

**REGIONAL DISTRICT OF NANAIMO
BOARD OF VARIANCE
AGENDA**

Wednesday, November 13, 2019

4:00 P.M.

Committee Room

Pages

1. **CALL TO ORDER**
2. **APPROVAL OF THE AGENDA**
3. **ADOPTION OF MINUTES**
 - 3.1 **Board of Variance Meeting - September 11, 2019** 2

That the minutes of the Board of Variance meeting held September 11, 2019, be adopted.
4. **APPEALS**
 - 4.1 **Board of Variance Appeal No. PL2019-197 1834 Kirkstone Way, Electoral Area A** 4

That the Board vary “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” to increase the maximum height of an accessory building from 6.0 metres to 6.43 metres as shown on the attached plan.
5. **NEW BUSINESS**
6. **ADJOURNMENT**

REGIONAL DISTRICT OF NANAIMO
MINUTES OF THE BOARD OF VARIANCE MEETING

Wednesday, September 11, 2019
4:00 P.M.
Committee Room

In Attendance:	L. Mathews D. Wiwchar D. Holme	BOV Member Chair BOV Member
Also in Attendance:	Paul Thompson Allyssa Chanakos	Mgr., Current Planning BOV Secretary

CALL TO ORDER

The Chair called the meeting to order at 3:58 p.m.

APPROVAL OF THE AGENDA

It was moved and seconded that the agenda be approved as presented

CARRIED UNANIMOUSLY

ADOPTION OF MINUTES

Board of Variance Meeting - July 10, 2019

That the minutes of the Board of Variance meeting held July 10, 2019, be adopted.

CARRIED UNANIMOUSLY

APPEALS

The Chair detailed for each individual appeal the selection and structure for the Board of Variance and introduced the other Board members and staff. Excerpts of the *Local Government Act* were read and the grounds upon which an appeal may be granted were explained.

Board of Variance Appeal No. PL2019-157 2984 Bay Rd – Electoral Area H

Notification of the appeal was given to the owners and occupiers of all real property located within 50 metres of the property about which this appeal was being heard. Two letters of support were received.

Owners Brian and Margaret Yanda spoke in support of the appeal. Manager of Current Planning Paul Thompson answered questions from the Board.

It was moved and seconded that the Board of Variance found undue hardship and is of the opinion that the request does constitute a minor variance therefore the appeal submitted by Brian and Margaret Yanda to increase the maximum height requirement for a recreational residence from 8.0 metres to 8.21 metres, be granted.

CARRIED UNANIMOUSLY

ADJOURNMENT

It was moved and seconded that the meeting be adjourned.

TIME: 4:10 p.m.

CHAIR

TO: Board of Variance **DATE:** November 13, 2019

FILE: PL2019-197

**SUBJECT: Board of Variance Appeal No. PL2019-197
1834 Kirkstone Way, Electoral Area A**

OWNER:	Michael Bathgate
LOCATION:	LOT 10, SECTION 14, RANGE 2, CEDAR DISTRICT, PLAN VIP67829
CIVIC:	1834 Kirkstone Way
ELECTORAL AREA	A
PURPOSE	<p>The applicant is requesting the following:</p> <p>That the Board vary "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987"</p> <ul style="list-style-type: none"> • That the maximum height for an accessory building be increased from 6.0 m to 6.43 m as shown on the attached plan.

The appeal seeks a variance from the following provisions of the "*Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987*".

