

To: Board of Variance

Date: 2025-03-25

From: Ray Schipper, Planning Technician

File No: 0388-30 2025-775.02149.032

Subject: Board of Variance application for 32-9053 Shook Road, Area G

Reviewed by: Katelyn Hipwell, Manager of Planning
Graham Daneluz, Director of Planning & Development
Jennifer Kinneman, Chief Administrative Officer

REPORT PURPOSE

On January 23, 2025, the Fraser Valley Regional District (FVRD) received a Board of Variance application to permit an extension and renovation to a legally non-conforming structure under Section 540 (c) of the *Local Government Act* for the property located at 32-9053 Shook Road, Electoral Area G.

The staff report summarizes the relevant Fraser Valley Regional District Bylaws, information, and other regulations related to the application.

Appendix A: Location Map

Appendix B: User Lot Layout

Appendix C: Site Plan

Appendix D: Application

Appendix E: Letters of Support

Appendix F: Excerpt of the *Dewdney-Alouette Regional District Bylaw No. 28, 1972* for Electoral Area B, C, D & E (Non-conforming Use and Rural 3 Zone)

Appendix G: Excerpt of the Land Use and Subdivision Regulation of *Fraser Valley Regional District Zoning Bylaw No. 1638, 2021* – Rural 4 (R-4)

Appendix H: Excerpt of the *Fraser Valley Regional District Official Community Plan for Electoral Area "G" Bylaw No. 0866, 2008*

Appendix I: Excerpts from the *Local Government Act* Section 528-544

Appendix J: Hatzic Island Discussion paper

Appendix K: *Fraser Valley Regional District Floodplain Management Bylaw No. 1669, 2022*

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 same act, to permit an extension to the existing main floor and crawl space and addition of a second storey to a legally non-conforming single-family dwelling.

Section 540 of the *Local Government Act* allows a person to apply for a Board of Variance order if the prohibition of an addition or alteration to a non-conforming structure would cause the person undue hardship. The provision on non-conformity is stated under Section 531 of the *Local Government Act*.

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 seeking approval from the Board of Variance for the following changes:

- Extension of the existing main floor of non-conforming dwelling (18.39 m²/198 ft²).
- Construction of a second-storey addition above the existing roof (33.63 m²/362 ft²).
- Extension of the existing crawl space (18.39 m²/198 ft²).



Figures 1 and 2: Photos of existing structure. February 19, 2025.

