



South Pender Island Board of Variance Meeting Agenda

Date: June 18, 2024

Time: 2:00 p.m.

Location: Electronic Meeting

-
- 1. CALL TO ORDER**
 - 2. APPROVAL OF AGENDA**
 - 3. SELECTION OF BOARD OF VARIANCE CHAIR**
 - 4. MINUTES**
 - 4.1 October 25, 2021 (attached)**
 - 5. APPLICATIONS**
 - 5.1 SP-BOV-2024.1 (Green) - Staff Report (attached)**
 - 6. ADJOURNMENT**



DRAFT

South Pender Island Board of Variance Minutes of a Hearing

Date: October 25, 2021
Location: Electronic Meeting (Zoom Webinar)

Members Present: Andrew MacLean, BOV Member
Priscilla Zimmerman, BOV Member

Staff Present: Phil Testemale, Planner 2 – Secretary to the NPI Board of Variance
Shannon Brayford, Recorder
Robin Ellchuk, Planning Assistant (Host)

Applicant Representative: Cameron Thorn

1. CALL TO ORDER

At 11:00 am Planner Phil Testemale called the meeting to order, noting that the Board of Variance (BOV) had not yet elected a Chair. He acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations and encouraged participants to each make their own land acknowledgements from their varied locations.

2. APPROVAL OF AGENDA

By general consent the agenda was approved as presented.

3. SELECTION OF BOARD VARIANCE CHAIR

Planner Testemale made three calls for nominees for the position of chair. On the first call, Andrew MacLean nominated Priscilla Zimmerman and the nomination was accepted. No further nominations were heard.

SP BOV-2021-001

It was Moved and Seconded

that the South Pender Island Board of Variance appoint Priscilla Zimmerman as the Board of Variance Chair.

CARRIED

4. MINUTES

4.1 August 8, 2014

By general consent the Board of Variance meeting minutes of August 8, 2014 were adopted as presented.

5. APPLICATIONS

5.1 SP-BOV-2021.1 (Thorn) – Staff Report

Planner Testemale provide an overview of the staff report, including the rationale for the application, a description of the proposed building, and the variance being requested.

A discussion was held including the following points:

- Visual impact of requested site on overall character when viewed from the road
- Design and siting considerations included in application to mitigate visual impact
- Consideration of hardship
- Impact of alternative siting options due to topography and required tree removal.

The applicant, Cameron Thorn, provided information on opportunities for vegetative screening including additional planting and predicted growth of existing plants.

SP-BOV-2021-002

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 be caused to the applicant if Article 5.1 (6) (a) of the South Pender Island Land Use Bylaw is complied with, the South Pender Island Board of Variance approve application SP-BOV-2021.1 (Thorn) to permit an accessory building (cistern shed) within 0.6 metres (2.0 ft.) from the rear lot line of the front lot line as shown on Schedule A SP-BOV-2021.1 Notice of Hearing.

CARRIED

6. ADJOURNMENT

By general consent the meeting was adjourned at 11:27 a.m.

Shannon Brayford, Recorder

Date

File No.: SP-BOV-2024.1 (Green)
SP-DVP-2007.1 (Green)

DATE OF MEETING: June 18, 2024
TO: South Pender Island Board of Variance
FROM: Phil Testemale, Planner 2
Southern Team
SUBJECT: Board of Variance Application
Applicant: Audrey and David Green
Location: 9928 Gowlland Point Road

REPORT SUMMARY

The purpose of the report is for an appeal to the Board of Variance to vary the South Pender Island Land Use Bylaw No. 114, 2016 (LUB) for the **interior side lot line setback** for a proposed addition to an accessory building on the subject property.

The proposed variances are to the 'Siting and Size' provisions for the **Rural Residential 2 (RR2) Zone** of the LUB, as shown on the attached Schedule 'A', and specifically as follows:

1. Article 5.1 (8) (b) which states that the minimum setback for any building or structure, except a fence or pump/utility house, shall be sited at least 3.0 metres (10 ft.) from any interior side lot line is varied to permit an **addition** (landing and stairway) to an **accessory building** (garage/studio) within metres **1.5 metres** (5 ft.) from an interior side lot line.

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

- The addition of a landing and exterior stairs is to provide safe access to the upper floor of the accessory building. Other internal alternatives would significantly constrain the garage use of the ground floor. Other locations on the exterior of the building would require significant and costly structural alterations thereby making them unfeasible.

BACKGROUND

The application is being made in advance of an Islands Trust Building Permit Preliminary Plan Review and CRD Building Permit application.

If granted, the variance would permit the construction of an exterior landing 2.1 m long x 1.5 m wide and stairs 3.8 m long x 0.9 m wide attached to the upper floor of the building at the rear, or east side. The landing and stairs will extend a maximum of 1.5 m into the setback area (Figures 2 and 3).

The applicants provided a statement that outlines the rationale for the variance and the alternatives they considered (Attachment 3). Summarized, they state that access is currently limited to interior, pull down stairs which pose safety concern given the applicant's age. They explored other options to access the upper floor, including the installation of an interior lift or stairs, both of which would limit the garage (parking) use on the ground floor. Other exterior locations would require significant and costly structural and architectural alterations making those unfeasible.

The current size of the accessory building is 92.7 m² (998 ft²) on the ground floor (a double car garage, workshop and storage) and 37.5 m² (404 ft²) on the upper (attic storage). The upper floor dormer addition for the exterior entrance will add 10m² (101 ft²) of area (no variance required), allowing that to be used for crafting and exercise (Figure 2 and Attachment 2).

The building is sited 3.0 m from the east interior side lot line as per LUB zone regulations. It was the subject of a DVP in 2007 to vary the maximum height of the subject building up to 5.6 m. At that time the maximum height for an accessory building was 4.6 m. The current maximum is 7.6 m.

The property is a linear shaped, 1.00 ha (2.46 acres) lot oriented north-south on Gowlland Point Road (Figure 1). It is well treed and slopes gently from the roadway toward Drummond Bay where there is a small rise/berm along the backshore area of Drummond Bay. In addition to the subject accessory building, there is a two storey main dwelling on the south of the property.

