

Bylaw Violation Impact Assessment Report

Introduction

A thorough analysis has been undertaken by the adjacent owners to determine the impact the Scoones development has had on adjacent properties and the public realm. The **Intent of the Regulations Being Varied** section of the Island Trust Staff Report (File No. GL-DVP-2023.5 (Scoones)), dated February 1, 2024, presents a set of criteria on which to conduct an impact analysis on setback provisions. It was observed that the Staff Report did not apply the criteria to each violation and the rationale for recommending approval of the DVP to the LTC lacked rigour. It was mentioned in the report that the owner of the Scoones property was seeking a DVP to vary the bylaw provisions violated in the development rather than physically bringing the property into compliance.

In the absence of the Islands Trust Staff carrying out a more comprehensive impact assessment, the adjacent property owners have completed this work and have provided recommendations for remediation.

Impact Analysis

20 violations have been identified on the Scoones property making it difficult to determine intuitively the actions appropriate for mitigating the impacts to adjacent properties and the public realm (environment and public interest). In the **Intent of the Regulations Being Varied** section of the above referenced Staff Report, a robust set of criteria is presented. It asserts that the overall purpose of the setback regulations is to minimize impacts on adjacent properties and the public realm related to:

- 1. Protecting marine and foreshore and nearshore habitats;**
- 2. Protection of development from natural hazards, particularly with sea level rise and increased storm surges;**
- 3. Limiting the visual impact of development on adjacent properties;**
4. Protection of views, scenic areas, and distinctive features contributing to the overall visual quality and scenic value of the Trust Area;
- 5. Maintaining privacy;**
- 6. Establishing consistent development patterns within a local area;**
7. Public access;
- 8. Maintaining rural character; and**
- 9. Establishing certainty with respect to residential development by maintaining consistent siting regulations.**

The items in **bold** were selected for use in the impact assessment. It was determined that items 4 and 7 are not directly related to the Scoones property, so they were not included in the impact assessment. The criteria were organized into three groupings. The first group included visual, privacy and rural characteristic impacts attributed to adjacent properties. The second group involved near shore habitat and natural hazard impacts related to the environment. The third group pertained to the impact of allowing inconsistent development patterns and not maintaining consistent siting regulations which are public interest concerns. A weighting factor of 2 was applied to accentuate the public interest concerns (Group 3), whereas a factor of 1.5 and 1 was applied to the environment (Group 2) and adjacent properties (Group 1), respectively.

Essentially, the assessment began by applying the seven criteria to each of the 20 violations, producing 140 elements (lenses). Each element was assigned a ranking of 1, 3 or 5 for a low, medium or high impact, respectively. An impact score was then calculated for each violation which provided an objective method for determining the relative impact of the 20 violations to each other.

The remediation strategy was derived by grouping the violations that are interrelated. The majority of the violations fit into three groups. The miscellaneous violations were placed in a fourth group. The lowest impact violations were identified as candidates to be varied in a Development Variance Permit (DVP).

Determination of Violations

Islands Trust Staff identified nine (9) violations and included them in the proposed DVP (GL-DVP-2023.5). The impact assessment for these violations can be found in Impact Assessment Table #1 – Proposed DVP. Further research revealed that an additional six (6) violations were cited in the court order issued on September 11, 2014. The impact assessment of these violations is located in Impact Assessment Table #2 - Violations in Court Order. Upon closer examination five (5) other violations were identified. The impact assessment of these violations can be found in Impact Assessment Table #3 – Other Violations. Therefore, the impact assessment individually covers all 20 violations.

It should be noted that Violation #13 pertains to a reinforced concrete retaining wall that John Scoones had built on the western neighbour's property. John Scoones committed to the previous owner to remove the wall. However, it was discovered later that only the top was broken off and the rest of the wall buried. Although this wall must be removed in its entirety, it was not included in the impact assessment as it is not technically located on the Scoones

March 25, 2024

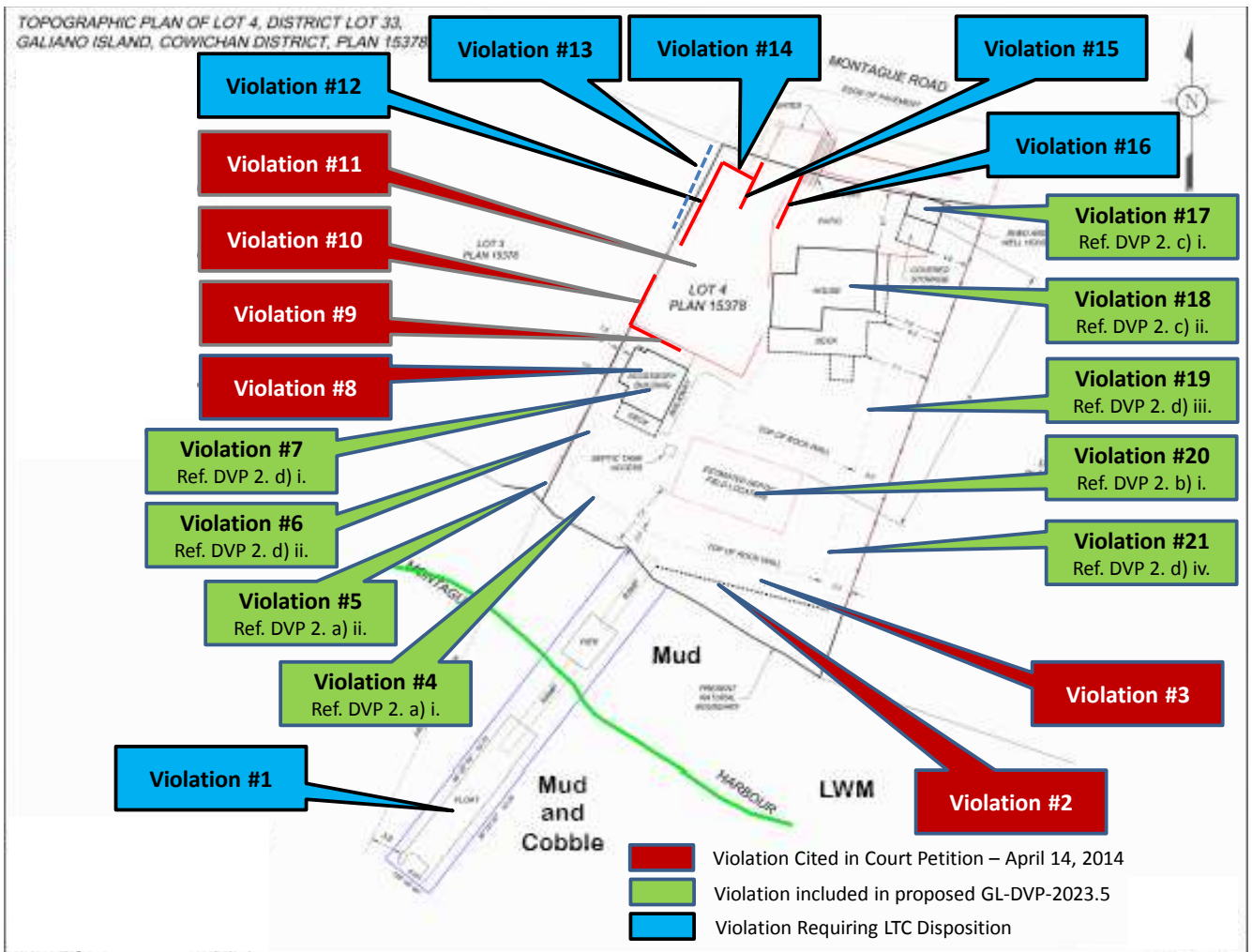
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property. Therefore, there are a total of 20 violations that currently exist on the Scoones property.