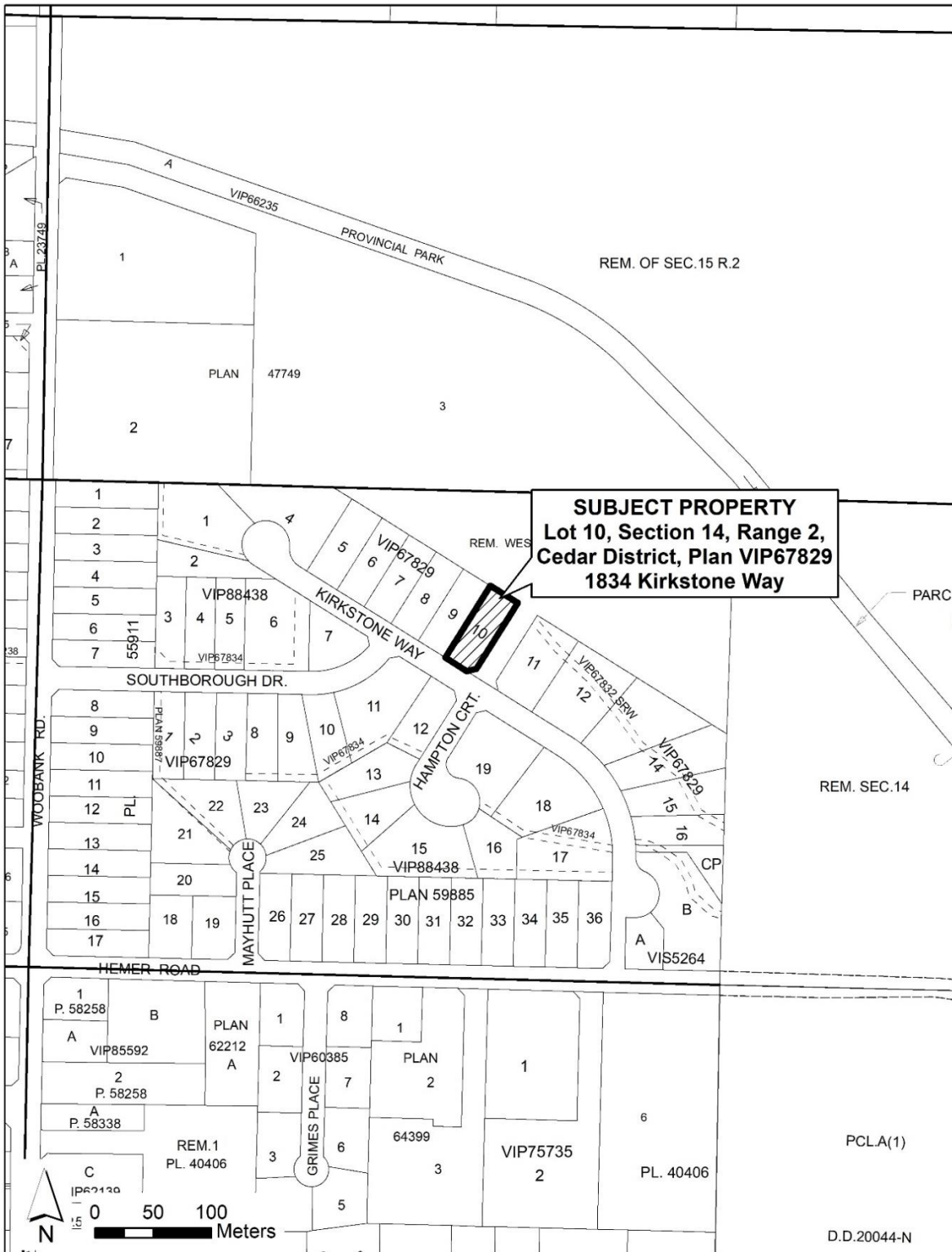
Section 3.4.62

*Maximum Number and Size of Buildings and Structures
Accessory Building Height – 6.0 m*

Attachments to this appeal include:

1. Subject Property Map
2. Application (correctly calculated height is provided in Attachment 4)
3. Certificate of Title
4. Site Plan
5. Elevations
6. Notification

Attachment 1 Subject Property Map



**Attachment 2
Application
(1 of 7)**



October 21, 2019

RDN Board of Variance
c/o RDN Planning Department

Accessory Building Height Variance Request – Letter of Rationale

1834 Kirkstone Way
Lot 10, Section 14, Range 2, Cedar District, Strata Plan VIP67829

Board of Variance

Please accept this letter and attached documents as grounds to support a variance request. In early 2016, the homeowner, Michael Bathgate, inquired with Greenplan about helping him design an accessory building on his property. Initial site visits recognized that the property had some topographical slope and was close to a watercourse. It was suggested by Greenplan that a survey be requested by a BCLS which would show the maximum building height allowance as well as the proposed buildings relation to the watercourse. In March of 2016, J.E. Anderson completed the survey work and an unsigned Sketch Plan was provided showing the maximum building height and relation of the watercourse. This is where a culmination of errors started to occur which have put us in our current situation seeking this height variance.

1. The unsigned JEA Sketch Plan (March, 8 2016) was used for the basis of the height calculation which was ultimately incorrect. The Sketch Plan showed a gable roof and the design drawings reflected a flat roof and therefore the point for building height was measured in the center of the building rather than the edge of the structure.
2. Since significant height cushion appeared obvious the construction set a slab elevation of 48.35m, which was 0.52 m. higher than the projected slab elevation per the permit submission drawings. The RDN had not insisted on a slab survey at that time so framing was initiated.
3. The actual roof depth for construction was 2'-5 1/2" which was 0.29m. greater than what was submitted for building permit. It was at this time the height survey was required and the over height circumstance was identified.

We are 0.72m. above the maximum building height (at the worst case) which is a culmination of the three errors noted above. We are hereby requesting a variance of 0.72m. to legalize the now existing structure.

