



AGENDA BOARD OF VARIANCE MEETING

February 20, 2020, 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:

2 - 4

Minutes of the Open Board of Variance Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC on Thursday, 2020-JAN-16 at 5:30 p.m.

5. PRESENTATIONS:

a. Board of Variance No. BOV733 - 616 Victoria Road

5 - 11

Legal description: Lot 9, Block GA, Section 1, Nanaimo District, Plan 1396

The applicant is requesting a front yard setback of 4.0m in order to construct an addition. This represents a variance of 3.0m.

b. Board of Variance No. BOV734 - 178 Bryden Street

12 - 18

Legal description: Parcel A (DD 34047N) of Lots 73 and 74, Block 5, Newcastle Townsite, Section 1, Nanaimo District, Plan 584

The applicant is requesting a rear yard setback of 4.55m in order to reconstruct and legalize the location of an existing deck. This represents a variance of 6.05m.

6. REPORTS:

7. OTHER BUSINESS:

8. QUESTION PERIOD:

9. ADJOURNMENT:

MINUTES
BOARD OF VARIANCE MEETING
BOARDROOM, SERVICE AND RESOURCE CENTRE
411 DUNSMUIR STREET, NANAIMO, BC
THURSDAY, 2020-JAN-16 AT 5:30 P.M.

PRESENT: Members: Jessica Kaman, Chair
 Nelson Allen (arrived 5:32 p.m.)
 Allan Dick
 Ron Nadeau

 Absent: Kenneth Hample

 Staff: L. Nowak, 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.

N. Allen entered the Boardroom at 5:32 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 in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC on Thursday, 2019-OCT-17, be adopted as circulated. The motion carried unanimously.

4. PRESENTATIONS:

(a) Board of Variance No. BOV730 – 210 Woodhaven Drive

 The Chair read the application requesting to vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” in order to allow perimeter wall heights of 12.0m on the rear and east internal side yard elevations at 210 Woodhaven Drive.

 The applicant, Rick Andrew, spoke to the rationale for the application. He stated that the lot is steep and consists of solid rock, making it necessary to dig down to find stability for the foundation.

 Discussion took place regarding:

- The need for extra height

- The location of the variance
- Removing the third floor so that a perimeter wall height variance would not be needed
- Strata consultation, impacts to the surrounding neighbours, any letters of support
- Any other bylaw contraventions

The Chair asked if anyone else would like to speak regarding the application:

- The neighbour at 221 Woodhaven Drive, Joseph Baur, raised concerns about view obstruction.

It was moved and seconded that application BOV730 for 210 Woodhaven Drive to vary the provisions of “City of Nanaimo Zoning Bylaw 2011 No. 4500” in order to allow perimeter wall heights of 12.0m on the rear and east internal side yard elevations be approved. The motion carried unanimously.

(b) Board of Variance Application No. BOV731 – 740 Haliburton street

The Chair read the application requesting to vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” in order to vary the south side yard setback to 0.5m in order to legalize the setback of an existing non-conforming house.

The applicant, Bruce McQuade, spoke to the rationale for the application. He stated that the house was built in 1905 and he was hired to renovate the existing house. However, at an inspection, a Building Official determined that the renovations were more than 75% and it is now considered a rebuild so it must conform to the Bylaws. He claims he is asking for a variance so that he does not have to move the house.

Discussion took place regarding:

- The site survey and encroachment onto the neighbouring property at 742 Haliburton Street
- The regulation in the *Local Government Act* that requires that renovations to a structure that are more than 75% or more of its value above its foundations, only be repaired or reconstructed in a conforming use in accordance with the bylaw
- Concerns that the applicant should have been aware of the extent of work that was required when the Building Permit was issued and a variance could have been applied for at that time
- Concerns that the overhang is encroaching into the neighbour’s property
- The application not having enough information
- Board of Variance process

It was moved and seconded that application BOV731 for 740 Haliburton Street to vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” to vary the south side yard setback to 0.5m in order to legalize the setback of an existing non-conforming house be approved. The motion was defeated.

Opposed: Allan Dick, Jessica Kaman

5. ADJOURNMENT:

It was moved and seconded at 6:33 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, 2020-FEB-20, 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: **BOV00733**

Applicant: Keene Anderson (Greenplan Ltd.)

Civic Address: 616 Victoria Road

Legal Description: Lot 9, Block GA, Section 1, Nanaimo District, Plan 1396

Purpose: Zoning Bylaw No. 4500 requires a minimum front yard setback of 7.0m in the R1 zone where property abuts a major road. The applicant is requesting a front yard setback of 4.0m in order to construct an addition. This represents a front yard setback variance of 3.0m.

