

TO: Electoral Area Services Committee **DATE:** November 20, 2018
FROM: Sarah Preston
 Planning Technician **FILE:** PL2018-125
SUBJECT: Development Variance Permit Application No. PL2018-125
2612 Sea Blush Drive – Electoral Area E
Lot 2, Block 586, Nanoose District, Plan EPP51772

RECOMMENDATIONS

1. That the Board approve Development Variance Permit No. PL2018-125 to increase height for an accessory building 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. PL2018-125.

SUMMARY

The applicants have applied to vary the height of an accessory building that has been constructed 0.87 metres over the permitted 9.0 metre maximum building height. It is the subject of bylaw enforcement, as the applicants failed to acquire a building permit prior to commencing construction. In RDN Zoning Bylaw 500, height is measured from the natural grade and existing topography at the building location has resulted in the building being over height. The building was constructed with ceiling heights suitable for the storage of a recreational vehicle and accessory use on the second story. The Regional District of Nanaimo is in receipt of signatures in support of the proposed variance collected from area residents, including neighbouring parcels. The applicant proposes to install privacy film on one of the upper storey windows to address concerns raised by the resident of an abutting property. The resident feels that this is the only window facing their yard area. They are in support of the requested variance otherwise.

Given that the “Board Policy B1.5 Development Variance Permit, Development Permit with Variance and Floodplain Exemption Application Evaluation” has been met and neighbouring property owners express support, 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 Attachment 2.

BACKGROUND

The Regional District of Nanaimo (RDN) has received an application from Glen and Barb Crawford to permit the construction of a two story accessory building. The subject property is approximately 0.65 hectares in area and is zoned Rural 5 (RU5), Subdivision District ‘D’, pursuant to “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”. The

property is located to the south of Island Highway East in a Rural Residential area (see Attachment 1 – Subject Property Map).

The property contains an existing dwelling unit, accessory building, and accessory structure. It is serviced by a well and on-site wastewater disposal.

Proposed Development and Variance

The proposed development includes a height variance for an existing 190.26 square metre accessory building with accessory use space on the second floor. It is the subject of bylaw enforcement for commencing to construct a building prior to obtaining a building permit as per Section 3. (1) of the “*Regional District of Nanaimo Building Regulations and Fees Bylaw No. 1250, 2001.*” A stop work order was issued November 7, 2017. An application was made for a building permit December 12, 2017 (PR2017-772). Through the application review process, it was identified that the building is over height due to the natural topography of the site. Height is measured from natural grade, not finished grade. As such, the applicants have opted to request a variance for the building as constructed.

The applicants intend to use the building to store their recreational vehicle, and personal uses such as general household storage, recreation and hobby space. They state that the building will not be used to host a home based business or secondary suite. The applicants have been advised in writing that these uses are not permitted within an accessory building on the subject property.

An accessory structure, erected to store outdoor recreation equipment, is proposed to be removed. Building Services advises that while they have no issues with the proposed variance, a condition of building permit PR2017-772 issuance will be contingent on follow through with demolition permit PR2018-634.

The applicant proposes to vary the following regulations from the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987”:

- **Section 3.4.85 – Maximum Number and Size of Buildings and Structures** to increase the maximum height from 9.0 m to 9.87 m.

Land Use Implications

The applicants have submitted a site survey with height resolution and building plans. In addition, signed comments of support from neighbourhood residents have been submitted. Two neighbours commented on negative impacts. The neighbor directly impacted by the siting of the accessory building, located at 2608 Sea Blush Drive, commented that if the window on the left building elevation is removed or frosted, they have no issues with the proposed variance. This comment was supported by a neighbor (2653 Sea Blush Drive). The neighbour at 2608 Sea Blush Drive did not have issues with the windows on the rear building elevation, directly facing their yard area. In a subsequent letter dated September 22, 2018, they state that these windows do not face their property. However, during a site visit (September 19, 2018) it was ascertained that these windows are presently screened from view by trees located on the subject property. The applicant proposes to apply privacy film to the one window, as suggested by the impacted neighbour.

