

To: Electoral Area Services Committee
 From: Tracey Heron, Planning Technician

Date: 2020-12-08
 File No: 3090-20 2020-23

Subject: Application for Development Variance Permit 2020-23 to vary the front lot line setback from 4.6 metres to 1.58 metres for an accessory structure at 48585 Chilliwack Lake Road, Electoral Area E.

RECOMMENDATION

THAT the Fraser Valley Regional District Board issue Development Variance Permit 2020-23 for 48585 Chilliwack Lake Road, Electoral Area E, to reduce the front lot line setback from 4.6 metres to 1.58 metres for an existing accessory structure, subject to consideration of any comments or concerns raised by the public.

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

BACKGROUND

The applicant has applied for a Development Variance Permit (DVP) to reduce the front lot line setback for an existing accessory structure as outlined in *Zoning Bylaw for Electoral Area "E", 1976 of the Regional District of Fraser-Cheam*. The placement of the Quonset structure is closer than 4.6 metres (15 feet) to the road right-of-way, and a Setback Permit has been issued by the BC Ministry of Transportation and Infrastructure (MoTI).

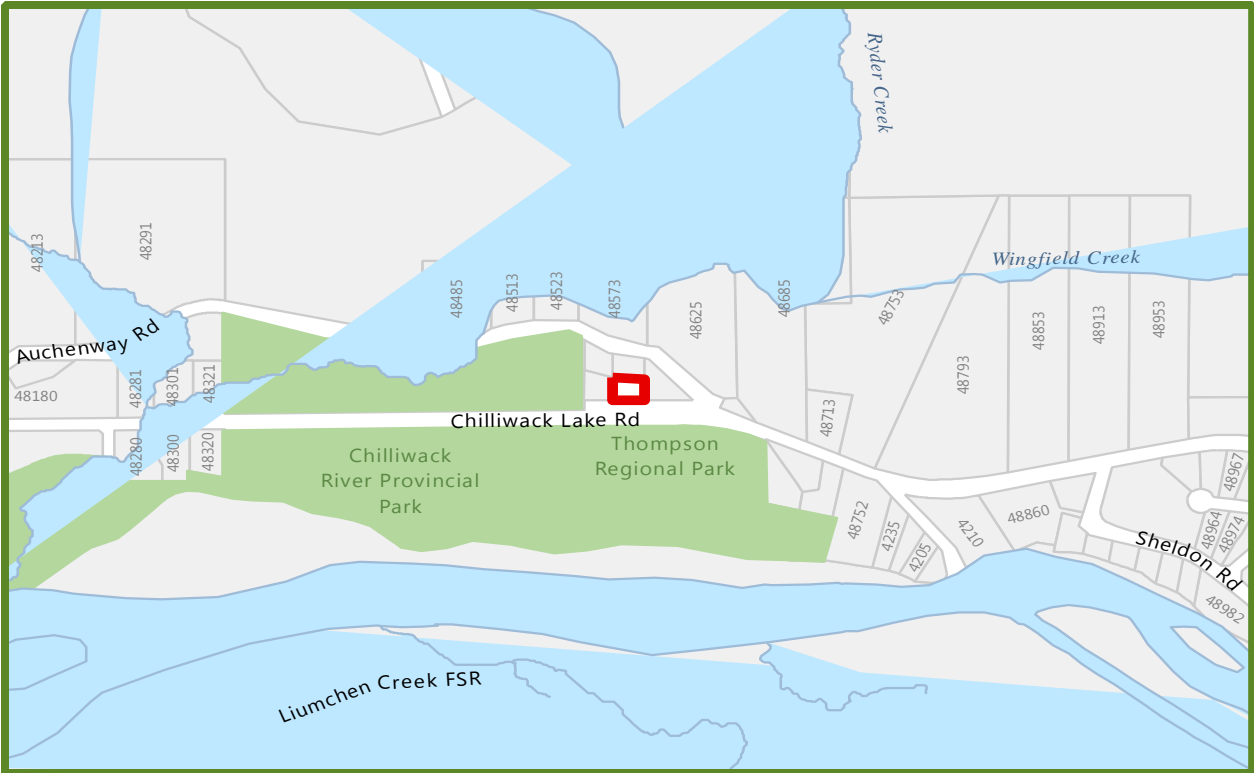
PROPERTY DETAILS			
Electoral Area	E		
Address	48585 Chilliwack Rd		
PID	001-608-568		
Folio	733.01316.516		
Lot Size	0.35 acres		
Owner	Randall & Virginia Houser	Agent	n/a
Current Zoning	Country Residential (CR)	Proposed Zoning	No change
Current OCP	Suburban Residential (SR)	Proposed OCP	No change
Current Use	Residential	Proposed Use	No change
Development Permit Areas	3-E – Chilliwack River Valley Slope Hazard		

