



## **AGENDA BOARD OF VARIANCE MEETING**

April 18, 2019, 5:30 PM  
Board Room, Service and Resource Centre,  
411 Dunsmuir Street, Nanaimo, BC

Pages

1. **CALL THE MEETING OF THE BOARD OF VARIANCE TO ORDER:**
2. **INTRODUCTION OF LATE ITEMS:**
3. **ADOPTION OF AGENDA:**
4. **ADOPTION OF MINUTES:**

**a. Minutes**

3 - 5

Minutes of the Open Board of Variance Meeting held in the Board Room, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Thursday, 2019-MAR-21, at 5:30 p.m.

**5. PRESENTATIONS:**

**a. Board of Variance No. BOV716 - 924 Cassandra Place**

6 - 12

Legal Description: Lot 31, District Lot 53, Wellington District, Plan 36771

The applicant is requesting to vary the provisions of Zoning Bylaw No. 4500 to:

- a) allow a rear yard setback of 7.05m in order to legalize the siting of an existing solarium; and
- b) allow a side yard setback of 1.24m in order to construct an open deck that will accommodate a wheelchair ramp on the west side of the existing single residential dwelling.

Zoning Bylaw No. 4500 (7.5.1) requires a minimum rear yard setback of 7.5m and a minimum side yard setback of 1.5m in the R1 zone.

Legal Description: Lot 157, Douglas Island (also known as Protection Island), Nanaimo District, Plan 14111

The applicant is requesting to vary the provisions of Zoning Bylaw No. 4500 to allow a front yard setback of 5.69m in order to reconstruct an existing non-conforming single residential dwelling.

Zoning Bylaw No. 4500 (7.5.1) requires a minimum front yard setback of 6m in the R3 zone.

- 6. **REPORTS:**
- 7. **OTHER BUSINESS:**
- 8. **QUESTION PERIOD:**
- 9. **ADJOURNMENT:**

**MINUTES**  
BOARD OF VARIANCE MEETING  
SERVICE AND RESOURCE CENTRE BOARDROOM, 411 DUNSMUIR STREET, NANAIMO, BC  
THURSDAY, 2019-MAR-21 AT 5:30 P.M.

---

PRESENT:   Members:   Bob Irwin, Chair  
                              Kenn Hample  
                              Ron Nadeau

              Absent:    Allan Dick  
                              Jessica Kaman

              Staff:     Caleb Horn, Planning Assistant (Recording Secretary)

1.    CALL THE BOARD OF VARIANCE COMMITTEE MEETING TO ORDER:

The Open Board of Variance Meeting was called to order at 5:30 p.m.

2.    INTRODUCTION OF LATE ITEMS

- a.    Agenda Item 5(a) Board of Variance Application No. BOV713 – 5109 Laguna Way: add letter of support from heat pump installer.
- b.    Agenda Item 5(b) Board of Variance Application No. BOV714 – 200 Rainbow Crescent: add letter of support from strata management company.

3.    ADOPTION OF AGENDA:

It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4.    ADOPTION OF MINUTES:

It was moved and seconded that the minutes of the Board of Variance Meeting held 2019-JAN-17, Boardroom, Service and Resource Centre, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

5.    PRESENTATIONS:

a.    Board of Variance Application No. BOV713 – 5109 Laguna Way

- Mr. Bob Irwin read the application requesting to vary the provisions of Zoning Bylaw No. 4500 in order to locate a heat pump to the side of a principal building.
- Mr. Anthony Hayes, on behalf of Mr. Ronald Ens, the applicant, spoke to the rationale for the application. The heat pump is not anticipated to have an impact on neighbouring residences since it located at a higher elevation than

the nearest houses. A letter was received from the neighbour at 5119 Laguna Way expressing no concern with the proposed variance.

- The Board discussed the requested variance and demonstration of undue hardship.

It was moved and seconded that application BOV713 for 5109 Laguna Way to vary the provisions of the City of Nanaimo “ZONING BYLAW NO. 4500” to allow a heat pump to be located to the side of a principal building be approved. The motion carried unanimously.

b. Board of Variance Application No. BOV714 – 200 Rainbow Crescent

- Mr. Bob Irwin read the application requesting to vary the provisions of Zoning Bylaw No. 4500 to increase perimeter wall height from 9.14m to 12.50m on the rear and east internal side yard elevations in order to construct a new single residential dwelling.
- Mr. Caleb Horn outlined the definition of ‘perimeter wall height’ and how it differs from wall face height and building height.
- Ms. Emily Bugoy and Mr. Jason Bugoy, the applicants, spoke to the rationale for the application. The subject property is steeply sloping and would not accommodate a house without a perimeter wall height variance. Being located in the Long Lake Heights strata, the Strata Council has approved the proposed building design.
- Mr. Steve Sharp from 220 Rainbow Crescent requested information on the requested variance and maximum allowable building height.
  - Mr. Caleb Horn explained that a Board of Variance decision applies to the property and subsequent owners of the land. The maximum height of a principal dwelling is 5.5m as measured from curb level of the highest street abutting the property, and the proposed structure is within this height.
- The Board discussed the requested variance and the demonstration of undue hardship.

