

Municipality of North Cowichan

Board of Variance

AGENDA

Thursday, April 29, 2021, 2:00 p.m.
Electronically

Pages

1. CALL TO ORDER

This meeting, though electronic, is open to the public and all representations to the Board of Variance form part of the public record. At this time, due to the COVID-19 Pandemic, public access to meeting rooms is not permitted, however, this meeting may be viewed on the District's live stream webcast at www.northcowichan.ca/meetings.

2. APPROVAL OF AGENDA

Recommendation:

That the Board of Variance approve the agenda as circulated [or as amended].

3. ADOPTION OF MINUTES

2 - 4

Recommendation:

That the Board of Variance adopt the minutes of the meeting held February 25, 2021.

4. BUSINESS

4.1. Board of Variance Site Visits

Purpose: To provide the Board of Variance with clarification regarding the rules related to site visits.

4.2. Application to accommodate an air conditioning unit at 6243 Palahi Road

5 - 15

Purpose: To provide the Board of Variance with information and analysis regarding an application to vary the side yard setback for an air conditioning unit at 6243 Palahi Road from 4.5 metres to 2.74 metres.

5. NEW BUSINESS

6. ADJOURNMENT

Municipality of North Cowichan

Board of Variance

MINUTES

February 25, 2021, 2:00 p.m.
Electronically

Members Present Shannon Roome, Chair
 Don Bruniski
 Peter Ordynec
 Daniel Robin
 David Wiebe

Staff Present Tricia Mayea, Deputy Corporate Officer
 Rob Conway, Director, Planning and Building
 Anthony Price, Planning Technician

1. CALL TO ORDER

There being a quorum present, the Chair called the Board of Variance meeting to order at 2:11 p.m.

2. APPROVAL OF AGENDA

IT WAS MOVED AND SECONDED:

That the Board of Variance approve the agenda as circulated.

CARRIED

3. ADOPTION OF MINUTES

IT WAS MOVED AND SECONDED:

That the Board of Variance adopt the minutes of the meeting held February 5, 2020.

CARRIED

4. BUSINESS

The Deputy Corporate Officer assumed the Chair for the Election of Board Chair.

4.1 Election of Board Chair

The Deputy Corporate Officer explained the nomination process for the Board of Variance Chair and that the election will be by roll-call vote.

The Deputy Corporate Officer called three times for nominations from the floor for the Board of Variance Chair.

Board member Roome was nominated but declined the nomination.

Board member Robin was nominated and accepted the nomination.

Board member Bruniski was nominated and accepted the nomination.

No further nominations were received from the floor so an election for Chair by roll-call vote was called. Each nominee was provided up to three minutes to say a few words prior to the vote.

The Corporate Officer called upon the members who cast their vote and when the fourth member was called upon that member declined to cast a vote stating that the threshold of 3 votes had already been met, therefore Board member Bruniski was declared elected as Chair for the Board of Variance for a term ending March 15, 2022.

The meeting was turned over to the Chair and Chair Bruniski conducted the remaining business on the agenda.

4.2 Electronic Participation and Open Board Meeting Transparency

IT WAS MOVED AND SECONDED:

That pursuant to Ministerial Order No. M192 and the procedures established by the Municipality of North Cowichan to protect the health and safety of the public and municipal staff while they perform work within the Municipal Hall, the attendance of the public at a Board of Variance hearing cannot be accommodated while the limitations placed on mass gatherings by the Provincial Health Officer are in effect; and to ensure openness, transparency, accessibility and accountability for these meetings and hearings, the Board of Variance for the Municipality of North Cowichan:

- will be live streaming the meetings and hearings to enable the public to hear and see the proceedings;
- will provide all owners and tenants who received a notice an opportunity to attend the hearing to be heard through electronic means and to present written submissions by email; and
- will make the hearing agenda, including how the public may view the meeting, as well as all other relevant documents, available on the municipal website at least 48 hours prior to the meeting.

CARRIED

4.3 Respectful Spaces Bylaw and Standard of Conduct Policy

The Deputy Corporate Officer explained that members of North Cowichan's Board of Variance must adhere to the rules set forth in the Standards of Conduct Council Policy and the Respectful Spaces Bylaw and are required to agree to the terms by signing an acknowledgement and agreement form that will be sent to each Board member.