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

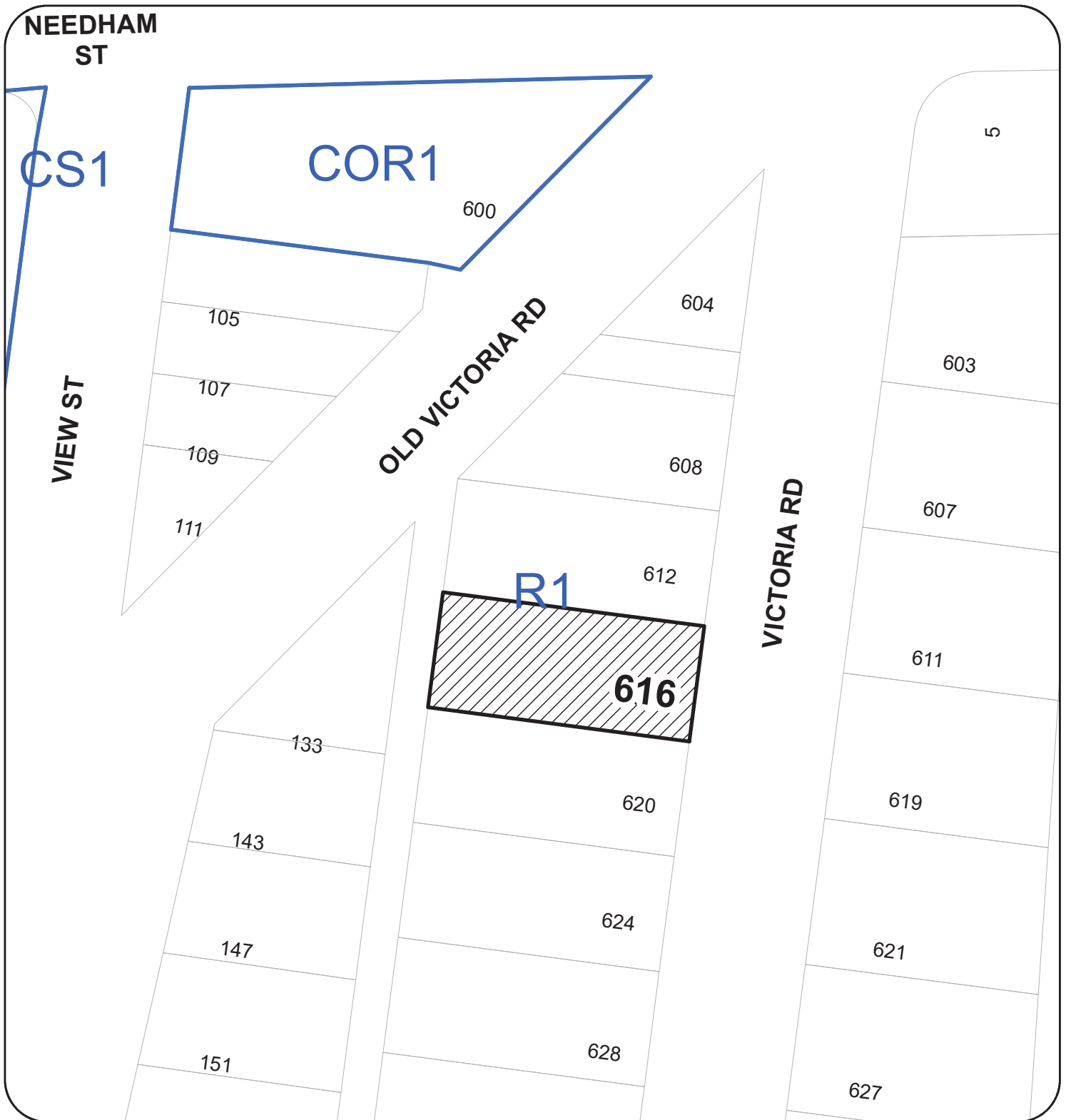
A minimum front yard setback of 4.5m is required.

Section 7.5.4

Where a property abuts a major road, an additional 2.5m front yard setback 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. More information about this application can be found online at www.nanaimo.ca/whatsbuilding. This application may be reviewed with Staff at the Development Services Department, 411 Dunsmuir Street, Nanaimo, BC, or by calling 250-755-4460 (x4220), during normal business hours, Monday to Friday, excluding statutory holidays, from 2020-FEB-07 to 2020-FEB-20 inclusive. Questions, comments, or written submissions can also be sent by email to: planning@nanaimo.ca.

