



North Pender Island Board of Variance Meeting Agenda

Date: September 28, 2023

Time: 10:00 a.m.

Location: Electronic Meeting

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. MINUTES
 - 3.1 September 13, 2023 (attached)
4. UPDATE FROM SECRETARY
5. APPLICATIONS
 - 5.1 NP-BOV-2023.1 (Cameron) - Staff Report (attached)
6. ADJOURNMENT



DRAFT

North Pender Island Board of Variance Minutes of a Hearing

Date: September 13, 2023
Location: Electronic Meeting (Zoom Webinar)

Members Present: Andrew MacLean, BOV Member (Acting Chair)
Bert Hol, BOV Member

Staff Present: Brad Smith, Island Planner
Carly Bilney, Recorder
Emily Bryant, Staff

Applicants: Colleen Jones
Thomas Jones
Ken Rempel, Designer

1. CALL TO ORDER

Chair MacLean called the meeting to order at 10:02 a.m.

2. APPROVAL OF AGENDA

By general consent, the agenda was approved as presented.

3. MINUTES

3.1 North Pender Board of Variance Minutes Dated July 26, 2023

By general consent the North Pender Board of Variance meeting minutes of July 26, 2023 were adopted as presented.

4. UPDATE FROM SECRETARY

5. APPLICATIONS

5.1 NP-BOV-2023.4 (Jones) - Staff Report

Island Planner Smith reviewed the Staff Report regarding NP-BOV-2023.4 (Jones). Discussion ensued and the following comments were made:

- It was up to the Board of Variance to decide whether the applicants face a hardship that warrants variance
- Hardship was difficult to ascertain in this application as there was space on the southeast side of the property where an extension can be added
- Applicants noted the current design plan allows access to the septic field
- Financial burden is not a hardship that warrants variance

- It was difficult to see a hardship in this application because there appeared to be alternative design options
- The property is not substantially different from neighbouring properties to warrant a variance from the rules
- Enclosing the deck would cause the applicants to lose their current nonconforming provision
- The applicants could seek a development variance permit through the Local Trust Committee

NP-BOV-2023-03

It was Moved and Seconded,

that having considered the matters set out in s.542(1)(c) of the *Local Government Act*, and having found that undue hardship would not be caused to the applicant if s. 5.2 (1)(b) of the North Pender Land use Bylaw No. 224, 2023 is complied with, the North Pender Island Board of Variance denies application NP-BOV-2023.4 (Jones).

CARRIED

6. ADJOURNMENT

By general consent the meeting was adjourned at 10:34 a.m.

Recorder

Date



File No.: NP-BOV-2023.1 (Cameron)

DATE OF MEETING: September 28, 2023
TO: North Pender Island Board of Variance
FROM: Brad Smith, Island Planner
Southern Team
CC: Robert Kojima, Regional Planning Manager
SUBJECT: Board of Variance Application
Applicant: Heather Cameron and Kevin Zembik
Location: 1604 Chart Drive, Pender Island

REPORT SUMMARY

The purpose of this staff report is to further present an appeal to the Board of Variance (BoV) to vary the North Pender Island Land Use Bylaw No. 224, 2023 (LUB) to permit the construction of a new dwelling and decks along with associated retaining walls and the replacement of existing septic tanks, all to be located within lot setbacks.

This application is being made under Section 540 (a) (i) of the *Local Government Act* for a variance to a bylaw respecting the siting, size or dimensions of a building or other structure.

APPLICANT'S RATIONALE

As further described in the two letters submitted by the applicant and included as Attachment 1 and 2, the rationale for the requested variances is summarized as follows:

- The 0.25 acre lot is extremely shallow, dramatically sloped from one side to the other with a very restricted building area;
- An engineering report recommends the construction of retaining walls for protecting structural integrity along with the natural environment by preventing collapse down the steep bank;
- The proposed design of the house is intended to minimize the required variances and has taken into consideration the feedback of the BoV at the July 26, 2023 meeting;
- Both decks will add much needed living space to the home and will help to make the extremely shallow 17.5 foot depth feel less restricted and tight; and,
- The septic tanks were installed by previous owners and have the proper approvals from health authorities at time of installation, replacing the tanks will ensure long term integrity of the tanks and protection of the environment and the septic professional deems this to be the best site for them.

BACKGROUND

The BoV first considered this DP application at a July 26, 2023 hearing. At that hearing, the BoV deferred making a decision on the application and passed the following resolution:

NP-BOV-2023-02

It was Moved and Seconded,

That the North Pender Board of Variance defer a decision on application NP-BOV-2023.1 (Cameron) and seek the following additional information from the applicant:

- a) Clarity from the Capital Regional District Building Inspection department and Ryzuk Engineering on what is the best approach to dealing with the existing non-engineered portion of the retaining wall; and
- b) Clarity from the Capital Regional District Building Inspection department on whether the proposed building design and siting is generally feasible from a building inspection perspective.

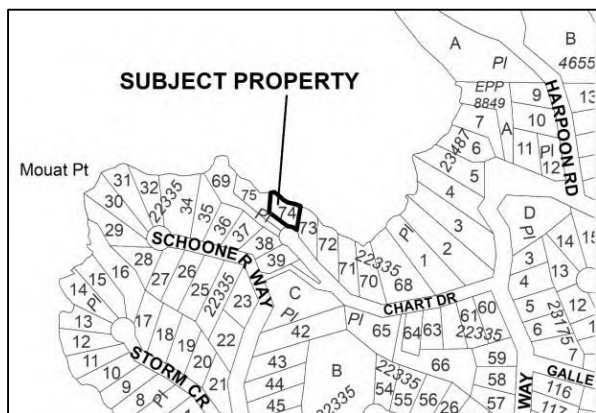
CARRIED

CARRIED

Based on this resolution and in view of the feedback provided by the BoV and staff at the July 26 hearing, the applicant has made considerable effort to collect the information and to amend their building design and variance requests.

The property is located at 1604 Chart Drive, North Pender Island. There is one small accessory building located on the property, a travel trailer, and two existing concrete septic tanks.

Figure 1 – Subject Property



The July 26, 2023 staff report can be found starting on p5 of the agenda package located here: <https://islandstrust.bc.ca/document/north-pender-board-of-variance-agenda-package-2/> **AMENDED REQUEST FOR VARIANCE**

The original variances considered by the BoV at the July 26, 2023 hearing were to Subsection 3.3 (1) 'Siting and Setback Regulations' in the 'General Regulations' of the LUB.

More specifically, clause 3.3 (1)(a), which states that *No building or structure, other than those in Subsection 3.3(2), may be sited, nor fill placed to support a building or structure, within: (a) 15 metres upland of the natural boundary of the sea;* was sought to be varied to permit:

- a) The siting of existing septic tanks within 10.02 metres of the natural boundary of the sea.
- b) The construction and siting of a 4.1 metre wide section of the dwelling (upper and lower floors) within 14.67 m of the natural boundary of the sea.
- c) The construction and siting of a 5.0 metre long, 1.5 metre wide boulder stack retaining wall (east side of dwelling) within 10.63 metres of the natural boundary of the sea.
- d) The construction and siting of a 15.3 metre long boulder stack retaining wall (west side of dwelling) within 8.61 metres of the natural boundary of the sea.
- e) The construction and siting of two covered decks (upper and lower floor) within 12.13 metres of the natural boundary of the sea.

In consideration of the BoV's feedback at the previous hearing, the applicants have revised their application to seek the following variances to clause 3.3 (1)(a):

- a) The siting of replacement septic tanks within 10.01 metres of the natural boundary of the sea (#2 in Schedule A below);
- b) The construction and siting of a 5.0 metre long boulder stack retaining wall (northeast side of dwelling) within 10.69 metres of the natural boundary of the sea (#3a in Schedule A).
- c) The construction and siting of an interconnected 15.3 metre long boulder stack retaining wall and a 5.7 m long boulder stack retaining wall (northwest side of dwelling) within 8.61 metres of the natural boundary of the sea (#3b and C in Schedule A).
- d) The construction and siting of two floors of covered decks 11.48 m in length (upper and lower floor) within 12.24 metres of the natural boundary of the sea (#4 in Schedule A).

