

THE CITY OF DAWSON

Box 308 Dawson City, YT Y0B 1G0
PH: 867-993-7400 FAX: 867-993-7434
www.cityofdawson.ca



NOTICE OF SPECIAL COUNCIL MEETING #C19-21

This is to inform you a special meeting of City Council will be held as follows:

DATE OF MEETING: WEDNESDAY, OCTOBER 23, 2019
PLACE OF MEETING: COUNCIL CHAMBERS, CITY OFFICE
TIME OF MEETING: 6:00 PM

PURPOSE OF MEETING:

- a) Appeal Hearing RE: Variance Application #19-117, Lot 18, Block HB, Harper

DATE MEETING REQUESTED: OCTOBER 4, 2019
MEETING REQUESTED BY: WAYNE POTOROKA, MAYOR

Original Signed by: _____
Cory Bellmore, CAO
OCTOBER 16, 2019
Date

☐ In Camera

AGENDA ITEM:	Board of Variance Appeal	
PREPARED BY:	Libby Macphail, Acting CDO	ATTACHMENTS: 1. Letter to Appeal from the appellant 2. Variance Application 19-117 3. Board of Variance Meeting Minutes 19-06 4. Board of Variance Report for Variance Application 19-117.
DATE:	October 11, 2019	
RELEVANT BYLAWS / POLICY / LEGISLATION: Municipal Act 2018-18 Official Community Plan 2018-19 Zoning By-Law		

THAT Council respectfully receive this report for informational purposes.

Christine Ball (representative for the appellant Sylvain Fleurant) submitted Variance Application #19-117 for the 10' setback distance between structures. The variance was denied; it did not meet the first test of variance in Section 307(2) of the Municipal Act: *"The unusual condition is the result of the applicant's or property owner's action"*. The appellant has submitted a request to appeal the Board of Variance decision.

On July 30, 2019 site visits to inspect and audit 2017 Development Permits were conducted; which included Development Permit Application #17-027, a permit for a 12' by 12' addition. At this visit, it was discovered

that the new addition encroached upon the setback distance with an existing shed. The shed was not reported on the site plan by the applicant, which caused the distance to go unassessed. (Figure 1). As well, the new deck was not originally reported in the site plan, but this has since been rectified by the appellant submitting Development Permit Application #19-116, which was approved September 18, 2019.

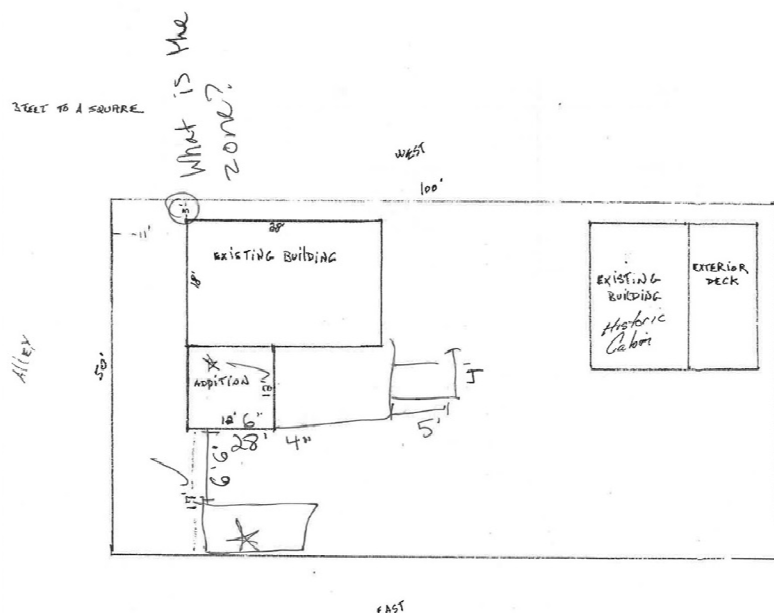


Figure 1. Excerpt of field notes from July 30, 2019 site visits.

On August 27, 2019, Administration opened Compliance File #C19-003 and sent a first notice to the appellant. The appellant opted to apply for a variance application in response to this Order to Comply.

The Board of Variance analyzed the application based on the four tests of Variance, as is required by the Municipal Act Section 307. The variance requested for the 10' setback distances could not be approved, as it did not meet test one: "*The unusual condition is the result of the applicant's or the property owner's action*", as the setbacks between structures are the result of the property owner's action because the property owner had built the addition within the minimum setback distance of 10 feet.

ANALYSIS / DISCUSSION

As per section 308(8) of the Municipal Act:

(8) Council shall allow, disallow, or allow the appeal with conditions as in its opinion will preserve the purposes and intent of the official community plan and zoning bylaw.

Further, the Municipal Act states in 308(9):

- (9) The decision of the council shall
- (a) be based on the facts and merits of the case;
 - (b) be made within 30 days of the hearing
 - (c) be in writing and set forth the reasons.

Given these sections, the analysis set forth will not be based upon the four tests of variance, but rather the alignment to the OCP and zoning bylaw.

Official Community Plan

The following long-term goals are applicable to this appeal: "Promote appropriate development of the historic townsite" and "Protect Heritage Resources".


- "Promote appropriate development of the historic townsite"
 - The land use designation is Urban Residential, which consists of low and medium density residential uses. The appeal is not contrary to this purpose.
- "Protect Heritage Resources"
 - This appeal to reduce the 10' setback distances would help protect the existing historic shed, as if the appeal is denied, the only available option for the appellant is to move the shed from it's original location. The shed is from the gold rush era and has been well maintained by the appellant. Alleyways and sheds within the Downtown Core are an important Character Defining Element (CDE). To have the shed oriented to the front of the lot would damage this CDE.

Zoning By-Law

The following sections are applicable to this appeal: Section 7.1.2: "Accessory buildings and structures must be set back at least 3.05 m (10 ft.) from any principal building".

Administration is unsure of the original purpose of the 10 ft. setback and believe it to be a distance that was inherited from past iterations of the Zoning By-Law. Administration intends to look into the discrepancy that exists between the Zoning By-Law and the building code in order to decrease the undue hardship property owners have in meeting this setback distance.

As well, precedence has now been set through this quasi-judicial proceeding due to the approval of the appeal for Variance Application #19-112. On October 2nd, 2019, Council approved the appeal for the 10 foot setback distances between structures. The facts of this case are similar to that of the prior appeal.

APPROVAL		
NAME:	Cory Bellmore, CAO	SIGNATURE: 
DATE:	Oct 16, 2019	

Sylvain Fleurant
Box 404 Dawson City YT
Y0B 1G0
Phone 867-993-5488
Email drillsf@northwestel.net or drillsf@hotmail.com



Dear Mayor and Council, Dawson City YT

Re: notice of denied variance permit # 19-117, resolution 19-06-06

This my written appeal to council for variance of Lot 18 Block HB Harper Estate.

I was not aware that the building code was different than the Community Development Plan for Dawson and completed our addition and renovation on the existing building in 2017 as per building code. The site plan for the project only included the cabin on the front of the property as we were not planning to do any improvements to the storage shed and thought that an unoccupied building would be of no consequence.

This shed and the cabin on the front of the property have been on this lot for over 100 years. The property is historic and all the buildings have been maintained to remain historic which the City of Dawson has required. The 120 square foot storage structure is currently situated 6 foot 6 inches from the renovated building at the rear of the property, a distance of 3 foot 6 inches short of the 10 foot required by the Development Plan. Both the shed and the renovated building are clad and roofed in tin. It is my understanding that this 10' provision was originally established by the City to prevent the spread of fire through the town's historic wooden structures. Over the past decades, the older buildings in Dawson have been removed or protected and construction standards have improved the point that this distance should probably be reviewed. Other jurisdictions in Canada have distances which vary from 3' to 6' between structures.

In order to conform to the Development Plan I would have to move the shed to the south west corner of the property which would provide the required 10' setback. I am currently not occupying this area. Unfortunately, traffic through the lane would be impacted as where the shed is now located provides an additional 3 foot 6 inches making the alley 13 foot 6 inches which enables cars and more importantly delivery trucks unimpeded access. I have left this distance open as a courtesy to the neighbours and public services that I have good relations with. The other oddity about this situation is that structures in the C1 Commercial can be placed with side setbacks of 0 inches. So if I had the room on the property, I would have to be 10 feet away from my own building but could almost touch the neighbours building. My only other option would be to remove the historic building from the property altogether.