It was moved and seconded that application BOV714 for 200 Rainbow Crescent to vary the provisions of the City of Nanaimo “ZONING BYLAW NO. 4500” to increase the perimeter wall height from 9.14m to 12.50m on the rear and east internal side yard elevations be approved. The motion carried unanimously.

c. Board of Variance Application No. BOV715 – 3072 Hammond Bay Road

- Mr. Bob Irwin read the application requesting to vary the provisions of Zoning Bylaw No. 4500 to allow a 4.4m high retaining wall and a 1.2m high fence with a total combined height of 5.6m in the front yard in order to replace a collapse retaining wall.
- Mr. Tim Magnus, the applicant, and Mr. Steve Stacey, the geotechnical engineer, spoke to the rationale for the application. An existing non-conforming retaining wall recently collapsed and is currently hindering access to the single residential dwelling on the property.
- Ms. Tracy Mao and Mr. Jim Mao from 3062 Hammond Bay Road raised concerns with jackhammering associated with replacing the retaining wall.
  - Mr. Steve Stacey explained that no jackhammering is anticipated except for potentially along the east side of the property, furthest from 3062 Hammond Bay Road.

- Mr. and Ms. Mao expressed no concerns with the proposed construction.
- The Board discussed the requested variance and the demonstration of undue hardship.

It was moved and seconded that application BOV715 for 3072 Hammond Bay Road to vary the provisions of the City of Nanaimo “ZONING BYLAW NO. 4500” to increase the maximum height of a retaining wall and fence in the front yard from 1.2m to 5.6m be approved. The motion carried unanimously.

6. ADJOURNMENT:

It was moved and seconded at 6:00 p.m. that the meeting terminate. The motion carried unanimously.

---

CHAIR

CERTIFIED CORRECT:

---

CORPORATE OFFICER



COMMUNITY DEVELOPMENT

## BOARD OF VARIANCE

### NOTICE OF MEETING

---

A meeting of the Board of Variance will be held on Thursday, 2019-APR-18, at 5:30pm in the Board Room, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC to hear the following appeal:

**APPEAL NO:** BOV00716

**Applicant:** Gerald Wayne Brown and Christine Dilys Maxwell

**Civic Address:** 924 CASSANDRA PLACE

**Legal Description:** LOT 31, DISTRICT LOT 53, WELLINGTON DISTRICT, PLAN 36771

**Purpose:** Zoning Bylaw No. 4500 requires a minimum rear yard setback of 7.5m and a minimum side yard setback of 1.5m in the R1 zone. The applicant is requesting two variances:

- To allow a rear yard setback of 7.05m in order to legalize the siting of an existing solarium. This represents a variance of 0.45m.
- To allow a side yard setback of 1.24m in order to construct an open deck that will accommodate a wheelchair ramp on the west side of the existing single residential dwelling. This represents a variance of 0.26m.

Note: Wheelchair ramps are exempt from setback requirements. No variance is required for the proposed ramp but a variance is required for the proposed deck.

