



## **AGENDA BOARD OF VARIANCE MEETING**

August 15, 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. ADOPTION OF AGENDA:**

**3. ADOPTION OF 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-JUL-18, at 5:30 p.m.

**4. NEW BUSINESS:**

**a. Introduction of New Board of Variance Member**

**b. Appointment of Board of Variance Chair**

**5. PRESENTATIONS:**

**a. Board of Variance No. BOV723 1550 Discovery Avenue**

6 - 12

Legal Description: Lot 9, Block 2, Section 1, Nanaimo District, Plan 5753

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

- i. allow a fence in the side yard setback with a maximum height of 2.4m; and
- ii. allow a side yard setback of 2.2m in order to construct an open deck to the rear of an existing non-conforming single residential dwelling.

Zoning Bylaw No. 4500 (6.10) requires a maximum fence height of 1.2m in the CC1 zone.

Zoning Bylaw No. 4500 (10.5) requires a minimum side yard setback of 3m in the CC1 zone.

Legal Description: Lot 1, District Lot 97G, Newcastle Reserve, Section 1, Nanaimo District, Plan EPP91467

The applicant is requesting a flanking side yard setback of 0m in order to convert an existing non-conforming single residential dwelling into a carriage house and to legalize its siting.

Zoning Bylaw No. 4500 requires a minimum flanking side yard setback of 4m in the R1 zone.

6. **ADJOURNMENT:**

**MINUTES**  
**BOARD OF VARIANCE MEETING**  
**SERVICE AND RESOURCE CENTRE BOARDROOM, 411 DUNSMUIR STREET, NANAIMO, BC**  
**THURSDAY, 2019-JUL-18 AT 5:30 P.M.**

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PRESENT:   Members:   Bob Irwin, Chair  
                              Allan Dick  
                              Ron Nadeau  
                              Kenn Hample  
                              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.    ADOPTION OF AGENDA:

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

3.    ADOPTION OF MINUTES:

          It was moved and seconded that the Minutes of the Board of Variance Meeting held 2019-MAY-16, Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC be adopted as circulated. The motion carried unanimously.

4.    PRESENTATIONS:

a.    Board of Variance Application No. BOV721 – 56 Kennedy Street

- Mr. Bob Irwin read the application requesting to vary the provisions of “City of Nanaimo Zoning Bylaw 2011 No. 4500” to allow a side yard setback of 1.0m in order to enlarge an existing carport on the north side of a single residential dwelling.
- Ms. Marian Wallace, the applicant, spoke to the rationale for the application. The posts for the current carport do not allow for vehicle doors to open easily. The requested variance will move the posts closer to the property line but the roof will stay the same as existing.
- Mr. Ron Nadeau asked if the variance would be registered on title and if the carport could be converted into a garage at a later date.
  - Mr. Caleb Horn answered that a Board of Variance decision is not registered on title but is kept on file with the City. In this case, the variance request specifically refers to a carport and not a garage.
- Ms. Jessica Kaman asked if a Building Permit is required to move the location of the carport posts.

- Ms. Wallace answered that a Building Permit is required but no application has been made at this time.
- The Board discussed the requested variance and demonstration of undue hardship.

It was moved and seconded that application BOV721 for 56 Kennedy Street to vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” to a reduce the side yard setback from 1.5m to 1.0m in order to expand an existing carport on the north side of a single residential dwelling be approved. The motion carried unanimously.

b. Board of Variance Application No. BOV722 – 126 Lindquist Road

- Mr. Bob Irwin read the application requesting to vary the provisions of “City of Nanaimo Zoning Bylaw 2011 No. 4500” in order to locate a heat pump to the side of the principal building.
- Mr. Rick Horsland, the applicant, spoke to the rationale for the application. The property contains a front-to-back duplex and there is already a heat pump to the rear of the building for the duplex unit in the back, but a variance is requested to place a heat pump to the side for the unit in the front.
- Mr. Allan Dick asked if there was any opportunity to place the second heat pump to the rear of the building.
  - Mr. Horsland answered that there is a shear wall between the two units and it would not be possible to bring the necessary equipment through the wall.
- Mr. Kenn Hample asked staff why the Zoning Bylaw requires heat pumps to be located to the rear of duplexes.
  - Mr. Horn answered that the Zoning Bylaw only speaks to heat pump locations for single residential dwellings and duplexes, regardless of whether the duplex is front-to-back or side-by-side. It is possible that the Zoning Bylaw only anticipated side-by-side duplexes.
- Mr. Nadeau asked if the front duplex unit could be serviced by a heat pump in the rear with conduits running underground, to the exterior of the building.
  - Mr. Horsland answered that a second heat pump in the back would lose efficiency, could unfairly impact the rear duplex unit, and would involve tearing up the driveway.
- Ms. Kaman asked staff if the Zoning Bylaw could be updated to allow for heat pumps on the side of front-to-back duplexes.
  - Mr. Horn answered that staff are currently proposing a general amendment to the Zoning Bylaw that would allow for heat pumps on the sides of single residential dwellings and duplexes, so long as the heat pump is setback at least 4.5m from side lot lines.
- The Board discussed the requested variance and the demonstration of undue hardship.