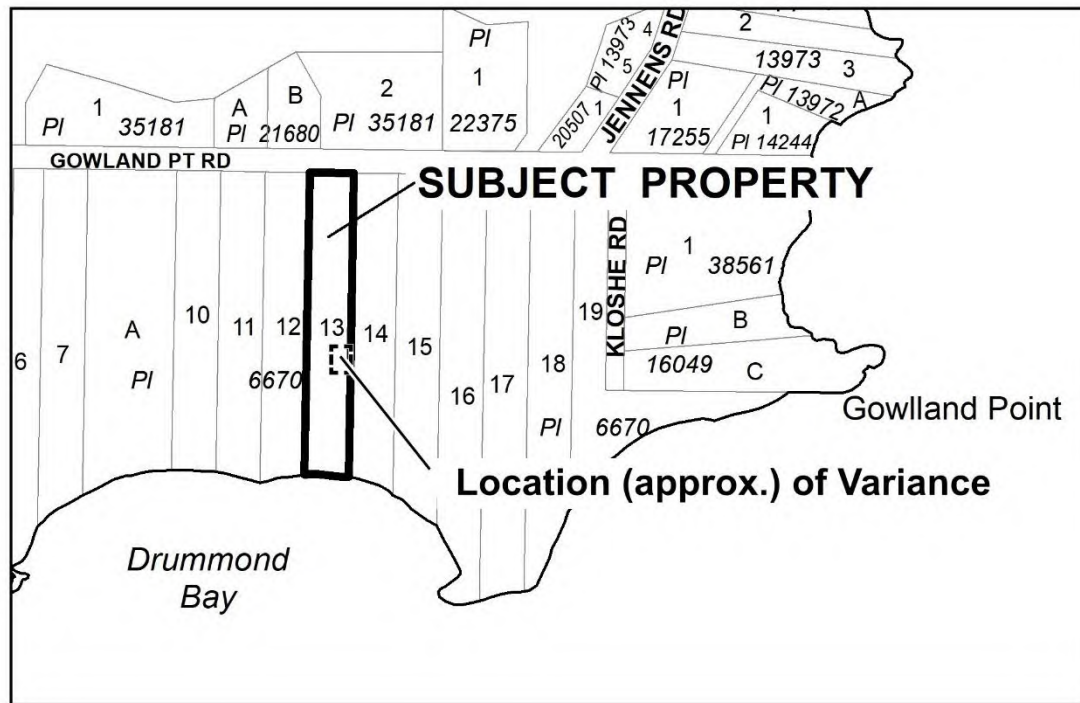
The distance from the proposed variance to the closest dwellings on the neighbouring property to the east is approximately 33 metres southeast.

Other than a BoV order, the alternatives available to the applicant are to locate the access to conform, or to make a subsequent Development Variance Permit application for consideration by the South Pender Island Local Trust Committee (LTC).

The notice mailed to all adjacent neighbours and the applicant is Attachment 5.

Due to road closures and ferry schedules, staff have not visited the property.

Figure 1 – Subject Property



ANALYSIS

Official Community Plan:

The subject property is designated as **RR- Rural Residential** in the South Pender Island Official Community Plan 107, 2011. There are no **Development Permit Areas** designated on the property.

Land Use Bylaw

The subject property is zoned **Rural Residential 2 (RR2)** in the South Pender Island Land Use Bylaw No, 114, 2016. The residential and accessory uses of the property conform to the zone.

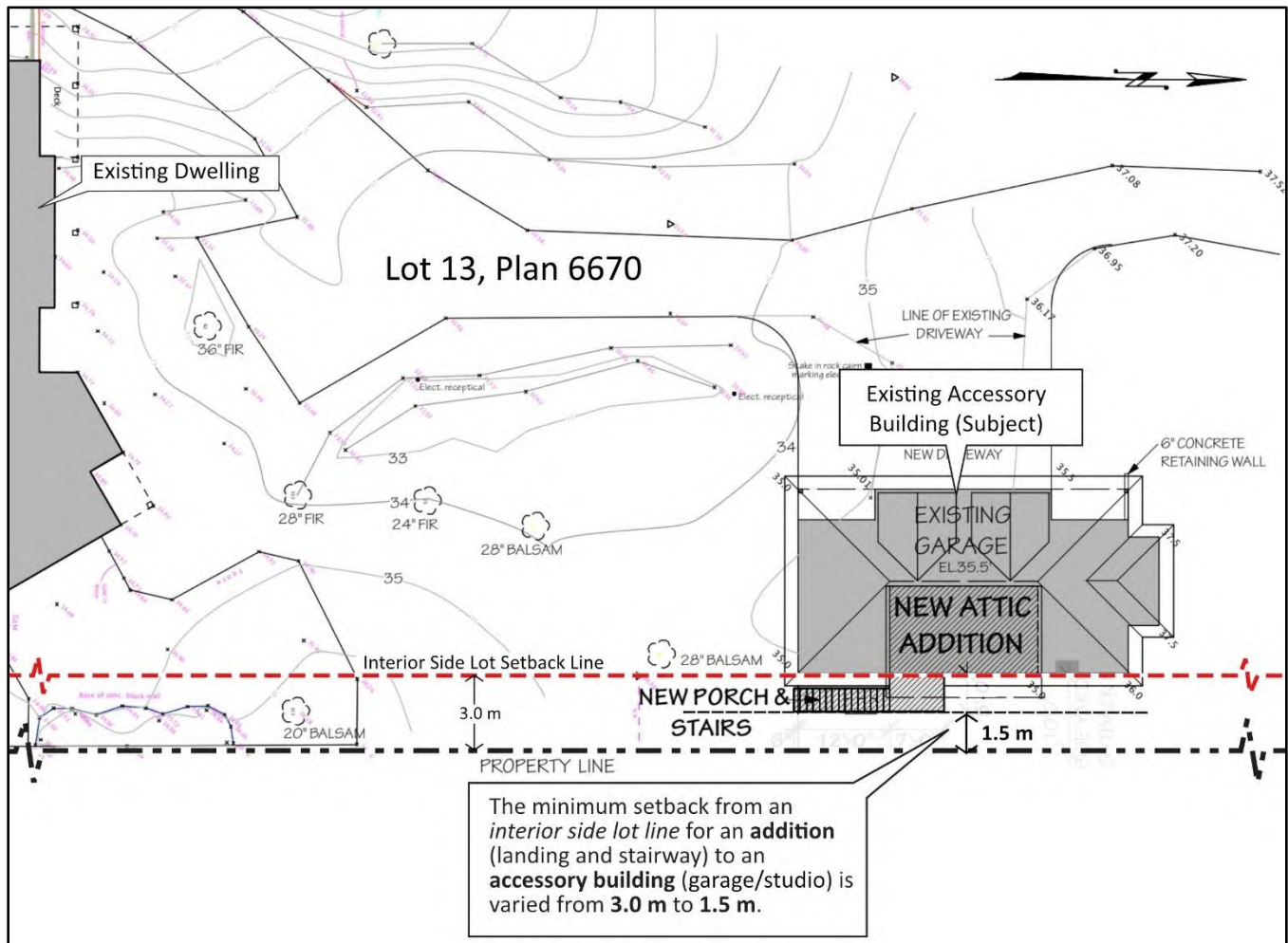
Issues and Opportunities

Minor Variance & 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).

As above, the applicants have provided a one page response on the question of what they deem to be the ***undue hardship*** if the variance is not granted (Attachment4).

