

BOARD OF VARIANCE

OPEN MEETING AGENDA

Thursday, April 5, 2018

1:00 pm

FVRD Boardroom, 45950 Cheam Avenue, Chilliwack, BC

Pages

1. CALL TO ORDER

2. APPROVAL OF AGENDA, ADDENDA AND LATE ITEMS

MOTION FOR CONSIDERATION

THAT the Agenda, Addenda and Late Items for the Board of Variance Hearing of April 5, 2018 be approved;

AND THAT all correspondence and other information set to the Agenda be received for information.

3. COMMENTS BY SECRETARY AND STAFF TO THE BOARD OF VARIANCE

4. DELIBERATION BY BOARD OF VARIANCE - # 26-8985 Shook Road, Electoral Area "G"

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- Notice to Agent and Applicant (*Page 3*)
- Notice to Adjacent Property Owners (*Page 4*)
- Corporate report dated April 5, 2018 from Johannes Bendle, Planner I (*Page 5*)
- Appendix A - Mapping (*Page 12*)
- Appendix B - Site Plans (*Page 15*)
- Appendix C - Application (*Page 17*)
- Appendix D - Zoning (*Page 30*)
- Appendix E Zoning (*Page 31*)
- Appendix F - OCP (*Page 32*)
- Appendix G - LGA (*Page 34*)
- Appendix H - User Lot (*Page 42*)

- Appendix I - Letters of Support (*Page 43*)
- Written submission received from Don and Janis Turner (*Page 51*)

5. **DECISION OF BOARD OF VARIANCE**

6. **ADJOURNMENT**

MOTION FOR CONSIDERATION

THAT the Board of Variance Hearing of April 5, 2018 be adjourned.

March 5, 2018

File No. 0388-30-2018-755.02150.026

Via email: tad-655@telus.net

Bob Haffner
32728 Best Avenue
Mission, BC V2V 2S6

Dear Mr. Haffner,

**Re: Application to the Board of Variance
#26 – 8985 Shook Road, Electoral Area “G”**

I write to confirm that due to a scheduling conflict, the Board of Variance hearing has been rescheduled for **Thursday, April 5, 2018 at 1pm**. The meeting will take place in the FVRD 4th Floor Boardroom located at 45950 Cheam Avenue, Chilliwack, BC.

Should you have any questions, please feel free to contact me directly at 604-702-5023.

Regards,



Jaime Schween,
Manager of Corporate Administration/
Secretary to the Board of Variance

Cc: Nadine Fedyk: gfedyk@hotmail.com

File No. 0388-30-2018-775.02150.026

March 15, 2018

Re: Application to the Board of Variance

Notice in accordance with Section 541 of the *Local Government Act* to Property Owners and Tenants in occupation within the area adjacent to:

#26-8985 Shook Road, Electoral Area "G"

PLEASE TAKE NOTICE that the Board of Variance of the Fraser Valley Regional District will consider this application, pursuant to Sections 531 and 532 of the *Local Government Act*, requesting:

**A structural alteration or addition to a non-conforming structure
(Renovations and addition to an existing home)**

A Board of Variance Hearing has been scheduled for **Thursday, April 5, 2018 at 1 p.m.** at the Fraser Valley Regional District 4th floor Boardroom located at 45950 Cheam Avenue in Chilliwack, BC.

The intent of this notice is to allow the Members of the Board of Variance to receive input from all persons who believe their interest in property is affected by this proposed Board of Variance application.

Interested persons may attend the Board of Variance Hearing or may make a written submission regarding this application. Written submissions must be received not later than 4:30 p.m. on Wednesday, March 28, 2018 either by email (jschween@fvrd.ca) or by regular mail addressed to the address below.

If you have any questions or require further information, please feel free to contact me at 604-702-5023.

Regards,



Jaime Schween,
Secretary to the Board of Variance/
Manager of Corporate Administration

STAFF REPORT

To: Board of Variance Chair and Members
From: Johannes Bendle, Planner I
Date: April 5, 2018
Subject: Board of Variance Application for #26-8985 Shook Road, Electoral Area "G"
File No.: 0388-30 2018-775.02150.026

REPORT PURPOSE

On February 21, 2018 the attached application to the Board of Variance was submitted to permit a structural alternation and addition to a legally non-conforming structure, under Section 540(c) of the *Local Government Act*, for the property located at #26 – 8985 Shook Road, Electoral Area "G".

The staff report summarizes the relevant Fraser Valley Regional District Bylaws, information and other regulations related to the application, for the information of the Board of Variance Chair and Members.

DECISION REQUESTED OF THE BOARD OF VARIANCE

The applicant has applied to the Board of Variance under Section 540(c) of the *Local Government Act* for an exemption from Section 531(1) of the *Local Government Act* to permit a structural alteration and addition to an existing legally non-conforming single family dwelling.

S. 531 of the *Local Government Act* states:

Restrictions on alteration or addition to building or other structure

531 (1) Subject to this section, a structural alteration or addition must not be made in or to a building or other structure while a non-conforming use is continued in all or any part of it.

(2) Subsection (1) does not prohibit a structural alteration or addition that is required by an enactment or is permitted by a board of variance under section 542 (1) [authority for variance or exemption to relieve hardship].

The applicant is asking for the Board of Variance to consider the renovation and addition to a single family house. The proposal is to renovate and add to the one story 511.5 sq. ft. house and construct a two story house with a 1,500 sq. ft. footprint. The new two story house will have one bedroom and den on the top floor and a garage and shop on the bottom floor. Additionally, the applicant is asking the Board of Variance to consider approval of the following structural alterations:

- to allow cement foundation to the existing house walls. This would replace the pier blocks that are currently in place; and
- to allow the removal of existing wood floor and replace with concrete floor to match new addition/renovation.

The Board of Variance must consider if the prohibition of a structural alteration and addition would cause the applicant hardship. If the Board of Variance finds that undue hardship would be caused to

the applicant if Section 531(1) of the *Local Government Act* is complied with, the Board must state the exact nature of the hardship for the hearing's record.

The Board may order that the applicant be exempted from Section 531(1) of the *Local Government Act*, if the Board complies with the following:

- (a) has heard the applicant and any person notified under section 541,
- (b) finds that undue hardship would be caused to the applicant if the bylaw or section 531 (1) is complied with, and
- (c) is of the opinion that the variance or exemption does not do any of the following:
 - (i) result in inappropriate development of the site;
 - (ii) adversely affect the natural environment;
 - (iii) substantially affect the use and enjoyment of adjacent land;
 - (iv) vary permitted uses and densities under the applicable bylaw;
 - (v) defeat the intent of the bylaw.

BACKGROUND

The general location of the proposal is shown on the attached location map in Appendix A. Location of the specific user lot is shown on the attached user lot layout plan in Appendix H. Details of the proposed structural alteration and addition are shown on the attached site plan in Appendix B and application in Appendix C.

Address	26-8985 Shook Road
Legal Description	Lot 1 Section 36 Township 17 New Westminster District Plan 18080
PID	010-326-081
Folio	775.02150.026
Registered Property Owner	Hatzic Lake Holdings Ltd.
Applicant	Nadine Fedyk
Lot Area	2.2 ha (5.5 ac)
User Lot Area	5,850 sq. ft.
ALR	Outside
Floodplain	Within; 9.3 m GSC FCL and 7.5 m setback from Hatzic Lake
OCP	Rural
Zoning	Rural 3 (R-3)
Development Permit Area	Within Riparian Areas Development Permit Area 2-G; exempted because 30 m > from Hatzic Lake
Setbacks	Proposal meets 6.0 m front property line setback
Bylaw Enforcement	None

Direction	Use	OCP	Zoning
North	Sundorn – unregistered subdivision	Rural	R-3
South	Kostur (Griffs) Mobile Home Park	Rural	R-3
East	Shook Road and single family dwelling beyond	Rural	R-3
West	Hatzic Lake	NA	R-4

NON-CONFORMANCE

The subject property, referred to as Hatzic Lake Holdings Ltd. (Dogpatch), is zoned Rural 3 (R-3) which permits one dwelling unit per parcel. There are up to 28 dwelling units on the subject property which is one (1) legal lot. The existing use of the property is legally non-conforming ("grandfathered") pursuant to Section 540 of the *Local Government Act*.

The subject property is one of seven legally non-conforming recreational holdings/unregistered subdivisions on Hatzic Island, which pre-date zoning regulations. Hatzic Lake Holdings Ltd. was recognized and described in Zoning Bylaw No. 202-1980 as legally non-conforming. Zoning Bylaw No. 202, 1980 was repealed and replaced by the current Zoning Bylaw No. 559-1992.

Board of Variance approval is required prior to the FVRD's processing or issuance of building permits for structural alterations and/or additions in these legally non-conforming unregistered subdivisions.

OWNERSHIP STRUCTURE

Hatzic Lake Holdings Ltd. is the registered owner of the property. The FVRD's understanding is that Hatzic Lake Holdings Ltd. is comprised of 28 co-owners who each purchased a share which entitles them to the full use of a portion (user lot) of the property. The single un-subdivided property is separated into individual user lots identified on site but is not a legally established subdivision.

DISCUSSION

NOTIFICATION AND HEARING

All neighbours within a 30 m radius of the property have been notified via mail of this Board of Variance Application. Neighbours have been invited to attend the Board of Variance Hearing or make a written submission by email or mail. The applicant will also have the opportunity to be heard at the meeting. The applicant has submitted letters of support as shown in Appendix I.

HARDSHIP

The applicant has provided reasons in support of their application, which are shown in Appendix C. The applicant notes that their intention is to renovate the existing one story two bedroom single family home. The proposal is to use approximately 75% of the original house to build a new two story house with one bedroom and den on the top floor and a garage and shop at the bottom floor. The reasons in support of the application as stated by the applicant:

- We are trying to bring the home up to current safety standards and in line with the FVRD building requirements
- With existing home this would be very difficult and in some cases impossible
- This type of renovation will help us meet the FVRD requirements and give us a home that is safe

The applicant recently acquired the site and do not live in the existing residence.

DEVELOPMENT OF THE SITE

The subject site or user lot contains an existing one story two bedroom 511.5 sq. ft. single family house. The proposed development is continuing the residential use of the property but is increasing the footprint of the single family house to 1,500 sq. ft. or a 193% increase. The applicant would be able to accomplish the desired building safety outcomes stated as reasons for support of the application without drastically increasing the size of the footprint as proposed. This proposal on its own may seem inconsequential but the increased footprint is significant and a much larger increase than previous applications to the Board of Variance. Of two applications considered in 2015 one was for a 23% footprint increase in habitable space and another was for a 418 sq. ft. footprint increase in habitable space. The concern from a planning perspective lies in the incremental impacts of the approval of significant increases in square footage of development over time. The long term result is that development on Hatzic Island intensifies even though the Island is not suited to accommodate that level of densification.

The proposed development meets all setback requirements. Zoning Bylaw No. 559-1992 defines a lot line in relation to a parcel, and further defines parcel as "any lot, block or area in which land is held or into which it is subdivided". It is a reasonable interpretation that the legal lot be treated as the parcel, as opposed to the unregistered user lots, and that the internal user lots are disregarded for siting requirements. Therefore, the only setback consideration for the user lot is the 6 metre (19 ft. 8 in.) front setback. As per site plan shown in Appendix B the proposed development meets this requirement.

FLOODPLAIN

The subject site, as well as Hatzic Island, is within the Fraser Valley floodplain. The entire Island is well below the elevation of a 1:200 year Fraser River flood. Furthermore, locations on the Island are subject to frequent minor flooding from within the Hatzic watershed. Residents of Hatzic Island are dependent on the single access road to and from the Island: this access road and bridge are low lying and could be cut off during a major flood event.

The proposed construction needs to conform to the *Fraser Valley Regional District Floodplain Management Bylaw 0681, 2005*. The proposal does not appear to meet the Floodplain Management Bylaw requirements. The proposed garage addition is less than 110 sq. m (1185 sq. ft.) and therefore the garage is exempted from meeting the Flood Construction Level. However, the proposed entrance foyer exceeds 12 sq. m (129 sq. ft.) and therefore must meet the Flood Construction Levels. The drawings in the application are concept drawings that may be amended to meet the Floodplain Management Bylaw. FVRD staff are unlikely to support a site specific exemption from the Floodplain Management Bylaw.