It was moved and seconded that application BOV721 for 126 Lindquist Road to vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” in order to locate a heat pump to the side of the principal building be approved. The motion carried unanimously.

5. OTHER BUSINESS

a. Resignation of Chair

Mr. Bob Irwin announced that this would be his last Board of Variance meeting. Mr. Irwin recommended that the Board vote to appoint a new chair at the next Board of Variance meeting.

6. ADJOURNMENT:

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

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CHAIR

CERTIFIED CORRECT:

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CORPORATE OFFICER



COMMUNITY DEVELOPMENT

## BOARD OF VARIANCE

### NOTICE OF MEETING

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A meeting of the Board of Variance will be held on Thursday, 2019-AUG-15, at 5:30 p.m. in the Board Room, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC to hear the following appeal:

**APPEAL NO:** **BOV00723**

**Applicants:** Shawn Adrian and Stephanie Kawahara

**Civic Address:** 1550 DISCOVERY AVENUE

**Legal Description:** LOT 9, BLOCK 2, SECTION 1, NANAIMO DISTRICT, PLAN 5753

**Purpose:** Zoning Bylaw No. 4500 requires a maximum fence height of 1.2m and a minimum side yard setback of 3m in the CC1 zone. The applicant is requesting two variances:

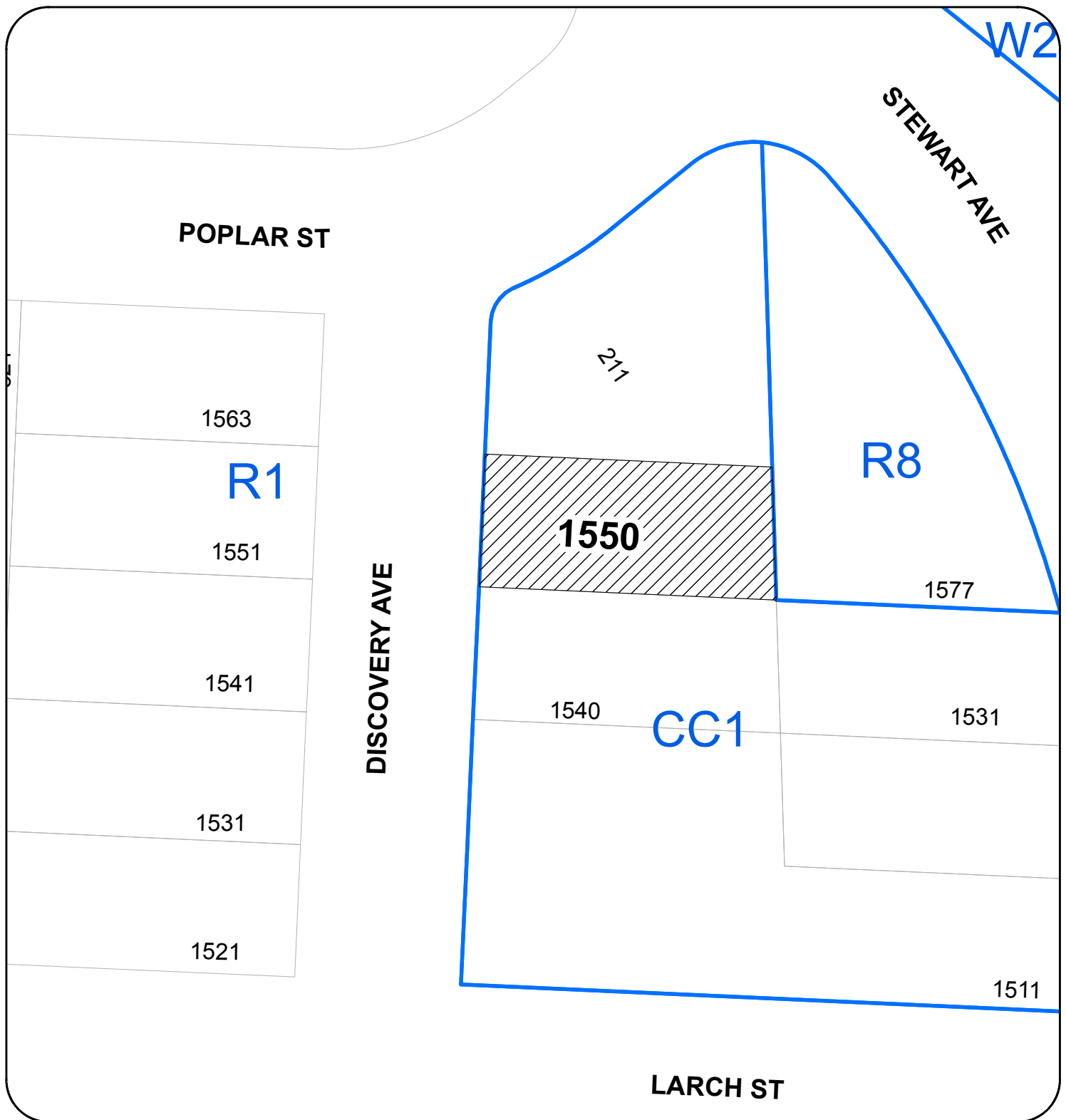
- To allow a fence in the side yard setback with a maximum height of 2.4m. This represents a variance of 1.2m.
- To allow a side yard setback of 2.2m in order to construct an open deck to the rear of an existing, non-conforming single residential dwelling. This represents a variance of 0.8m.