The applicant's justification for the requested variance is to allow additional height within the garage area to accommodate storage of a recreational vehicle. Due to the topography of the building site, the building exceeds the maximum allowable height, despite designing the building to be 8.89 metres from finished grade. The maximum height allowance for the zone is 9.0 metres. "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. This is an acceptable land use justification under Board Policy B1.5, section 1.d)iv, where the impact of the variance is considered to be acceptable by planning staff. The policy also requires that an applicant demonstrate reasonable effort to minimize any and all potential impacts associated with the variance (section 2.c)). As the applicant sought input from neighbours and proposes strategies to address their concerns, it is evaluated that a reasonable effort has been made to mitigate potential impacts of the proposed variance.

Given that the applicants have provided sufficient rationale and propose to apply privacy film to the one window as suggested by the abutting neighbour, the applicants have made reasonable effort to address Policy B1.5 guidelines. It is recommended that the Board approve the requested variance, subject to the terms and conditions outlined in Attachment 2.

Intergovernmental Implications

There are no intergovernmental implications associated with this application.

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. PL2018-125 subject to the conditions outlined in Attachments 2 to 4.
2. To deny Development Variance Permit No. PL2018-125.

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.



Sarah Preston
spreston@rdn.bc.ca
October 15, 2018

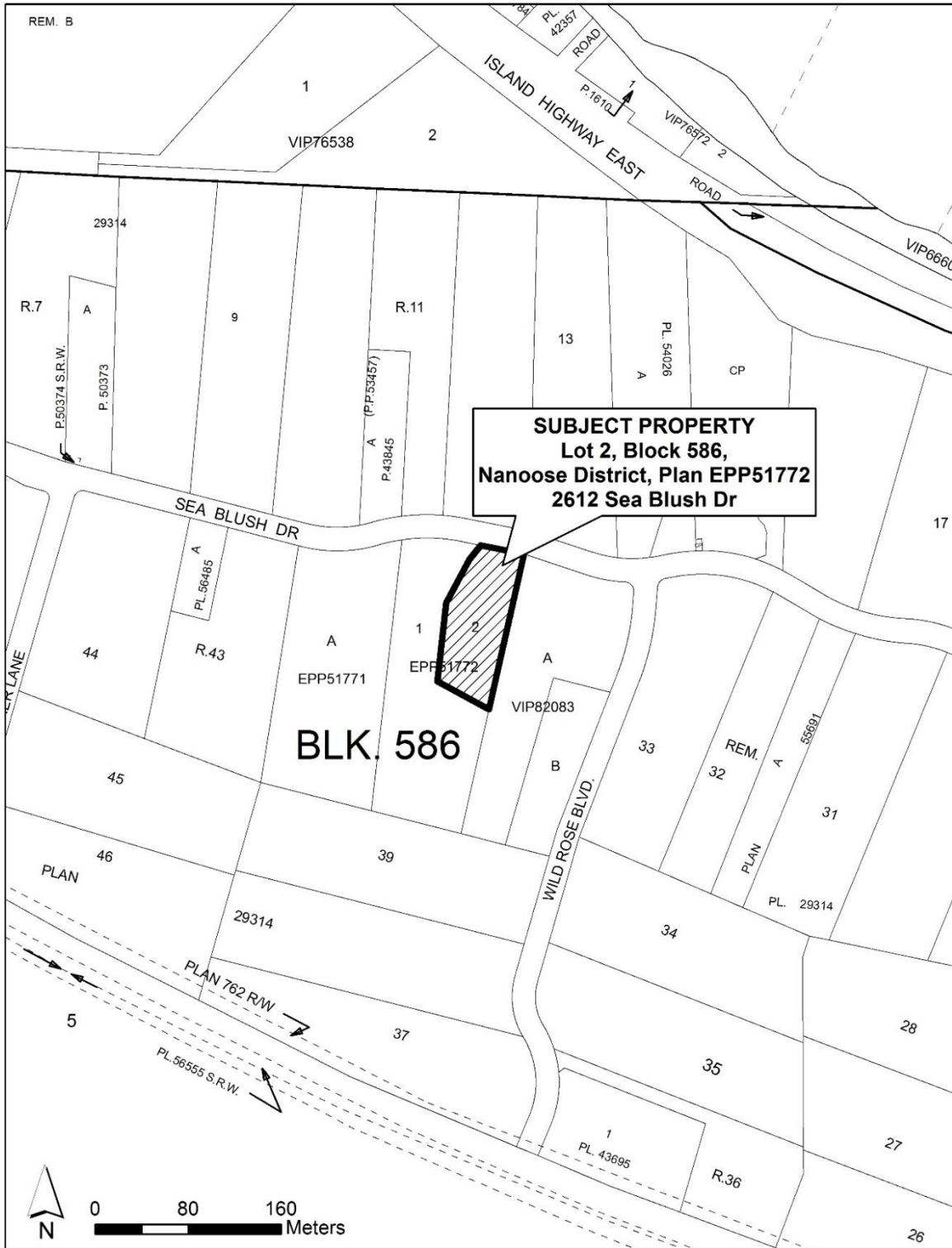
Reviewed by:

- Paul Thompson, Acting 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. Proposed Site Plan and Variance
4. Building Elevations

**Attachment 1
Subject Property Map**



Attachment 2 Terms and Conditions of Permit

The following sets out the terms and conditions of Development Variance Permit No. PL2018-125:

Bylaw No. 500, 1987 Variance

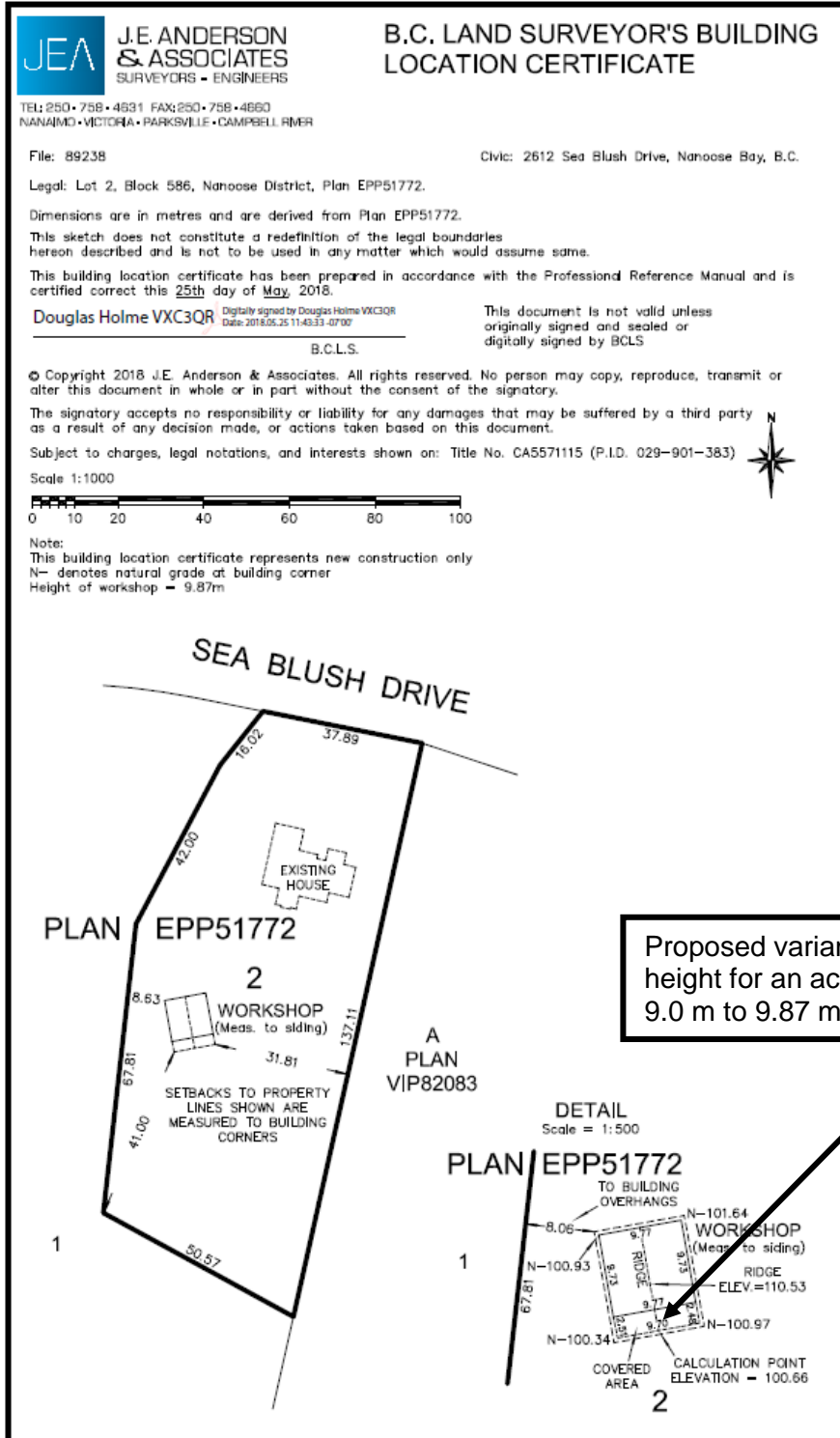
With respect to the lands, “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” is varied as follows:

1. Section 3.4.85 Maximum Number and Size of Buildings and Structures - Height: from 9.0 metres to 9.87 metres

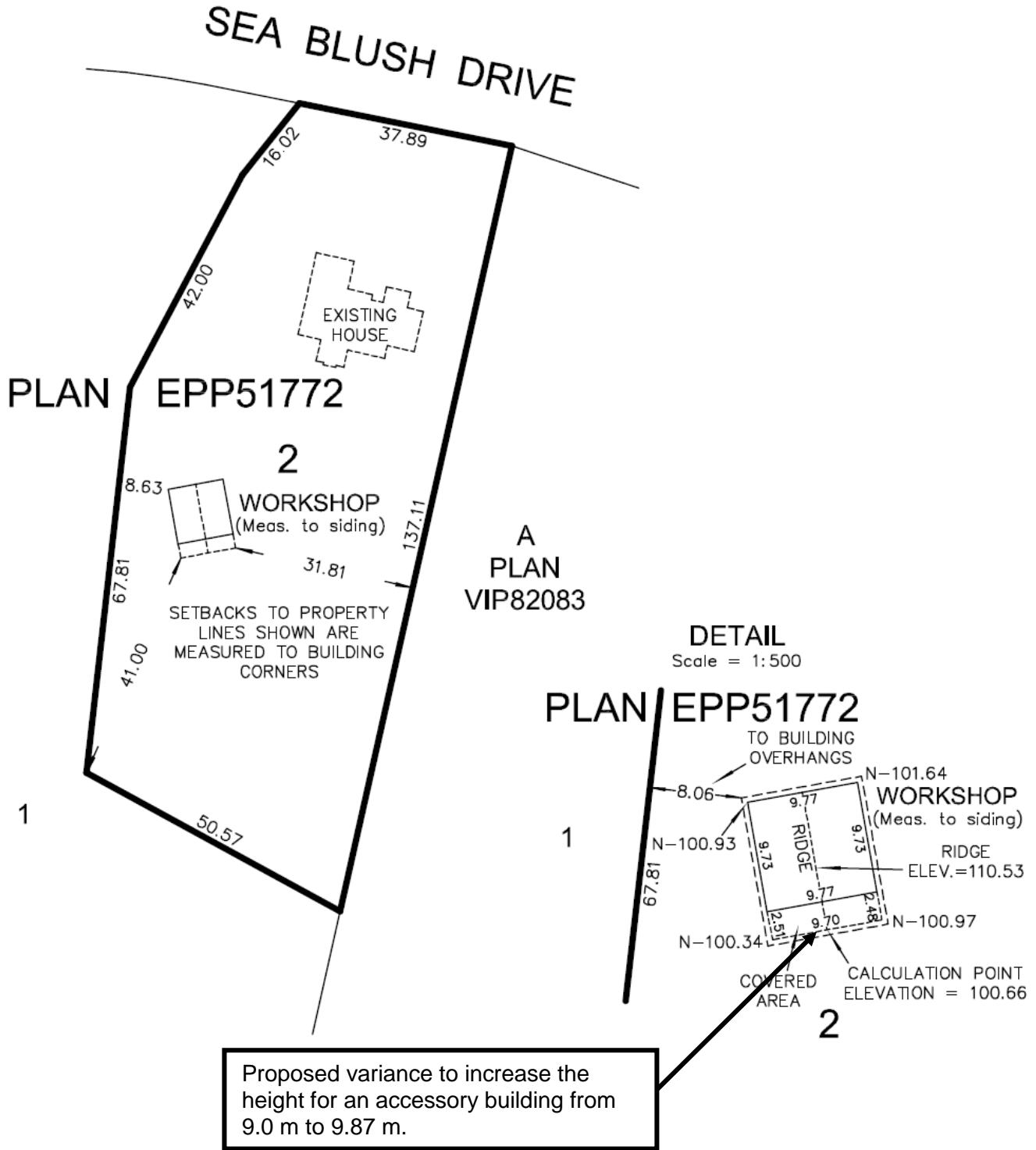
Conditions of Approval

1. The site is developed in accordance with the Survey Plan prepared by JE Anderson & Associates, dated May 25, 2018 and attached as Attachment 3.
2. The proposed development is in general compliance with the plans and elevations prepared by Lindberg Cad Services, dated March 7, 2018 and attached as Attachment 4.