**Zoning Regulations:** Single Family Residential – R1. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

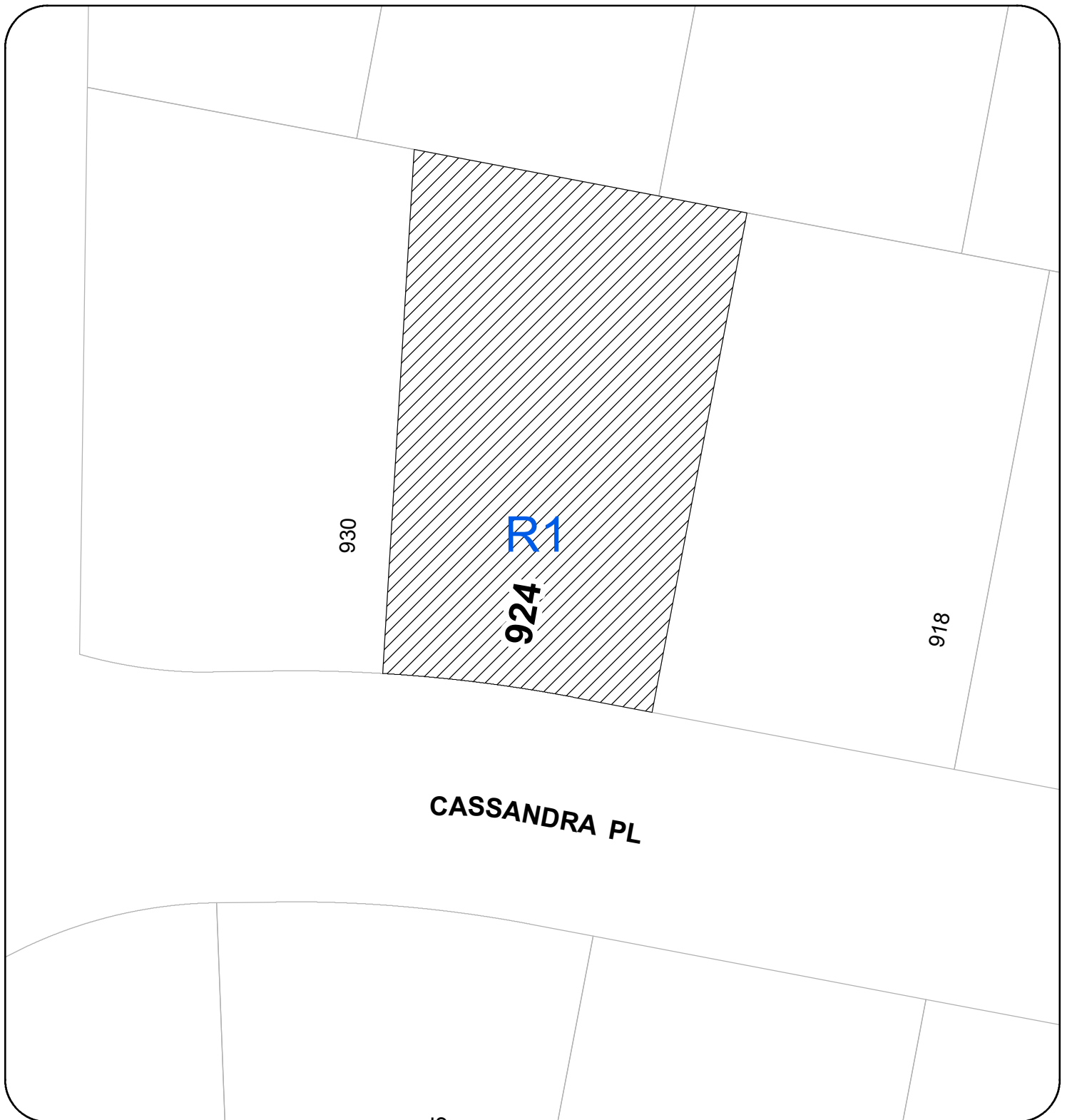
*Section 7.5.1 – Siting of Building*

*A minimum rear yard setback of 7.5m is required.*

*A minimum side yard setback of 1.5m is required.*

The Board of Variance decision will apply to subsequent owners of the land. If you deem your property to be affected by this appeal, please feel free to attend this meeting. Anyone wishing to address this appeal will be afforded the opportunity to be heard at the Board of Variance meeting. This application may be reviewed with Staff at the Community Development Department, 411 Dunsmuir Street, Nanaimo, BC, or by calling 250-755-4460 (x4344), during normal business hours, Monday to Friday, excluding statutory holidays, from 2019-APR-08 to 2019-APR-18 inclusive. Questions, comments, or written submissions can also be sent by email to: [planning@nanaimo.ca](mailto:planning@nanaimo.ca)

# LOCATION PLAN

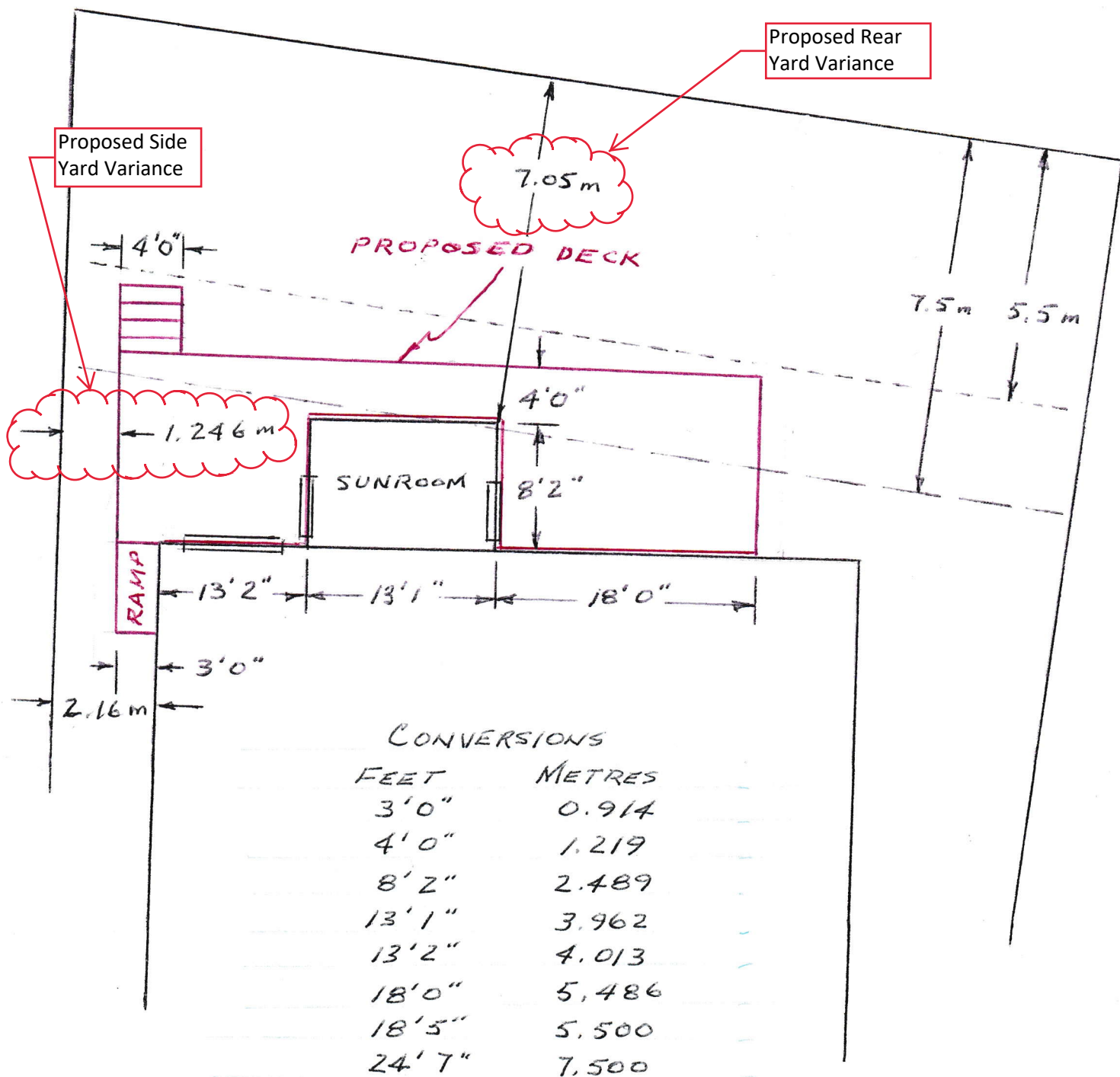


## BOARD OF VARIANCE NO. BOV00716 LOCATION PLAN



Subject\_Property

CIVIC: 924 CASSANDRA PLACE  
LEGAL: LOT 31, DISTRICT LOT 53, WELLINGTON DISTRICT, PLAN 36771



1" = 10'

