

MUNICIPALITY OF THE DISTRICT OF LUNENBURG
Dan Geck, 90 Eisenhower Road, Oakland, NS
April 20, 2021 — 11:00 am

APPEAL AGENDA — Variance

1. CALL TO ORDER
2. OPENING REMARKS by Chairperson
 - i. Introduction of Council Members (if public in attendance)
 - ii. Introduction of Staff (if public in attendance)
 - iii. Review of Agenda and Rules of Conduct (see below)
3. REPORTS AND PRESENTATIONS BY DEVELOPMENT OFFICER (10 minutes)
 - i. Review of Legislation and Notification Process
 - ii. Recommendation from Development Officer
4. WRITTEN AND/OR ORAL PRESENTATION (10 minutes)
 - i. Review of Written Submissions by CAO/Clerk
 - ii. Presentation by Assessed Owner(s) or Applicant if in attendance (Verbal)
5. COMMITTEE MEMBERS AND ASSESSED OWNER OR APPLICANT DISCUSSION (10 minutes)
 - i. Clarification only, if Required
6. DEVELOPMENT OFFICER CLOSING REMARKS (5 minutes)
 - i. Provide Final Comments/Clarification
 - ii. Review of Council Options:

Council Options:
 - a. Grants Assessed Owner's Appeal**
 - b. Upholds Development Officers decision to approve variance**
 - c. Grants Applicants Appeal
 - d. Upholds Development Officers decision to refuse variance
6. CLOSING OF THE APPEAL
 - i. No further debate or discussion

Rules of Conduct - Persons who wish to speak are asked to note the following:

- i. State their name and address
- ii. Direct all statements and questions to the Chairperson
- iii. Try to limit presentations to 10 minutes



Municipality of the District of Lunenburg

Report to Council

REPORT TO: Mayor Bolivar-Getson and Municipal Council
SUBMITTED BY: Norma Schiefer, Municipal Development Officer
DATE: April 6, 2021
RE: Variance appeal by adjacent property owner
– reduction of rear yard setback 90 Eisenhauer Road, Oakland

BACKGROUND

A Development Permit (DP190074) was issued November 19, 2019 for a 1-bedroom cabin (tourist accommodation). Building Permit BP190449 was issued November 1, 2019 for a 1-bedroom single family dwelling. The Building Official conducted the first inspection of the structure February 14, 2020 at which time the footprint of the building was GPS'd. At that time, the results satisfied the Building Official. It was later brought to my attention that the location of the structure may encroach on the property line, therefore may not comply with the setbacks in the Oakland Land Use By-law. On October 22, 2020, the Building Official revisited the site to GPS the location again. At this time, there was a discrepancy in our two GPS readings, so a stop work order was placed on the structure and a surveyors location certificate was requested to confirm the location. The location certificate, dated November 17, 2020, indicates the location of the structure under construction with a deck is crossing the property line. On December 18, 2020, an application for a variance to the rear yard setback was received. I have granted the variance to reduce the rear yard setback on February 23, 2021. A letter of appeal was received on March 12, 2021 from an adjacent property owner.

LEGISLATIVE REQUIREMENTS

The Oakland Land Use Bylaw, Section 4.22 outlines the requirements for a variance. The Land Use By-law, in accordance with the Municipal Government Act, states that a Development Officer may grant a variance to size or other requirements related to yards (setbacks) provided that the variance is **not granted** where the:

- Variance violates the intent of the Land Use Bylaw
- Difficulty experienced is general to the properties in the area, or
- Difficulty experienced results from an intentional disregard for the requirements of the Bylaw

DISCUSSION

The Oakland Land Use By-law, Section 5.3.2 indicates the Rural Zone Requirements (setbacks from property lines). Setbacks are: Minimum front yard – 5 metres; minimum side yard – 1.5 metres, and rear yard – 1.5 metres.

As part of the building/development permit application, the landowner provided a site diagram showing the location of the proposed structure indicating the distances from property lines.

As part of my review, prior to issuing the Development Permit, the proposal is examined against the appropriate sections of the Land Use By-law for compliance (permitted uses, setbacks, etc). As this property has frontage on both Eisenhower Road and Oakland Road, the definitions outlined in the Land Use By-law were used to determine the front and rear lot line to be able to apply the yard setbacks correctly. Access to the property is provided from Eisenhower Road. The setbacks were applied with the front yard being the distance from Eisenhower Road and the rear yard the distance from the property line abutting Oakland Road.

Definitions:

10.56 LOT LINE means a boundary line of a lot.

(b) FRONT LOT LINE means the line dividing the lot from the street or other means of access, and

i) in the case of a corner lot, the shorter boundary line abutting the street shall be deemed to be the front lot line and the longer boundary line abutting the street shall be deemed to be the flankage lot line; and where such lot lines are of equal length, the front lot line shall be either of the lot lines and the other lot line shall be the flankage lot line; boundaries dividing the lot from a street shall be deemed to be the front lot line;

ii) in the case of a lot which abuts an access road and which has another of its boundaries adjoining the shoreline of a lake, river or stream, the lot line facing the access road shall be deemed to be the front lot line; or

iii) in the case of a through lot, the lot line abutting the street providing the primary access shall be regarded as the front lot line.

10.53 d) **THROUGH LOT means a lot bounded on two opposite sides by streets or highways provided,** however, that if any lot qualifies as being both a Corner Lot and a Through Lot as defined above, such lot shall be deemed to be a Corner Lot for the purposes of this By-law.

Once the location certificate was received, it was determined that the deck on the structure crosses the property line. With the deck removed, the outline of the structure would be 2.8' (0.8 metres) from the property line.

The landowner has requested a variance to the rear yard setback to reduce the setback from 1.5 metres to 0.8 metres for the corner of the structure. The landowner has indicated he

measured the location based on a survey marker, which once the location certificate was completed, was found to be incorrectly placed. The deck will be removed from the structure.

Prior to issuing the variance, I have consulted with the Municipality's Building Inspector to ensure reducing the setback for the structure will not violate the Building Code requirements. The Building Inspector has indicated the deck will need to be removed and then the structure will meet their requirements. I have also consulted with Nova Scotia Transportation as the rear lot line abuts their property, Oakland Road. NSTAT has indicated they have no issues with the variance being approved.

APPEAL

As part of the variance process, once a variance is approved/or refused, notice is given to property owners within 30 metres of the subject property with the right of appeal to Council. The Municipality has received a letter of appeal from Joshua E. Bryson, of Wells, Lamey, Bryson, Schnare & Mailman representing Mr. Derek Montgomery.

CONCLUSION

The Municipal Government Act states that where a Council hears an appeal from a variance approval, the Council may make any decision that the Development Officer could have made.

Therefore, Council's options are:

1. Uphold the Development Officer's decision to approve the variance.
2. Grant assessed owners appeal which would require the landowner to relocate the structure to meet the setback requirements before any stop work order will be lifted.

Department: Planning and Development Services

Report Prepared By: Norma Schiefer, Development Officer

Date: April 6, 2021

Report Approved By: Jeff Merrill, Director

Date: Apr. 6, 2021

Reviewed By CAO:

Date:



Municipality of the District of Lunenburg

10 Allée Champlain Drive, Cookville, Nova Scotia, Canada, B4V 9E4

Planning & Development Services

Phone: 902.541.1334 Email: planning@modl.ca Web Site: www.modl.ca

February 23, 2021

Daniel Geck
90 Eisenhauer Road
Mahone Bay, NS
B0J 2E0

Dear Mr. Geck:

Re: Proposed Variance - reduction of the rear yard setback
PID: 60709938, 90 Eisenhauer Road, Oakland, NS

Your application, received December 18, 2020, is requesting a reduction of the rear yard setback for the location of the cabin (currently under construction BP190449). The rear yard setback is approved to be reduced from the required 1.5 metres to 0.8 metres.

I have today granted your requested variance.

There is an opportunity for anyone owning property within 30 meters of the above property to appeal this decision to Municipal Council. A copy of the letter and the list of those to whom it has been sent are attached for your information.

Should there be no appeal I will be in a position to issue an amended development permit on March 15, 2021.

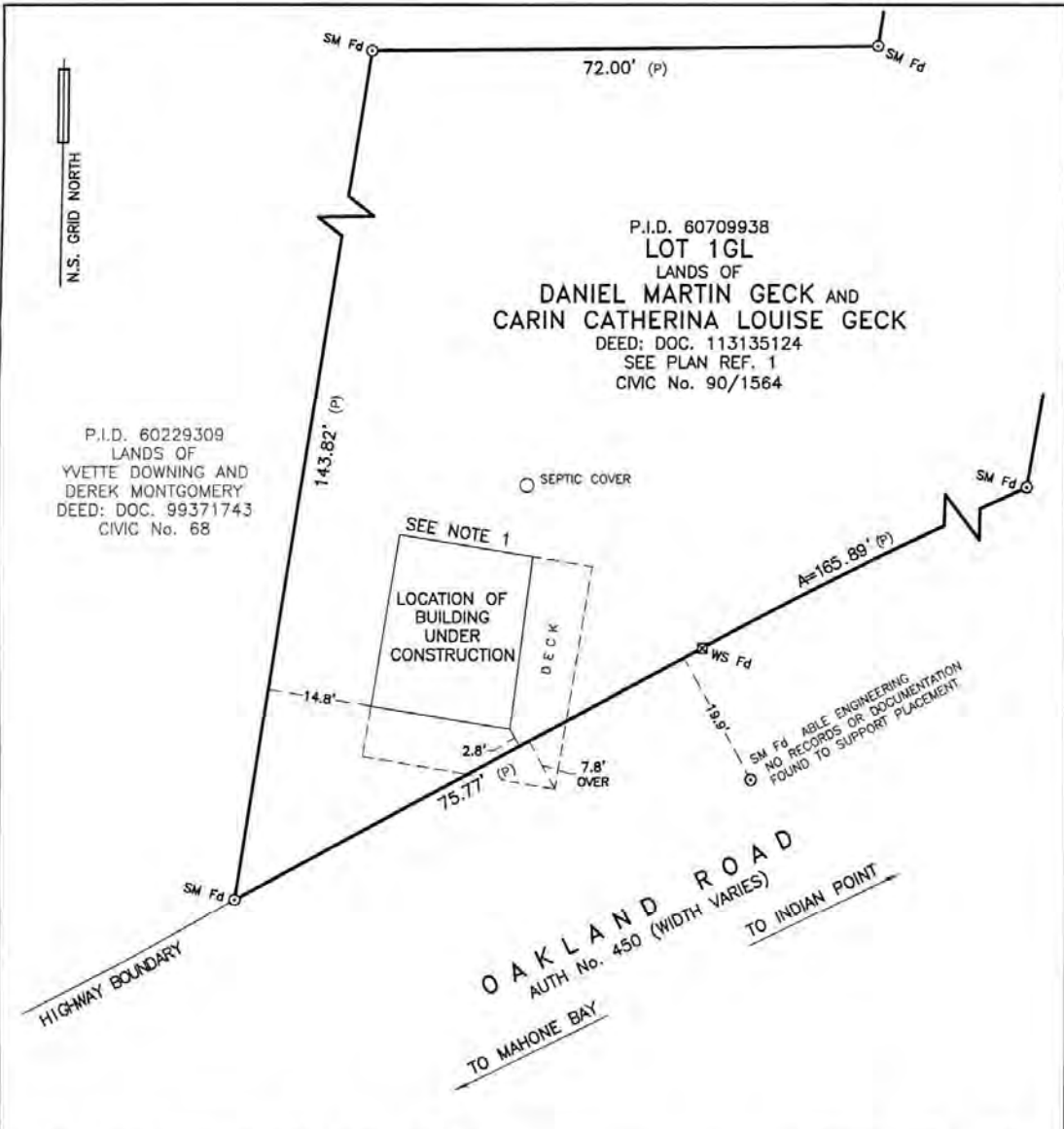
Prior to the 'stop work order' being lifted by the building department, the Building Inspector is requesting:

- The deck to be cut back to the DOT property line or removed to accommodate the setback.
- A new NSTIR work within the highway right-of-way permit to reflect location of the structure 0.8 metres from the property line.

If you have questions or require further information, please contact me at your convenience.

Sincerely,

Norma Schiefer
Municipal Development Officer



SURVEYOR'S LOCATION CERTIFICATE

SCALE : 1" = 20'

CERTIFIED TO : DANIEL GECK AND CARIN GECK

RE: LOCATION OF BUILDING ON LOT 1GL,
 LANDS OF DANIEL MARTIN GECK AND
 CARIN CATHERINA LOUISE GECK,
 AT 1564 OAKLAND ROAD,
 OAKLAND,
 LUNenburg COUNTY, NOVA SCOTIA.
 P.I.D. 60709938

⊙ SM	SURVEY MARKER	(C)	CALCULATED
⊙ IB	IRON BAR	(M)	MEASURED
● RP	ROCK POST	(P)	PLAN
⊙ IP	IRON PIPE	(D)	DEED
⊙ DH	DRILL HOLE		
⊙ WS	WOODEN STAKE		
Fd	FOUND		
L.R.O.	LAND REGISTRATION OFFICE		
O.H.W.M.	ORDINARY HIGH WATER MARK		
P.I.D.	PROPERTY IDENTIFICATION NUMBER		

I, DYLAN M. MOSSMAN, NOVA SCOTIA LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEYOR'S LOCATION CERTIFICATE WAS PREPARED UNDER MY SUPERVISION, AND IN ACCORDANCE WITH THE LAND SURVEYORS ACT, REGULATIONS AND STANDARDS MADE THEREUNDER.
 DATED THIS 17TH DAY OF NOVEMBER, 2020

Dylan M. Mossman N.S.L.S.

THIS SURVEYOR'S LOCATION CERTIFICATE SHALL NOT BE USED FOR BOUNDARY DEFINITION, OR AS A DOCUMENT FOR THE PREPARATION OF LEGAL DESCRIPTIONS.

PLAN REFERENCES :

1. PLAN REFERS TO L.R.O. No. 112990750.

NOTES:

1. BUILDING AND DECK ON SCREW PILES. NO CONCRETE FOUNDATION.

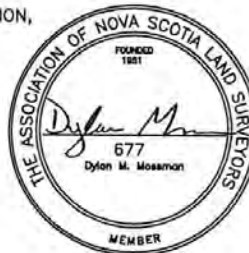
DATE (S) OF FIELD SURVEY : OCTOBER 29, 2020

PROJECT #: 201028-02

ABLE ENGINEERING SERVICES INC.

TEL. 1-833-756-8433 FAX. 902-273-3072

S.L.C. #72833

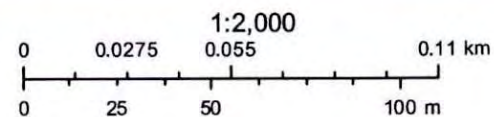




April 7, 2021

The Province of Nova Scotia makes no representations, expressed or implied, as to the accuracy, completeness and timeliness of the information, maps and other data, including PID numbers or property boundaries, which are displayed on this page.

The data is provided on the understanding that it is not guaranteed to be correct or complete or current, and conclusions drawn or decisions made, based on an interpretation of the data, are the responsibility of the user.



