

JUAN DE FUCA BOARD OF VARIANCE

Notice of Meeting on Monday, **October 22, 2018 at 6:00 p.m.**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

AGENDA

1. Approval of Agenda
2. Approval of the Supplementary Agenda
3. Adoption of Minutes of July 23, 2018
4. Planner's Report
5. Application
 - a) BV000456 - Lot A, Section 86, Sooke District, Plan VIP64561 (240 Becher Bay Road)
6. Adjournment



Making a difference...together

**Minutes of a Meeting of the Juan de Fuca Board of Variance
Held Monday, July 23, 2018, at the Juan de Fuca Local Area Services Building,
#3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Greg Whincup (Chair), Axel Joosting
Staff: Emma Taylor, Planner; Wendy Miller, Recorder
ABSENT: Paul Clarkston
PUBLIC: 3

The meeting was called to order at 6:00 p.m.

1. Approval of the Agenda

MOVED by Axel Joosting, **SECONDED** by Greg Whincup that the agenda be approved.

CARRIED

2. Approval of the Supplementary Agenda

None.

3. Adoption of the Minutes of June 25, 2018

MOVED by Axel Joosting, **SECONDED** by Greg Whincup that the minutes of June 25, 2018, be adopted.

CARRIED

4. Planner's Report

Emma Taylor reported that the CRD Board adopted Bylaw No. 4000, "East Sooke Official Community Plan Bylaw No. 5, 2018" and Bylaw No. 4001, "Shirley – Jordan River Official Community Plan Bylaw No. 5, 2018" at its July 11, 2018 meeting.

5. Application

a) BV000455 – Lot A, Section 133, Sooke District, Plan 19599 (6638 East Sooke Road)

Emma Taylor outlined the staff report and advised that the applicant is requesting relief from the from the Board of Variance (BOV) in accordance with Section 540(a) of the *Local Government Act (LGA)* to relieve hardship resulting from the side yard setback requirement from 6 m to 3.4 m for the purpose of converting the existing single-family dwelling to a detached accessory suite.

Emma Taylor confirmed that:

- construction of a new house on the property requires converting the existing dwelling to an accessory structure
- the existing dwelling is not located in the designated steep slopes and the shoreline protection development permit areas on the property
- the structure was permitted as an accessory building in 1992 and then converted to a dwelling in 2000
- siting of the dwelling was not confirmed at that time but information indicated that the structure was sited 8 m from the west
- the structure will be modified to combine the detached accessory suite with an accessory building, meeting the maximum floor area for accessory buildings, the maximum floor area of detached accessory suites and the height requirement for detached accessory suites

Emma Taylor showed photos of the subject property, confirming the location of proposed building modifications and showing the distance between the proposed detached accessory suite and the dwellings on the adjacent properties. It was advised that the setback distances for detached accessory suites compared to the setback distances for accessory buildings is greater to support privacy.

Emma Taylor confirmed that in accordance with Bylaw No. 3839, "Juan de Fuca Board of Variance Bylaw No. 1, 2012" property owners within 50 m of the subject property were provided notice of the appeal to the BOV. Emma Taylor reported that no submissions have been received regarding the proposal. It was advised that the owner and the agent were in attendance.

The agent stated that:

- the existing structure is 59 ft long by 23 ft wide
- 10 m² indoor space will be converted to inhabitable outdoor space to meet the maximum floor area of detached accessory suites
- the existing deck and staircase will be removed and replaced with a new deck and staircase to increase the setback from the west property line from 3.2 m to 3.4 m
- it would be a financial hardship to demolish the building prior to being granted occupancy to the new house
- the proposed detached accessory suite is in a state of good habitable living space
- there would be less environmental impact to alter than to demolish the structure
- the detached accessory suite will be used either as a caretaker residence or as a rental to provide additional income

The owner stated she hopes that the BOV makes the decision to support her application and the building design proposed by her agent as she needs the building to remain.

The BOV stated that it would be a hardship to replace the building and noted that the building is in a good state.

The BOV considered the minor variance and found that undue hardship would result from compliance with the requirement in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 that detached accessory suites must be located within the same side and rear yard setbacks as the principal dwelling.