LOCATION PLAN



BOARD OF VARIANCE NO. BOV00733

LOCATION PLAN

CIVIC: 616 VICTORIA ROAD

LEGAL: LOT 9, BLOCK GA, SECTION 1, NANAIMO DISTRICT, PLAN 1396



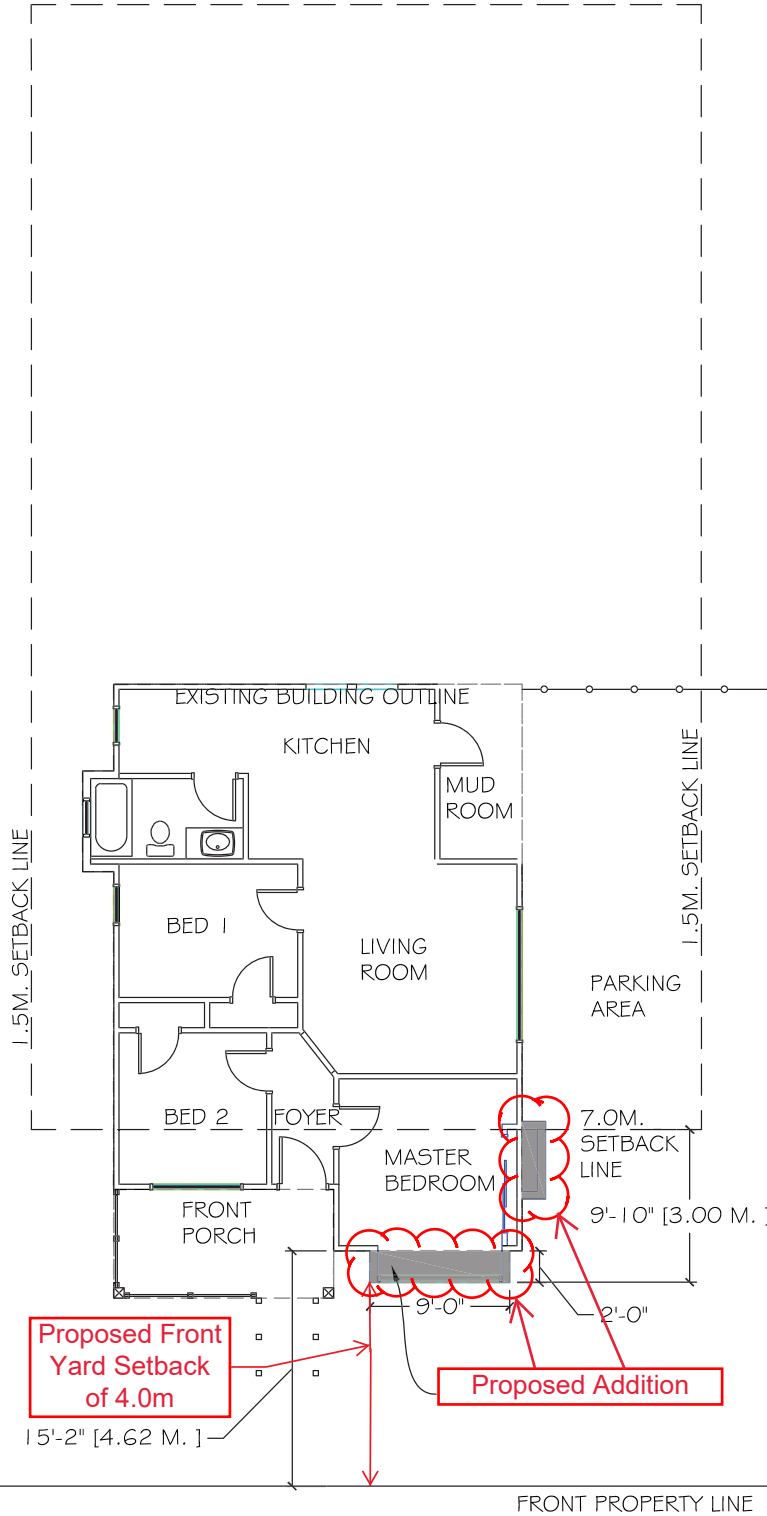
SUBJECT PROPERTY

REAR PROPERTY LINE

REVISION
000-000

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4.5M. SETBACK LINE



RECEIVED
BOV733
2020-FEB-06
Current Planning

616 VICTORIA ROAD
SITEPLAN - BOV APPLICATION

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

Designed Drawn Checked

Date
JANUARY 31 2020

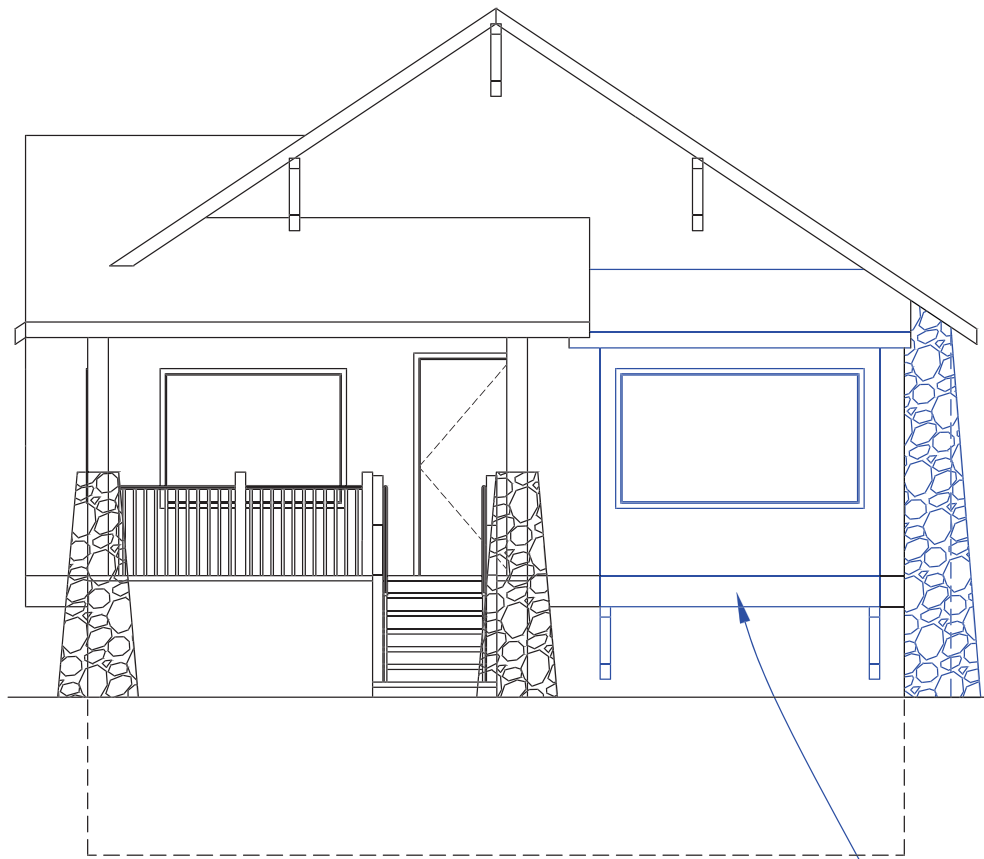
Project
1999-13

Drawing #
1999-13-S-0131-71

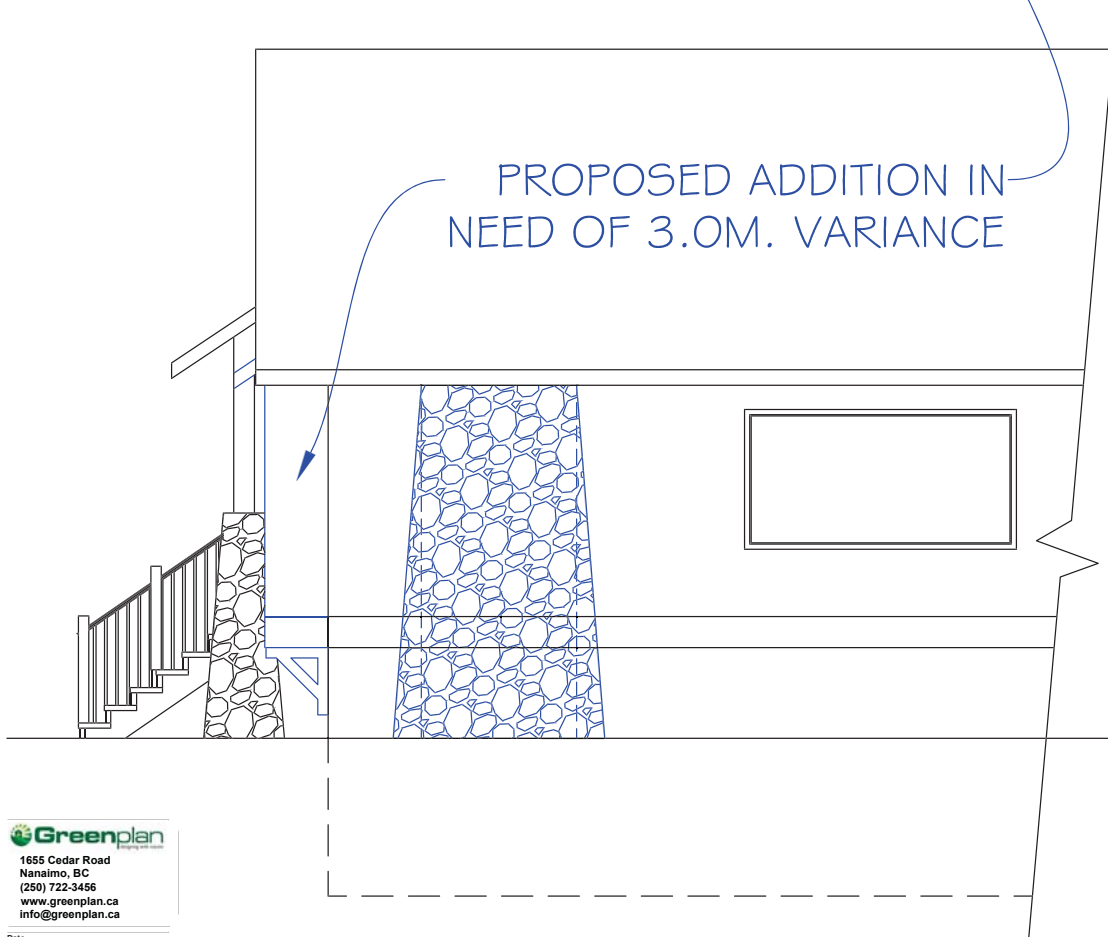
Scale
1/8" = 1'-0"

Sheet Title
SITEPLAN

Sheet #



EAST SIDE VIEW



NORTH SIDE VIEW

January 31, 2020
City of Nanaimo
Board of Variance

Board of Variance Application
616 Victoria Road - Nanaimo
LOT 9, BLOCK GA, SECTION 1, NANAIMO DISTRICT, PLAN 1396

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 Chris Everett Land Surveying Ltd., dated January 8, 2008 was undertaken to identify the location of the existing home on the property, see Schedule 1. At that time, it was determined that the covered porch and front building face were 3.69m. and 4.62m. respectfully, from the property line. Our proposed addition doesn't meet the current 7.0m setback requirement of Bylaw 500. The purpose of this variance application is to seek a legal allowance for a 3.0m projection into the 7.0m. front yard setback to legalize the existing projections into the front yard setback and to support additions to the front and side of the home.

It is recognized that the original building was constructed many years ago (approx. 1920's), at a time that predated zoning setback requirements. The homeowners have put a lot of passion into restoring this classic home which include making it more energy efficient and functional. Over the years, it became apparent that the interior spaces were too tight for furniture and activities of this family and a series of additions were determined to be a solution to their spatial needs. The Photos below show the home in its current state. Photo 1 shows the portion of the covered porch that is 3.69m. from the front property line. Photo 2 is a better view of the front facing and shows the window that will be removed and where the addition is proposed. This portion of the building is currently 4.62m. from the front property line. The proposed 9'x2' addition as shown in Schedule 2 is where the variance of 3.0m. is required.