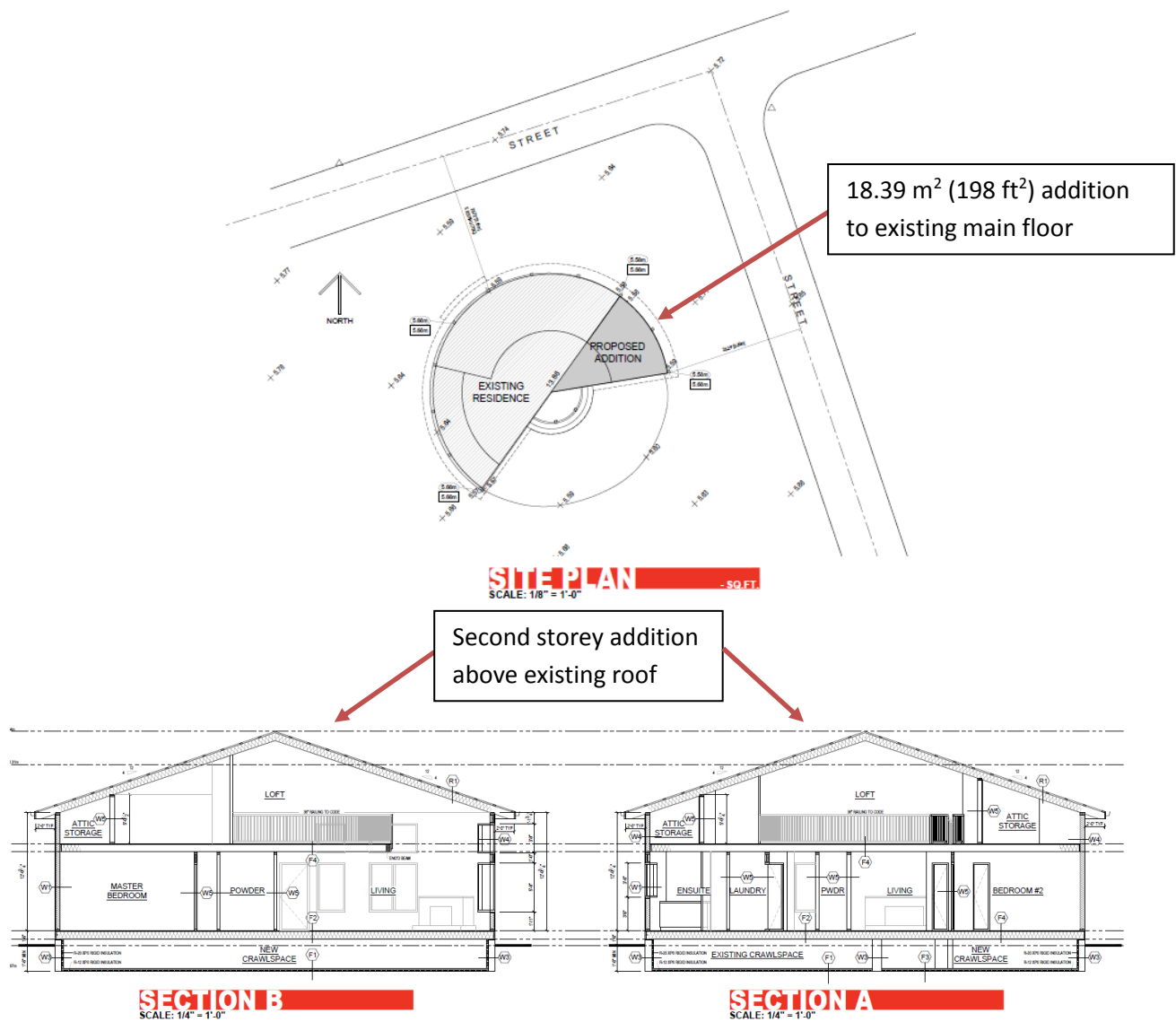


Figure 3: Excerpt from submitted site plans of proposed structural alterations.

The Board of Variance must consider if the prohibition of these structural alterations 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 and may order that the applicant be exempted from Section 531(1).

BACKGROUND

Most development on Hatzic Island has occurred over time without a comprehensive planning framework. Land-use regulations began in the mid-sixties (1966 Official Regional Plan), with the Island being designated Lowland Rural as it was located fully within a floodplain. Agriculture and low-density

rural uses were supported with the intent to lessen any impacts should flooding occur. This Lowland Rural designation provided a subdivision policy for a minimum parcel size of 8.0 ha (20.0 acres). When the Dewdney-Alouette Regional District introduced zoning in 1972, Hatzic Island was zoned predominantly Rural III (R-3), maintaining the minimum parcel size of 8.0 ha (20.0 acres) for subdivision as set out in the Official Regional Plan. As much of the development on the Island pre-dated the 1972 land use zoning regulations and policies, several developments existing on Hatzic Island are classified as legally non-conforming.

The subject property, referred to as Sun Dorn Holdings Ltd, is one such legally non-conforming development pre-dating *Dewdney-Alouette Regional District Zoning Bylaw No. 22, 1972*. The property was not legally subdivided, so the parent parcel only permits one dwelling unit. There are currently up to forty-three (43) user lots and dwellings located on this land parcel at 9053 Shook Road. The use of the property for up to 43 dwelling units is legally non-conforming (“grandfathered”) pursuant to Section 528 of the *Local Government Act*.

As the dwelling on user lot #32-9053 Shook Road is a legally non-conforming use, any proposed works that are structural are not permitted unless the Board of Variance approves an alteration or addition to the non-conforming use.

The general location of the proposal is shown on the attached location map in Appendix A. The location of the specific user lot is shown on the attached user lot layout plan in Appendix B. Details of the proposed additions are shown on the attached site plan in Appendix C, and the application is found in Appendix D.