**Zoning Regulations:** Single Family Residential – CC1. The applicant requests a variance to the “City of Nanaimo ZONING BYLAW 2011 NO. 4500”:

- *Section 6.10 – Fence Height*  
*The maximum height of a fence in the front yard, side and rear yard, or flanking side yard shall not exceed 1.2m in height.*
- *Section 10.5 – Siting of Buildings*  
*The principal building must be set back a minimum of 3m from the side lot line.*  
*(Section 6.5 – Open decks are not permitted to project into side yard setbacks)*

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 Development Services 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-AUG-02 to 2019-AUG-15 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. BOV00723**

## LOCATION PLAN

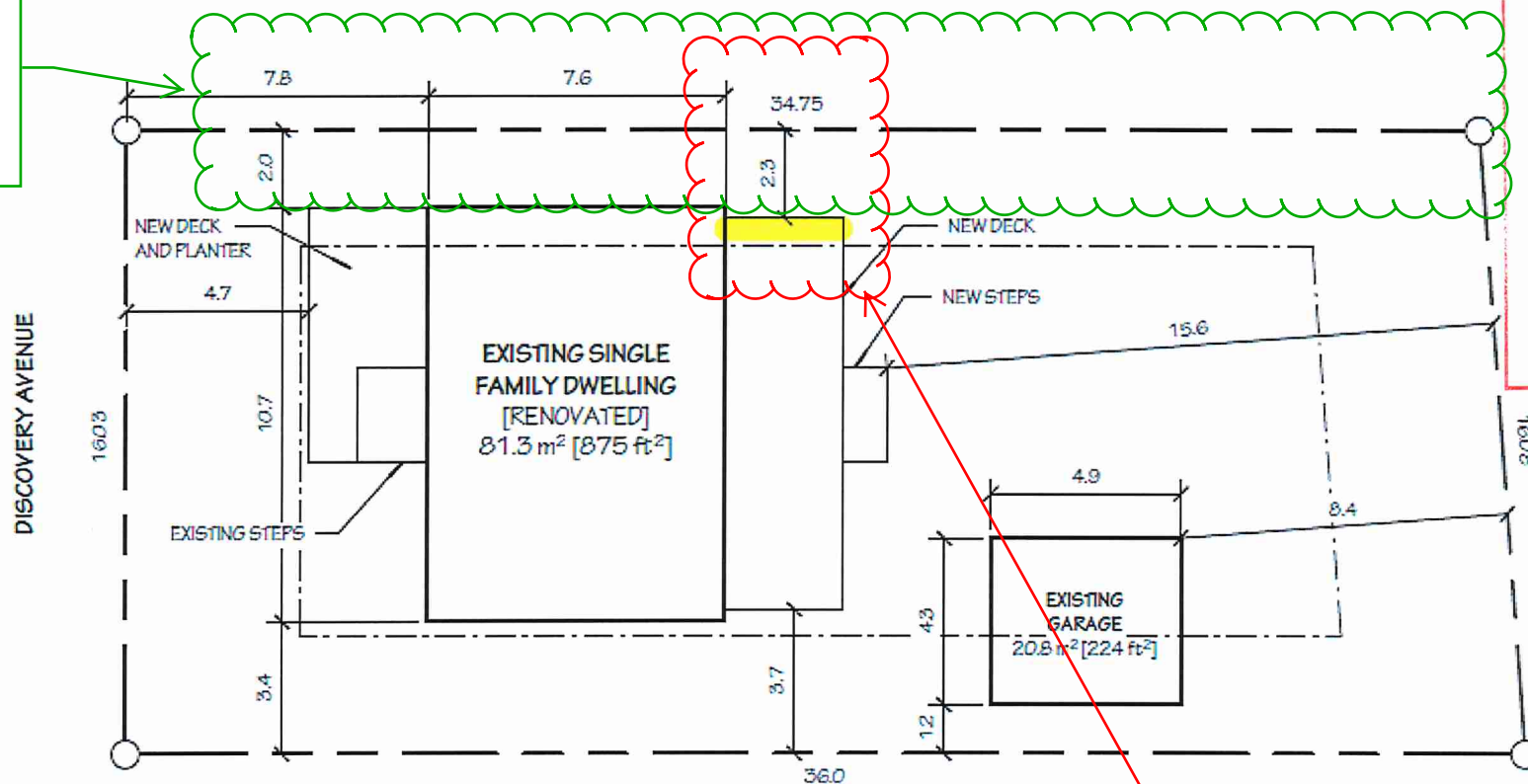
CIVIC: 1550 DISCOVERY AVENUE

LEGAL: LOT 9, BLOCK 2, SECTION 1, NANAIMO DISTRICT, PLAN 5753



SUBJECT PROPERTY

Location of proposed fence requiring height variance



**3 SITE PLAN**  
1:150

Location of proposed side yard setback variance

**RECEIVED**

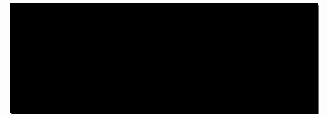
JUL 25 2019

CITY OF NANAIMO  
COMMUNITY DEVELOPMENT



July 25th, 2019

Shawn Adrian



## Rationale Letter — Board of Variance Application

To Whom It May Concern,

I wish to apply for a “relaxation of zoning requirements” for my single family dwelling, located at 1550 Discovery Ave, in Nanaimo, which is currently zoned CC1, but should be zoned as residential (R1-R15) as the property is a single family dwelling. The current CC1 zoning is causing undue hardship by unfairly limiting my ability to build a proper fence and deck, while my neighbors do not have the same limitations. Specifically, I have the following requests for variance:

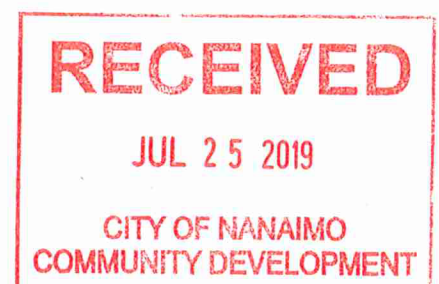
