

BOARD OF VARIANCE AGENDA

Wednesday, September 19, 2008

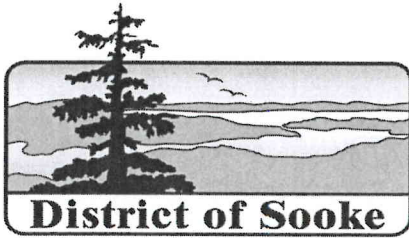
5:30 P.M.

2205 Otter Point Road, Sooke
COUNCIL CHAMBERS

-
1. Call to Order
 2. Applications:
 - BOV2008-0305 Joseph Burns
3000 Manzer Road
 - BOV2008-0307 David & Diane Meek
1747 Whiffin Spit Road
 - BOV2008-0324 Larry Champagne (Applicant)
7252 Bethany Place
 3. New business
 4. Adjournment

Please Note:

If any member of the Board of Variance is unable to attend a meeting or if anyone has any questions, please advise Tara Johnson (642-1628).



File No. BOV2008-0305

To: Board of Variance Members
From: Katherine Lesyshen, Planner
Date: November 19th, 2008
Re: **3000 Manzer Road, Sooke BC**

RECOMMENDATION:

That the Board of Variance increase the allowable 3.0m side yard setback to 0m and 1.37m, respectively, increase the allowable 4.5m rear yard setback to 2.4m to allow for the partially constructed two-storey addition at 3000 Manzer Road, legally described as Lot 21, Section 60, Sooke District, Plan 12204, subject to the required easement amendments being registered on title and the structure is attached to the principle dwelling.

Application Summary:

The property known as 3000 Manzer Road is zoned Rural Residential Zone B (RR-1B) and is approximately 1578m². The applicant is requesting variances to the setbacks of the partially constructed two-storey structure, which will be used as a garage and storage. Currently this is a detached accessory building, however, the applicant is planning to attach the building to the dwelling as an addition. The applicant has altered and combined two existing buildings on the property to construct this addition. Three portions of the new construction are in contravention of the Sooke Zoning Bylaw, 2006.

The applicant is requesting to vary two portions of the building that encroach within the required 3.0m side yard setback to 0m and 1.37m as shown on the site plan, and the rear yard setback from 4.5m to 2.4m.

As the building is currently detached, the applicant does not comply with Section 5.2 of the Sooke Zoning Bylaw, 2006 which requires the maximum combined lot coverage of all *accessory buildings* and structures be 60m² on lots 2000m² or less. The new building's footprint is approximately 118m². There is no provision in the Local Government Act to vary density. *Density means the maximum number of buildings per lot, the maximum number of dwelling units per lot, lot coverage, or a combination thereof.*

However, if the structure was attached to the principle dwelling (essentially becoming part of the principle dwelling) lot coverage of 30% would apply. The lot coverage for the dwelling and the new structure is approximately 21%. The applicant has indicated that the new structure will be attached to the principle dwelling, as a condition of the variance.

The application is a result of Building Officials issuing a stop work order on the structure, informing the owner that building permits are required, and that Sooke Zoning Bylaw setbacks must be met. The owner stopped construction and applied to the Board of Variance. No building permit can be issued until a Board of Variance decision is made and all revised easements are registered.

The applicant has partially constructed a two-storey structure and is claiming hardship for the following reasons:

- The topography of the property, and the location of the septic field does not allow for the addition to be constructed elsewhere on the site.
- Portions of the existing structures were already located in non-conforming locations.

Legal Considerations

Sooke Zoning Bylaw, 2006

In creating this addition, the applicant has altered and combined two existing buildings on the property, and three setbacks of the new building are in contravention of the Sooke Zoning Bylaw, 2006. Within the Sooke Zoning Bylaw, 2006 the RR-1B Zone states that side yard setback for principle dwellings and accessory structures is 3.0m and the rear yard setback is 4.5m.

The applicant is requesting a variance to increase the allowable 3.0m side yard setback to 0m and 1.37m, respectively, and increase the allowable 4.5m rear yard setback to 2.4m to allow for the new two-storey addition.

Section 5.2 of the Sooke Zoning Bylaw, 2006 requires the maximum combined lot coverage of all accessory buildings and structures be 60m² on lots 2000m² or less. The new building's lot coverage is approximately 118m². If the structure is attached to the principle dwelling, it would become part of the principle dwelling, and Section 5.2 of the Sooke Zoning Bylaw, 2006 would not apply. The applicant has stated that he will attach the structure as an addition to the house; The total lot coverage would therefore be approximately 21%, which meets the total lot coverage for the zone.

Easements and Covenants:

The structure encroaches into two easement areas identified on the attached survey plan. The northernmost portion of the structure was granted an easement by the adjacent property owner in 1992, as the building encroached onto that lot by 0.57m, but that easement only covers the first storey of the structure. Since the building now includes a second storey, the easement will need to be revised to reflect the change.

The second easement was created at the rear of the property *"to create a recreation area to be enjoyed in common with the owners of Lots 9 and 20."* (the adjacent lots to the north and south). This easement will need to be revised to accommodate the location of the building.

According to Ronald Hunter, the applicant's solicitor, the applicant has negotiated an agreement with the adjoining property owner to amend the easements. The applicant does not want to implement the agreement, unless the Board of Variance agrees that the setback encroachment may remain. If the Board grants the variances requested, revised easements will need to be registered on title prior to the actual issuance of the permit. The existing easements are attached for your reference.

A covenant area is also identified, restricting buildings on the covenant area. The building is not, however, located on the covenant area. The covenant has been attached for your reference.

Staff Discussion:

The structure is located at the rear of the property, and does not detract from the existing character of the neighbourhood. Planning has no objections to the proposed variances subject to:

- The applicant/owner amending the existing easements on the property to accommodate the structure proposed.
- The structure is attached to the principle dwelling in order to meet lot coverage requirements.

The applicant has indicated that the adjoining property owner is in favour of amending the easements. Following issuance of any variance permit, the applicant will need to work with Building Officials to ensure the building is constructed to code.

Attached Documents:

1. Application Facts
2. Summary of Referral Comments
3. Subject Property Map
4. Survey Plan
5. Pictures of the structure (2 pages)
6. Existing Easements
7. Existing Covenant
8. Letter from applicant's solicitor
9. RR-1 Zone

Katherine Lesyshen, Planner

Application Facts

Address	3000 Manzer Road
Legal	Lot 21, Section 60, Sooke District, Plan 12204.
Existing Zoning	RR-1B (Rural Residential Zone B))
Existing OCP	Rural Residential
Parcel Size	0.39 acres (1600 m ²)
Env Sensitive	No
Topography	Rocky outcropping, with a relatively flat area used as septic field.
ALR	No
Applicant	Joseph Burns
Owner(s)	Joseph Burns
Services	Water: Well Sewer: On-site Drainage: On-site
Adjacent Land Uses	North: Rural Residential South: Rural Residential East: Rural Residential West: Manzer Road and Sooke Road (Hwy 14)