	5-E – Riparian Areas
Agricultural Land Reserve	No

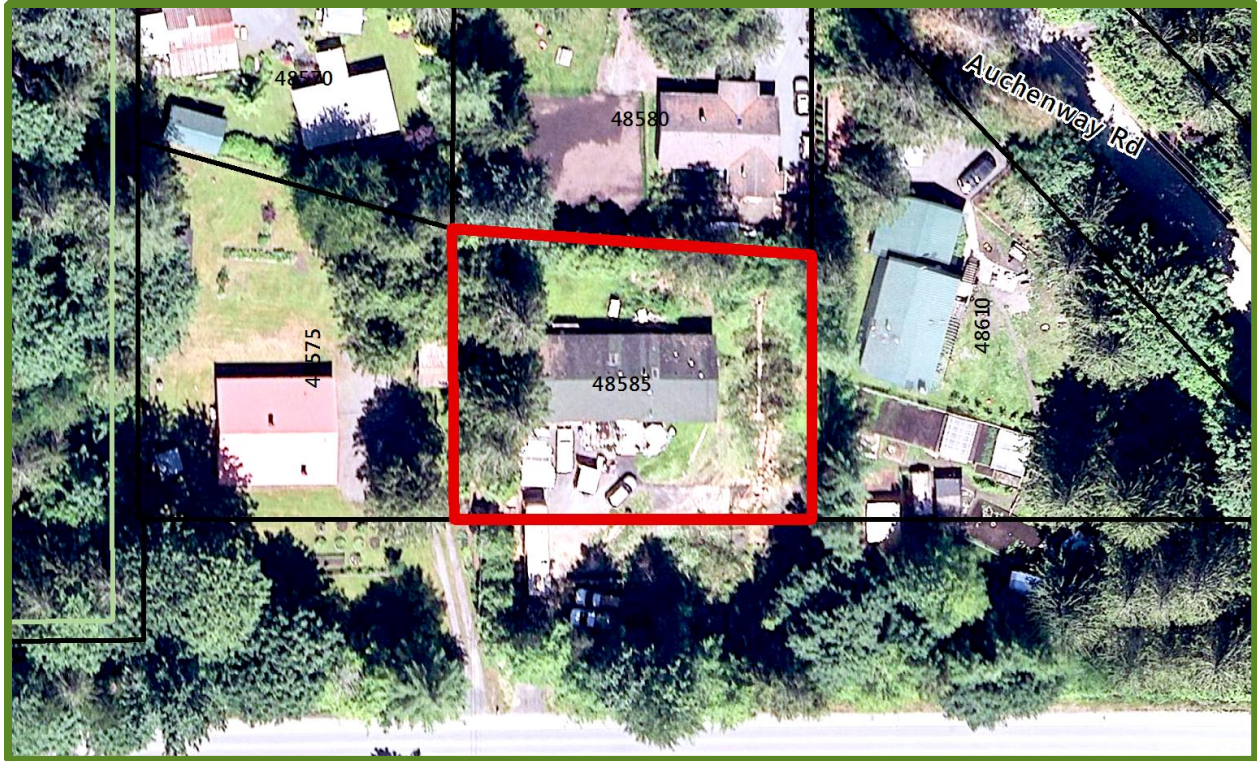
ADJACENT ZONING & LAND USES

North	^	Country Residential (CR); Single-family Residence
East	>	Country Residential (CR); Single-family Residence
West	<	Country Residential (CR); Single-family Residence
South	v	Park (P-1); Chilliwack Lake Road

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

The property owner obtained a building permit (BP013667) for the placement of a metal Quonset structure in July 2016. The structure is 22 x 25 feet, or 550 square feet (15.6 square metres) in size, with a height of 12.8 feet (3.9 metres).