Please consider my request for a variance to leave the building were it has sat for over 100 years. It is a great tourist attraction having tourists taking photos on the walking tours along 3rd Avenue between the Guns and Ammo, the Parks Canada leaning buildings and the Red Feather Saloon. It would be a great loss to remove this historic building from my property or great inconvenience to navigate a narrow alley way, for a variance distance of 3 feet 6 inches.

Sincerely
Sylvain Fleurant

Subject: RE: Notification of Decision Re: Variance Application 19-117
From: Libby Macphail <PlanningAssist@cityofdawson.ca>
Date: Fri, 13 Sep 2019 17:32:04 +0000
To: 'C Ball' <drillsf@northwestel.net>

Good morning Chris,

I've copied below the meeting minutes from BoV 19-06. The bolded bullet is the test, the bullet underneath is the Board's analysis.

Agenda Item: Applications
Resolution: #19-06-06

Presenter: Jim Williams
Seconder: Angharad Wenz

THAT Application #19-117 be denied as it does not pass the first test of variance outlined in the Municipal Act Section 307.

Discussion:

The unusual condition is the result of the applicant's or the property owner's action

- The property owner built the addition in a manner that causes the buildings to encroach upon the minimum setback distance between structures and did not report the location of the shed on the site plan. Therefore, the unusual condition is the result of the applicant's action.

The adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district

- Neighbouring properties are zoned C1- Commercial. Side setbacks in this zone are set at 0', and because of this, buildings that are on separate properties can sit side by side. Therefore, this would not constitute a special privilege.

The variance or exemption would be contrary to the purposes and intent of the official community plan or zoning bylaw and would injuriously affect the neighbouring properties

- OCP- The following long-term goals are applicable to this variance: "Strive to use a highest and best use approach", "Protect heritage resources", and "showcase Dawson City gold rush history" The historic structures on the lot are approximately 100 years old and have been well maintained in the Dawson Style, and have been adapted to a modern day office use.
- ZBL- The purpose of the zoning bylaw is to provide "orderly, efficient, economic, environmentally and socially responsible development" (ZBL, pg. 1). This variance is not contrary to this purpose. The lot is zoned C1 and all structure on the lot are permitted uses. The purpose of the 10 ft. setback is to ensure compliance with the building code and ensures structures maintain a safe distance from each other. However, administration has heard conflicting information regarding whether or not this 10 ft. setback does align with the building code. Administration has reached out to Andy Isaac, the building inspector, to confirm this, and will look further into this possible discrepancy.

The variance or exemption would allow a change to a use that is not similar to a permissible use in the area

§ There is no change in the use.

Votes For: 4

Votes Against: 0

Abstained: 0



City of Dawson

PO Box 308

Dawson City YT Y0B 1G0

RECEIPT OF PAYMENT

Page 1

APPEAL

Receipt Number: 33821

Tax Number: 106930084RT001

Date: September 20, 2019

Initials: LM AS 

Type	Account / Ref. #	Description	Quantity	Discount	Amount Paid	Balance Remaining
General	DEVELOP	Development Permits	N/A	\$ 0.00	\$ 105.00	N/A

Subtotal: \$ 105.00

Taxes: \$ 5.25

Total Receipt: \$ 110.25

Interac: \$ 110.25

Total Amount Received: \$ 110.25

Rounding: \$ 0.00

Amount Returned: \$ 0.00



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OFFICE USE ONLY

APPLICATION FEE: 8105
DATE PAID: Aug. 30, 2019
PERMIT #: 19-117
33617

VARIANCE APPLICATION

PLEASE READ THE ATTACHED INSTRUCTIONS, GUIDELINES AND SUBMISSION REQUIREMENTS PRIOR TO COMPLETING FORM.

PROPOSED DEVELOPMENT

CIVIC ADDRESS: 813 3RD Ave VALUE OF DEVELOPMENT: _____
LEGAL DESCRIPTION: LOT(S) 18 BLOCK H13 ESTATE Harper PLAN# 73373
ZONING BYLAW DESIGNATION: _____

PROPOSED DEVELOPMENT: Please provide a brief description of the proposed development.

APPLICANT INFORMATION

APPLICANT NAME(S): Sylvain Fleurant
COMPANY NAME: _____
MAILING ADDRESS: Box 404 Dawson City YT POSTAL CODE: Y0B-1G0
EMAIL: drillsf@northwestel.net FAX #: _____
PHONE #: 867-993-5488 ALTERNATE PHONE #: _____

OWNER INFORMATION

OWNER NAME(S): Same
MAILING ADDRESS: _____ POSTAL CODE: _____
EMAIL: _____ FAX #: _____
PHONE #: _____ ALTERNATE PHONE #: _____

It is the responsibility of the applicant to ensure that all plans conform to the provisions of the City of Dawson Zoning Bylaw and applicable territorial and federal legislation.

VARIANCES REQUESTED

Please describe the variances from the Zoning By-Law requested. Attach additional pages if necessary.

ZONING PROVISION	PERMITTED	REQUESTED
<u>set back distance between structures</u>	<u>10'</u>	<u>6' 6"</u>
<u>7.1.2</u>		

PLANNING RATIONALE

Please answer the following questions regarding your application. Attach additional pages if necessary.

Explain the unusual condition(s) present on site which has resulted in this request for variance.

Historic site been on property for over 100 years
is well maintained

How does this variance maintain the intent of the Official Community Plan?

Section's 6.09 - highest + best use - protect heritage resources
9.0 - show case Dawson City gold rush history

How does this variance maintain the intent of the Zoning By-Law?

area is zoned commercial that all structures on
the lot are permitted ~~use~~ uses and the shed meets
required set back for interior parcel ~~line~~ line of 0 feet

How are the proposed variances consistent with neighbouring properties?

they all have sheds

DECLARATION

- I/WE hereby make application for a Development Permit under the provisions of the City of Dawson Zoning Bylaw No. 12-27 and in accordance with the plans and supporting information submitted and attached which form part of this application.
- I/ WE have reviewed all of the information supplied to the City of Dawson with respect to an application for a Development Permit and it is true and accurate to the best of my/our knowledge and belief.
- I/WE understand that the City of Dawson will rely on this information in its evaluation of my/our application for a Development Permit and that any decision made by the City of Dawson on inaccurate information may be rescinded at any time.
- I/WE hereby give my/our consent to allow Council or a person appointed by its right to enter the above land and/or building(s) with respect to this application only.

I/WE HAVE CAREFULLY READ THIS DECLARATION BEFORE SIGNING IT.

DATE SIGNED

Aug 30/19

SIGNATURE OF APPLICANT(S)

[Signature]

DATE SIGNED

SIGNATURE OF OWNER(S)



THE CITY OF DAWSON

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PERMIT #:

TO BE COMPLETED BY DEVELOPMENT OFFICER

OFFICE USE ONLY

LEGAL DESCRIPTION: LOT(S) _____ BLOCK _____ ESTATE _____ PLAN# _____

ZONING: _____ DATE APPLICATION RECEIVED: _____

TYPE OF APPLICATION: _____ PERMITTED USE: _____

APPLICANT NAME(S): _____

OWNER NAME(S): _____

☐ APPLICATION REJECTED

COMMENTS / REASONS

DATE: _____ SIGNATURE: _____

☐ APPLICATION APPROVED / PERMIT ISSUED

PERMIT CONDITIONS

DATE: _____ SIGNATURE: _____

INSTRUCTIONS AND GUIDELINES

IT IS IMPORTANT TO READ AND UNDERSTAND THE FOLLOWING INSTRUCTIONS PRIOR TO COMPLETING THE APPLICATION FORM.