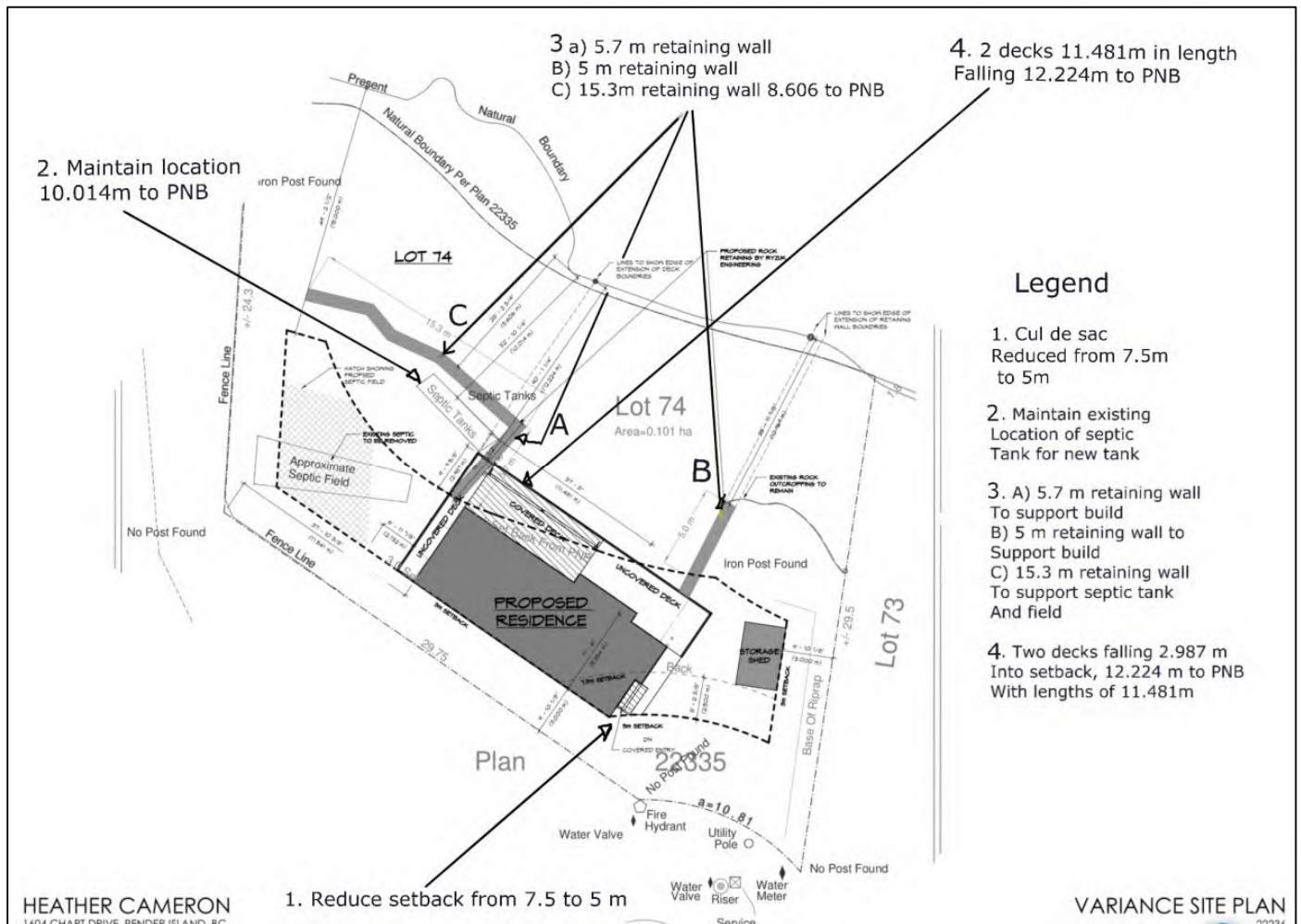
Subsection 5.1.5 (a) 'Siting and Size' in the Rural Residential 1 (RR1) regulations of the LUB, as shown on Schedule A is also proposed to be varied as follows:

- 2) Clause 5.1.5 (a) which states that *the minimum setback for any building or structure shall be: (a) 7.6 metres from any front or rear lot line,* is varied to permit:
 - a) The construction and siting of the southwest corner of the proposed dwelling within 5 m of the front lot line (#1 in Schedule A).

In respect of the proposed plan and the two resolutions passed by the BoV, staff and the applicant met with Ryzuk engineering staff over zoom who confirmed that the existing non-engineered retaining wall should be removed, and that the proposed new engineered wall is still suitable as designed.

The applicant also confirmed with CRD building inspection that there are no concerns with the plan with respect to seeking a building permit. Structural engineering will be considered at the time of building permit approval and there is no requirement for any of the future house foundation or other portions to be sited within the setback from natural boundary of the sea except for the two decks where variance is being sought.

Figure 2. Schedule A: Site Plan showing Proposed Variances



Site photos are provided for additional context. Updated architectural floor plans and elevation drawings are included as Attachment 2.



Photo 1. Broad view of development area



Photo 2. Existing retaining wall



Photo 3. Septic Tanks to be replaced



Photo 4. Side View of Retaining Wall

Issues and Opportunities

Impact in Neighbouring Properties

As the proposed development encroaches in setbacks along the backside of the property, and in the driveway portion of the front lot, has minimal impacts to site lines or other enjoyment and use of the adjacent properties, if the proposed variances are, granted staff assess the impacts on neighbours as relatively minimal.

Undue Hardship

The *Local Government Act* (LGA) establishes that a Board of Variance may order that a *minor* variance be permitted provided that the Board finds that *undue hardship* would be caused to the applicant if the variance is not granted (see 'Legislative Context' – below).

The applicant's rationale with respect to hardship is explained in the letters included as Attachment 1 and 2.

The Intent of the Regulation being Varied

Section 542 (c) (v) of the LGA states that the Board may grant a minor variance if the Board is of the opinion that the variance does not defeat the intent of the bylaw. Although the Board must form its own opinion, the following assessment of the intent of the setback from the natural boundary of the sea regulation may assist:

- Protection of development from natural hazards, particularly with sea level rise and increased storm surges.
- Protection of the natural shoreline environment.
- Limiting the visual impact of development on adjacent properties and the public realm.
- Establishing a consistent development pattern within a local area.
- Protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
- Maintaining a rural character.
- Establishing certainty with respect to residential development by maintaining consistent siting regulations.

Potential Impacts of Granting the Variance

Granting a variance can potentially create an expectation in the community with regard to future applications. As variances consider the unique circumstances pertaining to a particular situation that may warrant the relaxation of a specific zoning regulation each application should be evaluated on its own merits.

Consultation

Notices were recirculated to all adjacent properties (Attachment 3). In addition, copies have been posted on island bulletin boards and the Islands Trust website under North Pender Island.

At the time of writing, no letters have been received in response to re-notification. The neighbours most potentially impacted to the immediate west and east of the lot (1602 and 1606 Chart Dr) have both provided written support for the proposed development based on the previous plan notification. Four responses were not in favour, none from immediate neighbours.

Any submissions received after the agenda is published will be sent directly to BoV members and will be presented by staff at the September 28, 2023 meeting.

First Nations

The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. As reviewed, the application is consistent with respect to LTC Standing Resolutions on reconciliation.

Remote Access to Archaeological Data (RAAD) information indicates there are no archaeological sites noted on the property or within 100 metres. There are, however, areas of high archaeological potential in the vicinity of proposed work. The applicant has been provided with guidance on their obligations and procedures if archaeological material that is protected under the *Heritage Conservation Act* is encountered during development. The applicant has also been sent the Islands Trust Chance Find Protocol.