Building Permit – BP013667

A building permit was issued in 2016 for the placement of a steel Quonset structure on the subject property. Final inspection of the structure was not completed and the building permit lapsed in November, 2018. The applicant renewed the permit in July 2020 and submitted a site survey which was one of the outstanding items mentioned in the building permit file.

The site survey showed that the placement of the Quonset structure did not meet the 4.6 metre (15 feet) front lot line setback and encroached into the Ministry of Transportation and Infrastructure highway setback. All other lot line setbacks had been met.

Zoning Bylaw

The Quonset structure meets the side and rear lot line setbacks and height requirements as laid out in *Zoning Bylaw for Electoral Area "E", 1976 of the Regional District of Fraser-Cheam*. The front lot line setback is the only zoning regulation that is not being met.

Zoning Bylaw No. 66 – Country Residential (CR)		
	Required	Actual
Front lot line setback	4.6 metres (15 feet)	1.58 metres (5.2 feet)
Side lot line setback	3 metres (10 feet)	3.49 metres (11.5 feet)
Rear lot line setback	7.6 metres (25 feet)	22.03 metres (72.3 feet)
Height	10 metres (32.8 feet)	3.9 metres (12.8 feet)

Rationale for the Variance

The applicant provides the following rationale for the variance:

1. He thought he had followed all the Fraser Valley Regional District regulations with regards to meeting all the property setbacks and obtaining all the correct permits and structural drawings;
2. He made an honest error in locating the structure within the front setback; and,
3. It would be too costly to move the structure now that it has been set in place.

Requested Variance 2020-23

The applicant is seeking to reduce the front lot line setback from Chilliwack Lake Road from 4.6 metres (15 feet) to 1.58 metres (5.2 feet), measured clear to sky. This 3.0 metre (10 feet) relaxation is to bring the existing accessory structure into compliance with FVRD zoning regulations.

Front Lot Line Setback	
Required (zoning)	4.6 metres (15.0 feet)
Proposed	1.58 metres (5.2 feet)
Requested Variance	3.0 metres (10 feet)

If the variance is not issued, the applicant would have to move the structure. This would involve moving the concrete foundation further from the property line at a depth of two feet, similar to the original concrete foundation pour. A structural engineer would also be required to certify that the integrity of the structure is maintained when the structure is moved.

Ministry of Transportation & Infrastructure

If construction of a structure is within the 4.5 metre road setback, approval from the BC Ministry of Transportation and Infrastructure (MoTI) is required. For the Quonset structure, MoTI has issued Setback Permit Number 2020-04377 to reduce the building setback less than 4.5 metres from the property line fronting a provincial public highway. This permit states that if the structure is removed or destroyed for any reason, it must be replaced at 4.5 metres from the legal boundary of the road allowance, and also that in the event of future road widening, MoTI may ask the applicant to re-locate or remove the structure at the applicant's expense. This permit may also be terminated at any time at the discretion of MoTI.

The Ministry of Transportation and Infrastructure (MoTI) setback is approximately 14 metres (46 feet) wider along the properties located at 48575, 48585, and 48610 Chilliwack Lake Road, than the setback along the neighbouring properties. With the large tree coverage along this easement, the Quonset structure, while extending into the MoTI easement, has minimal sight impact from Chilliwack Lake Road.



Figure 2: Additional width of Ministry of Transportation right-of-way along Chilliwack Lake Road.