1. A person may apply to the board of variance for a variance or exemption from an official community plan or zoning bylaw if there are practical difficulties or unnecessary hardships in meeting the requirements of the official community plan or zoning bylaw because of the exceptional narrowness, shortness, shape, topographic features, or any other unusual condition of the property.
2. The board of variance shall not approve an application for a variance if
 - a. the unusual condition is the result of the applicant's or the property owner's action;
 - b. the adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district;
 - c. the variance or exemption would be contrary to the purposes and intent of the official community plan or zoning bylaw and would injuriously affect the neighbouring properties; or
 - d. the variance or exemption would allow a change to a use that is not similar to a permissible use in the area.
3. Within 30 days of receipt of an application, the board of variance shall approve, disapprove, or approve with conditions an application that in its opinion will preserve the purposes and intent of the official community plan and zoning bylaw.
4. A person may appeal to a council of the municipality from a decision of the board of variance.
 - a. An appeal to council shall be commenced by filing with the council a written notice of appeal within 30 days of the date of decision of the board of variance together with a fee as may be set by bylaw.
 - b. Council shall set a day for the hearing that is not later than 30 days after the filing of the notice of appeal.
 - c. Council shall give at least 10 days written notice of the hearing of the appeal in a manner considered appropriate by council, to the appellant and any other person that the council considers is affected by the matter.
 - d. All maps, plans, drawings, and written material that the applicant intends to rely on in support of the appeal must be filed at least 10 days before the day of the hearing.
 - e. Council shall make the material filed under subsection (d) available for inspection of any interested person.
 - f. The hearing of the appeal shall be public and the council must hear
 - i. the appellant or any person representing the appellant; and
 - ii. every person who was given notice of the hearing who wishes to be heard or any other person who claims to be affected by the matter or their agents.
 - g. Council shall allow, disallow, or allow the appeal with conditions as in its opinion will preserve the purposes and intent of the official community plan and zoning bylaw.
 - h. The decision of the council shall
 - i. be based on the facts and merits of the case;
 - ii. be made within 30 days of the hearing;
 - iii. be in writing and set forth the reasons; and
 - iv. be personally delivered or mailed to the appellant within 10 days of the date the decision was made.
5. The Board may attach conditions to the granting of an appeal as in its opinion will preserve the purposes and intent of the Official Community Plan and Zoning and Heritage Management Bylaw.
6. In the case of a variance or exemption, the Board shall not vary density, height or floor area ratio in any district.
7. Within five working days after granting a variance, a Development Officer shall also send a notice to adjacent landowners as identified on the City Assessment Roll, advising them of the variance and the right of appeal. Adjacent landowners are owners of land that is contiguous to a site and include land that would be contiguous if not for a public roadway, river, stream, pipeline, power line or railway.



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OFFICE USE ONLY

APPLICATION FEE: \$210

DATE PAID: 27/Apr/2017

PERMIT #: 17-027

DEVELOPMENT APPLICATION & PERMIT

PLEASE READ THE ATTACHED INSTRUCTIONS, GUIDELINES AND SUBMISSION REQUIREMENTS PRIOR TO COMPLETING FORM.

PROPOSED DEVELOPMENT

CIVIC ADDRESS: 813 Third Ave. VALUE OF DEVELOPMENT:

LEGAL DESCRIPTION: LOT(S) 18 BLOCK HB ESTATE Harper PLAN# 8338A

EXISTING USE OF LAND / BUILDINGS: residential

PROPOSED DEVELOPMENT: Please provide a brief description of the proposed development.

12' by 12' addition to existing buildy.

APPLICANT INFORMATION

APPLICANT NAME(S): Sylvan Fleurant

COMPANY NAME:

MAILING ADDRESS: PO Box 404, Dawson City, YT POSTAL CODE: Y0B1G0

EMAIL: FAX #:

PHONE #: ALTERNATE PHONE #:

OWNER INFORMATION

OWNER NAME(S): Same

MAILING ADDRESS: POSTAL CODE:

EMAIL: FAX #:

PHONE #: ALTERNATE PHONE #:

It is the responsibility of the applicant to ensure that all plans conform to the provisions of the City of Dawson Zoning Bylaw and applicable territorial and federal legislation.

DECLARATION

- I/WE hereby make application for a Development Permit under the provisions of the City of Dawson Zoning Bylaw No. 12-27 and in accordance with the plans and supporting information submitted and attached which form part of this application.
- I/ WE have reviewed all of the information supplied to the City of Dawson with respect to an application for a Development Permit and it is true and accurate to the best of my/our knowledge and belief.
- I/WE understand that the City of Dawson will rely on this information in its evaluation of my/our application for a Development Permit and that any decision made by the City of Dawson on inaccurate information may be rescinded at any time.
- I/WE hereby give my/our consent to allow Council or a person appointed by its right to enter the above land and/or building(s) with respect to this application only.

I/WE HAVE CAREFULLY READ THIS DECLARATION BEFORE SIGNING IT.

May 9/2017
DATE SIGNED


SIGNATURE OF APPLICANT(S)

DATE SIGNED

SIGNATURE OF OWNER(S)

12



THE CITY OF DAWSON

Box 308 Dawson City, YT Y0B 1G0
PH: 867-993-7400 FAX: 867-993-7434
www.cityofdawson.ca

PERMIT #:

17-027

TO BE COMPLETED BY DEVELOPMENT OFFICER

OFFICE USE ONLY

LEGAL DESCRIPTION: LOT(S) 18 BLOCK HB ESTATE Harper PLAN# 8338A
ZONING: C1 DATE APPLICATION RECEIVED: 27/April
TYPE OF APPLICATION: Minor Addition PERMITTED USE: res:dw
APPLICANT NAME(S): Sylvain Fleurent
OWNER NAME(S): " "

☐ APPLICATION REJECTED

COMMENTS / REASONS

DATE: _____ SIGNATURE: _____

☐ APPLICATION APPROVED / PERMIT ISSUED

PERMIT CONDITIONS

- Proposed Building must host a commercial enterprise
- Windows must be longer than they are wide with 1 by 6 trim and vertical slider, casement, or fixed
- Door must be panelled + framed by 1 by 6

DATE: 9/April/2017

SIGNATURE: [Signature]

2/12

Attached to: Development Application & Permit for 813 3rd Ave Dawson City

The exterior walls will match the tin on the existing building as we are replacing tin on the roof of existing building so we will use roof tin on the exterior so it will look like it has always been there.

Window trim will match the existing trim on Cabin and shed.

The windows will be historic and will open the doors also historic similar as Wendy Fellers across the street, the existing windows in garage will be changed to match new addition. Windows are being custom ordered. It is our goal to keep everything historic.

Landscaping is pretty much done just need to do finishing after construction is complete.

There will still be parking on property off City Street for 3 vehicles.

We have contacted the building inspector in Dawson and he came to the site, Andy was very helpful and gave great advice, we look forward to working with him.

Thank you Sylvain Fleurant



May 9/17

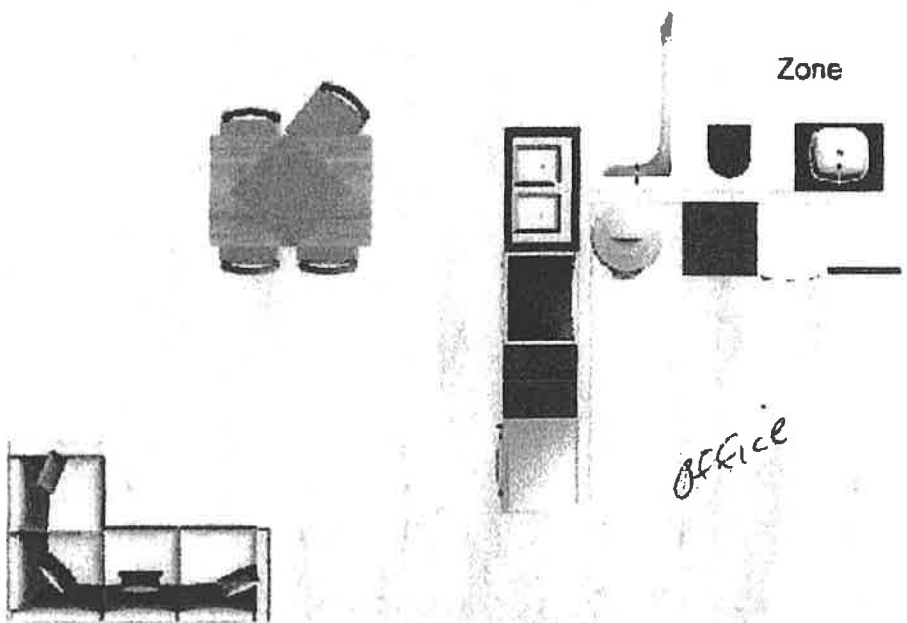
To Micah Olesh City of Dawson

Please Note new resident on 813 3rd Ave will host commercial office space for Auger drilling

**Thank you, Sylvain Fleurant / Christine Ball
867-993-5488**

A handwritten signature in black ink, appearing to read "Christine Ball", with a stylized flourish at the end.