Service Nova Scotia and Internal Services
Internal Services Department

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Municipality of the District of Lunenburg
Planning & Development

REQUEST FOR A VARIANCE

Name of Applicant: DANIEL CECK

Mailing Address: 90 EISENHAWER RD
MAHONE BAY
BOJ ZEO

Telephone: Home: N/A Business: N/A Cell Phone: 250-246-7735

Name of Owner (if different than applicant): _____

Mailing Address: _____

Telephone: Home: _____ Business: _____ Cell Phone: _____

What is the nature of the variance requested? (Please check appropriate box)

- | | |
|--|--|
| a) reduced front yard <input type="checkbox"/> | e) number of parking spaces <input type="checkbox"/> |
| b) reduced side yard <input type="checkbox"/> | f) height/area of sign <input type="checkbox"/> |
| c) reduced rear yard <input type="checkbox"/> | g) area of home occupation <input type="checkbox"/> |
| d) lot area <input type="checkbox"/> | h) height/area of structure <input type="checkbox"/> |

Please provide the civic address, assessment account number or parcel identifier number. 60709938

Indicate the existing use of the subject property. HOME / RESIDENTIAL
AND CABIN FOR RENTAL.

Give a general explanation of the proposal. see attached

Why is it not possible to comply with the provisions of the Municipality's Land Use By-law? _____

see attached.

NOTE: IF THIS FORM IS SIGNED BY A PERSON WHO IS NOT THE ASSESSED PROPERTY OWNER(S), WRITTEN AUTHORIZATION FROM THE OWNER(S) MUST ACCOMPANY THIS APPLICATION.

Legal Declaration:

I, Daniel Geck of 90 Eisenhower Rd., Oakland do solemnly declare that all the above statements and attachments are true and accurate and I make this solemn declaration conscientiously believing it to be true and accurate knowing that it is the same force and effect as if made under oath.

Dated at Oakland this 18th day of December, 2020.

Daniel M Geck
Signature of Applicant

Application Fee 75.00
~~\$79.00~~

Receipt Number 2020/007944

Space below for office use only	
Date Received: <u>Dec. 18/20</u>	PID: <u>60709938</u>
By-law: <u>Oakland</u>	Zone: <u>RU</u>

Request for a Variance
(Daniel Geck)

General explanation of the proposal


Reduce rear yard from 1.5m to 0.8m on the corner of the cabin (**attachment 1**). As noted, the existing property pins were used for the cabin footing location. After we received the building permit #BP190449, we proceeded to have the pilings installed, as per the setbacks to the existing pins. We requested the building inspector inspect the pilings and location which he did and passed both. We then commenced building. The framing is now 3/4 complete and at this stage the building inspector came by and did a second GPS reading. As a result, we were informed that the building is now encroaching on the property line and requested a Site Survey Certificate and issued a Stop Work Order. We note that the pins we relied on are legal survey markers, with the pin in question belonging to Able Land Surveying Inc (**photo attached**). If we were made aware of this problem at the piling stage, we would have been able to move the pilings. Now there is a 3/4 framed cabin sitting on the pilings.

Why is it not possible to comply with the provisions of the Municipality's Land Use Bylaw?

- adhering to the 1.5m. setback, will force us to cut not only the deck but also the corner of the building.
- With the 0.8m setback we will still have to cut the deck, but can leave the corner of the building and the footing intact. The cost and delay of this project otherwise will be a real hardship for us.
- The property line is 125 feet from the centre of Oakland Road.
- The bank is part of the old Oakland Rd roadbed. Our property was expropriated mid 1960's from the original property to allow the road to be moved down to its current location. Since the expropriation, the land has never been migrated back to this property.
- The adjoining property (Ray & Anne Wagner) goes all the way down to the edge of Oakland Road, as does the property two over (Dries & Haylee Smith) (**attachment 2**)
- The bank has been historically used by this property since expropriation and remains unused by TIR (**attachment 3** - letter & map of September 12, 2019 from TIR proposing an exchange of this land). The TIR proposal was not accepted by us since it involved them utilizing a large part of our meadowed, flat land by our two duck ponds.
- The exiting bank gives us access to our deeded property across Oakland Road (wharf & boathouse).
- The variance requested will be much more cost effective for us (on a retired/disability pension), since the main structure can remain unchanged. We will simply be removing the deck. The foundation will not be affected.

From: Dan Geck dangeck@icloud.com
Subject: Able pin
Date: December 18, 2020 at 11:02 AM
To: Dan Geck dan9@telus.net



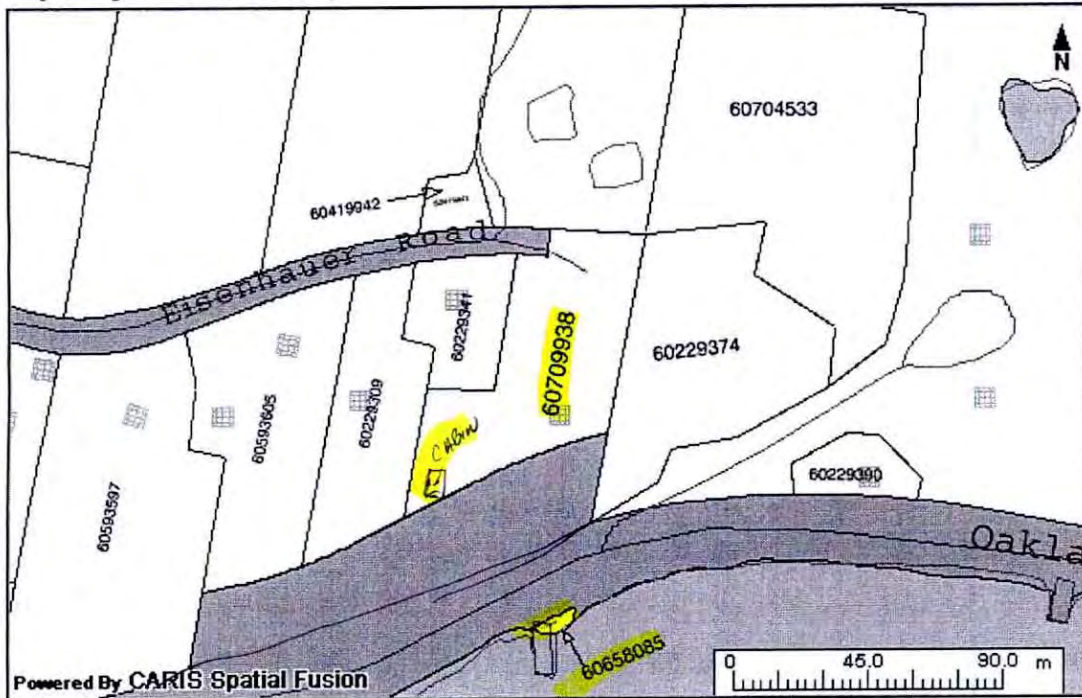
From: Dan Geck dangeck@icloud.com 
Subject: Pin picture
Date: December 18, 2020 at 10:03 AM
To: Dan Geck dan9@telus.net



Sent from my iPhone

Property Online Map

Date: Oct 31, 2019 12:26:22 PM



PID:	60709938	Owner:	DANIEL MARTIN GECK CARIN CATHERINA LOUISE GECK	AAN:	01386409
County:	LUNENBURG COUNTY	Address:	90 EISENHAUER ROAD OAKLAND	Value:	\$423,900 (2019 RESIDENTIAL TAXABLE)
LR Status:	LAND REGISTRATION				

The Provincial mapping is a graphical representation of property boundaries which approximate the size, configuration and location of parcels. Care has been taken to ensure the best possible quality, however, this map is not a land survey and is not intended to be used for legal descriptions or to calculate exact dimensions or area. The Provincial mapping is not conclusive as to the location, boundaries or extent of a parcel [*Land Registration Act* subsection 21(2)]. THIS IS NOT AN OFFICIAL RECORD.

Property Online version 2.0

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**Transportation and
Infrastructure Renewal**

449 Jubilee Road
P O Box 409
Bridgewater, NS B4V 2X6

Bus: 902-543-4121
Fax: 902-543-5596
Our File # PENDING
September 12th, 2019

Daniel Martin Geck
Carin Catherina Louise Geck
90 Eisenhower Road Mahone Bay
B0J 2E0

RE: Eisenhower Road, Turning Area.

Dear Carin and Daniel Geck;

Please see attached plans pertaining to a proposed exchange of lands for purposes of improving turning access in the area of your property referred to as PID 60229358. In exchange for your 446.79 square meter portion we would offer 560.80 square meters along the Oakland Road, Highway #450.

Please review the plans, if possible I would like to meet with you to discuss. Note you would still be able to access the remainder of your property behind this turning area.

Kindest regards,

A handwritten signature in blue ink, appearing to read "Kevin Rudderham", written over a horizontal line.

Kevin Rudderham
Right of Way Officer
Western District.
902-527-5997

PID NO. 60229358
REMAINING AREA = 13.8 ACRES ±
(SEE PLAN REFERENCE NO. 4)

PID NO. 60419942
(SEE PLAN REFERENCE NO. 3)

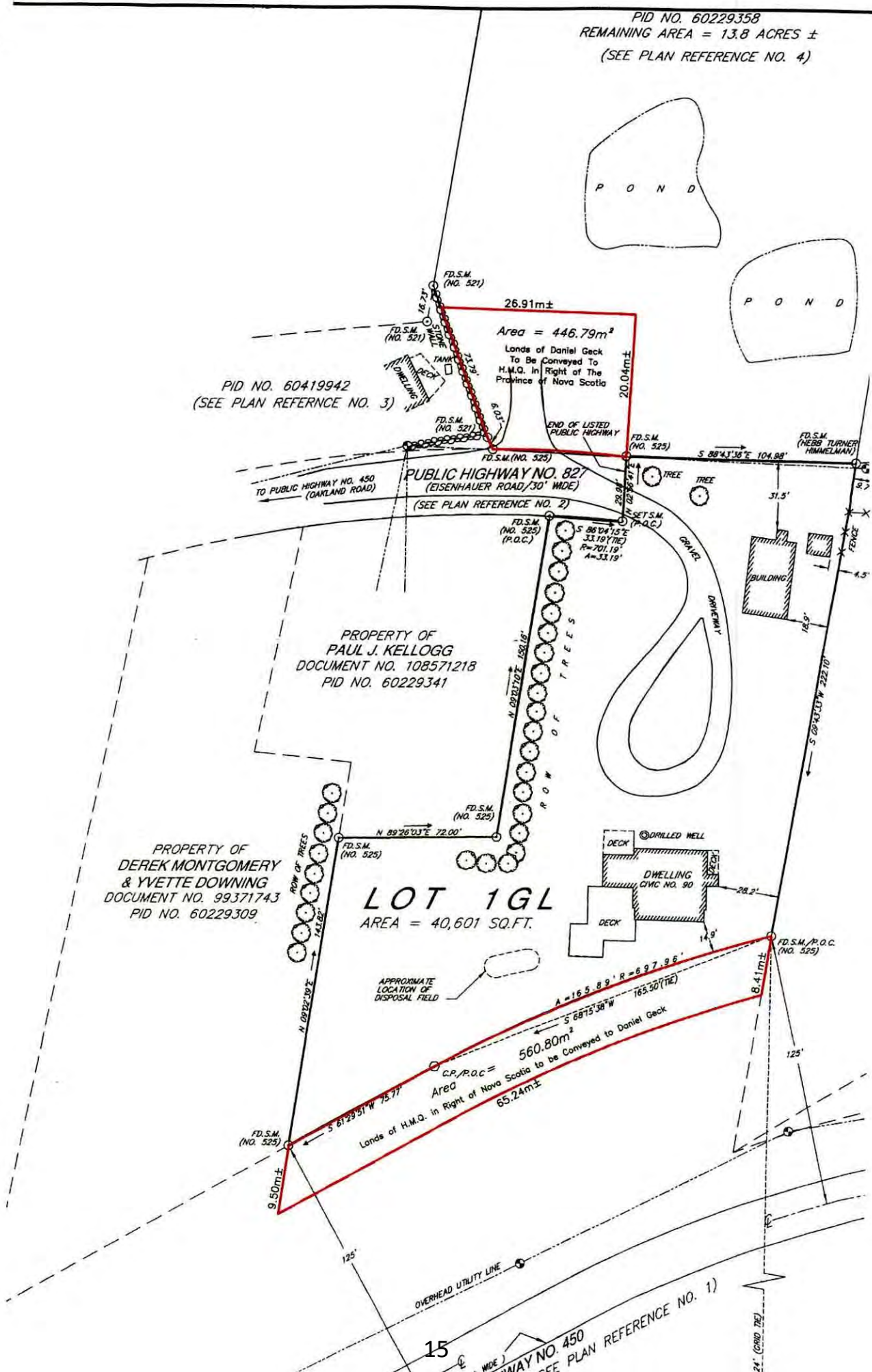
PROPERTY OF
PAUL J. KELLOGG
DOCUMENT NO. 108571218
PID NO. 60229341

PROPERTY OF
DEREK MONTGOMERY
& YVETTE DOWNING
DOCUMENT NO. 99371743
PID NO. 60229309

LOT 1GL
AREA = 40,601 SQ.FT.

Area = 560.80m²
Area = 65.24m²
C.P./P.O.C.
Lands of H.M.Q. in Right of Nova Scotia to be Conveyed to Daniel Geck

Area = 446.79m²
Lands of Daniel Geck
To Be Conveyed To
H.M.Q. In Right of The
Province of Nova Scotia



Initial Submission from
Joshua E. Bryson on
Behalf of Derek
Montgomery

Wells, Lamey, Bryson, Schnare & Mailman

Barristers - Solicitors - Notaries

Derek M. Wells, Q.C.*
Samuel R. Lamey, Q.C.*
Joshua E. Bryson, BBA, B.A., LL.B.*
Derek R. Schnare, B.Sc. (Hon.), LL.B.
Jodi D. Mailman, B.A. (Hon.), LL.B.
Erin L. Wagner, B.A., J.D.

RECEIVED

MAR 29 2021

P.O. Box 310
24 Pleasant Street
Chester, Nova Scotia B0J 1J0

Telephone: (902) 275-3544
Fax: (902) 275-3473
Email: reception@chesterlaw.ca
www.chesterlaw.ca

*Incorporated as D.M. Wells Law Inc.
*Incorporated as S.R. Lamey Law Inc.
*Incorporated as Bryson Law Inc.

March 25, 2021

Ms. Sherry Conrad, Municipal Clerk
Municipality of the District of Lunenburg
10 Allee Champlain Drive,
Cookville, NS B4V 9E4

Dear Madame Clerk Conrad,

**Re: Notice of Appeal of Proposed Variance
PID 60709938, 90 Eisenhower Road, Oakland, NS**

As per your request, please find enclosed my original correspondence dated March 12, 2021,
which was sent via fax and e-mail on the same date.

Yours very truly,
WELLS, LAMEY, BRYSON, SCHNARE & MAILMAN



for / Joshua E. Bryson
Barrister & Solicitor

/jmr
Enclosure

Wells, Lamey, Bryson, Schnare & Mailman

Barristers - Solicitors - Notaries

Derek M. Wells, Q.C.*

Samuel R. Lamey, Q.C.*

Joshua E. Bryson, BBA, B.A., LL.B.*

Derek R. Schnare, B.Sc. (Hon.), LL.B.

Jodi D. Mailman, B.A. (Hon.), LL.B.

Erin L. Wagner, B.A., J.D.

P.O. Box 310
24 Pleasant Street
Chester, Nova Scotia B0J 1J0

Telephone: (902) 275-3544
Fax: (902) 275-3473
Email: reception@chesterlaw.ca
www.chesterlaw.ca

*Incorporated as D.M. Wells Law Inc.

*Incorporated as S.R. Lamey Law Inc.

*Incorporated as Bryson Law Inc.