Violations Description

Violation	GL-DVP-2023.5 Reference	Description
1		Existing float 12 ft x 66 ft does not conform to Development Permit GL-DP-2005.1 which specifies float 12 ft x 53 ft.
2		First front rock retaining wall located within: 1) 1.5 m of the natural boundary of the sea; 2) DPA 2; and 3) DPA 7.
3		Ramp (pathway) located between violations 2 and 4.
4	2. a) i.	Second front rock retaining wall located within: 1) 2.5 m of the natural boundary of the sea; 2) DPA 2; and 3) DPA 7.
5	2. a) ii.	Fence located within 2 m of the natural boundary of the sea.
6	2. d) ii.	Western rock retaining wall located within 0.4 m of the western interior lot line.
7	2. d) i.	Cottage located within 1.5 m of the western interior lot line.
8		Cottage violates lot density provision for lot size under 0.4 hectares.
9		Lock block retaining wall located within 0.0 to 6.0 m of western interior lot line.
10		Lock block retaining wall located within 0.0 m of western interior lot line.
11		Existing lot coverage of 36% exceeds the 25% that is permitted.
12		Concrete retaining wall located within 0.8 m of the western interior lot line.
13		Retaining wall encroaches onto neighbour's property [REDACTED].
14		Concrete retaining wall located within 3.0 m of the front lot line.
15		Concrete retaining wall west of driveway located within 0.0 m from front lot line.
16		Concrete retaining wall east of driveway located with 0.0 m from front lot line.
17	2. c) i.	Pumphouse/Wood Shed located within 4.0 m of eastern interior lot line and encroaches over front lot line.
18	2. c) ii.	Dwelling located within 6.7 m of front lot line.
19	2. d) iii.	Northern rock wall located within 4.0 m of eastern interior lot line.
20	2. b) i.	Sewage absorption field located within 7.3 m of the natural boundary of the sea.
21	2. d) iv.	Southern rock wall located within 3.3 m of eastern interior lot line.

- Violation Cited in Court Petition – April 14, 2014
- Violation Included In Proposed GL-DVP-2023.5
- Other Violations Not Covered by the Proposed DVP or Court Documents



Impact Analysis Results

The impact assessment results are presented in the table, below. An impact score is calculated for each violation. Impact scores of 20 or less have low impact. Those having an impact score of 21 to 30 have moderate impact. Impact scores greater than 30 have high impact.

Violation	GL-DVP-2023.5 Reference	Description	Adjacent Properties			Public Realm - Environment and Public Interest				Impact Score	
			Weighting Factor	1	1	1	1.5	1.5	2		2
			Visual Impact	Impact on Privacy	Impact on Rural Character	DPA 2 Impact	DPA 7 Impact	Impact of Allowing Inconsistent Development Pattern	Impact of Inconsistently Applying Siting Regulations		
1		Float	3	3	3	3	0	3	3	25.5	
2		First front wall	1	5	1	5	5	3	5	38	
3		Ramp (pathway)	1	5	1	5	5	3	5	38	
4	2. a) i.	Second front wall	3	5	5	5	5	5	5	48	
5	2. a) ii.	Fence within 2 m of natural boundary of sea	1	1	1	1	1	1	1	10	
6	2. d) ii.	Western Wall 0.4 m from side lot line	5	5	5	5	3	5	5	47	
7	2. d) i.	Cottage 1.5 m from side Lot Line	5	5	5	1	0	5	5	36.5	
8		Lot density	5	5	5	0	0	5	5	35	
9		Lock block wall 0 to 6 m from lot line	1	5	5	0	0	5	5	31	
10		Lock block wall 0 m from lot line	5	5	5	0	0	5	5	35	
11		Lot Coverage	3	5	5	0	0	5	5	33	
12		Concrete wall side lot line	1	3	5	0	0	5	5	29	
13		Wall built on neighbour's lot	0	0	0	0	0	0	0	0	
14		Concrete wall within 1.5 m from front lot line	1	3	5	0	0	5	5	29	
15		Concrete wall west of driveway	1	3	5	0	0	5	5	29	
16		Concrete wall east of driveway	1	3	5	0	0	5	5	29	
17	2. c) i.	Pumphouse/Wood Shed	3	1	3	0	0	3	5	23	
18	2. c) ii.	Dwelling within 6.7 m of front lot line	1	1	1	0	0	1	1	7	
19	2. d) iii.	Northern rock wall within 4.0 m of lot line	5	5	5	0	0	3	3	27	
20	2. b) i.	Sewage Absorption Field	3	3	1	5	1	3	3	28	
21	2. d) iv.	Southern rock wall within 3.3 m of lot line	5	3	5	3	0	3	3	29.5	
1		Low impact	20 or less			Violations Cited in Court Petition - April 14, 2014					
3		Moderate impact	21 to 30			Violations Included in Proposed GL-DVP-2023.5					
5		High impact	> than 30			Other Violations Not Covered by the Proposed DVP or Court Documents					

Remediation Strategy

The remediation strategy was derived by grouping the violations that are interrelated. The following four (4) groups emerged: 1) Parking lot; 2) Front walls; 3) Cottage; and 4) Miscellaneous. The impact analysis results were then sorted by group and impact scores were summed for each group (see table below).

Violation	GL-DVP-2023.5 Reference	Weighting Factor Description	Adjacent Properties			Public Realm - Environment and Public Interest				Impact Score	Group
			1	1	1	1.5	1.5	2	2		
			Visual Impact	Impact on Privacy	Impact on Rural Character	DPA 2 Impact	DPA 7 Impact	Impact of Allowing Inconsistent Development Pattern	Impact of Inconsistently Applying Siting Regulations		
9		Lock block wall 0 to 6 m from lot line	1	5	5	0	0	5	5	31	parking lot
10		Lock block wall 0 m from lot line	5	5	5	0	0	5	5	35	parking lot
11		Lot Coverage	3	5	5	0	0	5	5	33	parking lot
12		Concrete wall side lot line	1	3	5	0	0	5	5	29	parking lot
14		Concrete wall within 1.5 m from front lot line	1	3	5	0	0	5	5	29	parking lot
15		Concrete wall west of driveway	1	3	5	0	0	5	5	29	parking lot
16		Concrete wall east of driveway	1	3	5	0	0	5	5	29	parking lot
										215	
2		First front wall	1	5	1	5	5	3	5	38	front walls
3		Ramp (pathway)	1	5	1	5	5	3	5	38	front walls
4	2. a) i.	Second front wall	3	5	5	5	5	5	5	48	front walls
19	2. d) iii.	Northern rock wall within 4.0 m of lot line	5	5	5	0	0	3	3	27	front walls
21	2. d) iv.	Southern rock wall within 3.3 m of lot line	5	3	5	3	0	3	3	29.5	front walls
										180.5	
6	2. d) ii.	Western Wall 0.4 m from side lot line	5	5	5	5	3	5	5	47	cottage
7	2. d) i.	Cottage 1.5 m from side Lot Line	5	5	5	1	0	5	5	36.5	cottage
8		Lot density	5	5	5	0	0	5	5	35	cottage
										118.5	
1		Float	3	3	3	3	0	3	3	25.5	misc
5	2. a) ii.	Fence within 2 m of natural boundary of sea	1	1	1	1	1	1	1	10	misc
17	2. c) i.	Pumphouse/Wood Shed	3	1	3	0	0	3	5	23	misc
18	2. c) ii.	Dwelling within 6.7 m of front lot line	1	1	1	0	0	1	1	7	misc
20	2. b) i.	Sewage Absorption Field	3	3	1	5	1	3	3	28	misc
										93.5	
13		Wall built on neighbour's lot	0	0	0	0	0	0	0	0	
1	Low impact		20 or less			Violations Cited in Court Petition - April 14, 2014					
3	Moderate impact		21 to 30			Violations Included in Proposed GL-DVP-2023.5					
5	High impact		> than 30			Other Violations Not Covered by the Proposed DVP or Court Documents					

Recommended Remediation

1. Parking Lot

All seven (7) violations related to the parking lot have moderate to high impact scores, suggesting the remediation should involve physical correction. The impact assessment recommends that the reinforced concrete walls remain in place but the parking lot tiles be removed and the western interior lot line and front lot line setback areas be backfilled. In addition, the impact assessment recommends that the two (2) concrete lock block walls be removed and the backfill in the western interior lot line setback area be removed to return the land back to its natural level.