Covenant

Lands within Electoral Area E are subject to a variety of hazards, including flooding and erosion from the Chilliwack River. The property located at 48585 Chilliwack Lake Road lies within the 100-year Erosion Limit Line, which represents an estimate of the potential for bank migration over the next 100 years unimpeded by hazard mitigation works such as bank protection or other channel controls.

Construction is permitted within this 100-year Erosion Limit Line where the property owner is willing to offer a covenant acknowledging that the property may be affected in the long term by river erosion if bank protection is not completed. The applicant is aware of this requirement and has registered a covenant on the property title for the Quonset structure.

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 will be given the opportunity to provide written comments or attend the Board meeting virtually to state their comments. FVRD staff encourage the applicant to advise neighbouring property owners and residents of the requested variance in advance of the mail-out notification. To date, the applicant has submitted four (4) letters of support by adjacent property owners.

COST

The application fee of \$1,300 has been paid by the applicant.

CONCLUSION

The applicant has applied for a Development Variance Permit to vary the front lot line setback from 4.6 metres (15 feet) to 1.58 metres (5.2 feet), measured clear to sky, to bring the existing accessory structure into compliance with FVRD zoning regulations.

The applicant has been working with both the building and planning departments to ensure the structure has met all regulations as laid out in both the Building Code and planning bylaws. An error had been made when the applicant calculated the dimensions for his site plan, and he did not obtain a site survey prior to pouring the concrete foundation as noted on the issued building permit. While this error contributed to further costs for the land owner, he continued to work with staff to bring his structure into compliance with all regulations.

No health and safety concerns have been identified in relation to the proposed variance, and the wider right-of-way at the subject property, and trees within it, screen the Quonset structure from the road. Furthermore, the Ministry of Transportation and Infrastructure has issued a Setback Permit granting the right to use and maintain the structure that encroaches into the setback along Chilliwack Lake Road. For these reasons, staff recommend that DVP 2020-23 be issued subject to comments or concerns raised by the public.

OPTIONS

Option 1 – Issue (Staff Recommendation)

Staff recommend that the FVRD Board issue Development Variance Permit 2020-23 to vary the front lot line setback from 4.6 metres (15 feet) to 1.58 metres (5.2 feet) to allow the accessory structure to remain in place, subject to the 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

2020-23.

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 2020-23 to FVRD Staff.