NATURAL ENVIRONMENT

The proposed development is unlikely to adversely affect the surrounding natural environment to a further degree than already present. No further bedrooms or bathrooms are proposed, so further load on the water and septic are likely to be minimal if at all. If the Board of Variance approves the application, as a condition of the approval the FVRD will require an engineer to undertake a review of the on-site septic and well water of the site and provide a written report. The subject site is located approximately 160 metres (525 ft.) from the natural boundary of Hatzic Lake; therefore, it is unlikely to affect the riparian capabilities of the lake.

USE AND ENJOYMENT OF ADJACENT LAND

The applicant has been requested to collect feedback from the neighbourhood regarding the proposed Board of Variance application. Property owners and residents within 30 metres of the property, including the other user lot owners in Hatzic Lake Holdings, have been notified by the FVRD and have the opportunity to provide written comments or attend the Board of Variance meeting to state their comments.

The applicant has forwarded eight written comments from Hatzic Island residents in support of the application, which are included in Appendix I.

The footprint of the proposed house renovation and addition is significantly larger, at 193% percent than the current house and will be two stories instead of one story.

PERMITTED USE AND DENSITY

Hatzic Lake Holdings was recognized and described in Zoning Bylaw No. 202-1980. Since then Zoning Bylaw No. 202-1980 was repealed and replaced by the current Zoning Bylaw No. 559-1992. The R-3 Zone given by Zoning Bylaw No. 559-1992 lists Residential Use as permitted. However, Section 405 of Zoning Bylaw No. 559-1992, states that "a Residential Use shall be limited to one dwelling unit per parcel." Therefore, the property is legally non-conforming in terms of density. The subject property will not increase the number legally non-conforming uses but will increase the size and scale of the legally non-conformance.

INTENT OF THE OFFICIAL COMMUNITY PLAN AND ZONING BYLAWS

The Official Regional Plan adopted by the Lower Mainland Regional Planning Board in 1966, designated Hatzic Island as Lowland Rural (RRL-3) as it is best suited to large rural holdings. Zoning was introduced on Hatzic Island in 1972 by the Dewdney-Alouette Regional District. Zoning Bylaw No. 28, 1972 which zoned much of Hatzic Island Rural III (R-3) with a minimum parcel size of 20 ac (8 ha). This direction has since been maintained in land use plans and zoning bylaws. In the opinion of staff, the intent of the zoning bylaws has been to prevent urban density development on Hatzic Island while bringing pre-existing developments into compliance with the bylaws at the end of the useful life of the existing structures.

The average density of development on the island is high for an un-serviced rural area and, by today's commonly accepted servicing standards, is not sustainable. There is potential for on-site sewage disposal fields to contaminate the groundwater and water supplies in these high density developments. The environment and human health are at risk. Development is also at risk from Fraser River and local watershed flooding due to the low elevations on the island, and there is only one access to and from the island.

The specific environmental, human health and safety issues summarized above have guided community plans and zoning bylaws since the late 1960's and have given rise to designating and zoning the island for low density, large lot, rural-type uses. The application of these low density land use regulations rendered the existing developments legally non-conforming, with the expectation that the developments would eventually "fade away".

However, the multiplicity of owners and the tenure structure of developments like Dogpatch present a major challenge to redevelopment of the property in accordance with the current Rural-3 zoning.

The nature of the statute and case law, the land ownership structure and the form of development make it unlikely that current owners are not likely to simply walk away from their investment.

The Official Community Plan for Electoral Area “G” (OCP Bylaw No. 866) includes local area policies for Hatzic Island that speak to the key issues for this neighbourhood (see Appendix F). The intent of the OCP is to continue the previous zoning and OCP bylaws’ approach to limit development to existing levels. However, the OCP recognizes the tension created through this approach, and the potential negative impacts non-conforming status could have on these lands. Accordingly, the plan supports rezoning of the lawfully non-conforming developments once connection to a community water or sewer system is available (Section 7.1.1).

The FVRD is planning on engaging in discussions on Hatzic Island to determine options for the Island.

PREVIOUS BOARD OF VARIANCE APPROVALS

Address	Application	Decision
Dogpatch - 4-8985 Shook Road	Structural alteration and addition to an existing single family dwelling to accommodate the replacement of current flat roof.	Approved 2015
Dogpatch - 3-8985 Shook Road	Removal and replacement of existing two story garage attached to existing single family dwelling.	Approved 2015
Dogpatch - 11-8985 Shook Road	Conversion of garage to habitable living space	Approved 2013
Dogpatch - 11-8985 Shook Road	Addition of garage to existing dwelling.	Approved 2009
Dogpatch - 3-8985 Shook Road	Internal structural alteration.	Approved 2009
Dogpatch - 1-8985 Shook Road	Replace flat roof with pitched roof and enlarge two existing bedrooms by constructing an addition and build a single car open sided carport.	Approved 2003
Dogpatch - 1-8985 Shook Road	Reconstruction of flat roof to pitched roof and addition of storage in roof area.	Approved 2002
Dogpatch - 16-8985 Shook Road	Reconstruction and enlargement of two bedrooms, addition of covered deck, second parking spot, and foyer in garage to building.	Approved 2002

FURTHER FVRD APPROVALS REQUIRED

A decision by the Board of Variance to approve the structural alteration and addition to the dwelling does not constitute any further approvals in relation to the specific building permit application. The applicant must meet all requirements of the building permit process.

All proposed construction is required to comply with all other relevant Fraser Valley Regional District regulations and bylaws, including the *Fraser Valley Regional District Floodplain Management Bylaw 0681, 2005* and FVRD Building Code. Other agency requirements must also be met, such as Fraser Health regulations; Fraser Health Authority approval for septic disposal may be required. The FVRD will require an engineer to undertake a review of the on-site septic and well water of the site and provide a written report.

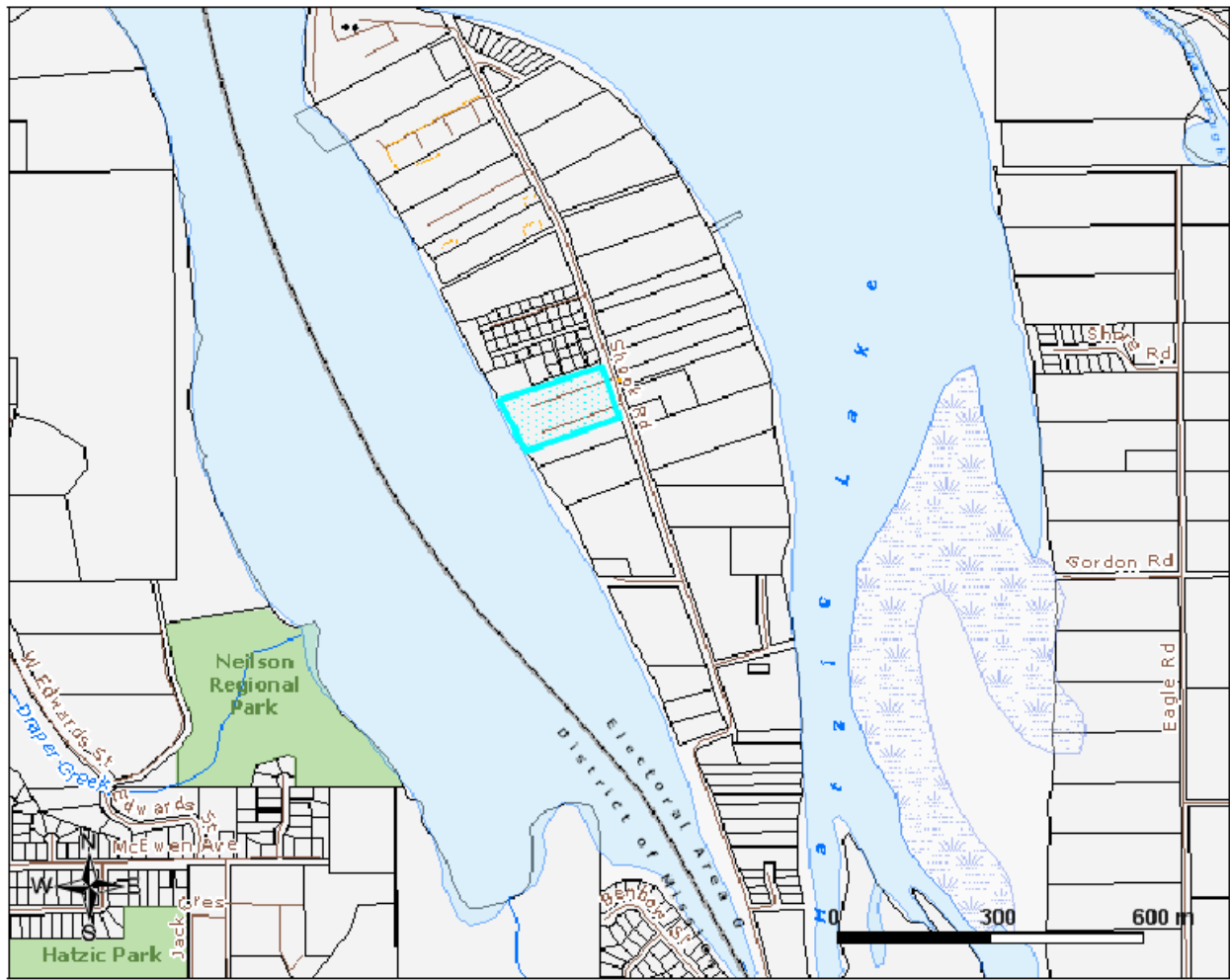
Submitted by:

 Digitally signed by
Johannes Bendle
Reason: I am the author
of this document
Date: 2018.03.27
14:58:34 -0700

Johannes Bendle
Planner I
Electoral Area Planning, Fraser Valley Regional District

