



File No. 0540-20

Board of Variance

Wednesday, October 7, 2015 at 5:00 p.m.
District of Sooke Council Chambers
2225 Otter Point Road, Sooke, B.C

AGENDA

1. **Call to Order**
2. **Applications:**
 - PLN01201 2706 Otter Point Road 1
 - PLN01203 7217 Austins Place 9
3. **Approval of Minutes:** November 5, 2014 17
4. **Adjournment**



STAFF REPORT – BOARD OF VARIANCE APPLICATION

MEETING**DATE:** October 7, 2015**FILE NO:** PLN01201**TO:** Chair and Members
Board of Variance**FROM:** Planning**RE:** Board of Variance Application for 2706 Otter Point Road

LEGAL DESCRIPTION: Lot 22, Section 36, Sooke District, Plan 1525 Except part shown
coloured red on Plan 15RW
PID 007-322-429**APPLICANT:** Tim Nicholson (on behalf of owners)
OWNERS: Julie & Benjamin Brooks
CIVIC ADDRESS: 2706 Otter Point Road**OCP BYLAW:** Bylaw No. 400, *Official Community Plan, 2010*
OCP DESIGNATION: Community Residential (CR)**ZONING BYLAW:** Bylaw No. 600, *Sooke Zoning Bylaw, 2013*
ZONE: Rural Residential (RU4)

PURPOSE

The applicant has applied to the Board of Variance to vary Section 104.7 of Bylaw No. 600, *Sooke Zoning Bylaw, 2013* (Zoning Bylaw) to allow a single family dwelling to locate 0m from the rear lot line. The required setback for a principle building is 4.5m.

The application is the result of a building permit where the site plan submitted shows the proposed dwelling adjacent to an easement, which is fact Crown Land. This is an anomaly on the property that the owners were not aware of until a survey was recently completed. The house is nearing completion.

The owners have begun the process of purchasing the land from the crown. This disposition of land is likely to proceed since the parcel is landlocked, however, it could take some time. As a means of proceeding with construction of the dwelling in a timely manner, a variance has been requested.

Due to the location of the existing building, the applicant cannot comply with Section 104.7 and is posing hardship to the Board of Variance.

POLICY ANALYSIS

Under Section 901 of the *Local Government Act* (LGA), the property owner may apply to a BoV for an order if the property owner claims that compliance with the siting, dimensions or size of a buildings or structure would cause hardship and the request is considered minor in nature.

Section 901(2) of the LGA states that a BoV may order that a minor variance be permitted from the requirements of the bylaw if the BoV finds that undue hardship would be caused to the applicant and the variance does not result in inappropriate development of the site, adversely affect the natural environment, substantially affect the use and enjoyment of adjacent land, vary permitted uses and densities under the applicable bylaw, or defeat the intent of the bylaw.

The proposed variance would not be in conflict or deal with any of the following that would affect the ability of the BoV to make an order as per section 901(3) of the LGA:

- § A section 219 covenant registered to the subject property
- § A development permit
- § A phased development agreement
- § A floodplain specification; or
- § Heritage conservation area/heritage building.

Adjacent Land Uses	North: Rural South: Residential East: Rural West: Rural
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INTERGOVERNMENTAL/REGIONAL IMPLICATIONS

There are no intergovernmental/regional implications associated with this Board of Variance application. The decision on the part of the Crown to dispose of the landlocked portion of the property is a separate process being undertaken simultaneously.

CITIZEN/PUBLIC RELATION IMPLICATIONS

Adjacent property owners were sent a letter of notification on September 24, 2015 regarding this variance request. The neighbours have been invited to attend the Board of Variance meeting to express any concerns they may have to this variance request or to give support to the application. The neighbours have also been invited to submit a written submission provided it is received prior to the meeting.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS

No concerns from the Engineering, Fire or Building Departments.

OPTIONS FOR BOARD OF VARIANCE'S CONSIDERATION

- OPTION 1.** Having considered the matters set out in section 901(2)(c) of the Local Government Act, and having found that undue hardship would be caused, the Board of Variance recommends approval to relax Section 104.7 of the Zoning Bylaw to allow the dwelling to be located 0m from the rear property line.
- OPTION 2.** That the Board of Variance recommends NOT approving the requested variance.