4.4 Setting the 2021 Board Meeting Schedule

IT WAS MOVED AND SECONDED:

That the Board of Variance set the meeting schedule for bi-monthly meetings to be held the last Thursday of the month at 2:00 p.m. beginning April 29, 2021.

CARRIED

5. NEW BUSINESS

The Board was advised that there are no pending Board of Variance applications at this time, and that during the pause on the Board of Variance meetings due to COVID, there were three

Development Variance Permit applications that Council considered, that normally would have been considered by the Board. Staff will provide a copy of these applications to the Board for information.

The Board asked for clarification about rules related to individual site visits versus group site-visits. Staff noted that they will work with the Board to keep them informed about the risks and obligations of the different types of site visits.

6. ADJOURNMENT

The Board of Variance meeting ended at 3:05 p.m.

Signed by Chair

Certified by Recording Secretary

Report

Date	April 29, 2021	File: BOV00008
To	Board of Variance	Folio No. 05061-045
From	Anthony Price, Planning Technician	File No. 3730-30 21.01
Subject	BOV00008 – 6243 Palahi Road	Endorsed:

Purpose

To provide the Board of Variance with information and analysis regarding an application to vary the side yard setback for an air conditioning unit at 6243 Palahi Road from 4.5 metres to 2.74 metres.

Background

Address: 6243 Palahi Road
Zone: Residential One and Two-Family Zone (R3)
Property Area: 0.05 Ha (0.13 Acres)
Agricultural Land Reserve: No

Land Use Context (ATTACHMENT 3)

North: Townhouse Strata (Residential Townhouse Zone, R6)
South: Single Family Dwelling (Residential One and Two-Family Zone, R3)
East: Single Family Dwelling (Residential One and Two-Family Zone, R3)
West: Single Family Dwelling (Residential One and Two Family Zone, R3)

Proposal

The applicant is requesting a variance to Section 35 (3) of Zoning Bylaw No. 2950 to reduce the required setback for an air conditioning unit (AC unit) from 4.5 metres to 2.74 metres (relaxation of 1.76 metres - see ATTACHMENT 4).

Discussion

Zoning

Section 35 (3) of Zoning Bylaw 2950 establishes a 4.5 metre setback for generators, heat pumps and air conditioners. (Attachment 6). The intent of the regulation is to reduce potential noise impacts.

Analysis

The subject property is a pie-shaped lot located within the south end of the Municipality of North Cowichan, surrounded by similar property's containing one and two-family dwellings.

The proposed AC unit will be located at the rear of the single-family dwelling installed flush against the building, in order to maximize it's separation from the neighbouring property line (ATTACHMENT 8).

The applicant's rationale (ATTACHMENT 5), refers to the restrictive shape of the lot, with a concrete patio and stairs along with a raised garden built at the rear of the house. These pre-existing features occupy the majority of the lot where the AC unit could be located in compliance with 4.5 metre setback regulation.

The proposed AC unit has an average-weighted sound power level of 71 decibels (ATTACHMENT 7), which is comparable to other domestic noises. The proposed AC unit location will be setback 2.74 metres from the nearest property boundary (ATTACHMENT 4), and approximately 4.74 metres from the neighbouring house (ATTACHMENT 9).

Due to the site specific characteristics of the property, the proposed AC unit is not easily sited in compliance with Section 35 (3) of the Zoning Bylaw. The proposed location maintains more than 4.5 metres from the neighbouring dwelling, and does not appear to substantially affect the use and enjoyment of the adjacent lands. Nor is it expected that the proposed location would defeat the intent of the bylaw.