APPENDIX A

Location Map

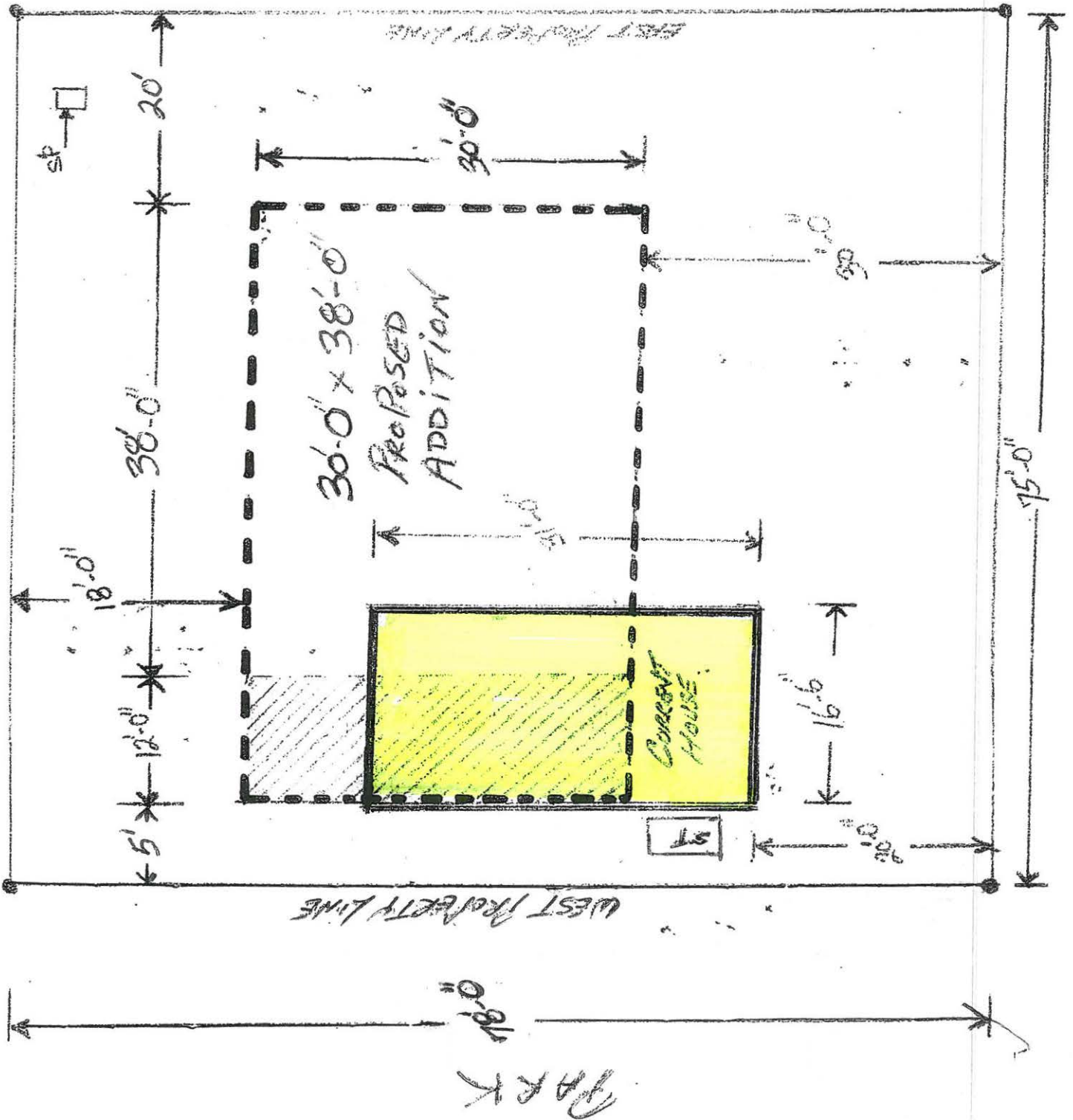


Air Photo

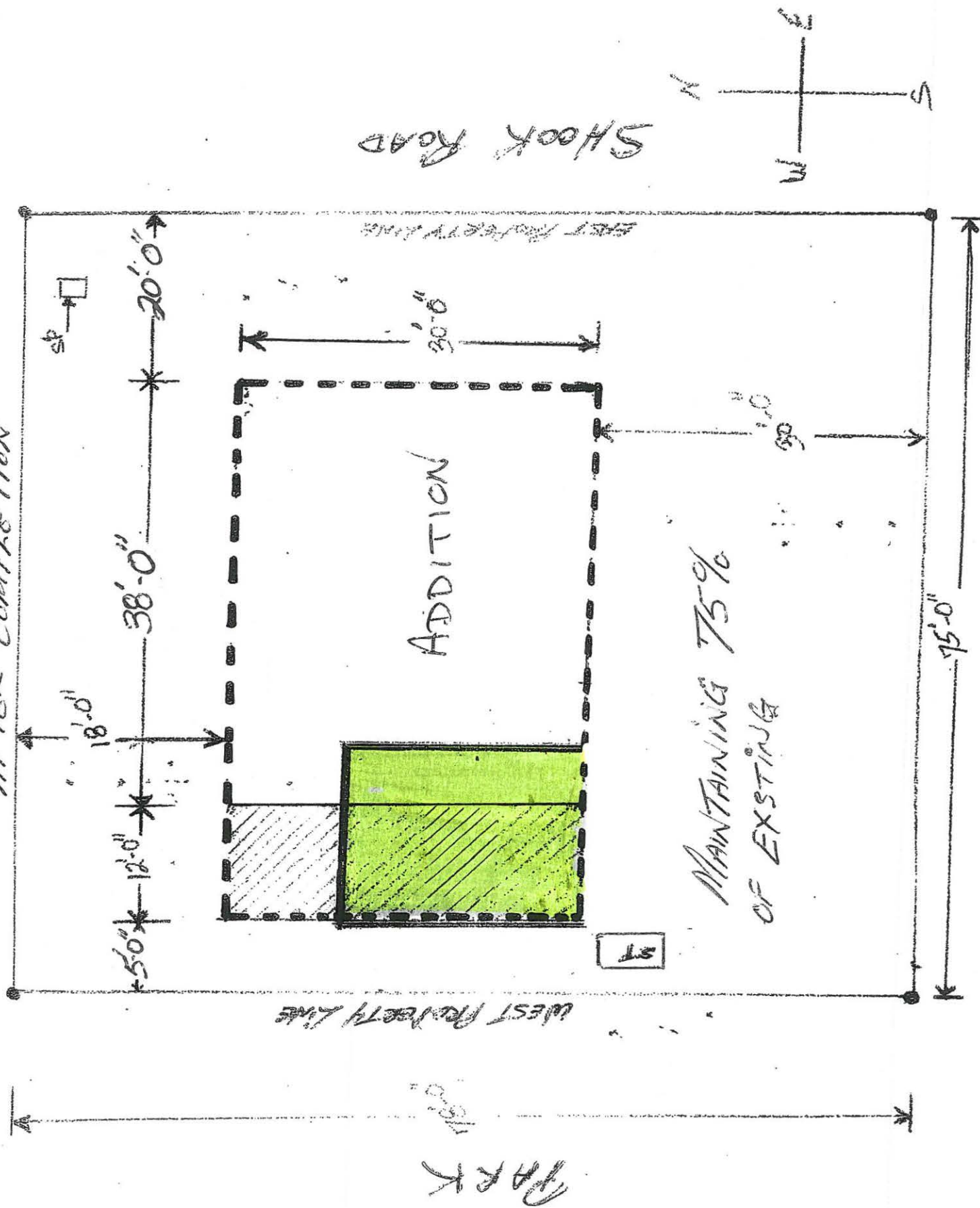


Google Air Photo





RENOVATION TO BE COMPLETED AFTER COMPLETION





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SCHEDULE A

Application to Board of Variance

I / We hereby apply to the Fraser Valley Regional District Board of Variance for:

- ☐ A minor variance from bylaw requirements due to hardship [Local Government Act, Section 540]
- ☒ Structural alteration or addition to non-conforming structure [Local Government Act 540 and 531]
- ☐ Other (describe) _____ LGA s. _____

An Application Fee in the amount of \$ _____ as stipulated in FVRD Board of Variance Establishment Bylaw No. 0903, 2008 must be paid upon submission of this application.

Civic Address #26 8985 SHOCK ROAD MISSION PID 010-326-081

Legal Description Lot 1 Block _____ Section 36 Township 17 Range _____ Plan 18080

The property described above is the subject of this application and is referred to herein as the 'subject property.' This application is made with my full knowledge and consent. I declare that the information submitted in support of the application is true and correct in all respects.

Owner's
Declaration

Owner's
Contact
Information

Office Use Only	Date	File No.
	Received By	Folio No.
	Received No.	Fees Paid: \$

Agent

I hereby give permission to BOB HAFTNER to act as my/our agent in all matters relating to this application.

Only complete this section if
the applicant is
NOT the owner.

Agent's contact
information and
declaration

Variance Details

Property Size 75' x 78' (m² or ha) Present Zoning _____

Existing Use _____

Proposed Development HOME RENOVATION WITH ADDITION TO A TWO BEDROOM SINGLE FAMILY HOME.

Proposed Variance RENOVATION TO EXISTING TWO BEDROOM SINGLE FAMILY HOME, NEW RENOVATIONS WILL REDUCE HOME TO ONE BEDROOM, GARAGE, SHOP ON THE BOTTOM FLOOR, WHILE STILL USING APPROX 75% OF THE ORIGINAL HOUSE.

(use separate sheet if necessary)

Reasons in Support of Application WE ARE TRYING TO BRING THE HOME UP TO CURRENT SAFETY STANDARDS AND IN LINE WITH THE FVRD BUILDING REQUIREMENTS, WITH THE EXISTING HOME, THIS WOULD BE VERY DIFFICULT AND IN SOME CASES IMPOSSIBLE (SUCH AS FLOOD PLAIN), WITH THIS TYPE OF RENOVATION WILL HELP US MEET THE FVRD REQUIREMENTS AND GIVE US A HOME THAT IS SAFE.

- ☒ Location Map
- ☒ Site Plan showing dimensions of property, easements and locations of existing buildings
- ☒ Location of proposed buildings, alterations or additions, including any proposed variances
- ☐ Location of any watercourses, streams, or ponds
- ☒ Location of existing or proposed water supplies, septic systems or other services
- ☒ Letters of support if applicable
- ☐ Other supporting information or reports (describe) SEE ATTACHED LIST OF
CONSTRUCTION DETAILS

WE WOULD ALSO LIKE THE BOARD OF VARIANCE TO CONSIDER APPROVAL FOR THE FOLLOWING STRUCTURAL ALTERATIONS.

#1. TO ALLOW A CEMENT FOUNDATION TO THE EXISTING HOUSE WALLS, THIS WOULD REPLACE PIER BLOCKS THAT ARE CURRENTLY IN PLACE.

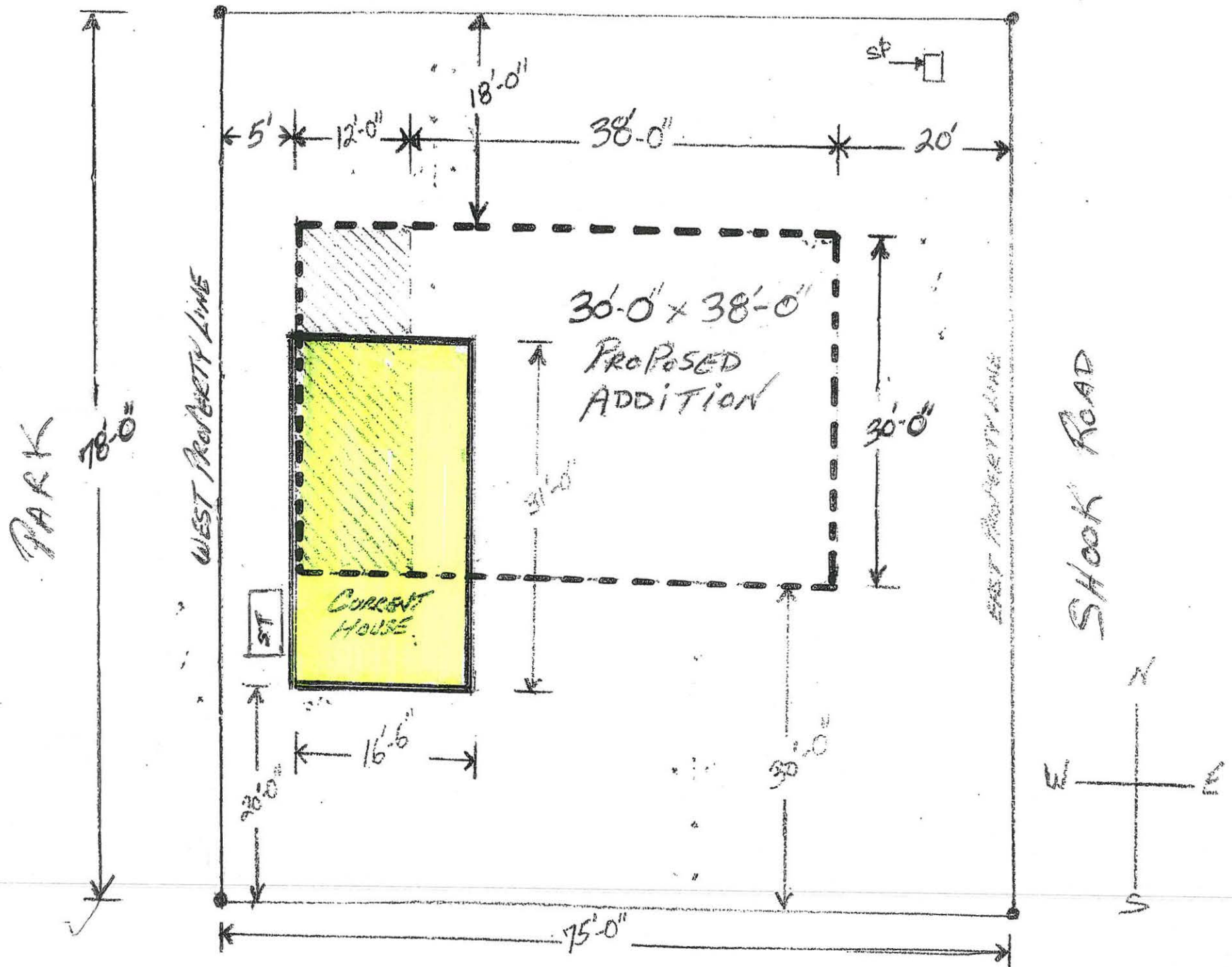
#2. TO ALLOW THE REMOVAL OF EXISTING WOOD 2ND FLOOR AND REPLACE WITH CONCRETE FLOOR TO MATCH NEW ADDITION/RENOVATION.