March 12, 2021

VIA: Email (sherry.conrad@modl.ca) and Fax (543-7123)

Ms. Sherry Conrad, Municipal Clerk
Municipality of the District of Lunenburg
10 Allee Champlain Drive,
Cookville, NS
B4V 9E4

Dear Madame Clerk Conrad,

**Re: Notice of Appeal of Proposed Variance
PID 60709938, 90 Eisenhower Road, Oakland, NS**

I represent Mr. Derek Montgomery with respect to the February 23, 2021 notice of proposed variance which was received by my client on March 5, 2021. Mr. Montgomery is the owner and resident of 68 Eisenhower Road in Oakland, which abuts the property in question. Pursuant to s.236(3) of the *Municipal Government Act*, Mr. Montgomery appeals the decision of Development Officer Norma Schiefer to grant a variance in this matter.

OVERVIEW

Development Officer Schiefer's letter dated February 23, 2021 proposes to grant a variance to Mr. Daniel Geck, of 90 Eisenhower Road, PID #: 60709938, which effectively enables him to encroach on two separate yard clearance requirements. Development Officer Schiefer refers to the area in question solely as the rear yard. However, this fails to consider the fact that the "rear yard" faces Oakland Road and contains a partially constructed driveway. It also fails to consider Mr. Geck's Location Plan dated November 4, 2019 that depicts the front yard as facing his existing dwelling, which significantly encroaches on the 5 metre front yard and 1.5 metre side yard clearance requirement under the Oakland Land Use By-Law.

The subject property contains 40,601 square feet of land and contains an existing 4-bedroom home. Mr. Geck commenced construction on an additional dwelling on the subject lot to be used as a rental property which is the subject of this proposed variance.

Mr. Geck submitted an application for a Development Permit on November 4, 2019, which represented that all clearance distances would be met. Mr. Geck's Development Permit dated November 19, 2019 confirmed that the proposed development conforms to the requirements of the Oakland Land Use By-Law and, in particular, By-Law 5.3.2.- clearance requirements.

Despite Mr. Geck's representations and conditions attached to his Development Permit, Mr. Geck unilaterally and without permission commenced construction on his dwelling in contravention of the lawfully required set-back requirements.

Mr. Geck had sufficient land to construct his building in full compliance with all setback requirements as evidenced by his lot size and the attached photo, marked as photo "B", depicting the vacant land that sits behind his partially constructed dwelling.

Mr. Geck had several disputes with local residents including Mr. Montgomery, a 26-year resident of Oakland; during one such interaction, Mr. Geck advised Mr. Montgomery that he intended to move this dwelling to a location that maximized his intrusion of Mr. Montgomery's view of the Mahone Bay waters. Mr. Geck carried through with this promise as the location for this dwelling clearly changed in a way to minimize the distance away from Mr. Montgomery's residence and maximize his interference with Mr. Montgomery's view of the water and enjoyment of his property.

The proposed variance will negatively impact Mr. Montgomery's property as it will have a deleterious effect on his view of the Mahone Bay waters, negatively impact his property value and his use and enjoyment of his property.

GROUND OF APPEAL:

Mr. Montgomery brings this appeal on the following grounds:

1) The proposed variance is in violation of section 235(3)(c) of the *Municipal Government Act*

Section 235(3)(c) of the *Municipal Government Act* states: "[a] variance may not be granted where the difficulty experienced results from an intentional disregard for the requirements of the development agreement or land-use by-law." As noted above, Mr. Geck's lot size could have easily accommodated a dwelling that conformed to all existing yard requirements. Mr. Geck's own Location Plan depicted conforming set back requirements. Mr. Geck intentionally and

spontaneously disregarded his development agreement and land use bylaws at Mr. Montgomery's expense.

As is apparent from photo "B", and Mr. Geck's lot size of 40,601 square feet, Mr. Geck could have easily complied with all set back requirements but intentionally elected not to.

2) The proposed variance is in violation of section 235(3)(a) of the *Municipal Government Act*

Section 235(3)(a) of the *Municipal Government Act* states that "[a] variance may not be granted where the variance violates the intent of the development agreement or land-use by-law." This proposed variance violates the intent of the Municipal Planning Strategy and Land Use Bylaws for the Oakland area which are designed to promote a harmonious relationship between new development activity and existing land uses, and to do so in a way that minimizes conflicts. Mr. Geck has partially constructed a dwelling that does not conform to his development permit which represented that all clearance distances would be met.

To the best of our knowledge, this construction occurred in advance of any permission to disobey the clearance distances and should not be condoned, especially where it has such a deleterious impact on Mr. Montgomery's quality of life. Photo "A" was taken from the deck of Mr. Montgomery's property and shows the level of intrusion this rental property will cause to Mr. Montgomery's view and quality of life if the clearance requirements are not adhered to. Photo "B" depicts the vacant land that sits behind this dwelling and clearly shows that set back requirements could have been maintained.

3) Development Officer Schiefer erred in law when granting the variance

Development Officer Schiefer defined the offending setback requirement as the "rear yard" setback. The Front Lot Line is defined under By-Law 10.56 as "the line dividing the lot from the street or other means of access..." The rear yard requires a 1.5 metre clearance while the front yard requires a 5 metre clearance. In either case, the proposed dwelling contravenes the yard requirements given the 0.8 metre clearance on its southern boundary.

In addition, given the fact that the partially constructed dwelling deviated from the Location Plan, it does not run parallel to its southern boundary but rather at a 45-degree angle, thus encroaching on two-yard clearance requirements as noted on the attached surveyor's location certificate dated November 17, 2020 and apparent from a viewing of the site. To my knowledge, the encroachment of the eastern yard has not been measured. By-Law 10.110 states that yard measurement is determined by taking the minimum horizontal distance from the respective lot line, in which case the eastern yard appears to be also less than 1 metre from the southern lot line when measured as per the By-Law.

In addition, what Development Officer Schiefer identifies as the rear yard, which requires a 1.5 metre clearance is more aptly described as the front yard thus requiring a 5 metre clearance distance. This yard abuts Oakland Road and contains a partially constructed driveway that leads to the south east side of the dwelling. In addition, this dwelling has no access to the road that sits behind it (Eisenhauer Road). The only driveway that has been contemplated is the one leading to Oakland Road which favours a finding that the true front yard was incorrectly defined as the rear yard.

Mr. Geck's Location Plan also differs from Development Officer Schiefer's determination as it depicts the front yard as the yard that faces Mr. Geck's existing dwelling which also encroaches on the yard requirements (shown on the surveyor's location certificate as the eastern side of the building under construction).

Either the eastern yard, as noted by Mr. Geck, or the southern yard as evidenced by the partially constructed driveway and the fact this yard faces Oakland Road are the true front lot lines as defined under By-Law 10.56. In either case, at least one of these yards must meet the 5-metre clearance distance. No variance has been proposed or granted from this 5-metre requirement.

Respectfully, Development Officer Schiefer also erred when she concluded in her letter dated February 23, 2021 that the highway right-of-way was excessive, and that it would not have a negative impact on the surrounding area. To my knowledge, the highway right-of-way has never been lawfully found to be excessive. Transportation and Infrastructure Renewal (TIR) requires a permit for any and all work within 100 metres of any highway and this dwelling sits roughly 38 metres away from the centre of this highway. Development Officer Schiefer exceeded her authority in defining TIR's right-of-way as excessive in this instance.

4) There were unauthorized and unlawful changes to Mr. Geck's Development Permit construction plan

Clause 2.6 of the Municipality of the District of Lunenburg's Secondary Planning Strategy for Oakland states that an application for a development permit must include measurements of the lot frontage and front, side and rear yards and any other information to enable a determination as to whether the proposed development conforms with the existing By-Law. Mr. Geck unilaterally moved the location of his dwelling as depicted on the Location Plan such that it no longer conformed to the By-Law. This unilateral and unlawful amendment to construction serves to negatively impact Mr. Montgomery's quality of life and should not be condoned.

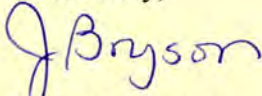
As noted above, if this variance is sustained there will be a negative impact on the surrounding area and, specifically, Mr. Montgomery's quality of life. Mr. Montgomery has enjoyed Oakland and called this dwelling home for over 25 years. Mr. Geck proposes to construct a dwelling as

close to Mr. Montgomery's dwelling as possible when all of this could have been avoided had he simply constructed his dwelling in its original intended location and in conformity with the yard requirements. The lot size permitted same. As a result, as shown in Photo "A", Mr. Montgomery's beautiful view of the Mahone Bay waters from his deck is obstructed.

ORDER SOUGHT:

We respectfully ask that the Council of the Municipality of the District of Lunenburg exercise its powers pursuant to s. 237(1) of the *Municipal Government Act* and 1) identify the southern yard boundary as the Front Yard, and/or 2) rescind Development Officer Schiefer's variance of the yard setbacks.

Yours truly,

A handwritten signature in blue ink that reads "J. Bryson". The signature is written in a cursive, flowing style.

Joshua E. Bryson
Barrister & Solicitor

Location Plan

Application: PID 60709938

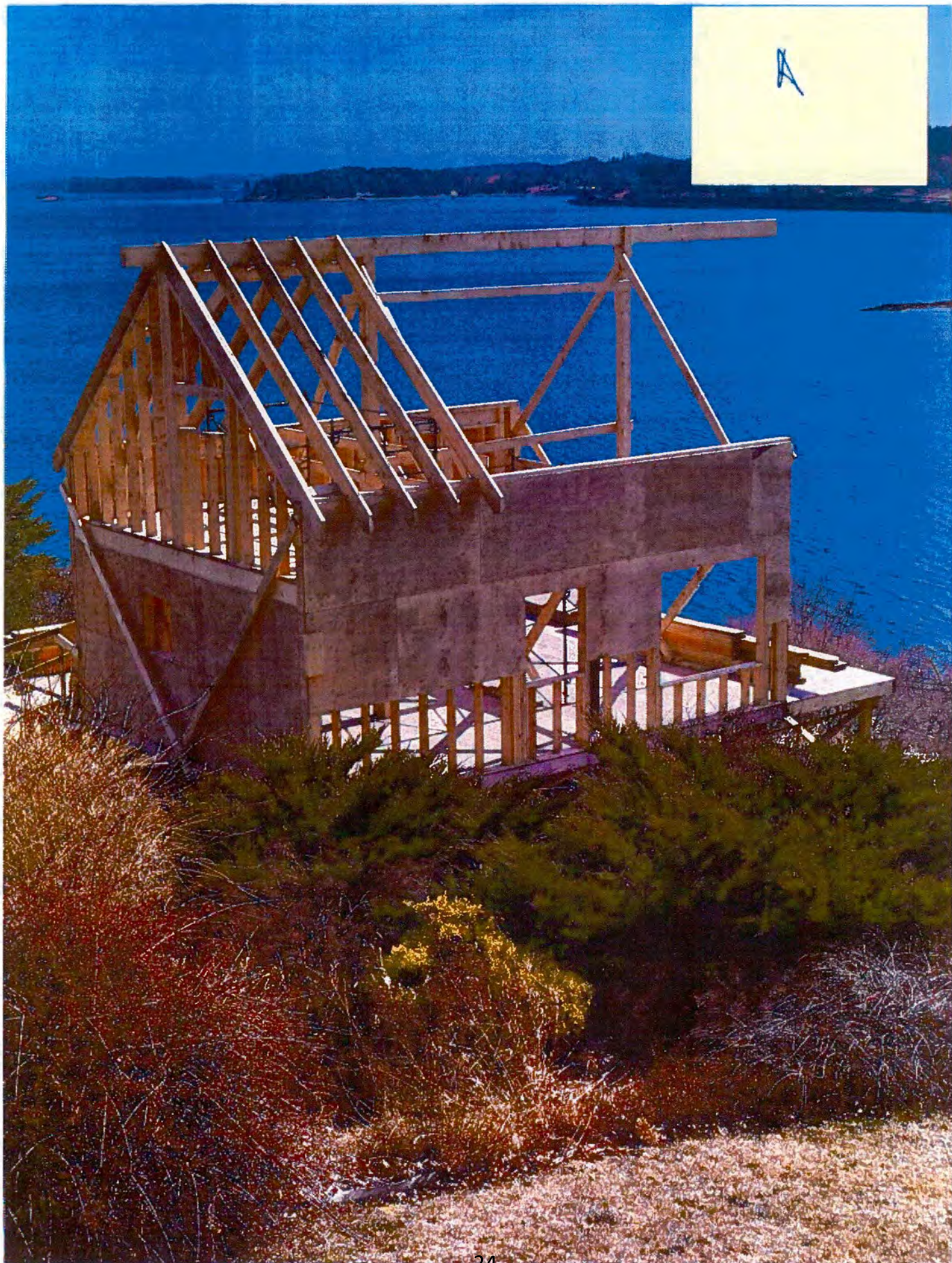


[Redacted Signature]

