

To: CAO for the Electoral Area Services Committee

Date: 2019-07-09

From: Julie Mundy, Planning Technician

File No: 3090-20 2019-21

Subject: Application for Development Variance Permit 2019-21 to reduce the required lot line setbacks and to increase the allowable site coverage for residential structures at 36072 Shore Road, Electoral Area G

RECOMMENDATION

THAT the Fraser Valley Regional District Board issue Development Variance Permit 2019-21 for 36072 Shore Road, Electoral Area G, to reduce the rear and exterior lot line setbacks from 6.0 metres to 0.0 metres to authorize a portion of the existing residential decks and to increase the allowable site coverage from 30% to 36% to facilitate the construction of a detached garage, subject to consideration of any comments or concerns raised by the public.

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

BACKGROUND

The property owners have applied for a Development Variance Permit (DVP) to reduce the required rear and exterior lot line setbacks for existing residential structures, and to increase the maximum allowable site coverage as outlined in *Dewdney-Alouette Regional District Land Use and Subdivision Regulation Bylaw No. 559-1992*. The existing house was constructed before FVRD was responsible for issuing building permits and is partially located within a provincial road right of way.

PROPERTY DETAILS

Electoral Area	G		
Address	36072 Shore Road		
PID	007-687-079		
Folio	775.02593.070		
Lot Size	64.5' X 120' (7,740 square feet)		
Owner	Joseph Menard / Kelly Shannon	Agent	n/a
Current Zoning	Rural 1 (R1)	Proposed Zoning	No change
Current OCP	Rural (R)	Proposed OCP	No change
Current Use	Residential	Proposed Use	No change

Development Permit Areas	2-G Riparian Areas
Hazards	-
Agricultural Land Reserve	No

ADJACENT ZONING & LAND USES

North	^	Shore Road (unconstructed ROW) & Rural 1 (R1); Residential
East	>	Shore Road (unconstructed ROW) & Rural 1 (R1); Residential
West	<	Rural 1 (R1); Easement & Hatzic Lake
South	v	Rural 1 (R1); Single-family Residence

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

The subject property is located at the end of Shore Road, which terminates in two unconstructed road rights of ways on the north and east property lines. There is currently a house on the property which was constructed in 1967 and several decks which were constructed without permits at an unknown time by a previous property owner. The current owners purchased the property in January 2019 and obtained a legal survey to determine the property boundaries. The survey revealed that the eaves of the house and two decks are located over the legal property boundary. The eaves and deck on north side of the property encroach into the Shore Road right-of-way. Refer to Appendix A.

In an effort to bring the house into compliance with FVRD zoning regulations, the property owners have applied for a development variance permit to reduce the required lot line setbacks for the house and existing decks. The owners have also sought approval from the Ministry of Transportation and Infrastructure (MOTI) for the existing structures.

Variance Request DVP 2019-21

Lot Line Setback

The applicant is seeking to reduce the exterior and rear lot line setbacks from 6.0 metres to 0.0 metres to bring a portion of the existing residential structures into compliance with FVRD zoning regulations. The reduced setback will authorise the existing house and deck structures to be located within the rear and exterior side setbacks. It will not enable further construction with a 0.0 metre lot line setback.

Rear & Exterior Lot Line Setback	
Required (zoning)	6.0 metres (19.7 feet)
Proposed	0.0 metres (0.0 feet)
Requested Variance	6.0 metres (19.7 feet)

Lot Coverage Requirement

The property is zoned Rural 1 (R-1) under Zoning Bylaw 559, and is permitted to have 30% of the parcel area covered by buildings and structures, which includes decks. At present, the lot is covered by 1331 feet² of house and 728 feet² of decks, comprising 26.6% of the parcel area.

The applicant is seeking to increase the permitted lot coverage from 30% to 36% to enable the construction of a detached garage with dimensions of 18 feet x 30 feet (540 feet² or 50.1 m²).