Figure 2 – Site Plan

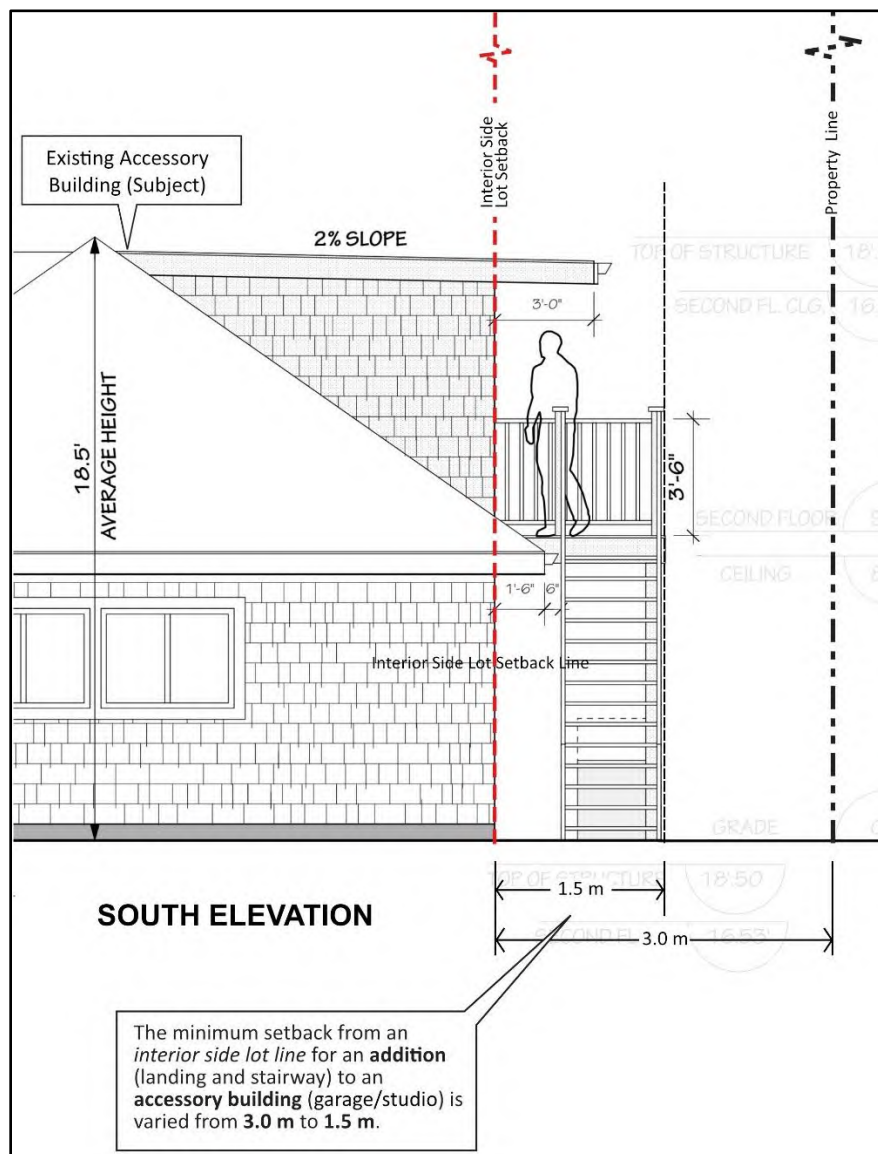


The Intent of the Regulation being Varied

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 side yard setback regulation may assist:

- Limiting the visual impact of development on adjacent properties.
- 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.

Figure 3 – South Elevation Plan



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. In this case, the variance being sought is relatively non-impactful, the building was constructed seventeen years ago, and there have been no concerns raised by neighbours.

Consultation

Notices were circulated to all adjacent properties (Attachment 5). In addition, copies have been posted on island bulletin boards and the Islands Trust website under South Pender Island.

At the time of writing one letter of support has been received (Attachment 4).

First Nations

The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. There is an archaeological site located on the subject property that is 75 metres distant from the proposed variance. As reviewed, the application is consistent with respect to LTC Standing Resolutions on reconciliation. Notwithstanding, to provide applicants with awareness regarding unknown archaeological areas staff will forward the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on *Heritage Act* compliance to the applicant.

Statutory Requirements

Legislative Context

Section 536 of the LGA stipulates that any local government that has adopted a zoning bylaw must establish a Board of Variance. Each LTC has a Board of Variance.

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 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.
- The natural environment will not be adversely impacted as the area of the proposed addition is minimal.
- The variance will not impact the use and enjoyment of neighbouring properties and more specifically the dwelling on that property given that it is a small addition to an existing building.
- The variance does not vary permitted uses or densities.
- The variance does 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.

Submitted By:	Phil Testemale, Planner 2	June 11, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	June 11, 2024

ATTACHMENTS

1. Site Context
2. Plans
3. Rationale statement from applicant
4. Correspondence
5. Notice

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	LOT 13, SECTION 1, PENDER ISLAND, COWICHAN DISTRICT, PLAN 6670
PID	000-116-149
Civic Address	9928 Gowland Point Road
Property size	1.0 ha (2.46 ac)