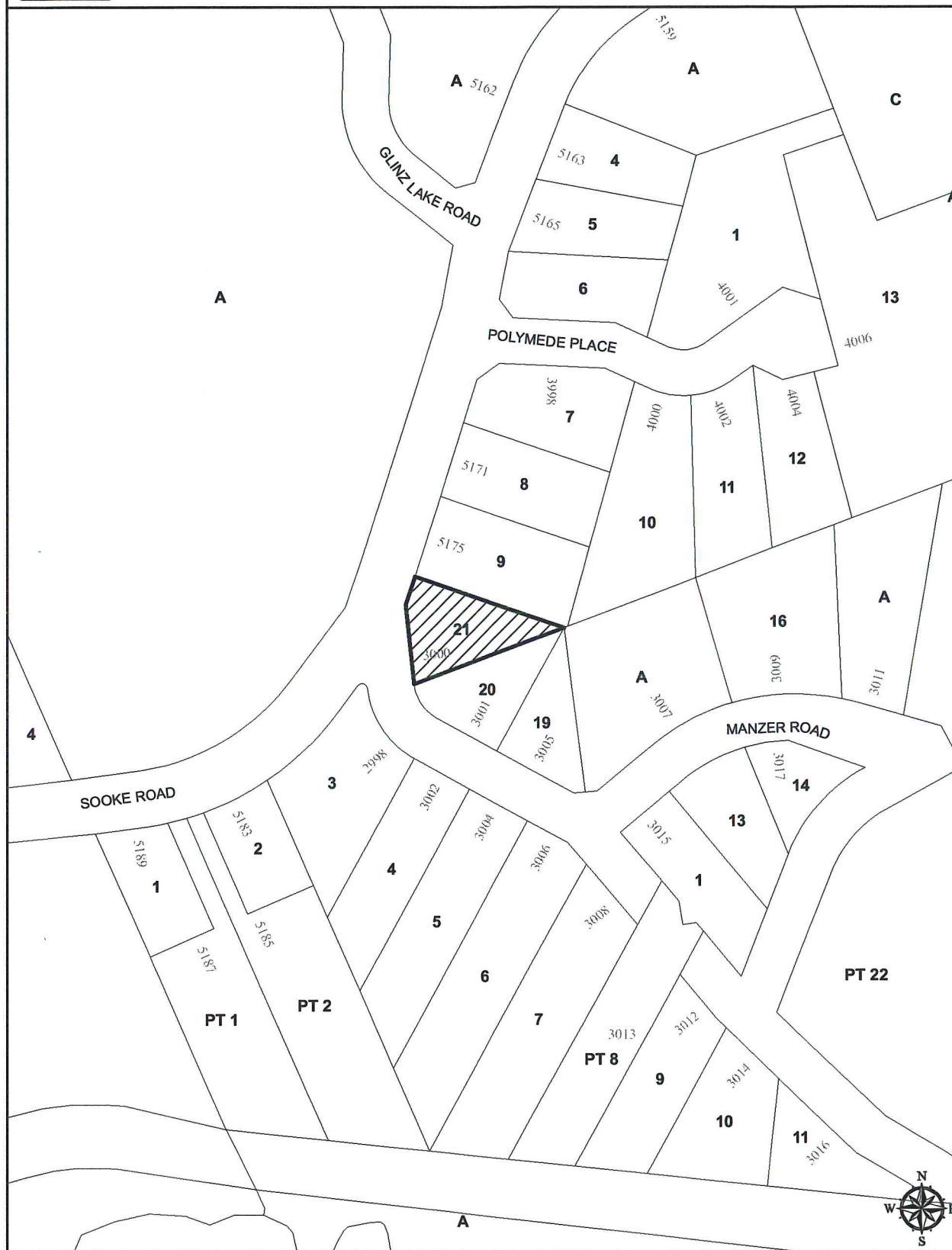
Summary of Referral Comments

Ministry of Transportation and Infrastructure	No concerns
Building	All revised easements must be registered prior to issuance of BP. The Owner was advised in August 2008 to submit plans. Building department cannot make any further assessment of this file until such plans are submitted. We need to determine if the proximity of the building to the property line poses any risk of fire spread. Factors such as windows, doors, type of construction etc need to be assessed.
Engineering	No concerns
Fire Department	Provided the building is being used for storage, the fire department is not concerned.



SUBJECT PROPERTY MAP

File: BOV2008-0305



Subject Property

0 25 50 100 150 200 Metres

B.C. Land Surveyor's Building Location Certificate Showing Location of Improvements Situated on Lot 21, (PID 000 646 695), Section 60, Sooke District, Plan 12204.

Scale 1:250



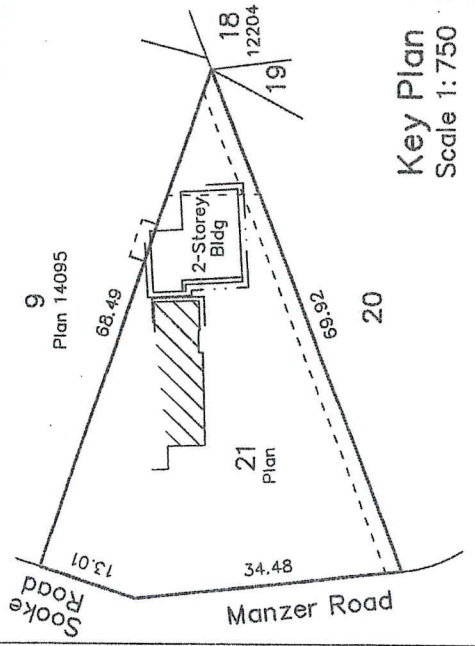
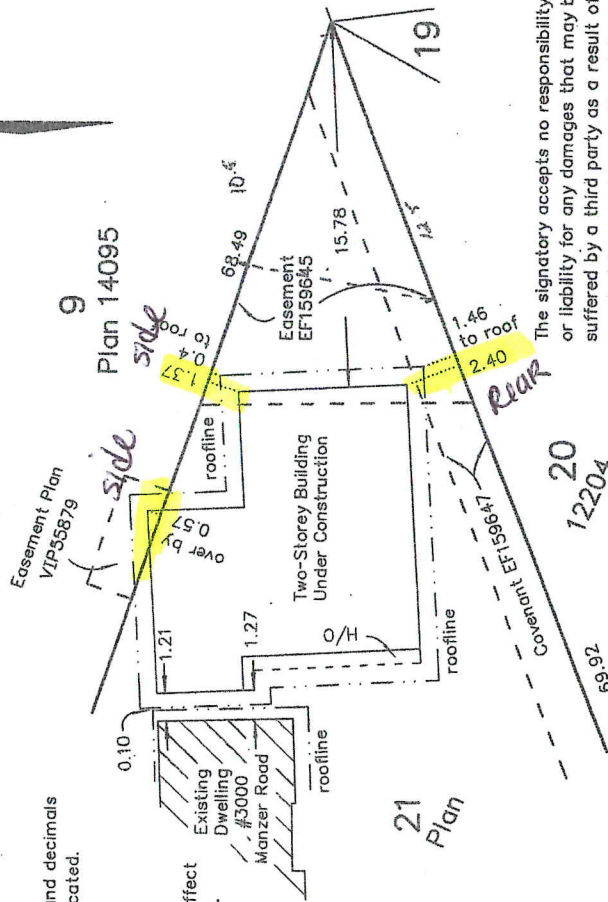
Legend:

All distances are in metres and decimals thereof unless otherwise indicated. Dimensions are derived from Land Title Office records.

The following documents are registered on title and may affect the location of improvements.

Covenants
EF159647
Easements
EF159645

O/H denotes 2nd
storey overhang



Key Plan
Scale 1:750

This plan was prepared for municipal purposes and is for the exclusive use of our client. This document shows the relative location of the surveyed structures and features with respect to the boundaries of the parcel described above. This document shall not be used to define property lines or property corners. This building location certificate has been prepared in accordance with the Manual of Standard Practice and is certified correct this 2nd day of September 2008.

B.C.L.S.

This document is not valid unless originally signed and sealed
COPYRIGHT © Minda C. Riley, B.C.L.S. 2008

The signatory accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decisions made, or actions taken based on this document.
All rights reserved. No person may copy, reproduce, transmit or alter this document in whole or in part without the consent of the signatory.

Michael J. McIlvaney
British Columbia Land Surveyor
Victoria, B.C.
(250) 474-5538

File: 4125BLC
Client: Burns





92 NO 30 11 49 1

EF159645

District of Sooke

SEP - 5 2008

Received

Land Title Act (Section 219.81) VICTORIA
Province of British Columbia

FORM C
GENERAL INSTRUMENT - PART 1

Page 1 of 4 Page(s)

1. APPLICATION: DINNING CRAWFORD & CO.
Barristers & Solicitors
813 Goldstream Avenue
57845/GORDON Victoria, B.C., V9B 2W3 478-1731 *ENL*

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)	(LEGAL DESCRIPTION)
000-646-695	Lot 21, Section 60, Sooke District, Plan 12204 (Servient Tenement)

3. NATURE OF INTEREST:*

DESCRIPTION	DOCUMENT REFERENCE	PERSON ENTITLED TO INTEREST
Easement over part of Lot 21, Plan 12204	Entire Instrument (page and paragraph)	Registered Owner of Lot 20, Sec 60, Sooke District, Plan 12204 and Lot 9, Sec. 60, Sooke Dist., Plan 14095

4. TERMS: Part 2 of this Instrument consists of (select one only)

- (a) Filed Standard Charge Terms ☐ D.F. No.
 (b) Express Charge Terms ☒ Annexed as Part 2
 (c) Release ☐ There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in item 3 is released or discharged as a charge on the land described in item 2.

5. TRANSFEROR(S):* LINDA SUSAN GORDON and SHANNON JOHN VALENTINE

6. TRANSFEREE(S):* (including postal addresses) and postal code(s) LINDA SUSAN GORDON, Businessperson, and SHANNON JOHN VALENTINE, Cabinetmaker, both of 20 Manzer Road, Sooke, B.C., R.R. #1, V0S 1N0 AS JOINT TENANTS

7. ADDITIONAL OR MODIFIED TERMS: * N/A

8. EXECUTION(S):** This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in item 3 and the transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Execution Date

Officer Signature(s)

Y M D

92

11

Transferor(s) Signature(s)

Linda Gordon
LINDA SUSAN GORDON

Shannon Valentine
SHANNON JOHN VALENTINE

NEIL W. VALLANCE
Barrister & Solicitor
(as per Goldstream Avenue)
VICTORIA B.C. V9B 2X8

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

TERMS OF INSTRUMENT

- 1) LINDA SUSAN GORDON and SHANNON JOHN VALENTINE are the registered owners of Lot 21, Sections 60 & 70, Sooke District, Plan 12204 (called Lot 21).
- 2) LINDA SUSAN GORDON is the registered owner of Lot 20, Sections 60 & 70, Sooke District, Plan 12204 (called Lot 20).
- 3) LINDA SUSAN GORDON and SHANNON JOHN VALENTINE are the registered owners of Lot 9, Section 60, Sooke District, Plan 14095 (called Lot 9).
- 4) The owners of Lot 21 (the "servient tenement") have agreed to grant an easement in favour of Lots 9 and 20 (the "dominant tenement") over part of Lot 21 to create a recreation area to be enjoyed in common with the owners of Lots 9 and 20.
- 5) The part of Lot 21 covered by the easement is described on the attached Schedule (and is called the Easement Area).
- 6) The owners of Lot 21 grant an easement over the Easement Area for the use and enjoyment of the owners of Lots 9 and 20 and their invited guests.
- 7) The owners of all three Lots agree that no existing vegetation and structures (including the fire pit, fence and corner of greenhouse) in the Easement Area will be altered or removed without unanimous consent.
- 8) The owners of Lot 21 also grant an easement over the Easement Area to provide access between Lots 9 and 20 for the owners of Lots 9 and 20 (and their invited guests).
- 9) The easement is to run with the land and be binding upon the owners of the Lots, their heirs, executors and assigns.

