

DATE OF MEETING | August 13, 2018 |

AUTHORED BY | CALEB HORN, PLANNING ASSISTANT, CURRENT PLANNING AND SUBDIVISION |

SUBJECT | **DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP359  
– 380 FIFTH STREET** |

## **OVERVIEW**

### **Purpose of Report**

To present, for Council's consideration, a development variance permit application to reduce the flanking side yard setback to legalize an existing non-conforming single residential dwelling and to reduce the rear yard setback to allow a carport addition to the dwelling. |

### **Recommendation**

That Council issue Development Variance Permit No. DVP359 at 380 Fifth Street with the following variances:

- reduce the minimum rear yard setback from 7.5m to 5.64m; and
- reduce the minimum flanking side yard setback from 4m to 3.14m. |

## **BACKGROUND**

A development variance permit application, DVP359, was received from Gary Pearson to vary the provisions of "Zoning Bylaw 2011 No. 4500" to reduce the minimum rear yard and flanking side yard setbacks to legalize the siting of an existing non-conforming dwelling and to permit a carport addition.

The subject property's rear lot line was formerly 65m further from the house than the current lot line, but a subdivision of the property in 2015 created a new rear lot line. It was noted at the time of subdivision that the single residential dwelling's outermost carport would fall within the new rear yard setback and would either need to be removed or receive a variance. The owner at the time removed the carport prior to subdivision. The current owner acquired the property in 2017 and, unaware that the carport had previously been removed as a condition of subdivision, proceeded to construct a carport on the existing foundation. A Stop Work order was posted in May 2018. The property owner will apply for a Building Permit should the variance be granted.

### **Subject Property**

<i>Zoning</i>	R1 – Single Dwelling Residential
<i>Location</i>	The subject property is located on the corner of Fifth Street and Stirling Avenue.
<i>Total Lot Area</i>	663m <sup>2</sup>
<i>Official Community Plan</i>	Map 1 – Future Land Use - Neighbourhood

The subject property is a corner lot with a front yard facing Fifth Street and a flanking side yard along Stirling Avenue. The existing single residential dwelling is sited closer to the east side of the property, leaving a large side yard to the west.

The surrounding area is primarily comprised of single dwelling residential properties, with a rowhouse development to the north and a townhouse development to the west.

Statutory Notification has taken place prior to Council's consideration of the variances.

## **DISCUSSION**

### **Proposed Development**

The requested rear yard setback variance will allow for a carport addition to be completed on the north side of the existing single residential dwelling. This carport addition has been constructed over the foundation of a previous carport that had been removed.

The owner is also requesting a flanking side yard setback variance to legalize the siting of the existing non-conforming single residential dwelling that is currently located within the 4m flanking side yard setback.

### **Proposed Variances**

#### *Minimum Rear Yard Setback*

The minimum rear yard setback for a principal building is 7.5m. The proposed setback for the addition is 5.64m, a proposed variance of 1.86m.

The Zoning Bylaw allows detached carports to be located as close as 1.5m to the rear lot line. As the carport is attached to the principal dwelling, however, it is required to have a minimum 7.5m setback.

The rear yard of the subject property is adjacent to the side yard of the rowhouse property to the north. An existing cedar hedge and fence provides a buffer between the carport addition and the adjacent rowhouse development. A rear yard setback variance at this location is not anticipated to negatively impact the intended use of subject property or adjacent properties.

#### *Minimum Flanking Side Yard Setback*

The minimum flanking side yard setback is 4m. The existing single residential dwelling is located 3.14m from the flanking side lot line, a proposed variance of 0.86m.

The purpose of the proposed variance is to legalize the siting of the existing single residential dwelling. The carport addition is set back further from Stirling Avenue than the rest of the house and is not affected by the proposed flanking side yard setback.

See Attachments for more information.

### **SUMMARY POINTS**

- Development Variance Permit Application No. DVP359 proposes a variance to reduce the minimum rear yard setback to allow a carport addition and to reduce the minimum flanking side yard setback to legalize the siting of the existing single residential dwelling.
- The carport addition is at the same location as a previous carport that was removed prior to subdivision of the property in 2015.
- The proposed variances are not anticipated to negatively impact the subject property or adjacent properties.