The rationale for this request is based on the unfortunate circumstances the lead to the homeowner being in his current situation. We believe it is of undue hardship to have him incur the costs of modifying the building to bring the height into conformance given the culmination in errors provided by surveyors, building inspection officials and Greenplan.

www.greenplan.ca
(250) 722-3456
FAX: (250) 722-3453
EMAIL: keene@greenplan.ca
1655 Cedar Road, Nanaimo, B.C. V9X 1L4

**Attachment 2
Application
(2 of 7)**



Greenplan recognizes that new building inspection policies and standards for building permit submissions should ensure that problems of this nature are circumvented before the building permit is issued. We at Greenplan continue to work with RDN staff for the betterment of our community and we would appreciate the support of the Board of Variance for this application that slipped through the cracks.

Respectfully submitted,

Keene Anderson

www.greenplan.ca
(250) 722-3456
FAX: (250) 722-3453
EMAIL: keene@greenplan.ca
1655 Cedar Road, Nanaimo, B.C. V9X 1L4

**Attachment 2
 Application
 (3 of 7)**



Strategic & Community Development
 6300 Hammond Bay Road Nanaimo, BC V9T 6N2
 (250) 390-6510 (Nanaimo) 1-877-607-4111 (within BC)
 Fax: (250) 390-7511

Board of Variance Application Form

OFFICE USE ONLY

Application Fee: \$5400 Receipt No. _____ File No. A19-197

SECTION 1: DESCRIPTION OF PROPERTY
 (AS INDICATED ON THE STATE OF TITLE CERTIFICATE)

Legal Description: LOT 10 SECTION 14 RANGE 2 CEDAR DISTRICT PLAN VIP67829

Civic Address: 1834 Kirkstone way

Electoral Area: A Parcel Identifier (P I D): 024262927

SECTION 2: OWNER INFORMATION
 (ATTACH ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

1) <u>Michael Bathgate</u> Name <u>1834 kirkstone way</u> Mailing Address <u>Nanaimo BC</u> <u>v9x 1x1</u> Town / Province Postal Code [REDACTED] Telephone/ Cell Fax <u>keene@greenplan.ca</u> Email	2) _____ Name _____ Mailing Address _____ Town / Province Postal Code _____ Telephone/ Cell Fax _____ Email
--	--

I would prefer all correspondence via: email regular mail fax

SECTION 3: AGENT INFORMATION

<u>Keene Anderson</u> Name	<u>1655 Cedar Road</u> Mailing Address	<u>Nanaimo BC</u> Town/Province
<u>V9X 1L4</u> Postal Code	<u>250-618-6630</u> Telephone/ Cell	<u>keene@greenplan.ca</u> Email
	Fax _____	

I would prefer all correspondence via: email regular mail fax

SECTION 4: REASON FOR APPEAL

If We, the registered owner(s) of the above noted property, hereby appeal to the Board of Variance for the following:

To review a decision made by the Regional District of Nanaimo Manager of Building, Bylaw & Emergency Planning Services pursuant to Section 532 of the **Local Government Act**.

Or,

To determine that compliance with the following will cause undue hardship:

Relating to siting, size and dimensions of a building or structure, or the siting of a manufactured home in a manufactured home park. (Note: use and density, including varying maximum building size provisions, will not be considered for variance)

The prohibition of structural alteration and addition pursuant to Section 531 of the **Local Government Act**.

A subdivision servicing requirement pursuant to Section 506 of the **Local Government Act** in an area zoned for agricultural or industrial uses.

**Attachment 2
Application
(4 of 7)**



SECTION 5: APPLICATION COMPLETION CHECKLIST:
ALL MEASUREMENTS TO BE IN METRIC

- A copy of Certificate of Indefeasible Title (dated within past 30 days)
- A letter of authorization
- A letter outlining the details of the appeal
- Application fee as required by Bylaw No. 1259, 2002
- Two (2) survey plans certified by a BC Land Surveyor to a maximum scale of 1:500, showing location of existing and proposed buildings and structures and parts thereof
- Electronic copies of all plans
- Property Declaration Form

Additional information may be required, such as:

- Two (2) building elevation plans to a maximum scale of 1:100
- Two (2) survey plans certified by a BC Land Surveyor including topographical information
- Professional Engineer's Report
- RDN Sustainable Development Checklist
- Other _____
- _____

SECTION 6: Registered Owner's Authorization
(ATTACH ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

I hereby declare that all the above noted statements and information contained in this application and supporting documents are true and correct.

Signature of Registered Owner

10-18-2019

Date

Signature of Registered Owner

Date

In order to process your application, please provide all necessary documentation with your application. Please refer to the Board Of Variance Guide for further information. Contact the Board of Variance Secretary if you require assistance.

Submit the completed application form, required fee, plans, and supporting material to the Regional District of Nanaimo. The fee is payable to the "Regional District of Nanaimo".

**Attachment 2
Application
(5 of 7)**




Authorization Letter for Agent

I/ We Michael Bathgate, the owner(s) of property legally described as LOT 10 SECTION 14 RANGE 2 CEDAR DISTRICT PLAN VIP67829
(Legal Description)
at 1834 kirkstone way
(Civic Address)
authorized Keene Anderson
(Name of Agent)

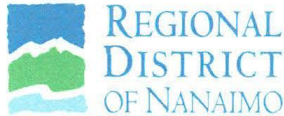
To act as my/our agent for all purposes in relation to the application for permits from the Planning Department of the Regional District of Nanaimo and I/we acknowledge the authority of the agent to bind me/us in all matters relating to the work to be preformed under the permit.