924 CASSANDRA PLACE

19-02-28

19-03-25

19-03-29



# AERIAL PHOTO



N



**BOARD OF VARIANCE APPLICATION NO. BOV00716**



924 CASSANDRA PL

## BOARD OF VARIANCE APPLICATION

RE: 924 Cassandra Place

### Proposed Variance Requested:

- 1) Setback for the existing sunroom is 7.05 m, which is 0.45 m less than the required setback from the property line. Request that the existing setback be accepted.
- 2) The setback for the proposed deck be allowed to encroach on the west side lot line by 0.254 m so that the setback distance to the property line would be 1.246 m instead of the required 1.500 m.

### Purpose of Proposed Variance:

- 1) This would legitimize the location of the sunroom which was built by one of the previous owners. We have been unable to determine when it was built, or which owner built it. It may even have been part of the original structure.
- 2) It is desired to make the proposed deck wheelchair accessible because of possible deterioration in health due to COPD. A width of 3 ft (0.91 m) is the recommended ramp width. It would be preferable if the deck structure could line up with the ramp. The deck structure of the property on the west is 2.8 m from the property line and the residence is 3.5 m from the property line. This would provide a distance of over 4 m between structures, which exceeds the desirable structure separation of 3 m.



11





12



COMMUNITY DEVELOPMENT

## BOARD OF VARIANCE

### NOTICE OF MEETING

---

A meeting of the Board of Variance will be held on Thursday, 2019-APR-18, at 5:30pm in the Board Room, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC to hear the following appeal:

**APPEAL NO:** **BOV00717**

**Applicant:** Keene Anderson (on behalf of Jurgen Goering)

**Civic Address:** 64 CAPTAIN MORGANS BOULEVARD

**Legal Description:** LOT 157, DOUGLAS ISLAND (ALSO KNOWN AS PROTECTION ISLAND), NANAIMO DISTRICT, PLAN 14111

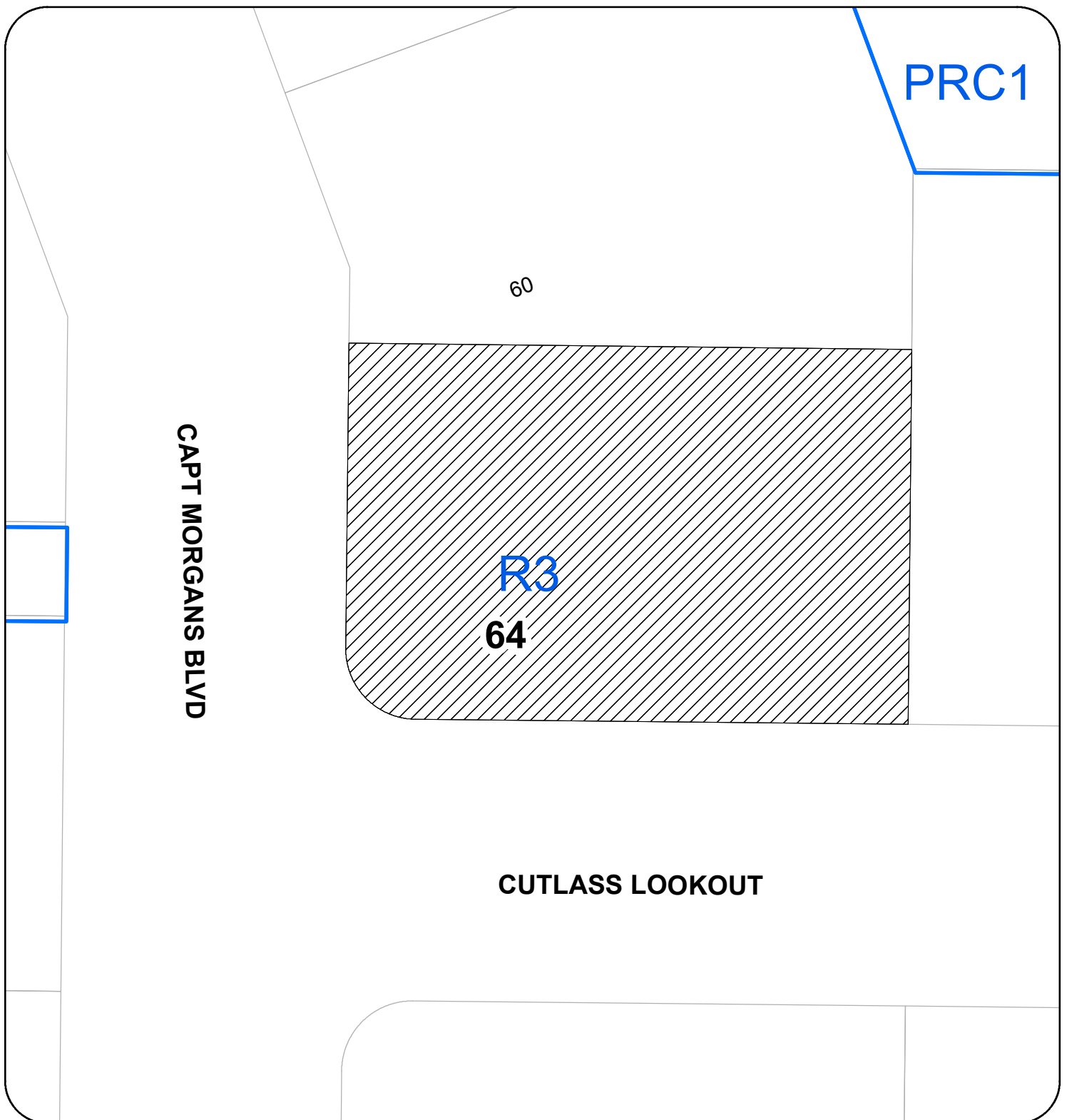
**Purpose:** Zoning Bylaw No. 4500 requires a minimum front yard setback of 6m in the R3 zone. The applicant is requesting a variance to allow a front yard setback of 5.69m in order to reconstruct an existing non-conforming single residential dwelling. This represents a variance of 0.31m.