### **ATTACHMENTS**

ATTACHMENT A: Permit Terms and Conditions

ATTACHMENT B: Location Plan

ATTACHMENT C: Site Survey

ATTACHMENT D: Context Photo

ATTACHMENT E: Aerial Photo

#### **Submitted by:**

L. Rowett  
Manager, Current Planning and Subdivision

#### **Concurrence by:**

D. Lindsay  
Director, Community Development

## **ATTACHMENT A PERMIT TERMS AND CONDITIONS**

### **TERMS OF PERMIT**

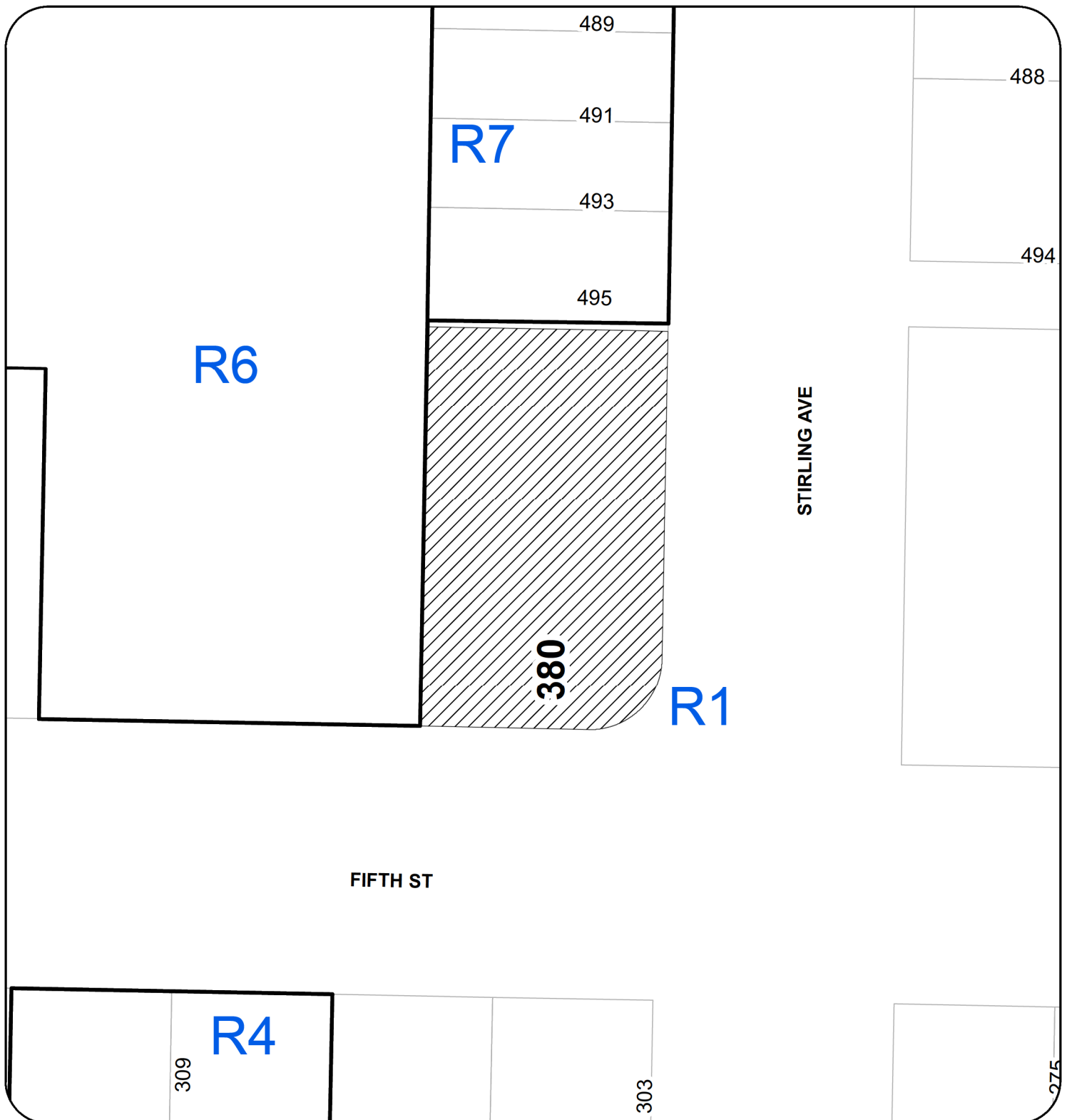
The City of Nanaimo "ZONING BYLAW 2011 NO. 4500" is varied as follows:

1. *Section 7.5.1 Siting of Buildings* – to reduce the minimum rear yard setback from 7.5m to 5.64m for a carport addition.
2. *Section 7.5.1 Siting of Buildings* – to reduce the minimum flanking side yard setback from 4m to 3.14m for the existing dwelling.

### **CONDITIONS OF PERMIT**

1. The subject property shall be developed in accordance with the Site Survey prepared by J. E. Anderson & Associates Surveyors - Engineers, dated 2018-JUL-12, as shown on Attachment C.