MOVED by Axel Joosting, **SECONDED** by Greg Whincup that application BV000455 to request permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to vary the requirement that detached accessory suites must be located within the same side yard setback as the principal dwelling, as stated in Part 1, Section 4.20 (h) of Bylaw No. 2040, from 6 m to 3.4 m on Lot A, Section 133, Sooke District, Plan 19599, as shown on the Building Plans prepared by Chris Supeene, dated July 3, 2018, be approved.

CARRIED

6. Adjournment

The meeting was adjourned at 6:14 p.m.

G. Whincup, Chair



**REPORT TO THE JUAN DE FUCA BOARD OF VARIANCE
MEETING OF OCTOBER 22, 2018**

File No: BV000456
Location: 240 Becher Bay Road
Legal: Lot A, Section 86, Sooke District, Plan VIP64561
Zoning: Rural A
Land Use Designation: Settlement Area
Adjacent Uses: N – Rural A S – Rural A
 W – Rural A E – Becher Bay Road

REQUESTED VARIANCE

The applicant is requesting relief from the Board of Variance in accordance with Section 540 of the *Local Government Act (LGA)* to vary the maximum height regulation for accessory buildings specified by the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Section 4.01(2)(a), from 6 m to 6.55 m, for the purpose of finalizing the construction of an accessory building.

STAFF COMMENTS

The 0.654 ha property is located at 240 Becher Bay Road in East Sooke (Appendix 1). The property is zoned Rural A in the Juan de Fuca Land Use Bylaw No. 2040. There is an existing residence on the property and the applicants received a building permit in June, 2017, to construct a two-storey, 133 m² accessory building (Appendix 2). The building will be used as a workshop on the main floor and studio space with an exterior deck on the second floor (Appendix 3). The owners previously requested relief from the Board of Variance to increase the height to 7.88 m, but the application BV000451 was denied due to the apparent impact to the use and enjoyment of adjacent property.

A building permit was issued for construction of the accessory building based on compliance with the 6 m height requirement outlined in Part 1, Section 4.01(2)(a) of the Juan de Fuca Land Use Bylaw No. 2040. As defined in Part 1, Section 2 of Bylaw No. 2040, height is measured as the average vertical distance from natural grade at the outermost corners of a building to the mean level of the highest roof plane. Construction is nearing completion and the owners received a survey certificate that confirmed that the building was constructed to a height of 6.55 m.

However, since the time the application to the Board of Variance was submitted, a row of solar panels has been installed along a portion of the ridgeline of the roof. While staff would not typically include solar panels in the calculation of roof height, they could be seen to have a bearing in this case given their configuration and the requirement for a variance to address the non-conforming height. An updated survey (Appendix 4) has been provided that confirms that the building height is 6.55 m, but that the solar panels extend 0.69 m above the peak of the roof to an overall height of 7.7 m above natural grade.

The applicants are requesting relief from the Board of Variance for hardship and are requesting a minor variance for the purpose of increasing the height of the accessory building from 6 m to 6.55 m (Appendix 5).

Section 542 of the *LGA* outlines that a minor variance may be permitted 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 section 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.

Portions of the property are designated within the Steep Slope, the Riparian and the Sensitive Ecosystem development permit areas by the East Sooke Official Community Plan Bylaw No. 4000. The accessory building is situated outside these areas and no adverse effects to the environment are anticipated as a result of the proposed variance to increase the height.

The proposed workshop and studio space is in keeping with the residential use of the property and does not vary the use or density of the Rural A zone. Pursuant to the Juan de Fuca Board of Variance Bylaw, Bylaw No. 3839, notification letters have been sent to owner and occupants within 50 m of the subject property.

Based on the above, staff conclude that granting the requested variance can be considered by Board of Variance.

