

# Report

Date December 6, 2023

File: DVP00097

Subject Development Variance Permit Application for 9928 Maple Street, Chemainus

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## PURPOSE

To consider a development variance permit application to increase the maximum permitted lot coverage from 30% to 38.2% for replacing an accessory building at 9928 Maple Street.

## BACKGROUND

An application was submitted to North Cowichan's planning department to replace an accessory building that was suffering water damage at grade with a larger building. The subject property currently contains a dwelling and an accessory structure, with a total lot coverage area of 36%. "Lot Coverage" is defined in Zoning Bylaw No. 2950 as,

*The total of the horizontal area of the lot within the vertical projections of the outermost walls of all buildings and structures, and the horizontal area of the lot covered by decks which are 150mm (.5'), or greater above grade, expressed as a percentage of the lot.*

The applicant is seeking an increase in lot coverage for the replacement structure to 38.2%. The maximum permitted lot coverage for this property and zone is 30%.

It is not clear why the existing lot coverage exceeds 30%, as no variance was sought until this year. Staff reviewed past building permit information, and confirmed the most recent permit issued was in 1999 for adding and constructing a basement suite. This application indicated that the main floor of the dwelling had a floor area of 1,852 sq ft (170 m<sup>2</sup>) and other structures encompassing an additional 364 sq ft (80.3 m<sup>2</sup>), with the total being 2,161 sq ft (201 m<sup>2</sup>). This is calculated as being 30% lot coverage and was signed off by building staff with the condition that the existing shop/garage be removed. The current owner was not the owner of the property in 1999.

Using the applicant's footprint/lot coverage application, the subject property had a lot coverage of 32.4%. Despite the 1999 building permit requiring the removal of the shop/garage (254 sq ft or 23.6 m<sup>2</sup>), it did not occur. The North Cowichan building department issued an occupancy permit in December 1999. As such, the current lot coverage of the property is determined at 36%. The applicant was unaware of any additions to buildings on the property since 1999. Planning staff believe the subject property's construction in 1999 exceeded the maximum lot coverage, resulting in the lot coverage not conforming to the Zoning Bylaw.

With the applicant present, staff visited the site and noted no additional construction from that which was shown in the 1999 permit. Staff accept that lot coverage was likely 36% post-1999 construction, and the current owners purchased that property at that lot coverage. Although the variance sought is a 2.2% increase in lot coverage, the variance needs to be from 30% to 38.2% to bring the property into compliance with the Zoning Bylaw.

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## DISCUSSION

### Property and Policy Context:

The subject property (PID: 006-143-750) is located at 9928 Maple Street in Chemainus (Attachment 1). It is within the Official Community Plan (OCP) Residential Neighbourhood land use designation, located in the Chemainus Growth Centre and Urban Containment Boundary (Attachment 1). It is also located within the Residential One and Two-family (R3) Zone (Attachment 3).

The subject property's dominant use is residential, as are surrounding properties, which comprise mostly single-family dwellings. An orthophoto showing the property is provided in Attachment 2.

### Proposal:

The applicant, on behalf of the property owner, is requesting Council's authorization to vary Section 58 (5)(a) of the Zoning Bylaw to increase the maximum permitted lot coverage for the R3 zone from 30% lot coverage to 38.2% (actual increase sought is 2.2 % as per above discussion). A site plan showing the location of the principal dwelling, current accessory building, and superimposed new accessory building location is provided in Attachment 4. Attachment 4 also provides calculations of existing and proposed structures and building elevations. Attachment 5 is a surveyor sketch of the proposed accessory building location.

The proposal from the applicant (Attachment 6) notes that the applicant is the owner's son-in-law. The applicant and daughter of the owner provide care and assistance to the owner and indicate that renovations are intended to help the elderly owner to "age in place." At the site visit, the applicant noted that he and his wife reside in the legal basement suite.

The proposal stipulates that the existing accessory building is at-grade and allows for water, insect, and rodent ingress. Photos were taken at the site visit, noting standing water around parts of the building (Attachment 7). The proposed new building will comply with the BC Building Code, with exterior finishes at a minimum of 8" above grade. The proposed multi-use building has a workshop and storage at a lower level and an office and workout room on the upper level with roughed-in plumbing and a deck. The applicant notes that he works from home, hence the request for an office.