It may be feasible to reuse the concrete lock blocks to support the shoulder of Montague Road, depending on the outcome of discussions between MOTI, the Montague Improvement District and Scoones estate concerning road encroachment issues.

2. Front Rock Retaining Walls

The five (5) violations related to the front rock retaining walls have moderate to high impact scores indicating the remediation should involve physical removal. All five retaining walls are constructed with dry stacked rock, which can be easily disassembled and rock can be reused elsewhere. The impact assessment recommends that the five

rock retaining walls be removed and the backfill removed in the eastern interior lot line and seaward setback areas to return the land to its natural level. Due to the walls being located in DPA 2 – Shoreline and Marine and DPA 7 – Steep Slope High Hazard areas it is recommended that this work be carried out under the supervision of a professional. In removing the fill in the seaward setback area, care must be taken not to disrupt the existing sewage absorption field.

3. Cottage

All three violations related to the cottage have high impact scores which strongly indicates that the remediation involve physical removal. The impact assessment recommends that the cottage and the rock retaining wall located along western interior lot line be removed. In addition, the backfill in the western interior lot line setback area be removed to return the land back to its natural level.

4. Miscellaneous Violations

a. Violation #5 - Fence Within 2 m of the Natural Boundary of the Sea

The impact assessment recommends that this violation be varied in the DVP.

b. Violation #18 - Dwelling Within 6.7 m of Front Lot Line

The impact assessment recommends that this violation be varied in the DVP.

c. Violation # 20 - Sewage Absorption Field

The impact assessment recommends that this violation be varied in the DVP. A new field should be sited in compliance with the 30 m setback when a new house is constructed.

d. Violation #1 - Oversized Float

The impact assessment recommends that the float be reduced in size from 66 ft. to 53 ft. to conform to existing Development Permit GL-DVP-2005.1.

e. Violation #17 - Pumphouse/Woodshed

The impact assessment recommends that the pump-house building be brought into compliance by removing the roof sheltering the covered area. This will bring the building size below the 10 m² maximum.

Conclusion

The Scoones development created a plethora of bylaw violations. In the opinion of the adjacent property owners, the results of the impact assessment produced sensible and easily achievable outcomes. These outcomes were determined by applying the Islands Trust criteria, which takes

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into consideration the impacts on the adjacent properties and public realm; not just the desire of the owner to quickly sell the property.

It is our contention that this set of actions (mostly involving physical corrections and 3 violations varied in a DVP) properly brings the Scoones property into compliance with the Galiano Land Use Bylaw No. 127 and this work should be completed prior to selling the property.

The cost of these corrections is more than covered by the increase in the BC Property Assessment value in the last year alone (\$113,000). Many problems of today don't have solutions as obvious and affordable as this one.

We sincerely hope this impact assessment will assist the LTC in their decision making.

Prepared by,

Martin Swan P.Eng. (retired)

Atts:

- 1) Impact Assessment Table #1 – Proposed DVP Variances - Rev 1
- 2) Impact Assessment Table #2 – Violations in Court Order - Rev 1
- 3) Impact Assessment Table #3 – Other Violations - Rev 1

March 28, 2024

Mr. Martin Swan

Mr. Bruce Belcher
Islands Trust
Planner 1
(250) 405-5179

Subject: Further Comments Concerning Proposed Development Variance Permit GL-DVP-2023.5.

Dear Mr. Belcher:

Further to the letter dated February 1, 2024, where the adjacent property owners expressed strong opposition to the proposed Development Variance Permit GL-DVP-2023.5, please find attached our most recent work (Attachment 1 – Bylaw Impact Assessment Report) that sets out a more responsible pathway to bringing the 3307 Montague Road property entirely into compliance with Galiano Land Use Bylaw No. 127.

The Bylaw Impact Assessment Report is comprehensive, as it provides remediation recommendations for all 20 violations that exist on the property. Impact Assessment Table #1 focuses on the nine (9) bylaw infractions contained in proposed Development Variance Permit GL-DVP-2023.5. A quick reference for the DVP recommendations (approve or deny) determined in the Bylaw Impact Assessment Report, specific to the bylaw infractions covered by the proposed DVP, are provided in Attachment 2.

Regards,

Martin Swan

Cc:

Atts: 1) Bylaw Impact Assessment Report & Tables
2) Quick Reference for GL-DVP-2023.5 Recommendations

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

Proposed Development Variance Permit GL-DVP-2023.5

Violation #4 - Second front rock retaining wall located within: 1) 2.5 m of the natural boundary of the sea; 2) DPA 2; and 3) DPA 7.

Description		Analysis			
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking	
2.14	<i>Buildings and structures must be sited at least 7.5 metres from the natural boundary of the sea.</i>	Varied to permit the siting of the existing southern rock retaining wall within 2.5 metres of the natural boundary of the sea.	Visual impact of development on adjacent properties.	The southern rock retaining wall is over 8 feet high, artificially raising the grade so much that it is not possible to look across the Scoones property. Before development, one could enjoy the openness and natural sloping grass terrain in this area.	3
			Privacy impact of development on adjacent property owners.	The privacy in this area has been destroyed due to the Scoones property being raised over 8 feet above the natural grade. This has created a creepy eyes dropping feel.	5
			Impact on adjacent properties by not maintaining rural character.	Pre-development, the area naturally sloped towards the water in keeping with many properties fronting Montague Harbour, with its rich First Nations history. Now it has been terraced flat with material trucked in to backfill the area upland of the rock retaining wall.	5
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	The rock retaining wall and backfill covers the entire 15 m upland area defined by DPA 2. The objective of DPA 2 is to preserve and protect the long term physical integrity and ecological values of upland areas. The land in this sensitive coastal area has been significantly altered without a development permit (DP). In addition, development approval information (DAI) assessing the impact of the development on the natural environment was not provided.	5
			DPA 7 environmental impact - Protection of development from	The rock retaining wall has been built in a DPA 7 Steep Slope high hazard area without a development permit or a report from a qualified professional. Therefore, the probability of	5

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

			natural hazards (steep slope, high hazard)	slope instability may be in excess of 10% in 50 years, which the LTC considers unacceptable. Further, the wall is over 8 ft. in height and was not assessed by a professional; which is required for walls over 4 ft. high.	
			Public interest impact of not establishing a consistent development pattern within a local area.	The height and location of this wall is contrary to the development pattern fronting Montague Harbour. It is the only property where an over 8 ft high rock retaining wall is built on the nearshore area to create a very large level backfilled area significantly altering the natural slope of the property.	5
			Public interest impact of inconsistently applying siting regulations.	Varying this setback regulation is not in the public interest and sets a dangerous precedent likely to harm the reputation of the LTC and integrity of the Islands Trust. Property owners expect that this siting regulation be applied consistently. The public is well aware that there is a setback regulation prohibiting development in nearshore area, which is typically the most environmentally sensitive area on a waterfront lot.	5
Recommendation					
Engage with a professional for the safe removal of the entire length of the southern rock retaining wall and remove the fill to return the grade to the same level as the adjacent properties over the entire 15 m DPA 2 area.					Impact score =
					48

Violation #5 - Fence located within 2 m of the natural boundary of the sea.