Attached Documents:

1. Subject Property Map
2. Survey Plan
3. RU4 zone

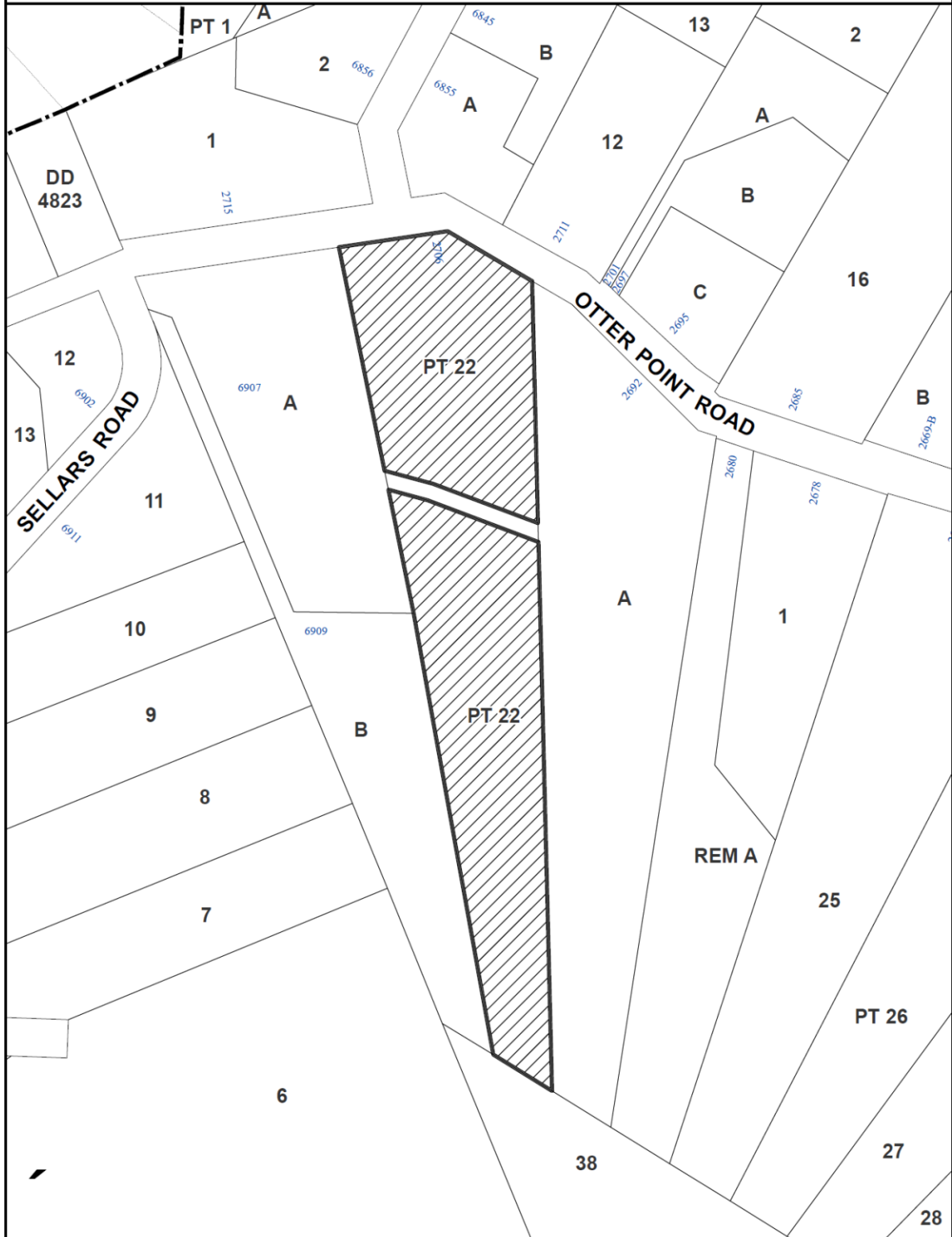
Respectfully,

Katherine Lesyshen, MCIP, RPP
Planner II



SUBJECT PROPERTY MAP

File: PLN01201



 Subject Property

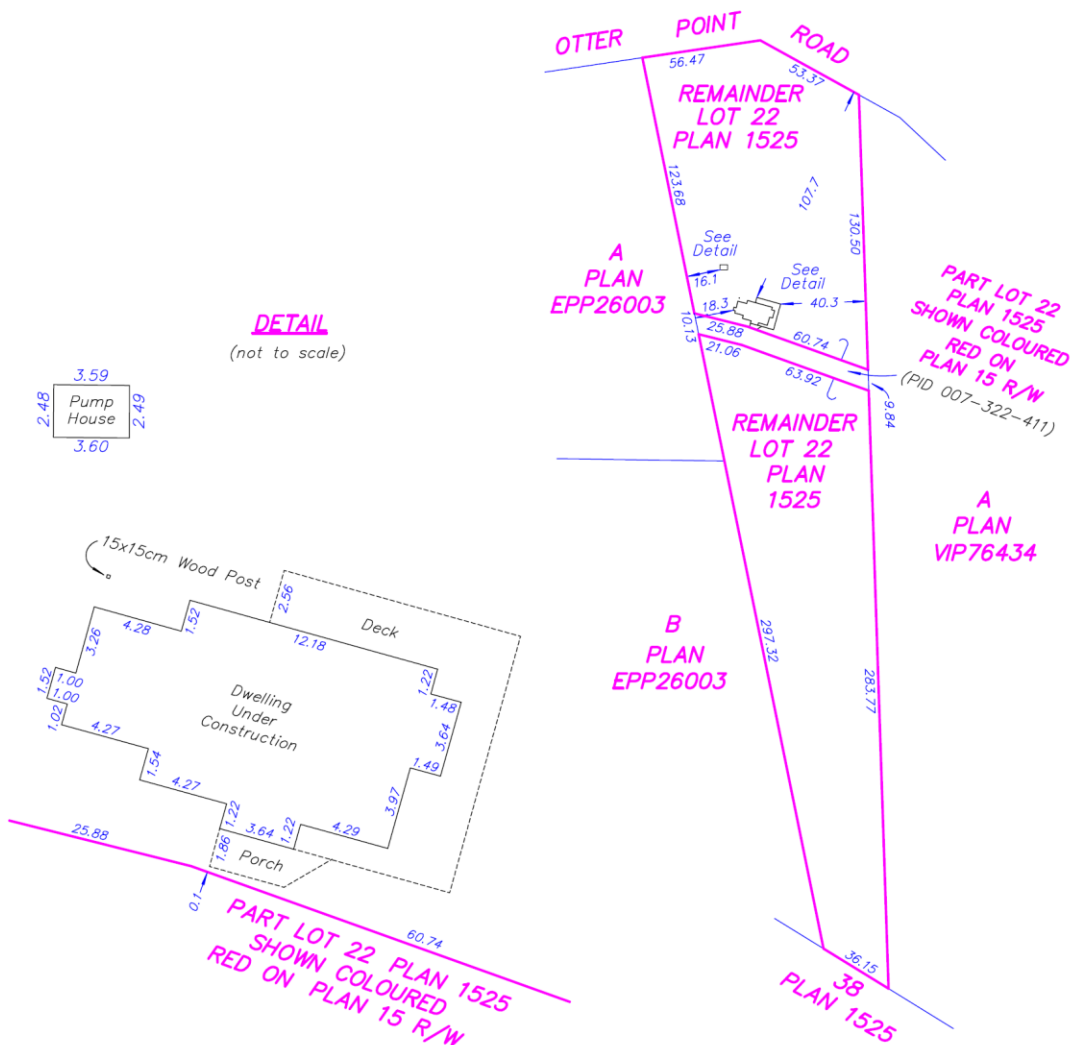
0 20 40 60 80
Metres

1-15 CADILLAC AVENUE
VICTORIA, B.C. V8Z 1T3
Tel 250.475.1515 Fax 250.475.1516
www.islandsurveying.ca
OUR FILE: W146-NICHOLSON-CO2

LOT 22, SECTION 36, SOOKE DISTRICT, PLAN 1525
EXCEPT PART SHOWN COLOURED RED ON PLAN 15 R/W.
PID: 007-322-429

A blue compass rose with a stylized 'N' at the top. The rose has eight points, with the cardinal directions being longer than the ordinal directions. The 'N' is a simple, bold letter in blue.

