

To: CAO for the Electoral Area Services Committee

Date: 2019-11-14

From: Julie Mundy, Planning Technician

File No: 3090-20 2019-29

Subject: Application for Development Variance Permit 2019-29 to reduce the interior side setback for an accessory building at 46594 Chilliwack Lake Road, Electoral Area E

RECOMMENDATION

THAT the Fraser Valley Regional District (FVRD) Board issue Development Variance Permit 2019-29 for 46594 Chilliwack Lake Road, to reduce the side setback from 7.6 metres (25 feet) to 1.0 metres (3.3 feet), clear to sky, to authorize existing additions to an accessory building, subject to consideration of any comments or concerns raised by the public

AND THAT the Fraser Valley Regional District Authorize its signatories to execute all legal instruments associated with this application.

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

BACKGROUND

The property owner has applied for a Development Variance Permit to reduce the side lot line setback for already constructed additions to an accessory building. The additions were constructed without building permits, and the property owner is now trying to clean up the property and legitimize the construction. The property is within Electoral Area E and is subject to Zoning Bylaw 66.

This application was on the October EASC agenda, where it was referred back to staff for further consideration. The applicant has since offered a covenant which restricts the uses in the accessory building to residential storage, parking, and hobby uses.

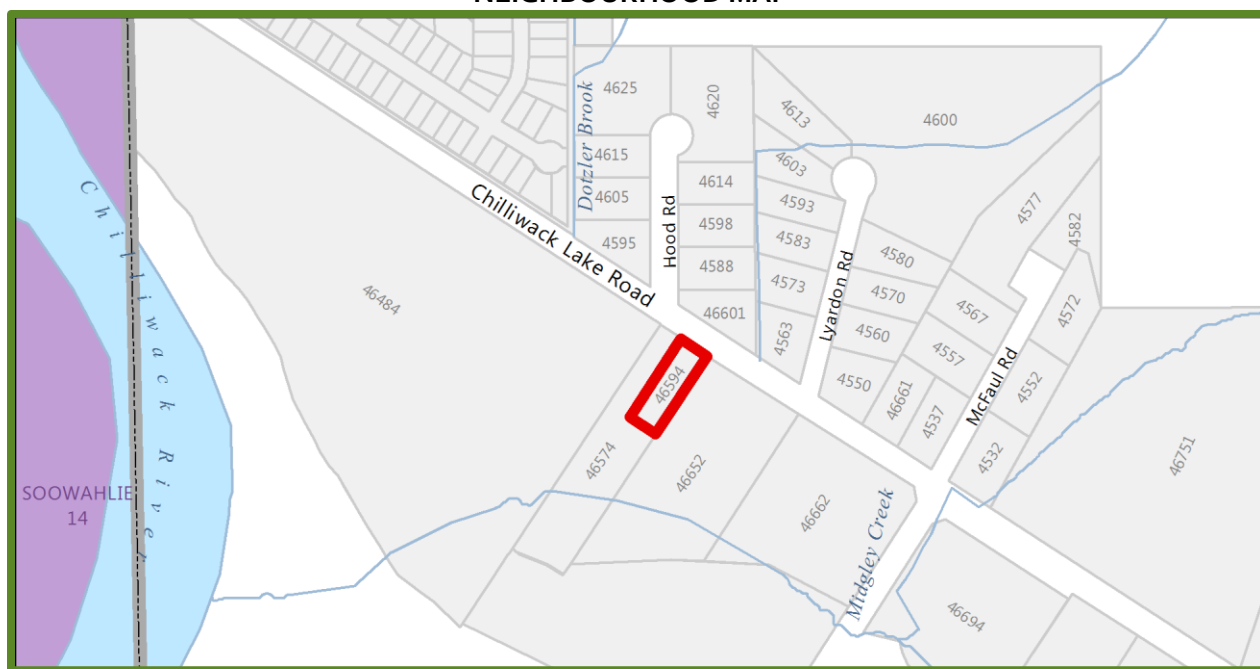
ADJACENT ZONING & LAND USES

North	^	Urban Residential (RS-1), Single-Family Homes
East	>	Agricultural (Ag-1), Single-Family Homes
West	<	Mobile Home Park (RMH), Mobile Home Park - Chilliwack River Estates
South	v	Agricultural (Ag-1), Single-Family Homes