The person signing the permit documents, if not the owner, acknowledges that his or her signature is as agent for the owner and that he or she is authorized to bind the owner who will be deemed to know of and to understand the contents of the documents.


Signature of Owner _____ 10-18-2019
Date

Signature of Owner _____ *Date*

**Attachment 2
Application
(6 of 7)**



Property Declaration Form
for Riparian Areas, Nesting Trees,
and Site Profiles

Subject Property Legal Description:

Subject Property Civic Address:

Subject Property PID:

Riparian Areas

I (we) acknowledge that the province of British Columbia enacted the *Riparian Areas Regulation* to protect the critical features, functions, and conditions required to sustain fish habitat. Furthermore, this legislation prohibits the Regional District of Nanaimo (RDN) from approving or allowing a development to proceed adjacent to a watercourse until it has received notice that a report prepared by a Qualified Environmental Professional has been received by the Ministry of Environment.

I (we) understand that a water feature includes any of the following:

- a) any watercourse, whether it usually contains water or not;
- b) any pond, lake, river, creek or brook; and/or,
- c) any ditch, culvert, spring, or wetland.

I (we) declare that I (we) are familiar with the property and area, and have inspected the property and immediate area for the existence of any water features. I (we) declare that (*please check the one that applies*):

- that there are no water features located on the subject property; or
- there are water features located on the subject property.

I (we) declare that all proposed development including land alteration, vegetation removal, alteration or construction of a building or structure (*please check the one that applies*):

- is greater than 30.0 metres from a water feature; or
- is less than 30.0 metres from a water feature.

Eagle and Heron Nesting Trees

I (we) acknowledge that the *Wildlife Act* protects Bald Eagles and Great Blue Herons, their eggs and nests. Bald Eagles and Great Blue Herons are sensitive to development near their nesting sites and may return to a nest that has been unused for a number of years.

While the provincial government and the RDN undertake mapping of nesting sites from time to time, not all are mapped. Some on private property may have been undetected, and new nests are continually being built. Typically, a 60 metre radius for an eagle nesting tree and depending on the level of development in an area, a 60 - 300 metre radius for a heron nesting tree (or trees) is considered to be sensitive to disturbance. Electoral Areas A, E, G and H require that a development permit be obtained prior to development near an eagle or heron nest.

Mapped eagle and heron nest trees can be found on the Community Mapping Network at www.cmnmaps.ca/WITS/ and www.cmnmaps.ca/GBHE/.

I (we) declare that I (we) are familiar with the property and area, and have inspected the property and immediate area

**Attachment 2
Application
(7 of 7)**

for the existence of eagle or heron nests prior to completing this form. I (we) declare that (*please check the one that applies*):

- there are no eagle or heron nesting trees on or within 100 metres of the subject property; or
- there is an eagle or heron nesting tree on or within 100 metres of the subject property.



Site Profile

I (we) acknowledge that when an application is made to the RDN, Section 40(1) of the *Environmental Management Act* requires that a Site Profile be completed when the applicant knows, or reasonably should know, that the land is being used or has been used for industrial or commercial purposes of the type listed in Schedule 2 of the *Contaminated Sites Regulation* unless otherwise exempt under the Regulation. Please find the Site Profile Form and Schedule 2 on the Government of BC website at www2.gov.bc.ca/gov/content/environment/air-land-water/site-remediation/site-profiles or on the RDN's website. Please contact the RDN Planning Department if any of the activities listed in Schedule 2 apply to the subject property.

I (we) declare that (*please check the one that applies*):

- I (we) have read the *Contaminated Sites Regulation* Schedule 2 document, and determined that the subject property has been used for purposes listed in Schedule 2, and filled out the Site Profile Form; or
- I (we) have read the *Contaminated Sites Regulation* Schedule 2 document and am (are) not required to submit a Site Profile Form as to my (our) knowledge, the subject property has not been used for any of the activities listed in Schedule 2; or
- I (we) have read the *Contaminated Sites Regulation* Schedule 2 document and am (are) exempted from being required to submit a Site Profile Form under Section 4 of the *Contaminated Sites Regulation*. I (we) have provided the following information in support of this exemption: (list information below)

DECLARATION SIGNATURE

All registered owners shown on the certificate of title must sign the declaration. Please provide an additional page with owners' names and signatures if required.

I (we) declare that I (we) have read and filled out the above form.