PROPERTY DETAILS	
Electoral Area	G
Address	32-9053 Shook Road
PID	010-666-842
Legal Description	Lot 16 Except: Part Subdivided by Plan 27831; Section 36, Township 17, New Westminster District Plan 2677
Folio	775.02149.032
Registered Property Owner	Sun Dorn Holdings Ltd.
Applicant	Peter and Corinne Stellingwerff
Lot Size	10 acres with 43 home sites
User Lot Size	0.129 acres (522.6 m ²)
Agricultural Land Reserve	No
Floodplain	Within; 10.3m GSC Flood Construction Level (FCL) and 7.5m setback from Hatzic Lake. User lot average grade is 5.68 m.
OCP	Rural (R)
Zoning	Rural 4 (R-4)
Development Permit Area	Within Riparian Areas Development Permit Area 2-G; exempted

	because the site is greater than 30m from Hatzic Lake
Setbacks	The existing structure meets 6.0m front lot line setback and 1.5m interior side lot line setback
Bylaw Enforcement	No

ADJACENT ZONING & LAND USES

Direction	Use	Zoning	OCP
North	Rural Residential	Rural 4 (R-4)	Rural
East	Rural Residential	Rural 4 (R-4)	Rural
West	Hatzic Lake	Rural 4 (R-4)	Rural
South	Rural Residential	Rural 4 (R-4)	Rural

NON-CONFORMANCE

The subject property, referred to as Sun Dorn, is one of several legally non-conforming developments on Hatzic Island, which pre-date zoning bylaw regulations. The property is zoned Rural 4 (R-4) which permits one dwelling unit per parcel. It is one legal lot with up to 43 dwelling units contained within its boundaries, rendering it legally non-conforming (“grandfathered”) pursuant to Section 540 of the *Local Government Act* (LGA).

Generally, the LGA sections considering non-conformity actively work 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.** The net effect encourages replacing the non-conforming use with one that conforms to the zoning bylaw.

In some instances, the legal framework combined with practical considerations such as ownership structure and the nature of the use, leave little expectation that conformity will ever be achieved. The result may be that a non-conforming use may be tolerated and expected to continue indefinitely but is still subject to the depressing effects of non-conforming status. In these instances, the non-conforming 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 non-conforming developments on Hatzic Island may fall into this category.

Fraser Valley Regional District Official Community Plan Bylaw No. 0866, 2009 s.7.1: Hatzic Island (Appendix H) provides direction on improving the non-conformity situation by rezoning the lands to legitimize some of the non-conforming uses on Hatzic Island. This can be done in a meaningful way through water and sewer service infrastructure, proper site development, and improved flood mitigation measures.

HATZIC ISLAND DISCUSSION PAPER

In 2018, a discussion paper on Hatzic Island was presented to the Regional Board, attached to this report as Appendix J. The report highlights that parts of Hatzic Island have the density found in urban areas, without the associated community water and sewer services. The concentration of aging on-site septic and water supplies may present health and environmental risks. Since the early 1970s, land use policies attempted to address these risks by zoning the Island for low-density uses. This approach prevented further subdivision but created a host of new problems associated with the “grandfathering” of pre-existing uses. One of the primary reasons for the high density on Hatzic Island is due to the continued presence of lawfully non-conforming residential and recreational development that has occurred in the mobile home parks and resorts.

New approaches are needed to address environmental and health risks and manage land use developments on Hatzic Island. The discussion paper summarizes key issues as a starting point for stakeholder dialogue about options to improve the land use situation on Hatzic Island.

DISCUSSION

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

- 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) has 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.

NOTIFICATION AND HEARING

All neighbours within a 30-metre radius of the property have been notified via mail of this Board of Variance application. The letter was sent on March 7, 2025. 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 FVRD has received one petition for support from the Directors of Sun Dorn Resort, showing support for the structural addition. This petition can be found in Appendix E.

HARDSHIP

The applicant has provided reasons in support of their application, which are shown in Appendix D, application form. The identified justifications are summarized below.

- The structure does not meet current energy efficiency and building code standards.
- The occupants require additional space due to lifestyle differences.
- The structure has poor aesthetics.

DEVELOPMENT OF THE SITE

The subject user lot contains one single-family dwelling and an accessory structure (shed). The photos below show that the existing dwelling is a one-storey structure on a half-circle foundation. The interior of the main dwelling has undergone significant renovation and is currently in a state of deconstruction. All drywall has been removed, exposing the bare studs and structural elements. The stripped-down interior provides a clear view of the building's skeletal framework and suggests that the dwelling is undergoing a major remodel or is being prepared for a comprehensive renovation project.



Figures 4-6: Exterior and interior of the existing structure at 32-9053 Shook Road.

