

From: Robert McDiarmid <[REDACTED]>
Sent: Monday, July 11, 2022 9:42 AM
To: SSInfo
Cc: Geordie Gordon; Sharon Matthews; Nancy Matthews cyr
Subject: SS-DVP-2022.5, Development Variance Permit - hearing Tuesday, July 12, 2022
Attachments: VAR22-07-11_093341.pdf

Attention: Local Trust Committee, Laura Patrick and Peter Grove,

Please find attached the submission of the applicant/owners, for tomorrow's meeting. As discussed with Mr. Gordon, I will attend by telephone, and will await a call at my cell, [REDACTED] sometime after 12:45 PM tomorrow.

Robert McDiarmid, Agent for the owners, Sharon Matthews and Nancy Matthewscyr.

Development Variance Permit seeking reduction in Interior Lot Line setback, 1521 Beddis Road

This is a simple request – please reduce the setback for the southern interior lot line to 0.5 metres to allow the owners to construct a carport in a manner that enables more efficient use of their property. The owners are aware that in order to obtain a building permit from the Capital Regional District (“CRD”) they will need to obtain a permit pursuant to Section 12 of the Heritage Conservation Act “HCA”), because of the existence of a shell midden on the property.

The Staff Report recommends placing the variance application in abeyance until the owners have:

- (a) obtained a survey, showing not only compliance with the proposed carport but all other structures and buildings on the property, and
- (b) Obtained a Site Alteration Permit, commonly referred to as a Section 12 permit, , from the B.C. Archaeology Branch.

This suggests that the owners get a Section 12 permit for an area that Islands Trust must first approve but will not have approved, which seems illogical. It also suggests getting a survey of the entire property, but with a proposed location for the carport, instead of what logically would make sense, a post-construction survey confirming compliance with the varied setback.

The owners have confirmed that they would seek a Section 12 permit before commencing construction. On February 7, 2022, notice of this variance application was emailed to the B.C. Archaeology Branch. An email response was received on April 11, 2022. Both these emails were promptly provided to the Islands Trust planner.

The owners have also confirmed that they will provide a survey to confirm conformance with the variance.

The Staff Report fails to provide the most obvious and fair alternative, which is for the LTC to grant the lot line variance, given that the neighbouring property owners have consented, and no relevant objections are set out. As the report states “The proposed lot line setback is minor...”

Instead, the Staff Report sets out a “cart before the horse” approach which is unfair to the owners. When the owners seek the Section 12 permit, it is logical for the HCA people to ask whether a setback variance has been obtained. When the owners seek to get their building permit concluded, it is logical for the CRD to require a surveyor to confirm adherence to the setback. It is not practical or logical (or fair) to require these things to be obtained in advance. The owners commit to doing both these things. The LTC should approve the variance being sought.

In 2010 the contractor retained by the previous owners [REDACTED] ([REDACTED]) obtained a detailed Archaeological Post Impact Assessment referencing a Heritage Inspection Permit issued pursuant to the HCA. That 44 page

document confirms that following extensive testing “no vertebrate faunal remains or human remains were identified and only one artefact was recovered during their assessment.” The Assessment’s Management Summary states: “Proposed development of the subject property includes construction of a carport...No impacts to cultural deposits are anticipated from construction of the carport.” The area where the carport is referenced in the Assessment is not exactly where the owners now seek to build but is very close. This area is not in any riparian zone.

The Staff Report contains errors. It sets out that the requested variance is 0.6 metres, when in fact 0.5 metres was requested. The owners are content with 0.6 variance. The Staff Report states that recent work, which the Staff Report characterises as “problematic”, has disturbed the Riparian Area. It attaches appendices 3 and 4, reports from a R.P. Bio and a Qualified Environmental Professional both of which contradict this.

The Island Stream and Salmon Development Society report states: “in 1984 ... () was a strong supporter of the fisheries resource, and without his years of generous help there would not be Coho Salmon in the Cusheon Creek watershed.” It is apparent from a reading of the report in conjunction with the Gooding report that no riparian areas have been disturbed and will not be disturbed by the construction of the proposed carport. The report Summary states “The landowners of 1521 Beddis Road have, for decades, protected the environmentally sensitive riparian areas on their property.”

The Gooding Hydrology report states “Tree removal has had no significant impact on riparian needs of Cusheon Creek.” It also confirms that the proposed carport site is outside of the 30m DPA7.

The staff report states “Island Trust has no record of review for any of the issued building permits” While not technically erroneous, this statement omits to state that the building permits were issued by the CRD. Islands Trust was not responsible for review. I attach an occupancy permit for the residence, issued by the CRD in October, 2014, confirming the building is complete.

Typically, setback variance requests require consideration of the neighbouring property, and any other relevant issues. The neighbours, () and (), have given written consent. No other relevant issues have been identified.

Please grant the variance as sought. If the variance is granted conditional upon the owners seeking and obtaining a Section 12 permit and providing a post-construction survey confirming compliance, that would be fair, reasonable, and would achieve what the Staff Report seems to want, but in a way which allows the contemplated construction to occur in a logical way.

Respectfully submitted by Robert McDiarmid on behalf of the owners, Sharon Matthews and Nancy Matthewscyr

Appendix J

Certificate of Occupancy



ISSUED BY THE BUILDING INSPECTION DIVISION OF THE
CAPITAL REGIONAL DISTRICT
PURSUANT TO THE BRITISH COLUMBIA LOCAL GOVERNMENT ACT

Hold No. **9.100F(09)**

Permit No. **SS09-341**

THIS IS TO CERTIFY

that the premises named herein have been constructed under the authority of a valid Building Permit and have received the final inspection.

THIS BUILDING IS NOW COMPLETED AND READY FOR OCCUPANCY.

FDU/O No. 784 00288 000

Owner

Address

1521 BEDD'S RD

Street

LEGAL DESCRIPTION

LOT	SECTION	BLOCK	PLAN	LAND DISTRICT
Portion SALT SPRING	Except Plan 14541 16286	23072	FRACTIONAL NORTH EAST 1/4 PLANS 14541 16286	AND 23072, Mar

No action may be brought against the Capital Regional District or its officials or servants for anything done or left undone in good faith in the performance or intended performance of any authority conferred or duty imposed under this or any other Bylaw adopted by the Capital Regional District pursuant to the British Columbia Local Government Act.

NO REPRESENTATION BY CRD

Neither the issuance of a permit, Certificate of Occupancy or Conditional Certificate of Occupancy under this bylaw nor the acceptance or review of plans, drawings or specifications or supporting documents, nor any inspections made by or on behalf of the Capital Regional District constitute in any way a representation, warranty, assurance or statement that the Building Code, this Bylaw or any other applicable enactments, codes, and standards have been complied with.

All building in the Capital Regional District Electoral Areas is regulated by Building Regulation Bylaw No. 2980

Oct. 14/2014
Date

[Signature]
Signature of Owner

OCTOBER 8 2014
Date

[Signature]
Signature Building Inspector