Owner/Agent 1	Keene Anderson	Signature	
Owner 2		Signature	
Owner 3		Signature	

Applicant Mailing Address: 1655 Cedar Road, Nanaimo BC, V9X 1L4

Email: keene@greenplan.ca Phone: 250-618-6630

Date: 10-18-2019

Witnessed By Name:

Witnessed By Name: PATRICIA REYNES

**Attachment 3
Certificate of Title
(1 of 3)**

LAND TITLE OFFICE
STATE OF TITLE CERTIFICATE
Certificate Number: STSR2936579

Keene Anderson
1655 Cedar Road
Nanaimo BC v9x114
Pick up by: Keene Anderson

A copy of this State of Title Certificate held by the land title office can be viewed for a period of one year at <https://apps.ltsa.ca/cert> (access code 824537).

I certify this to be an accurate reproduction of title number **CA3539414** at 10:03 this 24th day of October, 2019.


REGISTRAR OF LAND TITLES



Land Title District Land Title Office	VICTORIA VICTORIA
Title Number From Title Number	CA3539414 FA44253
Application Received	2014-01-09
Application Entered	2014-01-13
Registered Owner in Fee Simple Registered Owner/Mailing Address:	MICHAEL JOHN IVOR BATHGATE, HEAVY EQUIPMENT OPERATOR 
Taxation Authority	Nanaimo/Cowichan Assessment Area North Cedar Improvement District

**Attachment 3
Certificate of Title
(2 of 3)**

LAND TITLE OFFICE
STATE OF TITLE CERTIFICATE

Certificate Number: STSR2936579

Description of Land

Parcel Identifier: 024-262-927
Legal Description:
LOT 10 SECTION 14 RANGE 2 CEDAR DISTRICT PLAN VIP67829

Legal Notations

NONE

Charges, Liens and Interests

Nature: UNDERSURFACE RIGHTS
Registration Number: 373811G
Registration Date and Time: 1969-02-27 12:25
Registered Owner: MAYO HOLDINGS LTD.
INCORPORATION NO. 21,022
CHANGE OF ADDRESS SEE ET9774
Remarks: INTER ALIA, ASSIGNMENT OF 53378G AND 80866G,
AFB 38.21.22463F, CB 33.465, DD 93873N

Nature: STATUTORY RIGHT OF WAY
Registration Number: EG12942
Registration Date and Time: 1993-02-02 11:21
Registered Owner: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA
Remarks: INTER ALIA

Nature: COVENANT
Registration Number: EM92764
Registration Date and Time: 1998-09-28 12:32
Registered Owner: THE CROWN IN RIGHT OF BRITISH COLUMBIA
REGIONAL DISTRICT OF NANAIMO
Remarks: INTER ALIA

Nature: COVENANT
Registration Number: EM92766
Registration Date and Time: 1998-09-28 12:32
Registered Owner: THE CROWN IN RIGHT OF BRITISH COLUMBIA
Remarks: INTER ALIA

Nature: COVENANT
Registration Number: EM92768
Registration Date and Time: 1998-09-28 12:33
Registered Owner: THE CROWN IN RIGHT OF BRITISH COLUMBIA
Remarks: INTER ALIA
PART SHOWN ON PLAN VIP67830

Nature: STATUTORY BUILDING SCHEME
Registration Number: EM94767
Registration Date and Time: 1998-10-01 09:36
Remarks: INTER ALIA

**Attachment 3
Certificate of Title
(3 of 3)**

LAND TITLE OFFICE

STATE OF TITLE CERTIFICATE

Certificate Number: STSR2936579

Nature:	MORTGAGE
Registration Number:	CA3539415
Registration Date and Time:	2014-01-09 10:34
Registered Owner:	ROYAL BANK OF CANADA