OUTLINE MOTION

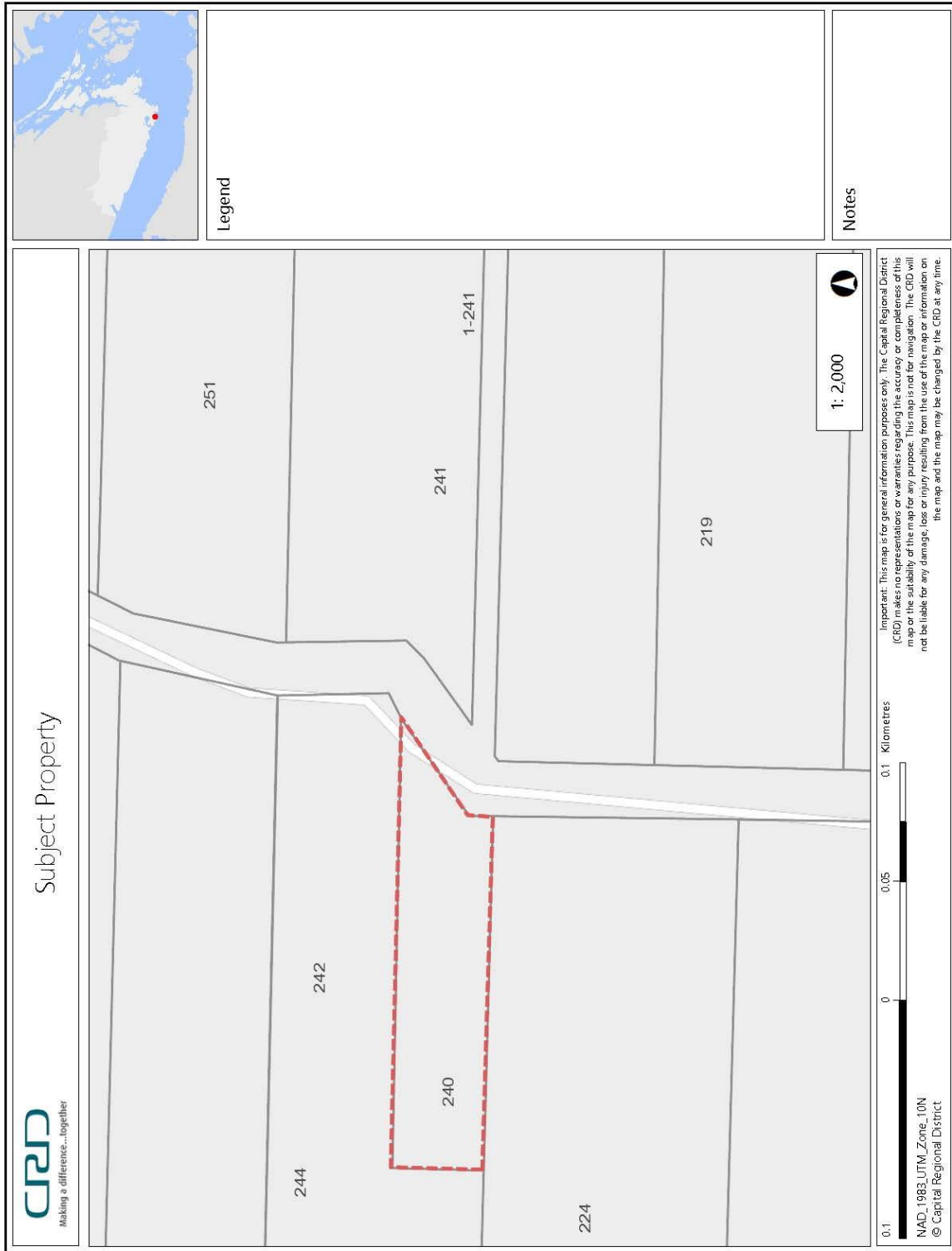
That application BV000456 to request permission from the Board of Variance in accordance with Section 540 of the *Local Government Act* to increase the maximum height of an accessory building from 6 m to 6.55 m for the purpose of constructing a two-storey accessory building on Lot A, Section 86, Sooke District, Plan VIP64561, as shown on the Survey Certificate prepared by Island Land Surveying Ltd., dated September 27, 2018, be **<approved/denied>** subject to the work being constructed in accordance with the *BC Building Code*, and that construction be substantially completed within two years of the approval of the variance or the variance will terminate.

