

# Report

Date July 16, 2025

File: 3080-20 21.14

Subject Development Variance Permit Application No. DVP00077 at 9386 Smiley Road

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## PURPOSE

To consider an application to vary section 76(5)(a) of Zoning Bylaw No. 2950, 1997 to decrease the minimum permitted principal building front yard setback from 8.0 metres to 2.5-5.2 metres at 9386 Smiley Road to regularize a recently constructed covered front entrance with a future second-storey.

## BACKGROUND

The 5,558 m<sup>2</sup> (1.4 acres) subject property (PID: 001-163-744) is located at 9386 Smiley Road west of the Trans-Canada Highway (at Henry Road). The property is located within the Light Industrial (I1) Zone (Attachments 1 & 2), and the 'Industrial and Employment' land use designation and outside the Urban Containment Boundary of the Official Community Plan (Attachment 3).

The subject property fronts Smiley Road, which separates the subject property and surrounding light industrial land uses from the Trans-Canada Highway.

## Development Variance History

In 1987, Council granted a development variance permit to the property owner to relax the minimum principal building front yard setback from 8.0 metres to 5.06 metres (western corner of addition) and 7.19 metres (eastern corner of addition) to facilitate a showroom addition.

The 1987 approved variance is provided in Attachment 4.

## Proposal

The property owner is seeking Council's approval for an additional variance to the principal building front yard setback to regularize a recently constructed 95 m<sup>2</sup> covered building entrance, as well as for proposed second-storey offices.

The covered entrance was constructed without a building permit. However, the owners intend to achieve compliance with the BC Building Code for the addition (as constructed and for the proposed second storey) through a building permit application.

To regularize what has been and what is proposed to be constructed, the applicant requests to:

- Reduce the principal building front yard setback from 8.0 metres to 2.5 metres (western corner of the new addition) and 5.2 metres (eastern corner of the new addition) for the portion of the addition with a second-storey as proposed within the setback.

The site plan and elevations are provided in Attachment 5. Site photos are provided in Attachment 6.

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## DISCUSSION

### *Major Variance*

Since this application to relax the principal building front yard setback from 8.0 metres to 2.5 – 5.2 metres (the addition is on an angle to the front lot line) exceeds 50% of the front yard, i.e., 4 metres, it does not qualify as a 'minor variance' (Schedule A; BL3814). Therefore, this application is presented for Council's approval consideration.

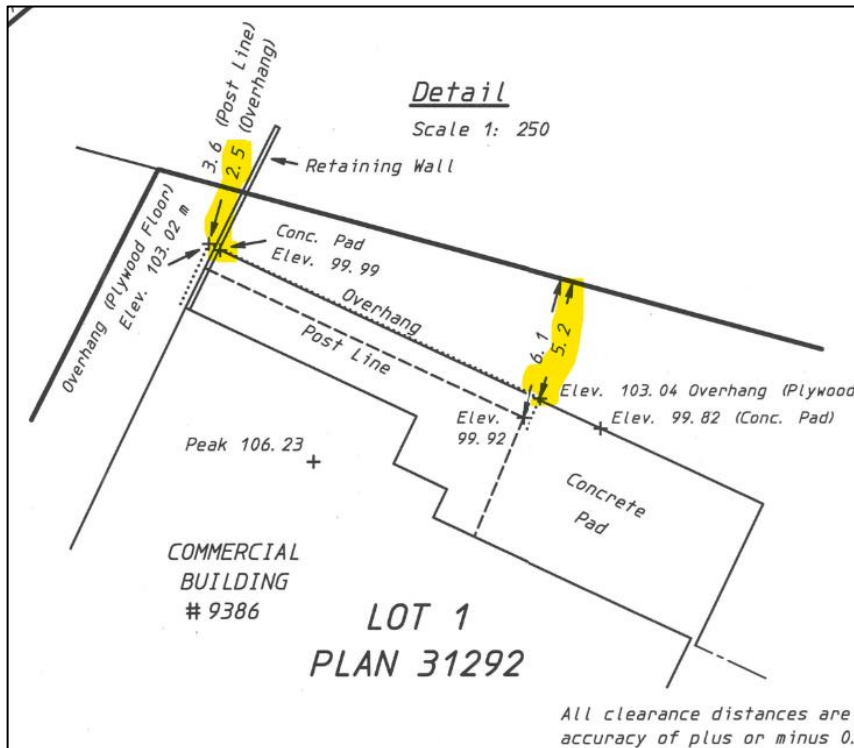


Figure 1 – The variance requested reflects the siting of the existing/proposed building addition relative to the front property boundary. The variance requested exceeds 50% of the principal building front yard setback and is therefore presented to Council for approval consideration.

### *Required Off-Street Parking*

All required off-street parking must be located on site. Since the distance between the covered entrance and the municipal boulevard is limited, the property owner has committed to keeping the boulevard free of vehicles intended to be parked on site (section 18(1), Zoning Bylaw; Attachment 5).

### *Land Use Impacts of the Requested Variance*

Despite the 2.5 – 5.2 metre infringement into the front yard principal building setback, the proposal does not present a significant land use impact on adjacent property owners.

The proposal:

- Fronts Smiley Road, which is a frontage road to the Trans-Canada Highway.