While the proposed addition doesn't add a lot of space, the owners are preparing to invest significantly in the extension to the front with the interest of retaining the classic character of the home while also retaining the existing parking while not exacerbating the problem of street parking on Victoria Road. The proposed 2' extension into the front setback will bear on structurally engineered knee braces designed to complement the knee braces that adorn the residence on multiple sides, see Schedule 3 for proposed elevational views.



Photo 1 - view of South East corner of the residence



Photo 2 – view of North East corner of residence

Significant time and effort has been taken to explore options and a small 2' extension towards the front property line, which is still less than the porch extension, would seem a reasonable design solution to their spatial problems inside the home. Unfortunately, due to the original construction of the home (prior to bylaws with setbacks), the front face of the home is legal non-conforming as it sits and a variance will be required to legalize those portions that extend beyond the extended front setback required due to Victoria Road being classified as a major road, Bylaw 500, Sec 7.5.4). The owners have also explored expansion of the room towards the side yard setback but as this will infringe on the off-street parking, the intent is to provide a closet expansion to the side under the eaves of the existing overhang. Again, in the interest of character, the owners are prepared to invest in a masonry finish around this closet so as to appear like a historic old fireplace on that side of the home. Fortunately, this small extension to the side will not interrupt the limited area for off street parking, see adjacent photo of vehicle in parking space beside the home to understand the limitation for sideways expansion. In fact, even this side extension for a closet requires a variance of the front yard setback given the extra setback distance associated with Bylaw 500, 7.5.4.



The undue hardship of this variance is created by the circumstance of the original house placement prior to bylaws and the inability to expand sufficiently to the side due to retaining off street parking space. More specifically the hardships are:

1. Residence was built in a time that predated zoning requirements so does not meet current setback requirements to a major road.
2. The lot size is smaller than average for this era, (1 chain by 2 chains – 66'x132' was a common lot size – 20.1m x 40.2m) but this lot is even smaller at only 16.15m x 36.58m. This limits the available building and parking area.
3. The need to retain the driveway access to the rear yard and the off-street parking for the home on the north side of the house.