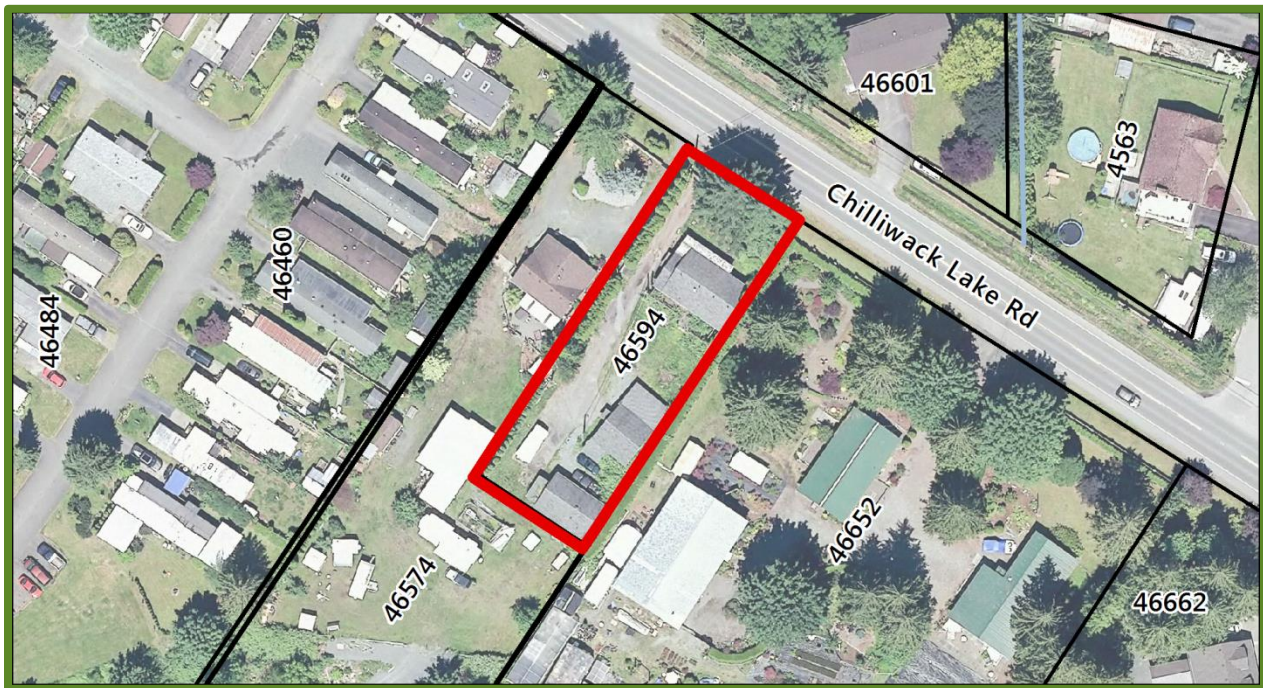
PROPERTY DETAILS

Electoral Area	E		
Address	46594 Chilliwack lake Road		
PID	000-547-948		
Folio	733.01248.100		
Lot Size	0.365 acres		
Owner	Steve & Allison Claydon	Agent	N/A
Current Zoning	Agricultural (Ag-1)	Proposed Zoning	No change
Current OCP	Residential Limited Use (RL)	Proposed OCP	No change
Current Use	Residential	Proposed Use	No change
Development Permit Areas	DPA 2-E (Chilliwack River Hazards) and DPA 5-E (RAR)		
Agricultural Land Reserve	No		

NEIGHBOURHOOD MAP



PROPERTY MAP

**DISCUSSION**Existing Structures

There is currently a house and two accessory buildings on the property which were constructed prior to the adoption of Zoning Bylaw 66 in 1976. The structures are permitted under the zoning bylaw, however, they do not meet required setbacks and are considered legally non-conforming. This means the structures are permitted to remain where they are, but are not permitted to be expanded in a way that increases non-conformity with the zoning regulation.

Bylaw Enforcement

The property is currently in bylaw contravention for construction without building permits. In 2012, the shop was expanded with an enclosed lean-to on the northern side and an enclosed electrical room on the southern side. A Notice on Title (Section 57 of the *Community Charter*) was registered to the property title in April 2018 due to unresolved bylaw enforcement. The property owner is now taking steps to remedy the contravention, and has applied for the necessary permits, including a development variance permit and two building permits (BP14609 and BP014610).