LAND USE

Current Land Use	Rural Residential
Surrounding Land Use	Rural Residential

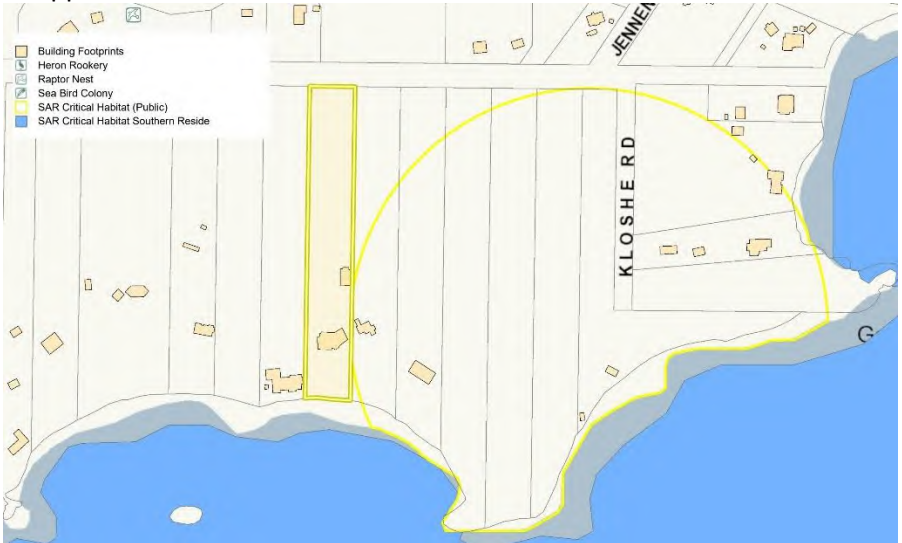
HISTORICAL ACTIVITY

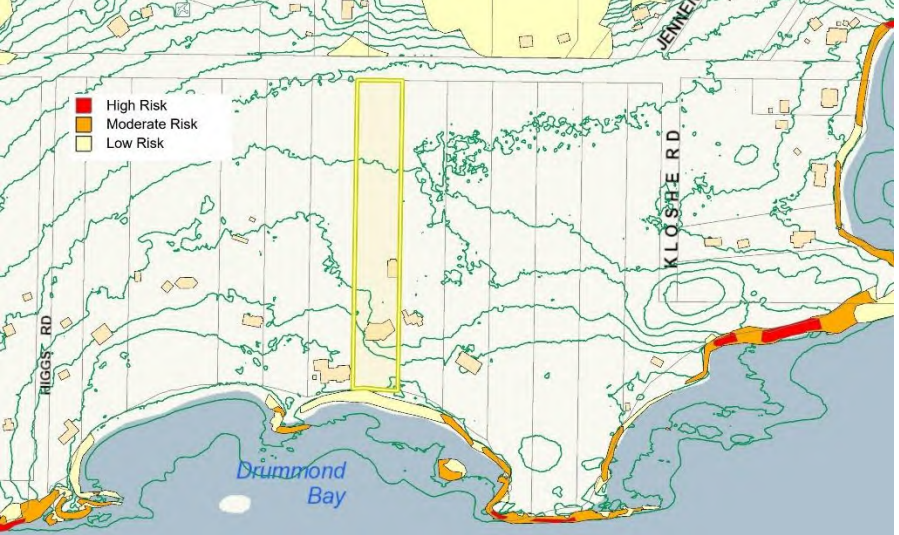
File No.	Purpose
SP-DVP-2007.1	Height of accessory building (subject building). Approved

POLICY/REGULATORY

Official Community Plan Designations	The subject property is designated as RR- Rural Residential in the South Pender Island Official Community Plan 107, 2011. There are no Development Permit Areas designated on the property.
Land Use Bylaw	The subject property is zoned Rural Residential 2 (RR2) in the South Pender Island Land Use Bylaw No, 114, 2016.  <i>Orthophoto with Zoning</i>
Other Regulations	N/A
Covenants	N/A
Bylaw Enforcement	N/A

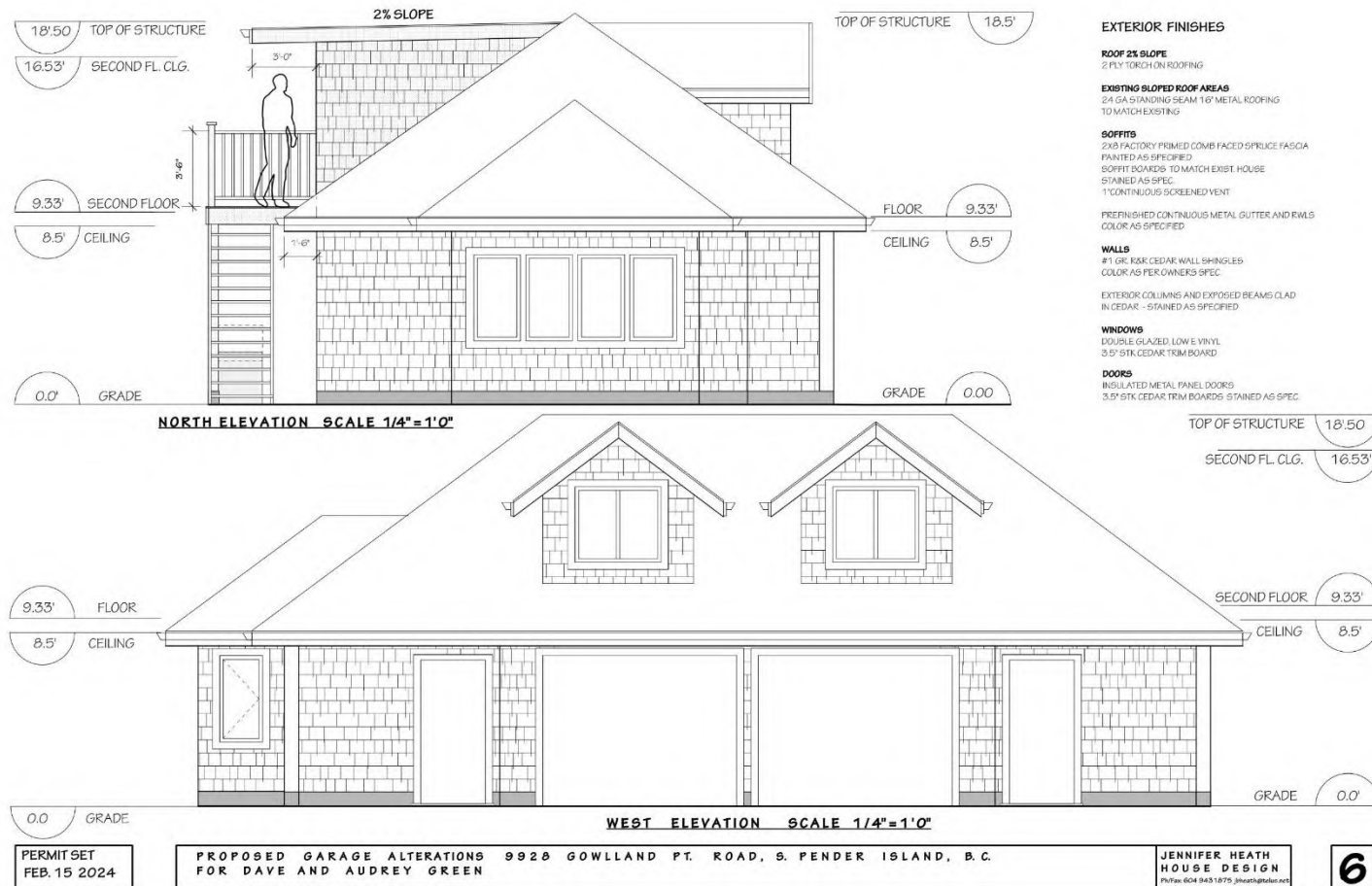
SITE INFLUENCES

Islands Trust Conservancy	The application has no considerations for the Islands Trust Conservancy  <i>Protected Properties</i>
Regional Conservation Strategy	This application has no considerations for the Regional Conservation Plan.
Species at Risk	On boundary of Sharp Tailed Snake Habitat - Information will be forwarded to applicant  <i>(Public) Species at Risk Mapping</i>

Sensitive Ecosystems	 <i>Sensitive Ecosystem Mapping</i>
Hazard Areas	 <i>Steep Slope Mapping</i>
Archaeological Sites	There is a known Archaeological site on property - approximately 75 metres south of variance location. Additionally, by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected under the <i>Heritage Conservation Act</i>. If such material is encountered during development, all work should cease and Archaeology Branch should be contacted immediately as a <i>Heritage Conservation Act</i> permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.
Climate Change Adaptation and Mitigation	Minimal addition to an existing building.

ATTACHMENT 2 – ELEVATIONS AND FLOOR PLANS

ELEVATIONS



ELEVATIONS (CONT'D)

EXTERIOR FINISHES

ROOF 2% SLOPE

2 PLY TORCH ON ROOFING

EXISTING SLOPED ROOF AREAS

24 GA STANDING SEAM 16" METAL ROOFING
TO MATCH EXISTING

SOFFITS

2X8 FACTORY PRIMED COMB FACED SPRUCE FASCIA
PAINTED AS SPECIFIED
SOFFIT BOARDS TO MATCH EXIST. HOUSE
STAINED AS SPEC.
1" CONTINUOUS SCREENED VENT

PREFINISHED CONTINUOUS METAL GUTTER AND RWLS
COLOR AS SPECIFIED

WALLS

#1 GR. R&R CEDAR WALL SHINGLES
COLOR AS PER OWNERS SPEC.