Submitted by:	Iain Lawrence, MCIP, RPP, Secretary to the Board of Variance
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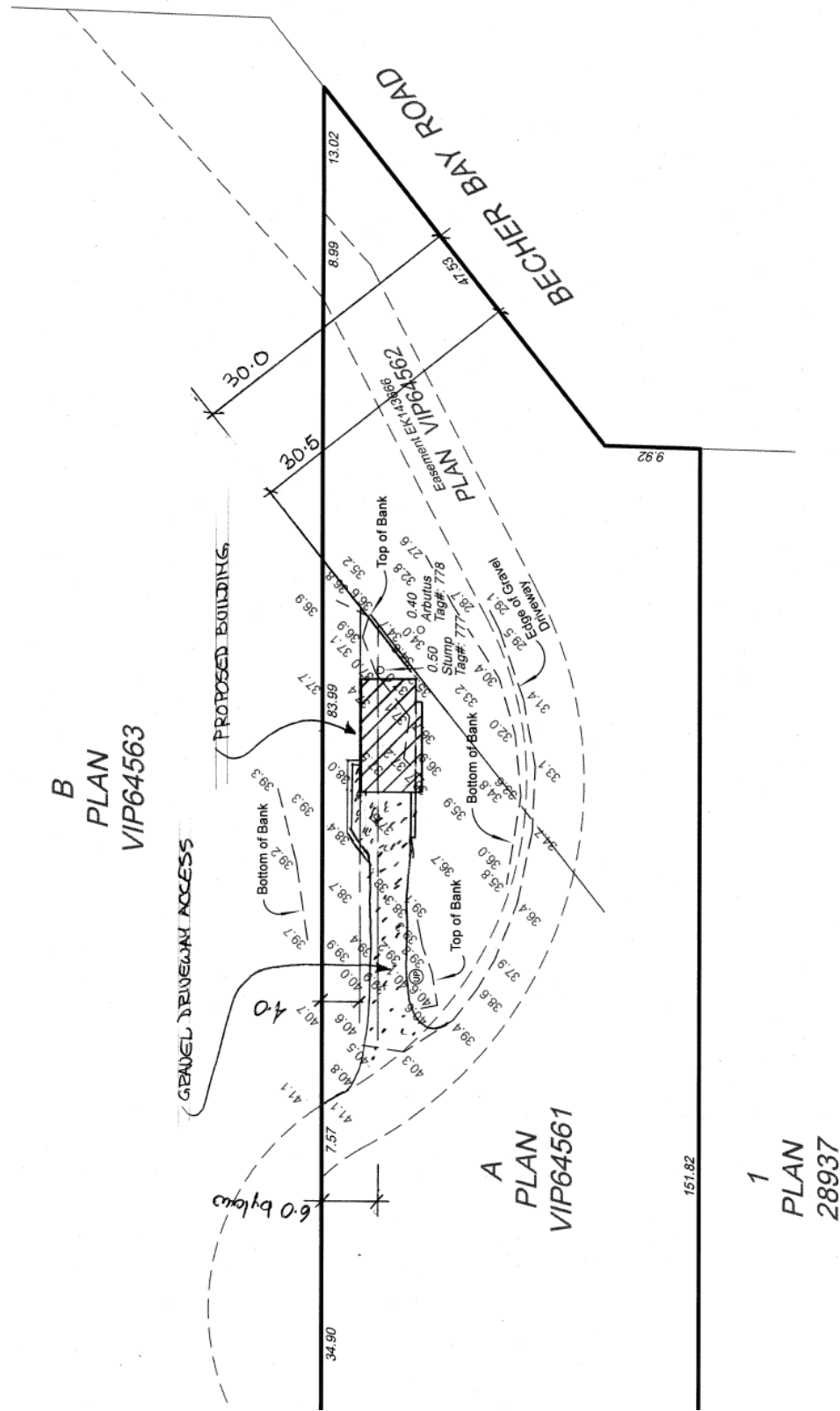
Attachments:

- Appendix 1. Subject Property Map
- Appendix 2. Site Plan
- Appendix 3. Building Plans
- Appendix 4. BC Land Surveyor's Certificate
- Appendix 5. Letter from Owner