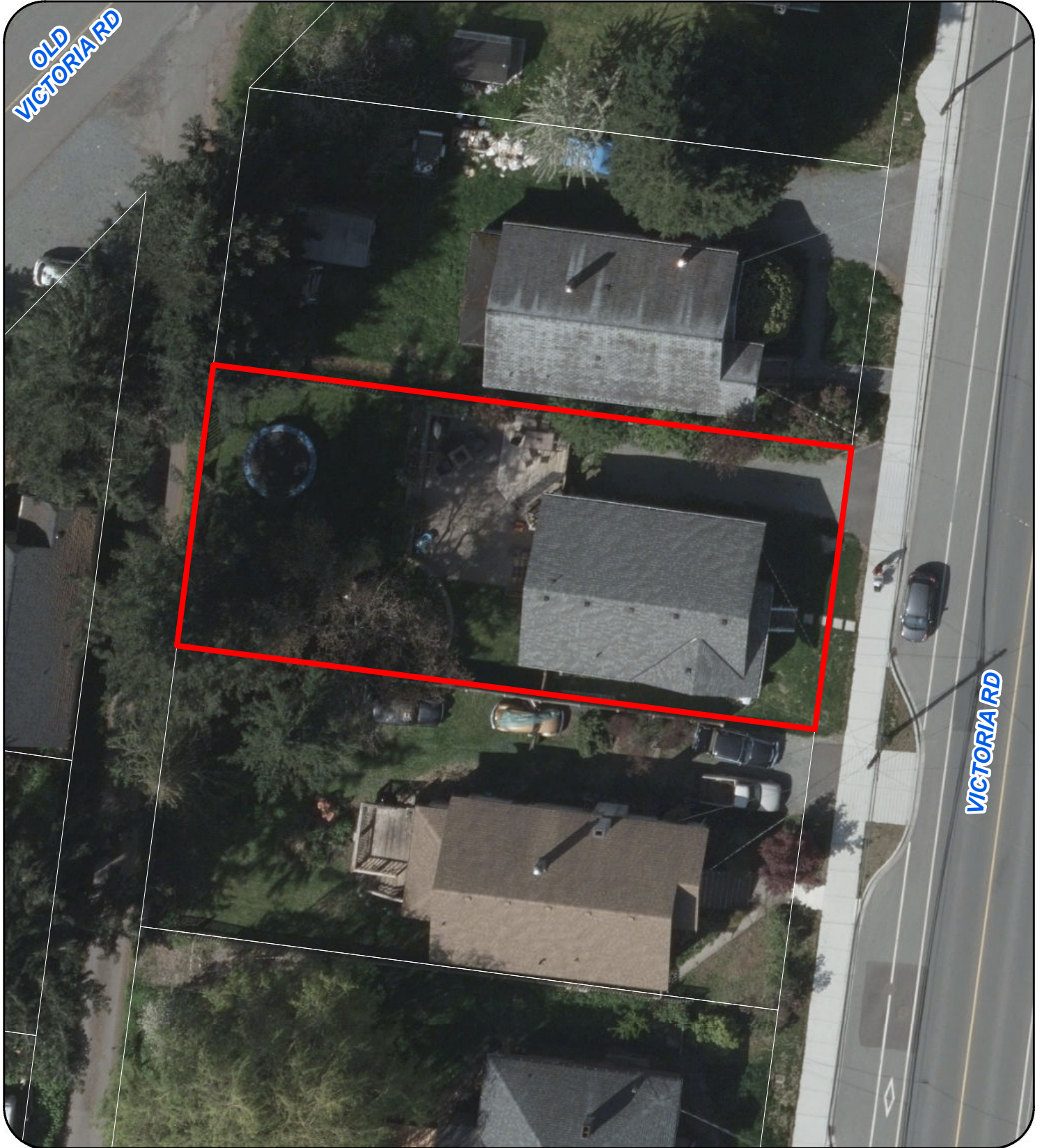
We trust the information provided in this application is sufficient to allow the volunteers of the Board of Variance the insight to rule on this application and that if any further questions pertinent to this decision are required, we will be happy to respond on the date of the BOV review.

Regards

Keene Anderson,
Anderson Greenplan Ltd.

[Redacted signature]

AERIAL PHOTO



BOARD OF VARIANCE APPLICATION NO. BOV00733



 616 VICTORIA ROAD



COMMUNITY DEVELOPMENT

BOARD OF VARIANCE

NOTICE OF MEETING

A meeting of the Board of Variance will be held on Thursday, 2020-FEB-20, 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: **BOV00734**

Applicant: Andre Merlet (Do It Right Properties Inc.)

Civic Address: 178 Bryden Street

Legal Description: Parcel A (DD 34047n) of Lots 73 and 74, Block 5, Newcastle Townsite, Section 1, Nanaimo District, Plan 584