NOTE:
A comprehensive legal survey may reveal lot dimensions and offsets to boundaries that differ from those shown.



Rural Residential

RU4

104.1 Purpose: This zone applies to those lots that are rural in nature, intended for residential purposes, and are not within the Sewer Specified Area of the District of Sooke.

104.2 Permitted Uses:

Principal Uses:

- a) Agriculture
- b) Single family dwelling or one duplex per lot

Accessory Uses:

- d) Bed and breakfast
- e) Boarding and lodging
- e) Home-based business
- f) One secondary suite or one small suite on a lot with a single family dwelling
- g) Vacation accommodation unit

104.3 Minimum Lot Size for Subdivision Purposes:

- a) Outside the Sewer Specified Area: 1 ha
- b) Inside the Sewer Specified Area: 1000 m² providing the parent parcel at the time of joining the Sewer Specified Area is 5000m² or less in area.

104.4 Minimum Width for Subdivision Purposes: 15 m *(amended by Bylaw No. 583 adopted February 11, 2014)*

104.5 Maximum Height:

- a) Principal Buildings: 12 m
- b) Accessory Buildings: 9 m

104.6 Maximum Lot Coverage:

- a) 30%
- b) Where Agricultural production is carried out in greenhouses, the maximum lot coverage is 75%.

Schedule 104 – Rural Residential (RU4)

104.7 Minimum Setbacks for Lots Over 1000 m² in Area:

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	7.5 m	4.5 m	3 m	4.5 m	0 m
Farm Building or Structure	10 m	10 m	10 m	10 m	0 m

Minimum Setbacks for Lots 1000 m² or Less in Area:

Use	Front Lot Line	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	1.2 m	4 m	4 m
Accessory Building or Structure	7.5 m	4.5 m	1.2 m	1.2 m	0 m
Farm Building or Structure	10 m	10 m	10 m	10 m	0 m

104.8 Conditions of Use:

- a) Agriculture only permitted beyond 30 m from a watercourse.
- b) Septic systems for each lot must be determined by and installed in accordance with the requirements of the appropriate approval authority.

Please be aware that the District of Sooke Stage 2 (Sanitary) Liquid Waste Management Plan, October 2005 contains soils mapping showing those areas outside the Sewer Specified Area which are well-suited to lot sizes of less than one hectare as well as other important information regarding subdivision outside of the Sewer Specified Area. Copies of this report can be viewed at the District's offices or on the District's website at: www.sooke.ca The information in the report is general in nature and a site specific analysis will be required as part of any rezoning application. This italicized paragraph is not part of Bylaw No. 600 and has only been provided for the convenience of the reader.



STAFF REPORT – BOARD OF VARIANCE APPLICATION

MEETING**DATE:** October 7, 2015**FILE NO:** PLN01203**TO:** Chair and Members
Board of Variance**FROM:** Planning**RE:** Board of Variance Application for 7217 Austins Place

LEGAL DESCRIPTION: Strata Lot K, Section 17, Sooke District, Strata Plan VIS4907
Together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1 (PID 024-650-285)

APPLICANT: Daniel Boot (on behalf of owners)
OWNERS: Hermann & Heike Brinkschulte
CIVIC ADDRESS: 7217 Austins Place

OCP BYLAW: Bylaw No. 400, *Official Community Plan, 2010*
OCP DESIGNATION: Community Residential (CR)

ZONING BYLAW: Bylaw No. 600, *Sooke Zoning Bylaw, 2013*
ZONE: Rural Residential (RU4)

PURPOSE

The applicant has applied to the Board of Variance to vary Section 104.7 of Bylaw No. 600, *Sooke Zoning Bylaw, 2013* (Zoning Bylaw) to allow a single family dwelling to locate 1.5m from the side lot line. The required setback for a principle building is 3.0m.