Communications and Engagement

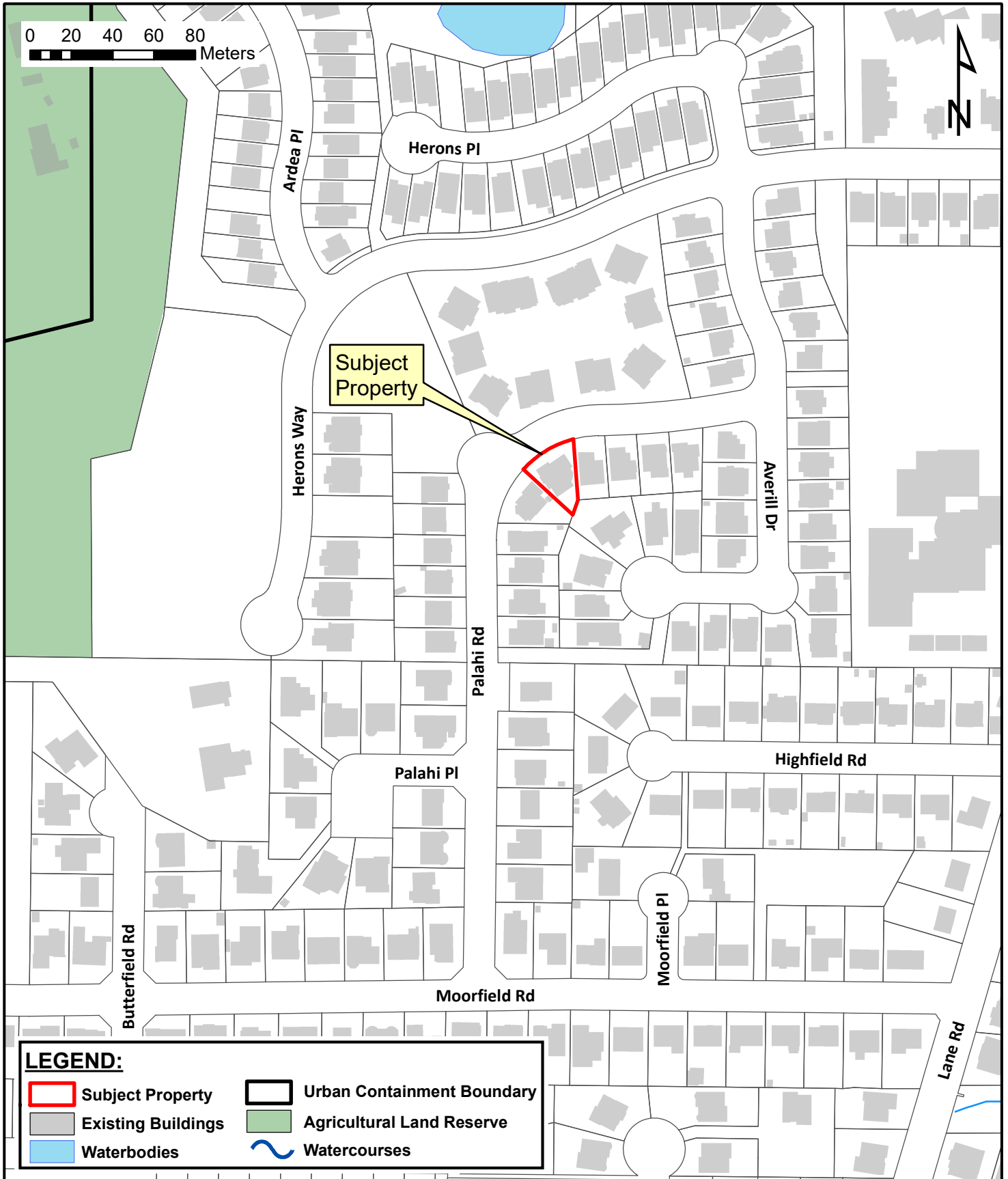
Pursuant to the Municipality of North Cowichan Board of Variance Bylaw, Bylaw No. 3727, notification letters have been sent to the applicant, as well as to owners and occupants adjoining the subject property. Any responses will be presented at the April 29, 2021 Board of Variance hearing. The notice of hearing includes subject matter of the application, the date, time and place where the application will be heard, instructions on how to participate in the hearing, and applicable North Cowichan staff contact information. The application is available for public inspection at the Municipal Hall during regular business hours.