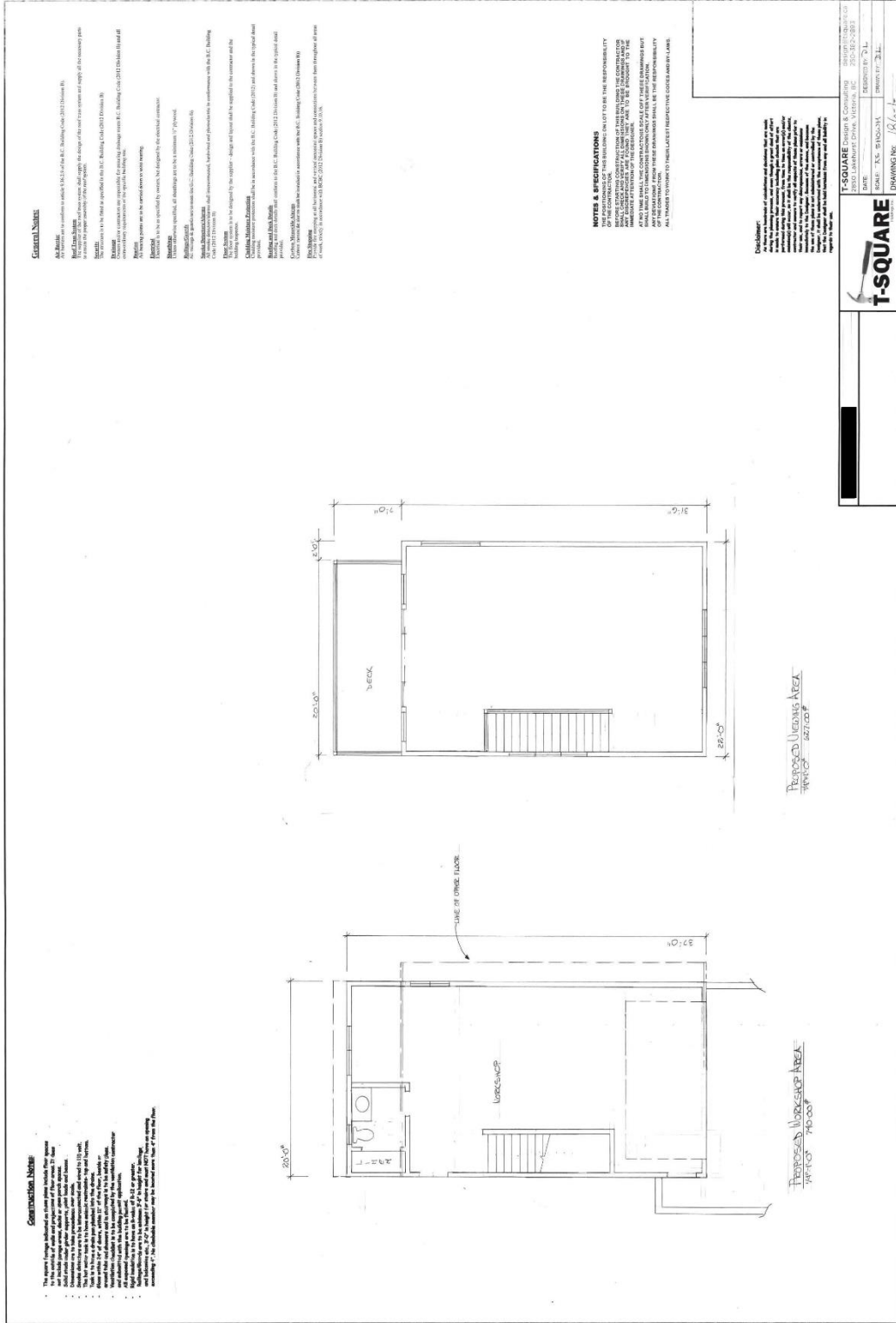
Appendix 1: Subject Property Map

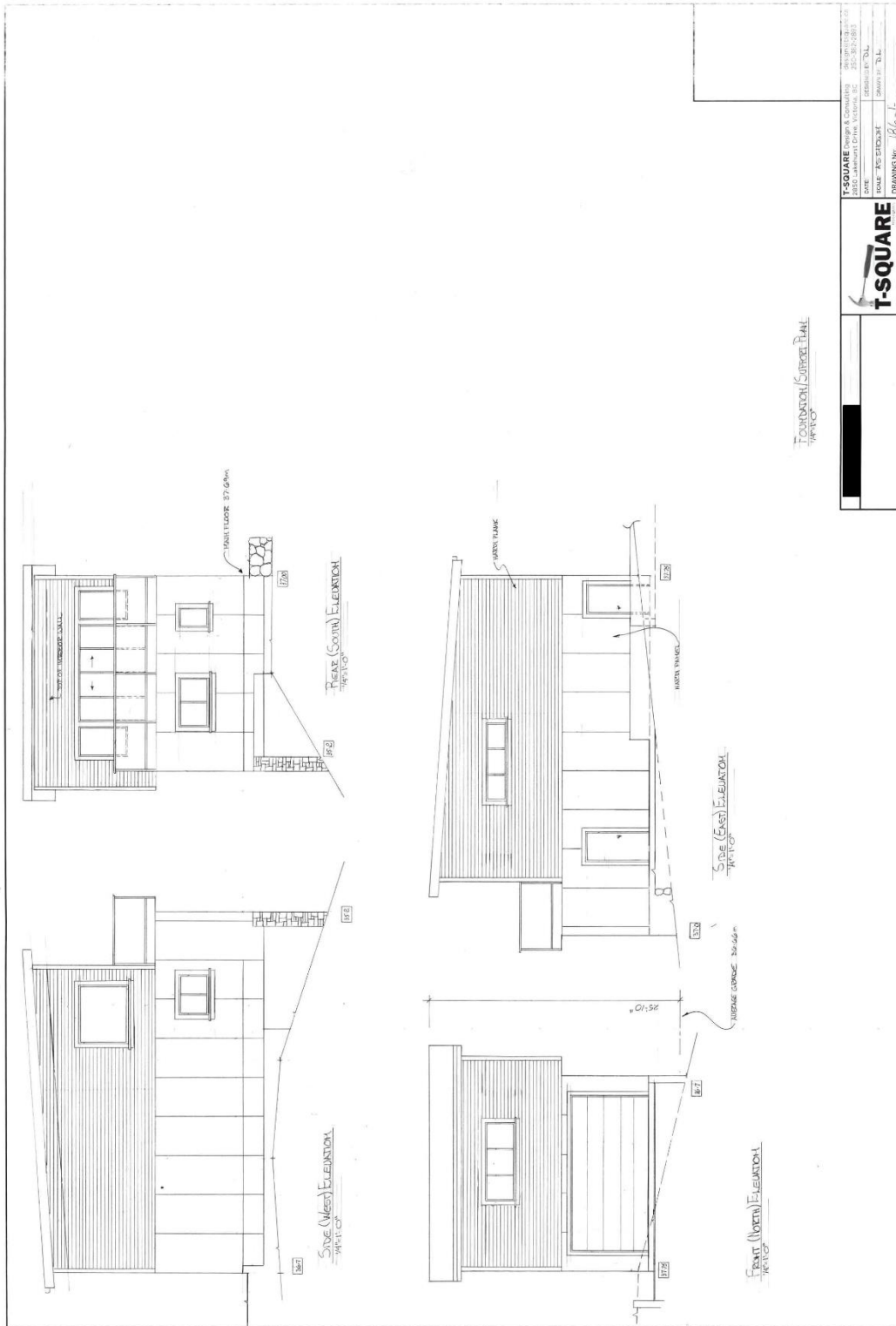


Appendix 2: Site Plan

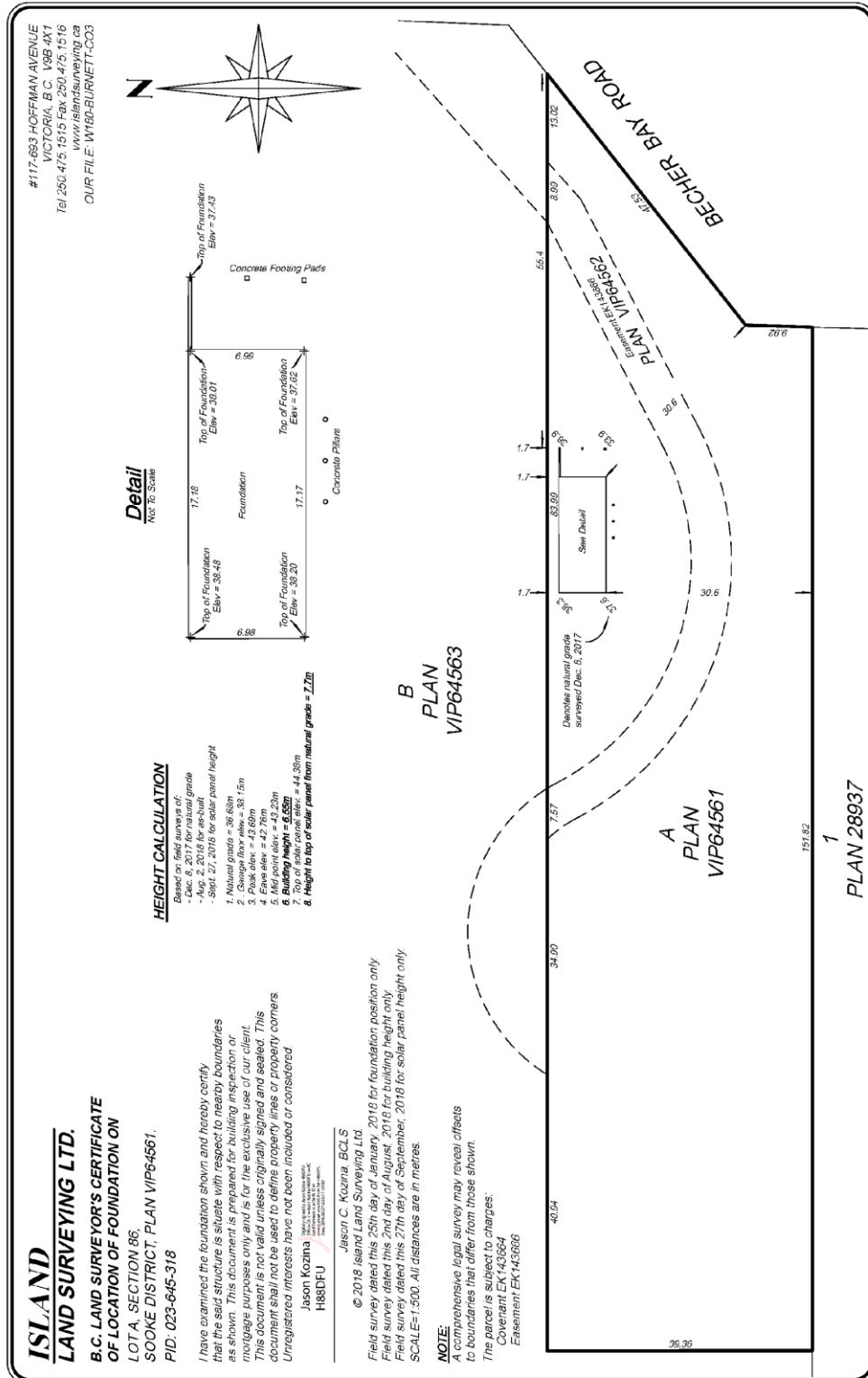


Appendix 3: Building Plans





Appendix 4: BC Land Surveyor's Certificate



Appendix 5: Letter from Owner

From the beginning. We made it very clear to our surveyor, architect & builder that our workshop must be under the 6 meter height requirement. Throughout the building stage, we had to re-design the building & submit new plans to the building department. These revisions were expensive. Now that the building is complete, we had the surveyor back to confirm the building height. To our horror, it is 6.55 meters & no one (builder, surveyor or architect) can explain what went wrong.

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