ATTACHMENT B  
LOCATION PLAN



DEVELOPMENT VARIANCE PERMIT NO. DVP00359

LOCATION PLAN

Civic: 380 FIFTH STREET  
Legal Description: LOT A, SECTION 1, RANGE 9,  
NANAIMO DISTRICT, PLAN EPP19257

295

Document Path: V:\Source Data\Departmental Data\EngPubWks\GIS\Projects\TEMPLATES\LOCATION\_PLAN\Maps\LP\_DVP00359.mxd



Subject Property



**J.E. ANDERSON  
& ASSOCIATES**  
SURVEYORS - ENGINEERS

TEL: 250-758-4631 FAX: 250-758-4660  
NANAIMO - VICTORIA - PARKSVILLE - CAMPBELL RIVER

# ATTACHMENT C

## SITE SURVEY JRVEYOR'S BUILDING LOCATION CERTIFICATE

File: 89278

Civic: 380 Fifth Street, Nanaimo, B.C.

Legal: Lot A, Section 1, Nanaimo District, Plan EPP19257.

Dimensions are in metres and are derived from Plan EPP19257.

This sketch does not constitute a redefinition of the legal boundaries hereon described and is not to be used in any matter which would assume same.

This building location certificate has been prepared in accordance with the Professional Reference Manual and is certified correct this 12th day of July, 2018.

Douglas Holme VXC3QR

Digitally signed by Douglas Holme VXC3QR  
Date: 2018.07.12 10:11:32 -07'00'

This document is not valid unless  
originally signed and sealed or  
digitally signed by BCLS

B.C.L.S.

© Copyright 2018 J.E. Anderson & Associates. All rights reserved. No person may copy, reproduce, transmit or alter this document in whole or in part without the consent of the signatory.

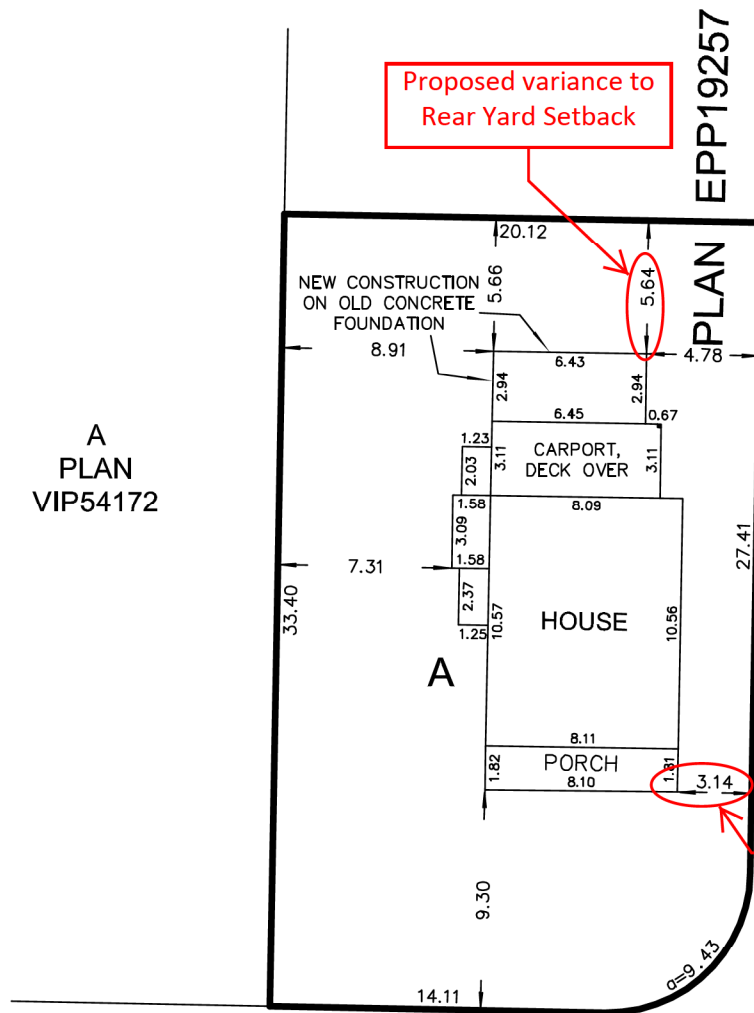
The signatory accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decision made, or actions taken based on this document.

Subject to charges, legal notations, and interests shown on: Title No. CA6191134 (P.I.D. 029-706-653)

Scale 1:250



A  
PLAN  
VIP54172



STIRLING AVENUE

FIFTH STREET



ATTACHMENT D  
CONTEXT PHOTO





ATTACHMENT E  
AERIAL PHOTO



DEVELOPMENT VARIANCE PERMIT NO. DVP00359