GLEN MITCHELL, Land Surveyor

1030 NORTH PARK STREET, VICTORIA, B.C. V8T 1C6, TELEPHONE 385-1712, FAX 385-1713

EASEMENT AREA

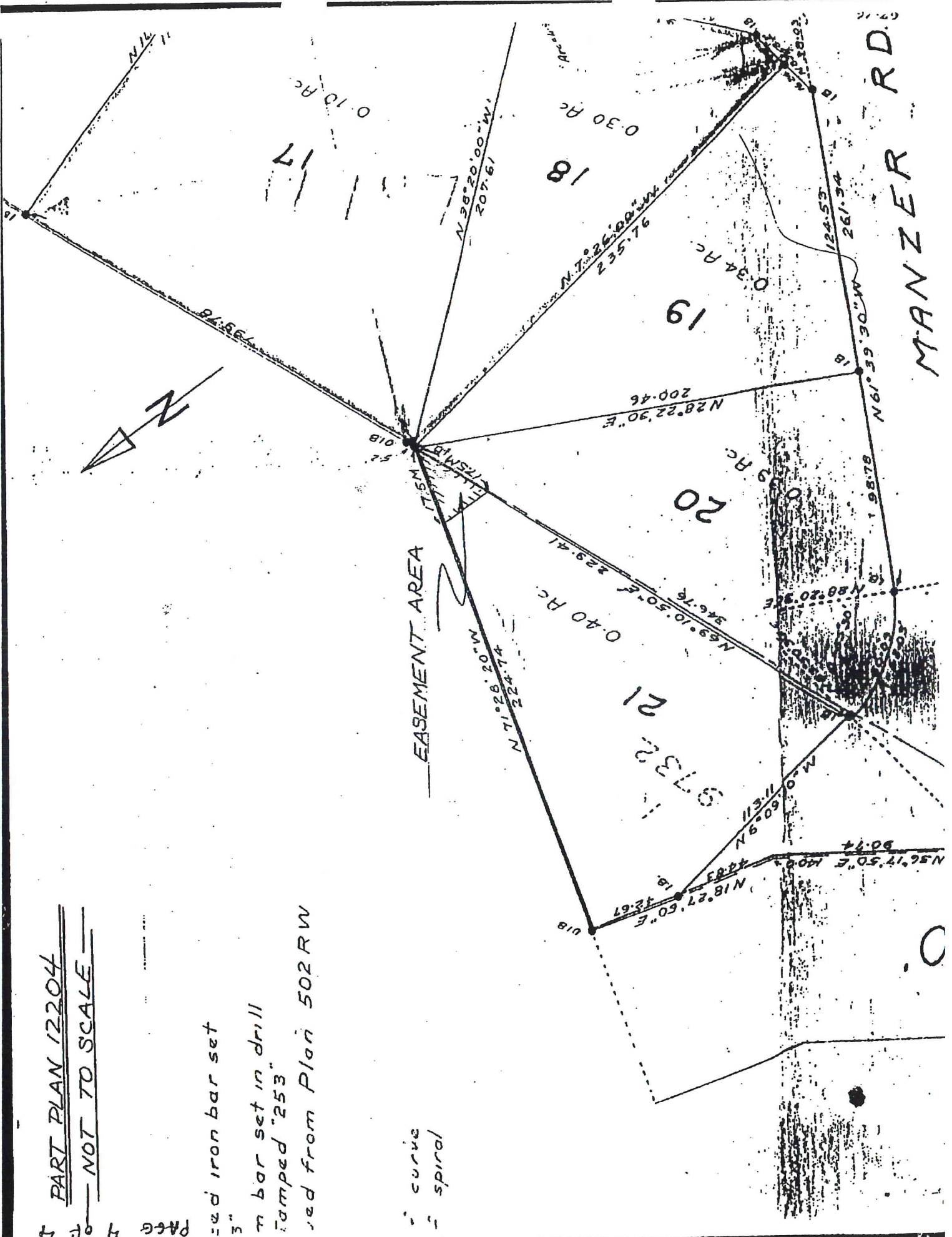
All that part of Lot 21, Section 60, Sooke District, Plan 12204, that may be more particularly described as follows:

All that part of the said Lot 21, lying to the northeast of a line that intersects the northeasterly and southeasterly boundaries distant 17.5 metres and 17.5 metres respectively from the most easterly corner of the said Lot 21. As shown hatched on a print of the said Plan 12204 attached hereto.

PAGE 4 OF 4
PART PLAN 12204
NOT TO SCALE

2" red iron bar set
 3" n bar set in drill
 Tamped "253"
 ved from Plan 502RW

— curve
 — spiral



FF 159646

Page 1 of 2 Page(s)

** If space insufficient; continue executions on additional page(s) in Form D.

TERMS OF INSTRUMENT

- 1) LINDA SUSAN GORDON and SHANNON JOHN VALENTINE are the registered owners of Lot 9, Section 60, Sooke District, Plan 14095 (called Lot 9).
- 2) LINDA SUSAN GORDON and SHANNON JOHN VALENTINE are the registered owners of Lot 21, Section 60, Sooke District, Plan 12204 (called Lot 21).
- 3) The owners of Lot 9 (the "servient tenement") have agreed to grant an easement in favour of Lot 21 (the "dominant tenement") because a corner of a building on Lot 21 encroaches onto Lot 9.
- 4) The part of Lot 9 covered by the Easement is described on the attached Explanatory Plan certified correct the 22nd day of January, 1993 by Glen Mitchell, B.C.L.S. (and is called the Easement Area).
- 5) The owners of Lot 9 grant to the owners of Lot 21 an easement to use and occupy the Easement Area for the life of the existing one-storey building which encroaches on Lot 9.
- 6) The Easement will terminate and be cancelled upon destruction of the existing one-storey building which encroaches on Lot 9.
- 7) This Easement will be binding upon the owners from time to time of Lots 9 and 21 and their heirs, executors and assigns.

END OF DOCUMENT

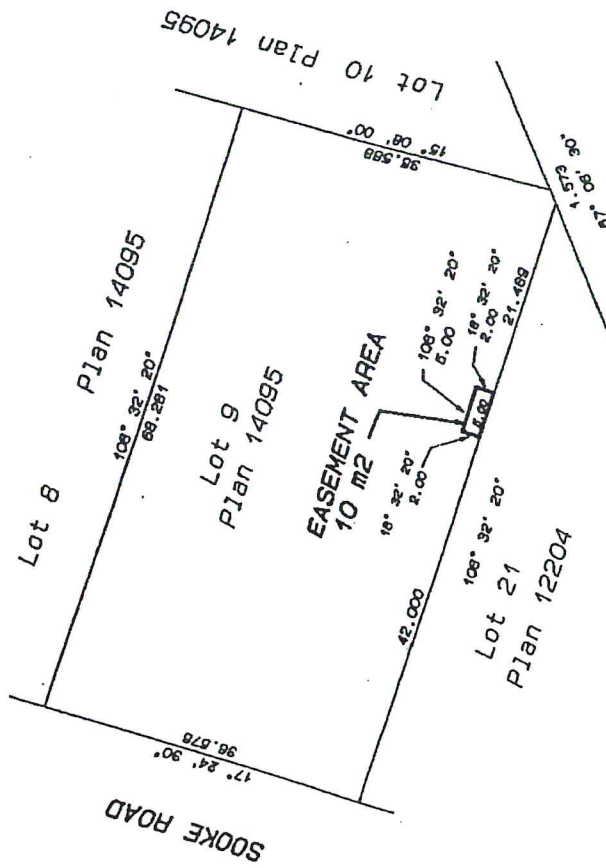
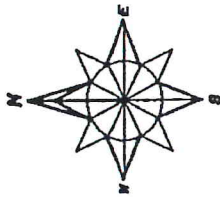
PLAN NO. VIP

Deposited in the Land Title Office at
Victoria, B.C.
this ____ day of _____, 1993

this ___ day of _____, 1903

this day of _____, 1903

Register



File: 89-244C-3306, EXP

Blair Mitchell, B.C.L.S.,
Land Surveyor
1030 North Park Street
Victoria, B.C.
V8T 1G6
telephone: 595-1712

Certified correct this 22nd day of JANUARY 1909

For withdrawal. B.C.L.S.

This plan lies within the Capital Regional District

92 NO 30 11 49 5

EF159647

District of Sooke

SEP - 5 2008

Received

RECEIVED
LAND TITLE OFFICELand Title Act (Section 219.81) STORIA
Province of British Columbia

FORM C

GENERAL INSTRUMENT - PART 1

Page 1 of 4 Page(s)

1. APPLICATION: DINNING CRAWFORD & CO.
Barristers & Solicitors
813 Goldstream Avenue
57845/GORDON Victoria, B.C., V9B 2W3 478-1731 *Edison*

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)	(LEGAL DESCRIPTION)
000-646-695	Lot 21, Section 60, Sooke District, Plan 12204 (Servient Tenement)

11/30/92 D5996b CHARGE 50.00 *OK*

3. NATURE OF INTEREST:*

DESCRIPTION	DOCUMENT REFERENCE	PERSON ENTITLED TO INTEREST
Restrictive Covenant over part of Lot 21, Plan 12204	(page and paragraph) Entire Instrument	Registered Owner of Lot 20, Sec 60, Sooke District, Plan 12204 <i>and 70</i>

4. TERMS: Part 2 of this Instrument consists of (select one only)

(a) Filed Standard Charge Terms	<input type="checkbox"/>	D.F. No.
(b) Express Charge Terms	<input checked="" type="checkbox"/>	Annexed as Part 2
(c) Release	<input type="checkbox"/>	There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in item 3 is released or discharged as a charge on the land described in item 2.