Statutory Requirements

Legislative Context

A person may apply to the Board of Variance for an order to vary certain zoning bylaw provisions where an applicant can adequately demonstrate, to the satisfaction of the Board, that compliance with the bylaw provisions would cause the applicant undue hardship.

It is up to the Board of Variance to determine what constitutes a minor variance and whether or not undue hardship has been proven.

This application is being made under Section 540 (a) (i) of the LGA where:

A person may apply to a board of variance for an order under Section 542 if the person alleges that compliance with any of the following would cause the person hardship:

- (a) a bylaw respecting*
 - (i) the siting, dimensions or size of a building or structure*

Section 542 establishes that the board of variance may only order that a minor variance be permitted from the requirements of the bylaw, if the board of variance:

- (a) has heard from the applicant and any person notified any person notified under section 541,*
- (b) finds that undue hardship would be caused to the applicant if the bylaw or 531 (1) is complied with, and*
- (c) is of 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;*
 - vi. vary the application of an applicable bylaw in relation to residential rental tenure.*

Further, Section 542 (2) establishes that the board of variance must not make an order that would:

- (a) be in conflict with a covenant registered under section 219 of the Land Title Act or section 24A of the Land Registry Act, R.S.B.C., c. 208;*
- (b) deal with a matter that is covered in a land use permit or covered in a land use contract*
- (c) to (e) deal with matters covered by a phased development agreement; a floodplain specification; or apply to a property with heritage protection applies.*

Staff is satisfied that all other requirements set out in LGA section 542 (1) and (2) have been met. Specifically:

- The statutory notification has been undertaken and ALL responses are provided to the BoV.
- The proposed variance is of a minor nature as it is for a relatively small incursion into the setback from the natural boundary of the sea and the front lot setback and no other variances are required.
- The natural environment would not be significantly impacted as the variance is for development in an already largely disturbed area.
- The variance would not impact the use and enjoyment of neighbouring properties.
- The variance would not vary permitted uses or densities.
- The variance would not defeat the intent of the bylaw.
- The variance would not be in conflict with any covenants or permits.

Lastly, in considering the appeal, the Board should be satisfied that the requirements under LGA Section 542 (1) and (2) are met:

1. That the owner would experience a hardship if the appeal is not granted; and,
2. That the proposed variance is of a minor nature.

If the appeal for variance is not granted, the applicants could make a subsequent Development Variance Permit application for consideration by the North Pender Island Local Trust Committee (LTC), or alter the proposed building plan to conform.

Submitted By:	Brad Smith	September 21, 2023
Concurrence:	Robert Kojima, Regional Planning Manager	September 21, 2023

ATTACHMENTS

1. Addendum Rationale Letter from Applicant
2. Original Rationale Letter from Applicant
3. Revised Architect Plans and Drawings
4. Notice

NP-BOV-2023.1
1604 Chart Drive Pender Island
Lot 74 section 9
Heather Cameron, Kevin Zembik
604-880-9603

Addendum to original variance request NP-BOV-2023.1

After meeting with the BOV on July 26th 2023, we have made the recommended changes to our build, connected with all contractors/departments involved with our build as requested by the BOV and adjusted our variance requests.

Simplified list of variance requests:

NEW VARIANCE REQUEST

- Moving the House 2.5 metres into the 7.5 metre setback to the cul de sac to pull a large portion of the deck away from the PNB - as requested by the BOV.

ORIGINAL VARIANCE REQUESTS THAT STILL APPLY:

- Retaining walls to support build and septic tanks
- Maintain existing location for septic tank as we will be replacing it with a new tank as recommended by the BOV.
- Request for two floors of decks to fall 2.987 meters into the PNB - length for both decks is 11.481 metres.

ORIGINAL VARIANCE REMOVAL:

- Bay window falling into setback to PNB - no longer applicable after moving the house forward into cul de sac setback.

As suggested by the BOV after our meeting on July 26th 2023, we connected with our builder regarding a structural engineer, our home designer, septic contractor, geotechnical engineer, the CRD and Wey Mayenburg who provided the original site survey. Please find below the outcome of these meetings followed by our full detailed variance requests based on BOV feedback from July.

Follow up (homework) from BOV:

1. CRD - we connected with Chris Watson from the CRD as the BOV requested. We shared our plans with Chris and he has no concerns at this stage and referenced the building permit checklist which will be followed as our building plans advance. Chris requested a comfort letter from Ryzuk be supplied after excavation. Ryzuk has agreed to provide this.
2. The board recommended we speak with a structural engineer. We met with Brook from Baxter Construction and when the drawings are at the proper stage, he will engage a structural engineer to review and stamp drawings prior to CRD submission.
3. Our Designer has updated the plans to better demonstrate the lower deck and new house location. Measurements to the PNB are all done perpendicularly from the closest points.

4. As requested by the BOV, we connected with Wey Mayenburg who provided our site survey plan. They have reviewed the drawing we are working from and confirm that the setback line shown on the survey is from the PNB. Measurements are done perpendicularly from the closest point. We have provided a sample explanation of this below. We have sent this letter from Wey Mayenburg to Brad for confirmation.
5. We met with our septic contractor after our meeting with the BOV in July, and he confirmed septic tanks must be 3 metres from a dwelling based on regulations by the Vancouver Health Authority. He will be replacing the old concrete tanks from 2004 with a new upgraded tank in the same location.

Our 4 Variance Requests:

1. NEW - As recommended by the BOV - We request a reduction to the cul de sac setback from 7.5 metres to 5 metres to allow us to move the house forward and pull a large portion of the deck out of the setback to the PNB.
2. Existing Septic Tank location to be maintained - **Note: As recommended by the BOV - our septic tanks will be replaced** but we will need to keep the location of the previous tank for the new tank. The distance from the tank to the Present Natural Boundary is 10.014 metres. We have confirmed with our septic contractor and Vancouver Health Authority that tanks must be 3 metres from a dwelling.
3. We are maintaining our original variance request for Retaining walls in the Natural Boundary Setback to support our Build, the Septic Tank and Septic Field.
 - A) A retaining wall on the west side stretching 5.7 metres into PNB after excavation of non engineered fill & retaining wall to support build.
 - B) A retaining wall on the east side stretching 5 metres into PNB after excavation of non engineered fill & retaining wall to support build.
 - C) a 15.3 metre long retaining wall to support the new septic tank and septic field falling 8.606 metres into the PNB

A & B) We will be removing the non engineered fill and non engineered retaining wall in the centre of the property which currently falls about 6 metres into the PNB. This removal was recommended by Ryzuk Geotechnical as it is not structurally safe to leave it.

We will need to install two retaining walls which will begin at the foundation of the dwelling stretching towards the PNB to support the removal of this non engineered fill.

The 5 metre and 5.7 metre retaining walls will protect the structural integrity after excavation of the non engineered fill and retaining wall, along with the natural environment below.

Ryzuk engineering has been to our site, reviewed the existing conditions, viewed our architectural plans and dug test holes in the build area. They have designed engineered retaining walls to support the design of the home and protect the Natural Boundary.

Please see original attached documents to support this. Ryzuk retaining walls are combined with the site plan but are also attached individually to the original variance package July 26th

UPDATE AFTER JULY 26TH BOV MEETING:

We connected Brad and Christian from Ryzuk geotechnical via zoom after our BOV meeting in July to provide clarity on the walls and their support of this build. Brad confirmed in this meeting he was satisfied.

C) The retaining wall in front of the septic tanks will allow us to bury the new tank properly and prevent erosion around the new tank and the above septic field.

4. As recommended by the BOV, we have moved the house forward towards the cul de sac, to pull a large portion of the two decks out of the PNB. A portion of our main floor covered deck and lower floor deck still fall into the setback to the PNB.

We request a variance to have portions of the two decks (main floor and lower floor) extend 2.987 metres into the setback - the length of the two decks in the setback are 11.481 metres. There will be support posts for the two decks.