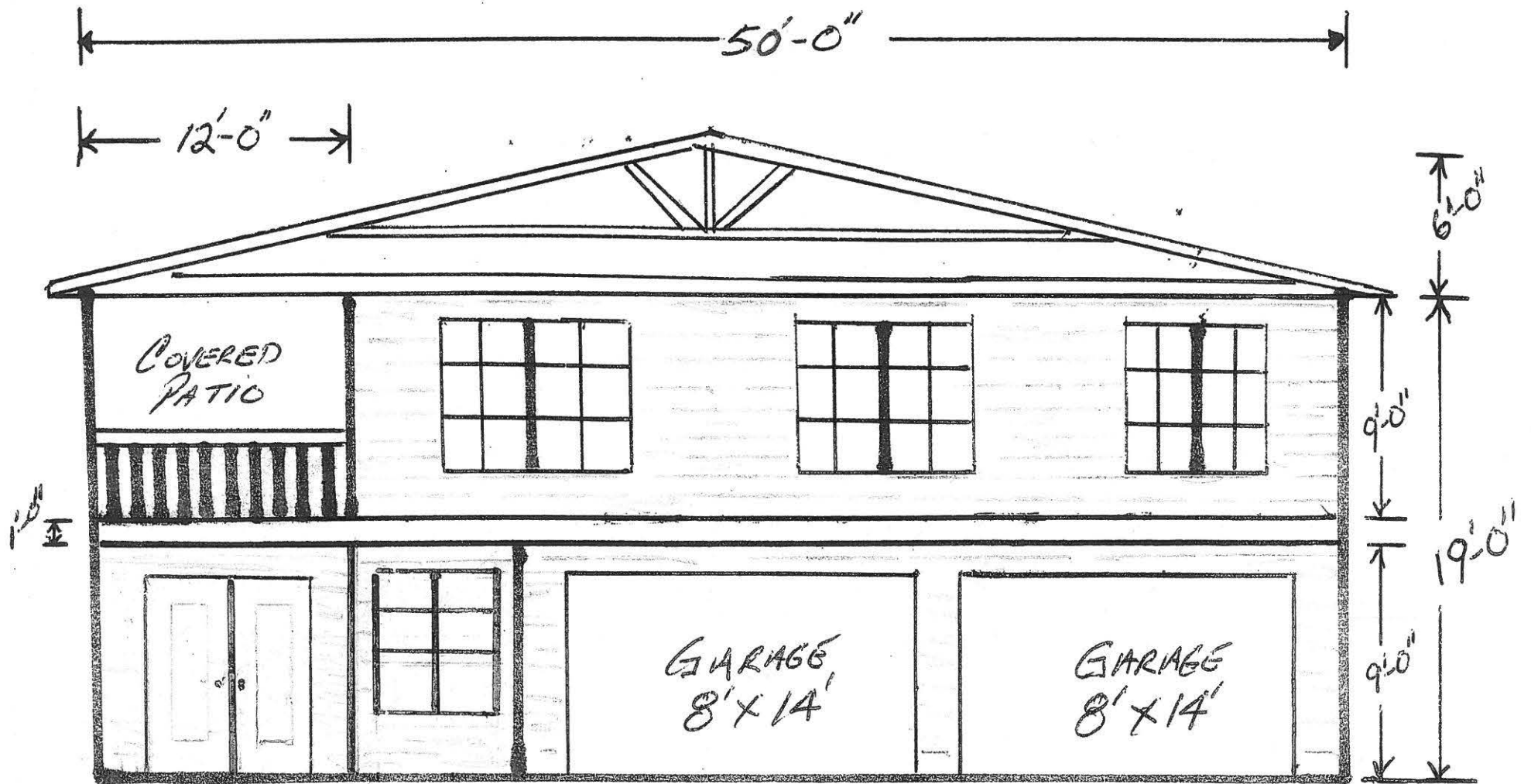
THESE CHANGES WILL MAKE THE HOME MEET CURRENT REGULATIONS AND ADD ANOTHER SAFETY ELEMENT TO THE PROJECT.

THANK YOU FOR CONSIDERING THIS APPLICATION.

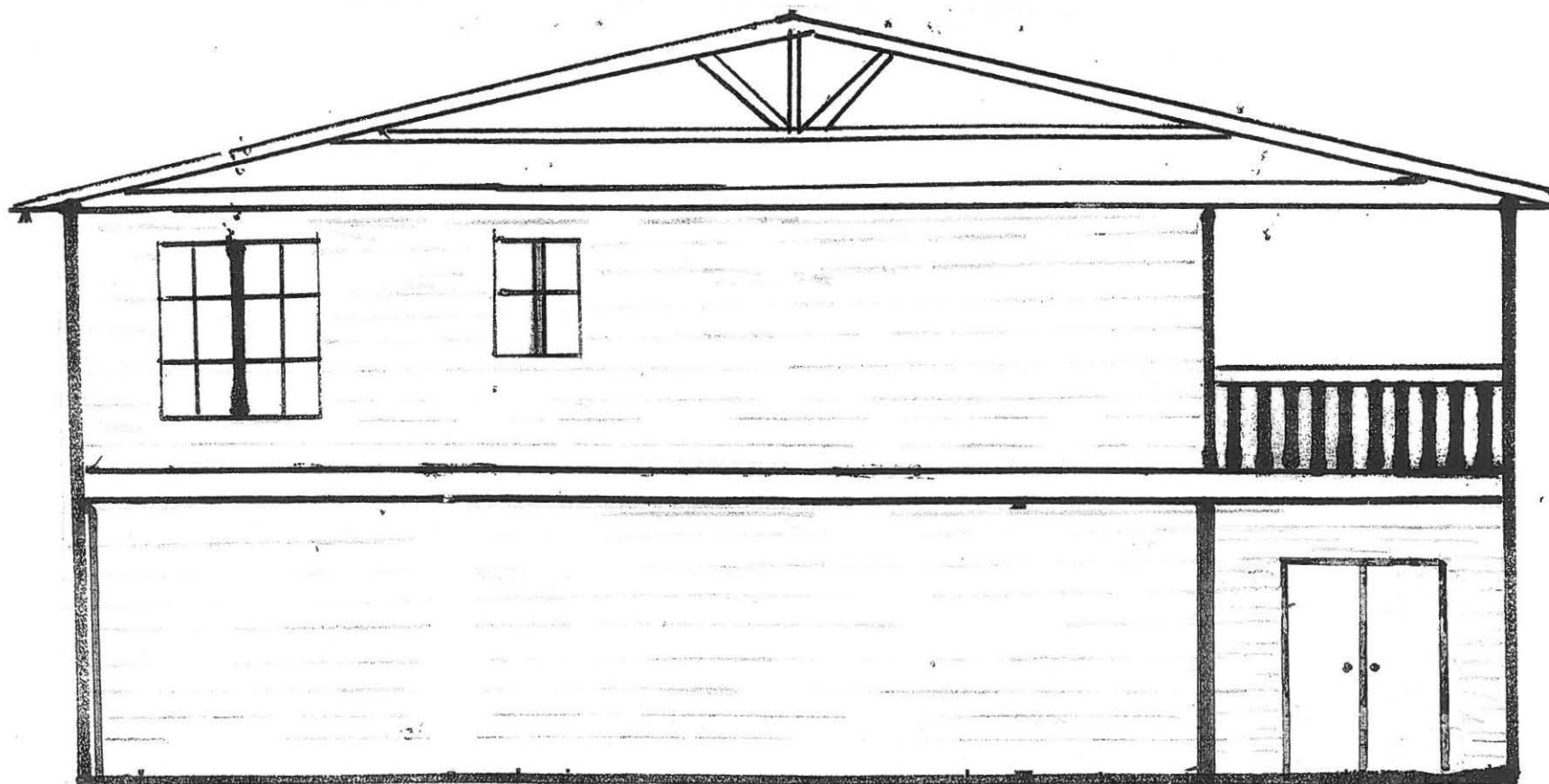
The personal information on this form is being collected in accordance with Section 27 of the *Freedom of Information and Protection of Privacy Act*, RSBC 1996 Ch. 165 and the *Local Government Act*, RSBC 2015 Ch. 1. It will only be collected, used and disclosed for the purpose of administering matters with respect to planning, land use management and related services delivered, or proposed to be delivered, by the FVRD. Questions about the use of personal information and the protection of privacy may be directed to the FVRD Privacy Officer at 45950 Cheam Avenue, Chilliwack, BC V2P 1N6, Tel: 1-800-528-0061 FOI@fvr.ca.