5. TRANSFEROR(S):* LINDA SUSAN GORDON and SHANNON JOHN VALENTINE

6. TRANSFEREE(S):* (including postal address(es) and postal code(s)) LINDA SUSAN GORDON, Businessperson, and SHANNON JOHN VALENTINE, Cabinetmaker, both of 20 Manzer Road, Sooke, B.C., R.R. #1, V0S 1N0 AS JOINT TENANTS

7. ADDITIONAL OR MODIFIED TERMS:* N/A

8. EXECUTION(S):** This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in item 3 and the transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Execution Date

Officer Signature(s)

Y M D

92 11 27

NEIL W. VALLANCE
Barrister & Solicitor(at 813 Goldstream Avenue)
Victoria, B.C. V9B 2W3

Transferor(s) Signature(s)

Linda Gordon

LINDA SUSAN GORDON

Shannon John Valentine

SHANNON JOHN VALENTINE

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

11/2/93
Accepted
on original
Noted
OK

TERMS OF INSTRUMENT

- 1) LINDA SUSAN GORDON and ^{JOHN} SHANNON PATRICK VALENTINE are the registered owners of Lot 21, Section 60, Sooke District, Plan 12204 (called Lot 21).
- 2) LINDA SUSAN GORDON is the registered owner of Lot 20, Sections 60 & 70, Sooke District, Plan 12204 (called Lot 20).
- 3) The Owners of Lot 21 have agreed to the registration of a Covenant over part of Lot 21 to protect the stability of an adjacent retaining wall on Lot 20.
- 4) The part of Lot 21 covered by the Covenant is described on the attached Schedule (and called the Covenant Area).
- 5) No vehicles are to pass over or be parked within the Covenant Area.
- 6) No buildings or equipment are to be located on the Covenant Area.
- 7) Nothing is to be done within the Covenant Area that could impair the lateral or vertical stability of the adjacent retaining wall on Lot 20.
- 8) The cost of repairing any damage to the stability of the retaining wall caused by the breach of any of the above covenants will be borne by the owners of Lot 21.
- 9) The cost of normal maintenance and repair of damage to the retaining wall caused by normal wear and tear will be borne equally by the owners of Lot 20 and Lot 21.
- 10) This Covenant shall run with the land, and be binding on the the owners from time to time of Lots 20 and 21, their heirs, executors and assigns.

GLEN MITCHELL, Land Surveyor

1030 NORTH PARK STREET, VICTORIA, B.C. V8T 1C6, TELEPHONE 385-1712, FAX 385-1713

COVENANT AREA

All that part of Lot 21, Section 60, Sooke District, Plan 12204, that may be more particularly described as follows:

All that part of the said Lot 21, lying to the southeast of a line, and productions thereof, drawn parallel to and perpendicularly distant, 2 metres from the southeasterly boundary of the said Lot 21. As shown hatched on a print of the said Plan 12204 attached hereto.

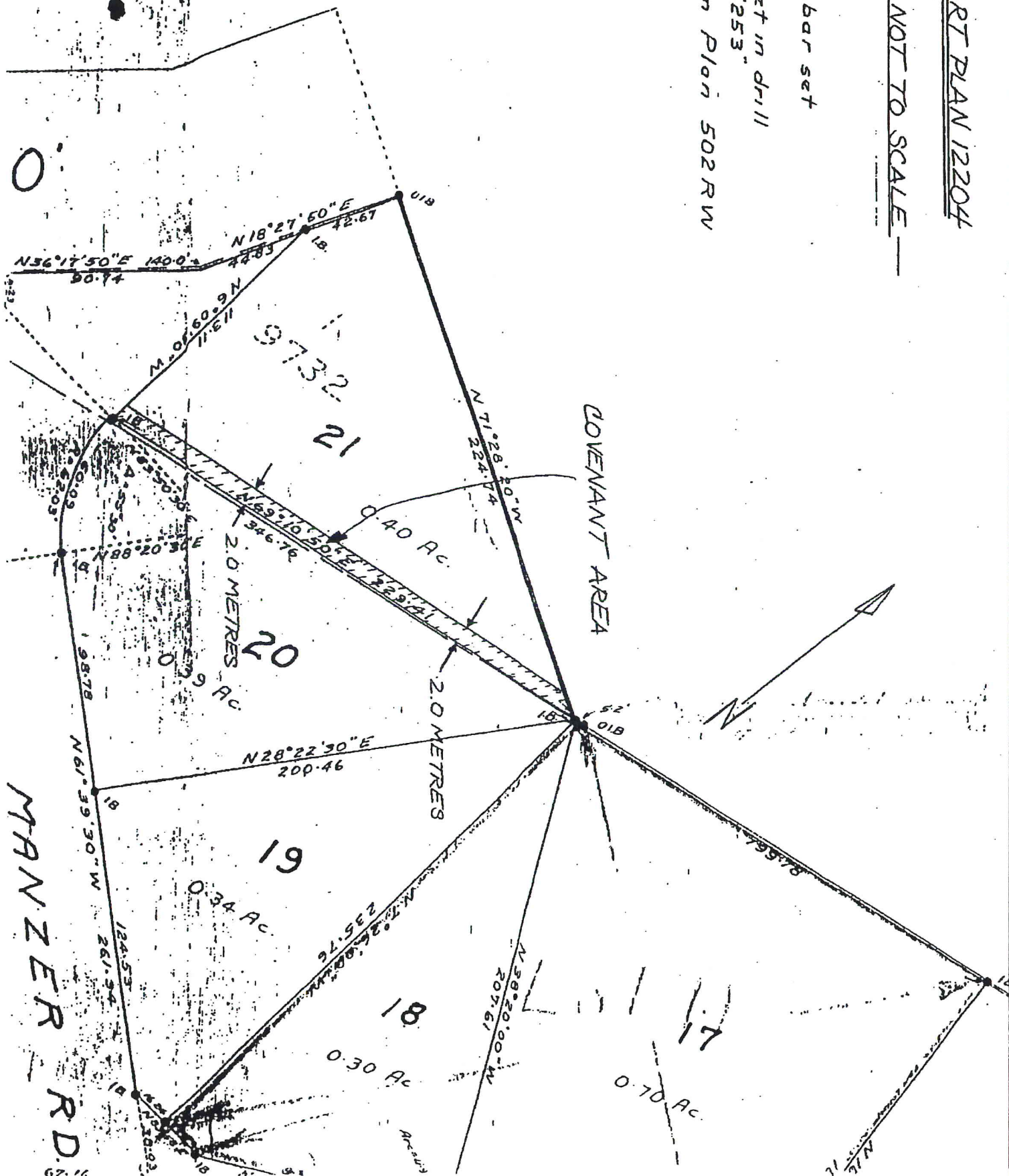
PART PLAN 12204

NOT TO SCALE

Page 4 of 4

3" iron bar set
in bar set in drill
imped 253"
ed from Plan 502RW

curve
spiral



SEC. 288 NOTICE RECEIVED
Date 17.12.92
Signature E. Wilson

16.01.93

Application EF 159645, 46847
02.02.93

LAND TITLE ACT
(NOTICE DECLINING TO REGISTER)

Land Title Office, Victoria, B. C.

Date December 14, 1992

IN THE MATTER of the above application to register 2 Easements & Covenant

PID NO(s) 004 975 065 004 481 089 000 646 625

Sir/Madam:

TAKE NOTICE that I refuse to effect registration in accordance with the tenor of the above application. My reason for such refusal and my requirements are as follows:

Appl EF 159647 - application should be a restrictive covenant. Incurt
Area 2 to show the dominant and servient tenement.
The meter and bounds description is ambiguous.
Appl EF 159645-46 Area 2 to outline the dominant and servient tenement. Incurt
The meter and bounds description is ambiguous. eg. There appear
to be more than 1 boundary boundary.

01/28/93 A0093a DEFECT 10.00

AND FURTHER TAKE NOTICE that under the provisions of Section 298 of the Land Title Act, this notice is deemed to have been received by you within ten days from the posting, which is the same as the date hereof; and that unless you comply with the provisions of Sections 288 and 289 of this Act, this application shall be deemed to be cancelled and void.

M.B. See print of Sections 288 and 289 on back hereof.

Fee for this notice, ~~\$10.00~~ 10 —

Fee if application cancelled, \$10.00.

K.D. Jacques, Registrar

Per [Signature]

TO: Dinning Campbell & Co
813 Goldstream Avenue
Victoria B.C.
VB 2M3

DINNING HUNTER
LAMBERT & JACKSON
BARRISTERS AND SOLICITORS

Please respond to: GOLDSTREAM AVENUE OFFICE

Our file:
Your File:

September 29, 2008

DISTRICT OF SOOKE,
2205 Otter Point Road,
Sooke, B.C.

ATTENTION: Building Dept.

Dear Sirs:

RE: 3000 MANZER ROAD, SOOKE, JOSEPH NELSON BURNS

We are the solicitors for the above-captioned owner, who we understand has applied for a building permit for 3000 Manzer Road. We further understand that the building permit will not be issued until a contravention of the by-law with respect to setback has been resolved by the Board of Variance, and certain contravention of easements in favour of the adjoining properties has been remedied by way of amendment to those easements has been completed.