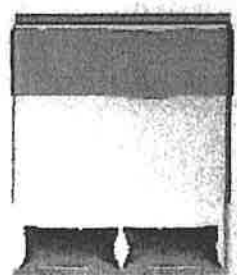
↑
14 FT PROPERTY LINE



Zone

Office

Zone



18

← 30 FT

PROPERTY LINE

5/12

FOUNDATION PLAN

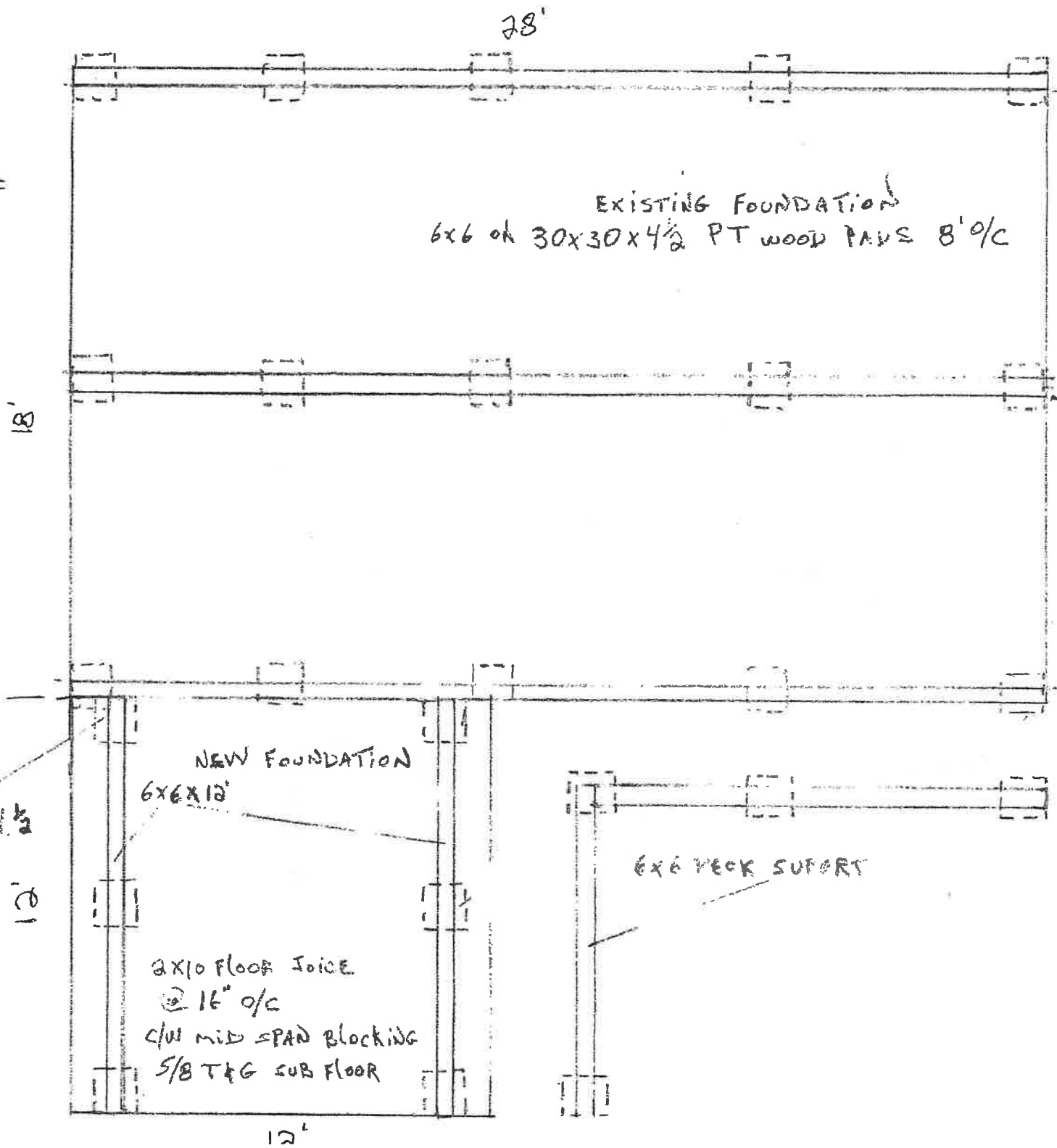
6/2

EXISTING FOUNDATION
6x6 OR 30x30x4 1/2 PT WOOD PILES 8' O/C

PT 30x30x4 1/2
NEW FOUNDATION
6x6x12'

2x10 FLOOR JOICE
@ 16" O/C
C/W MID SPAN BLOCKING
5/8 T&G SUB FLOOR

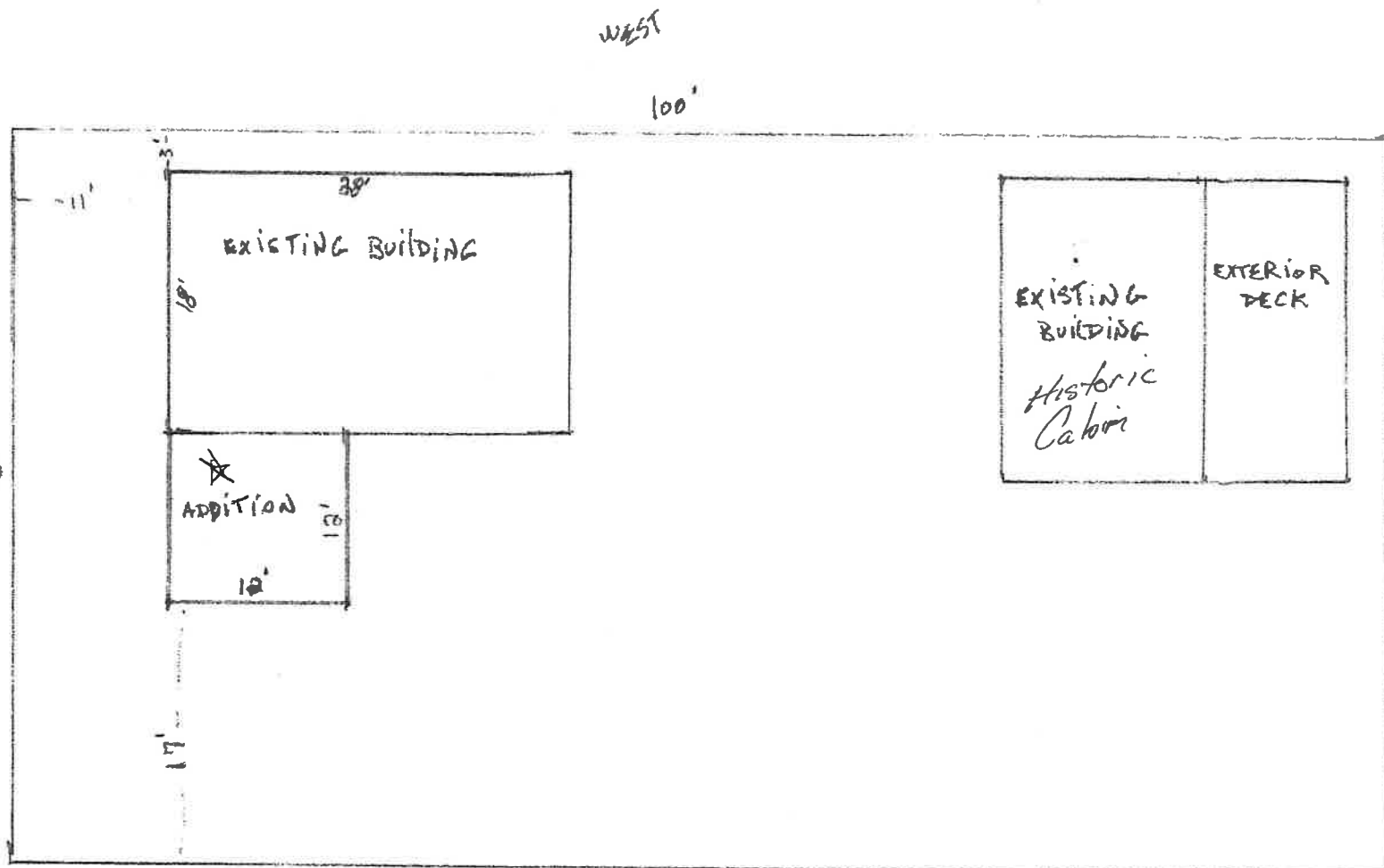
6x6 JACK SUPPORT



3 FEET TO A SQUARE

Alley

50'