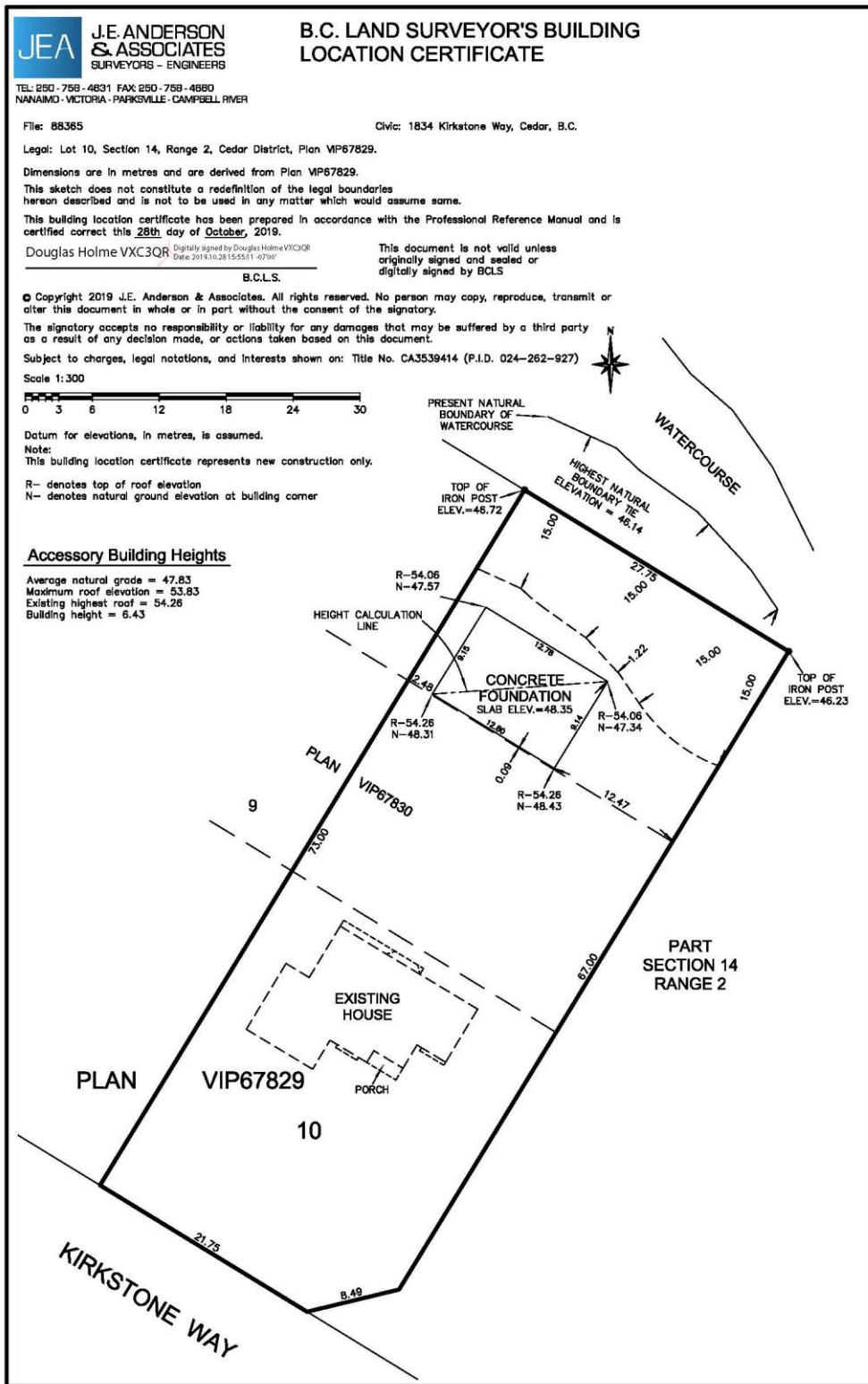
Duplicate Indefeasible Title NONE OUTSTANDING

Transfers NONE

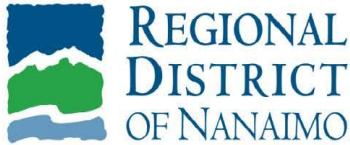
Pending Applications NONE

This certificate is to be read subject to the provisions of section 23(2) of the Land Title Act(R.S.B.C. 1996 Chapter 250) and may be affected by sections 50 and 55-58 of the Land Act (R.S.B.C. 1996 Chapter 245).

**Attachment 4
 Site Plan**



**Attachment 6
Notifications
(1 of 4)**



Pursuant to Section 541 of the *Local Government Act*, the Regional District of Nanaimo (RDN) advises of a meeting of the Board of Variance for the subject property shown on the location map below.

MEETING DETAILS

Wednesday, November 13, 2019, at 4:00 p.m.

Committee Room, 6300 Hammond Bay Road, Nanaimo



For more information please contact:

☎ 250-390-6510 or 1-877-604-4111

✉ planning@rdn.bc.ca

www.rdn.bc.ca

NOTICE OF MEETING

APPEAL NO. PL2019-197

1834 Kirkstone Way

Electoral Area A

PURPOSE OF THE APPEAL

The applicant is requesting the following:

That the maximum height requirement for an accessory building be increased from 6.0 metres to 6.43 metres as shown on the attached plan.

The appeal seeks a variance from the following provisions of the *Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987*.

- **Section 3.4.62** *Maximum Number and Size of Buildings and Structures Accessory Building Height – 6.0 m*

HAVE YOUR SAY

All persons who consider their interest in their property to be affected by the proposed appeal shall be afforded an opportunity to be heard in person or by written submission at the meeting. Written submissions can also be provided in advance of the meeting and must be received at the RDN office by 3:30 p.m., November 13, 2019, to ensure their inclusion in the public record.