Our client has negotiated an agreement with the adjoining property owner to amend the easements, however our client does not want to implement the agreement, unless the Board of Variance agrees that the setback encroachment may remain.

Therefore, this letter is to advise you that we have been advised that the adjoining property owner is in favour of amending the easements, such that the Board of Variance may proceed with an adjudication with knowledge that if a ruling is in our client's favour the contravention of the easements will be remedied.

Yours truly,
DINNING, HUNTER LAMBERT & JACKSON



Per: RONALD F. HUNTER
/ms

PART EIGHT

SINGLE FAMILY RESIDENTIAL ZONES

8.1 Rural Residential Zone – RR-1

This zone applies to those lots of land that are rural in nature and intended for residential purposes and are not within the *Sewer Specified Area*. Subject to compliance with the general requirements in Parts 4 and 5, the following regulations shall apply in the RR-1 zones.

8.1.1 Permitted Uses

- a. Agriculture;
- b. Bed and breakfast;
- c. Boarding and lodging;
- d. Community care facility;
- e. Home-based business;
- f. Horticulture;
- g. One single family dwelling or one duplex per lot;
- h. One small suite or one secondary suite per lot;
- i. Silviculture;
- j. Vacation accommodation unit.

8.1.2 Minimum Lot Size for Subdivision Purposes:

Sub Zone	RR1	RR1-A	RR1-B
Minimum Lot Size	1 ha	1 ha	2 ha

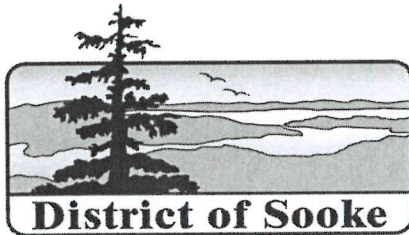
8.1.3 Maximum Height Principal Buildings and Structures – 12 m

8.1.4 Maximum Height Accessory Buildings and Structures – 9 m

8.1.5 Maximum Lot Coverage – 30%

8.1.6 Minimum Building Setbacks from Lot Lines for all Buildings and Structures shall be:

Use	Front Lot Line	Flanking Lot Line	Side Lot Line	Rear Lot Line	Lane Lot Line
Principal Building or Structure	7.5 m	4.5 m	3 m	4.5 m	4.5 m
Accessory Building or Structure	15 m or level with the principal building whichever is less	4.5 m	3 m	4.5 m	0 m
Farm Buildings or Structures	30 m	30 m	30 m	30 m	0 m



File No. BOV2008-0307

To: Board of Variance Members
From: Tara Johnson, Planner
Date: November 19th, 2008
Re: 1747 Whiffin Spit Rd

RECOMMENDATION:

That the Board approve the recommendation to increase the allowable 1.2m (3.9ft) height for a front yard fence at 1747 Whiffin Spit Road, legally described as Lot A, Section 5, Sooke District, Plan 16620 to 1.83m (6ft). This fence would start at the line level with the principal building along the side (south) lot line and continue north along the front lot line to end a few feet north from the public mailboxes on Whiffin Spit Road.

Application Summary:

The property is zoned R1 (Village Residential 1 Zone) and is 0.26 acres. The applicant/owner is requesting a variance to the fence height. Under section 5.10 in the Sooke Zoning Bylaw, 2006 the maximum fence height for the front yard is 1.2m (3.9ft). The applicant/owner is proposing a 1.83m (6ft) fence for a portion of the front yard and is claiming hardship for the following reasons:

- To minimize the noise traffic created from the public mailboxes in front of house
- To minimize the noise from the bus stop located in front of house

The application is a result of Bylaw Enforcement informing the owner that there are fence height restrictions as by this time, a significant portion of the fence was already constructed along the front yard. The owner immediately stopped construction and applied to the Board of Variance. The applicant does not plan to finish constructing the fence within the northern portion of the front yard as they will be planting shrubbery instead. The existing 6 foot high fence that the owners hope to be granted a variance for, starts at the southerly front yard and continues along the front lot line to end just a few feet north of the public mailboxes. The remaining land not fenced will be landscaped with a hedge.

The subject property is bordered to the west by Whiffin Spit Road, to the north by Wright Road and residential lies to the south and east.

Staff Discussion:

After reviewing this application, Planning has no objections and can support the variance request for the following reasons:

- The proposed variance would not adversely affect the natural environment or affect the use and enjoyment of adjacent lands,

- The color, material and texture of the existing fence reflect the local character of the area as the owners have utilized natural material (wood) that has remained harmonious with the color of the landscape,
- A site inspection of highway sightlines determined that the existing fence has no impact,
- No objections were received from District staff,

Attached Documents:

1. Application Facts
2. Summary of Referral Comments
3. Site Plan (2 pages)
4. Pictures of the existing fence (2 pages)
5. Letter from Owner/Applicant
6. Definition of *front yard* and the regulations regarding fences – Sooke Zoning Bylaw, 2006 (2 pages)