The applicant is requesting the variance to facilitate more space for vehicle turning, as the lot is pie shaped, and the home is proposed to be sited away from the steep slope, and in line with the adjacent homes. Because of this, the applicant cannot comply with Section 104.7 and is posing hardship to the Board of Variance.

The application meets the other requirements of the Sooke Zoning Bylaw, and the proposed dwelling is outside the covenant areas.

POLICY ANALYSIS

Under Section 901 of the *Local Government Act* (LGA), the property owner may apply to a Board of Variance if the property owner claims that compliance with the siting, dimensions or size of a buildings or structure would cause hardship and the request is considered minor in nature.

Section 901(2) of the LGA states that a BoV may order that a minor variance be permitted from the requirements of the bylaw if the BoV finds that undue hardship would be caused to the applicant and the variance does not result in inappropriate development of the site, adversely affect the natural environment, substantially affect the use and enjoyment of adjacent land, vary permitted uses and densities under the applicable bylaw, or defeat the intent of the bylaw.

The proposed variance would not be in conflict or deal with any of the following that would affect the ability of the BoV to make an order as per section 901(3) of the LGA:

- § A section 219 covenant registered to the subject property
- § A development permit
- § A phased development agreement
- § A floodplain specification; or
- § Heritage conservation area/heritage building.

Adjacent Land Uses	North: DoS Trail/Residential South: Residential East: Residential West: DoS Parkland/Strait of Juan de Fuca
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INTERGOVERNMENTAL/REGIONAL IMPLICATIONS

There are no intergovernmental/regional implications associated with this Board of Variance application.

CITIZEN/PUBLIC RELATION IMPLICATIONS

Adjacent property owners were sent a letter of notification on September 24, 2015 regarding this variance request. The neighbours have been invited to attend the Board of Variance meeting to express any concerns they may have to this variance request or to give support to the application. The neighbours have also been invited to submit a written submission provided it is received prior to the meeting.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS

No concerns were noted from the Engineering, Fire or Building Departments. However, under the BC Building Code, openings such as windows may be limited on the affected side of the dwelling due to the reduced setback. The owner has been made aware of this, and will be addressing this point in the working drawings when they submit for building permit.

OPTIONS FOR BOARD OF VARIANCE'S CONSIDERATION

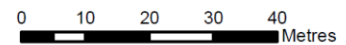
- OPTION 1.** Having considered the matters set out in section 901(2)(c) of the Local Government Act, and having found that undue hardship would be caused, the Board of Variance recommends approval to relax Section 104.7 of the Zoning Bylaw to allow the dwelling to be located 1.5m from the side property line.
- OPTION 2.** That the Board of Variance recommends NOT approving the requested variance.

Attached Documents:

4. Subject Property Map
5. Site Plan & Site Profile
6. RU4 zone

Respectfully,

Katherine Lesyshen, MCIP, RPP
Planner II



Rural Residential

RU4

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- a) Agriculture
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Accessory Uses:

- d) Bed and breakfast
- e) Boarding and lodging
- e) Home-based business
- f) One secondary suite or one small suite on a lot with a single family dwelling
- g) Vacation accommodation unit

104.3 Minimum Lot Size for Subdivision Purposes:

- a) Outside the Sewer Specified Area: 1 ha
- b) Inside the Sewer Specified Area: 1000 m² providing the parent parcel at the time of joining the Sewer Specified Area is 5000m² or less in area.

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Minimum Setbacks for Lots 1000 m² or Less in Area:

Use	Front Lot Line	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	1.2 m	4 m	4 m
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Please be aware that the District of Sooke Stage 2 (Sanitary) Liquid Waste Management Plan, October 2005 contains soils mapping showing those areas outside the Sewer Specified Area which are well-suited to lot sizes of less than one hectare as well as other important information regarding subdivision outside of the Sewer Specified Area. Copies of this report can be viewed at the District's offices or on the District's website at: www.sooke.ca The information in the report is general in nature and a site specific analysis will be required as part of any rezoning application. This italicized paragraph is not part of Bylaw No. 600 and has only been provided for the convenience of the reader.