Description		Analysis		
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking
2.14	<i>Buildings and structures must be sited at least 7.5 metres from the natural boundary of the</i>	Visual impact of development on adjacent properties.	The steel tee bar posts and deer wire mesh has minimal visual impact to the adjacent property.	1
		Privacy impact of development on adjacent property owners.	The steel tee bar posts and deer wire mesh actually improves privacy by preventing dogs from entering the adjacent property.	1

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

<i>sea.</i>		Impact on adjacent properties by not maintaining rural character.	The use of steel tee bar posts and deer wire mesh is commonly used in rural applications and does not weaken the rural character of the property.	1
		DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	The steel tee bar posts and deer wire mesh is located in the DPA 2 area but has minimal impact on the nearshore environment and habitat.	1
		DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	The steel tee bar posts and deer wire mesh is located in the DPA 7 area but has no adverse impact on the stability of the steep slope high hazard terrain.	1
		Public interest impact of not establishing a consistent development pattern within a local area.	The use of steel tee bar posts and deer wire mesh is common, not intrusive and considered temporary in nature (can be easily removed). Therefore, this is not an inconsistent development pattern and is minor in nature.	1
		Public interest impact of inconsistently applying siting regulations.	Due to the temporary nature of the steel bar posts and deer wire mesh (can be easily removed) it is considered minor development. Therefore, it has no impact on maintaining consistent siting regulations.	1
Recommendation				
Approve a variance that allows the siting of an existing western fence within 2.0 metres of the natural boundary of the sea.			Impact score =	10

Violation #6 - Western rock retaining wall located within 0.4 m of the western interior lot line.

Description		Analysis			
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking	
5.3.8.2	<i>Buildings and structures</i>	Varied to permit the siting of the	Visual impact of development on adjacent	The height of the western rock retaining wall at the end closest to the sea is over 8 ft., while the cottage end is	5

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

<p><i>must be sited at least 6 metres from each interior side lot line</i></p>	<p>existing western rock retaining wall within 0.4 metres of the interior side lot line.</p>	<p>properties.</p>	<p>approximately 1 ft. The wall is visually unappealing for the adjacent property.</p>	<p>5</p>	
		<p>Privacy impact of development on adjacent property owners.</p>	<p>The privacy in this area has been destroyed as the retaining wall is backfilled raising the grade level significantly above the natural level. This has created a creepy eyes dropping feel.</p>		<p>5</p>
		<p>Impact on adjacent properties by not maintaining rural character.</p>	<p>Before the wall was constructed and backfilled with trucked in material, the Scoones property and adjacent properties all had similar sloping terrain creating a rural character. This has been destroyed.</p>		<p>5</p>
		<p>DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.</p>	<p>Approximately 11 m of the length of this wall is located in the DPA 2 area and was constructed without a development permit (DP). In addition, development approval information (DAI) assessing the impact of the development on the natural environment was not provided.</p>		<p>5</p>
		<p>DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)</p>	<p>Approximately 3 m of the length of this wall is located in the DPA 7 area. The rock retaining wall has been built in a DPA 7 Steep Slope high hazard area without a development permit or a report from a qualified professional. Further, the wall is over 8 ft. in height at the end closest to the sea and was not assessed by a professional; which is required for walls over 4 ft. high.</p>		<p>3</p>
		<p>Public interest impact of not establishing a consistent development pattern within a local area.</p>	<p>The height and location of this wall is contrary to the development pattern fronting Montague Harbour. It is the only property where a rock retaining wall is used built virtually on an interior lot line significantly altering the natural slope of the property.</p>		<p>5</p>
		<p>Public interest impact of inconsistently applying siting regulations.</p>	<p>Varying this setback regulation sets a dangerous precedent. It would communicate to property owners that you can build a retaining wall virtually on a property line and have this violation blessed in a DVP.</p>		<p>5</p>
<p>Recommendation Remove the retaining wall and return the grade to the predevelopment contour over the entire 6m setback area.</p>				<p>Impact score = 47</p>	

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

Violation #7 - Cottage located within 1.5 m of the western interior lot line.						
Description		Analysis				
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking		
5.3.8.2	<i>Buildings and structures must be sited at least 6 metres from each interior side lot line</i>	Varied to permit the siting of the accessory building within 1.5 metres of the interior side lot line.	Visual impact of development on adjacent properties.	The building visually impacts the western adjacent property due to its close proximity to the property line and being located adjacent to the western neighbour's house. The building is sited in the most visibly objectionable location.	5	
			Privacy impact of development on adjacent property owners.	This building, when inhabited by humans, destroys the privacy on the adjacent lot. The rock retaining wall serves to elevate the ocean side of the building well above the natural grade on the adjacent property. It creates a creepy eavesdropping environment.	5	
			Impact on adjacent properties by not maintaining rural character.	This building destroys the rural character for the western adjacent property. Where one would expect an undeveloped area in the 6 m setback there exists a cottage. The previous owner (western neighbour) found the cottage and tenant so damaging to the peaceful atmosphere and relaxing country living, it contributed to their decision to sell. The current adjacent property owners find this building equally infuriating.	5	
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	The deck of the cottage is located in the DPA 2 area. This is considered to have low impact.	1	
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A	
			Public interest impact of not establishing a consistent development	This building was pushed over to the interior lot line, illegally expanded, altered for human habitation and then rented. In every respect, this is a cottage and is defined this way in the	5	

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

			pattern within a local area.	2014 court documents. This is inconsistent with the development pattern within the local area.	
			Public interest impact of inconsistently applying siting regulations.	Allowing this building to remain on the Scoones lot will be to the detriment of maintaining consistent siting regulations. It sends a resounding message to the community that a DVP makes it acceptable to build whatever you want, wherever you want it, and use it anyway you wish.	5
Recommendation					
In the opinion of the western adjacent property owner, this is the most abhorrent violation presented in the proposed DVP. It is recommended that this building be physically removed from the lot.					Impact score = 36.5

Violation #17 - Pumphouse/Wood Shed located within 4.0 m of eastern interior lot line and encroaches over front lot line.					
Description			Analysis		
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking	
5.3.8.1	<i>Buildings and structures must be sited at least 7.5 metres from front and rear lot lines.</i>	Varied to permit the siting of the existing woodshed/ pump-house building within 0.0 metres of the front lot line.	Visual impact of development on adjacent properties.	With the existing barriers installed, the adjacent properties are not affected visually by the existing pump-house building. MOTI may order the removal of the gates, hedge and fence that encroach 4 metres onto road allowance. If this were to occur, the building becomes more noticeable to the adjacent properties and they will be visually impacted.	3
			Privacy impact of development on adjacent property owners.	The privacy of the existing properties is not adversely affected by the location of the pump-house building.	1
			Impact on adjacent properties by not maintaining rural character.	The pump-house building and the covered area make the building much larger than the 10 m ² maximum. The adversely affects the rural character of the property.	3
			DPA 2 environmental impact - Protecting marine and foreshore	N/A	N/A

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

			and nearshore habitats.		
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A
			Public interest impact of not establishing a consistent development pattern within a local area.	The pump-house building and the covered area exceeds the 10 m ² maximum. The northwest corner actually encroaches on road allowance. The encroachment may interfere with the installation of a retaining wall to MOTI specifications, if so ordered.	3
			Public interest impact of inconsistently applying siting regulations.	The provision allowing zero setback for pump-houses only applies to buildings up to 10 m ² in area. To maintain consistency with siting regulations, a variance should not be granted to for this building unless its size is reduced to the maximum permitted..	5
Recommendation					
Bring the pump-house building into compliance by removing the roof sheltering the covered area. This will bring the building size below the 10 m ² maximum.					Impact score =
Note: The siting of the pump-house may conflict with the MOTI specified retaining wall, if so ordered.					
					23

