

To: CAO for the Electoral Area Services Committee

Date: 2018-12-11

From: Andrea Antifaeff, Planner I

File No: 3090-20-2018-32

**Subject: Application for Development Variance Permit 2018-32 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 2018-32 to reduce the flanking street setback from 25 feet (7.6 metres) to 7.9 feet (2.4 metres), to the foundation and 6.9 feet (2.1 metres) to the eave, 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.

**AND THAT** Development Variance Permit 2018-32 replace and supersede Development Variance Permit 2018-20 and Development Variance Permit 2017-12 and that both Development Variance Permits be cancelled and removed from title.

## 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*.

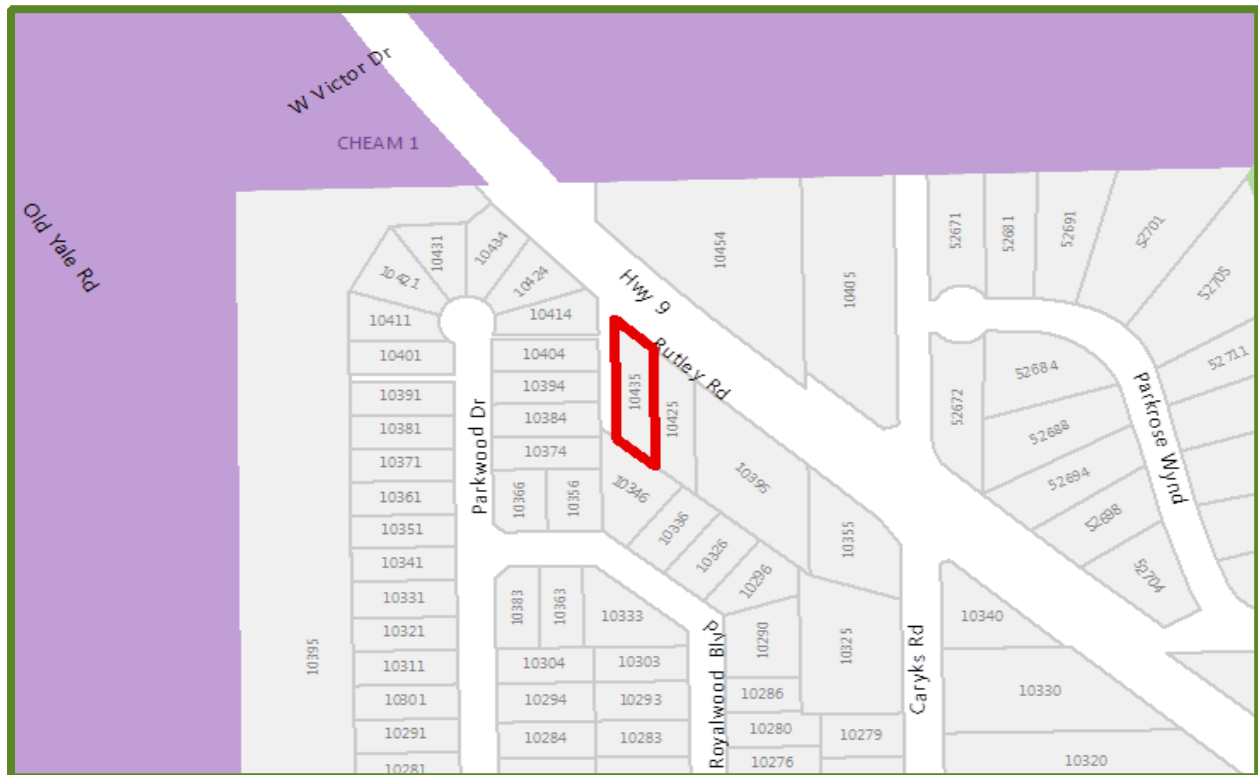
PROPERTY DETAILS			
Electoral Area	D		
Address	10435 Rutley Road		
PID	009-088-229		
Folio	733.06643.050		
Lot Size	0.34 acres		
Owner	Willem-Jan Kersten & Berendina Quik	Agent	n/a
Current Zoning	Country Residential (CR)	Proposed Zoning	No change
Current OCP	Suburban Residential	Proposed OCP	No change

<b>Current Use</b>	Residential	<b>Proposed Use</b>	No change
<b>Development Permit Areas</b>	None		
<b>Agricultural Land Reserve</b>	No		

#### ADJACENT ZONING & LAND USES

<b>North</b>	^	Hwy 9
<b>East</b>	>	Country Residential (CR), Single Family Dwelling
<b>West</b>	<	Suburban Residential 2 (SBR-2), Single Family Dwelling
<b>South</b>	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. As part of the building permit process the owners were required to obtain a forms survey. Upon receipt of the forms survey the owners realized that there was a discrepancy between the site plan submitted for DVP 2018-20 and the forms survey. The owners have therefore applied for another variance to bring the proposed addition into compliance. Appendix A shows the forms survey received.