Site Coverage (area)		% of Site Area (7740 feet²)	
House	1331 feet ²	123.6 m ²	17.2%
Decks	728 feet ²	67.6 m ²	9.4%
Current total	2059 feet²	191.3 m²	26.6%
Future garage	540 feet ²	50.1 m ²	7%
Proposed total	2599 feet²	241.4 m²	33.6%*

* The applicant has requested lot coverage of 36% to account for any potential measurement errors.

Applicant Rationale

Since acquiring the property, the owners have been working with FVRD and MOTI to resolve the siting and lot coverage concerns on their property. The applicant has removed approximately 280 square feet of deck in order to reduce the existing lot coverage, and to make room for the proposed garage. The applicants advise that they wish to keep the deck on the north side of the property as they feel it adds character and curb appeal to the house. See photos in Appendix B. The existing decks are built of a drip-through wooden surface that allows precipitation to reach the ground, and helps to minimize any changes to ground water infiltration. Additionally, the applicant advises that the garage will be built to match the aesthetics of the house, and will not impact the septic field.

Zoning Bylaw Review

In Zoning Bylaw 559, decks are included in the lot coverage calculation. In other FVRD zoning bylaws, decks are excluded from the lot coverage calculation. If the decks were excluded from site coverage calculation in Zoning Bylaw 559, the proposal to construct a garage would adhere to site coverage requirements. A comprehensive review of all zoning bylaw in the Electoral Areas is currently underway. This review includes creating a consistent approach to site coverage across all FVRD Electoral Areas.

Ministry of Transportation & Infrastructure Requirements

MOTI has issued a Highway Encroachment permit to allow the property owner to use and maintain the wooden deck that encroaches into Shore Road. See Appendix C. The permit is valid only for the existing structure and does not allow the existing works to be expanded in any way. The permit also states that if for any reason the deck is destroyed and needs to be rebuilt, it must be built within the property lines. MOTI has indicated there are no plans to widen the road; however, they cannot guarantee future work will not occur. The MOTI permit may be cancelled at any time at the discretion of the Minister. If the permit is cancelled, the property owners are required to remove all structures from within the right of way within 90 days of receiving notice.

Building Permit Requirements

Due to the impermanence of the MOTI permit, FVRD is not prepared to issue a building permit for structures encroaching over the property line. No building permit will be issued for the decks in their current form. If the decks are destroyed, the proposed lot line setback of 0.0 metres would allow the property owners to apply for a building permit to rebuild the decks within the lot lines.

The property owners are working with FVRD to ensure all new construction and renovations are completed in accordance with FVRD regulations. They have applied for two building permits for works unrelated to the variance, and will apply for an additional permit for the proposed garage pending the outcome of the DVP. The building department will review the construction plans to ensure all BC Building Code requirements are met. The proposed garage will be sited to meet all required property line setbacks.

Neighbourhood Notification and Input

All property owners within 30 metres of the property will be notified by FVRD of the Development Variance Permit application and will be given the opportunity to provide written comments or to attend the Board meeting to state their comments. FVRD staff encouraged the applicant to advise neighbouring property owners and residents of the requested variance in advance of the mail-out notification. To date, a petition with four (4) signatures of support from adjacent property owners has been received.

COST

The application fee of \$350 has been paid by the applicant.

CONCLUSION

No health and safety concerns have been identified in relation to the proposed variance, and the proposed works are not anticipated to adversely impact neighbouring properties. MOTI has issued a Highway Encroachment Permit granting the right to use and maintain the structures that encroach into

Shore Road. Additionally, signatures of support have been received from 4 neighbouring properties. Staff recommend that the FVRD Board issue Development Variance Permit 2019-21 to reduce the setback requirements from the rear and exterior lot lines, and to increase the allowable site coverage for 36072 Shore Road.

Option 1 – Issue (Staff Recommendation)

Staff recommend that the Fraser Valley Regional District Board issue Development Variance Permit 2019-21 for 36072 Shore Road, Electoral Area G to reduce the rear and exterior lot line setbacks from 6 metres to 0.0 metres for existing residential decks, and to increase the permitted lot coverage from 30% to 36% to facilitate the future construction of a detached garage, subject to the issuance of a Ministry of Transportation and Infrastructure Highway Encroachment Permit, and subject to consideration of any comments or concerns raised by the public.