Example Motions

- 1) That application BOV00008 to vary Section 35 (3) of Zoning Bylaw No. 2950 by reducing the required setback for an air conditioner at 6243 Palahi Road from 4.5 metres to 2.74 metres, and as indicated on the Site Plan included in the Planning Technician's April 29, 2021 report, be approved.**
- 2) That application BOV00008 to vary Section 35 (3) of Zoning Bylaw No. 2950 by reducing the required setback for an air conditioner at 6243 Palahi Road from 4.5 metres to 2.74 metres and as indicated on the Site Plan included in the Planning Technician's April 29, 2021 report, be denied.**

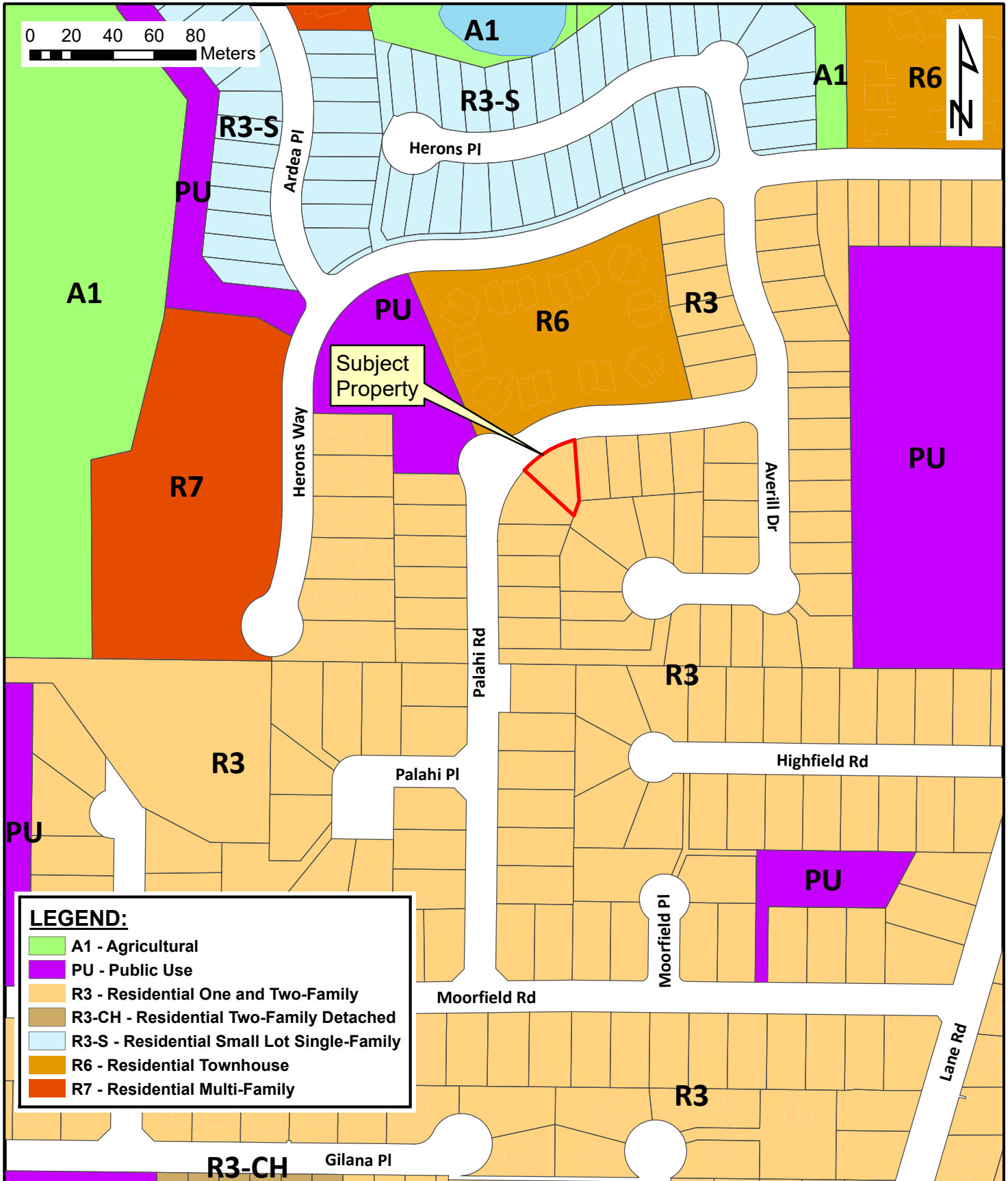
Attachments:

1. Location Map
2. Orthophoto
3. Zoning Map
4. Site Plan
5. Letter of Rationale
6. Section 35 (3) Bylaw
7. AC Unit Model 4A7L6030A
8. Annotated Photo 1 (Location)
9. Annotated Photo 2 (Proximity)





	ORTHOPHOTO MAP (Orthophoto is from 2019 aerial photography)	DATE: April 13, 2021
	6243 Palahi Road	TYPE: Board of Variance
		FILE#: BOV00008



B.C. Land Surveyor's Building Location Certificate
Showing Location of Improvements Situated on
Lot 5, (PID 026 528 690), Section 2,
Range 4, Somenos District, Plan VIP80158.

Scale 1:250

2.5 0 2.5 5.0 7.5 10 12.5 Metres



Legend:

All distances are in metres and decimals thereof unless otherwise indicated.

Dimensions are derived from Land Title Office records.

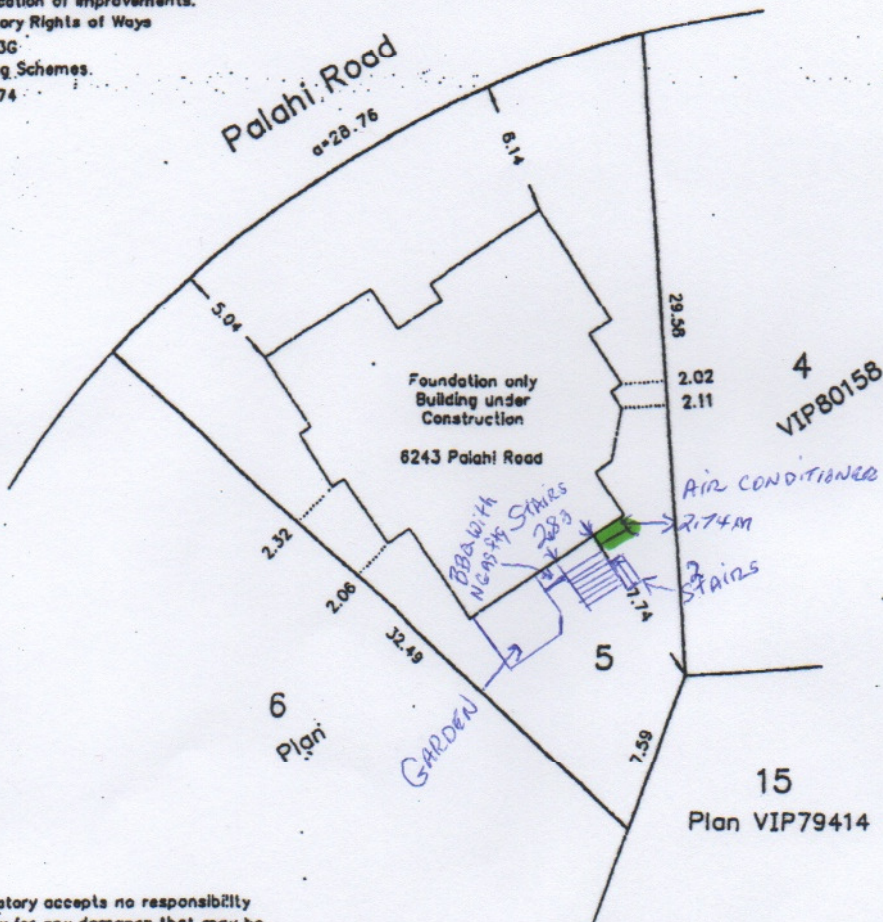
The following documents are registered on title and may affect the location of improvements.

Statutory Rights of Ways

301893G

Building Schemes.

FA17874



The signatory accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decisions made, or actions taken based on this document.

