

DISTRICT OF METCHOSIN BOARD OF VARIANCE

AGENDA

**Wednesday, December 14, 2022 at 1pm
Metchosin Council Chambers**

1. Selection of Chair

2. Review and approve agenda and minutes
 - Minutes from November 8, 2022

3. Application by Bill Smith re: 4252 Metchosin Road – BV-22-02
 - a. Reading of summary into record
 - b. Presentation by applicant(s)
 - c. Review of documents by Board; questions to applicant(s)
 - d. Public participation, if any
 - e. Decision

4. Adjourn Meeting

**DISTRICT OF METCHOSIN
BOARD OF VARIANCE**

Minutes
Council Chambers
Metchosin Municipal Hall
November 8, 2022 at 1:00 p.m.

Present: Gary Smirfitt, Chair
Johnny Carline
Lee Johnston
Katherine Lesyshen, Planner
Melissa Kirk, Recording Secretary

Also Present: Barbara Kennelly & Raymond Campbell (Applicants); Tamara Ballard (Public)

The meeting was called to order at 1:00 p.m.

1. Selection of Chair

The Committee selected Gary Smirfitt as Chair.

2. Review and approve agenda and minutes

Moved and Seconded by Johnny Carline and Lee Johnston that the agenda and minutes of January 29, 2020 be approved.

Carried

3. Application BV-22-01

**Barbara Kennelly & Raymond Campbell
4080 Dupree Drive, Victoria BC V9C 3Z6**

Legally described as:

Lot B, Section 74, Plan 16979, Metchosin Land District (PID 000-246-832)

(a) The Chair read the summary into the record:

The applicants are requesting two variances to construct an attached secondary suite for a family member who requires care (1) the first variance is to reduce the minimum dimensions within the definition of "Common Wall" which requires the common wall have a 'minimum horizontal dimension of 6.25m (20.5ft.)' to be reduced to 3.2m (10.5ft) and, (2) the second variance is to relax the rear yard setback from 10m to 3m. The property is located on a corner, and while the functional 'frontage' of the property is Dupree Drive, the Land Use bylaw defines Pears Road as the front lot line, necessitating a variance to the rear lot line setback.

(b) Presentation by applicant – Barbara Kennelly

- Adult son was injured while struck by a car cycling home from UVic.
- Accident happened ten years ago and has ongoing health issues.
- Son lives with parents full-time since the start of COVID.
- Son requires quiet spaces and requires relaxing downtime to heal.

(c) Board member discussion:

- Ensure setback by a legal survey.
- Gross floor area for an attached secondary suite is 90m².
- The intent of the Board of Variance is to approve minor variances.
- The 3m rear yard setback presented as a minor variance.
- The common wall variance presented as a major variance.

(d) Public Participation:

- No letters were received from the public.
- Tamara Ballard – 552 Wootton Road, no objection to the application.

(e) **Decision:**

Board members discussed BV-22-01 to see whether this application was a minor or major variance and decided that the application presented was a major variance and; therefore, advised applicants that, as Council was the only body which could consider granting a major variance, their option would be to apply for a Development Variance Permit which would then be considered by Council.

Moved and Seconded by Johnny Carline and Lee Johnston that Application BV-22-01 be denied.

Carried

4. The meeting adjourned at 1:30 p.m.

CHAIRMAN

CORPORATE OFFICER



Report to Board of Variance

To: Board of Variance
From: Planner
Date: December 14, 2022 File No: 3015-22-02
Subject: **4252 Metchosin Road - Request to reduce the side yard setback from 3m to 1.3m**

OBJECTIVE:

The owner of the property at 4252 Metchosin Road (P.I.D. 000-041-131) wishes to bring an existing accessory structure into compliance with the Land Use Bylaw. The property owner is seeking a variance to reduce the side yard setback for an accessory structure (detached garage) from 3m to 1.3m.

POLICY:

The property known as 4252 Metchosin Road is approximately 0.63 ac (0.26 ha) in size and is zoned Agricultural (AG) in the Land Use Bylaw, and designated AG in the Official Community Plan.

The variance request is to enable an existing accessory garage to remain where it was constructed, at a distance of 1.3m from the side lot line, rather than the required 3.0m, which will have the effect of varying the District of Metchosin Land Use Bylaw No. 259, Section 51(7)(b). A site plan/survey is included as Attachment A. Photos are included in Attachment B.

LEGISLATIVE CONSIDERATIONS:

The application is in compliance with the provisions of the *Local Government Act* (Section 540) which provides the Board of Variance the authority to consider issues of hardship regarding a bylaw respecting the dimensions and siting of a building. The applicant has provided a rationale for hardship (Attachment C).