NP-BOV-2023.1

1604 Chart Drive
Pender Island
Lot 74 section 9

Heather Cameron, Kevin Zembik
604-880-9603

Intro and Brief Overview:

Three years ago in May 2020, we purchased lot 74 Section 9 Pender Island - 1604 Chart Drive.

We will become full time residents of Pender Island upon our daughters graduation from high school in 2025.

Our 1/4 acre lot is extremely shallow, dramatically sloped from one side to the other with a very restricted build area.

We have worked with our architect to design house plans that fit within the extremely tight setbacks (less the decks and small portion of the kitchen bay window) giving us a 17.5 x 46 square foot home - the main floor has 844 square feet. There is a 373 square foot loft above the kitchen for the main bedroom with ensuite, and a basement with a second bedroom, small bathroom and tv/recreational area. The basement is currently marked as 501 potential square feet for living, and 331 sf of crawl space and storage. The basement floor will have to be re-assessed after all the non engineered fill and retaining wall that is currently there, is removed.

The Fill - Our build has become further complicated by the presence of non engineered fill and a 10 metre high non engineered retaining wall. The previous owner brought in a large amount of fill to level out the land and constructed a 3 metre high retaining wall to contain the fill. The non engineered fill and retaining wall are approximately 5 metres within the setback to the natural boundary. We have been advised by Ryzuk to remove both fill and retaining wall as it is not engineered or structurally safe. This was very upsetting as we believed we had all of that levelled out area as property to enjoy. Now, to protect the bank and natural boundary from potentially having the wall and fill fall into it, the centre of our lot is to be removed.

When we purchased the lot, the realtor gave us a site survey that had been recently done by the owner. The property also had pins and markers in place showing the setback lines from the Natural Boundary along with property lines between the neighbours. These markings were helpful and allowed us to mark out a house with a 3 metre wide deck. We even a few extra feet of land remaining in front of the deck towards the water/natural boundary. Of course, as I mentioned previously, we now have to remove the centre of the lot, but we still believed by the existing markers that we had room for the house and a 3 metre deck.

After meeting with our architect last fall, we discover that ‘someone’ had moved the set back markers 3 metres into the natural boundary across the whole water side of the property.

It was really upsetting to learn about the non engineered fill, but now we lost the entire space we believed we had for a deck and living space.

Image below shows one of the pink markers that is located across the front of our property.



The previous owner also installed a one bedroom septic system in 2004 placing the concrete tanks 9.151 metres into the natural boundary set back. When we purchased the lot, we were given documents from Vancouver Island Health Authority and Capital Health Region (*I have attached these for your review*) for the installed septic system, leading us to believe they were fully approved. Brad has discovered that they were not approved by Island Trust.

We had the tanks inspected upon purchase, and they were deemed viable and in great working condition by Canadian Sewage Solutions. The inspector recommended adding retaining walls to support the location of the tanks and the sand/soil around them. The retaining walls would also allow us to bury the tanks properly as they are currently completely exposed. This was also recommended by Canadian Sewage (see attached documents by Canadian Sewage to support these notes).

See attached photo below for a visual reference of the tanks, non engineered wall and non engineered fill.



Our septic field is being redone and repositioned by Big Digem and will double in size to allow for a two bedroom home. Braedon of Big Digem will be removing the existing field which is shown on the site plans, and has already marked out and measured the new septic fields position - also marked on the site plans. We have paused this field expansion as we are hoping to get the variance approved for the retaining wall in front of the septic tanks. The retaining wall must be put in place first as there will not be access to that area of the property once we lay the new septic field. If the retaining wall is approved, we would proceed with that first, then expand the septic field immediately after.

I've listed our 5 variance requests below, and gone into further detail for each.

Variance 1: We would like to build a 3.10896 x 16.345 metre deck on the main floor and a 3.10896 x 7.62 metre deck on the basement level.

The previous owner constructed a 3 metre non engineered retaining wall (5 metres within the natural boundary set back) and used non engineered fill to level out the land. This fill and retaining wall are still in place and after having it inspected by Ryzuk, it was noted that it was not engineered and could potentially slide down into the water should we experience a sizeable earthquake.

See supporting documents attached by Ryzuk (original fill inspection file)

We will be removing this non engineered fill and non engineered retaining wall to build our home.

Our first variance request is to allow for two decks on the back of the home (water side).

The main floor deck is 3.10896 x 16.345 metres across the the home and is 2.810 meters into the natural boundary setback. The deck will have three to four posts to support it and they will be located 2.438 metres into the natural boundary setback. There will also be a lower deck that will be metres 3.10896 x 7.62 metres and will also be 2.438 metres into the natural boundary setback. There will be two posts to support this lower deck placed 2.438 metres into the natural boundary setback.

Both decks will add much needed living space to the home and will help to make the extremely shallow 17.5 foot depth feel less restricted and tight. The decks will also replace all the land we believed we had before being told the non engineered fill was structurally unsafe. As we limited parking and a storage shed on one side of the house, and the septic field on the other, we don't see where any other decks could be placed.

Variance 2: Existing Septic Tanks to Stay in Place.

As I mentioned above, the previous owner had a one bedroom septic system installed in 2004 without proper approvals from Island Trust. The tanks are located 9.151 metres into the setback from the natural boundary.

We have had the tanks inspected and they are in great shape and working order.

Please see supporting attached documents for this from Canadian Sewage Solutions.

We will be doubling our septic field to support a two bedroom home. The new field has been measured and marked out by Braedon of Big Digem who will be laying the new lines, and is reflected accurately on the architectural drawings. *(Previous field is also still shown for reference on drawings)*

We would like to request a variance for the existing septic tanks to stay in their current place as we can't possibly imagine where else they could be located within

such a tight building area. If we moved the house over into the driveway to allow for new tanks to be placed by the field, we would lose all our parking and the only location for our much needed storage shed. Our cul de sac offers zero street parking and they have even posted 'no parking signs' to prevent this.

Variance 3: Retaining walls into the Natural Boundary Setback to support Build. We will be removing the non engineered fill and retaining wall as recommended by Ryzuk engineering. Though we loved the space this area offered, it will be nice to take the land back to it's natural state and prevent any possible chance of the non engineered fill and wall sliding down into the ocean. No one wants that. We will need to install retaining walls to the site on either side of the home at 5 and 5.7 metres into the natural boundary setback. These walls will protect the homes structural integrity along with the natural environment below by preventing any chance of the sides collapsing down the bank.

Ryzuk engineering has been to our site, reviewed the existing conditions, viewed our architectural plans and dug test holes in the build area. They have designed engineered retaining walls to support the design of the home and protect the Natural Boundary.

Please see attached documents to support this. Ryzuk retaining walls are attached individually and go into detail and are also combined in the architectural drawings.

Variance 4: We would like to Construct a Septic Retaining Wall around the Existing Tanks if they are allowed to stay in place.

If allowed to keep our existing septic tank in their current location, we would like to request a variance to install a retaining wall across the front of the tank that connects up with the 5.7 metre retaining wall that is supporting the excavated area for the home. The retaining wall in front of the septic tanks will be 15.3 metres long allowing us to bury the tanks properly and prevent further erosion around the tanks and the above septic field. The included above photo above gives you a good idea of the septic tanks location and the land around them. It's very sloped directly in front and on the far side. The extended wall will contain the tanks and field from any run off.

Please see attached documents from Canadian Sewage Solutions to support burying the tanks.

Variance 5: We would like to requests that 0.333 metres (13.125") x 4.064 metres of the Kitchen and basement be allowed to fall in the Natural Boundary Setback. In our original plans submitted early this year, we had the house angled forward several feet into the cul de sac setback. To eliminate requesting one more variance,

we pushed the one end of the house towards the water and pulled it out of the cul de sac setback completely. This kept almost all of the home within the designated building zone. When we did this, a small portion of the jut out in the kitchen and lower level fell within the natural boundary set back. We would like to request a variance allowing this jut out area to enter the natural boundary set back by 0.333 metres or 13.125 inches. This may seem like a trivial request, but our house is only 17.5 feet wide from front to back. Having even the smallest jut out adds precious space to the kitchen which is the busiest area in the home and to an extremely restricted tight basement level.