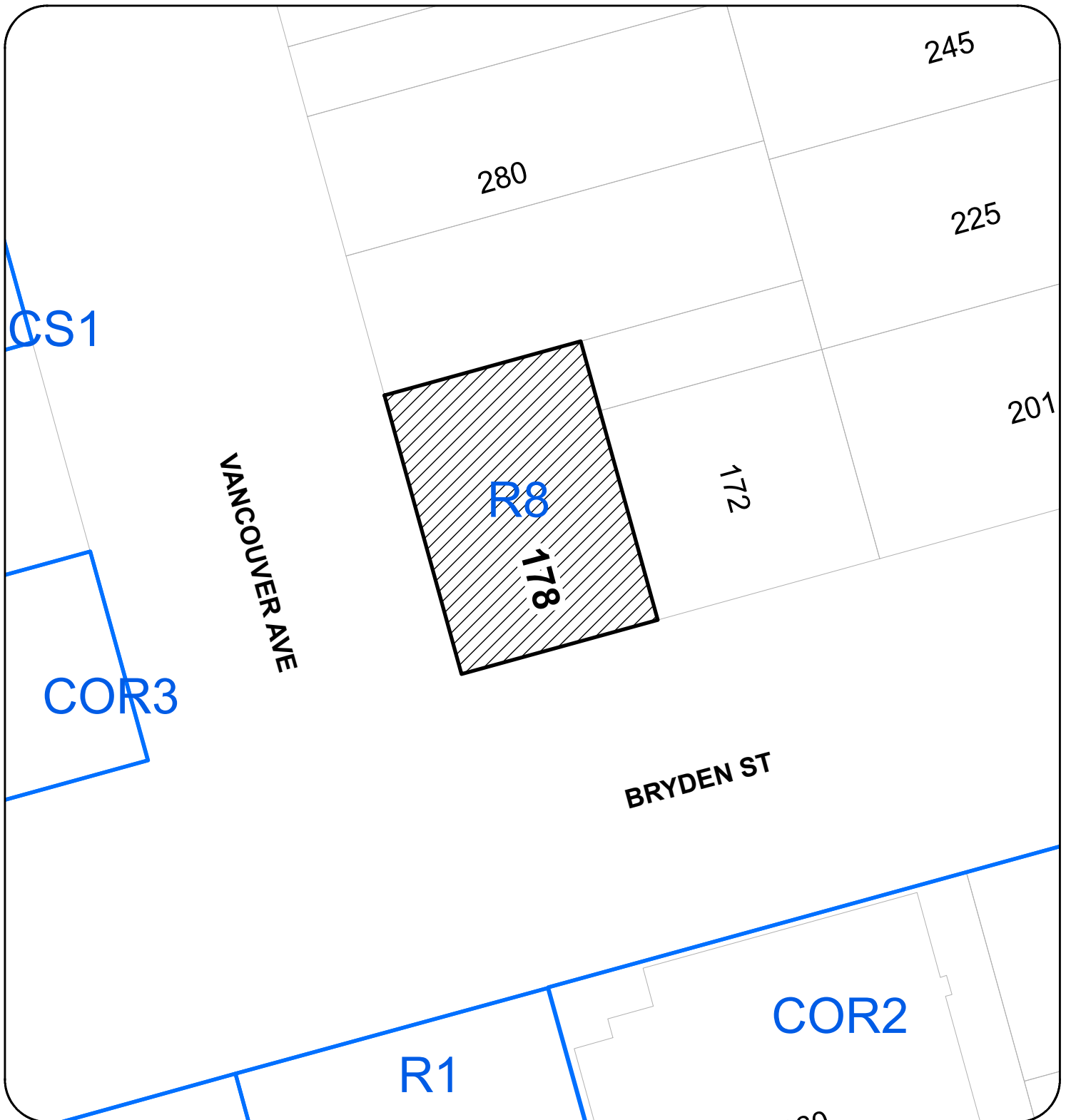
Purpose: Zoning Bylaw No. 4500 requires a minimum rear yard setback of 10.5m in the R8 zone. The applicant is requesting a rear yard setback of 4.55m in order to reconstruct and legalize the location of an existing deck. This represents a rear yard setback variance of 6.05m.

Zoning Regulations: Medium Density Residential – R8. The applicant requests a variance to the “City of Nanaimo Zoning Bylaw 2011 No. 4500”:

*Section 7.5.1 – Siting of Buildings
A minimum rear yard setback of 10.5m 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. More information about this application can be found online at www.nanaimo.ca/whatsbuilding. This application may be reviewed with Staff at the Development Services Department, 411 Dunsmuir Street, Nanaimo, BC, or by calling 250-755-4460 (x4220), during normal business hours, Monday to Friday, excluding statutory holidays, from 2020-FEB-07 to 2020-FEB-20 inclusive. Questions, comments, or written submissions can also be sent by email to: planning@nanaimo.ca.