All rights reserved. No person may copy, reproduce, transmit or alter this document in whole or in part without the consent of the signatory.

Michael J. McIlvaney
British Columbia Land Surveyor
Victoria, B.C.
(250) 474-3538

File: 34628LC
Client: Bradley

This plan was prepared for municipal purposes and is for the exclusive use of our client. This document shows the relative location of the surveyed structures and features with respect to the boundaries of the parcel described above. This document shall not be used to define property lines or property corners. This building location certificate has been prepared in accordance with the Manual of Standard Practices and is certified correct this 8th day of February 2007.

B.C.L.S.

This document is not valid unless originally signed and sealed
COPYRIGHT © Minda C. Riley B.C.L.S. 2007

DESCRIPTION OF SUBJECT PROPERTY – A property title issued within the last 30 days is required.

Civic Address:

6243 Palahi Rd

Legal Description (include Parcel Identifier Number):

Lot 5, Section 2, Range 4, Somenos District, Plan VIP80158 PID 026 528 690

Note: If there is more than one property related to this application, a list of the additional properties including all details above and current property titles (issued within the last 30 days) are also required.

PROPOSED VARIANCE(S) REQUESTED – Please complete as per the example below.

Zoning Bylaw Section & Requirement	Permitted	Proposed	Difference
<i>Example: Section 56 (6) (a) – Side Yard Setback</i>	3.0 metres	2.75 metres	.25 metres
Section 35 (3)	4.5 metres	2.74 metres	1.26 metres

NATURE OF HARDSHIP – Please provide the reason for your Appeal.

Our lot is pie-shaped. The property therefore narrows as you move from the front to rear yard. The house is setback from the street. A concrete patio and stairs was built to the rear of the house, and as well as a raised garden, limiting location for the air conditioner. Living area is at rear of house, and faces south. Previous owner had low-e2 glass installed, but doesn't help much with heat. Our bedroom faces the west, and has high windows (up to 2.74 m), and heat build up in the afternoon.

Our application seeks to have the a/c unit parallel to the wall of the house, so fan will blow air to rear of our yard. If installed with the a/c unit parallel to the patio, the setback distance would be greater.

Photos will be attached.

Is this variance required to legalize a building or structure that has already been constructed? No

Was a valid Building Permit issued prior to construction? No

If **Yes**, please provide the Building Permit No: not required

Note: In order for a variance to remain valid, a Building Permit must be issued within six months of the appeal date. This time limit may be increased or decreased at the Board's discretion. A relaxation granted by the Board applies only to the Municipal bylaw specified.

- (f) the creation of on-street traffic or parking congestion,
- (g) pressure spray-painting, or
- (h) welding. [BL3323]

31 Home-based businesses which discharge or emit the following will not be permitted:

- (1) odorous, toxic, or noxious vapours and/or matters;
- (2) heat, glare, electrical interference, or radiation; and/or
- (3) recurring ground vibration.

32 The "Automobile Repair" facet of home-based business shall not:

- (1) involve bodywork;
- (2) involve repair to any type of motor vehicle other than private passenger motor vehicles; or
- (3) be conducted on a lot less than 4,000 m² (0.988 acres) in area.

32.1 Any home-based business or retail store that is an adult novelty business or drug paraphernalia business must not be located within 1 km of a school. [BL3323]

Projections into Required Yards/Setbacks

33 (1) All required setback areas must be kept free of buildings and structures, excluding permitted projections.

- (2) Where a principal or accessory building, or any portion thereof, is situated wholly below ground, no setbacks are required in the yards, side, or the yard, rear, to that building or portion of that building situated wholly below ground.