Violation #18 - Dwelling located within 6.7 m of front lot line.					
Description			Analysis		
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking	
5.3.8.1	<i>Buildings and structures must be sited at least 7.5 metres from front and rear</i>	Varied to permit the siting of the existing dwelling within 6.7 metres of the front lot line.	Visual impact of development on adjacent properties.	The existing house is aged (allegedly built in the early 1950's), is one story and modest in size. It does not create a visual impact to the adjacent properties.	1
			Privacy impact of development on adjacent property owners.	The existing house complies with the interior side lot line setback provision. Therefore the house does not adversely impact the privacy of the adjacent property.	1

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

	<i>lot lines.</i>		Impact on adjacent properties by not maintaining rural character.	The existing house has many features of a bygone age. Its outside appearance enhances the rural character of the area.	1
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A
			Public interest impact of not establishing a consistent development pattern within a local area.	The existing house violates the 7.5 metres front lot line setback provision. It does not upset the consistency of the development pattern as many would expect older buildings to be out of compliance, owing to legacy setback rules and original lot survey accuracy.	1
			Public interest impact of inconsistently applying siting regulations.	The existing house violates the 7.5 metres front lot line setback provision. Although this is not consistent with current siting regulations, the public interest impact is low given the age of the house.	1
Recommendation				Impact score =	7
Approve the proposed variance; if it cannot be grandfathered.					

Violation #19 - Northern rock wall located within 4.0 m of eastern interior lot line.

Description			Analysis		
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking	
5.3.8.2	<i>Buildings and structures</i>	Varied to permit the siting of the	Visual impact of development on adjacent	The eastern adjacent property owner finds the northern rock retaining wall to be visually offensive, to the extent that they	5

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

<p><i>must be sited at least 6 metres from each interior side lot line</i></p>	<p>existing northern rock retaining wall within 4.0 metres of the interior side lot line.</p>	<p>properties.</p>	<p>requested John Scoones build a solid fence along the eastern interior lot line so they would not have to look at it.</p>	<p>5</p>
		<p>Privacy impact of development on adjacent property owners.</p>	<p>The privacy of the eastern adjacent property has been permanently degraded. When John Scoones constructed the rock retaining wall in Violation #21 (southern rock retaining wall), see below, they were horrified by the way the land was elevated above the natural grade – which is the level of the land which currently exists on their property. Then he went ahead and constructed this rock retaining, raising the land level even higher. This prompted them to request that a fence be built.</p>	
		<p>Impact on adjacent properties by not maintaining rural character.</p>	<p>The eastern adjacent property owner experienced profound disappointment in the gradual disappearance of the rural character with each step of the Scoones development. If building the northern and southern rock retaining walls wasn't bad enough, John Scoones removed every tree along the eastern interior lot line. Some of the trees were on the Scoones property but others were removed from the Boyce-Sargents' property without their consent.</p>	<p>5</p>
		<p>DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.</p>	<p>N/A</p>	<p>N/A</p>
		<p>DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)</p>	<p>N/A</p>	<p>N/A</p>
		<p>Public interest impact of not establishing a consistent development pattern within a local area.</p>	<p>Building retaining walls and altering the level of the land in the setback area is inconsistent with the development pattern in the local area. It should not be tolerated.</p>	<p>3</p>
		<p>Public interest impact of inconsistently applying</p>	<p>The public interest impact for varying the setback regulation in this instance is considered moderate due to the wall being</p>	<p>3</p>

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

			siting regulations.	located 2/3 of the required setback distance and the moderate height of the wall.	
Recommendation					
This wall can be easily dismantled and the land restored to the predevelopment contour over the entire 6m setback area.				Impact score =	25

Violation #20 - Sewage absorption field located within 7.3 m of the natural boundary of the sea.					
Description			Analysis		
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking	
2.15	<i>Sewage absorption fields must be sited at least 30 metres from the natural boundary of the sea.</i>	Varied to permit the siting of the existing sewage absorption system field within 7.3 metres of the natural boundary of the sea.	Visual impact of development on adjacent properties.	The surface of the sewage absorption field has been raised significantly above the natural level of the land adversely affecting the visual appearance of the lot when observed from the adjacent properties. The best opportunity to correct this will be when the existing house is replaced with a modern home. This may create an opportunity to install a new field meeting the 30 metres setback provision. During excavation to prepare the lot for the new home, the grade level of the existing sewage absorption field should be returned to the natural contour of the lot, in the setback areas.	3
			Privacy impact of development on adjacent property owners.	Privacy has been adversely affected due to the surface of the sewage absorption field being much higher than the natural level.	3
			Impact on adjacent properties by not maintaining rural character.	Raising the height of land before installing the existing sewage absorption field has weakened the rural character for the adjacent properties. The best opportunity to reestablish rural character is by returning the elevation of the field area back to the natural level when the property undergoes development for a new house.	1
			DPA 2 environmental impact - Protecting	Over 2/3 of the existing sewage absorption field is located in the DPA 2 area.	5

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

			marine and foreshore and nearshore habitats.		
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	The southwest corner of the sewage absorption field encroaches into the DPA 7 area. This is considered to have low impact.	1
			Public interest impact of not establishing a consistent development pattern within a local area.	With the house in its existing location it is virtually impossible to construct a new sewage absorption field complying with the required 30 m setback and keep it outside of the interior lot line and front lot line setback areas. The property is for sale and it is likely the existing house will be replaced with a modern home, which will dictate the capacity of the new field. This is the best opportunity to establish a consistent development pattern.	3
			Public interest impact of inconsistently applying siting regulations.	The best opportunity for maintaining consistent siting regulations is locate a new sewage absorption system on the property in compliance with the 30 metres setback provision. This can be best accomplished when the property is developed for a new house.	3
Recommendation					
Vary the existing sewage absorption field. Site the new field in compliance with the 30 metre setback when a new house is constructed. As 2/3 of the existing sewage absorption field is in the DPA 2 area, the grade of the existing field should be returned to the natural level, when a new house is constructed.					Impact score =
					26

Violation #21 - Southern rock wall located within 3.3 m of eastern interior lot line.

Description			Analysis		
Bylaw 127 (1999)	Proposed DVP Variance	Criteria	Comments	Ranking	
5.3.8.2	<i>Buildings and structures must be sited</i>	Varied to permit the siting of the existing southern	Visual impact of development on adjacent properties.	The eastern adjacent property owner considers the southern rock retaining wall to be visually unpleasant. The construction of this retaining wall in the setback area was the first clue that	5