RENOVATION TO LOT 26



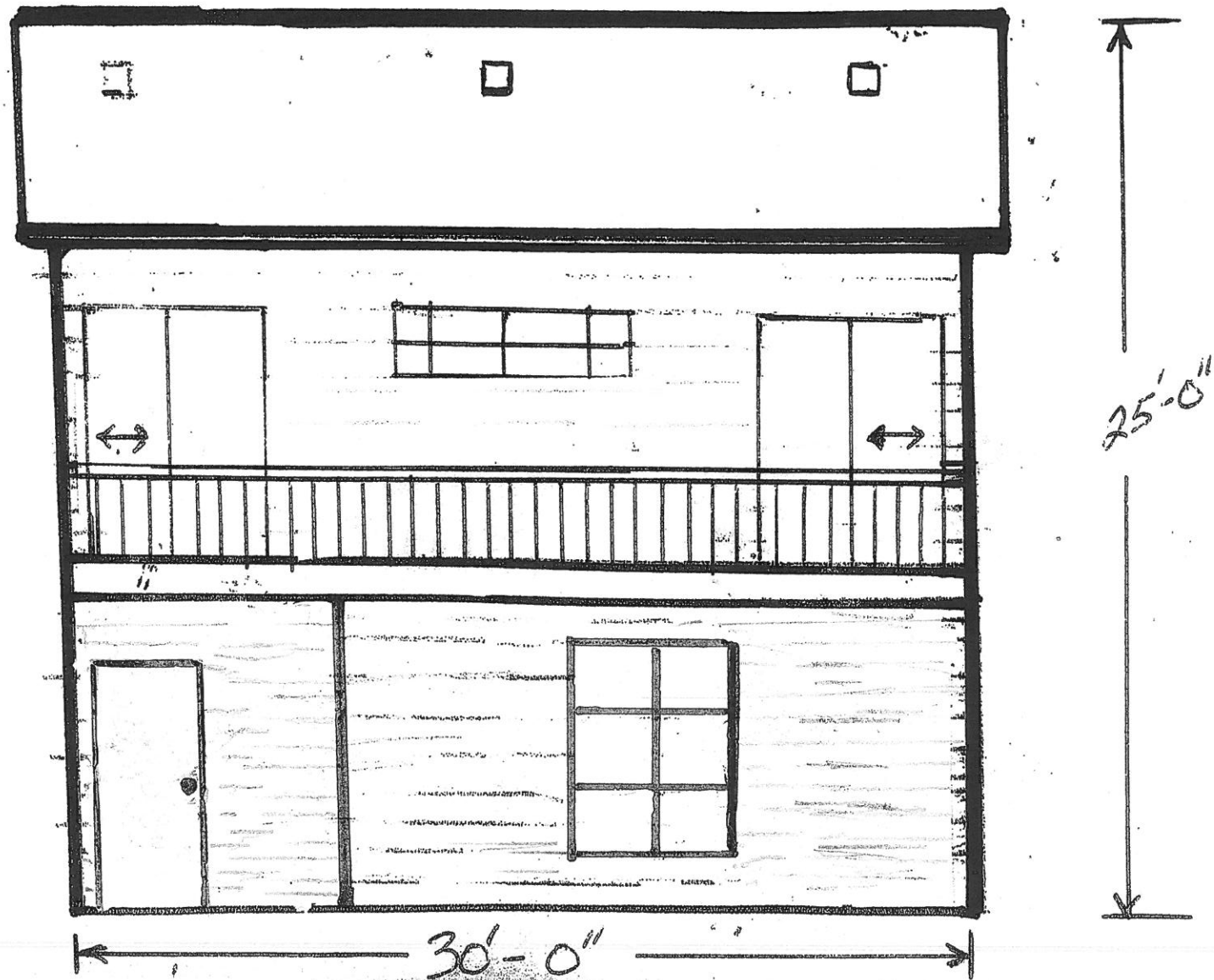


SOUTH ELEVATION

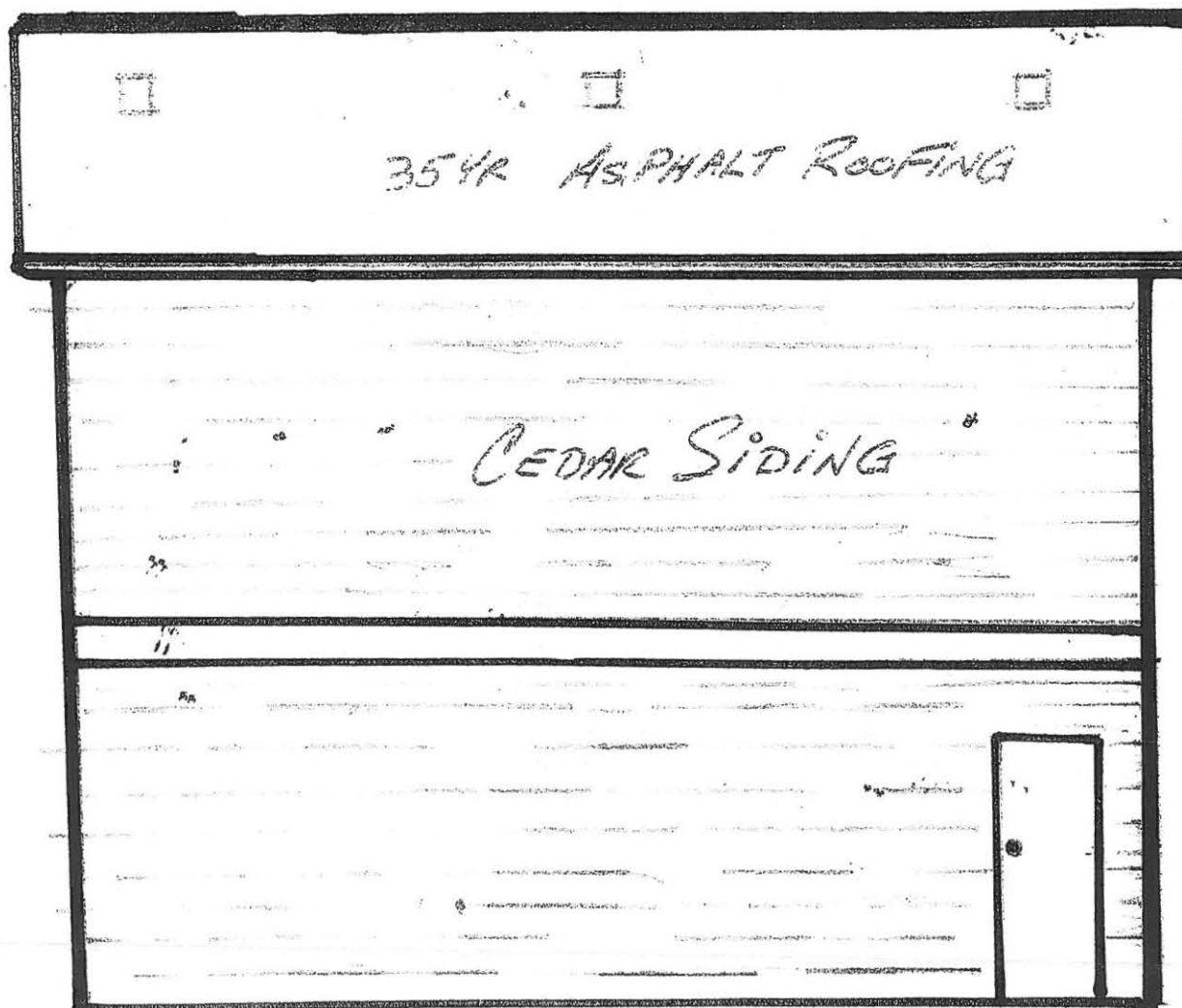


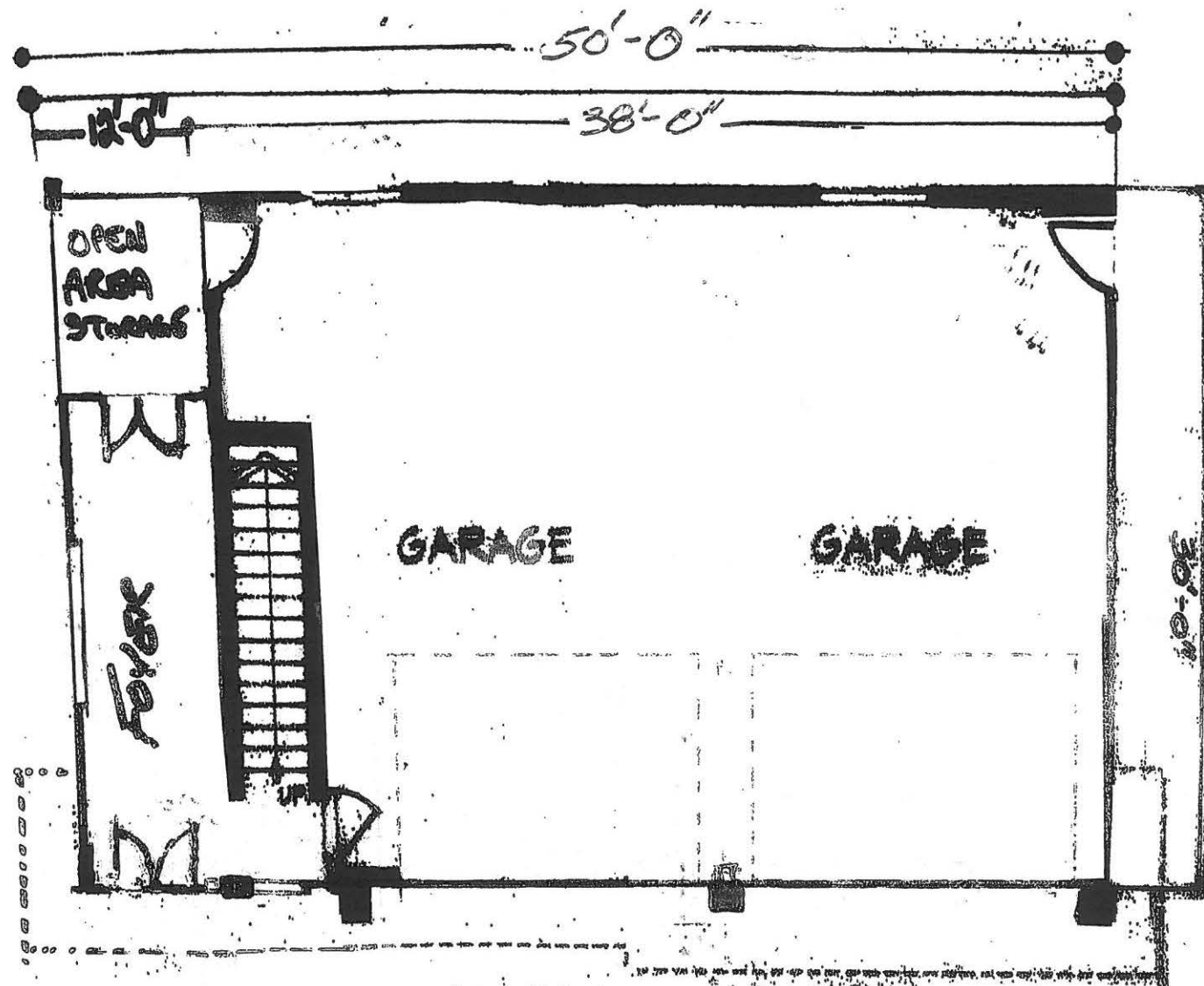
NORTH ELEVATION

WEST ELEVATION

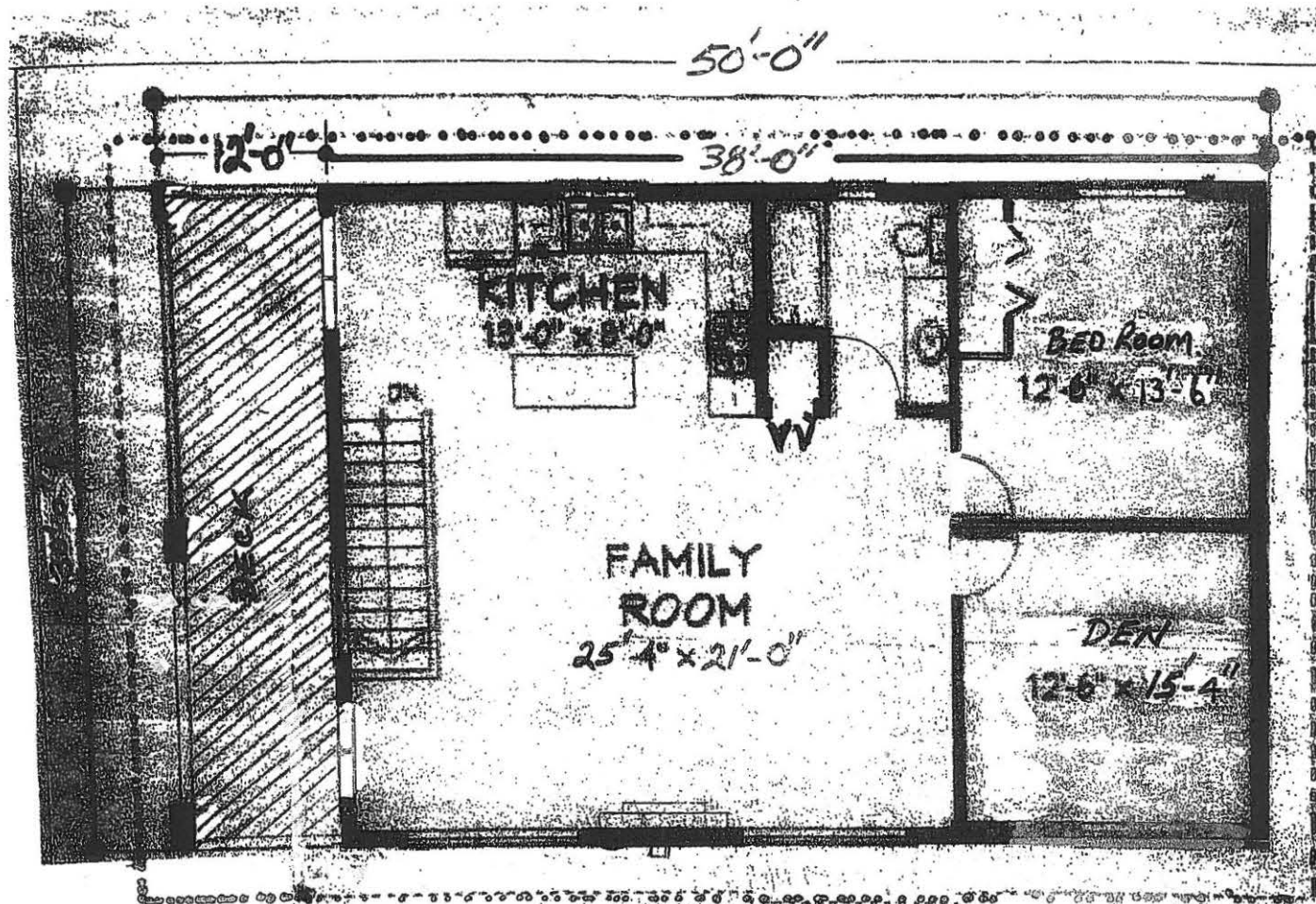


EAST ELAVATION

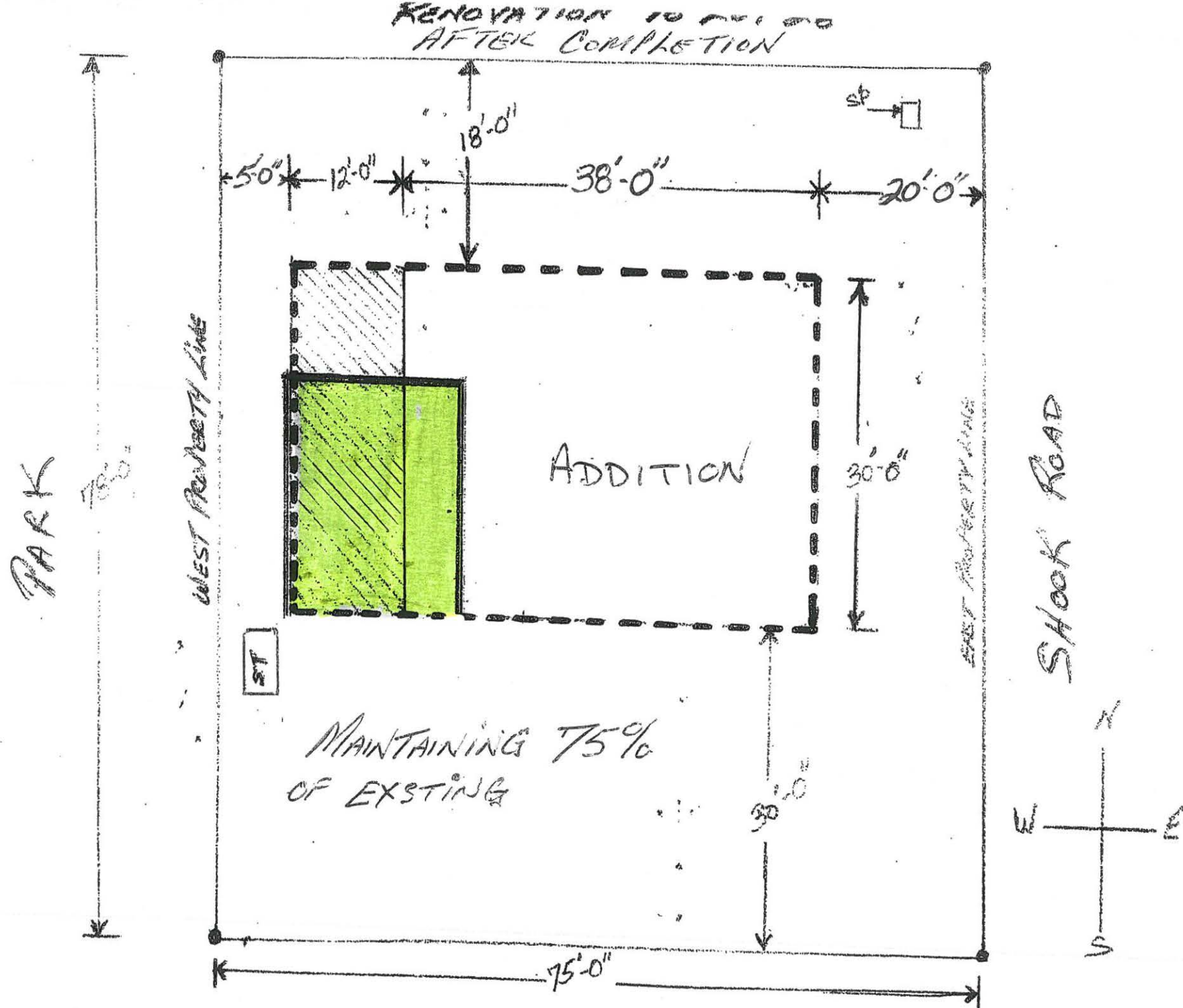


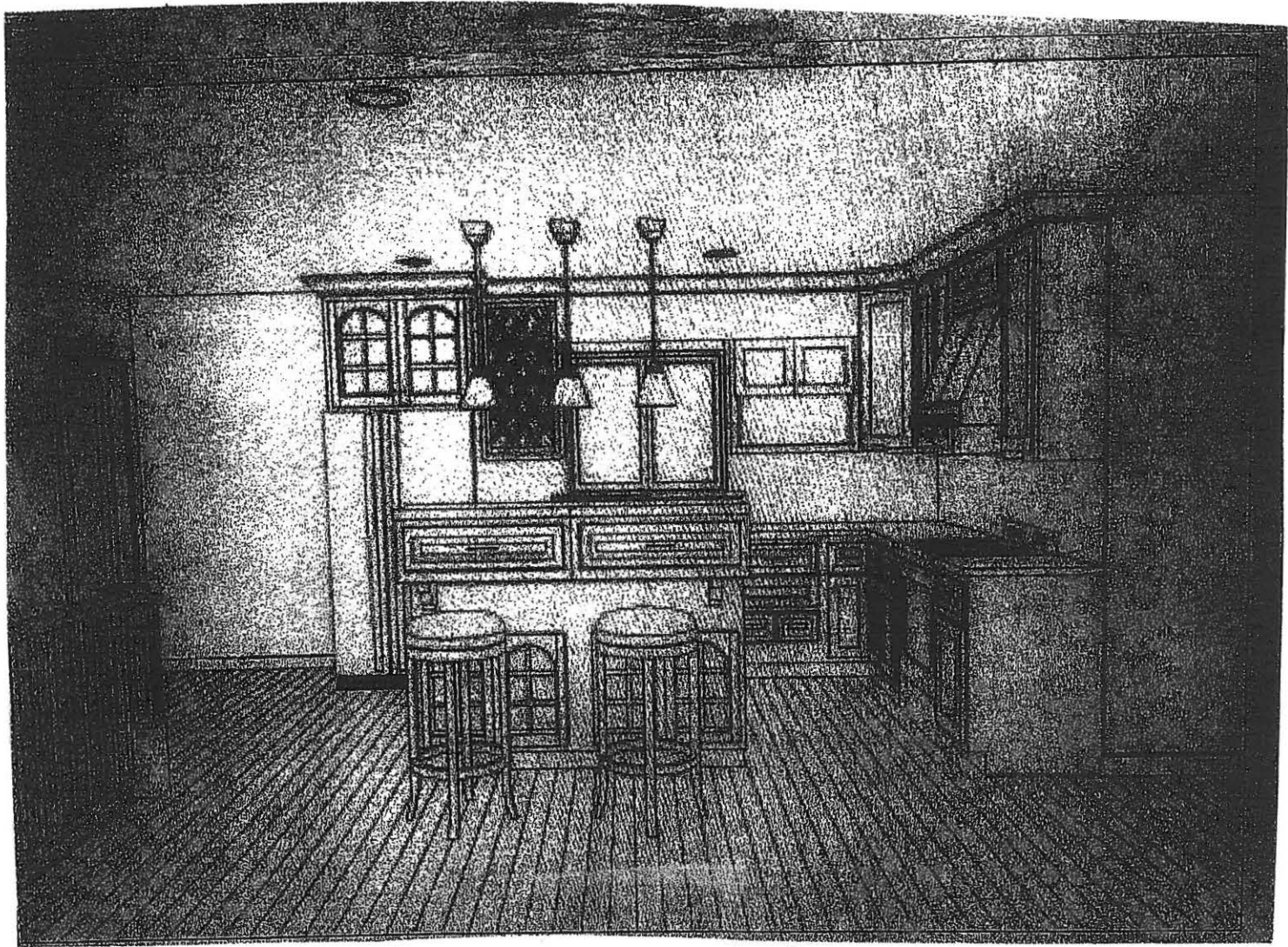


LOWER FLOOR PLAN



MAIN FLOOR PLAN





Construction / Renovation Details for lot 26

The following items are some of the construction details that will be used in the renovation process to lot 26,

Engineered approved drawings of renovation project

concrete foundation

2x6 framed wood construction

R20 wall insulation

R40 ceiling insulation

energy efficient low E vinyl windows

insulated garage doors

insulated entry doors

vapor barrier throughout building

6" bevel cedar siding on exterior

2x10 fascia boards

aluminum down pipes and gutters

35yr asphalt roofing

20yr vinyl decking

glass railings

energy efficient gas fire place

update of electrical meeting BC safety authority regulations

APPENDIX D

Excerpts of the Dewdney-Alouette Regional District Bylaw No. 202-1980 for Electoral Area B, C, D, & E (Rural 3 Zone)

(6) Notwithstanding the provisions of Section 5.06, 8.01 (1) and 14.01,

- a) Each of the following legally described properties is recognized as a leased-lot development lawfully existing at the time of adoption of this By-law, and this use shall be permitted to continue as a legally non-conforming use, provided that a maximum of 1 dwelling unit is located on each leased-lot, and that the total number of dwelling units in the leased-lot development does not exceed the maximum number specified for it below:

Lot 1 Block 17 Section 36 Township 17 Plan 18080 (Hatzic Lake Holdings Ltd.);
maximum of 28 dwelling units.

- b) Within a leased-lot development, replacement of any dwelling unit that is removed, demolished or accidentally destroyed shall be permitted within the same leased lot in conformity with siting and all other applicable regulations and legislation.

APPENDIX E

Excerpts of the Dewdney-Alouette Regional District Land Use and Subdivision Regulation Bylaw No. 559-1992

603 RURAL 3 (R-3)

Permitted Uses

(1) Subject to the provisions of this Bylaw, the following uses and no others are permitted in the R-3 zone:

Permitted Uses: Residential Use

References: Section 405

405 RESIDENTIAL USES

Residential Use

(1) A Residential Use shall be limited to one dwelling unit per parcel and accessory buildings, except as specifically provided for in the RST-2 zone. Accessory buildings specifically exclude a dwelling unit.

APPENDIX F

Excerpts of the Fraser Valley Regional District Official Community Plan for Electoral Area “G” Bylaw No. 0866, 2008

7.1 Hatzic Island

The recreational amenities and rural atmosphere of Hatzic Island have made it a popular recreation and residential location for many decades. However, the attraction of the area, combined with its particular development history and environmental attributes, have created a number of difficult challenges for the community:

- The average density of development on Hatzic Island is high for an unserviced rural area due to the presence of non-conforming urban-type residential developments, mobile home parks, and recreational resorts. By most standards, unserviced development at the density found on Hatzic Island is not sustainable. Redevelopment of several non-conforming developments is unlikely due to legislation, land ownership structures, and form of the development currently existing.
- On-site sewage disposal fields may be contaminating groundwater and water supplies in some locations.
- Hatzic Island is within the Fraser River floodplain. Even high points on the Island are two metres below the elevation of a 1:200 Fraser River flood. Locations on the island are also subject to frequent minor flooding from within the Hatzic watershed which cause the most disruption and damage in low lying areas such as Everglades Resort.
- Residents of the Island are dependent on one access road and bridge; access may be cut off during major Hatzic floods.

For these and other reasons, the land use plans and zoning bylaws since the late 1960's have generally designated the Island for low density rural uses. In doing so, they rendered a number of existing developments “nonconforming”.

This plan continues the objective of these previous plans to generally limit development to existing levels. However, it includes important new directions that may improve the situation in meaningful ways. This plan contains new policies regarding:

- a. legitimization of some non-conforming uses if current servicing, site development and flood mitigation standard can be met;
- b. investigation of public sewer and water services to address environmental and human health risks;
- c. the prospect of limited ‘country residential’-type subdivision if community water or sewer infrastructure is achieved; and,
- d. advocacy for infrastructure improvements to reduce flood hazards and enhance recreational values.

Non-conforming Uses

Occasionally, the adoption or amendment of a zoning bylaw will prohibit uses that were previously permitted. In these cases, lawfully existing uses established before the prohibiting bylaw are considered to be nonconforming, or 'grandfathered'. Rights surrounding lawfully non-conforming uses are set out in Section 911 of the Local Government Act (LGA). Section 911 allows lawfully established non-conforming uses to continue while eventually facilitating their elimination. The tension inherent in this purpose is obvious. Not surprisingly, a large and complex body of case law dealing with statutory nonconforming use has evolved which, from time to time, changes how the legislation is understood. It is essential to consider this case law when applying Section 911 in a particular instance.

Generally, Section 911 actively works towards conformance by preventing an increase in the scale of the use and limiting the duration of the use to the 'natural' life of the structure. In addition, nonconformance with zoning may depress the value of a property and increase difficulty in obtaining insurance, mortgages and financing. The net effect is to encourage replacement of the nonconforming use with one that conforms to the zoning bylaw.