3. The window located on the Left Building Elevation shall be frosted to maintain the privacy of the abutting property to the satisfaction of Strategic and Community Development.
4. Use of the building as a detached secondary suite is not permitted.
5. 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 Variance
 (1 of 2)

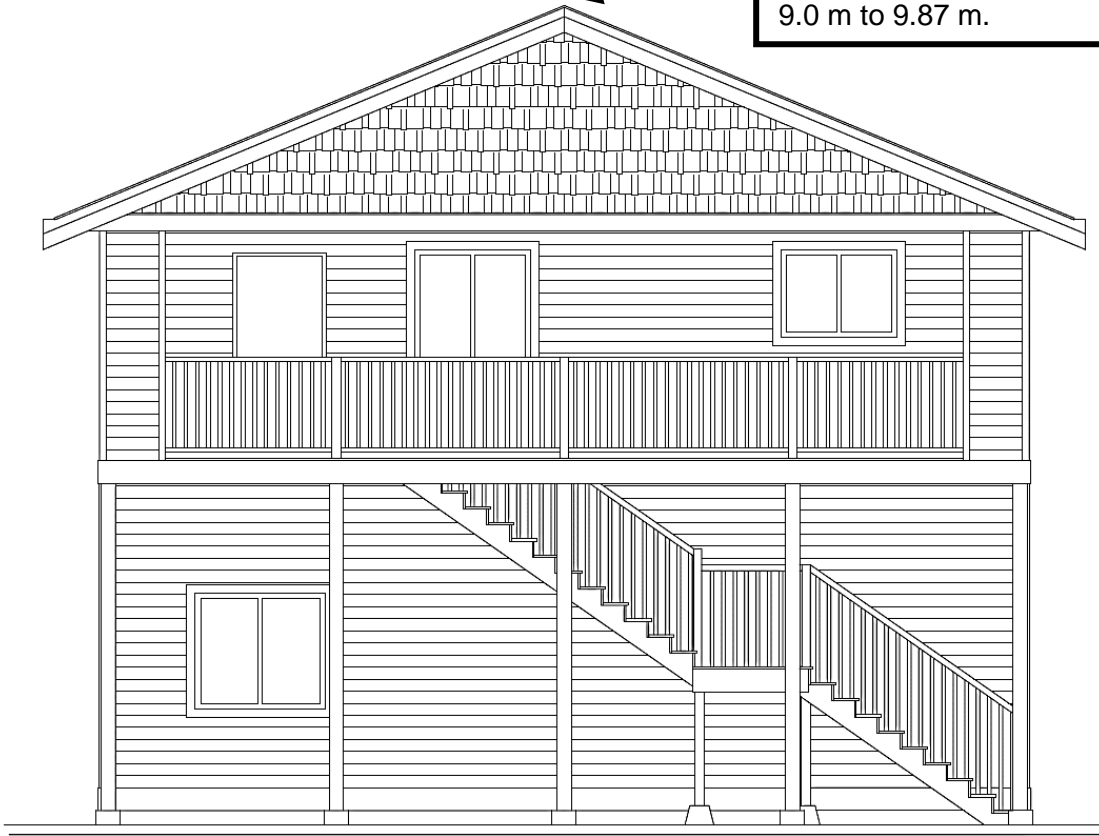


Attachment 3
Proposed Site Plan and Variance (2 of 2)