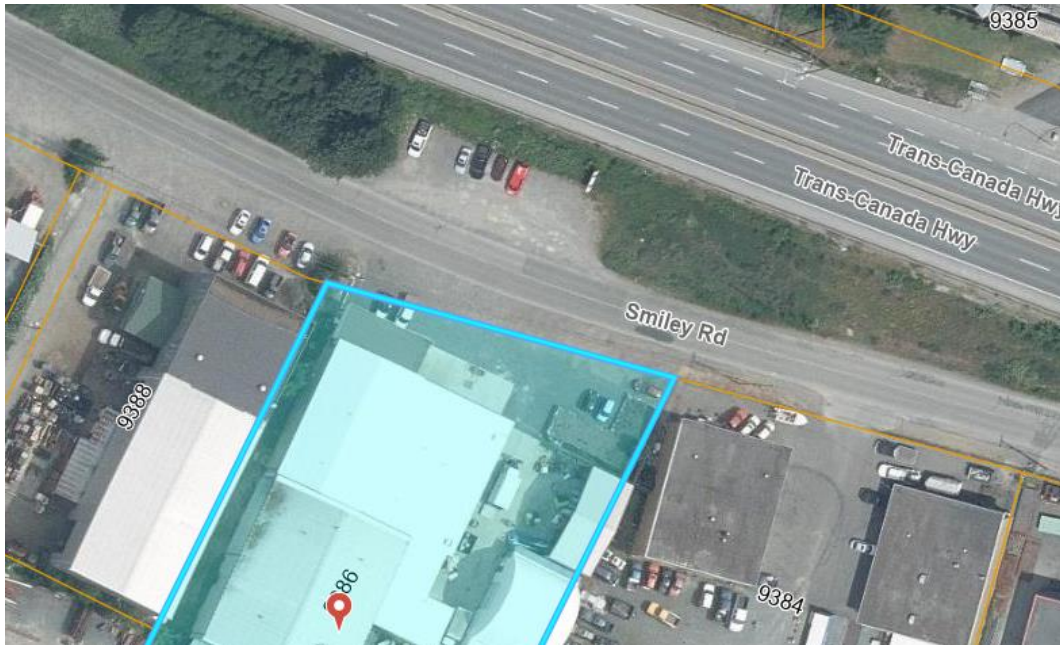


Figure 2 – In this context, the requested variance for further infringement in the principal building front yard setback does not impose a significant land use impact on neighbouring properties because the proposal fronts the Trans-Canada Highway.

### ***Future Permits***

Should Council grant this variance request, the applicant will be required to fulfil a Development Permit (DPA2) for “Commercial and Industrial Development”. Once a development permit is approved, issuance of a building permit can be considered.

### ***Public Notification & Draft Development Variance Permit***

Pursuant to section 499 of the *Local Government Act*, the notice given to neighbouring property owners and the public of this development variance permit application is provided in Attachment 7.

The draft Development Variance Permit is provided in Attachment 8.

### ***Conclusion***

While it is regrettable that the addition was constructed prior to permit approvals, the variance requested to decrease the minimum permitted principal building side yard setback from 8.0 metres to 2.5 – 5.2 metres to accommodate an existing covered entrance with a future second-storey is not anticipated to significantly impact surrounding property owners because the subject property is located on a frontage road adjacent to the Trans-Canada Highway. The proposal is not anticipated to impact North Cowichan since the owner has committed to keeping the municipal boulevard in front of the addition free from parked vehicles.

## **OPTIONS**

1. **(Recommended Option)** THAT Council authorizes the issuance of Development Variance Permit DVP00077 to vary section 76(5)(a) of Zoning Bylaw No. 2950, 1997 to decrease the minimum permitted principal building front yard from 8.0 metres to 2.5 – 5.2 metres to regularize an existing covered entrance with a future second-storey at 9386 Smiley Road.

2. THAT Council denies Development Variance Permit Application DVP00077 to decrease the minimum permitted principal building front yard from 8.0 metres to 2.5 – 5.2 metres to regularize an existing covered entrance with a future second-storey at 9386 Smiley Road.

**IMPLICATIONS**

Should the application be denied, the covered entrance must be removed and/or the building altered to bring it into compliance with the Development Variance Permit approved in 1987.

Should the Development Variance Permit be approved, the existing addition and façade, as well as the proposed second-storey, can be considered for approval under development and building permit applications.

**RECOMMENDATION**

THAT Council authorizes the issuance of Development Variance Permit DVP00077 to vary section 76(5)(a) of Zoning Bylaw No. 2950, 1997 to decrease the minimum permitted principal building front yard from 8.0 metres to 2.5 – 5.2 metres to regularize an existing covered entrance with a future second-storey at 9386 Smiley Road.

Report prepared by:

*Caroline von Schilling*

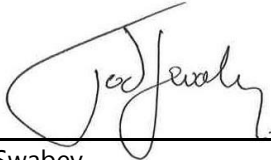
Caroline von Schilling, MCIP, RPP  
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Report reviewed by:



Amanda Young, MCIP, RPP  
Director, Planning and Building

**Approved to be forwarded to Council:**



Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) Zoning Map
- (4) 1987 Variance Permit
- (5) Site Plan, Elevations
- (6) Site Photos
- (7) Public Notice
- (8) Draft Development Variance Permit