After hearing from the applicant and any adjacent landowners, the Board can permit **minor variances** if it determines that **undue hardship would be caused** to the applicant if the requested variances are not permitted, **and is of the opinion that the variance does not:**

- **result in inappropriate development of the site,**
- **adversely affect the natural environment,**
- **substantially affect the use and enjoyment of adjacent land,**
- **vary permitted uses and densities under the applicable bylaw,**
- **defeat the intent of the bylaw, or**
- **vary the application of an applicable bylaw in relation to residential rental tenure.**

In addition, staff can confirm that the property is not subject to floodplain specifications, development permits, land use contracts, phased development agreements or heritage designations that would prevent or limit a decision by the Board.

The notice provisions of the *Local Government Act* were also followed, and letters were sent to owners and tenants of the subject and adjacent properties on December 2, 2022 identifying the property, explaining subject matter and the time and place where the application would be heard.

DISCUSSION:

The owner of the property is currently constructing a dwelling and the property contains a pre-existing accessory building (garage). During a building permit review for the dwelling, it was determined that the accessory building required a setback variance to bring it into compliance with the Land Use Bylaw. The owners completed a survey and prepared a site plan (Attachment A) which confirmed that the accessory building was 1.3m from the side lot line, and that a variance would be required to bring the garage into compliance.

The applicant is therefore seeking a variance to legalize the location of their accessory building and enable a building permit application to be made for the structure. Photos of the building are included (Attachment B). The owner originally submitted a Development Variance Permit (decisions rendered by Council), however, decided to withdraw that application. The applicant believes that the Board of Variance is the more appropriate of the two alternative variance options available, and resubmitted an application for BOV consideration.

The owner has submitted a rationale for hardship (Attachment C). The building has been sited in this location for quite some time and it was constructed by previous owners of the property. The owner does not want to remove the garage from the property, as it is currently used by the property owner and is a useful asset.

OPTIONS:

Two options have been drafted for the Board of Variance's consideration:

1. Having considered the matters set out in Section 540 of the *Local Government Act*, and having found that undue hardship would be caused, the Board of Variance recommends approval of a minor variance to the Metchosin Land Use Bylaw (Bylaw 259) as follows:
 - a. Section 51(7)(b) of the Land Use Bylaw, Bylaw 259, to reduce the minimum side yard setback of 3m to 1.3m.
2. The Board can deny the application.

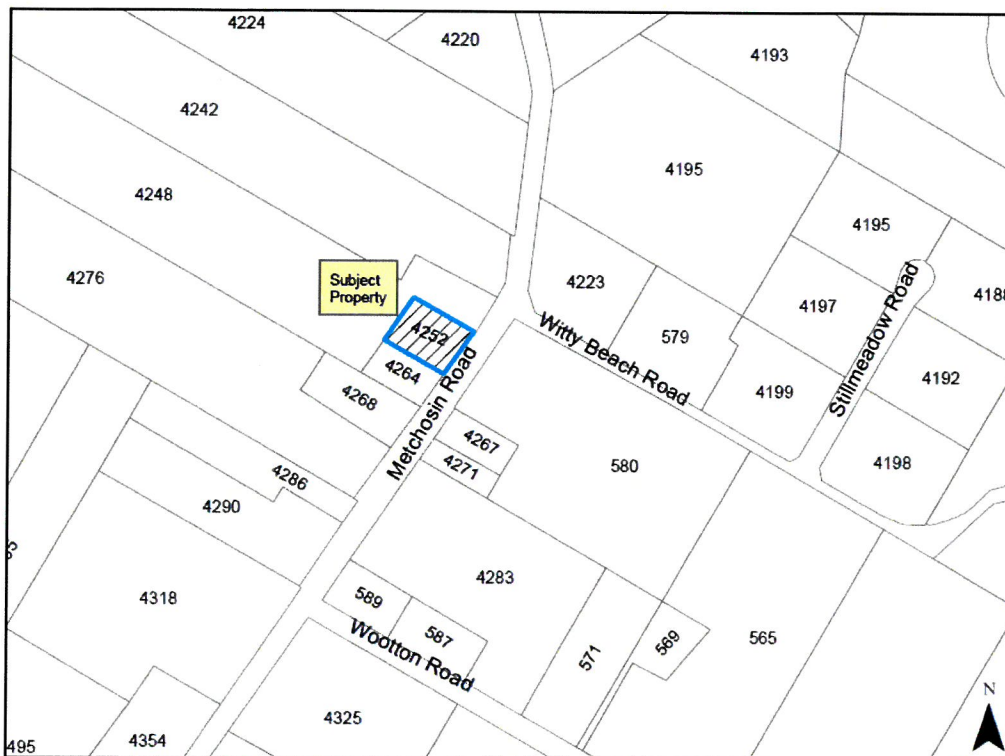
Attachments:

Attachment A – Site plan

Attachment B – Site photos

Attachment C – Applicant's Rationale

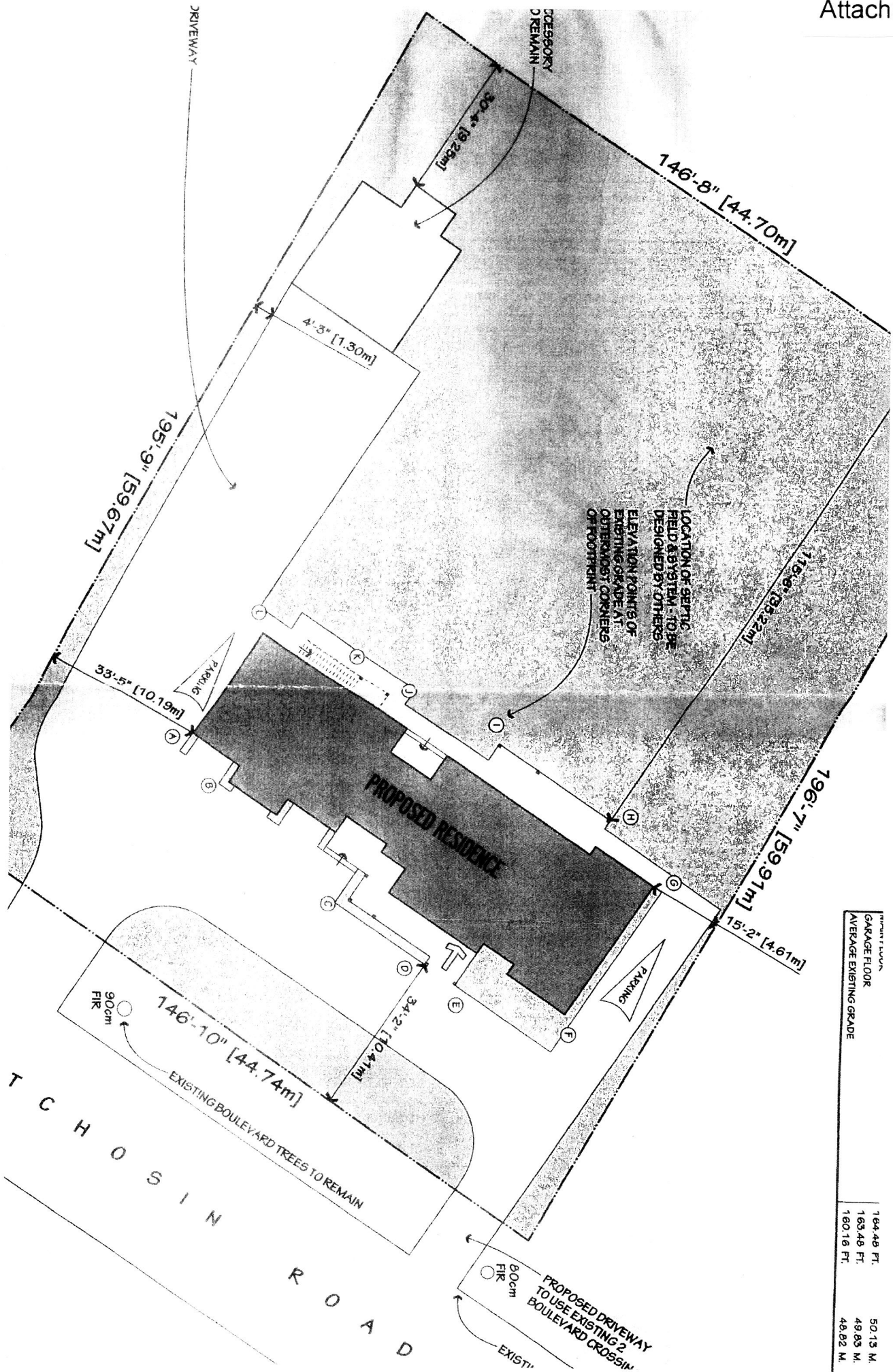
SUBJECT PROPERTY MAP:



ORTHOPHOTO IMAGERY OF THE SUBJECT PROPERTY:

Note that the two buildings fronting Metchosin Road have been removed. A new home is presently being constructed (2022).







View of the Existing Garage from the driveway (Note: house under construction to the right)



From: Bill Smith
Sent: November 2, 2022 6:45 AM
To: metchosin planner
Subject: 4252 Metchosin rd

We are asking for a variance on an accessory building built 20 to 25 years ago that doesn't conform to current setbacks. Before purchasing property 10 years ago we checked with the City Of Metchosin in regards to the legality of the accessory building and the trailer on the property. They said if either of the buildings are removed we would have to get permits to replace. The trailer has since been removed, the accessory building remains. The only neighbour affected by the accessory building is in full support of variance we are looking for. It is a minor property setback, The accessory building is well-maintained and is fenced between properties. Our family spends lots of time in accessory building . My daughters ages 7 and 9 have become accustomed to going to shop after dinner to work on hobbies. Thanks for your consideration. Rory And Sarah Smith.

Sent from my iPad