

To: Electoral Area Services Committee
 From: Andrea Antifaeff, Planning Technician

Date: 2018-06-12
 File No: 3090-20-2018-20

Subject: Application for Development Variance Permit 2018-20 to reduce the flanking street setback to permit the addition to a mobile home at 10435 Rutley Road, Electoral Area D

RECOMMENDATION

THAT the Fraser Valley Regional District Board issue Development Variance Permit 2018-20 to reduce the flanking street setback from 25 feet (7.6 metres) to 8.5 feet (2.6 metres), clear to sky, to facilitate an addition to a mobile home at 10435 Rutley Road, Area "D", subject to consideration of any comments or concerns raised by the public

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

BACKGROUND

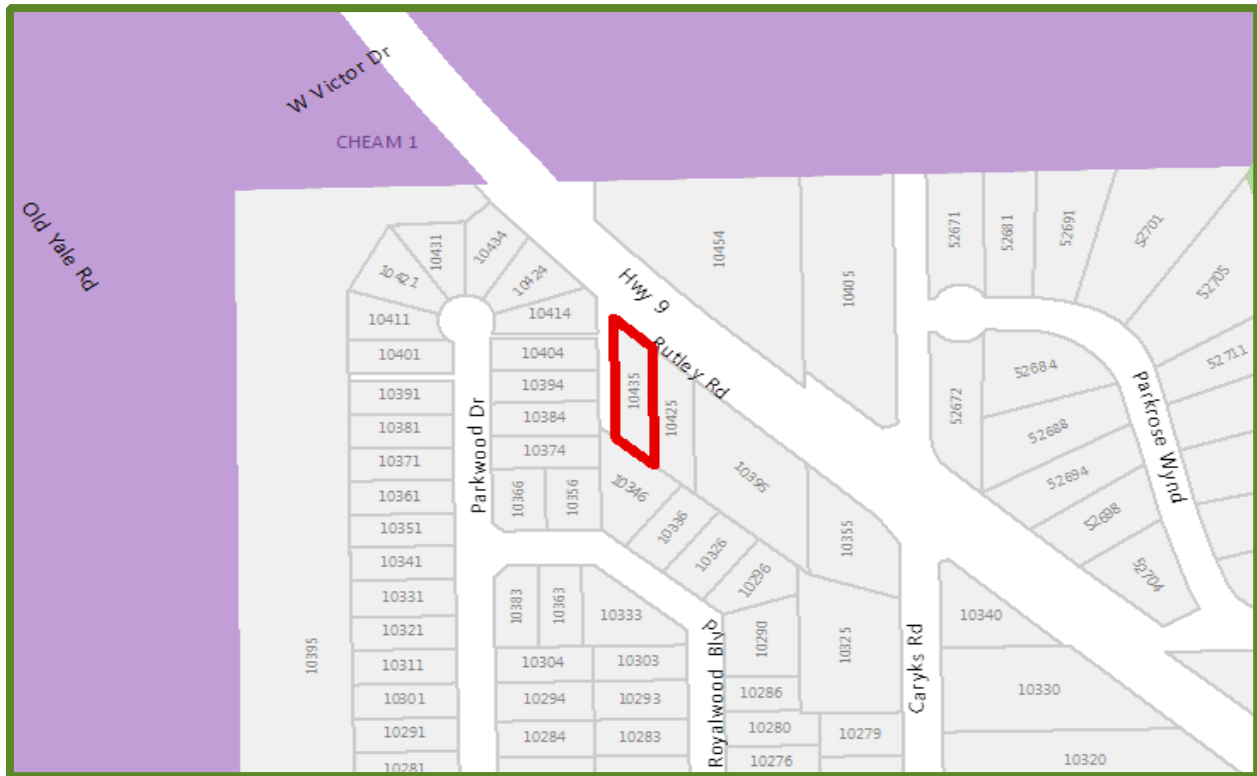
The owners of the property have made an application for a Development Variance Permit (DVP) in order to reduce the required setback to a flanking street lot line as outlined in *Zoning By-law for Electoral Area "D", 1976 of the Regional District of Fraser-Cheam*.

PROPERTY DETAILS			
Electoral Area	D		
Address	10435 Rutley Road		
PID	009-088-229		
Folio	733.06643.050		
Lot Size	0.34 acres		
Owner	Willem-Jan Kersten & Berendina Quik	Agent	n/a
Current Zoning	Country Residential (CR)	Proposed Zoning	No change
Current OCP	Suburban Residential	Proposed OCP	No change
Current Use	Residential	Proposed Use	No change
Development Permit Areas	None		
Agricultural Land Reserve	No		

ADJACENT ZONING & LAND USES

North	^	Hwy 9
East	>	Country Residential (CR), Single Family Dwelling
West	<	Suburban Residential 2 (SBR-2), Single Family Dwelling
South	v	Suburban Residential 2 (SBR-2), Single Family Dwelling

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

The owners of the subject property are undertaking a significant addition to their existing mobile home and have revised their proposal since DVP 2017-12 was issued. Their new proposal is to remove the existing legally non-conforming carport and construct an addition to the mobile home (living space and garage). Appendix A illustrates the proposed site plan for development.