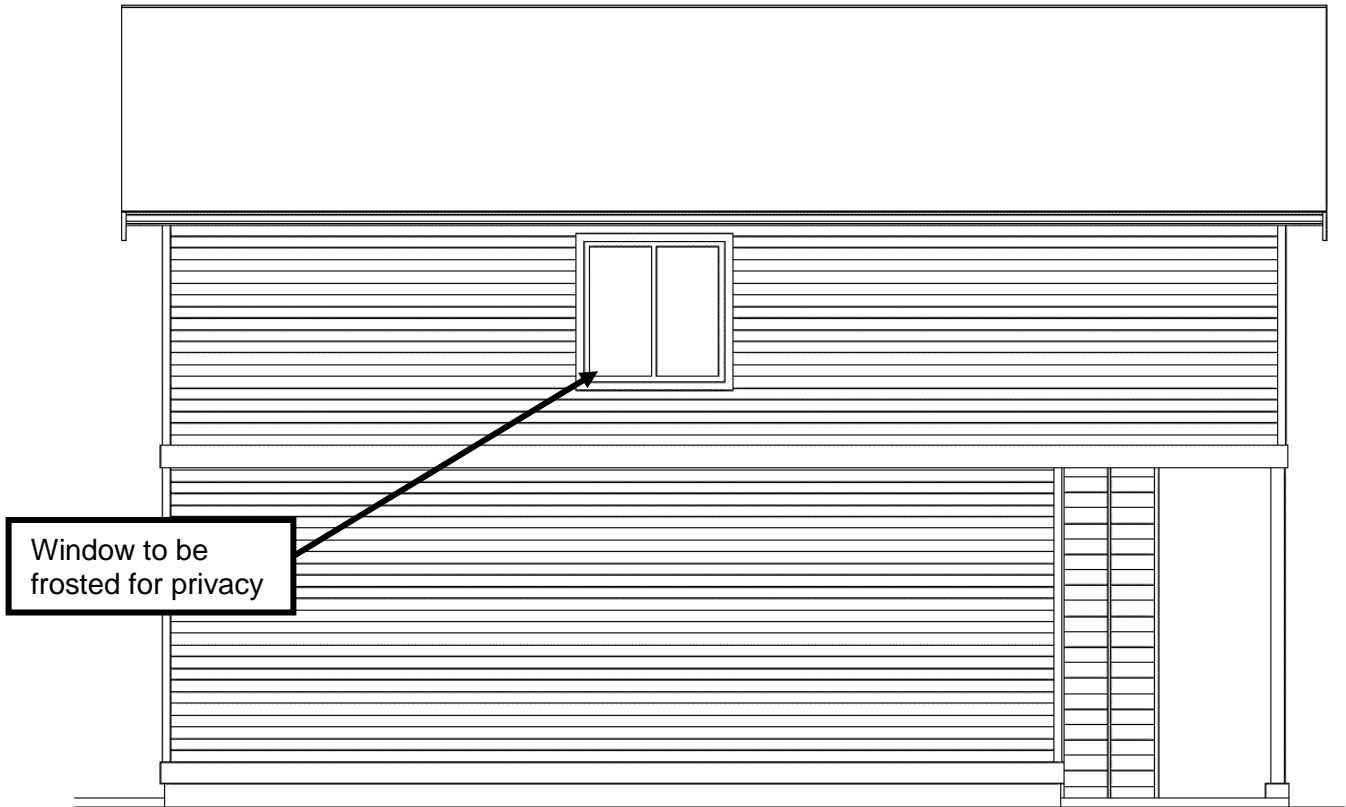
**Attachment 4
Building Elevations
(1 of 4)**

Proposed variance to increase the height for an accessory building from 9.0 m to 9.87 m.