Option 2 – Refuse

If the Board wishes to refuse the application, the following motion would be appropriate:

MOTION: THAT the Fraser Valley Regional District Board refuse Development Variance Permit 2019-21 for the property at 36072 Shore Road, Electoral Area G.

Option 3 – Refer to Staff

If the Board wishes to refer the application back to staff to address outstanding issues, the following motion would be appropriate:

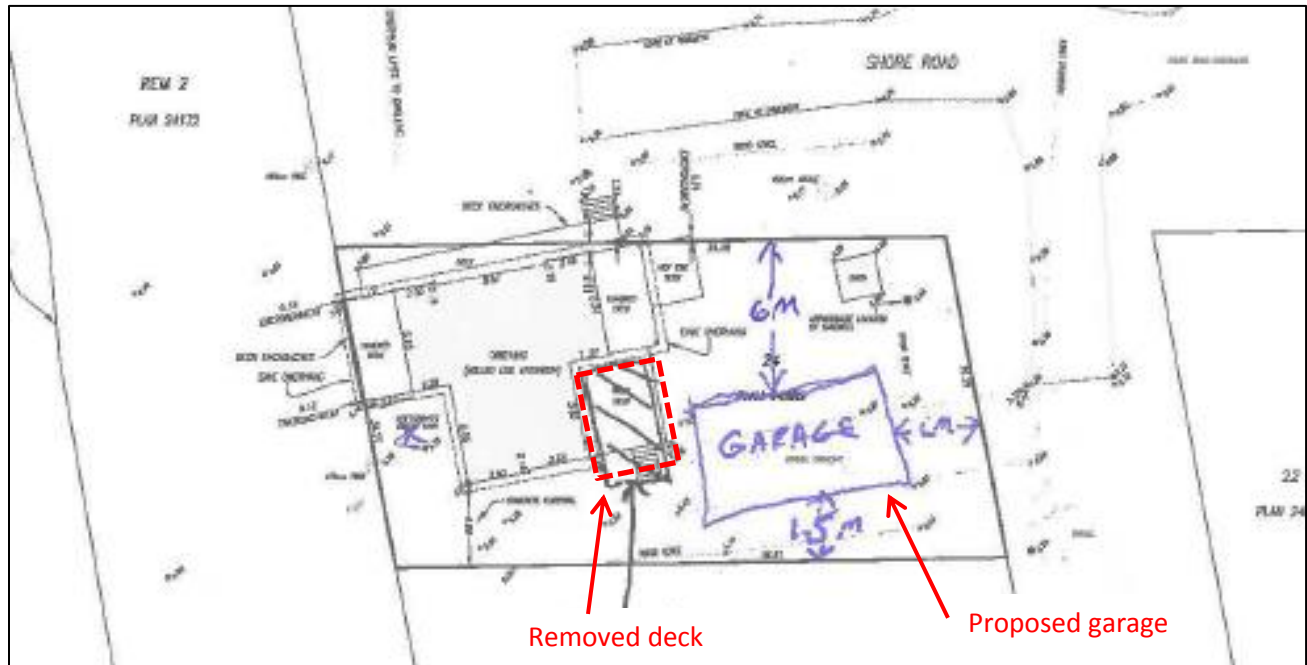
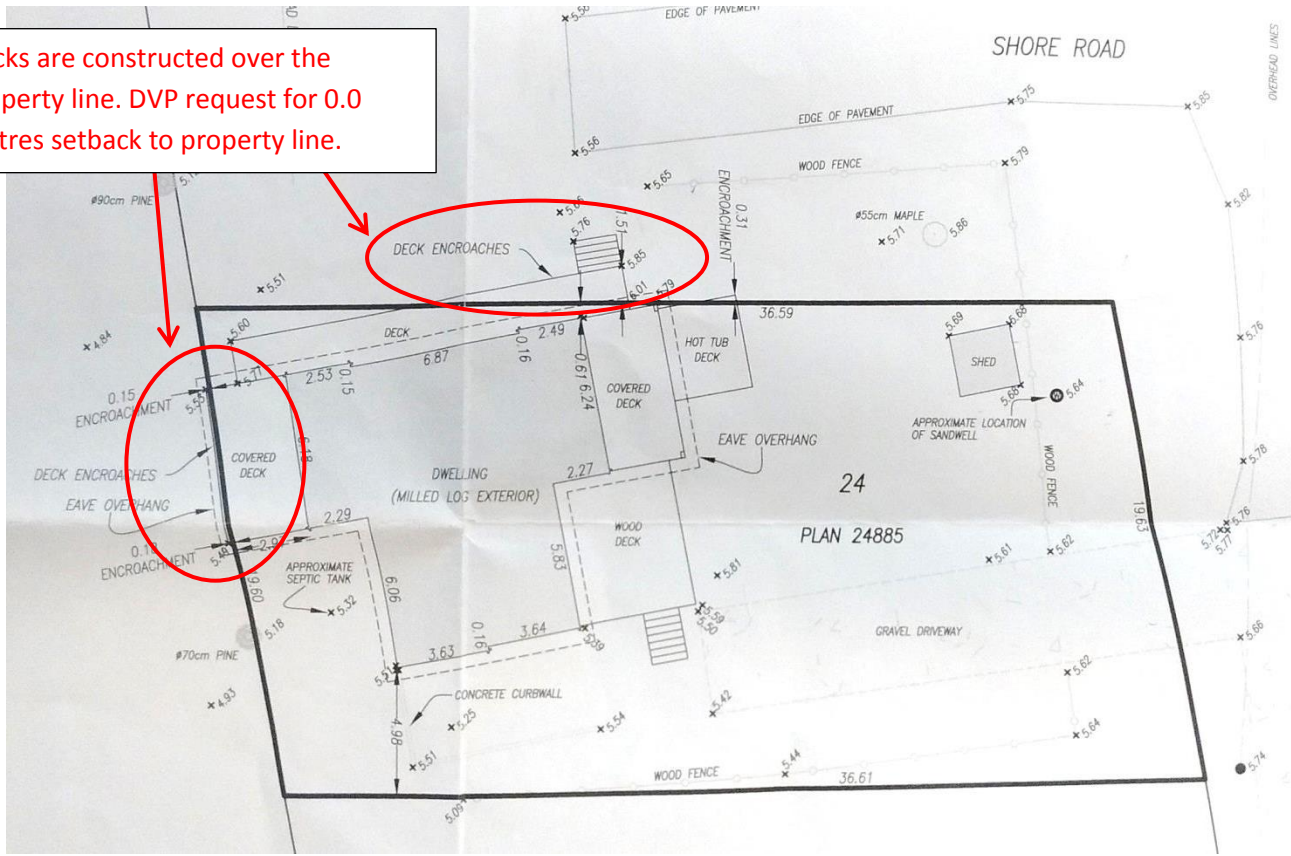
MOTION: THAT the Fraser Valley Regional District Board refer the application for Development Variance Permit 2019-21 for the property at 36072 Shore Road, Electoral Area G to FVRD Staff.