WEST

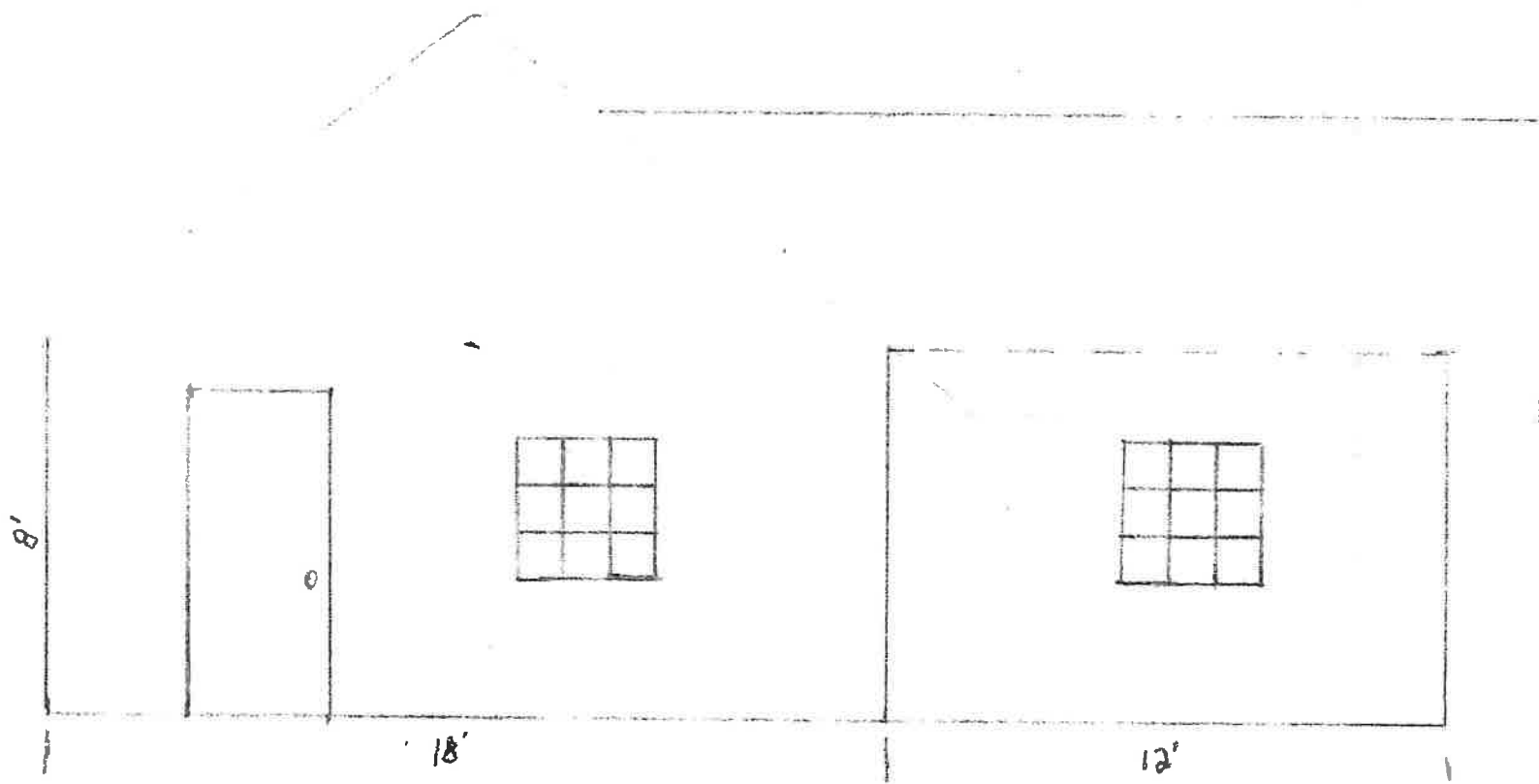
100'