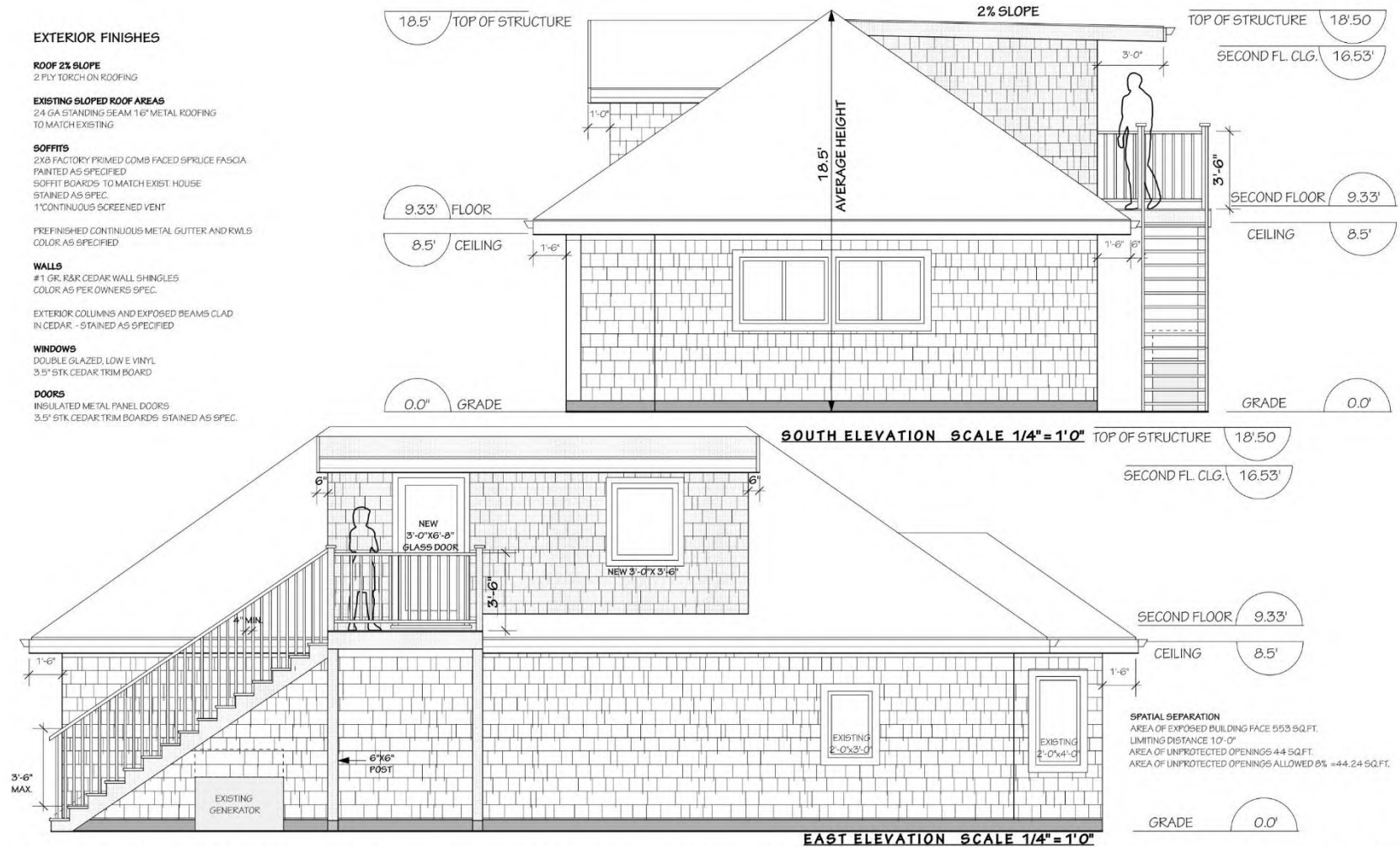
EXTERIOR COLUMNS AND EXPOSED BEAMS CLAD
IN CEDAR - STAINED AS SPECIFIED

WINDOWS

DOUBLE GLAZED, LOW E VINYL
3.5" STK CEDAR TRIM BOARD

DOORS

INSULATED METAL PANEL DOORS
3.5" STK CEDAR TRIM BOARDS STAINED AS SPEC.