- 1) Fence Height — Single family dwellings in Nanaimo for zonings R1-R15 have a side yard fence height restriction of 2.4 metres. My home’s zoning of CC1 restricts my side yard fence to 1.2 metres, unlike other homes in my neighborhood. I request to be allowed to build a side yard fence up to 2.4 metres, as other residential single family dwellings are allowed to.
- 2) Minimum Setback — Single family dwellings in Nanaimo for zonings R1-R15 have side/rear yard setback requirements of 1.5 metres. My home’s zoning of CC1 expands the minimum setback to 3 metres and is inhibiting me from building a deck to the edge of my home, in order to encompass both my patio doors, as my neighbors would be allowed to do. I request for the minimum setback to be decreased to 2 metres for my deck on my side yard.

Thank you for your consideration on this matter.

Kindly,

A handwritten signature in black ink, appearing to be 'S' followed by a long horizontal stroke.

Shawn Adrian





Example of Fence



Photo of Subject Property





Photo of Subject Property



Photo of Subject Property



# AERIAL PHOTO



**BOARD OF VARIANCE APPLICATION NO. BOV00723**



 SUBJECT PROPERTY



COMMUNITY DEVELOPMENT

## BOARD OF VARIANCE

### NOTICE OF MEETING

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A meeting of the Board of Variance will be held on Thursday, 2019-AUG-15, at 5:30 p.m. in the Board Room, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC to hear the following appeal:

**APPEAL NO:** **BOV00724**

**Applicants:** Chris Lipinski (BOEHM CONSTRUCTION LTD)

**Civic Address:** 1667 WADDINGTON ROAD

**Legal Description:** LOT 1, DISTRICT LOT 97G, NEWCASTLE RESERVE, SECTION 1, NANAIMO DISTRICT, PLAN EPP91467

**Purpose:** Zoning Bylaw No. 4500 requires a minimum flanking side yard setback of 4m in the R1 zone. The applicant is requesting a flanking side yard setback of 0m in order to convert an existing non-conforming single residential dwelling into a carriage house and to legalize its siting. This represents a variance of 4m. A 0.5m encroachment of the structure into City street right-of-way will be removed.