History of Issued Variance – DVP 2017-12

At the FVRD Board meeting on June 27, 2017 the board issued Development Variance Permit 2017-12, reducing the flanking street setback along the west side of the property line from 25 feet (7.62 metres) to 14 feet 3 inches (4.34 metres) clear to sky, to enclose a patio and for the construction of an addition to a mobile home. Development Variance Permit 2018-20 would replace Development Variance Permit 2017-12.

Bylaw Enforcement

The construction of an enclosed patio and mobile home addition commenced without a building permit. Consequently, the property is in bylaw contravention for construction without a permit. In order to bring the property back into conformity, the property owners are cooperating with the FVRD and MOTI, and have applied for a building permit for the works (BP013903). The owners have also applied

for and have been issued a permit from MOTI to construct within the 3.0 metre MOTI setback (unconstructed road).

Property History

The subject property was issued a building permit for a carport in 1984. To issue the building permit for the carport, the property owners required a setback relaxation to the west property line (flanking street). The owners appealed to the Board of Variance for setback relief to allow the construction of a carport and the request was granted June 8, 1984. The Board of Variance relaxed the setback 15 feet.

Variance Requested – DVP 2018-20

Application Rationale

The applicant advises that the reasons in support of their variance are: 1. flanking street is an old existing fire lane with no traffic, no access and no hydrants; and 2. no impact to surrounding properties.

Flanking Street Variance

The owners are seeking a 16.5 foot (5 metre) relaxation to the required flanking street setback, reducing the setback requirement from 25 feet (7.6 metres) to 8.5 feet (2.6 metres), clear to sky.

The flanking street of 10435 Rutley Road is an un-developed Ministry of Transportation and Infrastructure (MOTI) road that lies adjacent to the west property line. Figure 1 demonstrates the undeveloped road. The mobile home addition encroaches into the 3.0 metre MOTI setback (unconstructed road) by 0.4 metres (1.3 feet). MOTI has issued a permit to reduce the building setback to less than 3.0 metres from the property line fronting an unconstructed road (Appendix B). MOTI has indicated there are no plans to construct the road; however, cannot guarantee the road will not be constructed at some point in the future. The MOTI permit may be terminated any time at the discretion of the Minister.

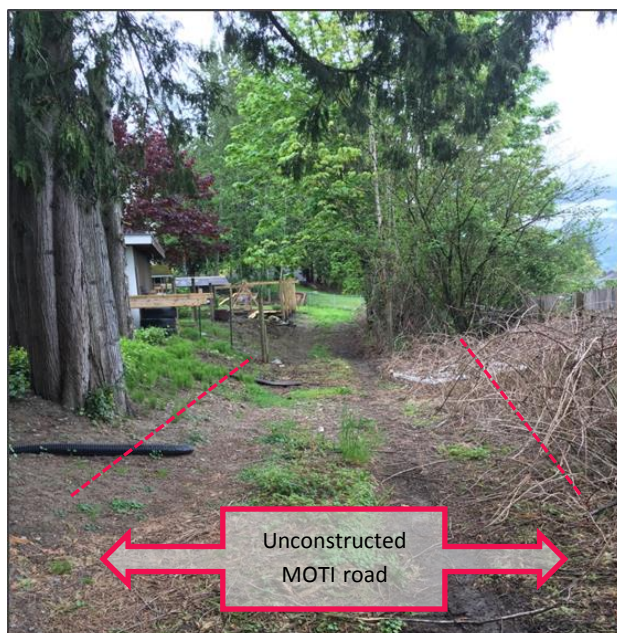


Figure 1 – West property line adjacent to MOTI unconstructed road

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 attend the Board meeting 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 no letters of support or objection have been submitted.

COST

The application fee of \$350.00 has been paid by the applicant.

CONCLUSION

The property owners have applied for a DVP to reduce the required flanking street setback. Staff recommend that the FVRD Board issue the permit. The variance is not anticipated to negatively affect surrounding properties, given the reduced setback is to an unconstructed MOTI road and the previous DVP was approved in 2017 and did not receive any objections from the neighbourhood. The property also has an irregular configuration with the siting of the existing mobile home.

OPTIONS

Option 1 – Issue (Staff Recommendation)

Staff recommend that the FVRD Board issue Development Variance Permit 2018-20 for the property located at 10435 Rutley Road, Electoral Area D to reduce the required flanking street setback from 25 feet (7.6 metres) to 8.5 feet (2.6 metres), 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 2018-20 for the property located at 10435 Rutley Road, Electoral Area D.