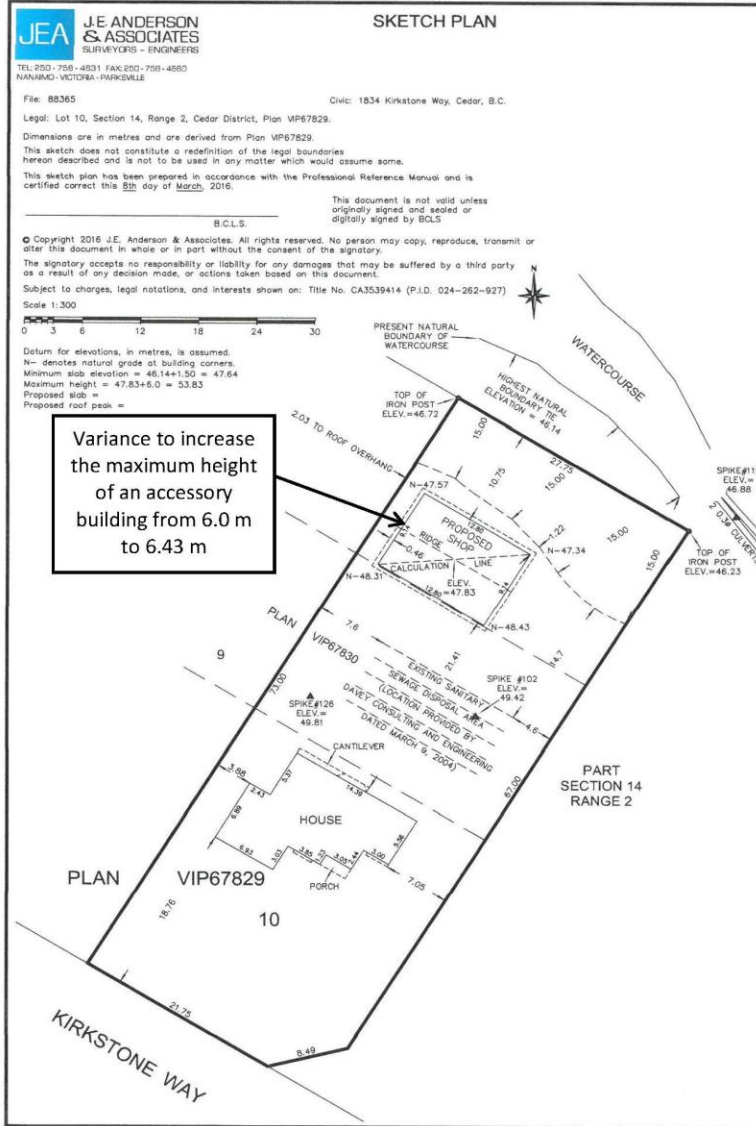
WHERE CAN I INSPECT THE DOCUMENTS?

A copy of the proposed appeal and relevant documents may be viewed at the RDN Administration office from the date of this notice to the date of the hearing. The office is located at 6300 Hammond Bay Road, Nanaimo, BC, open Monday to Friday, excluding public holidays, 8:30 a.m. to 4:30 p.m., with extended business hours until 5:30 p.m. on Wednesdays.

Get Involved RDN!

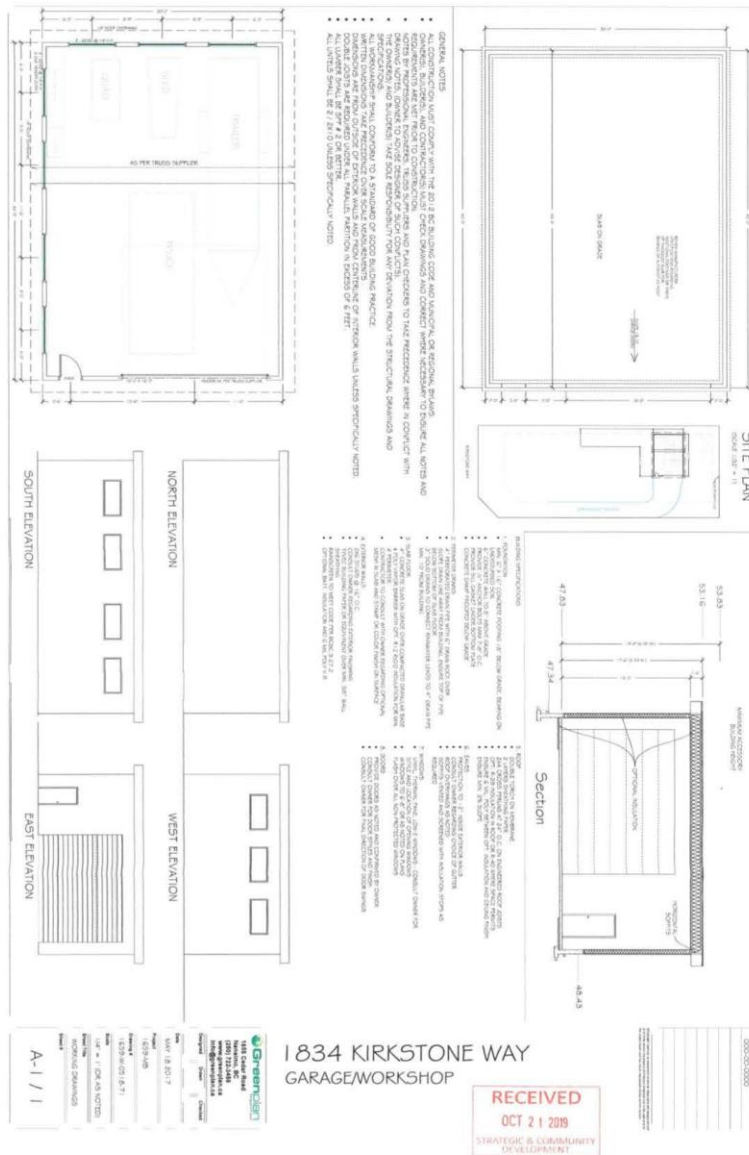
Attachment 6 Notifications (2 of 4)