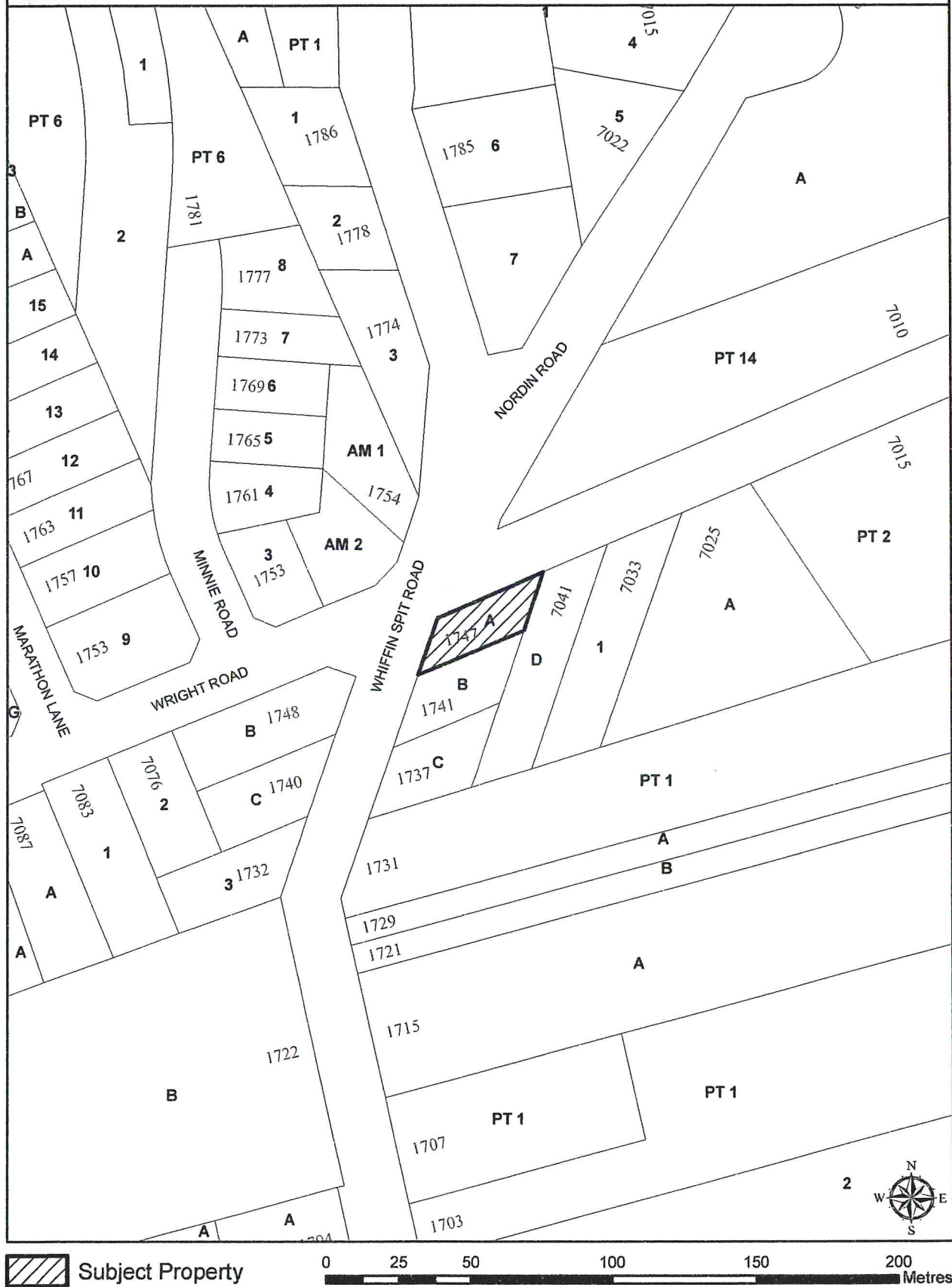
Tara Johnson, Planner

Application Facts

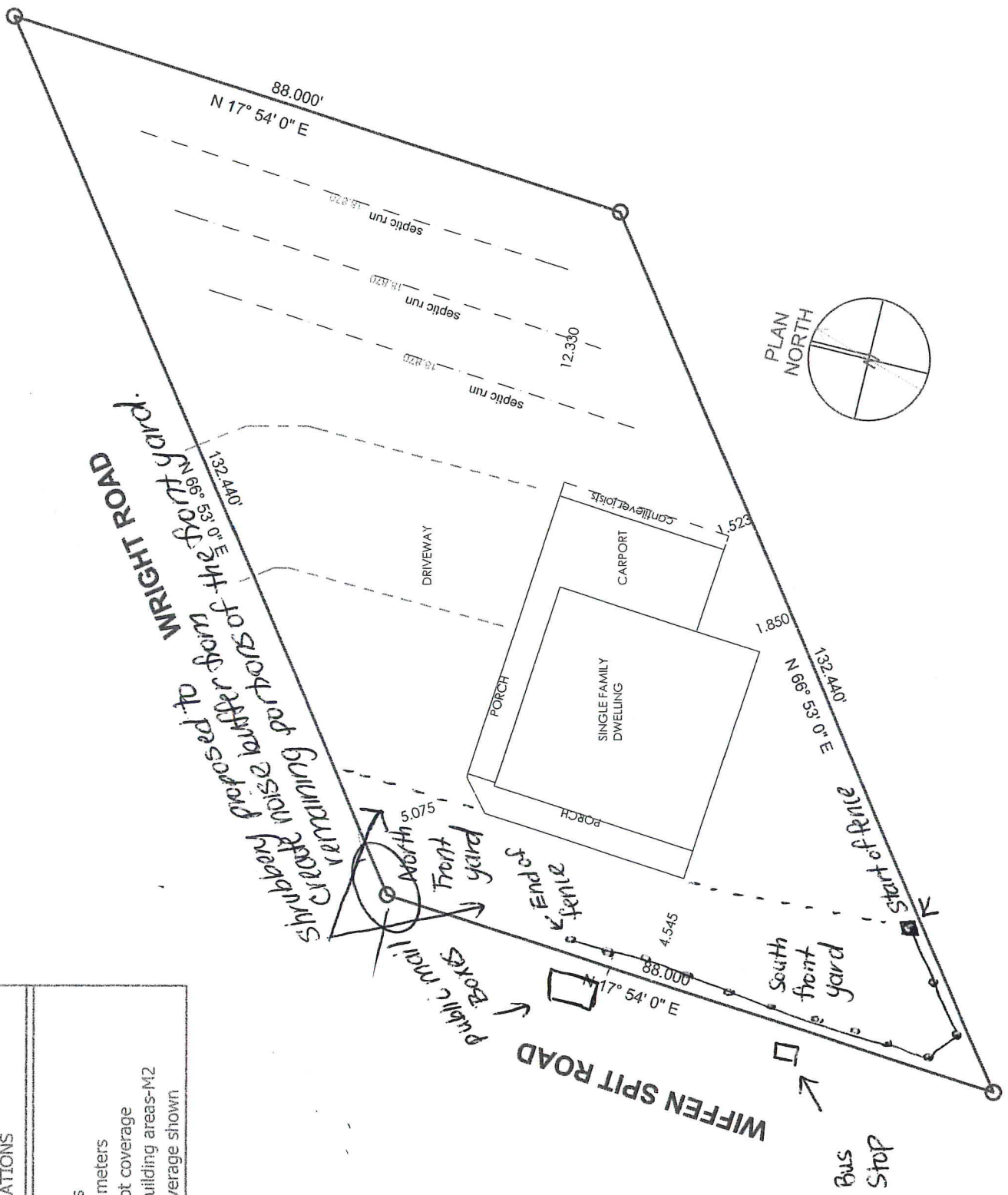
Address	1747 Whiffin Spit Road
Legal	Lot A, Section 5, Sooke District, Plan 16620.
Existing Zoning	R1 (Village Residential 1 Zone)
Existing OCP	Community Residential
Proposed OCP	n/a
Parcel Size	0.26 acres (1052.2 m ²)
Env Sensitive	No
Topography	Fairly flat
ALR	N/A
Applicant	David Meek & Dianne Pedneault
Owner(s)	David Meek & Dianne Pedneault
Services	Water: CRD Water Sewer: On-site Drainage: On-site
Adjacent Land Uses	North: Wright Rd South: Residential East: Residential West: Whiffin Spit Road

Summary of Referral Comments

Building	No concerns. It seems that the property line is well back from the existing asphalt and therefore sight lines and visibility are currently not a major issue however this may change in the future if Whiffen Spit Road is widened and/or improved.
Engineering	No concerns
Fire Department	No concerns provided the fence does not obstruct site lines at the road intersection



LOT CALCULATIONS	
R-1	Zoning
816.962	Sq.meters
134.38	Perimeter meters
204.24	Allowed lot coverage
132.366	Ground building areas-M2
16.2022	% Lot coverage shown







October 7, 2008

To Tara Johnson:

I am writing this letter to adjust the variance applied for on 1747 Whiffen Spit road. We have constructed a six foot fence on approximately 60 feet on Whiffen Spit road, which we would like to keep as is. The remaining land, from the fence to the driveway, we have decided to plant shrubs for a hedge, instead of the original fence applied for.

Please adjust the variance to reflect these changes.

Thank you
Dianne Pedneault

USE, USES and USED mean the purpose or function to which land, the surface of water, *buildings* or structures are used, occupied, intended to be put, or put;

USEABLE OPEN SPACE means a compact, level, unobstructed area or areas available for *use* by all of a *building* or *lot's* occupants, having no dimension less than 6 m and no *slope* greater than 10 percent, providing for greenery, recreational space, and other leisure activities and excludes required *front yards*;

VACATION ACCOMMODATION means the *use* of a *single family dwelling* or small suite for *temporary* accommodation managed by a Tourism BC approved management company;

VEHICLE means a device in, on or by which a person or thing is or may be transported or drawn upon a highway except a device designed to be moved by human power or *used* exclusively on stationary rails or tracks;

VEHICLE AND/OR EQUIPMENT REPAIR means a *use* or building providing for the servicing and mechanical repair of vehicles, boats, farm, gardening or construction equipment, and recreational vehicles or the sale, installation or servicing of related accessories and parts; includes, but not limited to, transmission shops, muffler shops, tire shops, automotive glass shops, and upholstery shops; specifically excludes auto wrecking yards;

VEHICLE SALES/RENTALS means a use or a building providing for the retail sale or rental of new or used motor vehicles, motorcycles, trucks, mobile homes, tent trailer, recreational vehicles, motor homes, boats, travel trailers or similar light recreational vehicles or craft, together with incidental maintenance services and sale of parts; includes, but not limited to, automobile dealerships, car rental agencies; excludes heavy equipment sales/rentals and auto wrecking;

VETERINARY CLINIC means a use which provides for the medical care of animals on an out-patient basis, and which may provide accommodation for short term care incidental to the veterinary clinic use; may include agricultural animal diagnostic services;

WALKWAY means a landscaped way primarily for the use of pedestrians, cyclists and non-motorized traffic, having a minimum width of 4.5 m;

WATERFRONT WALKWAY means a landscaped way, primarily for the use of pedestrians and non-motorized traffic, along Sooke Harbour and Basin, having a minimum width of 7.5 m;

WATERCOURSE see *stream*;

WRECKING YARD means a use providing for the towing, unenclosed storage, or dismantling, crushing of more than one unlicensed vehicle, which may include the sale of parts;

YARD means that part of a lot unoccupied and unobstructed by *principal* and *accessory buildings* or *structures* and in particular:

FRONT YARD means the three dimensional space which runs parallel with the front lot line and the *line level with the principal building*;

REAR YARD means the three dimensional space between and parallel with the rear lot line and the principal building;

FLANKING YARD means the three dimensional space between and parallel with the flanking lot line and the principal building;



- (h) The maximum number of guests permitted in the *principal residential building* on any overnight stay shall be 8; however, subject to compliance with the British Columbia Fire Code, the number of guests permitted in the *principal residential building* may be increased;

5.7 **Boarding and Lodging**

- a. The keeping of *boarders, lodgers and roomers* is permitted in a single family *dwelling* in a zone in Parts 8 or 9;
- b. There shall be a maximum of two *boarders, lodgers or roomers* per single family *dwelling*;
- c. One additional off-street *parking* space must be provided per *boarding and lodging* room;
- d. The keeping of *boarders, lodgers, or roomers* shall not be permitted within a single-family *dwelling* containing a *bed and breakfast*.

5.8 **Campground Use**

Notwithstanding any other provision of this bylaw, all *campgrounds* shall be used only in accordance with the following regulations:

- a. No person shall occupy a *campground* for more than 180 days in each calendar year;
- b. *Recreational vehicles* located within a *campground* shall have a valid motor vehicle license at all times;
- c. Campsites shall be *used* only by tents and wheeled *recreational vehicles* licensed for highway use.
- d. A *campground* may have up to three group sites per *campground*.
- e. Structural additions to *recreational vehicles* in *campgrounds* are not permitted.

5.9 **Employee Housing**

- a. *Employee housing*, where provided, shall not be included in the *density* provisions for the development, to a maximum of 10 additional *dwelling* or sleeping units.
- b. An agreement must be entered into as per s.905 of the Local Government Act;
- c. The *employee housing* may be in the form of a *dwelling unit* and/or sleeping *units* with shared kitchen and bath facilities;
- d. The *employee housing* shall not be in the form of a *single-family dwelling*.

5.10 **Fences**

Except as otherwise specifically stated in this bylaw:

- a. The *height* of a *fence* shall be measured from the bottom of the structure to the highest point;
- b. Maximum *fence* height:
 - i. Front and flanking yard – 1.2 m
 - ii. Rear and side yard – 2 m
- c. *Fences* within agricultural, *commercial*, institutional or industrial zones shall have a maximum *height* of 2.5 m;
- d. Notwithstanding the provisions of 5.12(a), (b) and (c), *fences* used for recreational purposes, such as ball parks, playgrounds, golf courses, and other similar sports, *public utility uses* and *industrial* storage areas shall not exceed a *height* of 6 m provided such *fences* are constructed of material that permits visibility, such as wire mesh;
- e. *Fences* may not be constructed within the *sight triangle*;
- f. Swimming pools must be provided with non-climbable fencing or equivalent barrier of not less than 1.5 m in *height*, and a gate closure and latch shall be provided at the highest practical point.