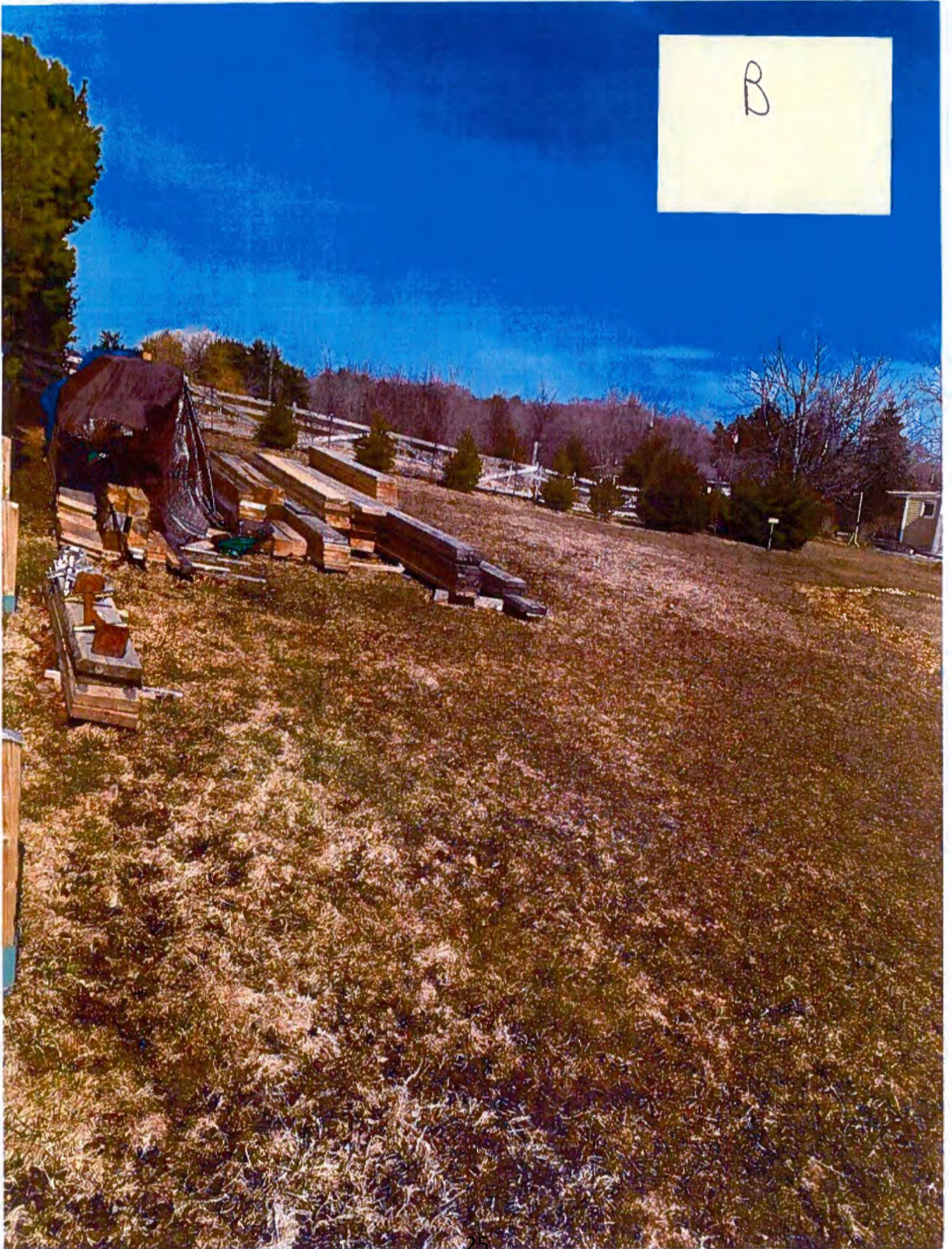
SIGNATURE

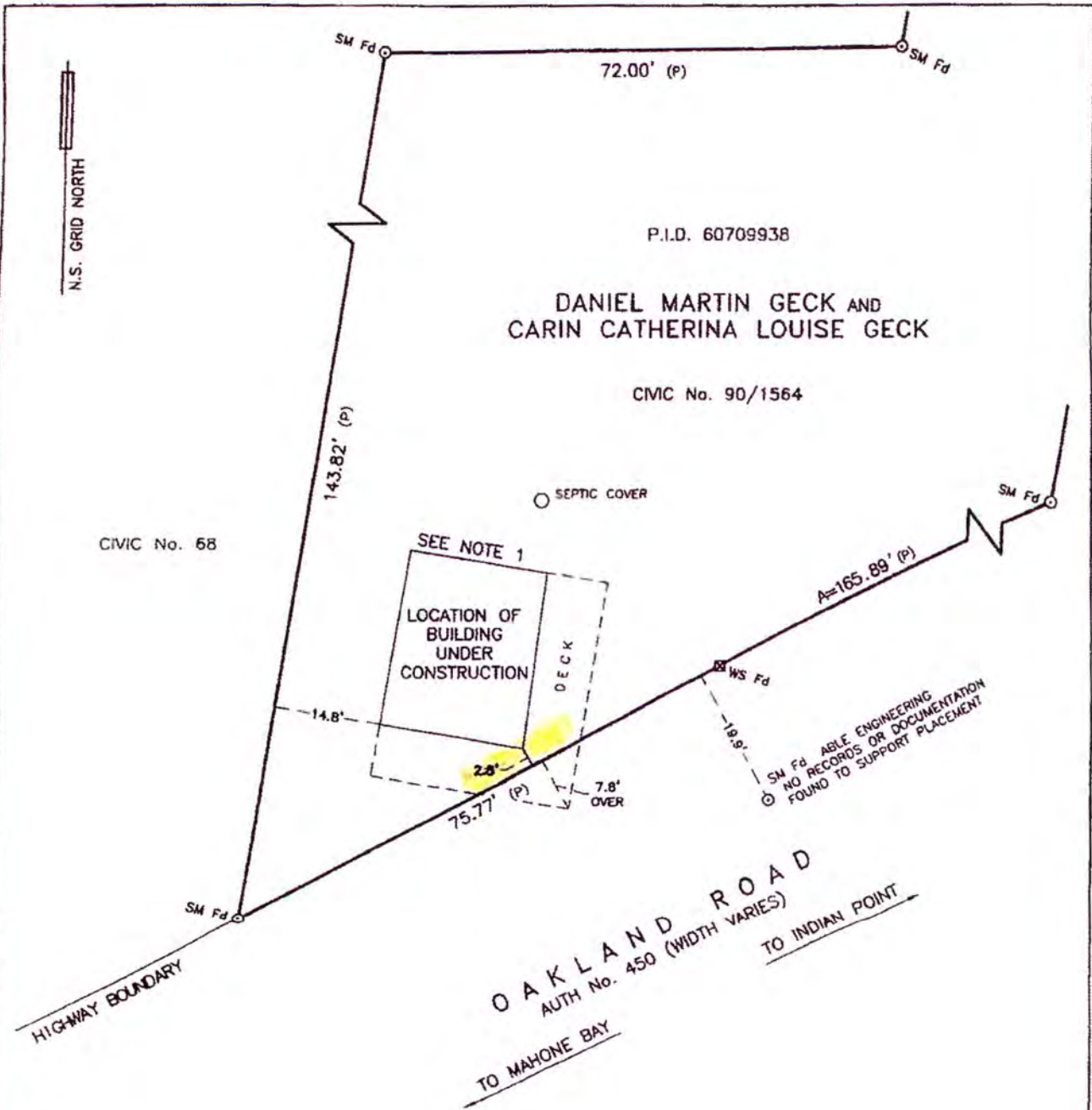
Nov 4/19
DATE

I hereby certify: That I am the owner/duly authorized agent of the land on which this building / development is proposed; that the statements herein contained are true; and that the plan & specifications submitted are prepared for the construction or alteration of the building or buildings described.



B





SURVEYOR'S LOCATION CERTIFICATE

SCALE : 1" = 20'

CERTIFIED TO : DANIEL GECK AND CARIN GECK

RE: LOCATION OF BUILDING ON LOT 1GL,
 LANDS OF DANIEL MARTIN GECK AND
 CARIN CATHERINA LOUISE GECK,
 AT 1564 OAKLAND ROAD,
 OAKLAND,
 LUNENBURG COUNTY, NOVA SCOTIA.
 P.I.D. 60709938

- | | | | |
|----------|--------------------------------|-----|------------|
| ⊙ SM | SURVEY MARKER | (C) | CALCULATED |
| ⊙ IB | IRON BAR | (M) | MEASURED |
| ● RP | ROCK POST | (P) | PLAN |
| ⊙ IP | IRON PIPE | (D) | DEED |
| ⊙ DH | DRILL HOLE | | |
| ⊙ WS | WOODEN STAKE | | |
| Fd. | FOUND | | |
| L.R.O. | LAND REGISTRATION OFFICE | | |
| O.H.W.M. | ORDINARY HIGH WATER MARK | | |
| P.I.D. | PROPERTY IDENTIFICATION NUMBER | | |

I, DYLAN M. MOSSMAN, NOVA SCOTIA LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEYOR'S LOCATION CERTIFICATE WAS PREPARED UNDER MY SUPERVISION, AND IN ACCORDANCE WITH THE LAND SURVEYORS ACT, REGULATIONS AND STANDARDS MADE THEREUNDER.

DATED THIS 17TH DAY OF NOVEMBER, 2020

Initial Submission from Daniel Geck

Zoom council meeting on April 13, 2021

April 6, 2021

To: Lunenburg County Council Members

Re: Variance at 90 Eisenhower Road, Oakland/Mahone Bay

Dear Council members:

My name is Daniel Geck. My wife, Carin, and I are the owners of the property located at 90 Eisenhower Road. The variance request pertains to a cabin we are building on our property. The variance letter was sent out to our neighbours for approval on February 23, 2021. All parties have agreed to the variance, except for one appeal which I understand is the focus of this meeting. Two of the three adjoining property owners approached us personally to advise they are happy to grant the variance.

The TIR has also approved the variance.

Below is my response:

1. Building permit no. BP190449 was granted on November 19, 2019 for the cabin.
2. Pilings were put in place and approved on February 10, 2020. In addition, the piling location was GPS'd and passed on the same date. We were also issued a civic address for Oakland Road at that time.
3. Building of the cabin commenced. Framing is now 3/4 completed.
4. On October 21, 2020 (9.5 months later), the building inspector stopped by to re-GPS the location. He stated there may be a discrepancy in the setbacks. At that time, he requested a site survey location certificate.
5. On October 22, 2020, a Stop Work Order was issued.
6. On October 29, 2020, the requested Site Survey Location Certificate was completed by Able Surveys and brought to light that there was a survey marker that was not registered.
7. The unregistered survey marker that we relied on is shown on the Site Survey Location Certificate that has been provided to you.
8. If the original GPS coordinates had been accurate, it would have brought to light there may be a question on the setbacks.
9. It would have been easy, at that time, to move some of the pilings so that the setbacks would have been in compliance.
10. As a result, we are asking for the variance to be granted from 1.5m to 0.8m.
11. Without the granting of this variance to 0.8m from 1.5m setback, the contractor has quoted upwards of \$10,000 in added costs.
12. The granting of this variance does not, in any way, negatively affect any of the adjoining property owners.









Second Submission
from
Joshua E. Bryson on
Behalf of Derek
Montgomery

Received April 15, 2021

Wells, Lamey, Bryson, Schnare & Mailman

Barristers - Solicitors - Notaries

Derek M. Wells, Q.C.*

Samuel R. Lamey, Q.C.*

Joshua E. Bryson, BBA, B.A., LL.B.*

Derek R. Schnare, B.Sc. (Hon.), LL.B.

Jodi D. Mailman, B.A. (Hon.), LL.B.

Erin L. Wagner, B.A., J.D.

P.O. Box 310
24 Pleasant Street
Chester, Nova Scotia B0J 1J0

*Incorporated as D.M. Wells Law Inc.

*Incorporated as S.R. Lamey Law Inc.

*Incorporated as Bryson Law Inc.

Telephone: (902) 275-3544

Fax: (902) 275-3473

Email: reception@chesterlaw.ca

www.chesterlaw.ca

April 15, 2021

Via: Email (joanne.powers@modl.ca)

Ms. Joanne Powers, Executive Assistant – Mayor and Council
Municipality of the District of Lunenburg
10 Allee Champlain Drive
Cookville, NS B4V 9E4

Dear Ms. Joanne Powers,

**Re: Appeal of Proposed Variance – Special Council Meeting April 20, 2021
PID 60709938, 90 Eisenhower Road, Oakland, NS**

Please find attached the following documentation to be included for Council's review in the upcoming Special Council Meeting Agenda regarding the above-noted matter:

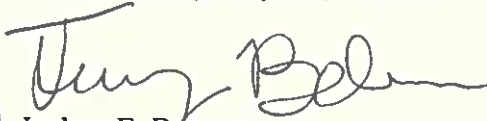
- The February 23rd letter from Development Officer Schiefer's to Mr. Montgomery and Ms. Downing informing them of her decision
- October 31st, 2019 letter from Berrigan Surveys Limited to advise on the on-site sewage disposal system at 90 Eisenhower Road and supporting documentation showing that Mr. Geck was aware of his property boundaries
- 12 letters from local property owners and neighbours expressing their opposition to the granting of this variance
- A 2018 Survey of Mr. Geck's property
- A Work within Highway Right-of-Way Permit issued to Mr. Geck on October 10, 2019

For context, I note the 2018 Survey is the survey Mr. Geck would have received when he purchased his land in 2018. It was completed shortly before the sale of the property and clearly informed Mr. Geck of his boundary lines and the size of the lot. The October 31st letter from Berrigan Surveys Limited and the corresponding documentation attached to the letter also demonstrates that Mr. Geck would have been aware of the property line at that time.

It would be appreciated if you would kindly confirm receipt of this letter. If you have any questions or concerns please don't hesitate to contact me at my office.

Yours very truly,

Wells, Lamey, Bryson, Schnare & Mailman



Joshua E. Bryson
Barrister & Solicitor

/jkb

Enclosures



Municipality of the District of Lunenburg

10 Allée Champlain Drive, Cookville, Nova Scotia, Canada, B4V 9E4

Planning & Development Services

Phone: 902.541.1334 Email: planning@modl.ca Web Site: www.modl.ca

February 23, 2021

Derek Montgomery
Yvette Downing
68 Eisenhower Road
Mahone Bay, NS
B0J 2E0

To whom it may concern:

Re: Proposed Variance – reduction of the rear yard setback
PID: 60709938, 90 Eisenhower Road, Oakland, NS

I am writing to advise you as an owner of property within 30 metres (100') of the above noted lot that I am granting the following:

A variance to reduce the rear yard setback from 1.5 metres to 0.8 metres for the location of the cabin currently under construction.

Dan Geck, has requested a reduction to the rear yard setback, to address an encroachment into the required setback. The deck is being removed from the structure so the setback will apply to one corner of the cabin, not the entire structure. The requirements set out in the Oakland Land Use Bylaw states the rear yard setback is to be 1.5 metres from property line. Based on the excessive highway right of way in front of the property, the elevation of the land and that the structure is not crossing the property line, I have determined that a reduction of 0.7 metres will not have a negative impact on the surrounding area, most specifically the immediate adjacent Oakland Road, and therefore I am granting the variance.

I am granting the variance to allow the rear yard setback to be 0.8 metres from property line.

A sketch illustrating the location of the structure is attached.


Section 236 (3) of the Municipal Government Act provides that a property owner served with this notice may appeal my decision to Council of the Municipality of the District of Lunenburg, by giving written notice within fourteen (14) days from receipt of this notice. Inquiries respecting appeal procedures can be made to Sherry Conrad, Municipal Clerk of the Municipality of the District of Lunenburg at 541-1323, 10 Allée Champlain Drive, Cookville, Nova Scotia, B4V 9E4.

Page 2 of 2

I will issue a revised development permit to Dan Geck on March 15, 2021 providing that no appeals have commenced.

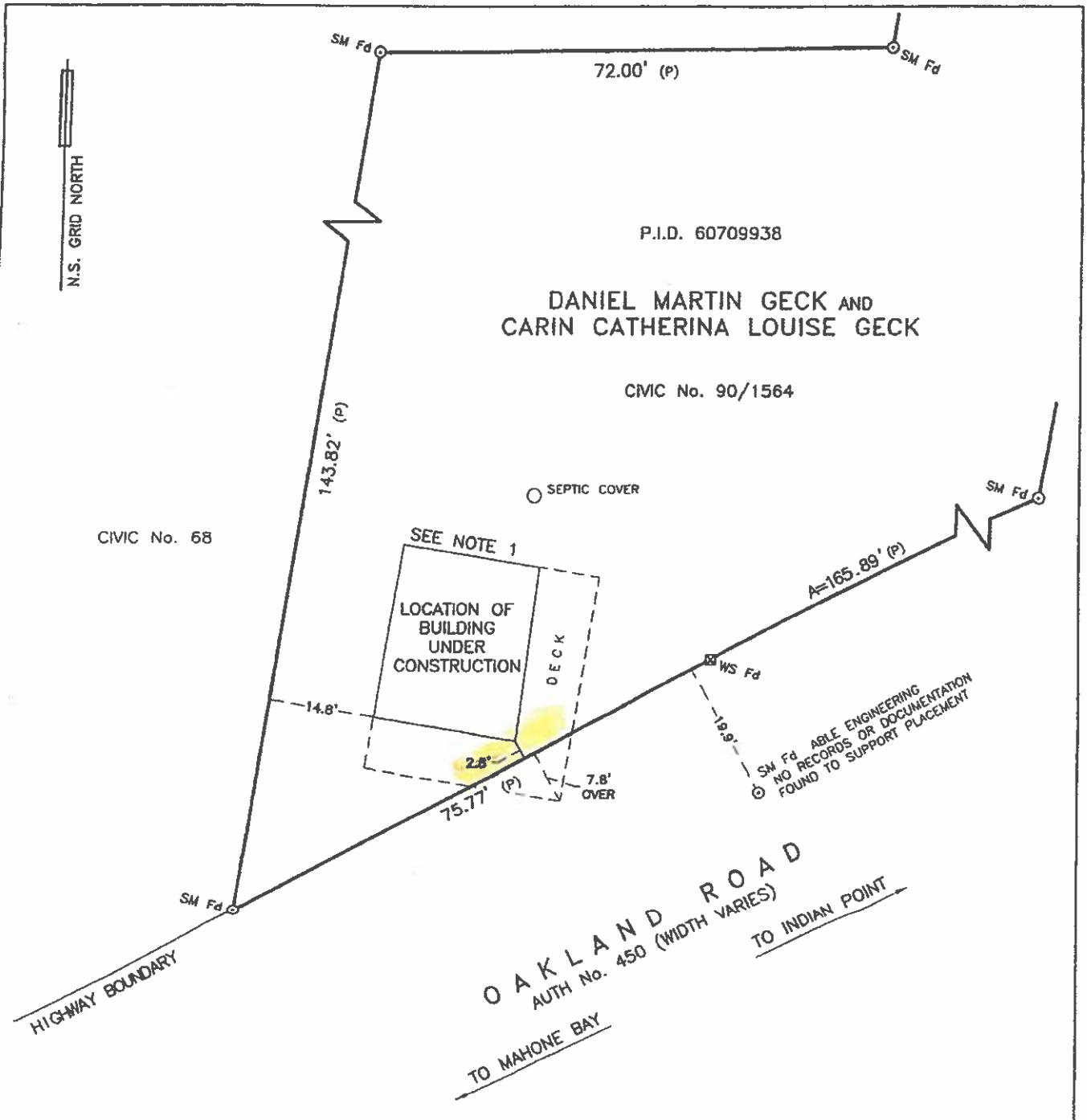
Please call me at 902-541-1334 if you have any questions or require further information.