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

<p><i>at least 6 metres from each interior side lot line</i></p>	<p>rock retaining wall within 3.3 metres of the interior side lot line.</p>		<p>this would be a development gone wrong.</p>	
		<p>Privacy impact of development on adjacent property owners.</p>	<p>The privacy of the eastern adjacent property has been permanently degraded. When John Scoones constructed this rock retaining wall, adjacent property owners were horrified by the way the land was elevated above the natural grade - the level of the land which still exists on their property. They were deprived of their privacy by the removal of all the trees and onlookers peering down on their property.</p>	<p>3</p>
		<p>Impact on adjacent properties by not maintaining rural character.</p>	<p>The eastern adjacent property owner experienced profound disappointment in the gradual disappearance of the rural character with each step of the Scoones development. If building the northern and southern rock retaining walls wasn't bad enough, John Scoones removed every tree along the eastern interior lot line. Some of the trees were on the Scoones property but others were removed from the Boyce-Sargents' property without their consent. This permanently destroyed the rural character for the owners of the adjacent property.</p>	<p>5</p>
		<p>DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.</p>	<p>Nearly the entire length of the southern rock retaining wall is located in the DPA 2 area. The wall is backfilled raising the height of the land above the natural pre-development level.</p>	<p>3</p>
		<p>DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)</p>	<p>N/A</p>	<p>N/A</p>
		<p>Public interest impact of not establishing a consistent development pattern within a local area.</p>	<p>Constructing a retaining wall and altering the height of the land above the natural predevelopment level well within a setback area and entirely within a DPA 2 area is inconsistent with the development pattern within the local area.</p>	<p>3</p>
		<p>Public interest impact of inconsistently applying siting regulations.</p>	<p>The public interest impact for varying the setback regulation in this instance is considered moderate due to the wall being located over half the required setback distance and the</p>	<p>3</p>

Impact assessment Table #1

Analysis of Proposed DVP Variances to Bylaw 127 Using Islands Trust Criteria

				moderate height of the wall.		
Recommendation Remove the retaining wall and return the grade to the natural predevelopment contour over the entire 6m setback area.					Impact score =	29.5

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

Violations In Court Order

Violation #2 - First front rock retaining wall located within: 1) 1.5 m of the natural boundary of the sea; 2) DPA 2; and 3) DPA 7.					
Description			Analysis		
Bylaw 127 (1999)	Assumed Variance	Criteria	Comments	Ranking	
2.14	<i>Buildings and structures must be sited at least 7.5 metres from the natural boundary of the sea.</i>	Varied to permit the siting of the existing first front rock retaining wall within 1.5 metres of the natural boundary of the sea.	Visual impact of development on adjacent properties.	The first front rock retaining wall supports the seaward side of the ramp (pathway) used to access the dock. This pathway has a low visual impact to the adjacent properties.	1
			Privacy impact of development on adjacent property owners.	The privacy of the eastern adjacent property is greatly impacted by people walking along the ramp (pathway) to and from the dock. The orientation of the wall is such that boaters peek onto the neighbour's deck as they walk up the pathway. This has created a creepy eyes dropping feel. There would be no pathway if this wall did not exist.	5
			Impact on adjacent properties by not maintaining rural character.	The wall has a low profile from the land so impact on rural character is low.	1
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	The rock retaining wall is located close to the natural boundary of the sea in a DPA 2 area, which is considered to be the most sensitive ecological nearshore area. The objective of DPA 2 is to preserve and protect the long term physical integrity and ecological values of upland areas. The land has been altered without a development permit (DP). In	3

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

				addition, development approval information (DAI) assessing the impact of the development on the natural environment was not provided.	
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	The rock retaining wall has been built in a DPA 7 Steep Slope high hazard area without a development permit or a report from a qualified professional. Therefore, the probability of slope instability may be in excess of 10% in 50 years, which the LTC considers unacceptable.	3
			Public interest impact of not establishing a consistent development pattern within a local area.	The wall could be eliminated by removing the very high (over 8 ft.) second front rock retaining wall – located 1 m upland from the front wall. This knock on effect is what makes this an inconsistent development pattern.	5
			Public interest impact of inconsistently applying siting regulations.	Varying this setback regulation is not in the public interest. The public is well aware that there is a setback regulation prohibiting development in nearshore area, which is typically the most environmentally sensitive area on a waterfront lot.	3
Recommendation					
Engage with a professional for the safe removal of the entire length of the first front rock retaining wall and remove the fill forming the base of the pathway.					Impact score = 32

Violation #3 - Ramp (pathway) located between violations 2 and 4.

Description			Analysis		
Bylaw 127 (1999)	Assumed Variance	Criteria	Comments	Ranking	
2.14	<i>Buildings and structures must be sited at least 7.5 metres from the natural</i>	Varied to permit the siting of the existing first front rock	Visual impact of development on adjacent properties.	The ramp (pathway) provides access to the dock. This pathway has a low visual impact to the adjacent properties.	1

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

<i>boundary of the sea.</i>	retaining wall within 1.5 metres of the natural boundary of the sea.	Privacy impact of development on adjacent property owners.	The privacy of the eastern adjacent property is greatly impacted by people walking along the ramp (pathway) to and from the float. The orientation of the ramp is such that boaters peek onto the neighbour's deck. This has created a creepy eyes dropping feel.	5
		Impact on adjacent properties by not maintaining rural character.	The pathway bed is natural material making the impact on rural character low.	1
		DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	The ramp (pathway) is located close to the natural boundary of the sea in a DPA 2 area, which is considered to be the most sensitive ecological nearshore area. The objective of DPA 2 is to preserve and protect the long term physical integrity and ecological values of upland areas. The land has been altered without a development permit (DP). In addition, development approval information (DAI) assessing the impact of the development on the natural environment was not provided.	5
		DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	The ramp (pathway) has been built in a DPA 7 Steep Slope high hazard area without a development permit or a report from a qualified professional. Therefore, the probability of slope instability may be in excess of 10% in 50 years, which the LTC considers unacceptable.	5
		Public interest impact of not establishing a consistent development pattern within a local area.	The ramp (pathway) could be eliminated by removing the very high (over 8 ft.) second front rock retaining wall which forms the inland boarder of the pathway. This knock on effect is what makes the pathway an inconsistent development pattern.	3
		Public interest impact	Varying this setback regulation is not in the	5

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

			of inconsistently applying siting regulations.	public interest. The public is well aware that there is a setback regulation prohibiting development in the nearshore area, which is typically the most environmentally sensitive area on a waterfront lot.	
Recommendation					
Engage with a professional for the safe removal of the fill forming the base of the entire length of the ramp (pathway).				Impact score =	38

Violation #8 - Cottage violates lot density provision for lot size under 0.4 hectares.					
Description			Analysis		
	Bylaw 127 (1999)	Assumed Variance	Criteria	Comments	Ranking
5.4.3	<i>One cottage is permitted on each lot having an area of 0.4 hectares or more in respect of each permitted dwelling.</i>	Varied to permit a cottage on a lot having an area of 0.159 hectares.	Visual impact of development on adjacent properties.	The area of the lot (0.159 hectares) is only 40% of the required size of lot (0.4 hectares). This contributed to the cottage being located almost on the western interior lot line causing very high visual impact for the neighbours.	5
			Privacy impact of development on adjacent property owners.	The higher than permitted density negatively impacts the privacy for the adjacent properties.	5
			Impact on adjacent properties by not maintaining rural character.	A property packed with buildings has a high negative impact on rural character.	5
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
			DPA 7 environmental impact - Protection of	N/A	N/A

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

			development from natural hazards (steep slope, high hazard)		
			Public interest impact of not establishing a consistent development pattern within a local area.	The public interest is negatively impacted by allowing cottages on very small rural lots. The LTC would be setting a dangerous precedent if they were to vary the density provision.	5
			Public interest impact of inconsistently applying siting regulations.	The public would lose confidence in the LTC's ability to enforce its bylaws by inconsistently applying the lot density regulation.	5
Recommendation					Impact score = 35
The LTC uphold the application of the lot density provision by ordering the cottage removed from the property.					