File No. BOV2008-0324

To: Board of Variance Members
From: Tara Johnson, Planner
Date: November 19th, 2008
Re: **7252 Bethany Place**

RECOMMENDATION:

That the Board of Variance relax the required side lot line setback from 2m to 0.2m to allow for a second storey addition to the existing accessory building (garage) at 7252 Bethany Place, legally described as Strata Lot 32, Section 17, Sooke District, Strata Plan VIS2968.

Application Summary:

The property is zoned R1 (Village Residential 1 Zone) and is 0.22 acres (899.33 square metres). The existing accessory building is utilized as a garage and for storage and was approved with a setback of 0.2m from the side lot line in November 1999 as per Board of Variance decision BVS-14-99. The applicant wishes to put a second storey on the accessory building for the purpose of more storage and to use as a workspace/studio space. Since the existing (first storey) accessory building did not meet setbacks and was granted a variance, any increase in height of the structure within the setback area would require further approval by the Board of Variance.

The applicant is requesting a side lot line variance to 0.2m for the second storey addition to the existing accessory building. The purpose of the variance to 0.2m for the second storey is to match the existing variance to the existing accessory building. This variance will incorporate the eave as well as the building itself.

Under section 8.5.8 in the Sooke Zoning Bylaw, 2006 the minimum building setback for a 2 storey accessory building from the side lot line is 2m. The applicant is claiming hardship for the following reasons:

- The existing accessory building received a variance in 1999 for 0.2m from the Board of Variance;
- The existing accessory building is on foundation and it is therefore not feasible to design the upper floor addition to meet the requirement of a 2m setback.

Staff Discussion:

After reviewing this application, Planning has no objections and can support the proposed variance as it will not detract from the character of the neighbourhood.

If variance is approved, the applicant will work with the District's Building Officials to ensure the building is constructed to code.

Attached Documents:

1. Application Facts
2. Summary of Referral Comments
3. Site Plan (2 pages)
4. Site Photos

Tara Johnson, Planner

Application Facts

Address	7252 Bethany Place
Legal	Strata Lot 32, Section 17, Sooke District, Strata Plan VIS2968
Existing Zoning	R1 (Village Residential 1 Zone)
Existing OCP	Community Residential
Proposed OCP	n/a
Parcel Size	0.22 acres (899.33 m ²)
Env Sensitive	No
ALR	N/A
Applicant	John Gauthier & Clare Wistanley
Owner(s)	John Gauthier & Clare Wistanley
Services	Water: CRD Water Sewer: On-site Drainage: On-site
Adjacent Land Uses	North: Residential South: Residential & Bethany Place (Road) East: Residential West: Residential

Summary of Referral Comments

Building	No concerns.
Engineering	No concerns
Fire Department	No concerns

TOTAL LOT SIZE 900.55 m²
ALLOWABLE LOT COVER AT 25% = 225.14m²

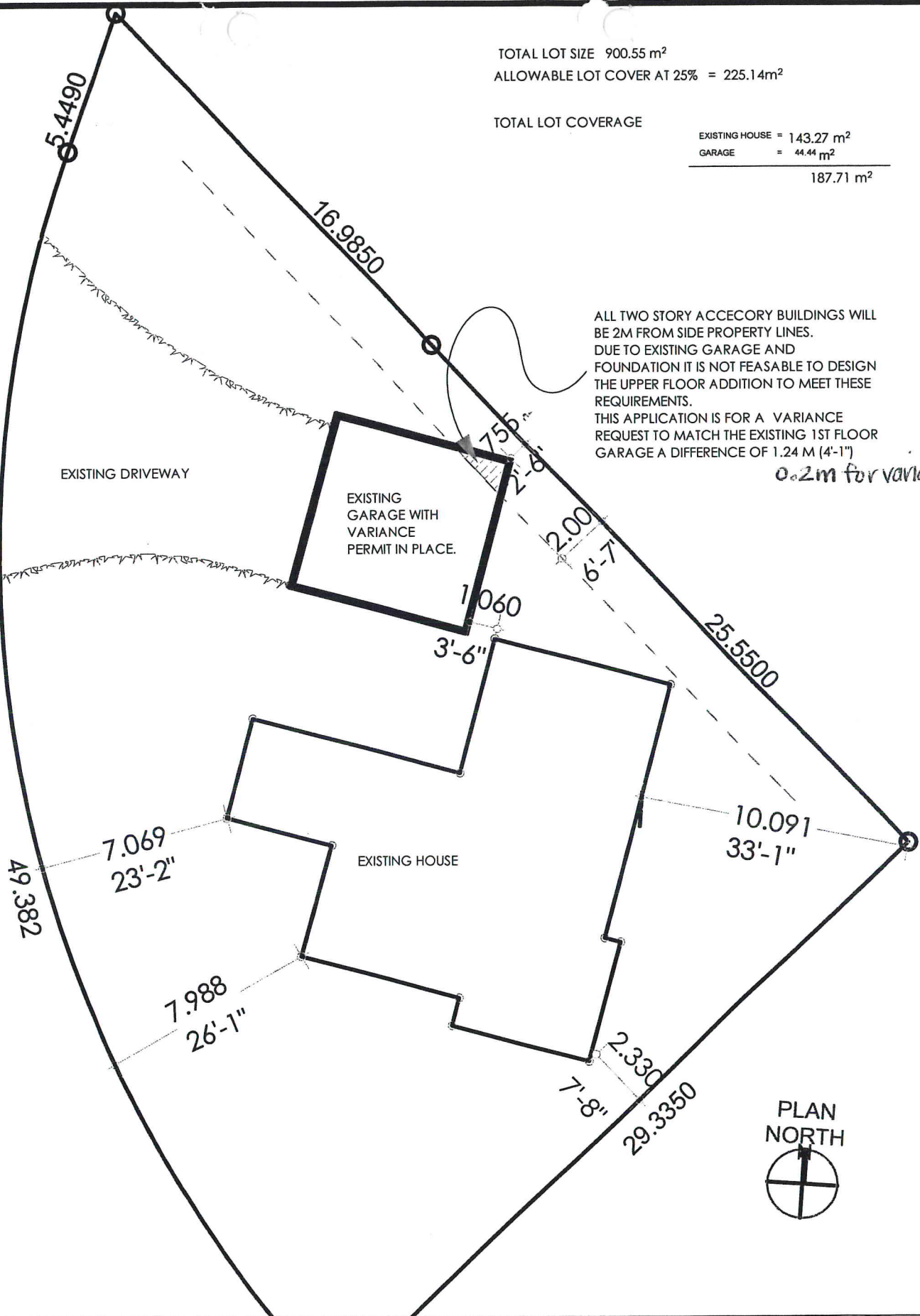
TOTAL LOT COVERAGE

EXISTING HOUSE	=	143.27 m ²
GARAGE	=	44.44 m ²
<hr/>		
187.71 m ²		

ALL TWO STORY ACCECORY BUILDINGS WILL BE 2M FROM SIDE PROPERTY LINES.
DUE TO EXISTING GARAGE AND FOUNDATION IT IS NOT FEASIBLE TO DESIGN THE UPPER FLOOR ADDITION TO MEET THESE REQUIREMENTS.
THIS APPLICATION IS FOR A VARIANCE REQUEST TO MATCH THE EXISTING 1ST FLOOR GARAGE A DIFFERENCE OF 1.24 M (4'-1")

0.2m for variance

Bethany Place



IF THE ABOVE DIMENSION DOES NOT MEASURE ONE INCH (1") EXACTLY, THIS DRAWING WILL HAVE BEEN ENLARGED OR REDUCED, AFFECTING ALL LABELED SCALES

1" ACTUAL

file name: LARRY.bpn
Last Save: Laurie
Drawn: JV
Scale: AS NOTED
Date: 10/29/2008

BETHANY PLACE GARAGE
Client: D. GAUTHIER, C.
WINSTANLEY
Address: 7262 BETHANY PLACE
City: SOOKE
Lot: 32 Plan: VIS25 Section: 17
District: SOOKE

This property lies in the SOOKE. Great care and effort have been taken in the making of this design and blueprint. Since variations can occur with site conditions, local building codes, municipal bylaws, weather conditions etc., West Coast Design & Development Services cannot assume any responsibility for damage as a result of errors or omissions. It is recommended that the owner and/or builder consult a local engineer, and check with you local building officials, prior to start of construction.