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

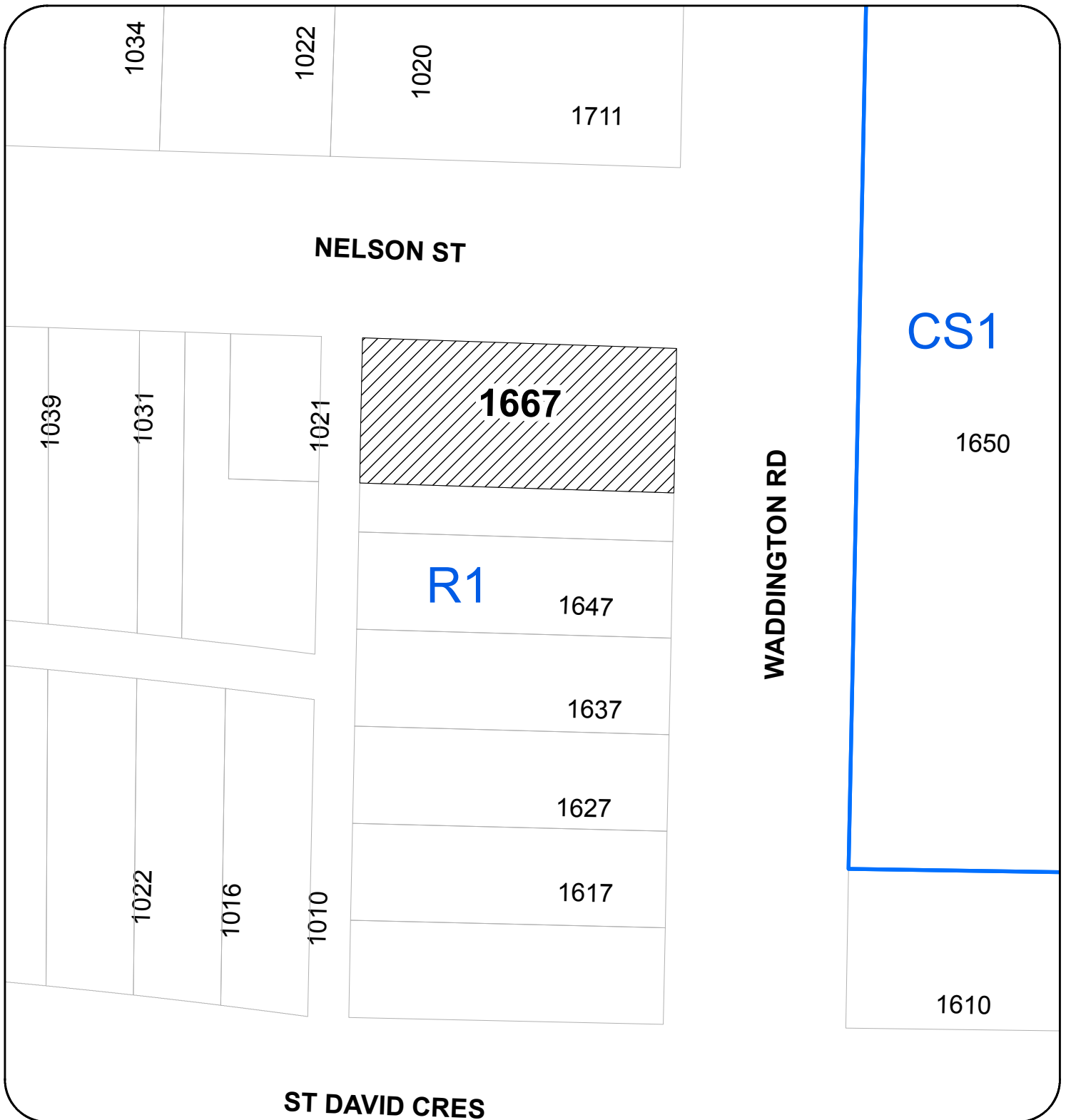
*Section 7.5 – Siting of Buildings*

*The principal building must be set back a minimum of 4m from the flanking side lot line.*