COMMENTS BY:

Graham Daneluz, Deputy Director of Planning & Development:	reviewed and supported
Margaret Thornton, Director of Planning & Development:	Not available for comment
Mike Veenbaas, Director of Financial Services:	Not available for comment
Jennifer Kinneman, Acting Chief Administrative Officer:	Reviewed and supported.

Appendix A – Site Plan

Decks are constructed over the property line. DVP request for 0.0 metres setback to property line.



Appendix B – Property Listing Photos





Appendix C – MOTI Permit



BRITISH
COLUMBIA

Ministry of Transportation
and Infrastructure

Permit/File Number: 2019-03652

Office: Chilliwack Area Office

PERMIT TO AUTHORIZE EXISTING STRUCTURES CONSTRUCTED WITHIN THE RIGHT-OF-WAY OF A PROVINCIAL PUBLIC HIGHWAY

PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE
MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE
NISGA'A FINAL AGREEMENT ACT.

BETWEEN:

The Minister of Transportation and Infrastructure

Chilliwack Area Office
45890 Victoria Avenue
Chilliwack, BC V2P 2T1
Canada

("The Minister")

AND:

Joseph Menard

36072 Shore Road
Mission BC, V2V 4J1
Canada

("The Permittee")

WHEREAS:

A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;

B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

To use and maintain the structure comprising of an existing wooden deck, encroaching into shore Road in so far as they relate to the use of that portion (the "Encroachment Area") of the public highway, described as and located at as shown on the plan prepared by Wade and Associates British Columbia Surveyor certified correct on the Jan 19 , 2019, attached hereto as Schedule A. The structure is part of a legal lot described as (the "Property") adjacent to the Encroachment Area.

C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

1. Except to the extent permitted herein, the Permittee will ensure that the Structure at all times conforms with all legislation applicable to the Structure with respect to the construction and maintenance of the Structure and all specifications by regulatory bodies having jurisdiction over the Structure.
2. The Regional Director, as appointed from time to time by the Minister, having jurisdiction with respect to the Encroachment Area, or such person as the Minister may from time to time designate must have full and free access at any and all times to inspect the Structure or for such other purposes as the Regional Director may consider necessary.
3. Where the Structure comes in contact with any bridge, culvert, ditch or other existing work (the "Existing Works") the Permittee will ensure that the Structure is properly maintained and supported in such manner as not to interfere with the proper functions of the Existing Works during the existence of the Structure.
4. The Permittee will at all times take every possible precaution to ensure the safety of the public, and if requested by the Regional Director ensure that the Structure and all excavations, materials, or other obstructions in connection with the Structure are



fenced, illuminated, and guarded.

5. The Permittee acknowledges that this Permit is granted only for such times as the Encroachment Area is within the jurisdiction of the Minister. This permit must not be construed as being granted for all time, and does not vest in the Permittee any right, title, or interest in or to the Encroachment Area. If the Encroachment Area becomes included within an incorporated municipality or city, this Permit is terminated unless the Highway on which the Structure is located is classified as an Arterial Highway pursuant to Section 45 of the Transportation Act.
6. This Permit may be cancelled at any time without recourse at the discretion of the Regional Director by 30 days notice in writing in the manner herein provided. Not later than 90 days after the date on which this notice has been given by or on behalf of the Minister, the Permittee must ensure that all work has been completed in connection the removal, moving or alteration of the structure in the manner required by any notice. All costs of removing, moving or altering the Structure must be borne by the Permittee.
7. Where any public works are contemplated the Permittee will cooperate with any person designated by the Regional Director in connection with any construction, extension, alteration or improvement of the public works involving the Encroachment Area.
8. The Permittee acknowledges that the Minister and any employees, agents or contractors of the Minister will not be responsible for any damage to the Structure or any property of the Permittee and the Permittee hereby expressly waives any claim for damages and forever releases and discharges all such persons with respect thereto.
9. The permission herein granted to the Permittee will be in force only during such time as the Structure is used, maintained and owned by the Permittee in strict compliance with this Permit. The Permittee will notify the Minister if the Property is offered for sale and inform any purchasers of the Property of this Permit prior to sale. The Permittee will remain liable to the Minister hereunder until such time as a subsequent permittee has agreed to assume the same liabilities and obligations with respect to the Structure.
10. This Permit is valid only for the Structure as described herein. The Permittee acknowledges that routine maintenance of the Structure is permitted but the Structure must not be expanded, increased, or its use changed in any way except as provided for in section 4 of this permit.
11. The Permittee will provide:
 - (a) the location of the Structure in relation to the Encroachment Area and the Property on Schedule A; and
 - (b) a written description of the Structure both in form and content satisfactory to the Regional Director, Ministry of Transportation and Infrastructure for the Region in which the Structure is located.
12. The attached plan, indicated as Schedule A, showing location or position of the Structure constitutes a part of this Permit and any change without prior consent of the Regional Director will forthwith render this Permit terminated subject to section 18 of this Permit.
13. The Permittee will notify the Regional Director of any damage done to the Structure. If in the opinion of the Regional Director the Structure is destroyed or damaged such that reconstruction within the encroachment area is unwarranted this permit is terminated. The Structure must not be replaced or reconstructed on the Highway or in the Encroachment Area.
14. The Permittee shall indemnify and save harmless the Ministry, its agents and employees, from and against all claims, liabilities, demands, losses, damages, costs and expenses, fines, penalties, assessments and levies made against or incurred, suffered or sustained by the Ministry, its agents and employees, or any of them at any time or times, whether before or after the expiration or termination of this permit, where the same or any of them are based upon or arise out of or from anything done or omitted to be done by the Permittee, its employees, agents or Subcontractors, in connection with the permit.
15. The Permittee will not interfere with any Highway or public works without separate written permission issued by the Regional Director.
16. All notices required to be given hereunder by the Minister will be effectively given if sent by mail to the address of the Permittee shown below and must be deemed to have been given at 12:00 noon on the third day after mailing. Notices to be given to the Minister by the Permittee will be effectively given if delivered to the Regional Director and must be effectively given upon delivery.
17. No termination or cancellation of this Permit will relieve or abate the obligations of the Permittee contained herein arising prior to such termination or cancellation all of which must survive the termination or cancellation of the Permit and must constitute continuing obligations of the Permittee.
18. No variation or alteration of the Permit will be effective unless in writing signed by or with the authority of the Minister.
19. The Permittee shall obtain and maintain during the term of this Permit and at the Permittee's own expense, liability insurance against third party claims arising as a result of the Permittee's possession, use, control and/or custody of the Encroachment Area shown in Schedule A.