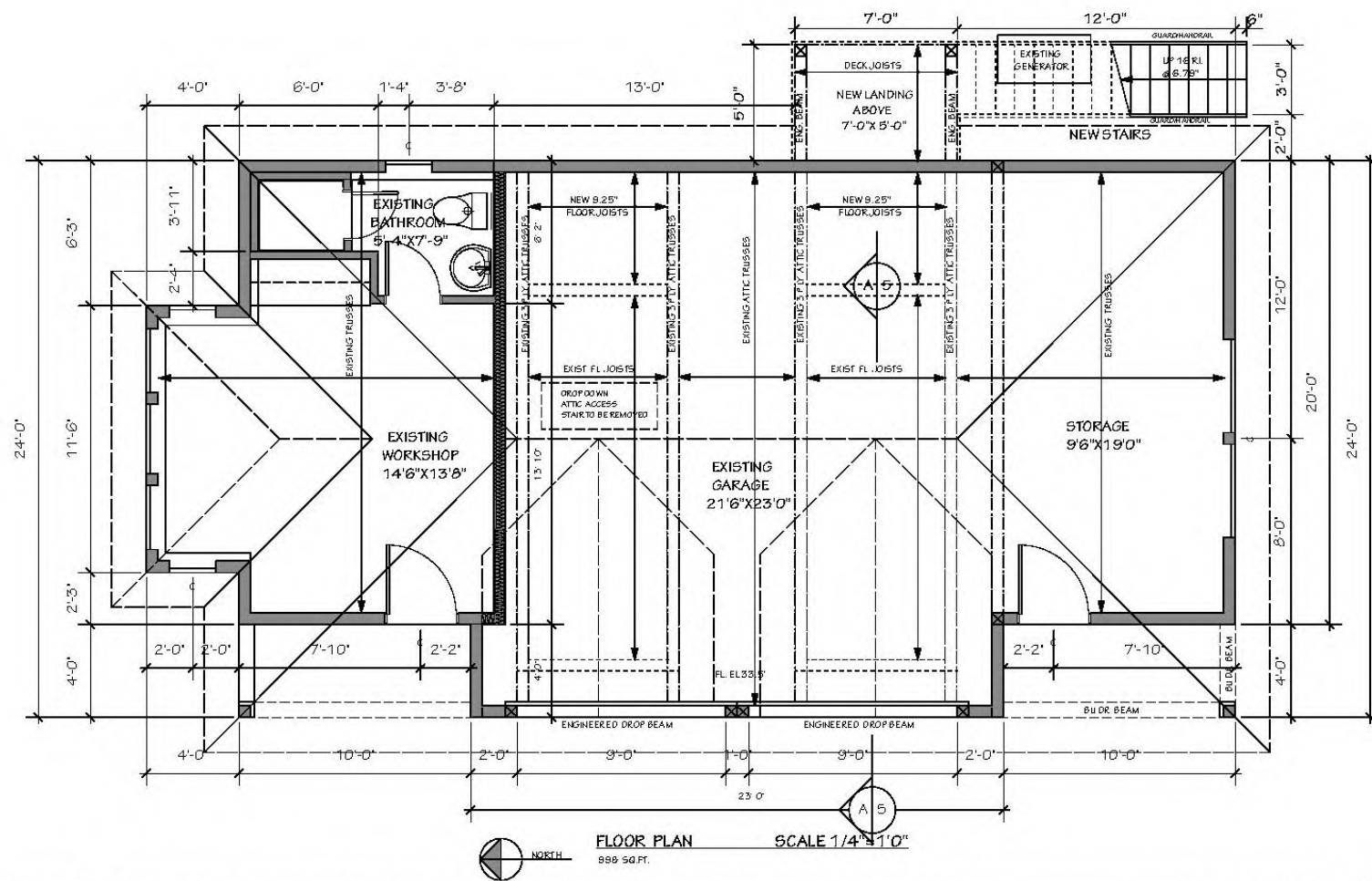
PERMIT SET
FEB. 15 2024

PROPOSED GARAGE ALTERATIONS 9928 GOWLLAND PT. ROAD, S. PENDER ISLAND, B.C.
FOR DAVE AND AUDREY GREEN

**JENNIFER HEATH
HOUSE DESIGN**
Ph/Fax: 604 943 1875 jhheath@telus.net

7

FLOOR PLANS



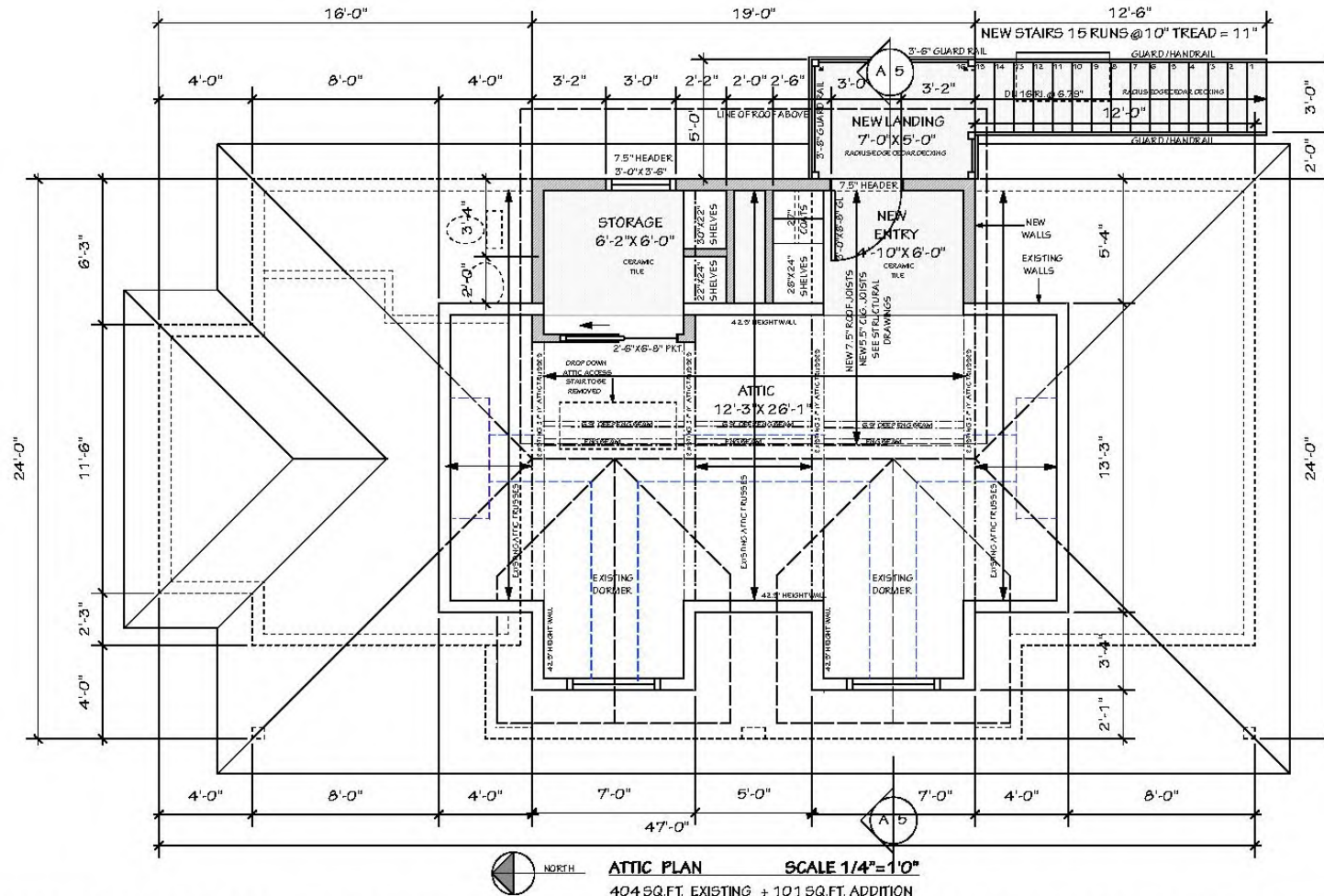
PERMIT SET
FEB. 15 2024

PROPOSED GARAGE ALTERATIONS 9928 GOWLLAND PT. ROAD, S. PENDER ISLAND, B.C.
FOR DAVE AND AUDREY GREEN

JENNIFER HEATH
HOUSE DESIGN

3

FLOOR PLANS (CONT'D)