EAST

STREET 813 - 3RD AVE. 1/2

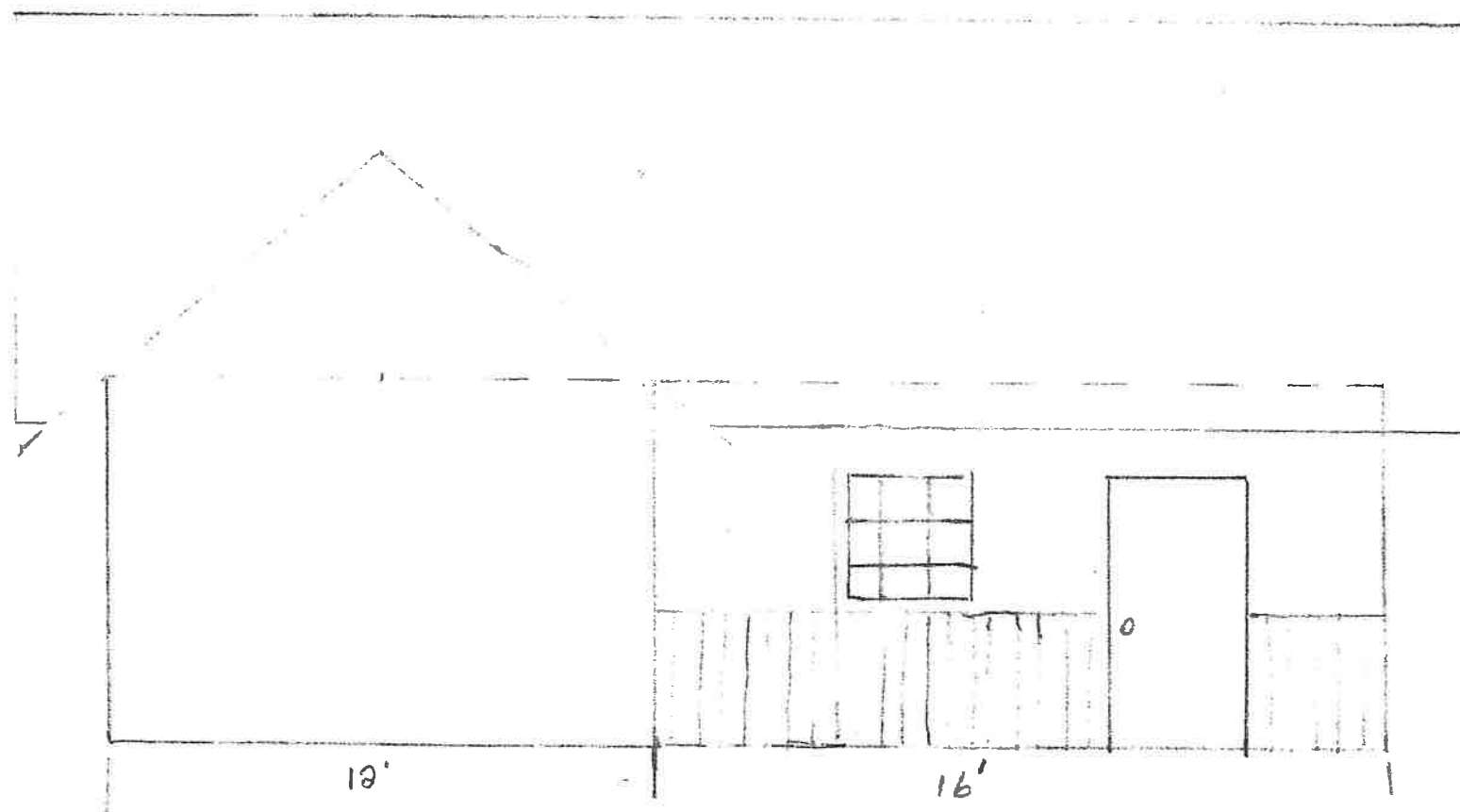
ALLEY

8/2



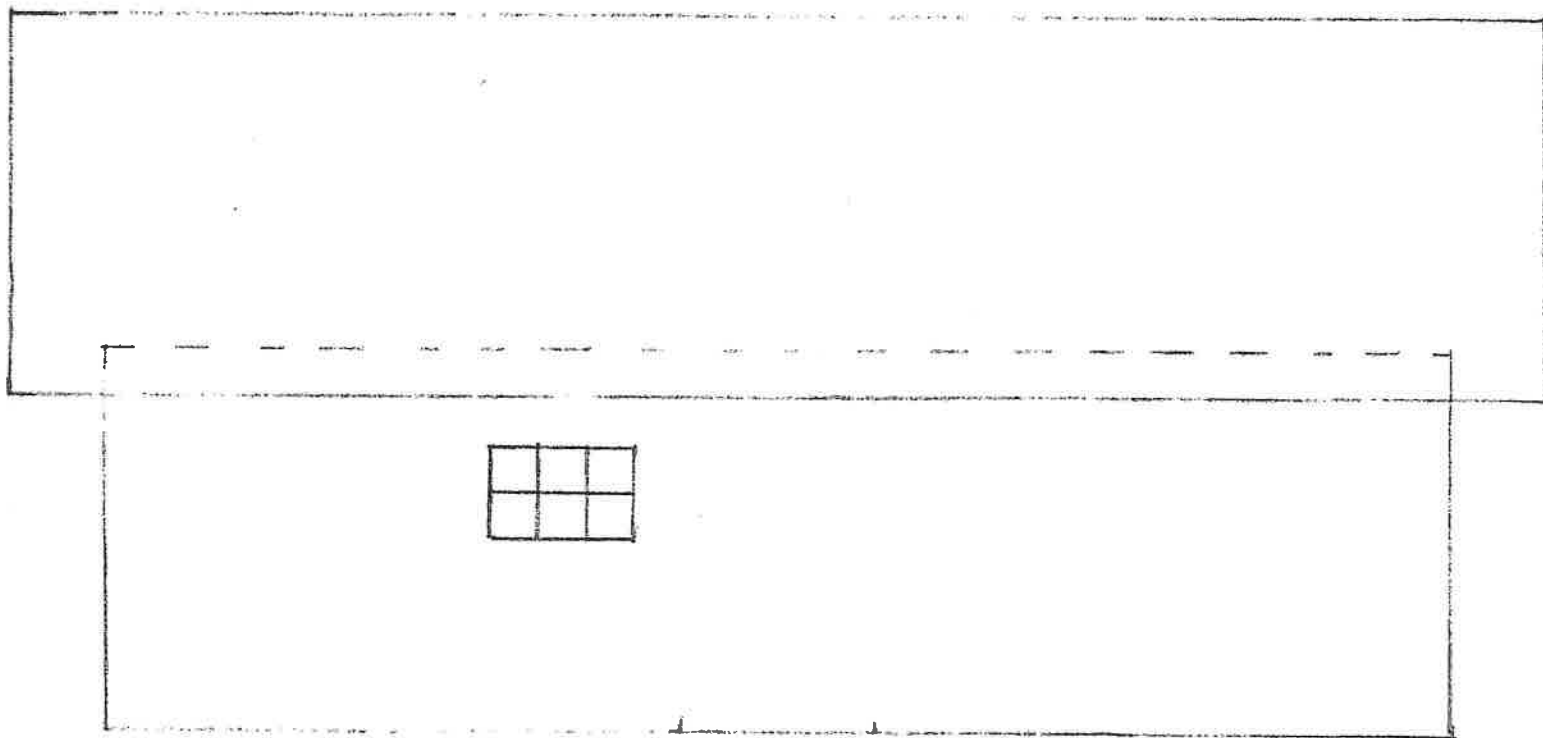
EAST SIDE

9/12



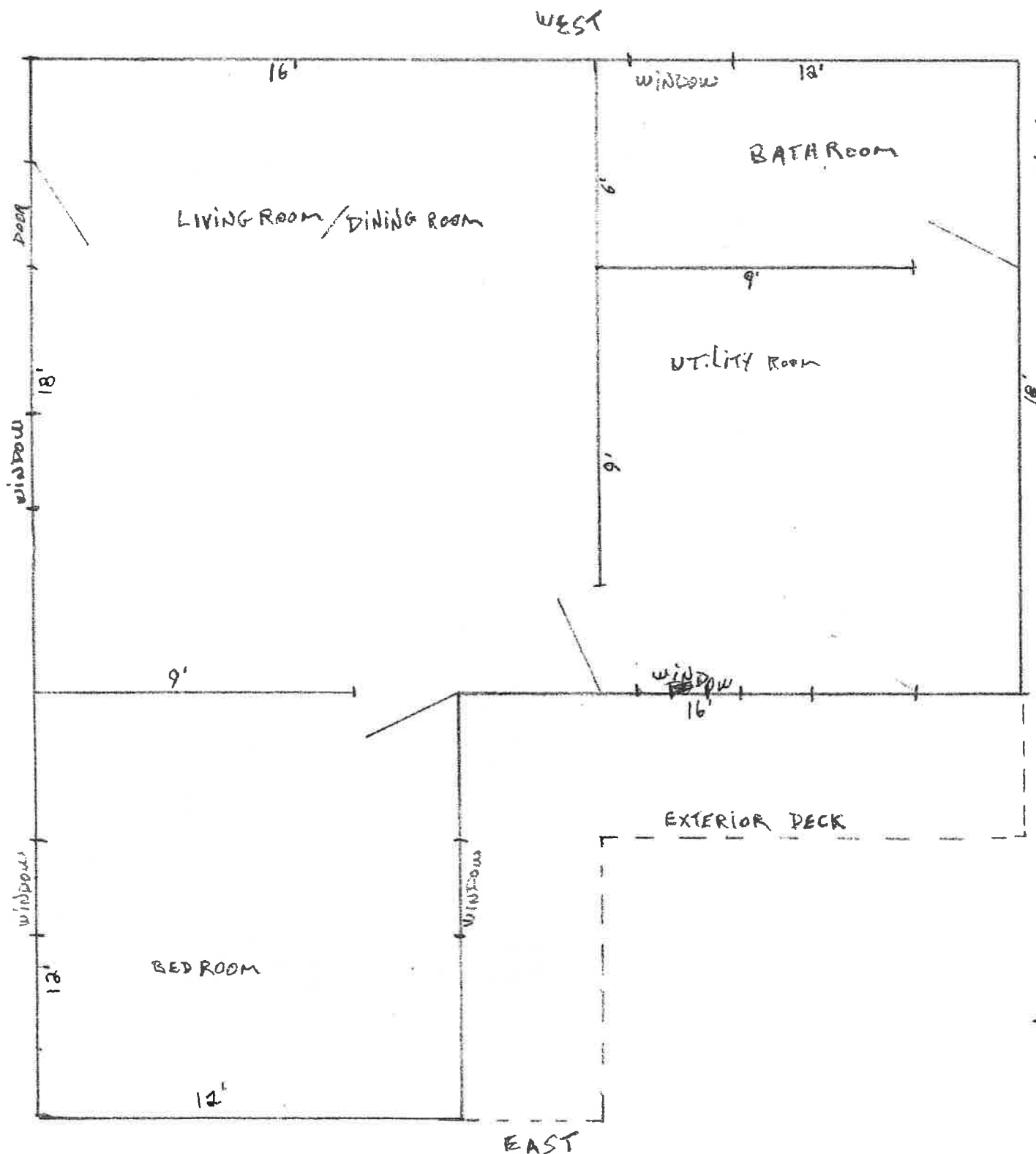
WEST SIDE

10/2



38'