LOCATION PLAN



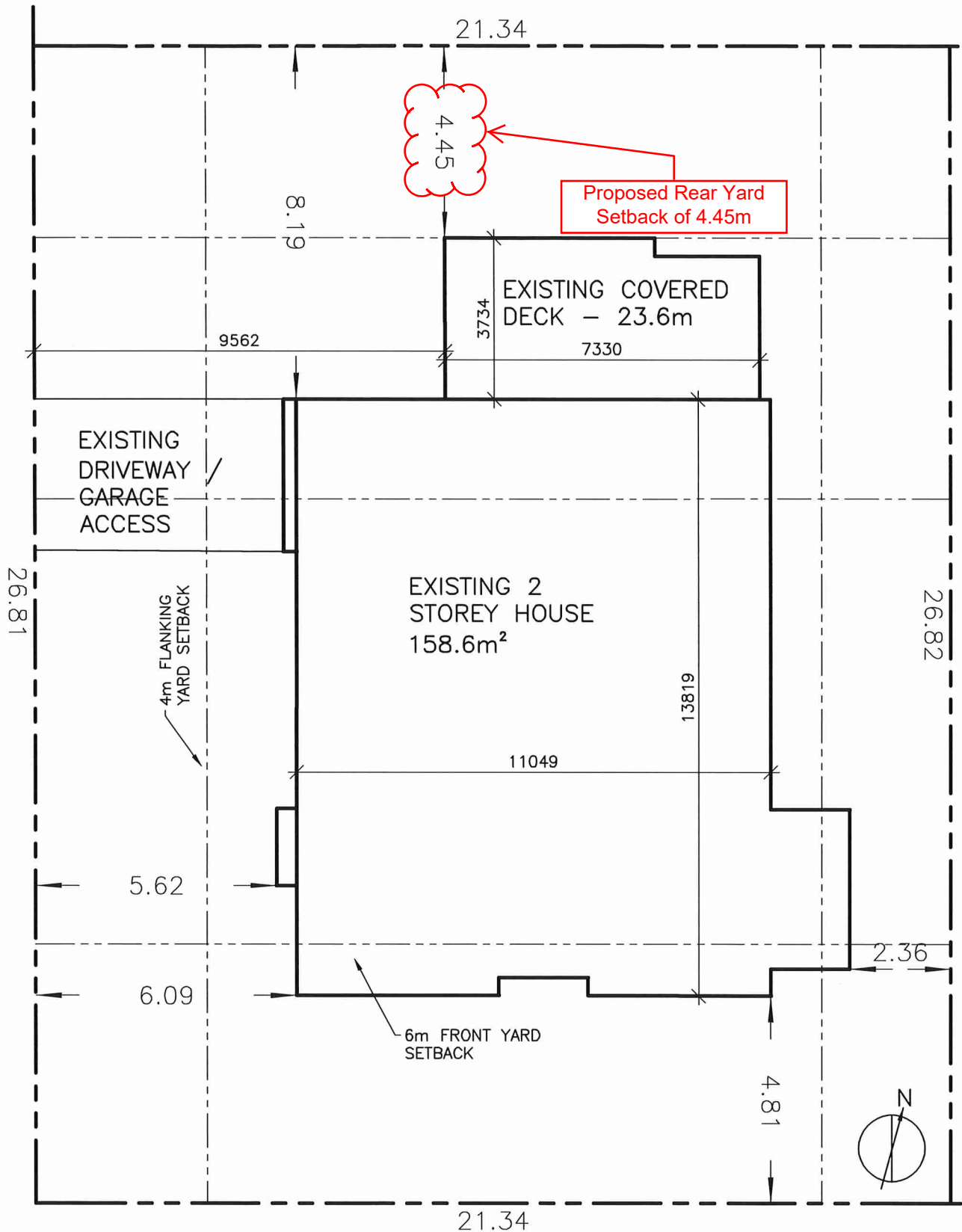
BOARD OF VARIANCE NO. BOV00734

LOCATION PLAN

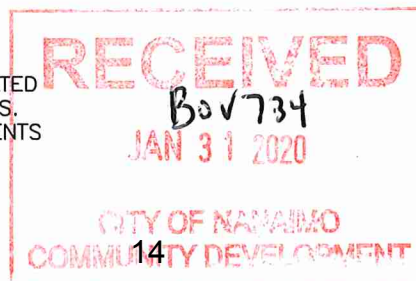
CIVIC: 178 BRYDEN STREET
LEGAL: PARCEL A (DD 34047N) OF LOTS 73 AND 74, BLOCK 5
NEWCASTLE TOWNSITE, SECTION 1, NANAIMO DISTRICT, PLAN 584



SUBJECT PROPERTY



NOTE:
DRAWING PREPARED FROM SURVEY
CREATED BY TURNER AND ASSOCIATED
SURVEY TO DISPLAY SETBACK LINES.
NOT TO BE USED FOR MEASUREMENTS



178 BRYDEN STREET SITE PLAN
SCALE: 1:125
DRAWN: KYLE RILEY

January 30, 2020

City of Nanaimo
Community Development Department
411 Dunsmuir St.
Nanaimo, BC V9R 5J6

Attn: Planning Department

Re: Variance rationale for 178 Bryden Street, Nanaimo, BC

Hello:

We are submitting this Variance Rationale on behalf of our Client who owns the house at 178 Bryden Street in Nanaimo BC. We have prepared the following report addressing the objectives of the above-mentioned project. We are requesting a variance of 6.05m for the rear yard setback.

Project Site Description

The property in question is located at 178 Bryden Street in Nanaimo, BC. The property forms the corner lot and is located at the North-East intersection of Bryden Street and Vancouver Avenue.

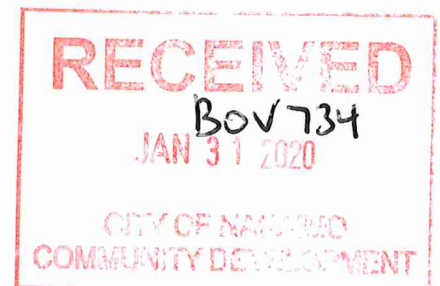
This lot houses a two-storey single family dwelling the house built in the 1930's and would be described as a 'Heritage House' in common lexicon. The house has a Building Area of The house fronts Bryden Street and flanks Vancouver Avenue. The house is serviced by a short driveway with access off of Vancouver Ave. The lot is home to established trees and planting, and the rear of the house is bounded with a wood fence and more plantings.

Finishing off the rear yard is an existing semi-enclosed rear deck with a roof. The deck area is deck is 23.6m² and is what we will be addressing in this Variance rational. Details will be provided below. Photos of the existing house, as well as a site plan showing existing and required setback are provided at the end of this letter in the appendix.

Zoning

The property is currently Zoned R-8 – Medium Density Residential as per the NanaimoMap zoning layer. As per Part 7 – Residential of the Nanaimo Zoning Bylaw 4500 the following information is listed.

	Required	Existing Condition
Lot Dimensions		
Min. Lot Size	1,800m ²	572m ²
Min. Frontage	15m	21.34m
Min. Depth	30m	26.81m
Coverage	40% max.	32.3%



(228.8m²) (184.96m²)

Setbacks

Front Yard	6m	4.81m
Side Yard	3m	2.36m
Flanking Yard	4m	6.09m
Rear Yard	10.5m	8.19m (house) 4.45m (deck)

Proposed Project Description

The Client currently has an existing covered deck in place in the rear yard of the property. As per the above Zoning section, the existing house is non-conforming to the current zoning. The R8 zoning for this area does not account for the existing housing stock in the neighbourhood. As such, the current zoning setbacks do not currently accommodate the existing house nor the existing deck.

The deck to the rear of the house is in need of replacement, as it has outlived its useful life and is starting to deteriorate. The deck currently is an elevated deck approx. 1.22m higher than the rear yard level and flush with the main floor. The deck is a semi-enclosed structure with operable screens installed. Topping the existing deck is a low slope shed roof spanning from the house to a small overhang in the rear yard. I have attached photos of the house and deck that have been procured from Google Earth Street view.

The property owner is looking to rebuild the deck within the existing rear yard encroachment. Part of this rebuild will include replacing the deck roof with a new deck accessed off the second floor. The deck structure will be standard wood framing with a vinyl deck membrane. The new guardrails will be pre-manufactured aluminum with glazed in-fill guards. New stairs will be proposed, also fitting into the existing rear yard encroachment line. This will provide some useful outdoor space accessed off the upper floor, and providing another egress route from the upper floor of the house.

Hardships

As per the variance rationale, I will now review the hardships involved in this rational. This house pre-dates and files that the City of Nanaimo has on file for this property. As such, it can be noted that this property has been in place for over 40 years since amalgamation of that area with the Regional District of Nanaimo. The yard, the deck, the plantings and use house have all been in use together for decades. The house and yard are designed around the rear deck. There is a framed double door in the rear of the house for access to the deck.