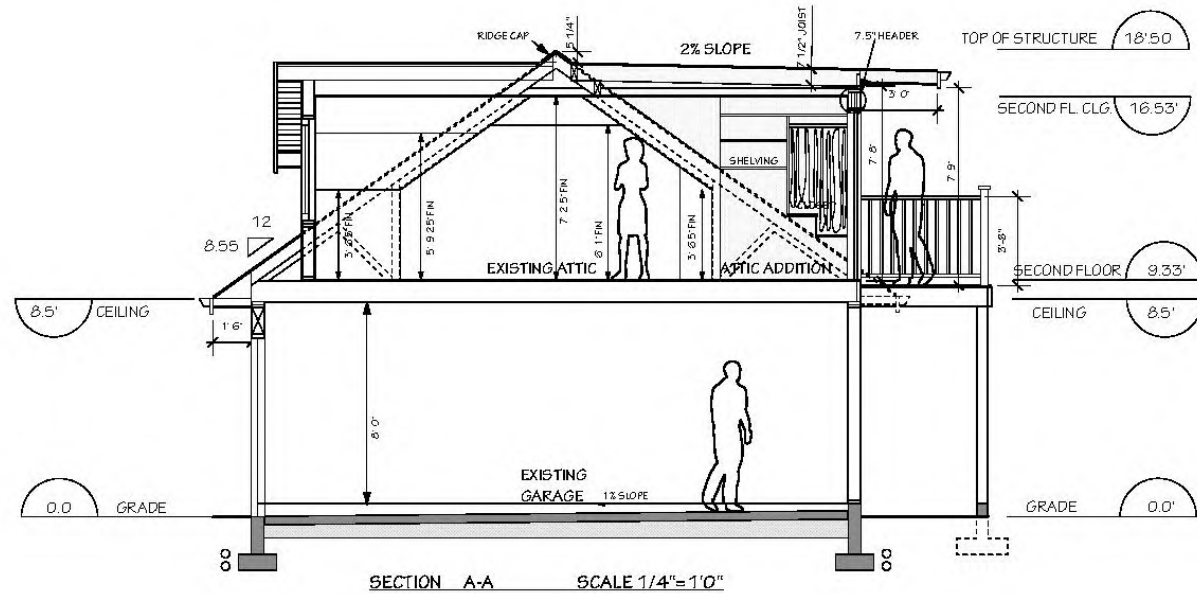


PERMIT SET
FEB. 15 2024

PROPOSED GARAGE ALTERATIONS 9928 GOWLLAND PT. ROAD, S. PENDER ISLAND, B.C.
FOR DAVE AND AUDREY GREEN

**JENNIFER HEATH
HOUSE DESIGN**
101-311-9468 jh1023@earthlink.net

SECTION PLAN



OUTLINE SPECIFICATIONS

NEW FLAT ROOF 2% SLOPE
2 PLY TORCHON ROOFING
ON BASE SHEETON 3/4" T&G PLYWOOD SHEATHING
ON ROOF JOISTS AS PER ENGINEERS SPECS
SPRAY FOAM INSULATION
CEILING JOISTS AS PER ENGINEERS SPECS
1/2" GWB PAINTED AS SPECIFIED

EXISTING SLOPED ROOF AREAS WHERE REQUIRED
TO MAKE GOOD TO MATCH
24 GA TRUE STANDING SEAM METAL ROOFING
1/2" X 16" TO MATCH EXISTING
ON SOPREMA SBS ROOFING MEMBRANE
INSTALLED AS PER MANUFACTURERS
SPECS
ON 1/2" T&G PLYWOOD SHEATHING WITH CLIPS
EXISTING TRUSSES AS SPEC ON DRAWINGS
SPRAY FOAM INSULATION
5/8" GWB PAINTED

NEW EXTERIOR WALLS
#1 GR R&R PRESAINED CEDAR WALL SHINGLES
COLOR TO MATCH EXISTING
BUILDING PAPER ON
1/2" PLYWOOD SHEATHING ON
2X6 KD STUDS @ 16" OC
R 20 FIBERGLASS BATT INSULATION
6 MIL POLY VAPOUR BARRIER
1/2" GWB PAINTED AS SPEC

NEW INTERIOR WALLS
1/2" GWB
2X4 OR 2X6 KD STUDS @ 16" OC
1/2" GWB

NEW PAD FOOTINGS
6" REINFORCED CONCRETE PAD FOOTING
ON REINFORCED CONCRETE FOOTING
ON SOLID UNDISTURBED BEARING SOIL
18" BELOW GRADE MIN
SEE STRUCTURAL ENGINEERS SPECS

NEW SOFFITS / EAVES
2X6 FACTORY PRIMED COMB FACED SPRUCE FASCIA
PAINTED AS SPECIFIED
SOFFIT BOARDS TO MATCH EXISTING
STAINED AS SPECIFIED

PREFINISHED CONTINUOUS METAL GUTTER AND DOWLS
COLOR TO MATCH EXISTING

PERMIT SET
FEB. 15 2024

PROPOSED GARAGE ALTERATIONS 9926 GOWLAND PT. ROAD, S. PENDER ISLAND, B.C.
FOR DAVE AND AUDREY GREEN

JENNIFER HEATH
HOUSE DESIGN
PHOTO: GORDON & SONS PHOTOGRAPHY INC.

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Rationale for Variance

Currently the attic space is used for crafting and exercising. At the time of construction, 2007, exterior steps were not allowed because of bylaw constraints therefore a pull down access ladder was installed in the garage. Now that we are older, it is not safe to continue to use the ladder.

Different options to access this attic space were considered such as an interior lift or stairs, both of which would mean the car could not be parked in that space. Also, because of the truss configuration it would have been difficult to construct the new exterior stairs in a different location without a very costly and major deconstruction of the existing roof. The only viable location for the exterior steps, because of the roof construction, is opposite one of the two existing dormers as per our submitted drawings.

Attachment 4

From: [REDACTED] >
Sent: Friday, June 7, 2024 4:37 PM
To: SouthInfo <SouthInfo@islandstrust.bc.ca>
Subject: Variance application at 9928 Gowlland Point Road South Pender Island, BC

Dear Board members,

This letter is IN SUPPORT of the Greens's application to vary a side setback at their home property to allow the construction of an outside staircase to the upper floor of their garage.

I have looked at the site and the surrounding area, which is all bush on the opposite side of a fence running along that side of their garage. It appears to me that the adjacent property owner will not be affected at all. The proposed staircase will be invisible to her and to everyone else in the neighbourhood. The effect of disallowing the application would be to deprive the Greens of the use of the upper floor of their garage. The existing means of accessing this upper floor is no longer safe for an older person to use and I understand Audrey has already fallen while attempting to use it. This can't continue.

Please allow this variance application. I want my neighbours to stay safe.

Susan Antifaev
[REDACTED]

SOUTH PENDER ISLAND BOARD OF VARIANCE

NOTICE OF HEARING

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 South Pender Island Board of Variance held on **June 18, 2024 starting at 2:00 p.m.**