Kindest regards,


Norma Schiefer
Municipal Development Officer

Encl:

Sherry Conrad, Municipal Clerk
Jeff Merrill, Director of Planning and Development Services
Kacy DeLong, Councillor



SURVEYOR'S LOCATION CERTIFICATE

SCALE : 1" = 20'

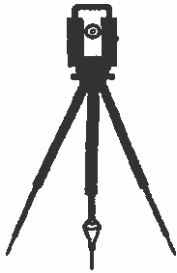
CERTIFIED TO : DANIEL GECK AND CARIN GECK

RE: LOCATION OF BUILDING ON LOT 1GL,
LANDS OF DANIEL MARTIN GECK AND
CARIN CATHERINA LOUISE GECK,
AT 1564 OAKLAND ROAD,
OAKLAND,
LUNENBURG COUNTY, NOVA SCOTIA.
P.I.D. 60709938

- | | | | |
|----------|--------------------------------|-----|------------|
| ⊙ SM | SURVEY MARKER | (C) | CALCULATED |
| ⊙ IB | IRON BAR | (M) | MEASURED |
| ● RP | ROCK POST | (P) | PLAN |
| ⊙ IP | IRON PIPE | (D) | DEED |
| ⊙ DH | DRILL HOLE | | |
| ⊙ WS | WOODEN STAKE | | |
| Fd. | FOUND | | |
| L.R.O. | LAND REGISTRATION OFFICE | | |
| O.H.W.M. | ORDINARY HIGH WATER MARK | | |
| P.I.D. | PROPERTY IDENTIFICATION NUMBER | | |

I, DYLAN M. MOSSMAN, NOVA SCOTIA LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEYOR'S LOCATION CERTIFICATE WAS PREPARED UNDER MY SUPERVISION, AND IN ACCORDANCE WITH THE LAND SURVEYORS ACT, REGULATIONS AND STANDARDS MADE THEREUNDER.

DATED THIS 17TH DAY OF NOVEMBER, 2020



Berrigan Surveys Limited
Nova Scotia Land Surveyors

PO Box 418, Bridgewater, Nova Scotia, Canada, B4V 2X6

Tel: 902-543-5695
Fax: 902-543-7447

Email: berrigan@istar.ca
Web: <http://www.berrigansurveys.ca>

Peter A. Berrigan, P.Eng, NSLS
Lester W. Berrigan, Consultant, QP
Nathan Hughes, NSLS, P.Eng

October 31, 2019

Building Inspector
Municipality of the District of Lunenburg
210 Aberdeen Rd
Bridgewater, NS
B4V 4G8

RE: Permission to connect 1 bedroom dwelling to existing on-site sewage disposal system, Property Located at 90 Eisenhower Road, Oakland, Lunenburg County.

Berrigan Surveys Ltd has been retained by Daniel Geck to advise the Municipality of Lunenburg that the existing on-site sewage disposal system located at Civic 90 Eisenhower Road, Oakland will handle the existing dwelling at site along with a proposed 1 bedroom dwelling.

The subject property contain 40,600 square feet and is shown on Berrigan Surveys Ltd plan No. 18992 dated May 29th, 2018.

The subject property contains an existing 4 bedroom home that will be reduced to 3 bedroom and the addition of a 1 bedroom dwelling located elsewhere on the property and connect to the existing on-site sewage disposal system.

The existing septic system was designed and approved under No. 2010-073465 for an EcoFlo Peat Module System which can handle a daily design flow of 1500 litres/day.

The existing septic tank, 2700 litres, is too small for the proposed development so it will be required to replace the existing septic tank with a new 4500 litres septic tank in the same location.

As the proposed 1 bedroom dwelling will be lower than the existing septic tank, a sewage lift pump will be required to pump sewage to the new 4500 litres septic tank.

**** a Sewage Lift Pump will be required to pump to the septic tank.**

- The discharge per cycle from the lift pump must not exceed 115 litres
- The discharge rate from the lift pump must not exceed 45 litre/min
- The discharge line from the lift pump must be fitted with a flow control valve
- Two compartment tank is recommended
- Pipe should be insulated (if required)
- the sewage lift pipe should point directly downward upon entering the septic tank

An effluent filter will be placed in the new septic tank to help protect the EcoFlo Unit.

In the event the existing system would malfunction in the future, a new replacement system can be installed in a similar location.

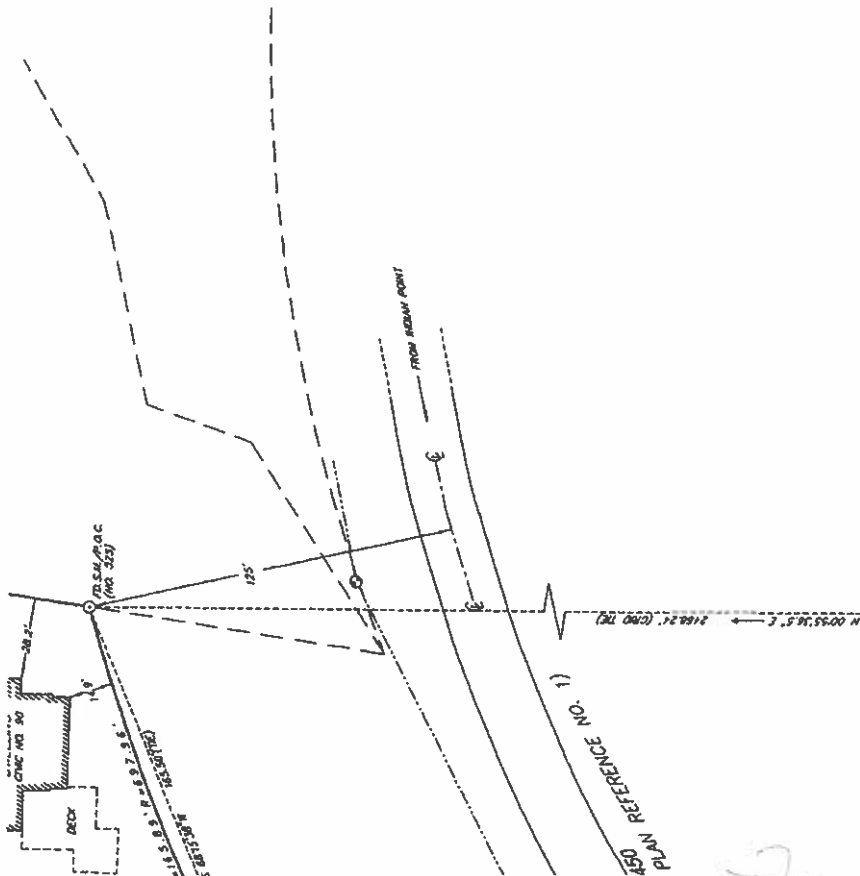
Berrigan Surveys Ltd has no objection to connect the proposed 1 bedroom dwelling to the existing on-site system that will remain connected to the existing dwelling at site that will be remodeled to have just 3 bedrooms.

If you have any questions regarding the above, please contact me at your convenience.



Peter Berrigan, P.Eng. NSLS





LUNenburg COUNTY LAND REGISTRATION OFFICE
I certify that this plan was registered or recorded
as shown here.
Rebecca Bond, Registrar

112990750 LRI# RODD
Plan #
JUL 26 2018 15:01
MM DD YYYY Time

PLAN OF SUBDIVISION

SHOWING LOT 1CL, PROPERTY OF COLIN HARRIS GIFFIN & DAVID EDWARD LASKY, CIVIC NO. 90 EISENHauer ROAD, OAKLAND, LUNenburg COUNTY, NOVA SCOTIA.



SCALE = 1" = 40'

I, Peter A. Berrigan, Nova Scotia Land Surveyor, hereby certify that the survey represented by this plan was conducted under my supervision, and that the survey and plan were made in accordance with the Land Surveyors Act, Regulations and Standards made thereunder.

Dated this 29th day of MAY 2018
Peter Berrigan N.S.L.S. #629

FIELD SURVEY CARRIED OUT DURING
THE PERIOD OF:
MAY 15 - 22, 2018
DATE OF PLAN:
MAY 29, 2018



BERRIGAN SURVEYS LIMITED
NOVA SCOTIA LAND SURVEYORS
BRIDGEWATER, LUN. CO., NOVA SCOTIA

HORIZONTAL DATUM	NAD83 (CSRS)	EPOCH:	2010.0
VERTICAL DATUM	CANADIAN GEODETIC VERTICAL DATUM 2013 (CGVD2013)		
PROJECTION:	3° MTM	ZONE:	5
CNASS SURVEY TYPE:	NR1K	SOURCE:	SMARTNET
COMBINED SCALE FACTOR AT SITE 0.999980143			

M.S.M.P.K. NO. 218707
H. 16.50311817
E. 21.00046537
(PUBLISHED VALUES)

PLAN NO. 18,992

Josh Bryson

From: Nigel Mathew <louandnigel@icloud.com>
Sent: Tuesday, April 13, 2021 11:00 PM
To: josh@chesterlaw.ca
Subject: Montgomery Variance appeal

Mr Bryson,

I understand you are acting for Derek Montgomery in his appeal against the granting of a variance to setback requirements on a neighbouring property construction.

I would like to express my support for this appeal for the following reasons.

My wife and I live at 67 Eisenhower Road and our property is immediately adjacent to that of Mr and Mrs Geck. We share a boundary of almost a kilometre. Mr Geck has surveyed and accurately marked that boundary with posts approximately every 5 metres. He has also taken great pains to accurately mark out his boundary at the end of Eisenhower Road. From his actions and also his conversations with me, I believe he knows exactly where his property boundaries are.

I attended most of the meetings held by the Oakland Area Advisory Committee. The Committee and staff did an excellent job painstakingly going through so many meetings to ensure that all residents had great transparency and input. I recall Dan Geck being present at at least two of the later meetings and a conversation with him at one meeting on the subject of setbacks.

The root cause of my support of the appeal is that the Planning Bylaw was crafted with a great deal of input from residents. A variance should not be granted if the bylaw was intentionally breached especially where there many options for alternative siting of the building.

Please feel free to share this email as you see fit.

Regards
Nigel Mathew
67 Eisenhower Road

Sent from my iPad=

Josh Bryson

From: Tom Lockwood <law@thomaslockwood.ca>
Sent: Thursday, April 15, 2021 10:59 AM
To: 'Josh Bryson'; 'Jenny Boehner'
Cc: law@thomaslockwood.ca
Subject: Proposed Variance-90 Eisenhower Road, Oakland

Dear. Mr. Bryson:

I understand that you represent Mr. Derek Montgomery with respect to his Appeal against the granting of a Variance to the set-back requirements on a neighbouring property on Eisenhower Road in Oakland.

As a long-time resident of Eisenhower Road I wish to advise that I am adamantly opposed to the granting of the proposed Variance. I strongly support the Appeal of Mr. Montgomery, a long-standing and valued member of this community.

As a former Chair of MODL's Planning Advisory Committee and the current Chair of the Oakland Area Advisory Committee (OAAC) I can personally attest to the hundreds of hours devoted by both MODL Staff and OAAC members to crafting a Secondary Planning Strategy and Land-Use By-Law which truly reflects the desires of this community. Before this new Land-Use By-Law was adopted by MODL Council, with an effective date of May 1, 2019, the citizens of Oakland spent some 2.5 years and more than 25 public meetings, each over 2 hours in duration, deciding how they wanted their community to look. The Minimum Front Yard set-back requirement of 5 metres and the Minimum Side Yard and Rear Yard set-back requirements of 1.5 metres, as set out in section 5.3.2, were an important and integral part of that Land-Use By-Law.

This Appeal is the first real test as to whether MODL Council will side with the citizens of Oakland in ensuring that the framework which they unanimously agreed upon will be upheld.

Mr. Montgomery and Mr. and Mrs. Geck participated in the public meeting process. Thus they were and are well aware of what was being proposed and what was agreed upon. There were no dissents from these set-back requirements. In my opinion this arduous and lengthy public consultation process creates a legitimate expectation in the citizens of Oakland that their elected representatives will ensure that these provisions will be adhered to and enforced.

I have read the April 14, 2021 letter of Geoff MacDonald, current Vice-Chair of the OAAC and a recognized planning expert, and adopt his comments by reference herein. Granting a Variance should only be done in an extremely limited number of cases. It is the exception not the rule. It is crystal clear, in the case before Council, that Mr. Geck COULD comply with the By-Law. He has chosen not to and is, seemingly, constructing excuses so that he does not have to do what he is capable of doing. This type of conduct should not be condoned by this Council.

Section 235(3)(c) of the Municipal Government Act (MGA) states, in part, that: "a variance may NOT be granted where the (c) difficulty experienced results from an intentional disregard for the requirements of the ..land-use by-law." In my view, that is exactly the case before Council.

The evidence before Council, on this Appeal, establishes the following:

1. Mr. Geck's lot size can easily accommodate a dwelling that conforms to all existing set-back requirements.
2. Mr. Geck's own Location Plan depicted conforming with all set-back requirements.