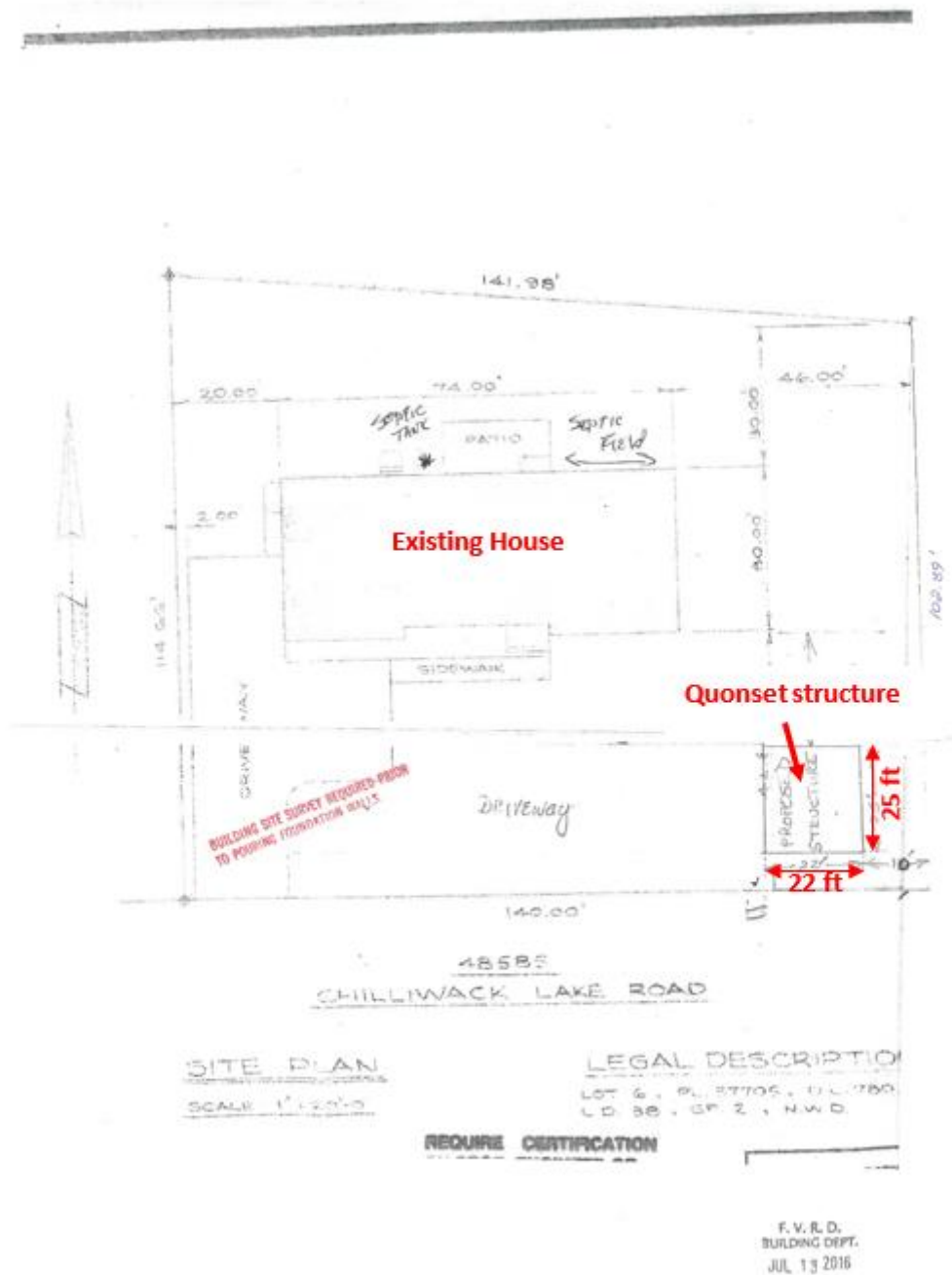
COMMENTS BY:

Graham Daneluz, Director of Planning & Development: reviewed and supported

Kelly Lownsbrough, Chief Financial Officer/ Director of Finance: reviewed and supported

Jennifer Kinneman, Chief Administrative Officer: Reviewed and supported.

SCHEDULE A
Site Plan



SCHEDULE B
Ministry of Transportation Permit



**PERMIT TO REDUCE BUILDING SETBACK LESS THAN 4.5 METRES FROM THE
PROPERTY LINE FRONTING 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:

Randall Houser
48585 Chilliwack Lake Road
Chilliwack, British Columbia V4Z 1A6
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:

The construction of a building, the location of which does not conform with British Columbia Regulation 513/04 made pursuant to section 90 of the Transportation Act, S.B.C. 2004, namely; to allow Structure (existing Quonset shed) within 4.5m setback from, Ministry Right-of-Way, located at 48585 Chilliwack Lake Road, as shown on drawing 20-25BLC.
- 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. This permit may be terminated at any time at the discretion of the Minister of Transportation and Infrastructure, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.
2. This permit in no way relieves the owner or occupier of the responsibility of adhering to all other legislation, including zoning, and other land use bylaws of a municipality or regional district.
3. 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.
4. If the structures are to be removed or destroyed for any reason, they must be replaced at 4.5 meters from the legal boundary of all road allowances.
5. Please be advised that in the event of future road widening, the Ministry of Transportation may ask the applicant to re-locate or remove the permitted structures at the applicant's expense.