### History of Issued Variances

#### 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 14.25 feet (4.34 metres), clear to sky, to enclose a patio and for the construction of an addition to the mobile home.

#### DVP 2018-20

At the FVRD Board meeting on June 26, 2018 the board issued Development Variance Permit 2018-20 reducing the flanking street setback along the west side of the property line from 25 feet (7.62 metres) to 8.5 feet (2.6 metres), clear to sky, for the construction of an addition to the mobile home. Development Variance Permit 2018-20 replaced Development Variance Permit 2017-12.

<b>Development Variance Permit</b>	<b>Required</b>	<b>Proposed</b>	<b>Variance</b>
DVP 2017-12 (June 2017)	25 feet (7.62 metres)	14.25 feet (4.34 metres) to eave	10.75 feet (3.28 metres)
DVP 2018-20 (June 2018)	25 feet (7.62 metres)	8.5 feet (2.6 metres) to eave	16.5 feet (5.02 metres)
DVP 2018-32 (December 2018)	25 feet (7.62 metres)	7.9 feet (2.4 metres) to foundation 6.9 feet (2.1 metres) to eave	17.1 feet (5.22 metres) 18.1 feet (5.52 metres)

#### 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).

#### Building Permit – BP013903

The property owners were issued a building permit on August 10, 2018 and construction commenced. The property owners informed the FVRD building department of the discrepancy between the forms survey obtained and the site plan previously submitted. After notification a FVRD building inspector posted the mobile home addition with a Stop Work Notice on October 26, 2018. The reduced setback will not have effect on fire separation requirements.

#### 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 2018-32

### Application Rationale

The applicant advises that the reason in support of their variance is: After the forms survey was completed, it was discovered that there was a discrepancy between the survey and the site plan previously submitted. Construction has already commenced and now the foundation is not in compliance.

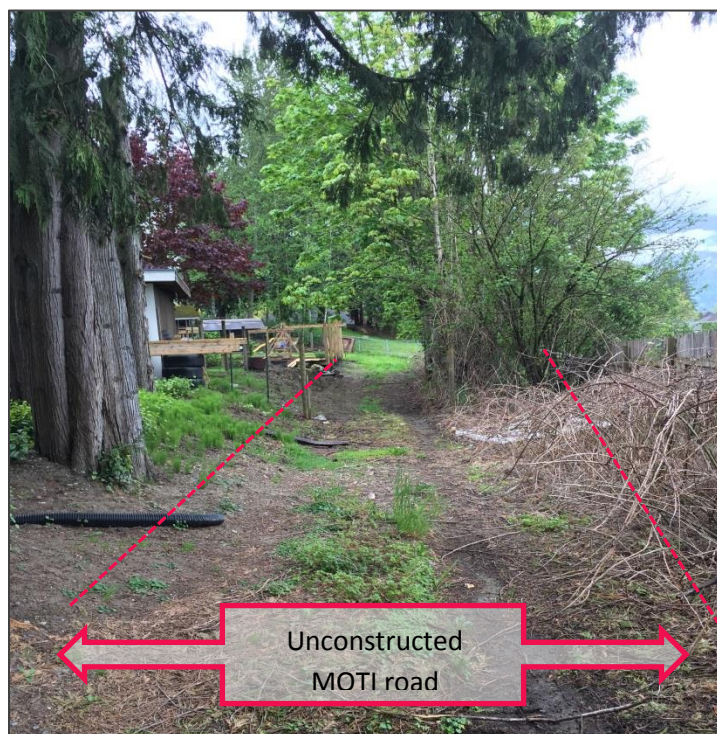
### Flanking Street Variance

The owners are seeking an 18 foot (5.5 metre) relaxation to the required flanking street setback, reducing the setback requirement from 25 feet (7.6 metres) to 7.9 feet (2.4 metres), to the foundation and 6.9 feet (2.1 metres) to the eave.

The flanking street of 10435 Rutley Road is an un-developed Ministry of Transportation and Infrastructure (MOTI) road right-of-way that lies adjacent to the west property line. Figure 1 demonstrates the un-developed road. The mobile home addition encroaches into the 3.0 metre MOTI setback (unconstructed road) by 0.9 metres (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, if plans change the property owners would have to remove the portions of any building within 3.0 metres of the road right-of-way. The Ministry cannot guarantee that 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.

Development Variance Permit 2018-32 would replace Development Variance Permit 2018-20.