*(Section 6.6.4 – An accessory building shall not be permitted within the front yard, side yard or flanking side yard setback requirements.)*

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 Development Services 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-AUG-02 to 2019-AUG-15 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. BOV00724**

## LOCATION PLAN

CIVIC: 1667 WADDINGTON ROAD  
 LEGAL: LOT 1, DISTRICT LOT 97G, NEWCASTLE RESERVE, SECTION 1  
 NANAIMO DISTRICT, PLAN EPP91467



SUBJECT PROPERTY



SITE PLAN OF LOT 1, DL 97G, NEWCASTLE RESERVE, SECTION 1, NANAIMO DISTRICT, PLAN EPP91467.  
SHOWING EXISTING DWELLING AND PROPOSED RENOVATION THEREON.  
(FOR VARIANCE APPLICATION)

SCALE 1:150



Metric  
THE INTENDED PLOT SIZE IS 8.5" X 14" (LEGAL)  
DIMENSIONS ARE SHOWN IN METRES  
AND ARE DERIVED FROM PLAN EPP91467

CIVIC ADDRESS:

1667 WADDINGTON ROAD  
NANAIMO, BC  
PID: 030-758-700

LEGEND

— — — DENOTES ROOF OVERHANG/ROOF RIDGES

NOTES

ELEVATIONS ARE IN METRES AND ARE  
GEODETIC, DERIVED FROM MON. 77H5284.  
ZONING (2019): BYLAW 4500, R1  
SETBACKS TO SIDING  
CLIENT: BOEHM CONSTRUCTION

FLOOR AREAS	
13% OF PARCEL AREA	73.4m <sup>2</sup>
GROSS FLOOR AREA OF DWELLING (NOT INCLUDING DECK)	74.2m <sup>2</sup>
AREA TO BE REMOVED FROM DWELLING	1.8m <sup>2</sup>
RENOVATED DWELLING AREA	72.4m <sup>2</sup>

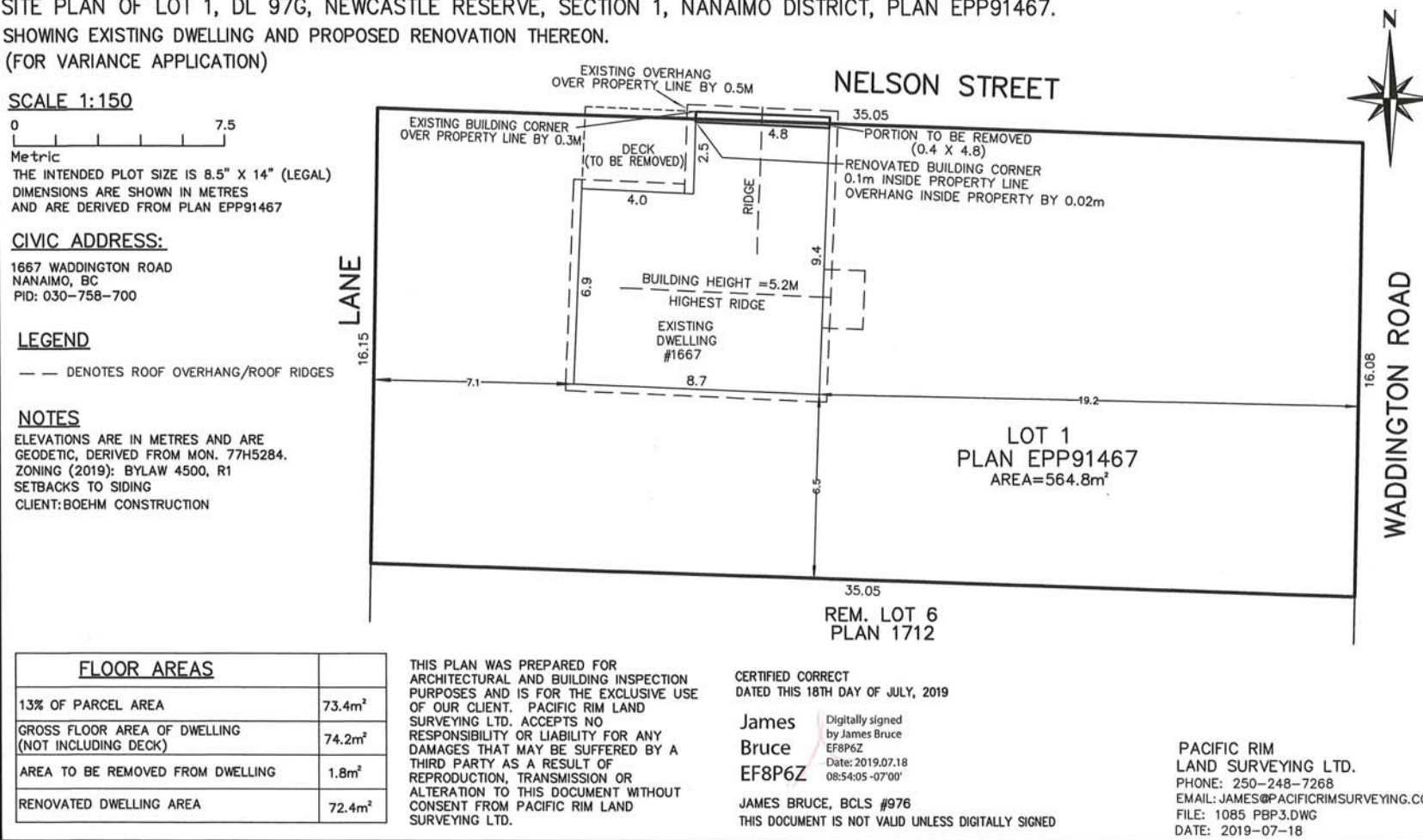
THIS PLAN WAS PREPARED FOR  
ARCHITECTURAL AND BUILDING INSPECTION  
PURPOSES AND IS FOR THE EXCLUSIVE USE  
OF OUR CLIENT. PACIFIC RIM LAND  
SURVEYING LTD. ACCEPTS NO  
RESPONSIBILITY OR LIABILITY FOR ANY  
DAMAGES THAT MAY BE SUFFERED BY A  
THIRD PARTY AS A RESULT OF  
REPRODUCTION, TRANSMISSION OR  
ALTERATION TO THIS DOCUMENT WITHOUT  
CONSENT FROM PACIFIC RIM LAND  
SURVEYING LTD.