Such liability insurance shall have coverage limits of not less than ONE MILLION DOLLARS (\$1,000,000) for bodily injury, including death, and property damage and shall be endorsed as follows:

It is understood and agreed that Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure, together with the employees, agents and servants of the Minister, hereinafter referred to as the Additional Named Insured, is added as an Additional Named Insured.

The policy shall contain a cross liability clause and a clause giving notice of cancellation or material alteration to the Minister.

The Permittee shall submit evidence satisfactory to the Minister that the above insurance has been obtained and remains in force and effect.

20. If for any reason the deck is destroyed and needs to be rebuilt it must be built within the property lines. The permit will not be renewed for any reason.
21. Any reference to a party includes heirs, executors, administrators and assigns.

The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Chilliwack, British Columbia, this 26 day of June, 2019

On Behalf of the Minister

Appendix D – Petition of Support

REQUEST FOR DEVELOPMENT VARIANCE PERMIT


36072 SHORE ROAD, MISSION BC.

We wish to build a garage with covered parking on the side of it. The current 30% rule of buildings to lot size does not allow for what we wish to build. We are seeking 38%. This will allow us to build a 1.5 car garage – 18' wide by 30' long with an 8' ~~covered carport on the side~~. It will be built to match the house aesthetics and will be pleasing to the eye. Location will be on the south side of the property where the driveway currently is.

We will be removing the 16'x19' deck at the front south side of the house to allow for space to build the garage. We wish to keep the long deck on the north side of the house as we feel it adds character and curb appeal to the home.

The FVRD has requested we get approval of this request from our neighbours. Thank you in advance for your support. We look forward to being your neighbours! Kelly & Joe

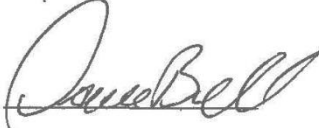
36080 Shore Rd

Name: CHRIS OGIERMAN Approved Signature 

36071 Shore Rd

Name: JULIAN CHRISTENSEN Approved Signature 

⁹²
36087 Shore Rd

Name: DAVE BELL Approved Signature 

⁵²
36092 Shore Rd

Name: Jennifer Bomer Approved Signature 