**Zoning Regulations:** Single Family Residential – R3. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

*Section 7.5.1 – Siting of Building  
A minimum front yard setback of 6m is required.*

The Board of Variance decision will apply to subsequent owners of the land. If you deem your property to be affected by this appeal, please feel free to attend this meeting. Anyone wishing to address this appeal will be afforded the opportunity to be heard at the Board of Variance meeting. This application may be reviewed with Staff at the Community Development Department, 411 Dunsmuir Street, Nanaimo, BC, or by calling 250-755-4460 (x4344), during normal business hours, Monday to Friday, excluding statutory holidays, from 2019-APR-08 to 2019-APR-18 inclusive. Questions, comments, or written submissions can also be sent by email to: [planning@nanaimo.ca](mailto:planning@nanaimo.ca)

# LOCATION PLAN



**BOARD OF VARIANCE NO. BOV00717**

## LOCATION PLAN

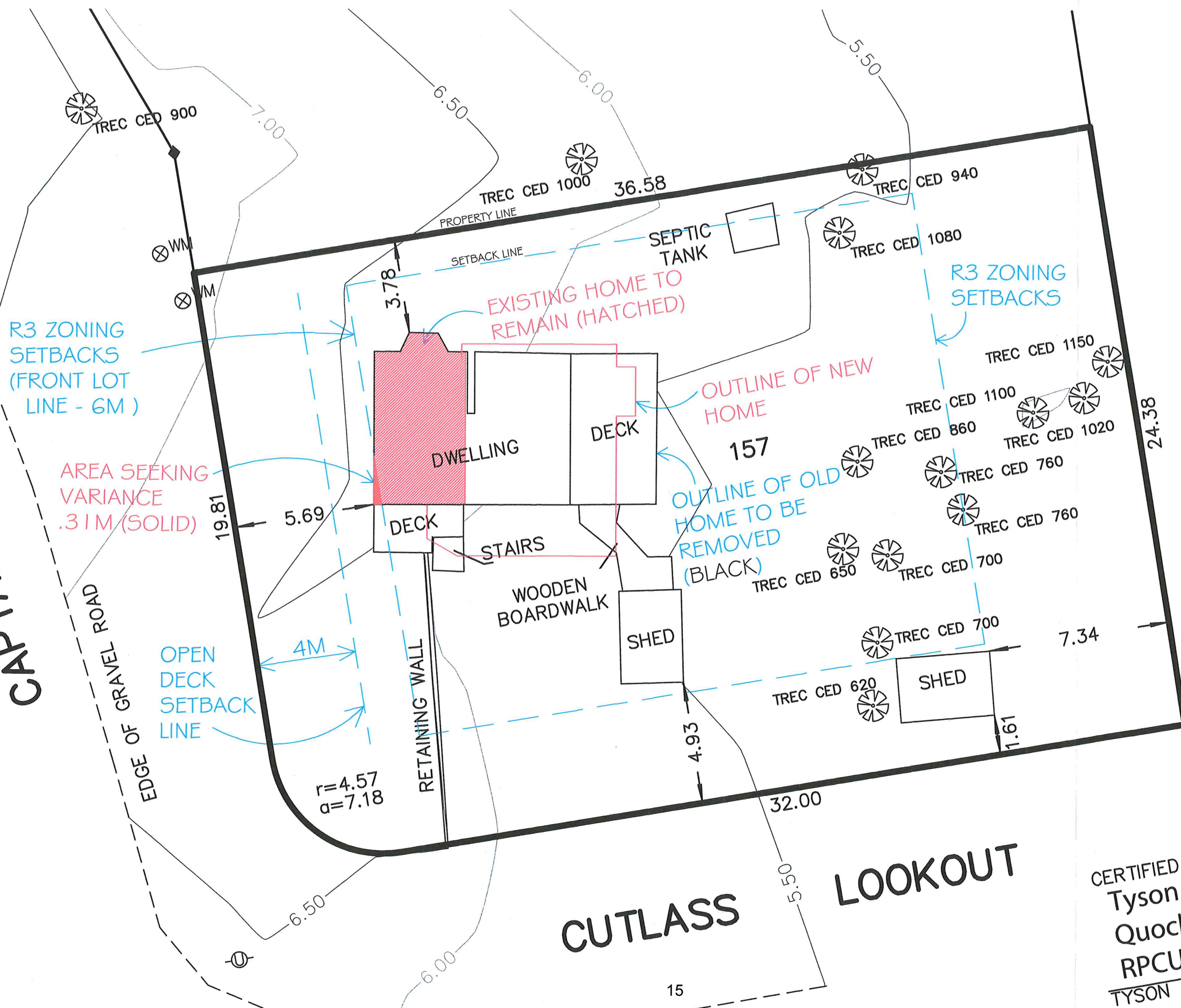
CIVIC: 64 CAPT MORGANS BOULEVARD  
LEGAL: LOT 157, DOUGLAS ISLAND (ALSO KNOWN AS PROTECTION ISLAND)  
NANAIMO DISTRICT, PLAN 14111