ALLEY



- ALL HEADERS 2-2X10
- ALL WINDOWS TRIPLE PANE AND BEDROOM WINDOW WILL BE OF AN APPROVED EGRESS TYPE

1 1/2

STREET

FLOOR PLAN

ONE SQUARE TO A FOOT

P41

Dev. Permit Christine Ball

Receipt Number: 25106

Tax Number: 106930084RT001

Date: April 27, 2017

Initials: AM

Type	Account / Ref. #	Description	Quantity	Discount	Amount Paid	Balance Remaining
General	DEVEL	Development Permits	N/A	\$ 0.00	\$ 105.00	N/A
Subtotal:					\$ 105.00	
Taxes:					\$ 5.25	
Total Receipt:					\$ 110.25	
Interac:					\$ 110.25	
Total Amount Received:					\$ 110.25	
Rounding:					\$ 0.00	
Amount Returned:					\$ 0.00	

129
12

City of Dawson

PO Box 308

Dawson City YT Y0B 1G0

P#2

RECEIPT OF PAYMENT

Page 1

dev permit chris ball #17-027

Receipt Number: 25260

Tax Number: 106930084RT001

Date: May 9, 2017

Initials: CB

Type	Account / Ref. #	Description	Quantity	Discount	Amount Paid	Balance Remaining
General	DEVEL	Development Permits	1	\$ 0.00	\$ 110.25	N/A
Subtotal:					\$ 110.25	
Taxes:					\$ 5.51	
Total Receipt:					\$ 115.76	
Interac:					\$ 115.76	
Total Amount Received:					\$ 115.76	
Rounding:					\$ 0.00	
Amount Returned:					\$ 0.00	

126
12

3 FEET TO A SQUARE

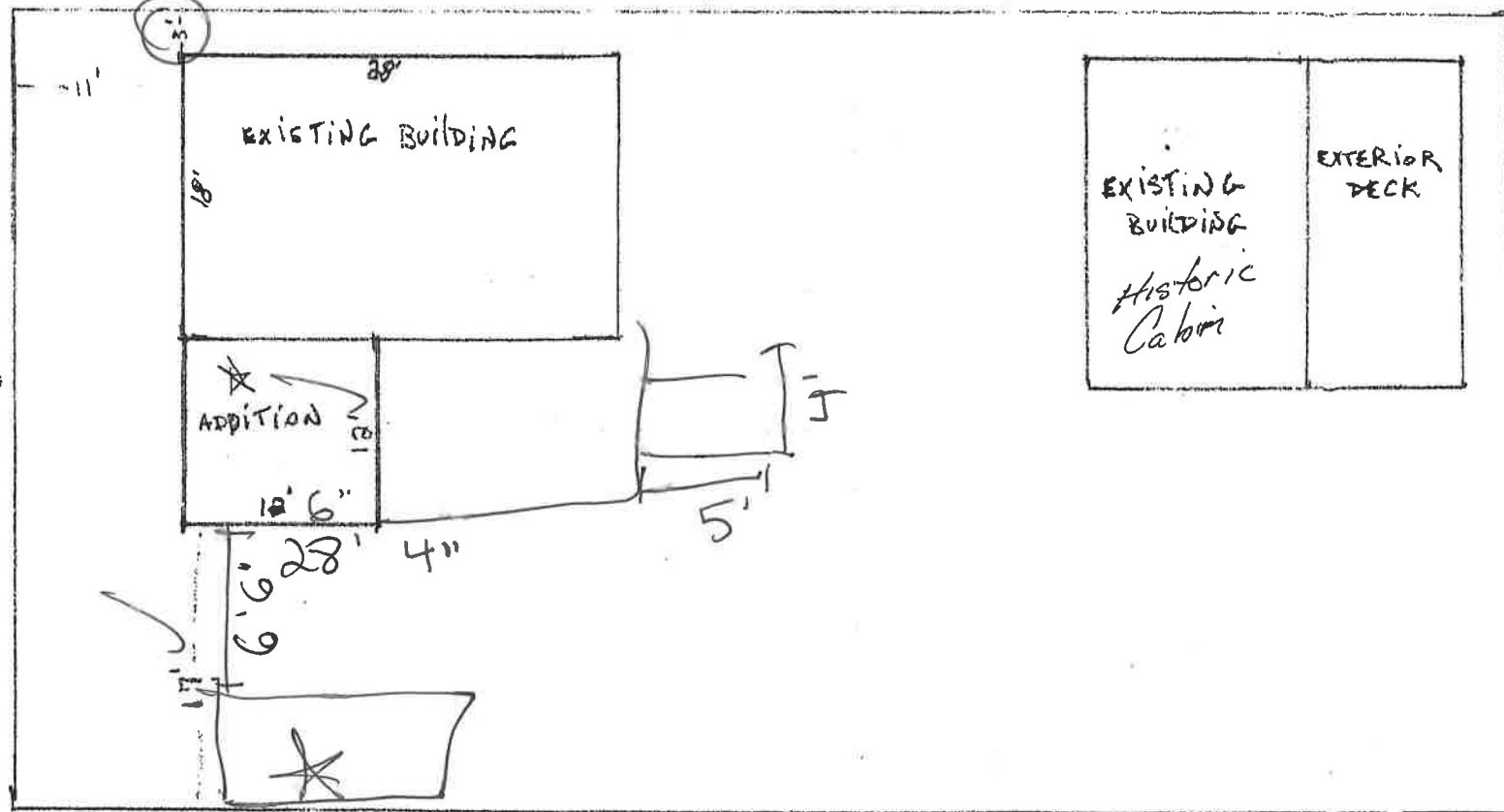
What is the
zone?

WEST

100'

Alley

50'



EAST

STREET 813-3RD AVE. 1/2

Board of Variance Minutes

WEDNESDAY, 4th of September 2019

21:00

City Council Chambers

Meeting Type: Regular

Meeting: # BOV 19-06

Facilitators: Libby Macphail

Attendees: Jim Williams (chair), Angharad Wenz, Eve Dewald, Dylan Meyerhoffer

Regrets: Patrik Pikálek

Meeting Called to order at 20:34

Minutes

Agenda Item: Agenda Adoption

Presenter: Jim Williams

Resolution: #19-06-01

Second: Angharad Wenz

THAT the Agenda for Board of Variance Meeting BOV 19-04 be accepted as **presented**.

Discussion: None.

Votes For: 4

Votes Against: 0

Abstained: 0

CARRIED

Agenda Item: Conflict of Interest

Discussion: None.

Agenda Item: Committee of the Whole

Presenter: n/a

Resolution: 19-06-02

Second: n/a

Discussion: None.

Votes For: 4

Votes Against: 0

Abstained: 0

Agenda Item: Delegations

Presenter: Jim Williams

Resolution: 19-06-03

Second: Angharad Wenz

Discussion:

- Ludger Borste regarding Variance Application #19-112.

Agenda Item: Business Arising from Delegations

Presenter: Jim Williams

Resolution: 19-06-04

Second: Angharad Wenz

Discussion:

- Ludger Borste discussed the events of his lot to the Board in regards to his variance application. Initially, the delegate was only able to determine one property pin on the lot due to the derelict nature of the property. The delegate tried to ascertain the dimensions to the best of his ability. As he restored the historic house, he was better able to understand its location on the lot in relation to other structures. There is a disconnect between the 10' setback required by the Zoning By-Law and the building code, as all work done by the delegate meets building code requirements.

Agenda Item: Revert to BOV
Resolution: 19-06-05

Presenter: Jim Williams
Second: Angharad Wenz

Discussion: None.

Votes For: 4

Votes Against: 0

Abstained: 0

CARRIED

Agenda Item: Adoption of Minutes
Resolution: #19-06-06

Presenter: Jim Williams
Second: Angharad Wenz

THAT the minutes for Board of Variance Meeting BOV 19-05 be accepted as presented.

Discussion: None

Votes For: 4

Votes Against: 0

Abstained: 0

CARRIED

Agenda Item: Applications
Resolution: #19-06-05

Presenter: Jim Williams
Second: Angharad Wenz

THAT Application #19-112 V1; Variance for the interior parcel line setback be approved as the variance passes the four tests, but V2; variances for the setbacks between structures be denied as it does not pass the first or second test of variance outlined in the Municipal Act Section 307.