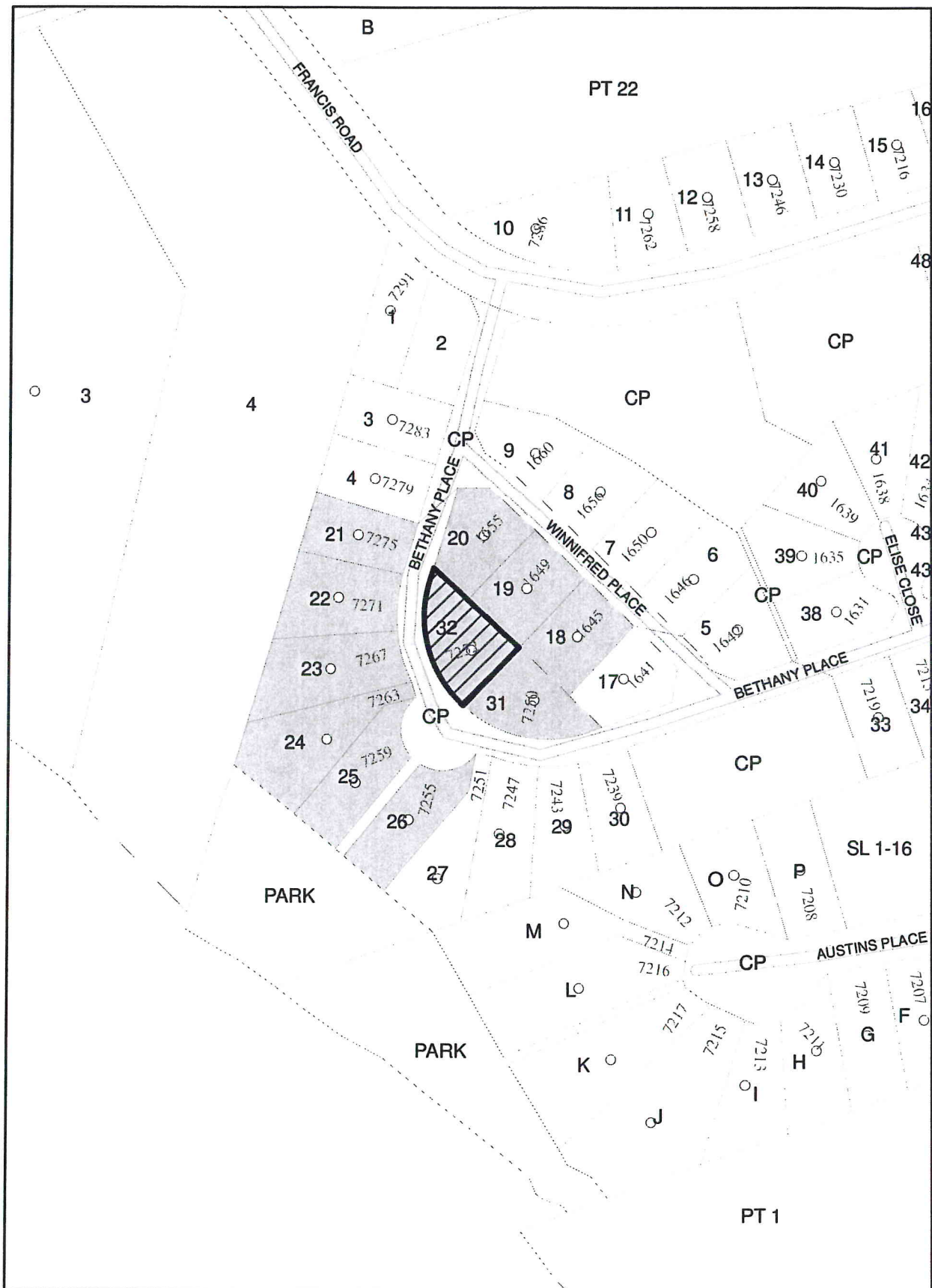
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Randy Clarkston
Laurie Wallace
Sooke, B.C.
250-642-8803

#LayID

#Layout Name



Subject Property

Adjacent Owners

0 15 30 60 90 120 Metres





8.5 Village Residential 1 Zone – R-1

This zone is intended to apply to those residential parcels of land that were in existence at the time of adoption of the bylaw. Subject to compliance with the general requirements in Parts 4 and 5, the following regulations shall apply in the R-1 zone.

8.5.1 Permitted Uses

- a. Single family dwelling;
- b. Duplex;
- c. Home-based business;
- d. Bed and breakfast;
- e. Community care facilities;
- f. Boarding and lodging;
- g. One small suite or one secondary suite per lot; (amended by Bylaw No. 316, August 13, 2007)
- h. Horticulture;
- i. Vacation accommodation unit.

8.5.2 Minimum Lot Size for Subdivision Purposes

Lot Within Sewer Specified Area	Lot Outside Sewer Specified Area
1,300 m ² 0.32 acres	1 ha 2.5 acres

8.5.3 Minimum Lot area for Duplex – 1,500 m² ~~0.32~~

8.5.4 Maximum Height for Principal Buildings - 13 m 42.6 ft

8.5.5 Maximum Height for Accessory Buildings – 9 m 29.5 ft

8.5.6 Minimum Average Width of the Principal Building – 7 m, excluding accessory porches, sheds, garages and carports

8.5.7 Maximum lot coverage - 25 %

8.5.8 Minimum Building Setbacks from Lot Lines for all Buildings and Structures:

Use	Front Lot Line (15 ft)	Flanking Lot Line	Side Lot Line	Rear Lot Line	Lane Lot Line
Principal Building or Structure	4.5 m – house portion 6 m – garage/carport portion	3 m (9.8 ft)	1.5 m (4.9 ft)	4 m (13 ft)	3 m (9.8 ft)
Accessory Building or Structure – 1 storey	15 m or level with the principal building whichever is less	4.5 m	1.2 m 3.9 ft	1.2 m 3.9 ft	0 m
Accessory Building or Structure – 2 storey	15 m or level with the principal building whichever is less	4.5 m	2 m	2 m	0 m

DISTRICT OF SOOKE
BOARD OF VARIANCE
Meeting held November 19, 2008 at 5:30 pm
2205 Otter Point Road

BOARD MEMBERS PRESENT:

Ellen Lewers, Chair
Travis Butler
Marilyn Andreychuk

Staff Present: Tara Johnson, Planner

1. The meeting began at 5:30 p.m.

2. Applications:

PUBLIC IN ATTENDANCE: 6

Larry Champagne
David Gauthier
Bill Kerruish
Diane Pedneault
David Meek
Joseph Burns

BOV2008-0305 – Joseph Burns (applicant in attendance), 3000 Manzer Road

Tara Johnson read and submitted the two letters of support received from Linda Gordon, Shannon Valentine & Roxana Argast for the variance. No objections were received.

It was reiterated by Planning that there will be specific building code requirements when the applicant comes in for a Building Permit in regards to attaching the new structure to the principle dwelling.

The Board considered the application to vary the side yard setback from 3.0m to 0m and 1.37m, respectively, and to vary the rear yard setback from 4.5m to 2.4m to allow for the partially constructed two-storey addition.

MOVED by Travis Butler, seconded that BOV2008-0305 be approved for relaxation of the side yard setback from 3.0m to 0m and 1.37m, respectively, and to vary the rear yard setback from 4.5m to 2.4m to allow for the partially constructed two-storey addition at 3000 Manzer Road, legally described as Lot 21, Section 60, Sooke District, Plan 12204, subject to the required easement amendments being registered on title and the structure is attached to the principle dwelling and further that the approval be subject to completion of all works prior to November 19, 2009.

CARRIED

BOV2008-0307 -- Diane Pedneault, David Meek (applicants in attendance), 1747 Whiffin Spit Road

The Board considered the application to vary the height for a front yard fence from 1.2m (3.9ft) to 1.83m (6ft). This fence starts at the line level with the principal building along the side (south) lot line and continues north along the front lot line to end a few feet north from the public mailboxes on Whiffin Spit Road.

MOVED by Marilyn Andreychuk, seconded that BOV2008-0307 be approved for relaxation of the height for a front yard fence from 1.2m (3.9ft) to 1.83m (6ft) at 1747 Whiffin Spit Road, legally described as Lot A, Section 5, Sooke District, Plan 16620. This fence starts at the line level with the principal building along the side (south) lot line and continues north along the front lot line to end a few feet north from the public mailboxes on Whiffin Spit Road.

CARRIED

BOV2008-0324 -- Larry Champagne, David Gauthier, Bill Kerruish (applicants in attendance), 7252 Bethany Place

Tara Johnson read and submitted the four letters of support received from Chris Dykman and Margaret Johnson, Gerald and Maureen Glaum, W.M and D.B Kerruish, C.H and R. Wojtat for the variance. No objections were received.

The applicant stated that application for a Building Permit was already in place and the variance was discovered in the process.

The Board considered the application to vary the required side lot line setback from 2m to 0.2m to allow for a second storey addition to the existing accessory building (garage).

MOVED by Travis Butler, seconded that BOV2008-0324 be approved for relaxation of the required side lot line setback from 2m to 0.2m to allow for a second storey addition to the existing accessory building (garage) at 7252 Bethany Place, legally described as Strata Lot 32, Section 17, Sooke District, Strata Plan VIS2968 and further that the approval be subject to completion of all works prior to May 19, 2009.

CARRIED

5. New Business – None

6. The meeting adjourned at 5:50 pm.

Certified Correct:

Ellen Lewers, Chair

Evan Parliament, CAO



2205 Otter Point Road, Sooke, British Columbia, Canada V9Z 1J2

Phone: (250) 642-1634
email: info@sooke.ca

Fax: (250) 642-0541
website: www.sooke.ca

File No. 0540-20

BOARD OF VARIANCE

Wednesday, December 17, 2008 at 5:30 P.M.

2205 Otter Point Road, Sooke
Municipal Meeting Room

AGENDA

-
1. **Call to Order**
 2. **Applications:**
BOV-2008-0386 – 6526 and 6528 Golledge Avenue
 3. **Adoption of Minutes – November 19, 2008**
 4. **New business**
 5. **Adjournment**