Subject\_Property



CAPTAIN MORGAN



**Greenplan**  
designing with nature  
1655 Cedar Road  
Nanaimo, BC  
(250) 722-3456  
www.greenplan.ca  
info@greenplan.ca

Date  
MARCH 26, 2019

Project  
1844-S-0326-31

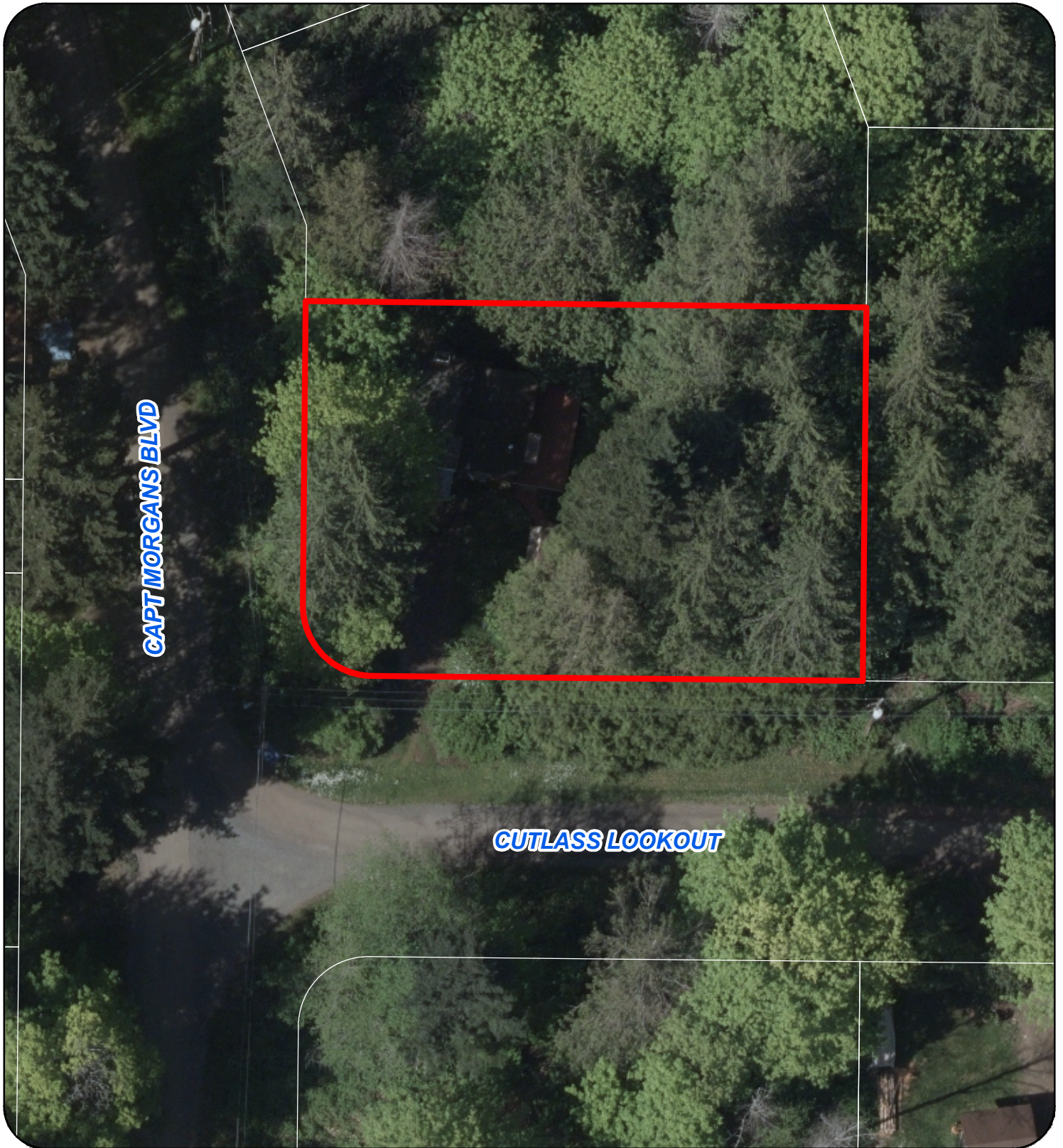
SCALE  
0 1 2 3 4 5 6  
METERS

RECEIVED  
**BOV717**  
2019-MAR-29  
Current Planning

CERTIFIED CORRECT THIS 13TH DAY C  
Tyson  
Quocksister  
RPCUG1  
TYSON QUOCKSISTER, BCLS  
Digitally signed by Tyson  
Quocksister RPCUG1  
DN: c=CA, cn=Tyson Quocksister  
RPCUG1, o=BC Land Surveyor,  
ou=Verify ID at www.juricert.com  
LKUP.cfm?id=RPCUG1  
Date: 2019.03.13 11:04:39 -07'00