Discussion:

- **V1; variance for the interior parcel line setback**
 - The unusual condition is the result of the applicant's or the property owner's action
 - The historic house is the unusual condition on the lot. The placement of the historic house close to the interior side lot line is not the result of the applicant's action.
 - The adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district
 - The variance for the interior side lot line would not constitute a special privilege, as the house existed before most houses in the neighbourhood and no Zoning Bylaw existed at the time.
 - The variance or exemption would be contrary to the purposes and intent of the official community plan or zoning bylaw and would injuriously affect the neighbouring properties
 - OCP: The following long-term goals are applicable to this variance: "Protect heritage resources". This variance to reduce the required interior side setback distance would help protect this heritage house, as it would remove the legally non-conforming status of the structure and allow the applicant to continue with restoration work.

- ZBL: The purpose of the zoning bylaw is to provide “orderly, efficient, economic, environmentally and socially responsible development” (ZBL, pg. 1). To further this, an interior setback is to ensure compliance with the building code and ensure structures are not within the blow out fire distance. The applicant has submitted a development permit application for a firewall to remedy this issue. The variance is not contrary to this purpose, as mitigative measures are in progress.
 - The variance or exemption would allow a change to a use that is not similar to a permissible use in the area
 - There is no change in the use.
- **V2; variances for the setbacks between structures**
 - The unusual condition is the result of the applicant’s or the property owner’s action
 - The setbacks between structures are the result of the property owner’s action, as the property owner has built the house and the shed within the minimum setback distance of 10 ft.
 - The adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district
 - The variance for the minimum setback distances would constitute a special privilege, as new builds are expected to meet the Zoning Bylaw and there is no practical reason or undue hardship with meeting this requirement.
 - The variance or exemption would be contrary to the purposes and intent of the official community plan or zoning bylaw and would injuriously affect the neighbouring properties
 - OCP- The following long-term goals are applicable to this variance: “Promote appropriate development of the historic townsite”. The land use designation is Urban Residential, which consists of low and medium density residential uses. This variance is not contrary to this purpose.
 - ZBL- The purpose of the 10 ft. setback is to ensure compliance with the building code and ensures structures maintain a safe distance from each other. However, administration has heard conflicting information regarding whether or not this 10 ft. setback does align with the building code. Administration has reached out to Andy Isaac, the building inspector, to confirm this, and will look further into this possible discrepancy. The zoning designation for this use is R1, which allows for primary dwellings and secondary suites
 - The variance or exemption would allow a change to a use that is not similar to a permissible use in the area
 - The use would not be changed with this variance, however, the applicant’s intent is to be able to regain occupancy of the historic house and have it function as a dwelling. This variance does not allow for a change of use, so the above fact should be regarded for informational purposes.

Votes For: 4

Votes Against: 0

Abstained: 0

CARRIED

THAT Application #19-117 be denied as it does not pass the first test of variance outlined in the Municipal Act Section 307.

Discussion:

- The unusual condition is the result of the applicant's or the property owner's action
 - The property owner built the addition in a manner that causes the buildings to encroach upon the minimum setback distance between structures and did not report the location of the shed on the site plan. Therefore, the unusual condition is the result of the applicant's action.
- The adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district
 - Neighbouring properties are zoned C1- Commercial. Side setbacks in this zone are set at 0', and because of this, buildings that are on separate properties can sit side by side. Therefore, this would not constitute a special privilege.
- The variance or exemption would be contrary to the purposes and intent of the official community plan or zoning bylaw and would injuriously affect the neighbouring properties
 - OCP- The following long-term goals are applicable to this variance: "Strive to use a highest and best use approach", "Protect heritage resources", and "showcase Dawson City gold rush history" The historic structures on the lot are approximately 100 years old and have been well maintained in the Dawson Style, and have been adapted to a modern day office use.
 - ZBL- The purpose of the zoning bylaw is to provide "orderly, efficient, economic, environmentally and socially responsible development" (ZBL, pg. 1). This variance is not contrary to this purpose. The lot is zoned C1 and all structure on the lot are permitted uses. The purpose of the 10 ft. setback is to ensure compliance with the building code and ensures structures maintain a safe distance from each other. However, administration has heard conflicting information regarding whether or not this 10 ft. setback does align with the building code. Administration has reached out to Andy Isaac, the building inspector, to confirm this, and will look further into this possible discrepancy.
- The variance or exemption would allow a change to a use that is not similar to a permissible use in the area
 - There is no change in the use.

Votes For: 4

Votes Against: 0

Abstained: 0

CARRIED

That Board of Variance meeting BOV 19-06 be adjourned at 20:58 hours on the 4th of September, 2019.

Discussion: None.



Report to Board of Variance

AGENDA ITEM:	Variance Application 19-117	
PREPARED BY:	Libby Macphail, Planning and Development Assistant	ATTACHMENTS: <ul style="list-style-type: none">▪ Attachment #1- Variance Application 19-117▪ Attachment #2- Development Permit Application 17-027▪ Attachment #3- Field Notes from July 30, 2019 site visit.
DATE:	August 30, 2019	
RELEVANT BYLAWS / POLICY / LEGISLATION:	<ul style="list-style-type: none">▪ Zoning By-Law 12-27▪ Zoning By-Law 18-19	

RECOMMENDATION

THAT the Board of Variance approve Variance Application 19-117, as it meets the four tests of variance found in the Municipal Act, Division 5, Variances; 307(2)

ISSUE

The addition to the main office building and historic shed do not meet the required 10' setback between structures, and encroach upon each other by 3' 6".

BACKGROUND

Applicants Sylvain Fleurant and Christine Ball submitted an original development permit application to build an addition onto the main office building. On the site plan, the shed in the South East corner was not recorded and therefore, the distance was missed by the applicant. The CDO at the time, Micah Olesh, was aware of the shed on the site as the shed is shown in pictures and did not require the applicant to amend their site plan to ensure complete accuracy, nor did he conduct a site visit to compare the site plan with what is existing on the lot.

Administration conducted site visits on July 30, 2019 and determined that the minimum setback requirements were not met.

ANALYSIS / DISCUSSION

The four tests of variance can be found in Division 5, Variances; 307(2).

(a) The unusual condition is the result of the applicant's or the property owner's action

Although the property owner did build the addition in a manner that causes the buildings to encroach upon the minimum setback distance between structures, the CDO at the time did not practice due diligence in assessing the application and approved it in error. As well, in the Zoning By-Law Section 4.4.1.5 it states:

"A development officer may suspend or revoke a development permit when

- iii. the permit was issued on the basis of incorrect information or misrepresentation by the applicant."

Because of poor record keeping, administration cannot be sure if the past CDO was aware of the shed before approving the development permit. However, the past CDO did not conduct site



Report to Board of Variance

visits or enforce development permits, so it is fair to assume that this unusual condition is not the result of the applicant's action.

(b) The adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district

Neighbouring properties are zoned C1- Commercial. Side setbacks in this zone are set at 0', and because of this, buildings that are on separate properties can sit side by side. Therefore, this would not constitute a special privilege.

(c) The variance or exemption would be contrary to the purposes and intent of the official community plan or zoning bylaw and would injuriously affect the neighbouring properties

OCP- The following long-term goals are applicable to this variance: "Strive to use a highest and best use approach", "Protect heritage resources", and "showcase Dawson City gold rush history" The historic structures on the lot are approximately 100 years old and have been well maintained in the Dawson Style, and have been adapted to a modern day office use.

ZBL- The purpose of the zoning bylaw is to provide "orderly, efficient, economic, environmentally and socially responsible development" (ZBL, pg. 1). This variance is not contrary to this purpose. The lot is zoned C1 and all structure on the lot are permitted uses. The purpose of the 10 ft. setback is to ensure compliance with the building code and ensures structures maintain a safe distance from each other. However, administration has heard conflicting information regarding whether or not this 10 ft. setback does align with the building code. Administration has reached out to Andy Isaac, the building inspector, to confirm this, and will look further into this possible discrepancy.

(d) The variance or exemption would allow a change to a use that is not similar to a permissible use in the area

1.1. The use would not be changed.

APPROVAL		
NAME:	Clarissa Huffman, CDO	SIGNATURE:
DATE:	August 30, 2019	