CERTIFIED CORRECT  
DATED THIS 18TH DAY OF JULY, 2019

James  
Bruce  
EF8P6Z  
Digitally signed  
by James Bruce  
EF8P6Z  
Date: 2019.07.18  
08:54:05 -07'00'

JAMES BRUCE, BCLS #976  
THIS DOCUMENT IS NOT VALID UNLESS DIGITALLY SIGNED

PACIFIC RIM  
LAND SURVEYING LTD.  
PHONE: 250-248-7268  
EMAIL: JAMES@PACIFICRIMSURVEYING.COM  
FILE: 1085\_PBP3.DWG  
DATE: 2019-07-18





City of Nanaimo

July 25, 2019

Rationale letter  
1667 Waddington Building Permit

To whom it may concern

We have been hired to build a new dwelling on this property by the owner Mr. Shane Laviolette. After some consultation and investigation it was decided that the best option was to build a new single family dwelling on the front of the property that faces Waddington and that the existing dwelling become the carriage house.

On behalf of Shane, we at Boehm Construction went to work doing our due diligence to find out if the project was viable. We were told by staff at the front counter that the existing home was non-comforming since it sits partly on city property. At first this was described to us as an obstacle, but after some checking and more than one meeting with staff it was determined that because there was a yearly renewing agreement with the city and that the existing building was in fact small enough in size to become the carriage house the project was in fact viable. We then gave the client a budget, collected a deposit and began designing the home. We spent thousands of dollars on design plus several thousand just for a surveyor and lawyer to join what was two titles into one. We then submitted an application and were accepted into the line up and began our wait time. After a few weeks passed we were informed by someone at the city that what we were trying to do is not in fact possible and some details were overlooked. After again several phone calls and meetings it was determined that our best course of action was to ask the board of variance to vary our setback to zero, then take out a building permit and remove the part of the home that sits on city property so it resides just inside the property line (with in the now varied setback) and then this would free us up to carry on with our current permit to build this new single family home on the property and the existing house is now free to become the carriage house and be a conforming structure (with of course the varied setback).

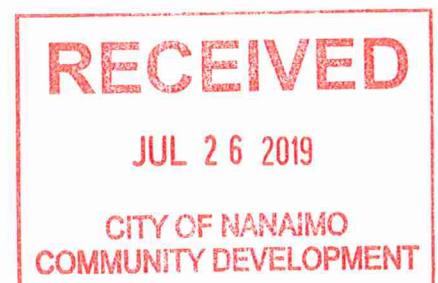
As always, we understand that we are required to articulate a hardship when applying for a variance. We are quite comfortable that the sequence of events we have laid out here and what our client has gone through even just to get to this stage constitutes hardship and that if the board for whatever reason does not approve our variance this client will suffer even more hardship. We feel that there would be great hardship (needlessly of course) to Mr. Laviolette if he was not allowed to build his retirement home just because his house when it was build 60 years ago happens to be placed on an imaginary line that was placed on a map many years later by the city and that for this reason he cannot do what most others who have the same size property with the same types of set up can do.