3. Mr. Geck was well aware of where all of his property lines were. When he purchased the property he was in possession of a survey.
4. He knew where the property lines were for the property owned by the Province as, over the Labour Day Weekend in 2020, he attempted to construct an illegal road on Provincial land. The Province stopped him and took steps to have the road taken out. That matter is still with the legal department of the Province with respect to remediation. Yet it is this very same piece of Provincial property for which he is seeking the Variance, apparently claiming that he did not know where the boundary line was.
5. As indicated above, Mr. Geck attended some of the public sessions prior to the passage of the Land-Use By-Law, when the set-back requirements were discussed and agreed upon.
6. MR. GECK ADVISED MR. MONTGOMERY THAT HE INTENDED TO MOVE THIS DWELLING TO A LOCATION THAT MAXIMIZED HIS INTRUSION OF MR. MONTGOMERY'S VIEW OF THE WATERS OF MAONE BAY. Mr. Geck had, previously sought to site his building in a different location on his lot so that it would block the view of his then adjacent property owner, Paul Kellogg. Mr. Kellogg has since sold his property to the Province, which has constructed a turn-around, the details of which I am certain that Council is well aware of.
7. The placing of the dwelling, in its current location, was an intentional act on the part of Mr. Geck.
8. Mr. Geck, unilaterally, and without permission, commenced construction of his dwelling in clear contravention of the set-back requirements set out in section 5.3.2 of the Land-Use By-Law.
9. In his documentation filed with MODL, Mr. Geck stated that the "front" of the proposed structure is facing his current house. The more realistic "front" is facing Oakland Road. In either case, the 5 metre set back for the Front Yard is not complied with. There is no current application for a Variance by Mr. Geck with respect to the Front Yard set-back requirements. Instead he tries to change where the "front" is. This type of obfuscation should not be permitted.

In short, in my respectful submission, Council should allow the Appeal of Mr. Montgomery and not permit the Variance to be granted to Mr. Geck. Mr. Geck would then be free to construct a building which complies with the Oakland Land-Use By-Law and Mr. Montgomery would continue to be able to view the beautiful waters of Mahone Bay as he has for the last many years. It would also show the citizens of Oakland that their elected representatives respect the democratic process and appreciate the efforts of MODL Staff, the OAAC and the citizens themselves for the efforts which they made to create a respectful and beautiful community.

I would be pleased to respond to any questions which either you or members of Council may have.

Thomas J. Lockwood, Q. C.



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Josh Bryson

From: Bill & Jen <bill.jen.scott@gmail.com>
Sent: Thursday, April 15, 2021 9:58 AM
To: josh@chesterlaw.ca
Subject: Derek Montgomery Variance appeal

Mr Bryson,

I understand that you are representing Derek Montgomery's appeal against a variance to setback requirements. I support this appeal.

I am a resident of Oakland and as a member of the Oakland Area Advisory Committee I attended the meetings to review the current Oakland Land-Use By-Law. I believe the variance should not be granted because of Mr and Mrs Geck's 'intentional disregard for the requirements of the Bylaw'.

They have a partially constructed driveway to the intended front of the new property from Oakland Road. I think a retrospective variance request to setback requirements from 5m down to 0.8m shows a disregard for the Bylaw, and disrespect towards the planning department of MoDL.

Please feel free to share this, as you see fit.

William Scott
1716 Oakland Rd

Geoff MacDonald
1054 Oakland Road
Oakland, N.S.

14 April 2021

Josh Bryson
Wells, Lamey, Bryson, Schnare and Mailman
Via E-mail

Mr. Bryson:

I understand you are representing Derek Montgomery in his appeal against the granting of a variance to setback requirements on a neighbouring property construction Eisenhauer Road.

As a long-time member of the Oakland Area Advisory Committee, I have a great hope that Council will be mindful of the tremendous effort by volunteers and staff to create over the last few decades a Land Use By-law which truly reflects the desires of the community.

The Municipal Planning Act in Section 235, Subsection (3) sets out the rules limiting Council's ability to issue a variance.

(3)(a) the variance cannot violate the intent of Land Use By-law. The Secondary Planning Strategy or the area says in Policy 1.1.3 "Council's intention is to control land use and development in a manner that will minimize conflicts ...". The SPS also says in Policy 2.1.5 "It is Council's policy to establish specific zone standards in the Land Use By-law, including size thresholds and setbacks, to minimize potential conflicts..." In the Land Use By-law these policies are put into action in Section 1.2 "The purpose of this Land Use By-law is to carry out the intent of the Oakland Secondary Planning Strategy..." I would hope that Council will consider how their decision will minimize conflicts.

(3)(b) the difficulty experienced must be specific to the property and not general to the area. I understand there is some question about the effect of the Highway width at this location. Even a cursory look at the mapping will show that the Oakland Road varies widely in width in order to accommodate steep slopes so common in Oakland, and to preserve sections of the original roadbed before the re-build in the 1960's. I would think that Council should consider whether a width greater than 66 feet (20 metres) is a general feature of the Oakland Road.

(3)(c) the difficulty experienced results from an intentional disregard of the Land Use By-law.

When the development has already started, in violation of a Development Permit, It is hard for Council not to conclude that the developer has disregarded the By-law, in particular Section 2.10: “ No person shall deviate, or allow deviations to be made, from the description of the proposed development that is contained in the Development Permit, unless that person has obtained a new Development Permit from the Development Officer.” It seems to me that Council should have overwhelming evidence of an accidental placement of a building in order to satisfy this criterion.

I hope these thoughts are useful in some way.

Geoff MacDonald

Josh Bryson

From: Dave Watson <dwkayak@gmail.com>
Sent: Wednesday, April 14, 2021 5:38 PM
To: josh@chesterlaw.ca
Subject: Oakland building

To whom it may concern,

I have been made aware, by several people, that there is a building being built at the end of Eisenhower road that does not conform to the setback regulations and possibly other codes as determined by MODL and the Dept. of Transportation and Infrastructure Renewal.

I am currently building my own home on Eisenhower Road and have had to abide by all the rules and regulations, whether I like them or not. I would expect that had I built outside the current regulations I would have to undo or change my building or other work being done on the property. I would not expect the rules to be changed for me.

That being said if there is an infraction of the rules and codes I expect MODL, the Department of Transportation and Infrastructure Renewal and any other government agency to stand firm and not give a variance to a homeowner as that sets a precedence of, do what you want and ask for forgiveness later.

In closing, society works because we follow the rules. In Oakland we have had a good society that has not always agreed with each other but we have followed the rules agreed upon by the majority and learned to live within the rules and codes. To grant an exception in this case would be wrong and an affront to every other resident that follows the rules.

Sincerely;

David Watson
25 Eisenhower Rd. and
1630 Oakland Rd.

Josh Bryson

From: Anne MacLaren <annemaclaren43@gmail.com>
Sent: Tuesday, April 13, 2021 9:05 PM
To: Josh@chesterlaw.ca
Subject: Fwd: Montgomery variance

----- Forwarded message -----

From: Anne MacLaren <annemaclaren43@gmail.com>
Date: Mon, 12 Apr 2021 at 20:50
Subject: Montgomery variance
To: <kacy.delong@modl.ca>

Dear. Kacy,

I write to register my strong opposition to the variance Mr. Geck is requesting and to support Derek Montgomery's appeal. The owner of the property in question is well aware of his boundaries, as he has fenced and posted his boundaries along the east and west sides of his property running back to Oakland Lake. It would therefore be surprising that he was unaware of those facing south towards the bay, the area in question.

To approve this request for a variance is to make a mockery of the two years of public consultations which resulted in the Land-Use-By-laws and MODL Council approval. At a time when the province is encouraging municipalities to up date regulations, particularly with respect to setbacks along waterfront, MODL could be seen to have been proactive by respecting and enforcing the forward looking Land-Use-Bylaws it has approved.

More importantly, approving the variance sends a signal that in MODL regulations count for nothing and that any landowner can flaunt or ignore them whenever he chooses. With the By-Laws MODL has been in the forefront of being aware of the importance of respecting coastal

setbacks and, equally, the importance of considering a building's impact on neighbour's property. MODL's Land-Use-By-Laws can stand as an example of forward looking planning for other municipalities in the province. But only if the regulations it has put in place are respected and enforced.

Anne MacLaren
48 Eisenhower Rd.

Josh Bryson

From: Ian Creery <icreery7@gmail.com>
Sent: Wednesday, April 14, 2021 3:04 PM
To: Josh@chesterlaw.ca
Subject: Eisenhower Rd. development

Hi Mr. Bryson,

I have been following with interest the saga of how a certain Mr. Geck has been developing his property on Eisenhower Rd., first by illegally starting construction of a roadway leading to the coastal road by encroaching on Provincial land without a permit, and then by constructing a building partly on land that does not belong to him, and in such a way that it impacts neighbours' enjoyment of their own properties.

I understand that MODL approved his building permit without carefully checking the property boundaries involved, so the initial fault seems to have been with them. However, the recently amended Land Use Bylaw set out a principle that property owners should enjoy their properties without undue impingement or disturbance from neighbours. Was this standard applied during the review of the permit application? A number of us along the shore devoted a lot of time and energy, with broad consultation, to improving the bylaw to respect the way we like to live here. It seems that the current dispute revolves around this principle, quite apart from the technical issues of boundary lines and permits. I encourage MODL to firmly uphold the letter and spirit of the Land Use Bylaw in this case, as it may well set a precedent for others to pursue aggressive building projects.

I look forward to hearing how Council will address this.

Ian Creery
1036 Oakland Rd.

From: Ronald Myers <brmyers@eastlink.ca>
Date: April 10, 2021 at 10:44:21 AM ADT
To: Kacy.Delong@modl.ca
Subject: Proposed Variance-90 Eisenhower Road,Oakland.

Good morning Kacy.

I live at 1540 Oakland Road close to the property of the proposed site to be given a variance for a rental property. This development would be granted a variance on Provincial property which has already been greatly distributed by the home owner with out permission. This unauthorized work was carried out on a long holiday weekend to avoid attention.

I am also of the opinion that this individual has already been given preferential treatment on the boat house development on the water front.

It is my understanding that this individual knew what the rules were prior to building this rental property.

I am opposed to this granting of a variance on government property for a commercial development at the expense of Derek Montgomery. This development should have been situated as the site planned indicated and there is plenty of property owed by the Owen to accommodate this development.

I am prepared to discuss any aspect of my objections with you and I can be reached at (902) 624-9308 or (902)277-0119

Regards
Ron Myers.
Sent from my iPhone

Josh Bryson

From: Pascal Gellrich <Pascal.Gellrich@Dal.Ca>
Sent: Thursday, April 15, 2021 9:12 AM
To: Josh@chesterlaw.ca
Subject: Eisenhower Road Case

Hi Josh,

As a concerned resident of the Oakland Road area, It has been disappointing to see what has happened in the Eisenhower Road area with the property owner that has proceeded with a building in clear contravention of the MODL Land-Use Bylaws and road setbacks.

The property owner's actions have resulted in both an unsightly scarring of the hillside along Oakland Road, unnecessary erosion, as well as clear disrespect to hjsi neighbours.

In support of carefully established and tested MODL land-use bylaws, we support that no variance be granted in this case.

Thank you,

Pascal Gellrich

Josh Bryson

From: Sue Moore <moore_suze@hotmail.com>
Sent: Thursday, April 15, 2021 8:46 AM
To: Josh@chesterlaw.ca
Subject: Oakland neighbour

Good morning Josh,

I am writing as a concerned neighbour in the Oakland area. I have been so disappointed to see what has been done to the land off of Oakland rd. The house being built in direct sight lines of homes is awful and very disrespectful to residents of eisenhauer rd. The mess that has been made on the side of Oakland rd on the hill is unsightly and an accommodation should NOT be made. We ask that MODL not allow this work to be completed and no accommodation be granted.

Thank you,
Susan Moore

Sent from my iPhone=

Josh Bryson

From: Rob Inness <innesro@gmail.com>
Sent: Thursday, April 15, 2021 9:40 AM
To: josh@chesterlaw.ca
Subject: Adherence to Modl and Oakland bylaw strategies

To Whom it May Concern,

When landowners in Oakland are making improvements to their property, they should adhere strictly to municipal building codes and Oakland bylaws, without exception.

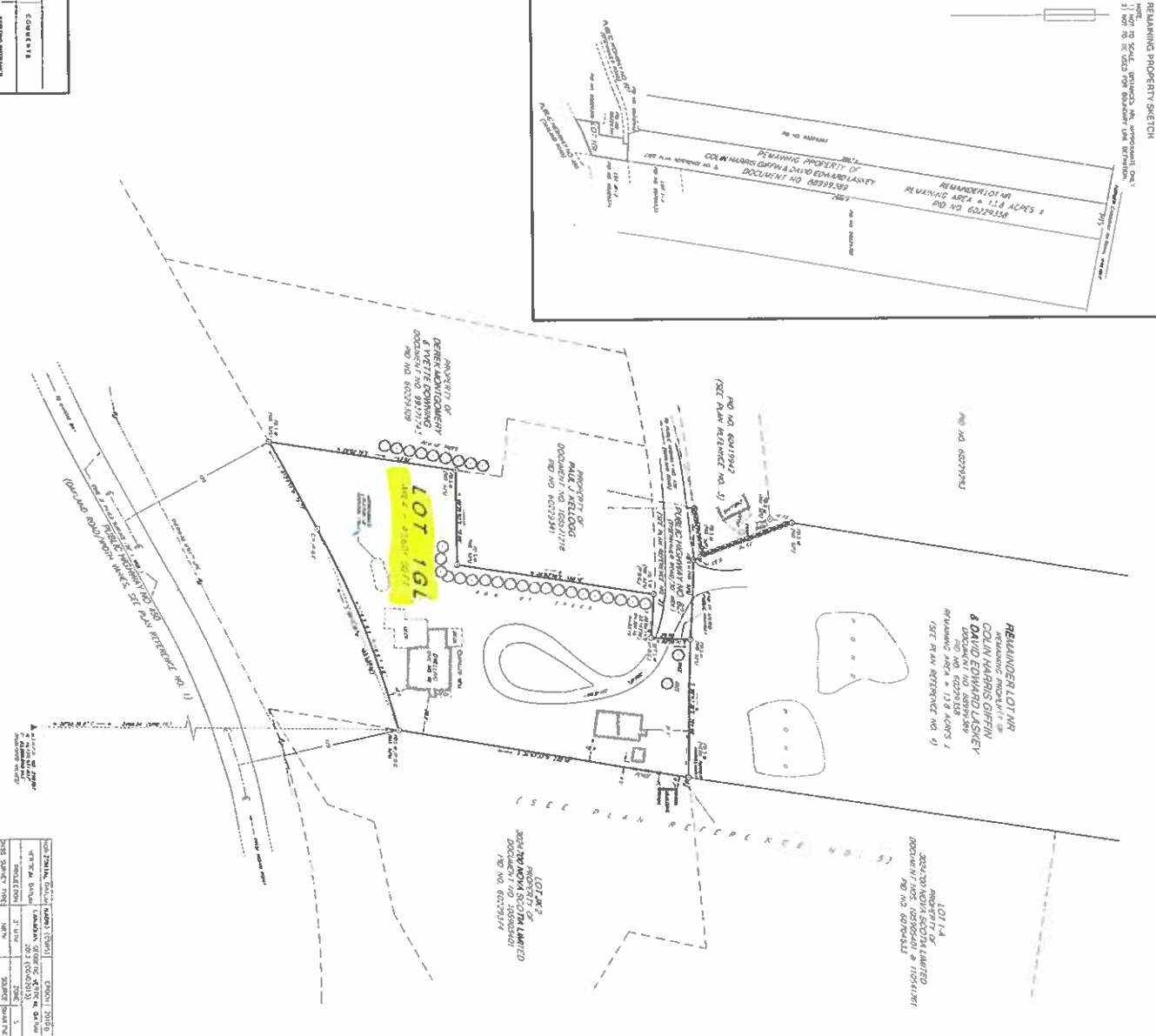
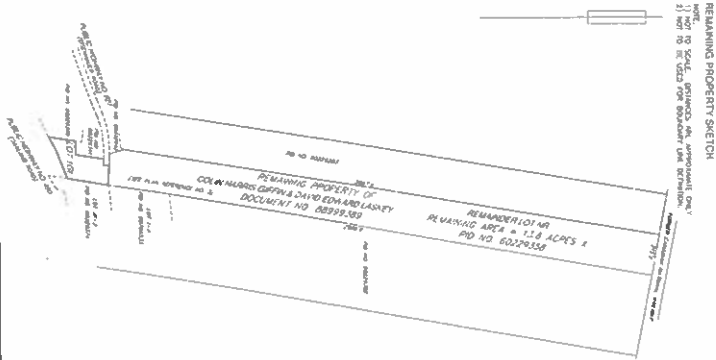
Yours truly,
Rob Inness
654 Sleepy Hollow Road,
Oakland