### Land Use Impacts:

The proposed placement of the new accessory building meets zoning height and setback requirements and, at 0.47 floor space ratio (FSR), is below the maximum 0.50 stipulated in the Zoning Bylaw. The current FSR is 0.42. FSR is a measure of building density and is defined in the Zoning Bylaw as:

**"floor space ratio"** means the gross floor area of all buildings divided by the lot area

The OCP has growth and development goals (page 38) that relate to the subject application (highlighting added):

*This OCP confirms the assertion of the 2011 OCP that a departure from suburban single-family subdivisions to more compact, higher density growth in existing centres close to shops, services and infrastructure is needed. This "focused growth" approach means that more land can be protected and*

*regenerated to provide for food production and protection of natural areas that foster biodiversity and ecological health.*

*Focused growth provides for a range of tenures (co-ops, co-housing, strata, fee-simples and rentals) in addition to a variety of forms to accommodate all ages and abilities (e.g. young families seeking private yard space, seniors who wish to 'age in place', young people in university or embarking on their career and people needing accessible housing units).*

While the requested variance would marginally increase the area of the building on the property, the increase would not be noticeably more than currently exists, and the scale and character of the proposed structure are similar to what exists on other residential properties in the surrounding neighbourhood.

### **Conclusion:**

The 36% lot coverage noted in the application is pre-existing and not previously authorized by variance. The variance, therefore, needs to be from the maximum of 30%, as per the Zoning Bylaw, to 38.2% if it is to allow the proposed accessory building replacement.

The current accessory building is in poor condition due to the at-grade foundation. The proposal is intended to help the owner to 'age in place' with renovations to the dwelling and provision of storage and office uses in an accessory building. The floor space ratio with this proposal is 0.47 and below the maximum 0.50 stipulated in the Zoning Bylaw. As such, although an increase is sought in lot coverage, the increase is below the specified maximum FSR. Staff support this application as the current and proposed accessory structure is below the maximum FSR stated in the zoning bylaw, and both are generally in keeping with the scale and character of accessory buildings in the surrounding neighbourhood.

Staff has sent referrals to select North Cowichan departments and no issues or concerns were identified.

### **OPTIONS**

1. **(Recommended Option)** THAT Council authorize the issuance of Development Variance Permit DVP00097 and grant a variance to Section 58 (5)(a) of Zoning Bylaw No. 2950 to increase the maximum permitted lot coverage from 30% to 38.2% at 9928 Maple Street.
  - *this option would legalize the existing lot coverage and allow the proposed accessory building to be built as planned.*
2. THAT Council authorize the issuance of Development Variance Permit DVP00097 to legalize the existing lot coverage of 36%, subject to:
  - (1) condition number 4 being amended by striking out 38.2% and inserting 36%;
  - (2) removal of condition number 5 and expiry of permit; and
  - (3) grant a variance to Section 58 (5)(a) of Zoning Bylaw No. 2950 to increase the maximum permitted lot coverage from 30% to 36% at 9928 Maple Street.
  - *this option would disallow the proposed accessory building but resolve the existing non-*

*conforming property status.*

3. THAT Council deny Development Variance Permit application DVP00097.

- *this option would preclude the property owner from building the proposed accessory building and leave the existing non-conforming lot coverage issue unresolved.*

**IMPLICATIONS**

If the application is denied, the non-conforming status would remain but could be addressed through future permitting processes or enforcement action, and replacement of existing structures on the property would be impacted.

The proposed accessory building would be permitted if the application is approved and existing non-compliance issues are legalized.

**RECOMMENDATION**

THAT Council authorize the issuance of Development Variance Permit DVP00097 and grant a variance to Section 58 (5)(a) of Zoning Bylaw No. 2950 to increase the maximum permitted lot coverage from 30% to 38.2% at 9928 Maple Street.

Report prepared by:

*Rick Brundrige*

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Report reviewed by:



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Rob Conway, MCIP, RPP  
Director, Planning and Building

**Approved to be forwarded to Council:**



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Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Location map
- (2) Orthophoto
- (3) Zoning
- (4) Site plan and elevations
- (5) Site survey
- (6) Proposal/Rationale
- (7) Site Photos
- (8) Notice
- (9) Draft Permit