We respectfully request to the comittee at this time that our request be granted.

Sincerely,

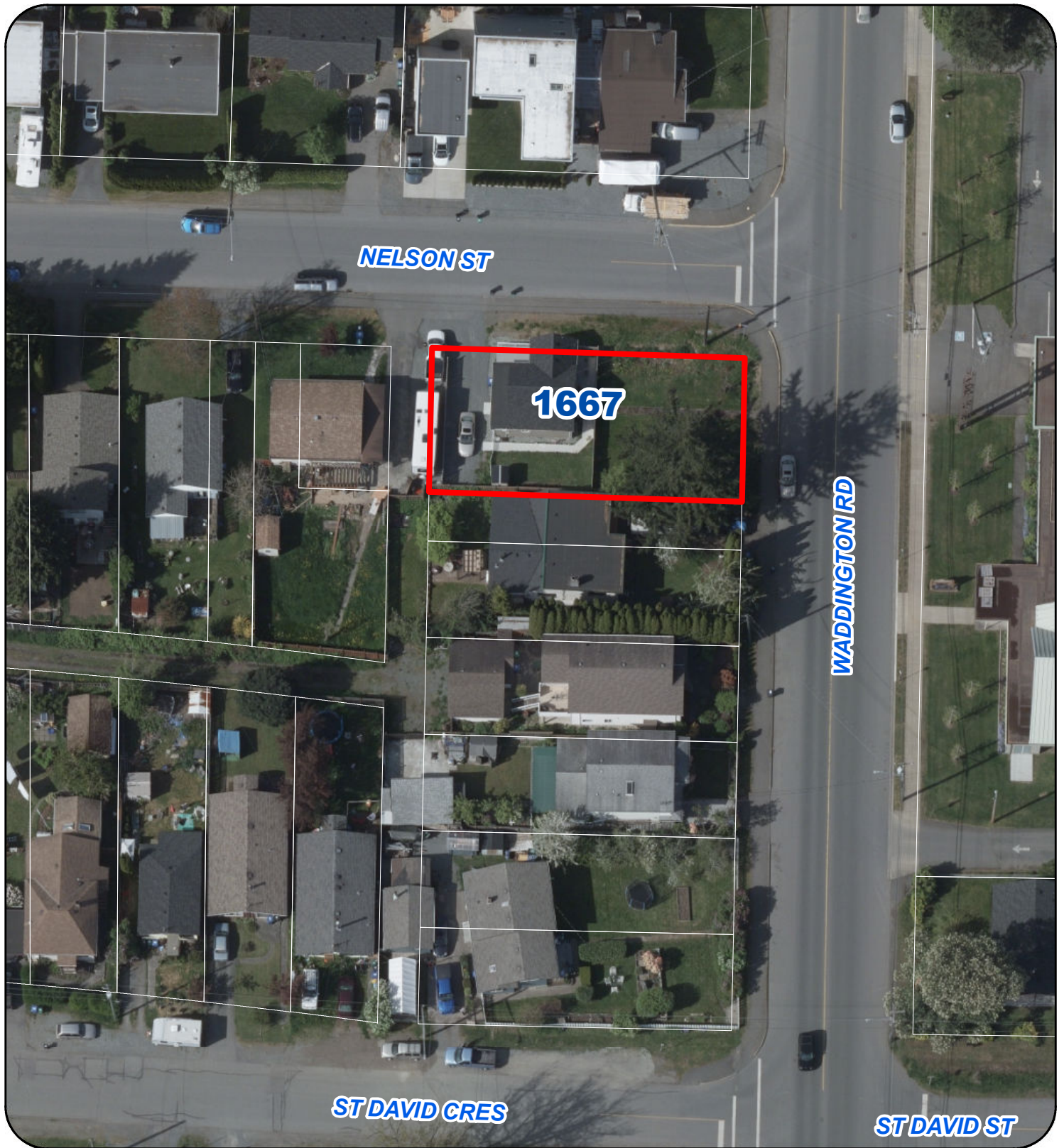
A handwritten signature in blue ink, appearing to read 'Jeff Boehm', with a long horizontal flourish extending to the right.

Jeff Boehm  
Boehm Construction Ltd





# AERIAL PHOTO



**BOARD OF VARIANCE APPLICATION NO. BOV00724**



 SUBJECT PROPERTY