34 A swimming pool shall not be located within 1.5 m (4.92') of any lot line.

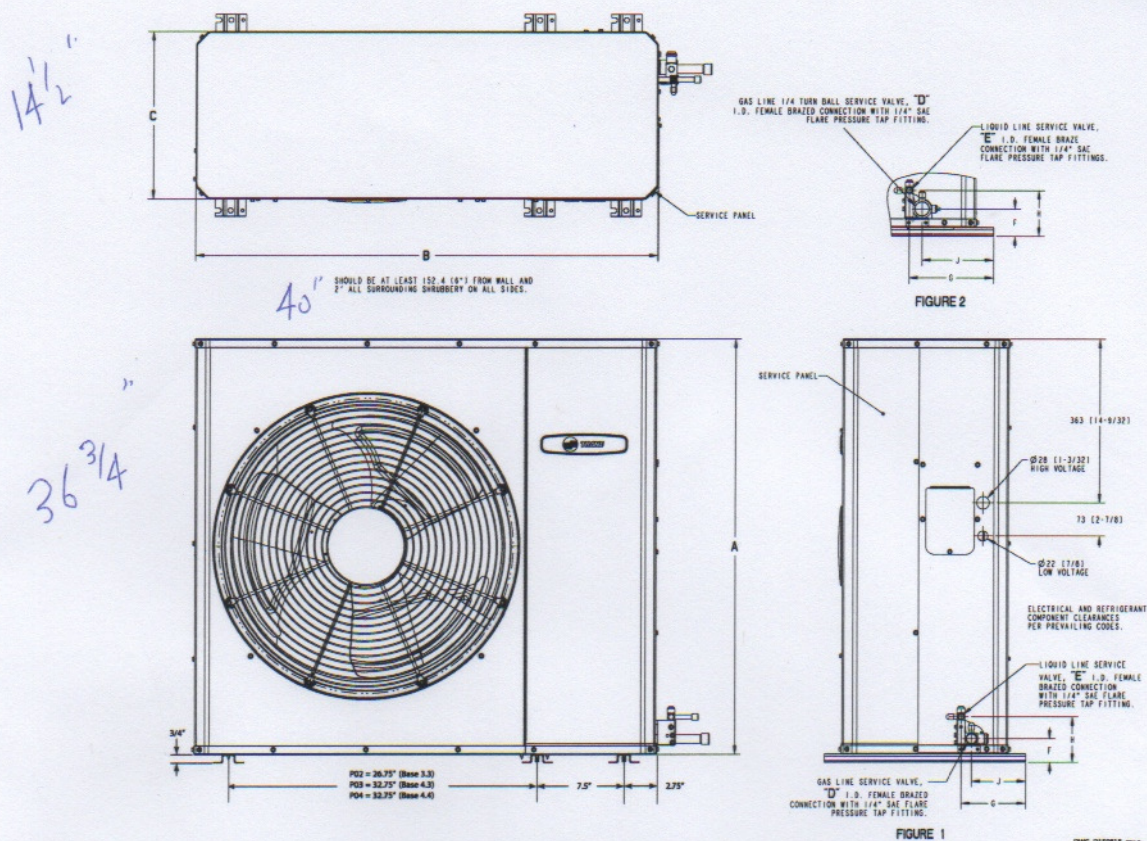
35 (1) The following may project not more than 0.6 m (1.97') into a required yard:

- (a) a step;
- (b) an eave;
- (c) an awning;
- (d) a canopy;
- (e) an open, cantilevered balcony without a roof;
- (f) a porch;
- (g) a chimney;
- (h) a cornice;
- (i) a gutter;
- (j) a pilaster;
- (k) a sill; and
- (l) a bay window without any habitable floor area. [BL3457]

- (2) Despite the previous subsection, a step, canopy, or cantilevered balcony may project not more than 1.2 m (3.93') into a required front or rear yard of an apartment or townhouse.

- (3) Despite the previous two subsections, land within 4.5 m (14.76') from a property line must not be used for the placement of a generator, a heat pump or an air conditioner. [BL3754, BL3764]

- (4) For certainty, a projection designed to accommodate furniture (e.g. a dining room hutch) must meet every yard requirement.



SOUND POWER LEVEL									
Model	A-Weighted Sound Power Level [dB(A)]	Full Octave Sound Power [dB]							
		63 Hz*	125 Hz	250 Hz	500 Hz	1000 Hz	2000 Hz	4000 Hz	8000 Hz
4A7L6030A	71	55	77	72	66	67	62	54	45

Note: Rated in accordance with AHRI Standard 270-2008 *For reference only





**Proposed
A/C location around
corner**