Variance Request

The applicant is seeking to reduce the side lot line setback from 7.6 metre (25 feet) to 1.23 metres (4 feet) for the building, and from 7.6 metres (25 feet) to 1.03 metres (3.37 feet) for the eaves of the building. This is a relaxation of 6.57 metres (21.6 feet) to the building eaves.

Interior Lot Line Setback (measured to eaves)	
Required (zoning)	7.6 metres (25 feet)
Proposed	1.03 metres (3.37 feet)
Requested Variance	6.57 metres (21.6 feet)

Applicant Rationale

The applicant provides the following reasons to support the variance request 1) the additions are aligned with existing construction on the property; 2) the additions have new siding to make the shop appear uniform; and 3) the addition at the rear of the garage is required to house the electrical supply for the property. Furthermore, the required setback of 7.6 metres from the side lot line leaves a strip of only 6 metres (20 feet) in the centre of the property where buildings can be sited. See Appendix A.

If the variance is not granted, the applicant would be required to remove both additions to the shop. Removal of the addition housing the electrical room would require the electricity for the entire property to be re-configured. The legally non-conforming garage, which is 1.3 metres (3.7 feet) from the property line, would be permitted to remain on site. See Appendix A.

Electrical Requirements & Intended Use

In 2013, the property owner brought a 400 Amp power supply to the property. For context, a house or residential shop each typically uses 100 Amps, and 200 Amps is sufficient to power a welding shop. For safety reasons, BC Hydro requires 400 Amp power to be housed in a separate electrical room. On the subject property, 100 Amps goes to the house, 100 Amps goes to an accessory building, and 200 Amps supplies the shop in question. The amount of power on the property exceeds the requirements of most residential uses.

There is a concern that the amount of on-site power could be used for non-permitted uses. The power supply was originally brought in to facilitate the growing of medical marijuana in the shop, which is not a permitted use in a residential structure. The property owner advises that the intended use of the shop is for residential storage only, and that there has not been marijuana or a Health Canada growing licence associated with the property for several years. On a recent site inspection (May 2019), FVRD Building Staff indicated that this use was no longer present in any of the structures.

The 400 Amp power could be removed from the site. This would result in a significant cost to the property owner. It may not be warranted on the basis of safety, as the electrical components were inspected by Technical Safety BC. On the other hand, the power supply could support uses that would be inappropriate to locate 1 metre from the property line.

Restrictive Covenant

To address land use concerns, the property owner has offered a covenant which restricts the uses in the accessory buildings to residential parking, storage, and hobby uses. The covenant will be registered to the property title if the variance is granted.

Building Permits

Two building permit applications have been submitted to address construction on the property. FVRD staff are currently reviewing the applications for completeness and compliance with the BC Building Code. The building department has not identified any building code concerns with the reduced lot line setback.

Neighbourhood Notification and Input

All property owners within 30 metres of the property will be notified by the FVRD of the Development Variance Permit application and be given the opportunity to provide written comments or to attend the Board meeting to state their comments. FVRD staff have encouraged the applicant to advise neighbouring property owners and residents of the requested variance in advance of the mail-out notification. To date no letters of support or objection have been submitted.

COST

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

CONCLUSION

The property owner is attempting to resolve a bylaw enforcement file and to legitimize the construction of additions to a shop. On one hand, the additions are aligned with the existing house and accessory buildings on the property. If the shop is used for its intended purpose, the impact to neighbouring properties is anticipated to be minimal. On the other hand, the overbuilt electrical system raises concerns about potential uses on the property that are not appropriate to be located within 1 metre of the property line, and that could impact neighbouring properties. The property owner has offered a restrictive covenant outlining permitted uses in the in the accessory building to address these concerns.

Staff recommend that the FVRD Board consider Development Variance Permit 2019-29 to reduce the side lot line setback for 46957 Chilliwack Lake Road, subject to the consideration of any comments or concerns raised by the public.

Option 1 – Issue

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

MOTION: THAT the FVRD Board issue Development Variance Permit 2019-29 to reduce the side setback from 7.6 metres (25 feet) to 1.0 metres (3.3 feet), clear to sky, to authorize existing

additions to an accessory building, 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 FVRD Board refuse Development Variance Permit 2019-29 for the property at 46594 Chilliwack Lake Road, Electoral Area E

COMMENTS BY:

Graham Daneluz, Director of Planning & Development:	Reviewed and supported
Mike Veenbaas, Director of Financial Services:	No further financial comments
Jennifer Kinneman, Acting Chief Administrative Officer:	Reviewed and supported.

Appendix A Site Plan