It is noted on the attached site plan that there is space on the Flanking Side Yard that compiles with the setback requirements of the properties. This space, while accommodating the driveway and the chimney is significantly smaller than the existing deck size at the rear of the building, being 12.4m² vs the existing 23.6m². This would display a case of lack of amenity.

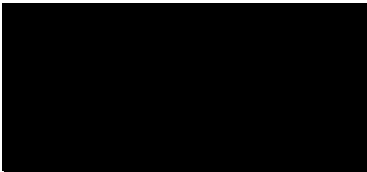
In this side yard there is no existing door. This would be a construction hardship. Since the building is from the 1930s, construction is more complicated than with current construction methods. The exterior finish is cementitious stucco, and the interior finish is lathe and plaster. The age of the materials also opens up the issue of materials abetment. This adds substantial increased cost and complexity to adding a door in this area. The area of the house on the flanking street also does not suit itself to having a door and deck access in this location. This would be detrimental to the owners use of their existing indoor floor area.

In this area on the flanking street there is significant mature trees and landscaping in this area. This provides a hardship to the owners, as the replacement of such landscaping is extremely difficult, as the replacement of such large planting is either expensive, or takes a considerable time.

Finally, providing a deck in the flanking street setback moves the private deck area from a fenced rear yard to the frontage facing Vancouver Avenue. This would prove to be a considerable loss of privacy as a deck in this location would be considerably closer to the street than the current location. The existing rear deck is set back 9.5m from Vancouver Ave, with mature planting and a fence to provide a privacy buffer from the road. A deck in the flanking street would be only 4m from the property line, and require considerable landscaping and fencing to provide a privacy buffer.

In closing, the owners of this property are requesting a variance of 6.05m to allow the construction of a replacement deck at the rear of their existing house. This deck would cover the same footprint as the existing in place deck.

If you have any additional questions please do not hesitate to reach out.

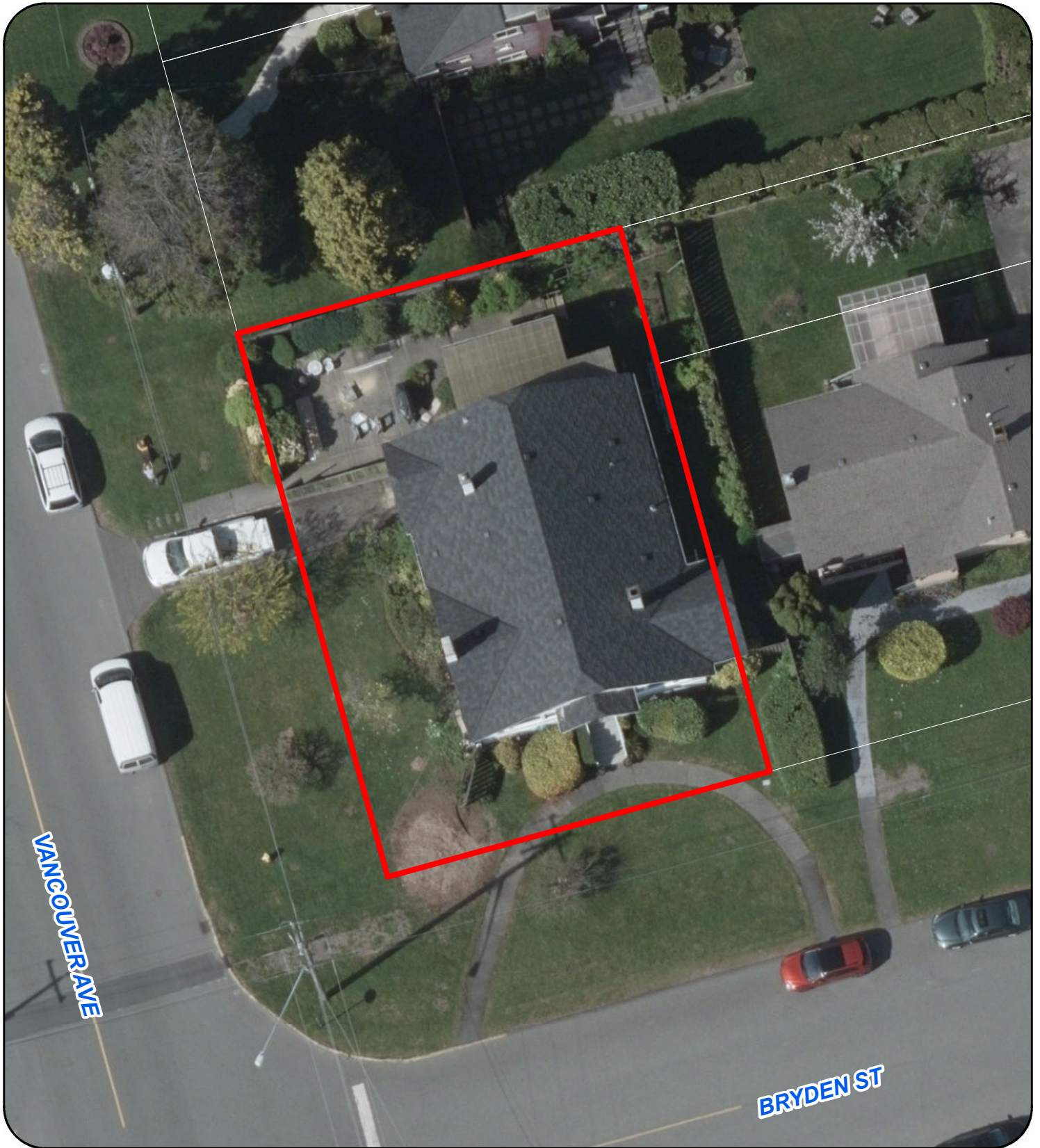


Yours truly,

Kyle Riley, Architectural Technologist, AIBC



AERIAL PHOTO



BOARD OF VARIANCE APPLICATION NO. BOV00734



 178 BRYDEN STREET