Thank you for your time.
Heather Cameron, Kevin Zembik & Lily Zembik

Attached Documents:
Su Casa Architectural drawings (combined with Ryzuk retaining walls)

Ryzuk engineered retaining walls

Ryzuk engineering site inspection and recommend non engineered fill and retaining wall removal.

Canadian Sewage Solutions - inspection and recommendations

Original Septic installation paperwork approved by the Capital Health Regional & Vancouver Island Health Authority

Land title Search

State of Title certificate

PROJECT SYNOPSIS

CIVIC ADDRESS:
1604 CHART DRIVE, FENDER ISLAND, BC.

LEGAL DESCRIPTION:
LOT 14, SECTION 9, FENDER ISLAND, GOWICHAN DISTRICT, PLAN 22335

ZONING: RR

SITE AREA: 10266 SF

LOT COVERAGE:
PERMITTED: 2716 SF
PROPOSED: 1447 SF

FLOOR AREA SUMMARY:

INTERIOR	
UPPER FLOOR AREA	373 SF
MAIN FLOOR AREA	244 SF
BASEMENT AREA	501 SF
CRAWLSPACE AREA	242 SF
CRAWLSPACE AREA	34 SF
TOTAL FLOOR AREA	2048 SF

FLOOR SPACE RATIO (FSR):
PERMITTED: N/A

BUILDING SETBACKS: PERMITTED

FRONT: 7.6m
REAR: 15m
L. SIDE: 3.0m
R. SIDE: 3.0m

MAXIMUM HEIGHT: 9.1m = 31'-4"
PROPOSED HEIGHT: 0.5m = 21'-10 1/2"

CLIMATIC DATA:

CLIMATE ZONE 4, PRESCRIPTIVE PATH
(TABLE 4.36 2.0-A -
ABOVE GRADE ASSEMBLIES WITHOUT A HRV
&
TABLE 4.36 2.0-A -
BELOW GRADE ASSEMBLIES WITH OR WITHOUT A HRV

FRANCISE HEAT SOURCE:
HEAT PUMP

VENTILATION MEETS B.G.B.C. 932 & 936

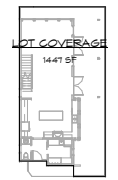
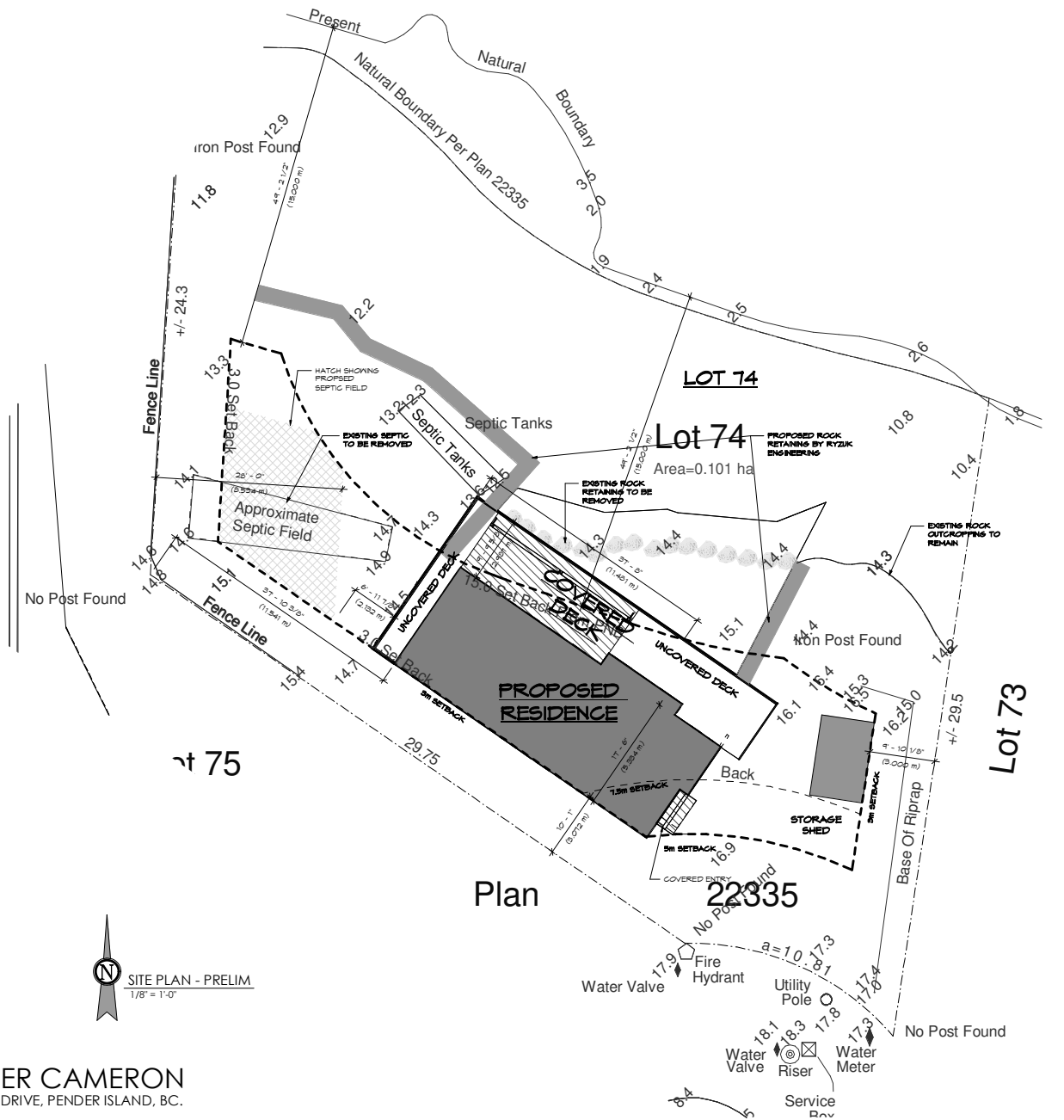
SITE SERVICES:

M.B.E. N/A

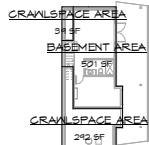
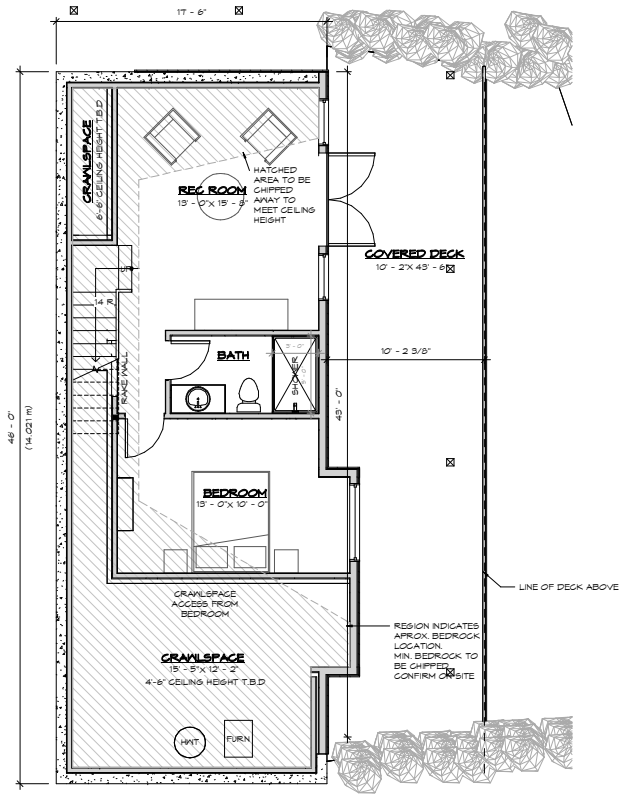
PROPOSED SANITARY SERVICES:
UPGRADED SEPTIC