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 2018-20 for the property located at 10435 Rutley Road, Electoral Area D to FVRD Staff.

COMMENTS BY:

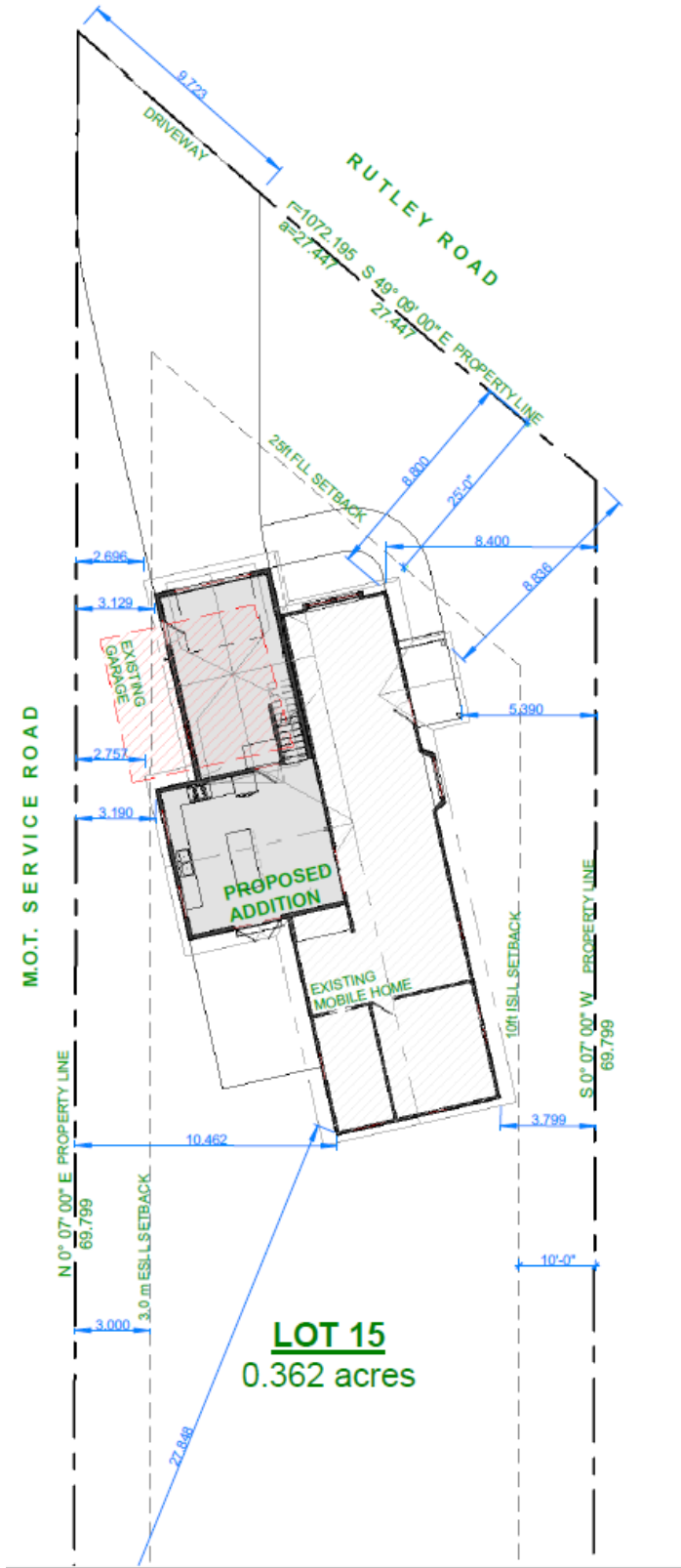
Graham Daneluz, Deputy Director of Planning & Development: Reviewed and supported.

Margaret Thornton, Director of Planning & Development: Reviewed and supported.

Mike Veenbaas, Director of Financial Services: No further financial comments.

Paul Gipps, Chief Administrative Officer: Reviewed and supported

Appendix A



Appendix B



BRITISH
COLUMBIA

Ministry of Transportation
and Infrastructure

Permit/File Number: 2017-03450 rev. 1

Office: Chilliwack Area Office

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:

Willem J Kersten
10435 Rutley Road
Chilliwack, British Columbia V0X 1X1
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 structures within the 3.0m setback from Ministry right of way (unconstructed), as shown on submitted sketch plan.

- 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. If the structures are to be removed or destroyed for any reason, they must be replaced at 3.0 meters from the legal boundary of all road allowances.
- 4. 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.
- 5. The Ministry of Transportation and Infrastructure will not be held responsible for any damage to the structures.



BRITISH
COLUMBIA

Ministry of Transportation
and Infrastructure

Permit/File Number: 2017-03450 rev. 1
Office: Chilliwack Area Office

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 May, 2017

A handwritten signature in black ink, appearing to be "Ken", written over a horizontal line.

On Behalf of the Minister