DISTRICT OF SOOKE
BOARD OF VARIANCE
Meeting held November 5, 2014 at 5:00 pm
2225 Otter Point Road

BOARD MEMBERS PRESENT:

Travis Butler, Chair
Ellen Lewers
Brenda Hays

PUBLIC IN ATTENDANCE:

Rasmus Rabien and Joy Rabien

Staff Present: Katherine Lesyshen, Planner II

1. The meeting began at 5:00 pm.
2. Application:

PLN01114 – 2287 Phillips Road

Staff provided an introduction of the application, explaining that a variance is required to allow an existing barn to be replaced and enlarged 1.6 meters from the front property line. The applicant was in attendance.

Having considered the matters set out in section 901(2)(c) of the Local Government Act, and having found that undue hardship would be caused, the Board passed the following resolution:

MOVED and seconded to relax Section 102.8 of Bylaw No. 600, *Sooke Zoning Bylaw, 2013*, to allow the farm building to be located 1.6m from the front property line.

CARRIED

3. Minutes – May 7, 2014

MOVED and seconded that the minutes of May 7, 2014 be approved.

CARRIED

4. The meeting adjourned at 5:10 pm.

Certified Correct:

Travis Butler, Chair

Bonnie Sprinkling, Corporate Officer



File No. 0540-20

**NEW BUSINESS
SUPPLEMENTAL INFORMATION**

BOARD OF VARIANCE
October 7, 2015 at 5:00 pm
Location: Council Chambers
2205 Otter Point Road, Sooke, BC

AGENDA

	<i>Item</i>	<i>Page #</i>
<i>Supplemental Info</i>	Application: PLN01203 7217 Austins Place • Correspondence received October 5, 2015 from Sylvain Belair	1

Tina Hansen

Subject: FW: 7217 Austins Place, Sooke BC - Variance Application, file PLN 01203

-----Original Message-----

From: Sylvain

Sent: Monday, October 05, 2015 12:19 AM

To: Katherine Lesyshen

Cc: Suzanne

Subject: 7217 Austins Place, Sooke BC - Variance Application, file PLN 01203

Ms. Lesyshen - good evening.

I am Mr. Sylvain Belair, owner of the house adjacent to 7217 Austin's Place (strata lot K), for which, the district of Sooke has received an application of variance.

I am away on business, out of the country until Tuesday 03 November 2015. My wife Suzanne Harwood, will also be out of the country and not able to attend the meeting on our behalf. As the notice was only received after my departure from Canada (I left on 23 September 2015), having only now been informed of the upcoming audience on Wednesday 07 October, and in view of being the homeowner most affected by the request, I kindly ask that the meeting be postponed until after my return, to allow me the opportunity to attend the meeting in person. In addition, I am also the strata council president for VIS 4907 - Austin's Place.

Although the owners of 7217 Austins's Place did consult with my wife and I regarding their desire to reduce the set back to 1.5m from 3m along the access path that leads to the park/beach, at no time did we discuss or agree to reducing the set back along our property line to allow for 'the turning radius of vehicles' outside their garage or for their driveway. We do not agree, support or approve of such a request to reduce the set back from 3m along our property line, and request that the integrity of the 3m set back be maintained.

Also of concern, and not mentioned in your letter, is the catch basin (street side - in front of their strata lot K), storm drain, catch basin and man hole (on their property as well for which the district has an easement/right of way). The overall lay of the land on Austins's Place is such, that the lowest point on the street is 'strata lot K - 7217 Austin's Place.' In our conversations with the owners of the lot, they intended to move the storm drain and relocate it under the access path to the park/beach (which is either owned by the district of Sooke or by CRD parks), and remove the catch basin and man hole. I'm not sure if such an application has been made, but any changes or removal of the storm drain and catch basins, if not done correctly and surveyed, could potentially cause flooding on our street and in our home.

Has the district of Sooke to the relocation of the storm drain currently located on strata lot K and the removal of catch basins and man hole?

Again, in view of my concerns, my wife and I being out of the country during the currently schedule meeting, and being the homeowners most affected by the application, I kindly request, that the meeting be postponed until after 03 November 2015 to allow us to attend.

Looking forward to hearing from you.

Thanking you in advance for your understanding and cooperation, Sylvain Belair

Sooke BC