Attachment 1 Site Survey



**Attachment 6
 Notifications
 (3 of 4)**

**Attachment 2
 Elevations**

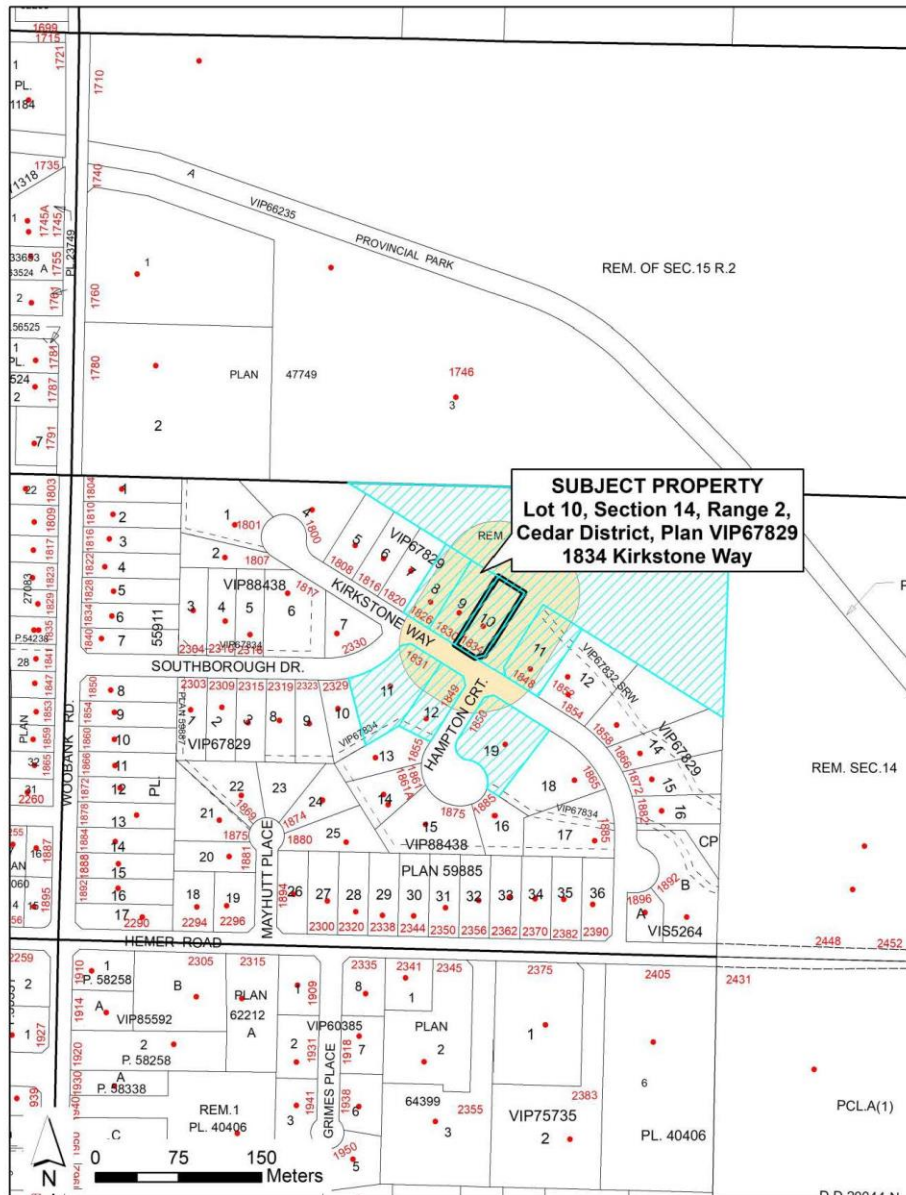


October 28, 2019

Zoning Amendment Application No. PL2019-197

**Attachment 6
Notifications
(4 of 4)**

**Attachment 3
50 Meter Notification Map**



October 28, 2019

Zoning Amendment Application No. PL2019-197