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THIS PLAN, PLAN OF SUBDIVISION IS HEREBY FOR
 (DATE) 01/12/2018
 (BY) [Signature]
 (TITLE) [Signature]
 (DATE) 01/21/2018

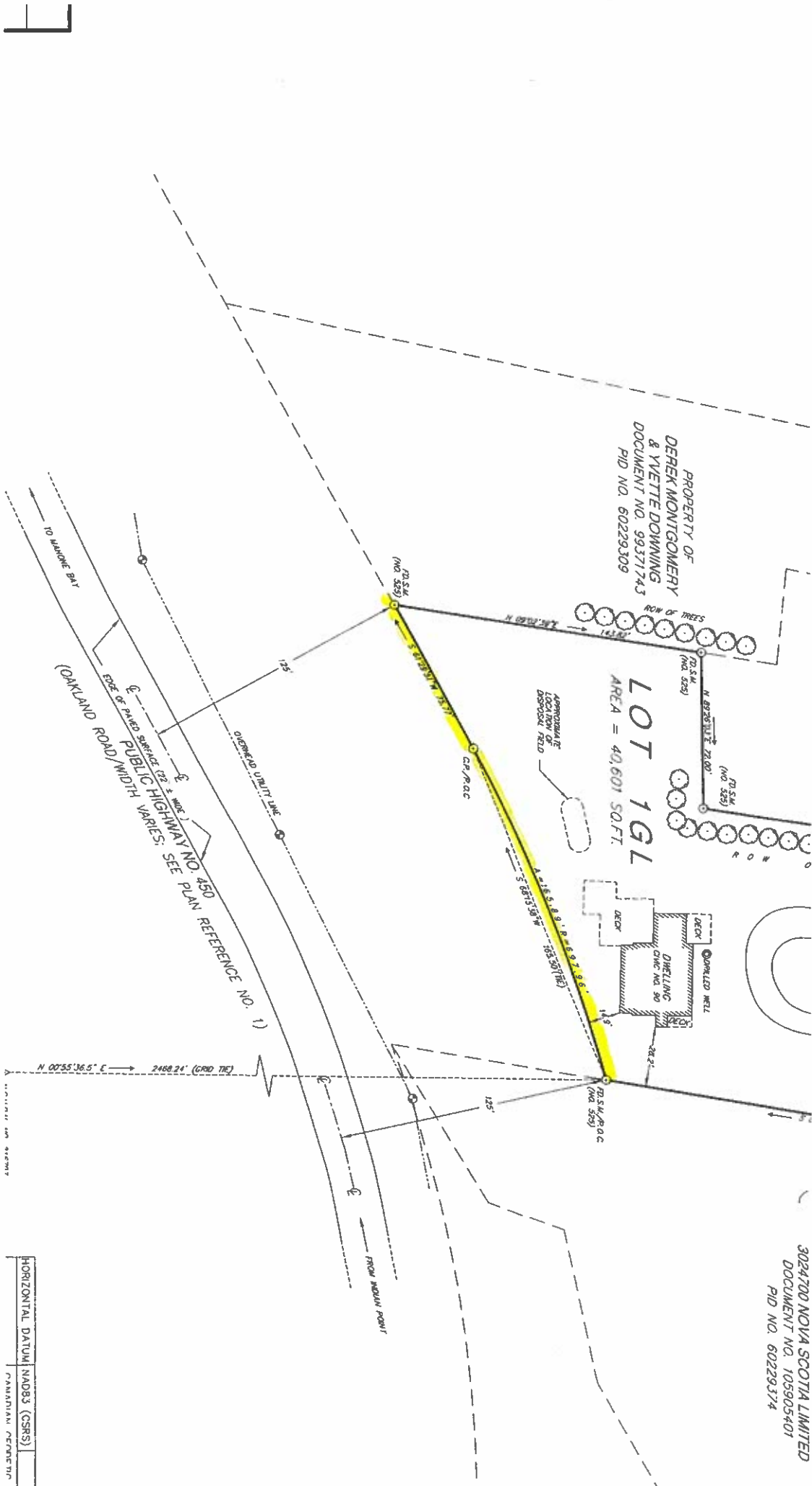
PUBLIC WORKS
 THE FOLLOWING UTILITIES AND INFRASTRUCTURE
 ARE OWNED AND MAINTAINED BY THE
 ESCHEWATER REEF, PLAN NO. B77
 DISTRICT, BRANDBURG, KY 40303

APPROVE BY THE LOCAL GOVERNMENT TO WHICH THE
 PROPERTY IS SUBJECT, AND APPROVED BY THE
 APPLICANT, THE PLAN SHALL BE
 VALID AND EFFECTIVE FROM THE DATE OF
 APPROVAL BY THE LOCAL GOVERNMENT
 AND THE APPLICANT.



STOPPING SIGHT DISTANCE

LOT NO.	STOPPING SIGHT DISTANCE	STOPPING SIGHT DISTANCE	STOPPING SIGHT DISTANCE	STOPPING SIGHT DISTANCE
101	100	100	100	100
102	100	100	100	100
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PROPERTY OF
DEREK MONTGOMERY
& YVETTE DOWNING
DOCUMENT NO. 9937174J
PID NO. 60229309

LOT 1 G/L
AREA = 40,601 SQ. FT.

3024700 NOVA SCOTIA LIMITED
DOCUMENT NO. 105905401
PID NO. 60229374

HORIZONTAL DATUM	NAD83 (CSRS)
PARAMETER REFERENCE	



COPY

Work Within Highway Right-of-Way Permit

Who needs this permit? If you are planning any activity / work on the roadway or within the highway right-of-way, including installing a driveway or erecting a structure within 100 metres of any highway, a permit is required prior to starting the work. Please read the "Information for Work Within Highway Right-of-Way Permit" brochure (brochure) before completing this application.

For Staff Use Only

Permit Approved (Check here)
Permit Denied (Check here)
Permit #: LH 275-19
Deposit Receipt #: N/A
Deposit Amount: N/A
Permit Valid until: Dec. 10, 2020

1 Applicant Information (please print)

Name DANIEL + CAROL BECK

Mailing address: [REDACTED]

Daytime phone number: [REDACTED] Email address: [REDACTED]

2 What type of work will you be doing by the roadside? (check all that apply)

- Access to a public highway/roadway for the purpose of: Sewer Water Cable Driveway Other _____
- Work will disturb existing road surface. If so, what type? Asphalt Concrete Gravel Other _____
- Building a structure within 60 metres of the limit of a controlled access highway
- Building a structure within 100 metres of centerline of a public highway/roadway

3 Check type of structure or access you require. If not applicable, go to number 4

- Residential Agricultural Commercial Industrial Recreational Institutional Other _____

4 Give enough information so our staff can find your property (complete as much as possible)

Name of subdivision _____ Name of lot owner DANIEL BECK

Civic or lot number _____ Property ID #: (if known) 60709938

Name of community, OKLAHOMA in _____ County

Name of highway/roadway OKLAHOMA RD on the North South East West side of highway

Approximately _____ km s _____ of _____ (Distance) (NSWE) (Bridge or any defined point on highway)

GPS Coordinates: (if known) _____ N _____ E

Distance of nearest part of structure to centerline of highway is 36 metres

Number of lots to be serviced by this access is _____

Distance from centerline of highway to sewer, well, spring, etc. is _____ metres

5 Complete a sketch on Page 3

Sketch completed

Yes No Preferred driveway location been marked (staked) on your property.

6 Check how you would like to receive your permit approval

by mail

by fax at fax number _____

by email at _____

I will pick it up at the local office

7 Provide a certified cheque, money order or bank draft for the deposit amount

Call the local office to find out the deposit amount you have to pay. Please refer to the "Information for Work Within Highway Right-of-Way Permit" brochure to find out more about Deposit information and to find the office nearest you. Deposits are to be paid by a certified cheque, money order or bank draft only and made payable to the Minister of Finance.

8 Sign the certification

I certify that:

1. I have read and understand the "Information for Work Within Highway Right-of-Way Permit" brochure.
2. TIR shall not be held liable for any personal injury and/or property damage of any kind whatsoever, which may arise both during and after the completion of the work covered by this permit, where, in the opinion of TIR, such injury or damage arises as a result of the work, including disturbance of regulatory signs.
3. I am responsible for and will bear all costs associated with any pipe(s), cable(s) or any damage to any other TIR installations whenever required by TIR. Relocation of pipes, cables, etc., is dependent on what type of work is being done.
4. (a) I am responsible for and will bear all costs during the work in connection with the following:
 - i) all claims for damages due to accidents; ii) direction of traffic, including barricades, lights, signs and supply of properly equipped and qualified Traffic Control Persons; iii) protection of all traffic according to the Nova Scotia Temporary Work Place Traffic Control Manual (refer to Condition #3 in the brochure for more information about this manual); iv) maintaining road surface and ditches adjacent to this project; and v) all inspection charges.
 - (b) Both during the work and after approval of the work, I am responsible for and will bear all costs in connection with the following: erection, maintenance, removal or falling of regulatory signs both during and after the erection or installation of the sign, sign structure or part thereof.
5. The information given by me in this application is complete and accurate and I agree to all the Conditions as outlined in the brochure, all special conditions that may be outlined in Section 13 of this permit and all conditions that may be outlined if a cover letter is attached. I will ensure that all Conditions as specified by TIR are met.
6. I am the owner of the property at the location to which this permit applies. Yes No (If you answered no and you are not the property owner, please provide permission in writing from the property owner for the access you require.)

Name (please print): _____ DANIEL GECK _____

Signature: _____ Date: OCT 1/19 _____

9 Return the application and any attachments to your local office

- 1 Refer to the brochure for a list of addresses and phone numbers for all of Nova Scotia's local offices.
- 2 If you have any questions, please call the local office nearest you

10 Call the local office before starting work

Call the number below before starting the work. The local office will provide this information.

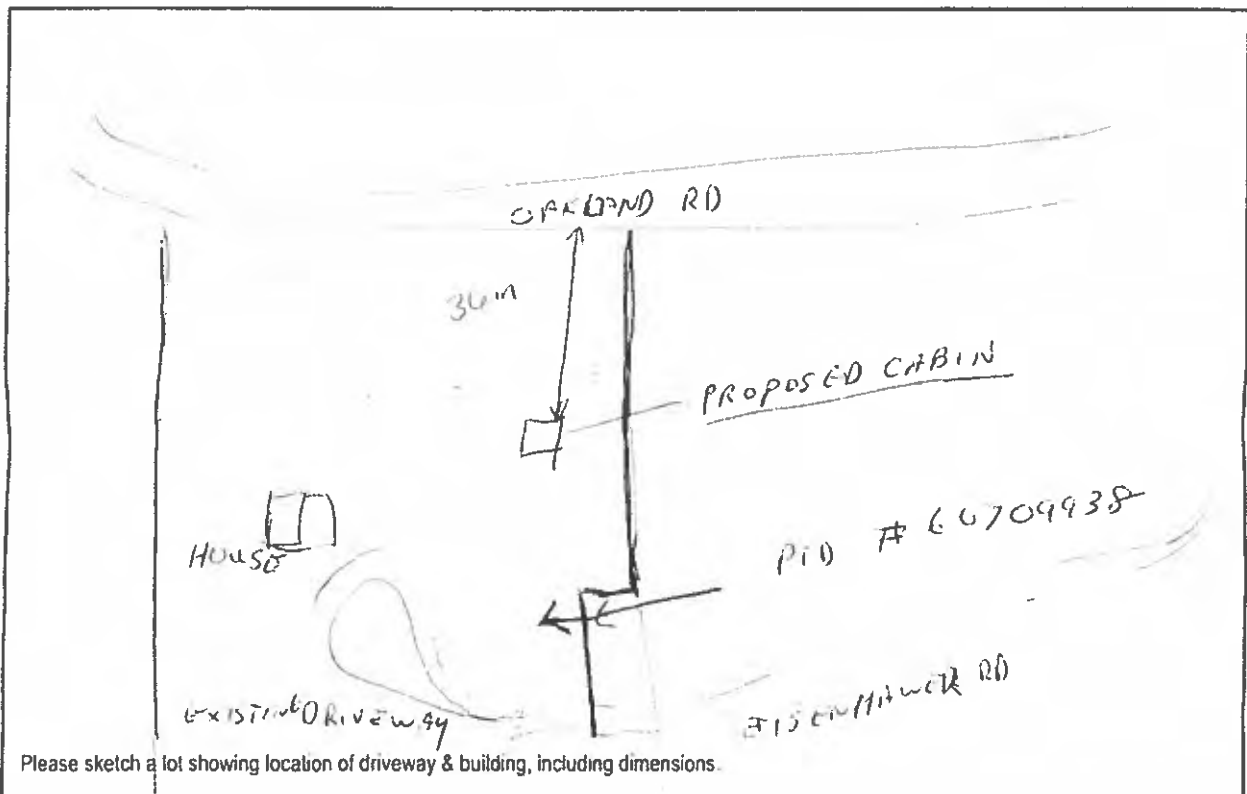
Call _____ hours before starting work.

11 Call the local office for inspection

Call the number below when you are ready for inspection. The local office will provide this information.

After work is completed, call _____ Please have your permit number handy when you call. Permit number is found on the front page (top right hand corner of this permit).

12 Draw a sketch



13 Special Conditions

To Be Completed By Staff

Road Classification: Non-controlled Access Controlled Access* Listed and Abandoned* Service Road*

S.S.D. _____ metres available Direction: _____ Grade: _____ S.S.D. _____ metres required

S.S.D. _____ metres available Direction: _____ Grade: _____ S.S.D. _____ metres required

Checked Using: 600mm cone 380mm cone 150mm cone

Existing Driveway: Yes No

Pipe Required: Yes No Pipe Inside Dia.: _____ mm

Site Checked by: R. Lohmes

Speed Zone: _____ km/hr RAS _____ km/hr

Special Conditions letter required: Yes No

Copy of permit sent to Municipality (if required)

Copy of permit sent to local base (if required)

Comments: Building must be located on Permit Holders property, minimum of 125 feet or more from centreline of Oakland Rd.

*review TIR policy prior to issuing permit

Approved

In consideration of an application as set forth above for the Work on the Roadside Permit, consent is hereby given, subject to the Conditions outlined in the brochure.

Signature of  _____ Date: Dec 10/19

Circumstances will arise that require director or executive level approval. If required, please forward to applicable authority for signature:

Signature of Director _____ Date: _____

Signature of Executive Director Maintenance and Operations _____ Date: _____

Second Submission
from
Daniel Geck

March 27, 2021

Daniel & Carin Geck
90 Eisenhower Road
Oakland, N.S.
Dan9@telus.net

Re: Work Within Highway Right of Way Permit LM052-21

Mr. & Mrs. Geck,

Attached please find your approved Work Within Highway Right of Way permit recently submitted for the construction of a Cabin at 90 Eisenhower Road, Oakland. This permit approval is for building purposes only and is based on the use of your existing entrance off Eisenhower Road.