However, in some instances the legal framework combined with practical considerations such as ownership structure and the nature of the use, leaves little or no expectation that conformity will be achieved, even in the long term. The result may be that a nonconforming use is permitted, and expected, to continue indefinitely but is still subject to the depressing affects of nonconforming status.

In these instances, nonconforming status may create uncertainty and stifle investment necessary for the maintenance of safe and healthy residences or neighbourhoods. It can become difficult to sell or transfer interests, achieve market value, and obtain mortgages or financing necessary for upgrades and repairs. As a result, developments may steadily degrade over time without any clear mechanism for renewal and replacement. Some of the lawfully nonconforming developments on Hatzic Island may fall into this category.

It is the policy of the Regional Board that:

7.1.1 Where the Regional Board considers that there is low likelihood of achieving conformity with zoning over time, the Board may treat lawfully non-conforming uses on Hatzic Island as Class II nonconformities under Section 5.7 of this Plan and rezone to reflect actual existing uses subject to:

- a. connection to a community water or sewer system, or where no public system is available, upgrade of on-site systems to meet acceptable standards;
- b. implementation of appropriate site development standards;
- c. no increase in density, scale or intensity of development;
- d. no increase in hazard or exposure to risk;
- e. ability to meet flood construction levels and setbacks; and,
- f. adequate access.

APPENDIX G

Excerpts of the Local Government Act Section 528-532 and Section 536-544

Division 14 — Non-conforming Use and Other Continuations

Non-conforming uses: authority to continue use

- 528** (1) Subject to this section, if, at the time a land use regulation bylaw is adopted,
- (a) land, or a building or other structure, to which that bylaw applies is lawfully used, and
 - (b) the use does not conform to the bylaw,

the use may be continued as a non-conforming use.

(2) If a non-conforming use authorized under subsection (1) is discontinued for a continuous period of 6 months, any subsequent use of the land, building or other structure becomes subject to the land use regulation bylaw.

(3) The use of land, a building or other structure, for seasonal uses or for agricultural purposes, is not discontinued as a result of normal seasonal or agricultural practices, including

- (a) seasonal, market or production cycles,
- (b) the control of disease or pests, or
- (c) the repair, replacement or installation of equipment to meet standards for the health or safety of people or animals.

(4) A building or other structure that is lawfully under construction at the time of the adoption of a land use regulation bylaw is deemed, for the purpose of this section,

- (a) to be a building or other structure existing at that time, and
- (b) to be then in use for its intended purpose as determined from the building permit authorizing its construction.

(5) If subsection (1) authorizes a non-conforming use of part of a building or other structure to continue, the whole of that building or other structure may be used for that non-conforming use.

Non-conforming structures: restrictions on maintenance, extension and alteration

- 529** (1) If the use and density of buildings and other structures conform to a land use regulation bylaw but

- (a) the siting, size or dimensions of a building or other structure constructed before the bylaw was adopted does not conform with the bylaw, or
- (b) the siting, size, dimensions or number of off-street parking or loading spaces constructed or provided before the bylaw was adopted does not conform with the bylaw,

the building or other structure or spaces may be maintained, extended or altered to the extent authorized by subsection (2).

(2) A building or other structure or spaces to which subsection (1) applies may be maintained, extended or altered only to the extent that

- (a) the repair, extension or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time the repair, extension or alteration was started, and
- (b) in the case of protected heritage property, the repair, extension or alteration is permitted or authorized in accordance with the provisions governing the heritage protection of the property.

Restrictions on increasing non-conforming use of land

530 In relation to land, section 528 [*non-conforming uses*] does not authorize the non-conforming use of land to be continued on a scale or to an extent or degree greater than that at the time of the adoption of the land use regulation bylaw.

Restrictions on alteration or addition to building or other structure

531 (1) Subject to this section, a structural alteration or addition must not be made in or to a building or other structure while a non-conforming use is continued in all or any part of it.

(2) Subsection (1) does not prohibit a structural alteration or addition that is required by an enactment or is permitted by a board of variance under section 542 (1) [*authority for variance or exemption to relieve hardship*].

(3) Subsection (1) does not apply to alterations or additions in or to a protected heritage property if the alteration or addition is authorized by a heritage alteration permit under section 617.

Restrictions on repair or reconstruction of non-conforming structures

532 (1) If a building or other structure, the use of which does not conform to the provisions of a land use regulation bylaw, is damaged or destroyed to the extent of 75% or more of its value above its foundations, as determined by the building inspector, the structure must not be repaired or reconstructed except for a conforming use in accordance with the bylaw.

(2) If the use of a building or other structure that is on land identified in a phased development agreement under Division 12 [*Phased Development Agreements*] complies with a zoning bylaw provision specified under section 516 (2) [*zoning rules for land subject to the agreement*] for the phased development agreement, subsection (1) of this section does not apply to the building or other structure while the phased development agreement is in effect, unless

(a) the provision has been repealed or amended, and

(b) either

(i) the developer has agreed in writing under section 516 (5) that the changes to the zoning bylaw apply, or

(ii) the changes to the zoning bylaw apply under section 516 (6) without the written agreement of the developer.

(3) Subsection (1) does not apply to repair or reconstruction of a protected heritage property if the repair or reconstruction is authorized by a heritage alteration permit under section 617.

Division 15 — Board of Variance

Requirement for board of variance

536 (1) A local government that has adopted a zoning bylaw must, by bylaw, establish a board of variance.

(2) A person is not eligible to be appointed to a board of variance if the person is

(a) a member of the local government or the advisory planning commission, or

(b) an officer or employee of the local government.

(3) Subject to subsections (4) and (5) and to the rules established under section 538 (2)

(b) (i) [*rules for joint board of variance*], an appointment to a board of variance is for a 3 year period.

(4) If no successor has been appointed at the end of the 3 year period referred to in subsection (3), the appointment continues until the time that a successor is appointed.

- (5) A local government may rescind an appointment to a board of variance at any time.
- (6) If a member of a board of variance ceases to hold office, the person's successor is to be appointed in the same manner as the member who ceased to hold office, and, until the appointment of the successor, the remaining members constitute the board of variance.
- (7) Members of a board of variance must not receive compensation for their services as members, but must be paid reasonable and necessary expenses that arise directly out of the performance of their duties.
- (8) A local government must provide in its annual budget for the necessary funds to pay for the costs of the board of variance.

Board of variance for municipality or regional district

- 537** (1) If the population of a municipality is 25 000 or less, the municipal board of variance is to consist of 3 persons appointed by the council.
- (2) If the population of a municipality is more than 25 000, the municipal board of variance is to consist of 5 persons appointed by the council.
- (3) A regional district board of variance is to consist of 3 persons appointed by the board.
- (4) The board of a regional district may establish one or more boards of variance for the regional district, but, if more than one board of variance is established, the bylaw establishing them must specify the area of the regional district over which each board of variance has jurisdiction and those areas must not overlap.

Joint board of variance

- 538** (1) Two or more local governments may satisfy the obligation under section 536 (1) *[requirement for board of variance]* by jointly establishing a board of variance by bylaw adopted by all participating local governments.
- (2) A bylaw under subsection (1) must
- (a) specify the area of jurisdiction for the board of variance, which may be all or part of the participating local governments, but must not overlap with the area of jurisdiction of any other board of variance, and
 - (b) establish rules for the following that apply in place of those established by sections 536 *[requirement for board of variance]* and 539 *[chair and procedures]*:
 - (i) appointment and removal of members of the board of variance;

(ii) appointment and removal of a chair of the board of variance.

(3) As exceptions to section 537 [*local board of variance*], the following apply to a board of variance established under this section:

(a) if a municipality is one of the participating local governments, the board of variance is to consist of

(i) 3 persons, if the population of the area of the jurisdiction of the board of variance is 25 000 or less, and

(ii) 5 persons, if the population of the area of the jurisdiction of the board of variance is more than 25 000;

(b) if a municipality is not one of the participating local governments, the board of variance is to consist of 3 persons.

Chair and procedures for board of variance

539 (1) The members of a board of variance must elect one of their number as chair.

(2) The chair may appoint a member of the board of variance as acting chair to preside in the absence of the chair.

(3) A bylaw establishing a board of variance must set out the procedures to be followed by the board of variance, including the manner in which appeals are to be brought and notices under section 541 [*notice of application for variance*] or 543 (2) [*notice of application in relation to early termination of land use contract*] are to be given.

(4) A board of variance must maintain a record of all its decisions and must ensure that the record is available for public inspection during regular office hours.

Application for variance or exemption to relieve hardship

540 A person may apply to a board of variance for an order under section 542 [*board powers on application*] if the person alleges that compliance with any of the following would cause the person hardship:

(a) a bylaw respecting

(i) the siting, size or dimensions of a building or other structure, or

(ii) the siting of a manufactured home in a manufactured home park;

(b) a subdivision servicing requirement under section 506 (1) (c) [*provision of water, sewer and other systems*] in an area zoned for agricultural or industrial use;

- (c) the prohibition of a structural alteration or addition under section 531 (1) *[restrictions on alteration or addition while non-conforming use continued]*;
- (d) a bylaw under section 8 (3) (c) *[fundamental powers — trees]* of the [Community Charter](#), other than a bylaw that has an effect referred to in section 50 (2) *[restrictions on authority — preventing all uses]* of that Act if the council has taken action under subsection (3) of that section to compensate or mitigate the hardship that is caused to the person.

Notice of application for variance

- 541** (1) If a person makes an application under section 540, the board of variance must notify all owners and tenants in occupation of
- (a) the land that is the subject of the application, and
 - (b) the land that is adjacent to land that is the subject of the application.
- (2) A notice under subsection (1) must state the subject matter of the application and the time and place where the application will be heard.
- (3) The obligation to give notice under subsection (1) is satisfied if the board of variance made a reasonable effort to mail or otherwise deliver the notice.

Board powers on application

- 542** (1) On an application under section 540, the board of variance may order that a minor variance be permitted from the requirements of the applicable bylaw, or that the applicant be exempted from section 531 (1) *[alteration or addition while non-conforming use continued]*, if the board of variance
- (a) has heard the applicant and any person notified under section 541,
 - (b) finds that undue hardship would be caused to the applicant if the bylaw or section 531 (1) is complied with, and
 - (c) is of the opinion that the variance or exemption does not do any of the following:
 - (i) result in inappropriate development of the site;
 - (ii) adversely affect the natural environment;
 - (iii) substantially affect the use and enjoyment of adjacent land;
 - (iv) vary permitted uses and densities under the applicable bylaw;
 - (v) defeat the intent of the bylaw.

(2) The board of variance must not make an order under subsection (1) that would do any of the following:

- (a) be in conflict with a covenant registered under section 219 of the *Land Title Act* or section 24A of the *Land Registry Act*, R.S.B.C. 1960, c. 208;
- (b) deal with a matter that is covered in a land use permit or covered in a land use contract;
- (c) deal with a matter that is covered by a phased development agreement under Division 12 [*Phased Development Agreements*];
- (d) deal with a flood plain specification under section 524 (3);
- (e) apply to a property
 - (i) for which an authorization for alterations is required under Part 15 [*Heritage Conservation*],
 - (ii) for which a heritage revitalization agreement under section 610 is in effect, or
 - (iii) that is scheduled under section 614 (3) (b) [*protected heritage property*] or contains a feature or characteristic identified under section 614 (3) (c) [*heritage value or character*].

(3) In relation to an order under subsection (1),

- (a) if the order sets a time within which the construction of the building, structure or manufactured home park must be completed and the construction is not completed within that time, or
- (b) if that construction is not substantially started within 2 years after the order was made, or within a longer or shorter time period established by the order,

the permission or exemption terminates and the bylaw or section 531 (1), as the case may be, applies.

(4) A decision of the board of variance under subsection (1) is final.

