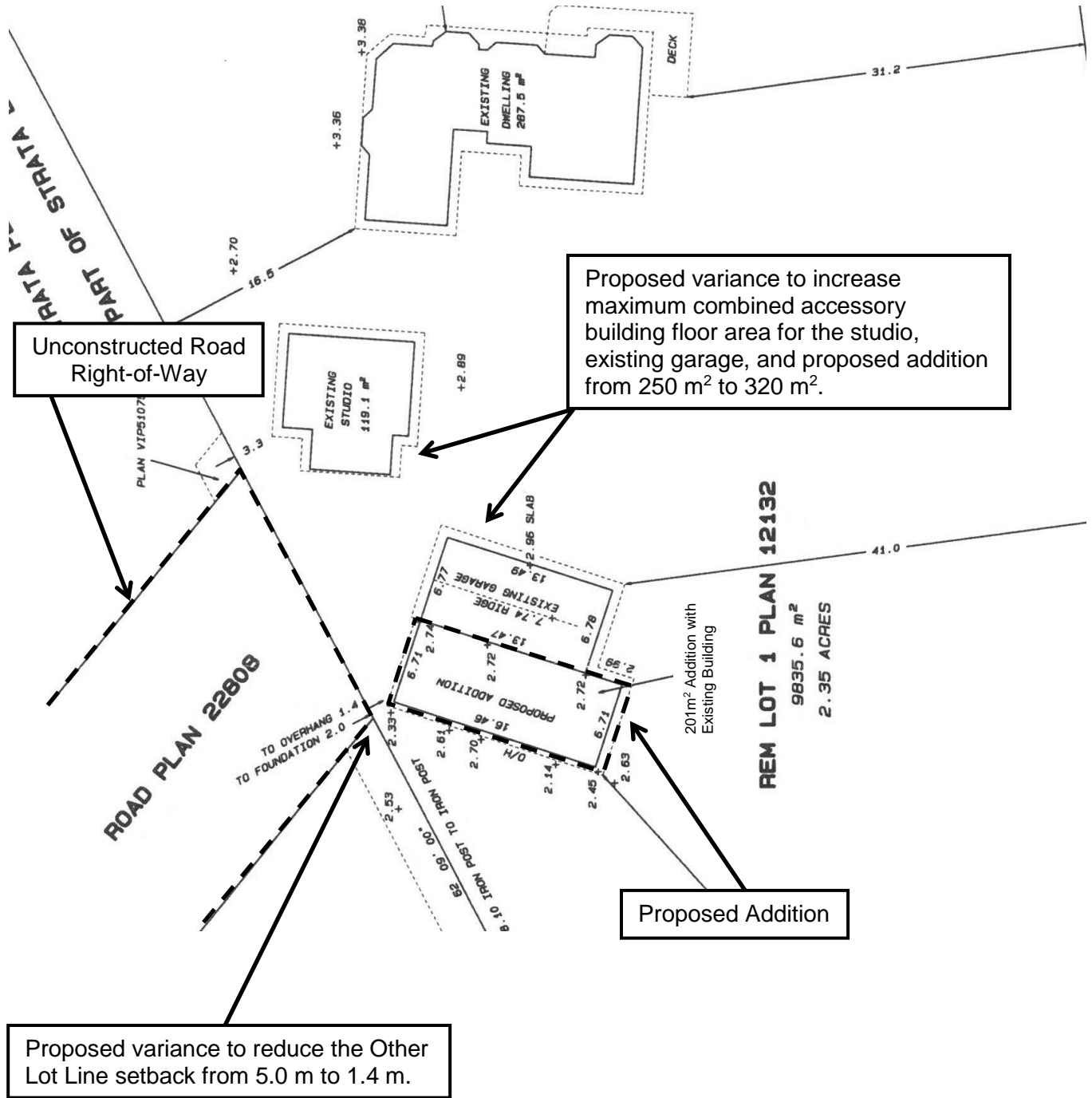
### Conditions of Approval

1. The site is developed in accordance with the Survey Plan prepared by Peter T. Mason, dated August 14, 2018 and attached as Attachment 3.
2. The proposed development is in general compliance with the plans and elevations prepared by McGill & Associates Engineering Ltd., dated August 29, 2018 and attached as Attachment 4.
3. The issuance of this Permit shall be withheld until the applicant receives a Setback Permit from the Ministry of Transportation and Infrastructure.
4. The property owner shall obtain the necessary permits for construction in accordance with Regional District of Nanaimo Building Regulations.





**Attachment 3**  
**Proposed Site Plan and Variances (Page 2 of 2)**



### Attachment 4 Building Elevations and Plans

