

From: Robin Jenkinson <[REDACTED]>
Sent: Monday, September 28, 2026 3:29 PM
To: SSInfo
Cc: Laura Patrick; Gary Holman; info@wsanec.com
Subject: Opposition Letter to Clamshell Islet Variance PLBOV20260029

To the Salt Spring Island Board of Variance
Re: PLBOV20260029, Clamshell Islet, PID 001-375-458

Dear Members of the Board of Variance,

I am writing to ask the Board to refuse application PLBOV20260029, which would reduce the required setback for a sewage disposal field from the natural boundary of the sea from 30 metres to 10 metres on Clamshell Islet. I do not believe the evidence before the Board establishes that this two-thirds reduction is minor, that it would avoid adverse effects on the natural environment, or that it would preserve the protective intent of the bylaw.

Clamshell is not an ordinary residential lot. It is a 1.1-acre islet, only about 45 metres wide at its widest point, surrounded on every side by the marine waters of Long Harbour. It is mapped as a sensitive woodland ecosystem and as having archaeological potential. It is also a highly visible natural feature at the entrance to Long Harbour. A decision that enables intensive residential occupation here must be approached with particular care.

The requested variance is not minor

The application seeks to reduce a 30-metre marine setback to 10 metres. That is a 20-metre reduction, or two-thirds of the protection established by the Salt Spring Island Land Use Bylaw. On an islet surrounded by seawater, this is not a small adjustment at one edge of a conventional parcel; it changes the practical operation of the setback across the entire site. The variance is also consequential: the applicant states that it is the step needed to service and complete a three-bedroom dwelling.

The fact that the parcel cannot accommodate the required setback does not make the variance minor. It may instead show that the intensity of residential development proposed is not suited to the physical limits of this exceptionally small and sensitive parcel. Zoning permission for a dwelling does not guarantee that every lot can support every form or scale of development without satisfying servicing and environmental rules.

Environmental effects have not been resolved

The staff report confirms that Clamshell Islet is designated as a woodland ecosystem in the Islands Trust Sensitive Ecosystem Inventory. The Islands Trust Conservancy identifies arbutus, Douglas-fir and Garry oak woodlands as among the most sensitive and biologically diverse ecosystems in the Trust Area. The parcel is also within the Shoreline Foreshore Development Permit Area. These designations call for a precautionary approach, not an assumption that engineered treatment eliminates all risk.

The engineering material focuses principally on predicted effluent quality. That is relevant, but it is not a complete assessment of environmental effects. A permanently occupied three-bedroom house on a tiny off-grid islet brings construction activity, soil disturbance, water storage and use, energy and utility infrastructure, waste handling, access, maintenance, emergency needs and pressure for future moorage. The application history already includes an unapproved private-moorage referral and unpermitted accessory development. The Board should consider the reasonably connected effects of enabling the proposed servicing, rather than treating the dispersal field as an isolated installation.

The proposal also depends on ongoing operation, alarms, monitoring and certified maintenance. Those safeguards may reduce risk, but they do not make failure impossible. On a mainland lot there may be some buffer between a malfunction and the receiving environment. Here, the receiving environment is the sea on every side, and the requested ten-metre setback is less than the 15-metre separation identified in the provincial Standard Practice Manual unless justified through performance-based design. The Board must be satisfied that the variance will not adversely affect the natural environment; uncertainty on such a constrained marine site should weigh against approval.

First Nations opposition remains directly relevant

The previous application to reduce the same sewage-field setback was referred to First Nations. Malahat Nation, Cowichan Tribes and Lyackson First Nation expressed opposition, and the Salt Spring Island Local Trust Committee denied the variance in December 2022. The current package acknowledges those responses but states that this Board of Variance application was not circulated to First Nations because they are not statutory notice recipients in this process.

A lack of new referral must not be mistaken for a withdrawal of the Nations' concerns or for consent to the revised proposal. The house has been reduced from six bedrooms to three and the treatment design has changed, but the same islet, shoreline, cultural

landscape and archaeological potential remain. Before any decision that could enable further build-out, the Board should require meaningful evidence that the previously expressed concerns have been addressed. Proceeding without renewed engagement would be inconsistent with the Trust's responsibilities to protect cultural heritage and ancestral places and with the broader commitment to reconciliation.

The claimed hardship deserves careful scrutiny

The property was publicly marketed after the earlier variance was denied and was sold in April 2025. The current owners therefore acquired it after the regulatory constraint and the previous refusal were matters of public record. The physical dimensions of the islet are longstanding, but the present hardship is also connected to a recent purchase of land whose inability to meet the 30-metre setback was already known or readily discoverable. That history weakens the fairness argument for overriding an environmental protection adopted for the benefit of the surrounding marine environment.

The staff report also identifies a holding tank with regular pump-out and off-site disposal as an alternative. It may be less convenient and may carry operational concerns, but the existence of an alternative matters when deciding whether compliance creates undue hardship and whether a major reduction of the marine setback is necessary. The comparison should include enforceable long-term safeguards, spill and transport risk, occupancy limits and the full lifecycle impacts of each option.

Long Harbour and the public interest

Clamshell Islet is a small but prominent landmark encountered by ferry passengers, boaters and residents entering Long Harbour. Its woodland, rocky shoreline and open-water setting contribute to the character of the harbour and to the experience of arriving on Salt Spring. Private ownership does not erase the wider ecological, cultural and scenic values attached to such a visible islet. Those values are part of determining whether the resulting development would be appropriate for this particular site.

Approving this variance would also signal how the community treats other very small islets whose zoning nominally permits residential use but whose physical and ecological limits prevent ordinary servicing. Although each application must be decided on its own facts, the Board should avoid turning the exceptional constraints of a parcel into the justification for removing the protections those constraints make most important.

Requested decision

For these reasons, I respectfully ask the Board to refuse PLBOV20260029. On the present record, the Board cannot safely conclude that the variance is minor, that it will not adversely affect the natural environment, that it will not result in inappropriate development of the site, or that it preserves the intent of the 30-metre marine setback.

If the Board is not prepared to refuse the application, I ask that it defer a decision until Malahat Nation, Cowichan Tribes and Lyackson First Nation have been invited to review the revised proposal, as well as the WSANEC Leadership Council; the archaeological and cultural concerns are more fully assessed; and an independent review addresses the cumulative environmental effects and long-term enforceability of the treatment and monitoring commitments.

Sincerely,

Robin Jenkinson
Salt Spring Island

Documents referenced:

Salt Spring Island Board of Variance agenda package, September 29, 2026, application PLBOV20260029.

Salt Spring Island Local Trust Committee minutes, December 13, 2022, denial of SS-DVP-2022.1.

Salt Spring Island Local Trust Committee minutes and agenda materials, 2022, referral of SS-DVP-2022.1 to interested First Nations.

Colliers and Unique Properties transaction record for Clam Shell Island, sold April 4, 2025.