PROPOSED STORM SERVICES:
EXISTING

PROPOSED WATER SERVICES:
EXISTING

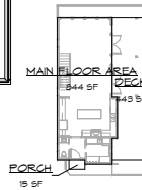
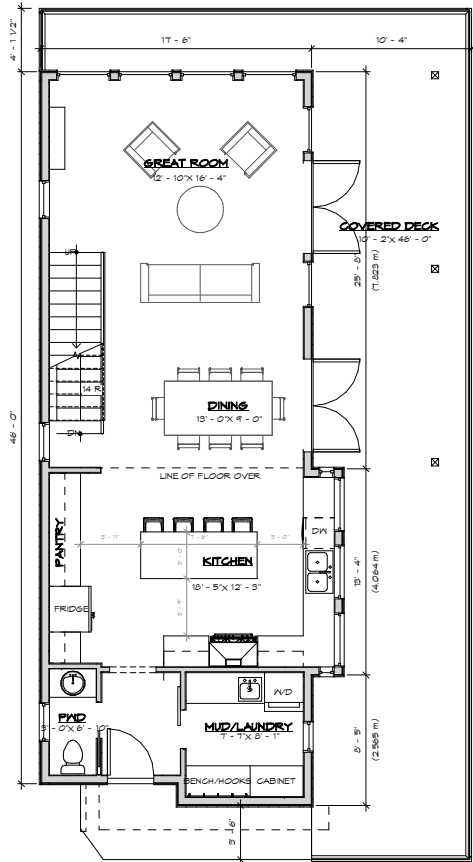


SITE PLAN - PRELIM
1/8" = 1'-0"



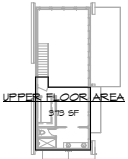
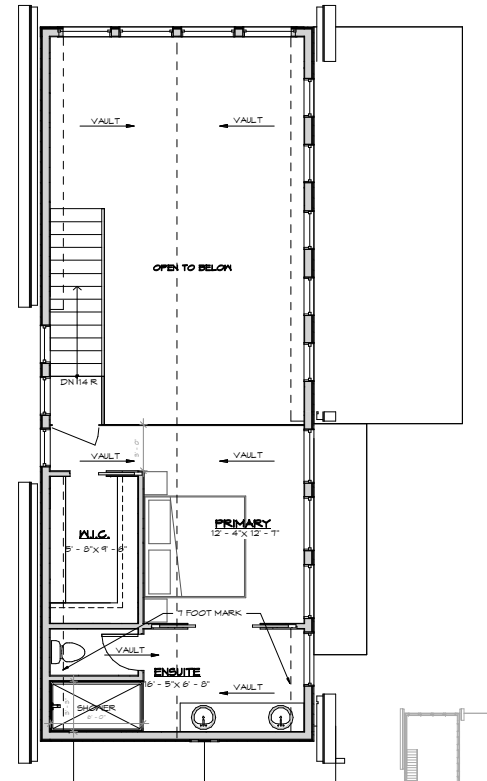
BASEMENT FLOOR PRELIM
1/4" = 1'-0"

BASEMENT AREA	501 SF
CRAWLSPACE AREA	262 SF
CRAWLSPACE AREA	31 SF
TOTAL BASEMENT FLOOR AREA	832 SF



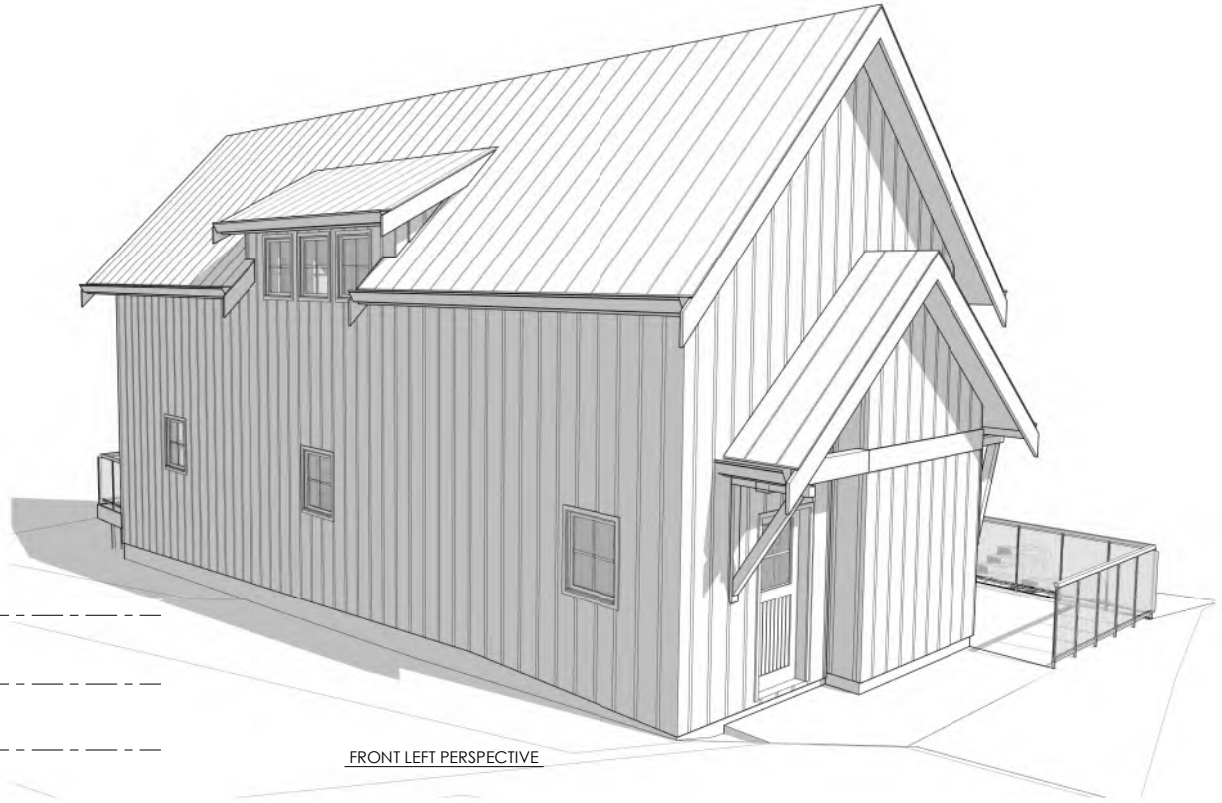
MAIN FLOOR PRELIM
1/4" = 1'-0"

MAIN FLOOR AREA	844 SF
DECK	145 SF
PORCH	15 SF
TOTAL MAIN FLOOR AREA	1004 SF

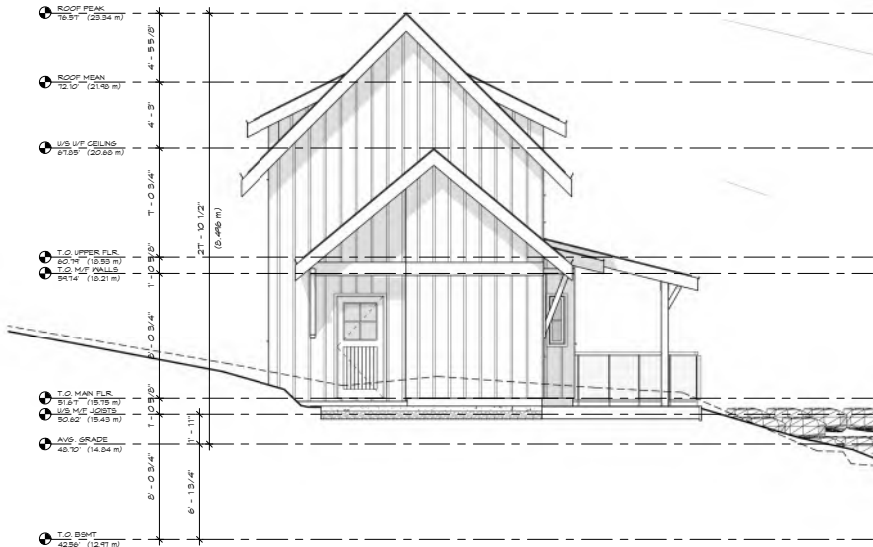


UPPER FLOOR PRELIM
1/4" = 1'-0"