FRONT ELEVATION

Attachment 4
Building Elevations
(2 of 4)



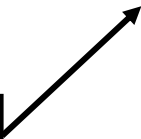
LEFT ELEVATION

**Attachment 4
Building Elevations
(3 of 4)**

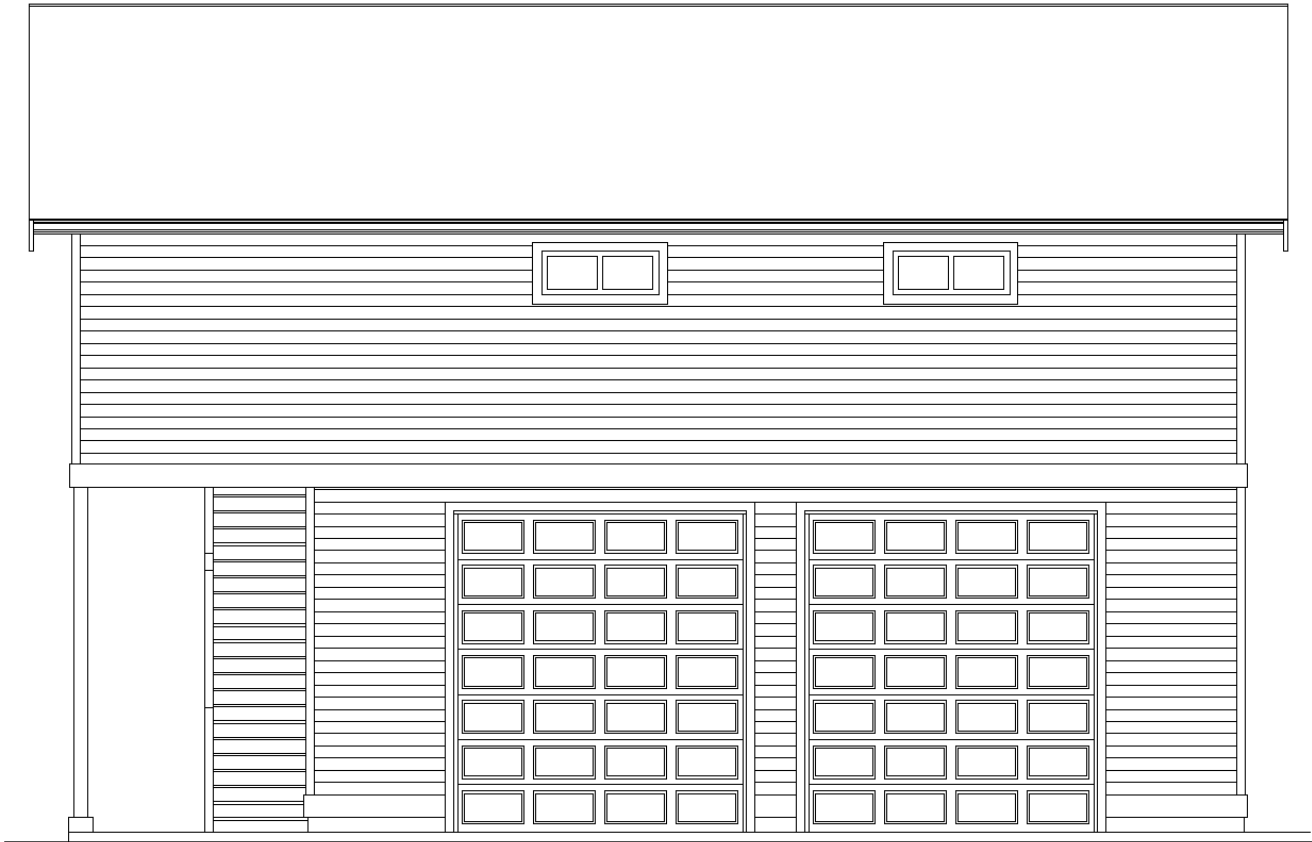


REAR ELEVATION

Building Elevation
screened from
abutting property
by existing trees



Attachment 4
Building Elevations
(4 of 4)



RIGHT ELEVATION