SITING AND COVERAGE

Section 7.4.3 Development Regulations of the R-4 zone in *Zoning Bylaw No. 1638, 2021*, state the requirements for maximum lot coverage and the setbacks for all buildings and structures relative to the lot lines. While the dwelling and accessory structures must adhere to these requirements, the user lots in Sun Dorn are not delineated through a legal mechanism (e.g. surveyed user lot, strata lot lines).

The definition section in *Zoning Bylaw No. 1638, 2021* defines a Lot as “land designated as a separate and distinct parcel on a legal subdivision plan or registered in the Land Title Office,” and Lot Line is defined as “legally defined boundaries of any lot.” Since the subject property is the only legally subdivided lot, it is a reasonable interpretation that the legal lot be treated as the parcel, as opposed to the unregistered user lots which do not have any legally defined boundaries.

Based on the site plan in Appendix C, the proposed addition appears to comply with all the setback requirements. The setback requirements are summarized below:

Application	Setbacks	Complies
Addition	6m front lot line	Yes
Addition	6m rear lot line	Yes
Addition	1.5m interior lot line	Yes

The maximum lot coverage (i.e. the area of all buildings and structures expressed as a percentage of the lot area) is legally non-conforming due to the development of other user lots on the parent parcel.

FLOODPLAIN

The subject property is on Hatzic Island, within the Fraser River Floodplain. Historically, the area has been prone to flooding, as the entire Island is below the elevation of a 1:200-year Fraser River flood. After a devastating flood in 1948, the Dewdney Dike was reconstructed, and a pump station was added to help protect Hatzic Island from flooding.

The Island still experiences flooding due to the volume of water coming off the surrounding watersheds, overwhelming the drainage capacity of the system. The update and addition to the pump station in 2013 helped improve the drainage during times of high water levels in the Fraser River. However, localized flooding can still occur as proven in the November 2021 atmospheric river event. Many parts of Hatzic Island were underwater, and the Everglades Resort at 8400 Shook Road had to be evacuated. This localized flooding causes concern due to its effects on on-site septic systems, individual sand point water wells, and the increased risk of land use contaminants entering the water supply.

In addition, Hatzic Island residents depend on the single-access road to and from the Island, with the possibility of this low-lying access road and bridge being cut off during a major flood event.

FLOODPLAIN MANAGEMENT BYLAW NO. 1669, 2022

Fraser Valley Regional District Floodplain Management Bylaw No. 1669, 2022 applies to all properties on Hatzic Island. This bylaw establishes regulations to reduce risks of developing lots on the Fraser River Floodplain. These regulations include flood construction levels (FCL), floodplain setbacks, and **minimum ponding elevation, which will apply to the applicant's** proposed structural alterations, if approved by the Board of Variance.

It is crucial to note that under Section 542(2)(d) of the *Local Government Act*, the Board of Variance cannot alter provisions regulated in the floodplain management bylaw, which is attached in Appendix K.

The FCL for Hatzic Island is 10.3 m GSC, as outlined in the floodplain bylaw. Generally, no habitable area can be constructed below this level. However, two key exemptions may apply to the proposed plans. The table below summarizes the compliance of the three components of the application with the relevant floodplain bylaw regulations:

Component of Application	Floodplain Bylaw Regulation	Bylaw Section	Complies
Addition to the existing main floor of non-conforming dwelling (198 ft ² / 25% of existing floor area)	Exemption for an addition to existing non-conforming building at original elevation, provided the addition does not increase ground floor area by more than 25%	8. a. ii. a.	Yes
Addition of a second storey above existing roof (362 ft ²)	Exemption for a structural addition if difference between the 200 year flood construction level and ground elevation exceeds 2.5 metres. A residential use may be extended with the underside of the floor system a minimum of 2.5 metres above the surrounding ground elevation.	9. a. iii.	Yes, subject to restrictive covenant
Crawlspace extension (198 ft ²) proposed at 4.97 m GSC	No exemption – must meet Minimum Ponding Elevation of 5.2m GSC	6. c.	No

In conclusion, while two components of the application comply with or can be made to comply with the floodplain bylaw through exemptions, the proposed crawlspace extension does not meet the minimum ponding elevation requirement and therefore does not comply with the current regulations. The Board of Variance cannot authorize development that circumvents the intent of the floodplain management bylaw.