UPPER FLOOR AREA	515 SF
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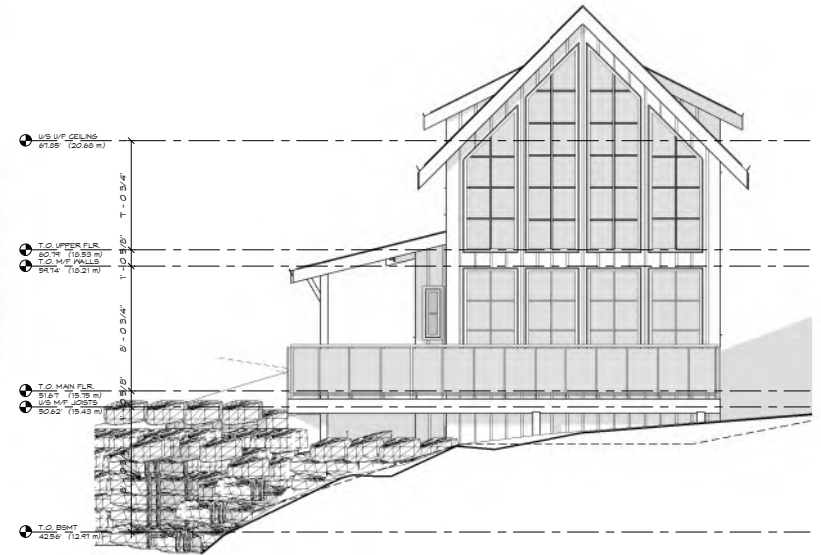


FRONT LEFT PERSPECTIVE



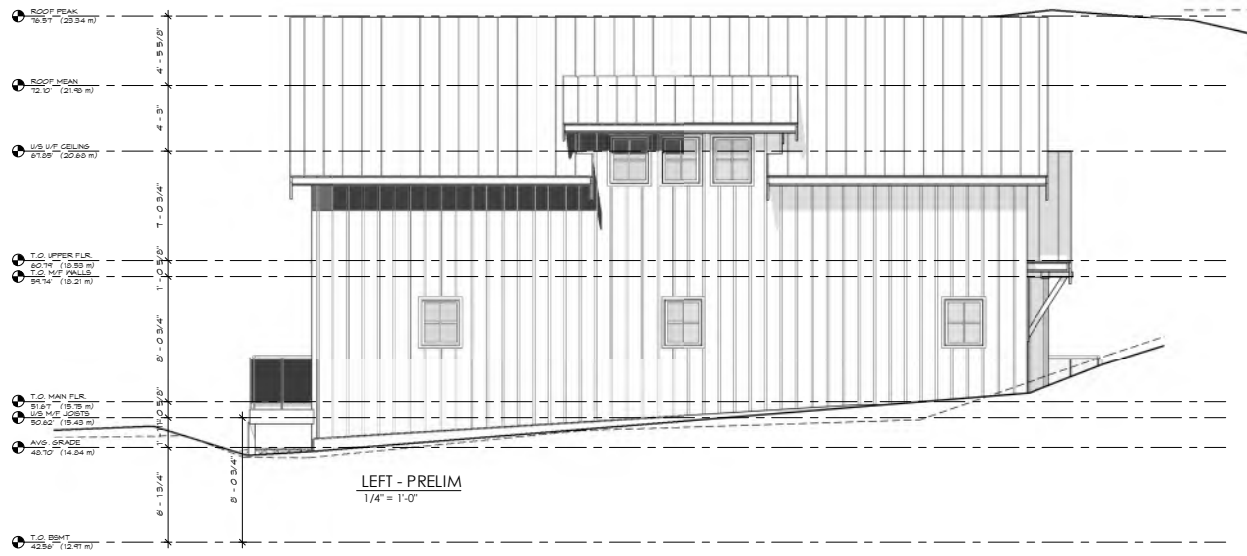


REAR RIGHT PERSPECTIVE



REAR ELEVATION
22236

2023.09.28 12:26:24 PM



LEFT - PRELIM
1/4" = 1'-0"



RIGHT - PRELIM
1/4" = 1'-0"

3. Maintain location
10.014m to PNB

- 4 a) 5.7 m retaining wall
- B) 5 m retaining wall
- C) 15.3m retaining wall 8.606 to PNB

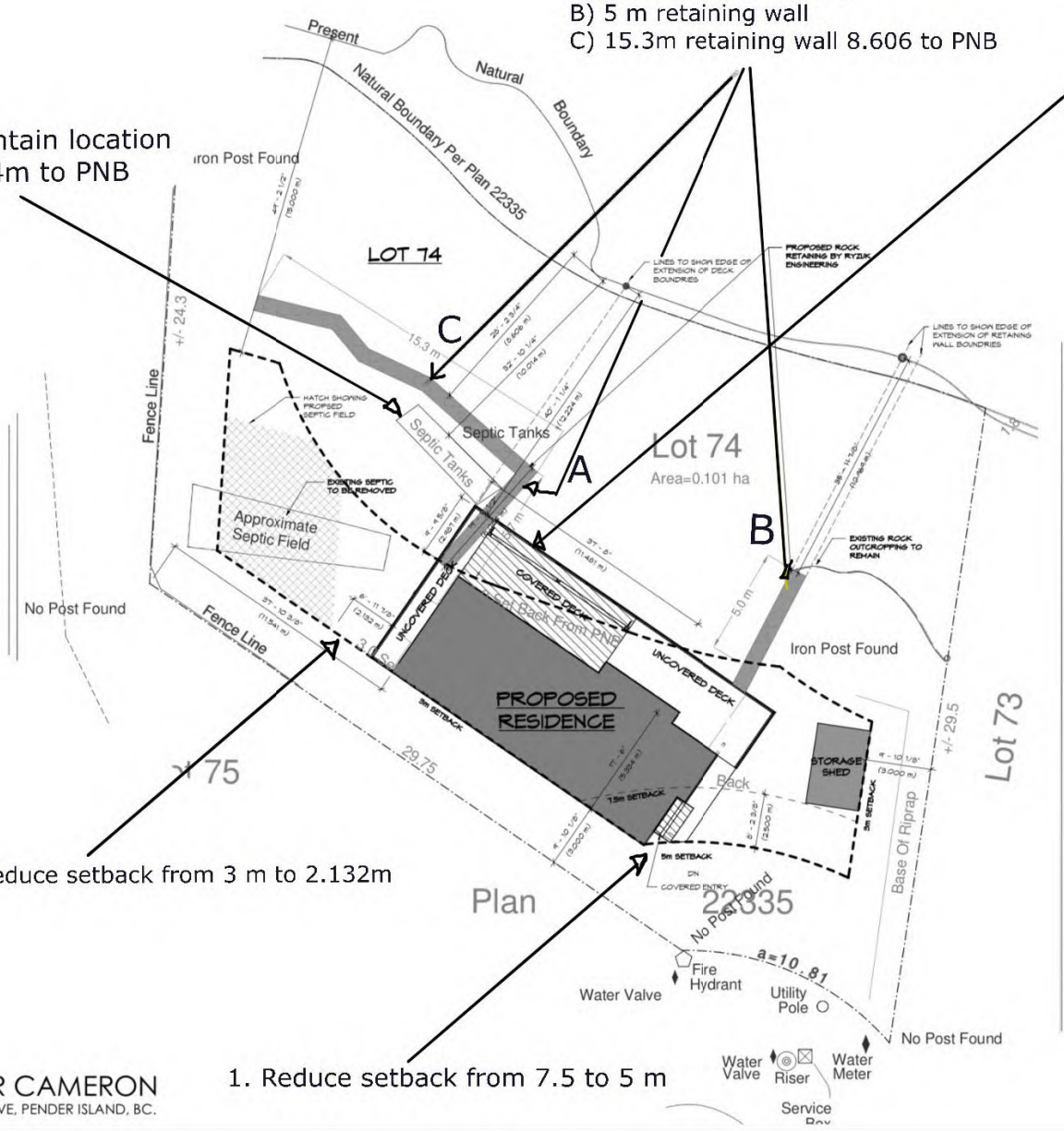
5. 2 decks 11.481m in length
Falling 12.224m to PNB