Violation #9 - Lock block retaining wall located within 0.0 to 6.0 m of western interior lot line.					
Description			Analysis		
Bylaw 127 (1999)	Assumed Variance	Criteria	Comments	Ranking	
5.3.8.2	<i>Buildings and structures must be sited at least 6 metres from each interior side lot line</i>	Varied to permit the siting of the existing northern machine placed concrete block retaining wall within 0 to 6 metres of the western interior side lot line.	Visual impact of development on adjacent properties.	The existing concrete lock block retaining wall located perpendicular to the western interior lot line has a low visual impact to the adjacent property. It is virtually out of sight.	1
			Privacy impact of development on adjacent property owners.	The existing concrete lock block retaining wall was installed to retain the fill used to expand the tiled parking area. The waterfront end of the parking lot is 7 feet above the natural grade. This destroys the privacy of the adjacent property as anyone standing in the parking lot, near the retaining wall, can peer onto the house on the adjacent lot. In addition, it is very intrusive to have vehicles drive down and parked right beside and above the neighbour's house, as there is zero setback in this area.	5

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

			Impact on adjacent properties by not maintaining rural character.	Building a tiled covered parking lot right out to the property line destroys rural character for the adjacent property.	5
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A
			Public interest impact of not establishing a consistent development pattern within a local area.	Building a tiled covered parking lot, 7 feet above the natural grade, with zero setback is not in keeping with establishing a consistent development pattern. Approving a variance for this retaining wall sets a dangerous precedence for other property owners to develop land in setback areas right up to the property line.	5
			Public interest impact of inconsistently applying siting regulations.	Building a tiled covered parking lot right out to the property line creates uncertainty with respect to residential development siting regulations. It sends a signal to other property owners that it is alright to just do it, and then seek forgiveness with a DVP.	5
Recommendation					
Remove the concrete lock block retaining wall and remove the backfill material to return the level of the land to the natural slope consistent with the adjacent property. This would require removing, at a minimum, a 6 m wide section of parking area adjacent to the western interior lot line.					Impact score =
					31

Violation #10 – Concrete Lock block retaining wall located within 0.0 m of western interior lot line.

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

Description		Analysis			
Bylaw 127 (1999)	Assumed Variance	Criteria	Comments	Ranking	
5.3.8.2	<i>Buildings and structures must be sited at least 6 metres from each interior side lot line</i>	Varied to permit the siting of the existing concrete lock block retaining wall within 0.0 metres of the western interior side lot line.	Visual impact of development on adjacent properties.	The existing western concrete lock block retaining wall visually impacts the adjacent property. The wall is 7 feet high at the waterfront end. The wood cosmetic cladding is in an advance stage of decay (falling apart).	5
			Privacy impact of development on adjacent property owners.	The existing concrete lock block retaining wall was installed to retain the fill used to expand the tiled parking area. The waterfront end of the parking lot is 7 feet above the natural grade. This degrades the privacy of the adjacent property as anyone standing in the parking lot, near the retaining wall, can peer onto the house on the western neighbour. In addition, it is very intrusive to have vehicles driven down and parked right beside and above the neighbour's house, as there is zero setback in this area.	5
			Impact on adjacent properties by not maintaining rural character.	Building a tiled covered parking lot right out to the property line destroys the rural character for the adjacent properties.	5
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A
			Public interest impact	Building a tiled covered parking lot, 7 feet	5

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

			<p>of not establishing a consistent development pattern within a local area.</p>	<p>above the natural grade, with zero setback is not in keeping with establishing a consistent development pattern. Approving a variance for this retaining wall sets a dangerous precedence for other property owners to develop land right up to the property line.</p>	5	
			<p>Public interest impact of inconsistently applying siting regulations.</p>	<p>The LTC should not approve this egregious violation of the LUB setback provision. This will serve to undermine the Islands Trusts ability to apply siting regulations consistently. Building a tiled covered parking lot right out to the property line creates uncertainty with respect to residential development siting regulations. It sends a signal to other property owners that it is alright to just do it, and then seek forgiveness with a DVP.</p>	5	
<p>Recommendation</p> <p>Remove the concrete lock block retaining wall constructed on the western interior lot line (zero setback) and return the grade to the same level as the adjacent property. This will require the removal of a minimum of 6 m wide section of the parking area.</p>					<p>Impact score =</p>	<p>35</p>

Violation #11 - Existing lot coverage of 36% exceeds the 25% that is permitted.					
Description			Analysis		
Bylaw 127 (1999)		Assumed Variance	Criteria	Comments	Ranking
5.4.4	<i>Lot coverage must not exceed 25% of any lot.</i>	Varied to permit lot coverage up to 36% of any lot.	<p>Visual impact of development on adjacent properties.</p>	<p>The lot coverage 36% (25% is permitted) is attributed to the 3 buildings (dwelling, cottage and pump-house) and the extensive tile area forming a patio and parking area. The buildings create the most negative visual impact.</p>	<p>3</p>
			<p>Privacy impact of development on adjacent property</p>	<p>The parking area and cottage degrade the privacy of the adjacent properties. The lot is not large enough for all these features without</p>	<p>5</p>

Impact Assessment Table #2

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

		owners.	massive encroachment into the setback areas.	
		Impact on adjacent properties by not maintaining rural character.	Lot coverage exceedance causes the most destructive impact on rural character.	5
		DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
		DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A
		Public interest impact of not establishing a consistent development pattern within a local area.	The LTC must keep development patterns in check by not allowing lot coverage exceedances. Consistency in enforcing this provision will bolster the public's confidence in the LTC to uphold their bylaws.	5
		Public interest impact of inconsistently applying siting regulations.	The public expect the LTC to consistently apply the lot coverage provision. It is a defining difference between urban and rural development.	5
Recommendation				
<p>The LTC needs to enforce the lot coverage regulation by ordering the current owner to correct this violation by removing features contributing to the lot coverage exceedance. Passing this violation off onto the next owner is irresponsible.</p> <p>Note: Removing the cottage and the driveway tiles covering the 6m setback area from the lock block wall to 7.5 m from the front lot line is 172 sq. m. (165 sq. m. is the minimum lot coverage that needs to be removed to bring the property into compliance with the 25% lot coverage provision.)</p>				Impact score = 33

Impact Assessment Table #3

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

Other Violations – not included in proposed DVP or Court Documents

Violation #1 - Existing float 12 ft x 66 ft does not conform to Development Permit GL-DP-2005.1 which specifies float 12 ft x 53 ft.					
Description			Analysis		
GL-DP-2005.1	Assumed Variance	Criteria	Comments	Ranking	
5.3.8.1	<i>Specifies a float 12 ft x 53 ft.</i>	Varied to permit a float 12 ft x 66 ft.	Visual impact of development on adjacent properties.	The float is larger than what is used in most private docks in Montague Harbour. The existing float has the capacity to accommodate 4 small boats moored on each side. Most private floats can accommodate one or 2 small boats per side. This gives the visual impression that the private dock is operating on a fee for moorage basis, which is illegal usage.	3
			Privacy impact of development on adjacent property owners.	The privacy of the adjacent properties is adversely impacted by a high number of boats moored to the private facility. The eastern adjacent property is highly impacted by boaters walking up and down the pathway to the dock. They peek into their front deck as they reach the eastern end of the pathway.	3
			Impact on adjacent properties by not maintaining rural character.	The float has the capacity to accommodate more boats than would be expected to be accessory to the residential use of an abutting upland lot and providing access to that lot. High boater traffic on land and the water adversely impacts rural character.	3
			DPA 2 environmental impact - Protecting marine and foreshore	The float size is 90% larger than OCP Bylaw No. 108 2.7 Guideline #52 which specifies a maximum area of 35 m ² . It is noted that the existing DP	3

Impact Assessment Table #3

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

			and nearshore habitats.	prescribes a larger float, but not as large as the existing float. The larger float cast additional shade on the sea bed which adversely effects the aquatic environment.		
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)		N/A	
			Public interest impact of not establishing a consistent development pattern within a local area.	The private dock development pattern in Montague Harbour generally gravitates to sensibly sized private floats. Owners that chose to exceed OCP guidelines and/or DP specifications should be ordered into compliance.	3	
			Public interest impact of inconsistently applying siting regulations.	Private docks are highly visible facilities. It is in the public interest to consistently apply the regulations to private docks. The public expects the Islands Trust approve dock DP's to enforce the conformity to those approved specifications.	3	
Recommendation					Impact score =	25.5
Bring the float size into compliance with the existing Development Permit (GL-DP-2005.1) specifications.						