NATURAL ENVIRONMENT

The Board of Variance must consider the potential environmental implications of any variance request. Increased density on Hatzic Island, without the associated servicing, such as community water and sewer systems, has been shown to impact the natural environment. The Hatzic Island Discussion Paper highlighted research on drinking water quality and showed that some wells on Hatzic Island had high levels of nitrate, with the source most likely coming from septic systems. The research found a strong relationship between nitrate levels, well depths, and the proximity to development. This underscores the importance of carefully evaluating any proposed variances that could potentially exacerbate these environmental concerns.

PERMITTED USE AND DENSITY

Residential Use in *Zoning Bylaw No. 1638, 2021*, is permitted, with Residential Use being defined as **“the use of a dwelling unit as the permanent domicile of a person or household.”**

Section 7.4.3 of the R-4 zone regulates residential density by permitting **“one (1) dwelling unit in a single detached dwelling per lot”**. As there are up to 43 dwelling units in existence on one legal parcel at 9053 Shook Road, the property is legally non-conforming in terms of its density. Extension of the existing main floor of non-conforming dwelling and addition of a second storey above the existing roof will not increase the number of legally non-conforming uses.

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) 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* zoned much of Hatzic Island Rural III (R-3) with a minimum parcel size of 20 acres (8 hectares). Two bylaw adoptions followed this; *Dewdney Alouette Regional District Bylaw No. 202-1980*, and *Zoning Bylaw No. 559, 1992*. Recently, upon consolidation of *Zoning Bylaw No. 1638, 2021*, the R-3 zones are now Rural 4 (R-4) zones with the minimum parcel size and other land-use regulations remaining unchanged.

In the opinion of staff, the zoning bylaws have intended to prevent further 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. Rezoning with servicing upgrades to meet the current environmental standards is the preferred approach to gaining compliance.

The average density of development on the Island is high for an unserviced rural area and, by commonly accepted servicing standards, is not sustainable. There is potential for on-site sewage disposal to contaminate the groundwater and water supplies in these high-density developments. Such unserviced high-density development may pose risks to the environment and human health. 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 1960s 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” over time.**

However, the multiplicity of owners and the tenure structure of developments like Sun Dorn presents a major challenge to the redevelopment of the property in accordance with the current Rural 4 (R-4) zoning. The nature of the statute and case law, the land ownership structure, and the form of development make it unlikely that conformance with the Zoning Bylaw will be achieved under the current circumstances. While each variance request individually may seem minor, the cumulative effect of such variances creates a disincentive toward compliance in the long term. It enables the continued transfer of lease lots or ownership shares without the necessary investments in community servicing and fire separation and deters the owners from making a joint rezoning application to legalize the existing use.

Fraser Valley Regional District Official Community Plan Bylaw No. 0866, 2009 supports the rezoning of lawfully non-conforming developments in conjunction with the improvement of servicing to the area, and limiting exposure to hazards, as the best way to address this situation. The Board of Variance should consider whether approving the application would set back, or desensitize the owners from investing in the rezoning of the property and servicing upgrades.

While the proposed additions may appear to meet certain requirements of the Rural 4 zone, the Board of Variance must also consider the broader intent of the Zoning Bylaw. The bylaw aims to regulate land use and density to ensure orderly development and minimize potential impacts on infrastructure and the environment. Granting this variance to allow further additions to a non-conforming dwelling within a non-serviced development contradicts the intent of the Zoning Bylaw. Permitting this variance may set a precedent for further expansions of non-conforming structures, potentially undermining the objectives of the development regulations.

FURTHER FVRD APPROVALS REQUIRED

A decision by the Board of Variance to approve the proposed additions does not constitute any further approvals in relation to a specific building permit application. A referral was made to the Building Department, and as per their comments, a building permit will be required if the variance is approved. The applicant must meet all requirements of the potential building permit application process.

It is important to emphasize that the Board of Variance cannot authorize development that does not comply with the *Floodplain Management Bylaw No. 1669, 2022*. Any aspects of the proposed development that do not meet the floodplain bylaw regulations cannot be approved by the Board, regardless of their decision on other variance matters.

The construction is required to comply with all relevant Fraser Valley Regional District regulations and bylaws, including the *Fraser Valley Regional District Building Bylaw No. 1188, 2013, Zoning Bylaw No. 1638, 2021* and *Floodplain Management Bylaw No. 1669, 2022*. It must also comply with any other agency requirements, such as the *2024 BC Building Code*. The applicant is responsible for ensuring all necessary approvals and permits are obtained before proceeding with any construction or alterations.

COST

The \$1,650.00 Board of Variance application fee has been paid in full by the applicant.