**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. If MOTI rescinds their encroachment permit, the property owners would have to remove the portions of any building within 3.0 metres of the road right-of-way. We would normally want to avoid this situation, but given that 1. The owners were attempting to comply and the siting is the result of a construction error; and, 2. MOTI is unlikely to develop the unconstructed road; 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 2018 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 2018-32 for the property located at 10435 Rutley Road, Electoral Area D to reduce the required flanking street setback from 25 feet (7.62 metres) to 7.9 feet (2.4 metres), to the foundation and 6.9 feet (2.1 metres) to the eave, 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 2018-32 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 2018-32 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 Forms Survey

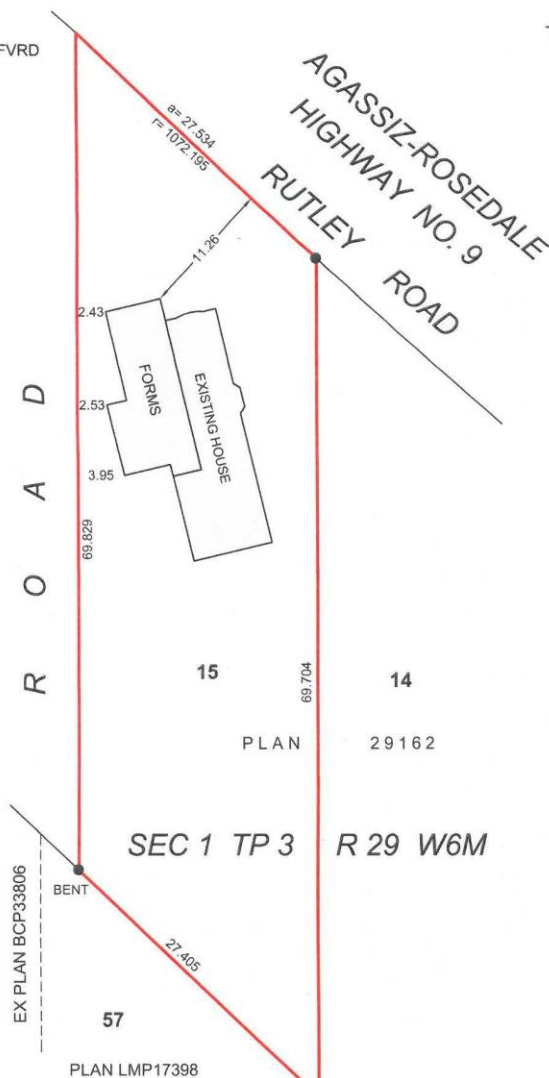
## BC LAND SURVEYOR'S CERTIFICATE OF FORM LOCATION ON LOT 15 SECTION 1 TOWNSHIP 3 RANGE 29 W6M NEW WESTMINSTER DISTRICT PLAN 29162

CLIENT: Willem Kersten  
PID: 009-088-229  
CIVIC ADDRESS: 10435 Rutley Road, FVRD  
BUILDING PERMIT: 013903  
SCALE: 1:400  
FB: C375/1111-112

REGISTERED DOCUMENTS:

MORTGAGE: CA1440571

SCALE 1:400



● DENOTES STANDARD IRON POST FOUND

### NOTES:

- THIS PLAN HAS BEEN PREPARED BASED ON LAND TITLE & SURVEY AUTHORITY RECORDS (AND A FIELD SURVEY) [PLAN 29162].
- OFFSET DISTANCES ARE MEASURED TO THE EXTERIOR OF FOUNDATION FORMS AND ARE PERPENDICULAR TO PROPERTY LINES.
- THIS PLAN WAS PREPARED FOR FVRD FORMS BYLAW COMPLIANCE AND IS FOR THE EXCLUSIVE USE OF KERSTEN WILLEM.
- THIS DOCUMENT SHALL NOT BE USED TO DEFINE PROPERTY LINES OR PROPERTY CORNERS.
- VECTOR GEOMATICS AND SIGNATORY ACCEPT NO RESPONSIBILITY FOR, AND HEREBY DISCLAIM, ALL OBLIGATIONS AND LIABILITIES FOR DAMAGES INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL, AND CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY DIRECT OR INDIRECT USE OR RELIANCE UPON THE PLAN BEYOND ITS INTENDED USE.

CERTIFIED CORRECT THIS  
NOVEMBER 1, 2018  
WILLIAM  
TUNBRIDGE  
ALLAN TUNBRIDGE, B.C.L.S. 703  
This Document is Not Valid Unless Originally Signed and Sealed

**VECTOR**  
GEOMATICS LAND SURVEYING LTD.  
Chilliwack Office  
6-7965 Venture Place  
Chilliwack, B.C. V2R 0K2  
Ph.: (604)792-4264  
www.vectorgeomatics.com

File: CW1800121P15 Date: 2018-11-01



## Appendix B MOTI Permit



BRITISH  
COLUMBIA

Ministry of Transportation  
and Infrastructure

Permit/File Number: 2017-03450 rev. 2

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 BCLS survey (dated November 1<sup>st</sup>, 2018).
- 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 road construction / 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. 2

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 15<sup>th</sup> day of November, 2018

\_\_\_\_\_  
On Behalf of the Minister