# AERIAL PHOTO



**BOARD OF VARIANCE APPLICATION NO. BOV00717**

 64 CAPTAIN MORGAN BLVD



March 26, 2019  
City of Nanaimo  
Board of Variance

### **Board of Variance Application**

64 Captain Morgan's Blvd. – Protection Island  
Lot 157, Douglas Island, Nanaimo District, Plan 14111

Please accept this letter and the attached material as the basis for a Board of Variance request for a minor front yard variance on the above noted property. A survey by McElhanney Associates Land Surveying Ltd., dated March 13, 2019 was undertaken to identify the location of the existing home/cabin on the property, See Schedule 1. At that time, it was determined that the existing building was only 5.69m from the front yard property line and thus insufficient to meet the current 6m setback requirement of Bylaw 500. The purpose of this variance request is to seek a legal allowance for a 0.35m variance to the front yard setbacks.

It is recognized that the original building was constructed primarily as a summer cabin for the owners and subsequently is significantly sub-standard to current home construction practices. As Photo 1 below illustrates, the roof joists lack the depth to accommodate appropriate insulation levels to warrant comfortable year round dwelling use. The owners intend to re-develop their property and create a new residence that can be used year round and thus much of the building requires removal. The west portion of the home, however, was built on an engineered foundation under City of Nanaimo Building Permit #27488 dated June 8<sup>th</sup>, 1987. This portion of the home, noted in red hatched lines on the attached Schedule 2 Site Plan, is sound and worthy of retention as part of the re-build. The concrete foundation and crawlspace will be fully retained with some upgrades to both the walls and roof over this portion of the home, and new construction will be added to the east side of the home.



*Photo 1 - view of North East corner of the cabin*



*Photo 2 – view of south face of cabin*

Photo 2 above illustrates the east portion of the cabin, with raised clearstory windows as the area to be retained while the right side (west portion of old cabin) will be fully demolished and replaced with an addition.

Since the portion to be retained was built under the approval of a City Building Permit, and it includes the area requiring a variance, (see solid red area on Schedule 2), it is difficult to know if the construction undertaken in 1987 was in conformance to the Zoning Bylaws of the day, or if the foundation placement was never confirmed by a BCLS survey and thus incorrectly located relative to the 6m front yard setback. In either case, as we will be slightly taller than the existing cabin in the area of the variance request, we need approval to build on the existing engineered foundation.

Our rationale to support the variance request is to acknowledge that our undue hardship is created by the previous Building Permit approval allowing the construction of the cabin within the 6m setback from the front property line and that to now have to demolish and relocate the foundation wall and supporting floor system to meet the current zoning setback would prove to be a significant and unbudgeted expensive for the owners. If it is determined that the 1987 Zoning Bylaw had less than a 6m front yard setback then the existing construction would be deemed "legal non-conforming" but as we are now intending to be slightly taller, (still more than a meter below the maximum building height) than the existing building, a variance is still required for this new portion of construction that is higher than the current building. Again, for the saving of an existing engineered foundation, and a potential significant reduction in project costs, we would ask the support of the Board of Variance for a .35m relaxation from the current 6m front yard setback requirement. While we recognize that an open deck used to access the residence will also project within the 6m setback, we also acknowledge that Bylaw 500 supports an exemption for open deck in a front yard setback of up to 2m and subsequently the deck is not considered a portion of this BOV variance request.

We trust the information provided in this application is sufficient to allow the volunteers of the Board of Variance the insight to rule on this application and that if any further questions pertinent to this decision are required, we will be happy to respond on the date of the BOV review. We respectfully seek your support for this setback relaxation in order to utilize an existing engineered foundation.

Regards

Keene Anderson,  
Anderson Greenplan Ltd.

Agent for [REDACTED]



LEGAL DESCRIPTION:  
LOT 157, DOUGLAS ISLAND, (ALSO KNOWN AS  
PROTECTION ISLAND), NANAIMO DISTRICT, PLAN 14111  
PID: 003-830-942

CIVIC ADDRESS:  
64 CAPTAIN MORGANS BOULEVARD, (PROTECTION  
ISLAND) NANAIMO, BC

ZONING: CITY OF NANAIMO ZONING BYLAW NO. 4500  
R3 ISLAND RESIDENTIAL

SURVEY DATE: MARCH 5, 2018

PARCEL DIMENSIONS ARE IN METERS AND ARE DERIVED  
FROM FIELD SURVEYS AND LAND TITLE AND SURVEY  
AUTHORITY RECORDS BEING PLAN 14111

THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL  
DISTANCES UNLESS OTHERWISE SPECIFIED.

OFFSETS TO PROPERTY LINE ARE TO EXTERIOR SIDING  
OF BUILDINGS.

NOTE: CONTOUR INTERVAL IS 0.50 METERS.

NOTE: ELEVATIONS ARE GEODETIC (CVD28BC) BASED  
ON GNSS OBSERVATIONS TO CANADIAN ACTIVE  
CONTROL STATIONS 'NANO' AND 'SC04'.