Violation #12 - Concrete retaining wall located within 1.0 m of the western interior lot line.					
Description			Analysis		
Bylaw 127 (1999)	Assumed Variance	Criteria	Comments	Ranking	
5.3.8.2	<i>Buildings and structures must be sited at least 6 metres from each side lot line.</i>	Varied to permit the siting of the existing concrete retaining wall located within 1.0 m of the western interior lot line.	Visual impact of development on adjacent properties.	The existing concrete retaining wall has minimal visual impact to the adjacent properties.	1
			Privacy impact of development on adjacent property owners.	The existing concrete retaining wall became necessary due to the aggressive excavation of land in the 6 m interior side lot line setback area to create a tiled parking area. This has moderate	3

Impact Assessment Table #3

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

				impacts on the privacy of the adjacent property. For example, a house trailer was parked adjacent to the wall for a considerable period of time and used to accommodate guests.	
			Impact on adjacent properties by not maintaining rural character.	The aggressive excavation of land in the 6 m interior side lot line setback area to create a level, tiled, parking area degraded the rural character.	5
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A
			Public interest impact of not establishing a consistent development pattern within a local area.	The construction of concrete retaining wall within 1.0 m of an interior lot line to facilitate the removal of soil to alter the land in the setback area is not a consistent development pattern. The land should remain natural in setback areas.	5
			Public interest impact of inconsistently applying siting regulations.	The public expects that firm enforcement action should be taken to correct violations of this type.	5
Recommendation					
Remove the tiled parking are in the northwest corner of the property and apply fill to this area to the top of the 3 retaining walls (western interior lot line, front lot line and west of driveway), sloping the fill to the current land level 7.5 m from the front lot line.					Impact score =
					29

Impact Assessment Table #3

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

Violation #14 - Concrete retaining wall located within 1.5 m of the front lot line.					
Description			Analysis		
Bylaw 127 (1999)	Assumed Variance	Criteria	Comments	Ranking	
5.3.8.1	<i>Buildings and structures must be sited at least 7.5 metres from front and rear lot lines.</i>	Varied to permit the siting of the existing concrete retaining wall within 1.5 metres of the front lot line.	Visual impact of development on adjacent properties.	The existing concrete retaining wall has minimal visual impact to the adjacent properties.	1
			Privacy impact of development on adjacent property owners.	The existing concrete retaining wall became necessary due to the aggressive excavation of land in the 7.5 m front lot line setback area to create a tiled parking area. This has moderate impacts on the privacy of the adjacent property.	3
			Impact on adjacent properties by not maintaining rural character.	The aggressive excavation of land in the 7.5 m front lot line setback area to create a level, tiled, parking area degraded the rural character.	5
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A
			Public interest impact of not establishing a consistent development pattern within a local area.	The construction of concrete retaining wall within 1.5 m of a front lot line to facilitate the removal of soil to alter the land in the setback area is not a consistent development pattern. The land should remain natural in setback areas.	5
			Public interest impact of inconsistently	The public expects that firm enforcement action should be taken to correct violations of	5

Impact Assessment Table #3

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

			applying siting regulations.	this type.	
Recommendation					
Remove the tiled parking area in the northwest corner of the property and apply fill to this area to the top of the 3 retaining walls (western interior lot line, front lot line and west of driveway), sloping the fill to the current land level 7.5 m from the front lot line.				Impact score =	29

Violation #15 - Concrete retaining wall west of driveway located within 0.0 to 5.5 m from front lot line.

Description		Analysis			
Bylaw 127 (1999)	Assumed Variance	Criteria	Comments	Ranking	
5.3.8.1	<i>Buildings and structures must be sited at least 7.5 metres from front and rear lot lines.</i>	Varied to permit the siting of the existing concrete wall west of driveway within 0.0 to 5.5 metres of the front lot line.	Visual impact of development on adjacent properties.	The existing concrete retaining wall has minimal visual impact to the adjacent properties.	1
			Privacy impact of development on adjacent property owners.	The existing concrete retaining wall became necessary due to the aggressive excavation of land in the 7.5 m front lot line setback area to create a tiled parking area. This has moderate impacts on the privacy of the adjacent property.	3
			Impact on adjacent properties by not maintaining rural character.	The aggressive excavation of land in the 7.5 m front lot line setback area to create a level, tiled, parking area degraded the rural character.	5
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
			DPA 7 environmental impact - Protection of development from natural hazards (steep	N/A	N/A

Impact Assessment Table #3

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

			slope, high hazard)		
			Public interest impact of not establishing a consistent development pattern within a local area.	The construction of concrete retaining wall east of the driveway within 0 m to 5.5 m of the front lot line to facilitate the removal of soil to alter the land in a setback area is not a consistent development pattern. The land should remain natural in setback areas.	5
			Public interest impact of inconsistently applying siting regulations.	The public expects that firm enforcement action should be taken to correct violations of this type.	5
Recommendation					
Remove the tiled parking are in the northwest corner of the property and apply fill to this area to the top of the 3 retaining walls (western interior lot line, front lot line and west of driveway), sloping the fill to the current land level 7.5 m from the front lot line.				Impact score =	29

Violation #16 - Concrete retaining wall east of driveway located within 0.0 to 6.5 m from front lot line.

Description			Analysis		
Bylaw 127 (1999)	Assumed Variance		Criteria	Comments	Ranking
5.3.8.1	<i>Buildings and structures must be sited at least 7.5 metres from front and rear lot lines.</i>	Varied to permit the siting of the existing concrete wall east of driveway within 0.0 to 6.5 metres of the front lot line.	Visual impact of development on adjacent properties.	The existing concrete retaining wall has minimal visual impact to the adjacent properties.	1
			Privacy impact of development on adjacent property owners.	The existing concrete retaining wall became necessary due to the aggressive excavation of land in the 7.5 m front lot line setback area to create a tiled parking and patio area. This has moderate impacts on the privacy of the adjacent property.	3

Impact Assessment Table #3

Analysis of Violations to Bylaw 127 Provisions Using Islands Trust Criteria

			Impact on adjacent properties by not maintaining rural character.	The aggressive excavation of land in the 7.5 m front lot line setback area to create a level, tiled, parking and patio area degraded the rural character.	5
			DPA 2 environmental impact - Protecting marine and foreshore and nearshore habitats.	N/A	N/A
			DPA 7 environmental impact - Protection of development from natural hazards (steep slope, high hazard)	N/A	N/A
			Public interest impact of not establishing a consistent development pattern within a local area.	The construction of concrete retaining wall east of the driveway within 0 m to 6.5 m of the front lot line to facilitate the removal of soil to alter the land in a setback area is not a consistent development pattern. The land should remain natural in setback areas.	5
			Public interest impact of inconsistently applying siting regulations.	The public expects that firm enforcement action should be taken to correct violations of this type.	5
Recommendation					Impact score =
Remove the tiled parking area adjacent to the east driveway retaining wall and apply fill to this area to the top of this wall and the retaining wall specified by MOTI to stabilize Montague Road, then slope the fill to the grade that currently exists 7.5 m from the front lot line. The stairs may need to be altered to accommodate the higher land level.					29