Exemption to relieve hardship from early termination of land use contract

543 (1) The owner of land subject to a land use contract that will be terminated by a bylaw adopted under section 548 [*early termination of land use contracts*] may apply to a board of variance for an order under subsection (5) of this section if

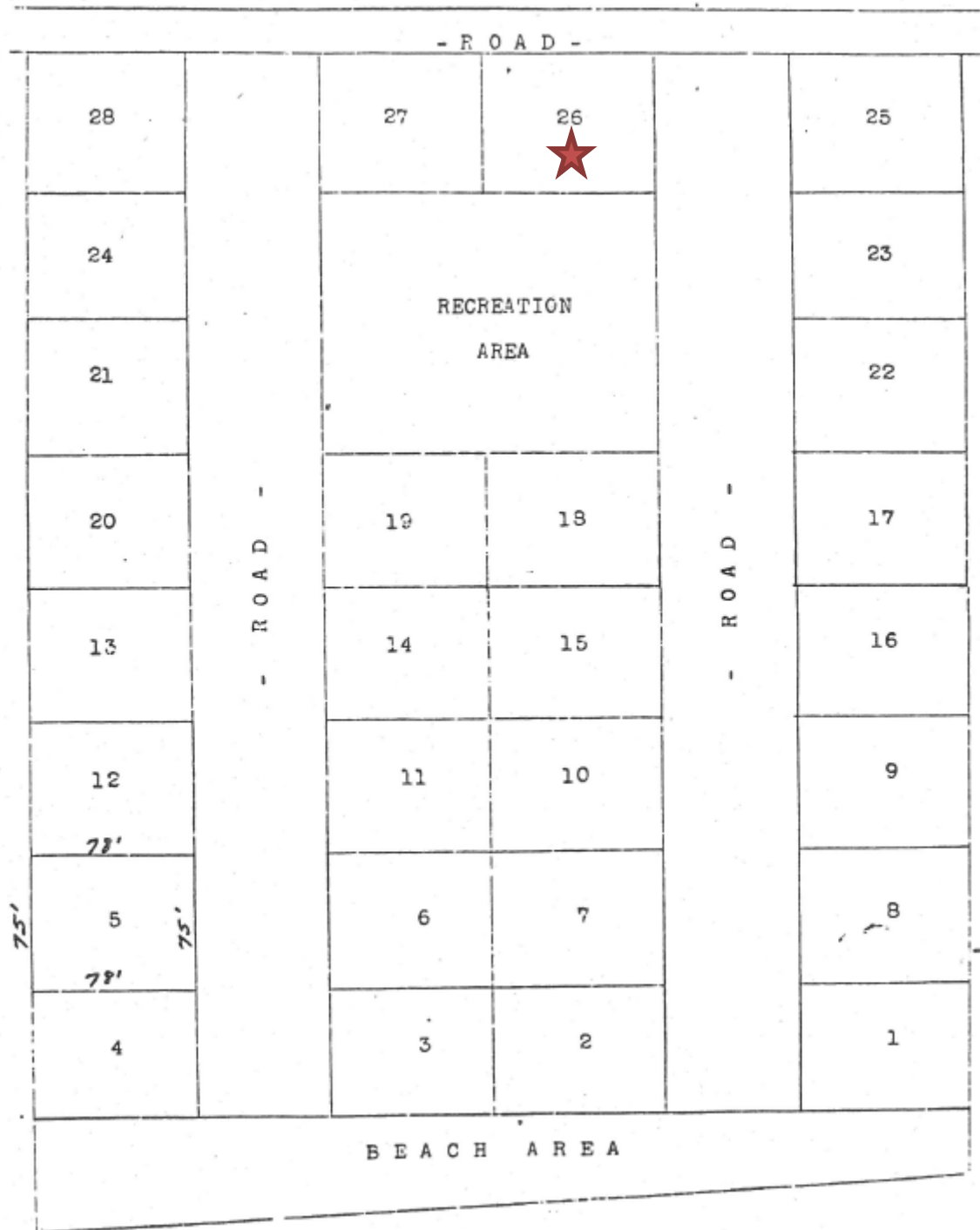
- (a) the owner alleges that the timing of the termination of the land use contract by the bylaw would cause the owner hardship, and

- (b) the application is received by the board of variance within 6 months after the adoption of the bylaw.
- (2) If an application is made under subsection (1), the board of variance must notify all owners and tenants in occupation of
 - (a) the land that is the subject of the application, and
 - (b) the land that is adjacent to land that is the subject of the application.
- (3) A notice under subsection (2) must state the subject matter of the application and the time and place where the application will be heard.
- (4) The obligation to give notice under subsection (2) must be considered satisfied if the board of variance made a reasonable effort to mail or otherwise deliver the notice.
- (5) On an application under subsection (1), the board of variance may order that, despite the termination of the land use contract and despite any zoning bylaw, the provisions of that land use contract continue to apply in relation to the applicant for a specified period of time ending no later than June 30, 2024, if the board of variance
 - (a) has heard the applicant, and
 - (b) finds that the timing of the termination of the land use contract by the bylaw would cause undue hardship to the applicant.
- (6) An order under subsection (5) does not run with the land.
- (7) The board of variance must make a decision on an application under subsection (1) within 6 months after the application is received by the board of variance.
- (8) A decision of the board of variance under subsection (5) is final.

Extent of damage to non-conforming use property

- 544** (1) A person may apply to a board of variance for an order under subsection (2) if the person alleges that the determination by a building inspector of the amount of damage under section 532 (1) *[end of non-conforming use protection if building of other structure is seriously damaged]* is in error.
- (2) On an application under subsection (1), the board of variance may set aside the determination of the building inspector and make the determination under section 532 (1) in its place.
- (3) The applicant or the local government may appeal a decision of the board of variance under subsection (2) to the Supreme Court.

APPENDIX H - USER LOT LAYOUT



APPENDIX I

FVRD Planning and Development Department
45950 Cheam Avenue
Chilliwack, BC
V2P 1N6

December 5, 2017

To whom it may concern

Re: Re-building/Renovations on Lot 26 - 8985 Shook Rd, Hatzic Lake, Mission B.C.

As an Owner and President of Hatzic Lake Association also a member of the HLA Building Committee, I am very pleased to give my full support for the new proposed plans for lot 26. This lot has been an eyesore on our entire community for years. As President and a Building Committee member I have reviewed the plans and feel that this planned re-build will be a great addition to our community.

Knowing the owner, Nadine Fedyk, we know that the quality and workmanship will meet all requirements of the FVRD and HLA building bylaws.

In the past the board has given their building approval on several lots located at 8985 Shook Road, Hatzic Lake (#1 #3, #4 #11) these new building improvements have greatly improved our entire community not only cosmetically but add a **safety** element to the entire community knowing that the FVRD has reviewed every step of the building / renovation process.

We trust the board makes the right decision and approves this rebuild, we are only trying to make our community better and **safer**, and not have run down residences which effect other neighbours.

If you have any questions or concerns, please contact me at any time.

Sincerely

G, Stuart

Hatzic Lake Association – President (HLA)
Hatzic Lake Association – Building Committee Member
Hatzic Lake Association - Grounds Committee Member

APPENDIX I

December 18, 2017

To Fraser Valley Regional District:

We write to offer our support to Mrs. Fedyk of 8985 Shook Rd. in her efforts to build a carriage house at the same address.

Housing on Hatzic Island has been stymied for many years due mainly to poor zoning. As a result there are many residences on the island that require substantial improvements however obtaining a building permit is arduous if not impossible.

The addition of the Fedyk carriage house can only improve the overall appearance of the property while at the same time increase the appeal of the neighbourhood.

We are completely in agreement with this undertaking and truly hope this starts a groundswell of activity in the area.

Yours truly

Jim Kerr

APPENDIX I

Ray Horton

► **Fraser Valley Regional District**

To Whom It May Concern

Please accept this letter in support of the proposed carriage house construction for Lot #26 at 8985 Shook Rd.

The current house on this lot has been in a state of significant disrepair for a number of years. As one of the homes bordering along Shook Road, this house in its current dilapidated condition contributes to lower property values for those in our community as well as for those neighbours surrounding and living across from the community of Dogpatch.

As a member of Dogpatch for 14 years, I have witnessed some exemplary examples of home improvement and renovations of our older homes in accordance with district bylaws that not only brings them in line with current regulations, but also increases everyone's property value, the tax base for the district and makes for a safer community.

The proposal from Mrs. Fedyk, while offering a more welcoming structure, will continue this trend of improvement, quality of construction and the meeting of current district bylaws within Dogpatch.

Thank you for your consideration.

Ray Horton
Dogpatch Homeowner
12/9/2017

Subject: FW: 26-8985 Shook Road

From: Bob Kirby

Date: December 11, 2017 at 1:04:45 PM PST

Subject: 26-8985 Shook Road

To whom it may concern,

I have been a resident on Hatzic Island for the last 25 years and currently own a property located at 9341 Shook Road. It has come to my attention that my former neighbor Nadine Fedyk is looking to build a new home located at 8985 Shook Road and by doing so clean up the lot which is an eyesore to the entire community. In addition to that the property has become home to a number of rodents affecting the entire community.

I would like to put it on record that I fully support Nadine with her intentions for this property and know like she has proven in the past she will do a very professional job on her property.

Sincerely,

Robert Kirby

CONFIDENTIALITY NOTICE

NOTICE: This message is intended for the use of the individual or entity to which it is addressed and may contain information that is confidential, privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any printing, copying, dissemination, distribution, disclosure or forwarding of this communication is strictly prohibited. If you have received this communication in error, please contact the sender immediately and delete it from your system. Thank You.

APPENDIX I

Randy/Karen Herber

Fraser Valley Regional District

To Whom It May Concern

Please accept this letter in support of the proposed carriage house construction for Lot #26 at 8985 Shook Rd.

Having upgraded the dwelling on our own lot we encourage others to do the same. The houses within our development are typically non-conforming to current standards and are not being adequately maintained. Some are quite disgusting as the property being considered for reconstruction by Ms Fedyk. The Herber's will support this and any other proposal brought forward that will improve our community.

The Fedyk's have historically upgraded a few homes in the area and have done a fine job of doing so. We are confident the same will happen here.

Thank you for your consideration.

Randy/Karen Herber
Dogpatch Homeowner
12/9/2017

APPENDIX I

December 10th 2017

To FVRD

My resident is right across the street from Mrs Fedyk's house, over the past years this home has been slowly getting more in disrepair, We take pride in our community, and also keep our home in good condition, We very much support Mrs Fedyk venture on a new building, This will improve not only the look for the overall community but also may eliminate any rodents ect that currently live on the premises.

Sincerely

Shook Road Mission BC

APPENDIX I

December 9th 2017

To Whom it may concern

I support Nadine Fedyk in her quest to rebuild a new home on lot 26 located in Dogpatch 8985 Shook Rd.

The current house is a unbelievable mess and is a disgrace to the area. I hope one day that the FVRD can make some changes to the area to allow projects such as theirs to make some improvements.

Thank You

Subject:

FW: proposed construction on lot#26 at 8985 Shook Road

From: robert lachnit

Sent: December 12, 2017 9:01:42 AM

To: Nadine Fedyk

Subject: Re: proposed construction on lot#26 at 8985 Shook Road

To Whom it may concern,

I support the proposed construction suggested by Nadine Fedyk on lot 26. The existing building is in disrepair and is not safe for anyone entering the property. Our Community has endeavoured to make improvements to each of their properties, improving safety and conditions for all of us so we can be proud of this Community to enjoy and call home. This property has not been attended to for quite some time and is an eyesore to our Community and those visiting. It has a detrimental effect on our property values within our Community and the surrounding area as prospective buyers become concerned when they see properties deteriorating and not addressed.

Nadine Fedyk is motivated to continue improving our Community with a building that meets our current district bylaws, and I am encouraged that this situation will be addressed.

Thank you for your attention on this matter.

Robert Lachnit

From: Don Turner [<mailto:spyglassdon35@hotmail.com>]

Sent: Tuesday, March 27, 2018 4:51 PM

To: Jaime Schween

Subject: File No: 0388-30-2018-775.02150.026 (Application to the Board of Variance)

We are in receipt of your letter dated March 15, 2018 concerning property #26-8985 Shook Road and wish to respond herein.

My wife and I own a neighbouring property at 9011 Shook Road and are in full agreement with the request to make structural alterations to the above noted property.

Should further information be required, we can be contacted as follows:

Don and Janis Turner
9011 Shook Road V2V 7M8
604-826-5115

Sent from [Mail](#) for Windows 10