TITLE SUBJECT TO:  
RESTRICTIVE COVENANT D23415

# LEGEND:

## SYMBOLS DESCRIPTION

FOUND PLACED

- EXISTING HYDRO/TEL POLE
- POLE ANCHOR
- EXISTING WATER METER BOX
- EXISTING CONIFEROUS TREE
- ALUMINUM POST

**RECEIVED**  
**BOV717**  
**2019-MAR-29**  
Current Planning



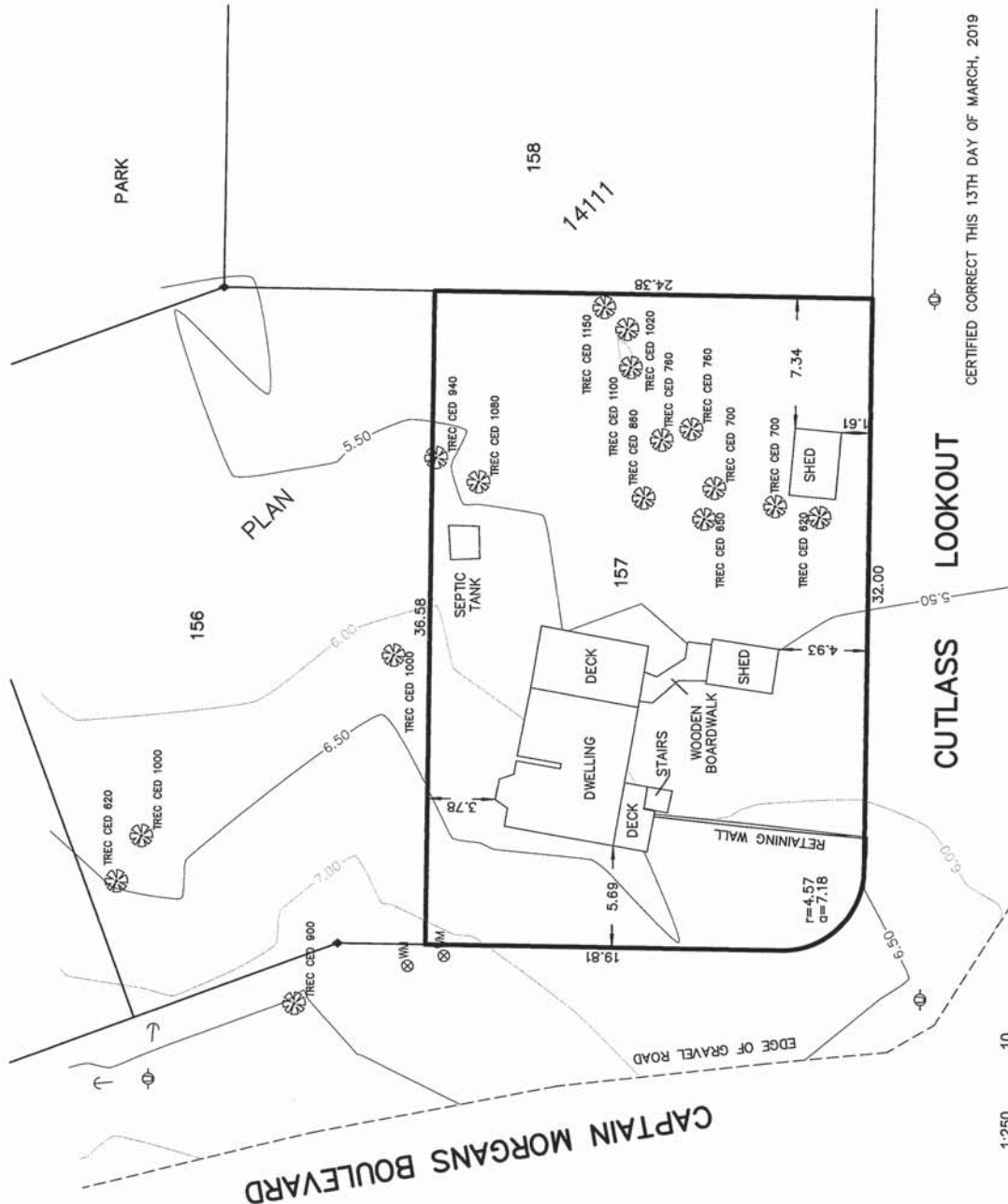
**McElhanney**

McElhanney Associates Land Surveying Ltd.  
SUITE 1 - 1351 ESTEVAN ROAD TEL 250 716 3336  
NANAIMO, BC V9S 3Y3

HEATHER WALKER  
Client

**SITE PLAN**  
64 CAPTAIN MORGANS BOULEVARD

Date:	MARCH 13, 2019	PROJECT NUMBER
Scale:	1:250	<b>2232-00355-58</b>
Drawn:	BA	Drawing No.
Checked:	TQ	<b>00355-58-V-1 TS</b>



CERTIFIED CORRECT THIS 13TH DAY OF MARCH, 2019

TYSON QUOCKSISTER, BOLS



# Existing Building Elevations



RECEIVED  
BOV717  
2019-MAR-29  
CITY OF NANAIMO

# Proposed Building Elevations

REVISION

Copyright reserved. All drawings, documents, photos, diagrams and designs are the property of Greenplan Inc. and shall not be used for any other project without written consent.

## 64 CAPT MORGAN PROTECTION ISLAND RENOVATION/ADDITION

**Greenplan**  
1655 Cedar Road  
Nanaimo, BC  
(250) 722-3456  
www.greenplan.ca  
info@greenplan.ca

Designed Drawn Checked

Date  
MARCH 28 2019

Project  
1644-JK3

Drawing #  
1644-W-0328-71

Scale  
1/4" = 1'

Sheet Title  
ELEVATIONS

Sheet #

A-1 / 1

RECEIVED  
**BOV717**  
2019-MAR-29  
Current Planning