2. Reduce setback from 3 m to 2.132m

1. Reduce setback from 7.5 to 5 m

Legend

1. Cul de sac
Reduced from 7.5m to 5m
2. Reduce setback
From septic field to House from 3m to 2.132
3. Maintain existing
Location of septic
Tank for new tank
4. A) 5.7 m retaining wall
To support build
B) 5 m retaining wall to
Support build
C) 15.3 m retaining wall
To support septic tank
And field
5. Two decks falling 2.987 m
Into setback, 12.224 m to PNB
With lengths of 11.481m





NORTH PENDER ISLAND BOARD OF VARIANCE

NOTICE OF HEARING - RENOTIFICATION

NOTICE is hereby given pursuant to Section 541 of the *Local Government Act* to the persons who deem that their interest in property is affected that there will be an **electronic hearing** of the North Pender Island Board of Variance held on **September 28, 2023 starting at 10:00 a.m.**

The Board will re-consider the following appeal for application **NP-BOV-2023.1 (Cameron)**.

An initial hearing for this application was held on July 26, 2023, and at that hearing the Board deferred a decision in light of proposed revisions to the original variance requests made by the applicant to address concerns raised by the Board at the hearing.

NP-BOV-2023.1 (Cameron)

Re: 1604 Chart Drive, North Pender Island BC

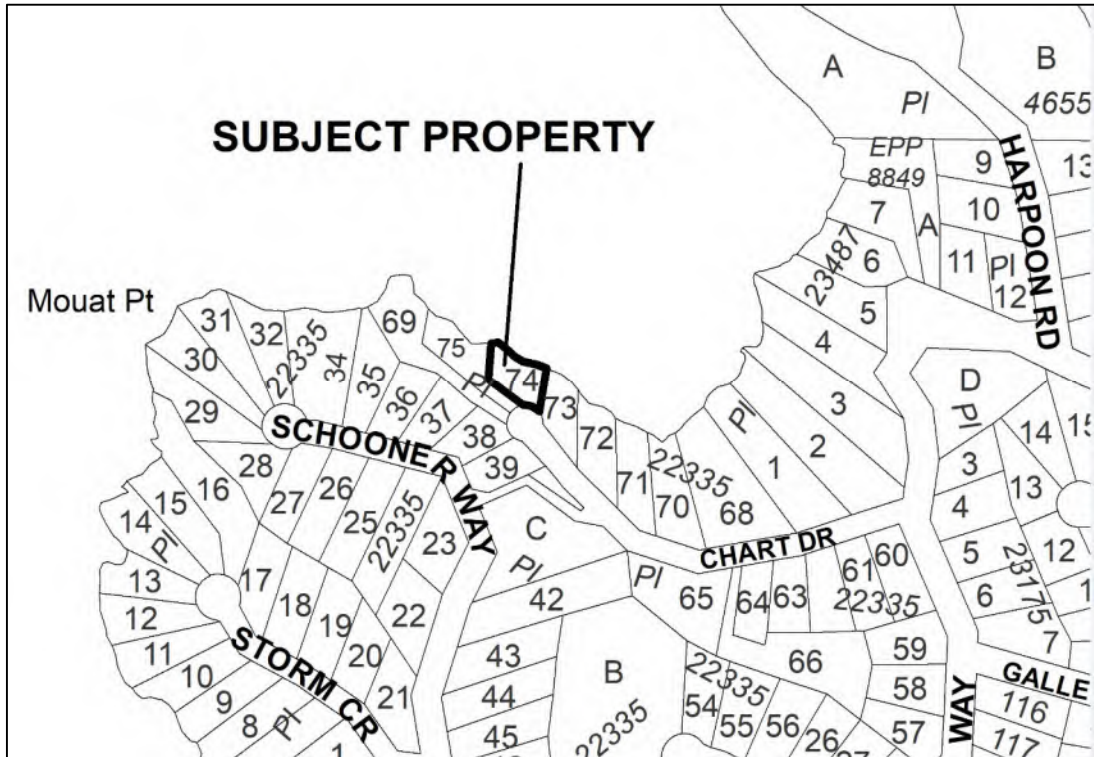
Legally described as: Lot 74, Section 9, Pender Island, Cowichan District, Plan 22335
(PID: 003-222-691)

The purpose of the appeal is to:

Allow for variance to North Pender Island Land Use Bylaw 224 (LUB) respecting the siting, size or dimensions of a building or other structure. The proposed variances are to **Subsection 3.3 'Siting and Setback Regulations'** in the **'General'** regulations of the LUB, and to **Subsection 5.1.5 (a) 'Siting and Size'** in the **Rural Residential 1 (RR1)** regulations of the LUB, as shown on the attached Schedule 'A' and specifically as follows:

- 1) Clause 3.3(1)(a) which states that *no building or structure, other than those in Subsection 3.3(2), may be sited, nor fill placed to support a building or structure, within: (a) 15 metres upland of the natural boundary of the sea;* is varied to permit:
 - a) The siting of replacement septic tanks within 10.01 metres of the natural boundary of the sea (#2 in Schedule A);
 - b) The construction and siting of a 5.0 metre long boulder stack retaining wall (northeast side of dwelling) within 10.69 metres of the natural boundary of the sea (#3a in Schedule A).
 - c) The construction and siting of an interconnected 15.3 metre long boulder stack retaining wall and a 5.7 m long boulder stack retaining wall (northwest side of dwelling) within 8.61 metres of the natural boundary of the sea (#3b and C in Schedule A).
 - d) The construction and siting of two floors of covered decks 11.48 m in length (upper and lower floor) within 12.24 metres of the natural boundary of the sea (#4 in Schedule A).
- 2) Clause 5.1.5 (a) which states that *the minimum setback for any building or structure shall be: (a) 7.6 metres from any front or rear lot line,* is varied to permit:
 - a) The construction and siting of the southwest corner of the proposed dwelling within 5 m of the front lot line (#1 in Schedule A).

The general location of the subject property is shown on the sketch below:



Any person whose property may be affected by an appeal to a Board of Variance has the right to be heard and give evidence at the hearing, or to be represented by some other person authorized by them in writing to do so.

Written submissions may be delivered as follows:

1. To the Secretary to the North Pender Island Board of Variance, at the office of Islands Trust #200 - 1627 Fort Street, Victoria, BC, V8R 1H8, telephone (250) 405-5194, fax (250) 405-5155, or by email to southinfo@islandstrust.bc.ca, prior to **4:30 p.m., September 22, 2023**.
2. After **4:30 p.m., September 22, 2023**, to the Chair of the North Pender Island Board of Variance at the hearing by emailing to southinfo@islandstrust.bc.ca.

Enquiries or questions should be directed to: Brad Smith, Island Planner at (778) 679-5185, for Toll Free Access, request a transfer via Enquiry BC: In Vancouver 660-2421 and elsewhere in BC 1-800-663-7867; or by fax (250) 405-5155; or by email to: bsmith@islandstrust.bc.ca.

All applications are available for review by the public. Written comments made in response to this notice will also be available for public review. A copy of the notice and additional information including how to connect to the **electronic hearing** can also be viewed on the Islands Trust webpage: <https://islandstrust.bc.ca/event/north-pender-board-of-variance-meeting-9-28/>

Brad Smith
Secretary to the North Pender Island Board of Variance

NP-BOV-2023.1 (Cameron)
Schedule A
Site Plan