The Board will consider the following appeal: **SP-BOV-2024.1 (Green)**

Re: **9928 Gowlland Point Road**

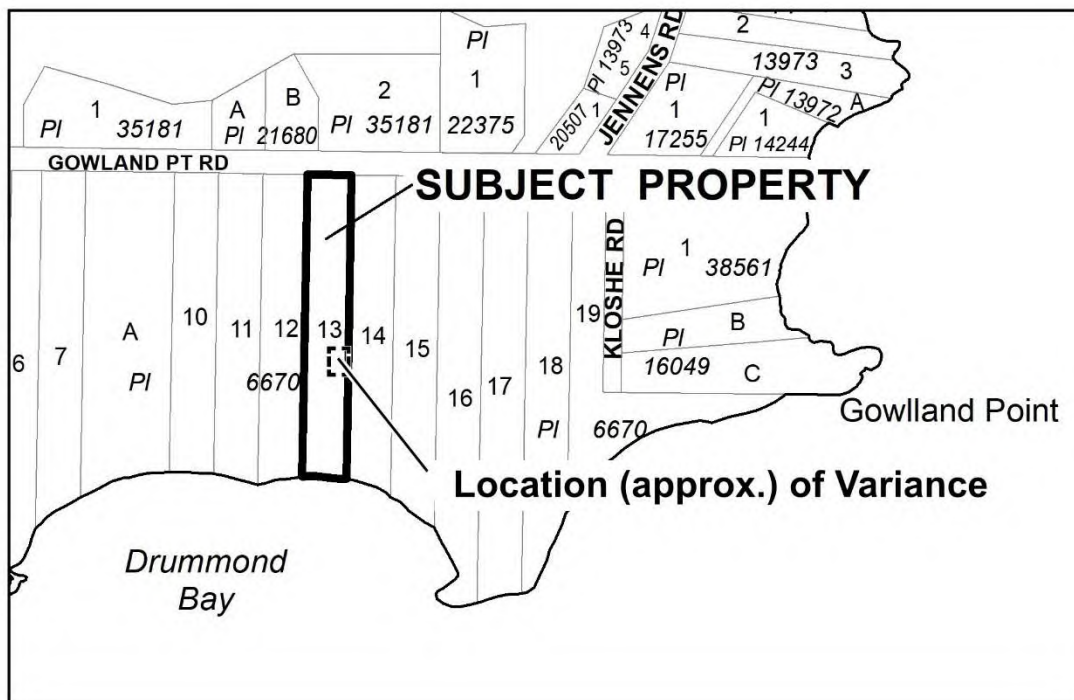
Legally described as: Lot 13, Section 1, Pender Island, Cowichan District, Plan 6670.
(PID: 000-116-149)

The purpose of the appeal is to:

Allow for a variance to South Pender Island Land Use Bylaw 114 (LUB) respecting the siting, size or dimensions of a building or other structure. The proposed variance is to the 'Siting and Size' provisions for the **Rural Residential 2 (RR2) Zone** of the LUB, as shown on the attached Schedules 'A' and 'B' specifically as follows:

- Article 5.1 (8) (b) which states that the minimum setback for any building or structure, except a fence or pump/utility house, shall be sited at least 3.0 metres (10 ft.) from any interior side lot line is varied to permit an **addition** (landing and stairway) to an **accessory building** (garage/studio) within **1.5 metres** (5 ft.) from an interior side lot line.

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:

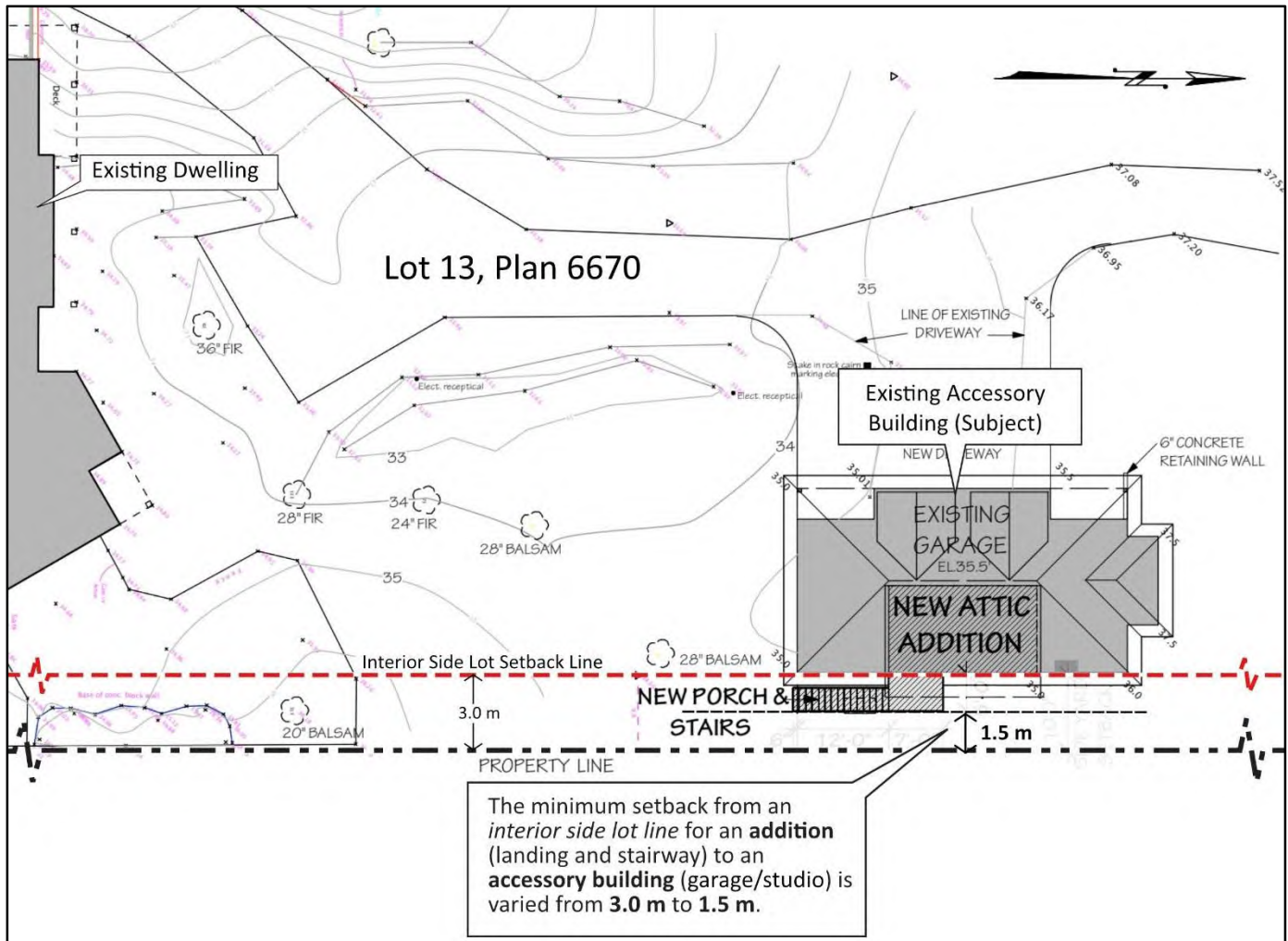
1. To the Secretary to the South Pender Island Board of Variance, at the office of Islands Trust #200 - 1627 Fort Street, Victoria, BC, V8R 1H8, telephone (250) 405-5170, fax (250) 405-5155, or by email to southinfo@islandstrust.bc.ca, prior to **4:30 p.m. Tuesday, June 11, 2024**.
2. After **4:30 p.m. Tuesday, June 11, 2024** to the Chair of the South Pender Island Board of Variance at the hearing by emailing to southinfo@islandstrust.bc.ca.

Enquiries or questions should be directed to: Planner 2, Phil Testemale at (250) 405-5170, 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: ptestemale@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/south-pender-board-of-variance-meeting/>

Phil Testemale
Secretary to the South Pender Island Board of Variance

SP-BOV-2024.1 (Green)
Schedule A
Site Plan of Proposed Variance



SP-BOV-2024.1 (Green)
Schedule B
South Elevation of Proposed Variance