BRITISH
COLUMBIA

Ministry of
Transportation

Permit/File Number: 2020-04377

Office: Chilliwack Area Office

6. There shall be no further encroachments into the 4.5m setback.

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 10 day of September, 2020

On Behalf of the Minister

B.C. LAND SURVEYOR'S LOCATION CERTIFICATE

ON PART OF LOT 6, DISTRICT LOT 780, GROUP 2,
NEW WESTMINSTER DISTRICT, PLAN 37705

CIVIC ADDRESS 48585 CHILLIWACK LAKE ROAD
CHILLIWACK, B.C.

SCALE = 1: 200



DISTANCES SHOWN ARE IN METRES.

ALL DISTANCES ARE HORIZONTAL GROUND AND ARE SHOWN
IN METRES. THE INTENDED PLOT SIZE OF THIS PLAN IS 216 mm
IN WIDTH BY 356 mm IN HEIGHT (LEGAL SIZE SHEET) WHEN
PLOTTED AT A SCALE OF 1:200

DOCUMENT NUMBERS REGISTERED ON
TITLE WHICH MAY AFFECT THE LOCATION
OF IMPROVEMENTS: CA8269685

F.V.R.D. BLDG. DEPT

AUG 24 2020

PARCEL IDENTIFIER (PID): 001-608-568
LOT DIMENSIONS DERIVED FROM
PLAN 37705



© COPYRIGHT
NEELS SURVEYING
B.C. LAND SURVEYOR
CANADA LANDS SURVEYOR
12 - 8655 Harvard Place
PO Box 29
Chilliwack, B.C. V2P 6J1
TEL. (804) 795-7397
FILE No. 20-25SLC

CERTIFIED CORRECT THIS 18TH DAY OF AUGUST, 2020.

ROBERT J. NEELS, BCLS, CLS

THIS PLAN WAS PREPARED FOR BUILDING PERMIT PURPOSES AND IS FOR THE
EXCLUSIVE USE OF OUR CLIENT, WANDY HOUSER.
THIS DOCUMENT SHOWS THE RELATIVE LOCATION OF THE STRUCTURES AND
FEATURES WITH RESPECT TO THE BOUNDARIES OF THE PARCELS DESCRIBED ABOVE.
THIS DOCUMENT SHALL NOT BE USED TO DEFINE PROPERTY LINES OR PROPERTY CORNERS.

THIS DOCUMENT IS NOT VALID UNLESS ORIGINALLY SIGNED AND SEALED.
ALL RIGHTS RESERVED. NO PERSON MAY COPY, REPRODUCE, TRANSMIT OR ALTER
THIS DOCUMENT IN WHOLE OR IN PART WITHOUT THE CONSENT OF THE SIGNATORY.
THE SIGNATORY ACCEPTS NO RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES
THAT MAY BE SUFFERED BY A THIRD PARTY AS A RESULT OF ANY DECISIONS MADE
OR ACTIONS TAKEN BASED ON THIS DOCUMENT.

SCHEDULE C

Letters of Support

November 10, 2020

I am aware that Randall Houser and Virginia Houser, owners of the property at 48585 Chilliwack Lake Road have applied for a Development Variance Permit on the Quonset Garage that was built in 2016.

This is to reduce the front clearance of the Quonset Garage from 4.6 meters to 1.58 meters.

Randall Houser, owner of said property has a building permit on this Quonset Garage and has discussed that the clearance was reduced in error.

We are the neighbors and Do not object to this application.

48585 CHILLIWACK LAKE RD ARLENE GILBERT
Address Name

Arlene Gilbert
Signature

November 10, 2020

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48610 Auchenway Rd William J McBladdery
Address Name

William J. McBladdery
Signature

November 10, 2020

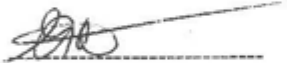
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We are the neighbors and Do not object to this application.

48580 Auchenway Rd. Geralt White
Chilliwack Rd. Address Name


Signature

November 10, 2020

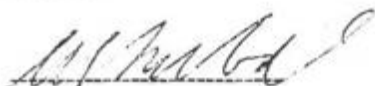
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We are the neighbors and Do not object to this application.

48570 AUCHENWAY RD
Address Name WILK RICHARD



Signature