The setback distance indicated of 38.9 metres from the centreline of Oakland Road is slightly short of the setback distance required of 38.953 metres. You must ensure your cabin is no closer than 38.953 metres from the centreline of Oakland Road (0.853 metres from the boundary of Oakland Road).

The setback distance indicated of 77.1 metres from the centreline of Eisenhower Road is acceptable.

In the event that the setback distance changes, please reapply with a new permit prior to commencing any work.

Best Regards,



Glen Strang, CET
Area Manager
Lunenburg/Queens

GS:rl

Revised Permit ~~revision~~ March 17, 2021/A

NOVA SCOTIA
Transportation and
Infrastructure Renewal

REV SUBMITTED
MAR 23/21

Work Within Highway Right-of-Way Permit

#LM 275-

March 22/21 - Condition letter & traffic request for revision

Who needs this permit? If you are planning any activity / work on the roadway or within the highway right-of-way, including installing a driveway or erecting a structure within 100 metres of any highway, a permit is required prior to starting the work. Please read the "Information for Work Within Highway Right-of-Way Permit" brochure (brochure) before completing this application.

For Staff Use Only	
Permit Approved	<input checked="" type="checkbox"/> (Check here)
Permit Denied	<input type="checkbox"/> (Check here)
Permit #:	LM052-21
Deposit Receipt #:	N/A
Deposit Amount:	N/A
Permit Valid until:	March 31, 2022

1 Applicant Information (please print)

Name: DANIEL + CARIN GOEK

Mailing address: 90 Eisenhower Rd., Mahone Bay, NS

Postal code: B1J 2E0

Daytime phone number: 250-246-7735 Email address: dan9@telus.net
(if applicable)

2 What type of work will you be doing by the roadside? (check all that apply)

- Access to a public highway/roadway for the purpose of: Sewer Water Cable Driveway Other _____
- Work will disturb existing road surface. If so, what type? Asphalt Concrete Gravel Other _____
- Building a structure within 60 metres of the limit of a controlled access highway
- Building a structure within 100 metres of centerline of a public highway/roadway

3 Check type of structure or access you require. If not applicable, go to number 4

- Residential Agricultural Commercial Industrial Recreational Institutional Other _____

4 Give enough information so our staff can find your property (complete as much as possible)

Name of subdivision: _____ Name of lot owner: DANIEL GOEK

Civic or lot number: _____ Property ID #: (if known) 6070 9938

Name of community: Oakland in Lunenburg County

Name of highway/roadway: Oakland Rd. on the North South East West side of highway

Approximately _____ km's _____ of _____
(Distance) (NSWE) (Bridge or any defined point on Highway)

GPS Coordinates: (if known) _____ N _____ E

Distance of nearest part of structure to centerline of highway is ~~38~~ 38.9 m metres

Number of lots to be serviced by this access is _____

Distance from centerline of highway to sewer, well, spring, etc. is _____ metres

DISTANCE FROM
CENTRAL LINE
OF EISENHOWER RD
TO BUILDING
IS 253'
77.1 m

5 Complete a sketch on Page 3

Sketch completed

Yes No Preferred driveway location been marked (staked) on your property.

6 Check how you would like to receive your permit approval

by mail

by fax at fax number _____

by email at dan9@telus.net

I will pick it up at the local office

7 Provide a certified cheque, money order or bank draft for the deposit amount

Call the local office to find out the deposit amount you have to pay. Please refer to the "Information for Work Within Highway Right-of-Way Permit" brochure to find out more about Deposit information and to find the office nearest you. Deposits are to be paid by a certified cheque, money order or bank draft only and made payable to the Minister of Finance.

8 Sign the certification

I certify that:

1. I have read and understand the "Information for Work Within Highway Right-of-Way Permit" brochure
2. TIR shall not be held liable for any personal injury and/or property damage of any kind whatsoever, which may arise both during and after the completion of the work covered by this permit, where, in the opinion of TIR, such injury or damage arises as a result of the work, including disturbance of regulatory signs.
3. I am responsible for and will bear all costs associated with any pipe(s), cable(s) or any damage to any other TIR installations whenever required by TIR. Relocation of pipes, cables, etc., is dependent on what type of work is being done.
4. (a) I am responsible for and will bear all costs during the work in connection with the following:
 i) all claims for damages due to accidents; ii) direction of traffic, including barricades, lights, signs and supply of properly equipped and qualified Traffic Control Persons; iii) protection of all traffic according to the Nova Scotia Temporary Work Place Traffic Control Manual (refer to Condition #3 in the brochure for more information about this manual); iv) maintaining road surface and ditches adjacent to this project; and v) all inspection charges.
 (b) Both during the work and after approval of the work, I am responsible for and will bear all costs in connection with the following: erection, maintenance, removal or falling of regulatory signs both during and after the erection or installation of the sign, sign structure or part thereof.
5. The information given by me in this application is complete and accurate and I agree to all the Conditions as outlined in the brochure, all special conditions that may be outlined in Section 13 of this permit and all conditions that may be outlined if a cover letter is attached. I will ensure that all Conditions as specified by TIR are met.
6. I am the owner of the property at the location to which this permit applies. Yes No (If you answered no and you are not the property owner, please provide permission in writing from the property owner for the access you require.)

Name (please print): DANIEL GOCK

Signature: Daniel M Gock Date: MAR 3/21

9 Return the application and any attachments to your local office

1. Refer to the brochure for a list of addresses and phone numbers for all of Nova Scotia's local offices.
2. If you have any questions, please call the local office nearest you.

10 Call the local office before starting work

Call the number below before starting the work. The local office will provide this information.

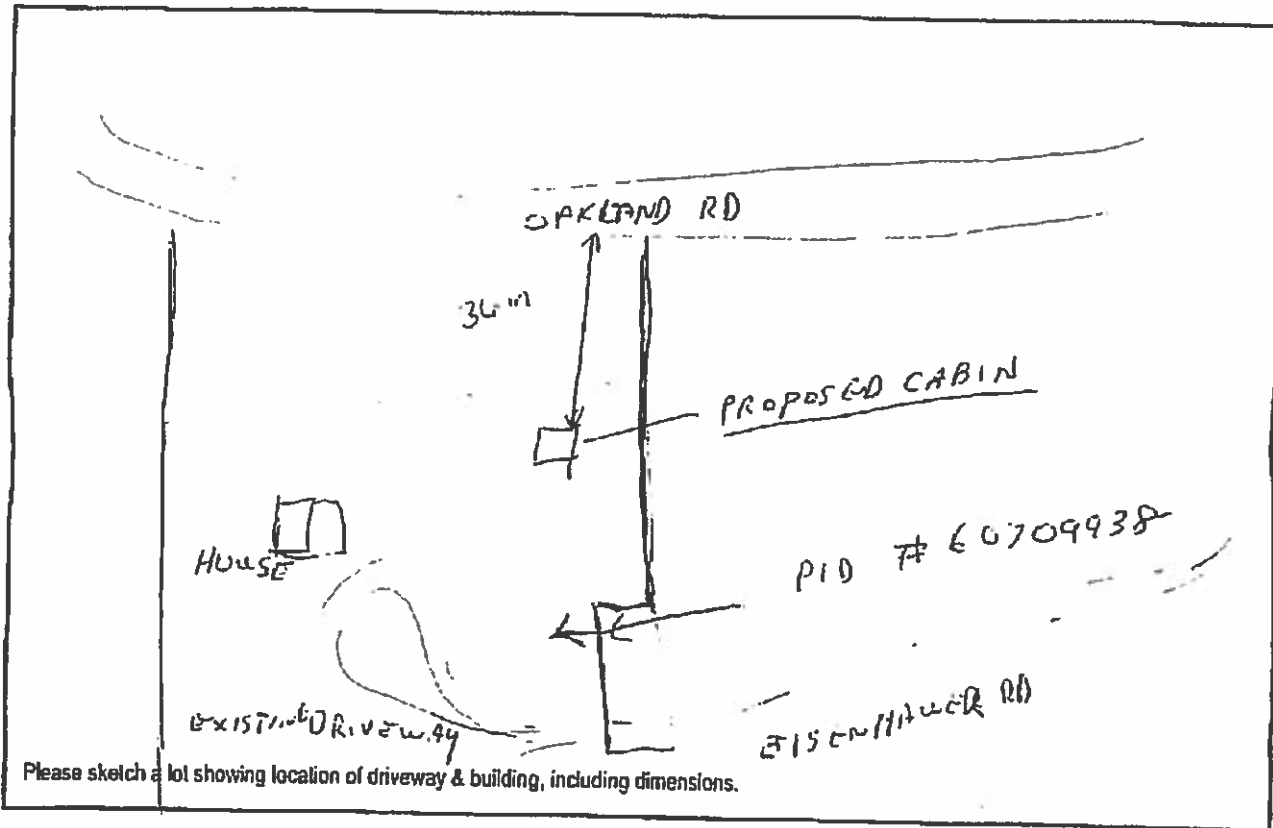
Call _____ hours before starting work.

11 Call the local office for inspection

Call the number below when you are ready for inspection. The local office will provide this information.

After work is completed, call _____ Please have your permit number handy when you call. Permit number is found on the front page (top right hand corner of this permit).

12 Draw a sketch



13 Special Conditions

To Be Completed By Staff

Road Classification: Non-controlled Access Controlled Access* Listed and Abandoned* Service Road*

S.S.D. _____ metres available Direction: _____ Grade: _____ S.S.D. _____ metres required

S.S.D. _____ metres available Direction: _____ Grade: _____ S.S.D. _____ metres required

Checked Using: 600mm cone 380mm cone 150mm cone

Existing Driveway: Yes No (OFF EISENHAUER ROAD)

Pipe Required: Yes No Pipe Inside Dia.: _____ mm

Site Checked by: R. Lohnes

Speed Zone: _____ km/hr RAS _____ km/hr

Special Conditions letter required: Yes No

Copy of permit sent to Municipality (if required)


Copy of permit sent to local base (if required)

Comments: See letter dated March 27, 2021.
Existing Entrance off Eisenhower Road, Building
permit only for the construction of a Cabin.

*review TIR policy prior to issuing permit

Approved

In consideration of an application as set forth above for the Work on the Roadside Permit; consent is hereby given, subject to the Conditions outlined in the brochure.

Signature of Area Manager:  _____ Date: March 31/21

Circumstances will arise that require director or executive level approval. If required, please forward to applicable authority for signature:

Signature of Director: _____ Date: _____

Signature of Executive Director Maintenance and Operations: _____ Date: _____

Exhibit AA

March 27, 2021

Daniel & Carin Geck
90 Eisenhower Road
Oakland, N.S.
Dan9@telus.net

Re: Work Within Highway Right of Way Permit LM052-21

Mr. & Mrs. Geck,

Attached please find your approved Work Within Highway Right of Way permit recently submitted for the construction of a Cabin at 90 Eisenhower Road, Oakland. This permit approval is for building purposes only and is based on the use of your existing entrance off Eisenhower Road.

The setback distance indicated of 38.9 metres from the centreline of Oakland Road is slightly short of the setback distance required of 38.953 metres. You must ensure your cabin is no closer than 38.953 metres from the centreline of Oakland Road (0.853 metres from the boundary of Oakland Road).

The setback distance indicated of 77.1 metres from the centreline of Eisenhower Road is acceptable.

In the event that the setback distance changes, please reapply with a new permit prior to commencing any work.

Best Regards,

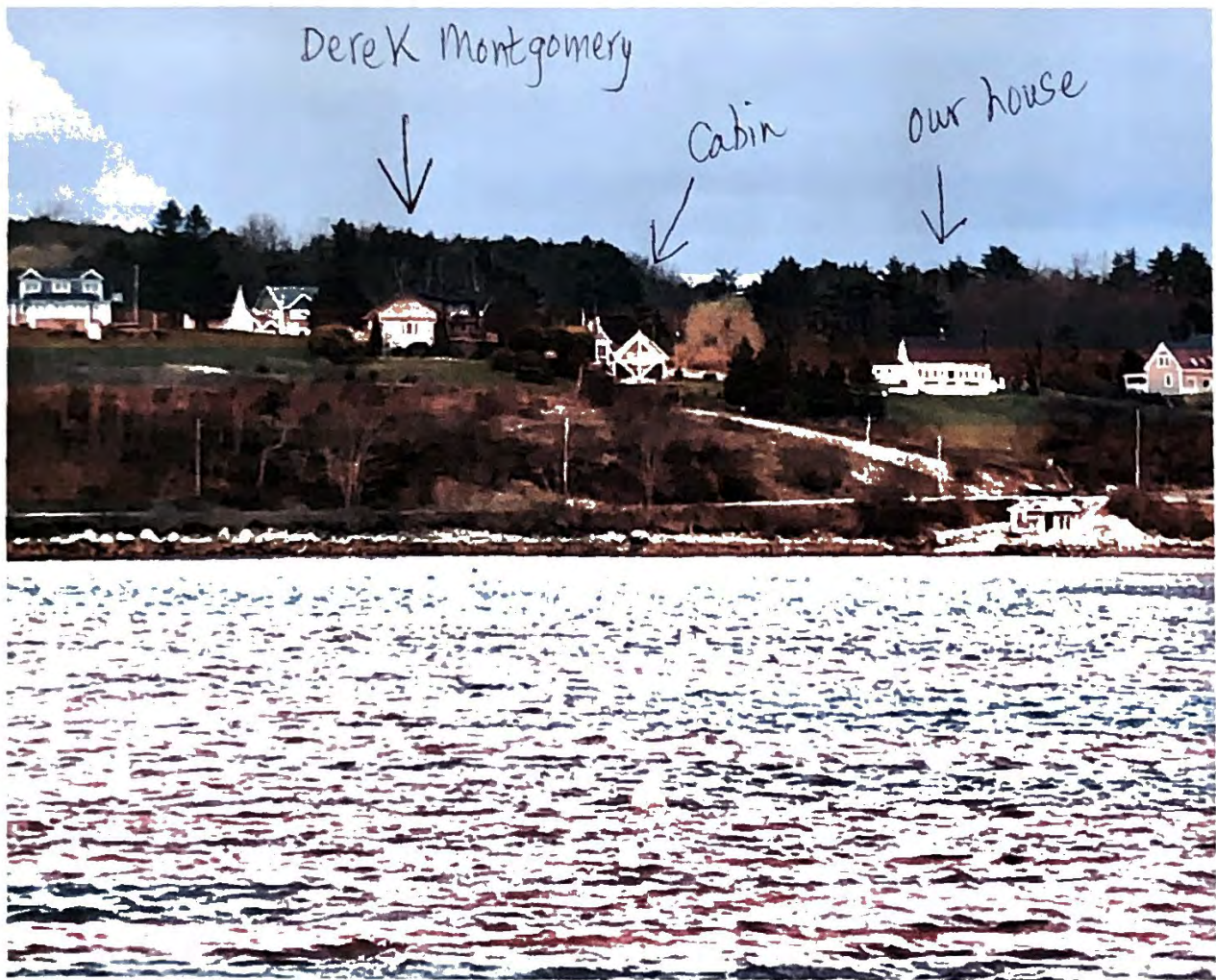


Glen Strang, CET
Area Manager
Lunenburg/Queens

GS:rl

From: [REDACTED] @
Subject: View
Date: [REDACTED]
To: [REDACTED]

Exhibit BB



Sent from my iPhone

Exhibit CC

From: [REDACTED]
Subject: No sight line
Date: [REDACTED]
To: [REDACTED]

DG

No property sight line



Sent from my iPhone

Exhibit DD

From: [REDACTED]
Subject: [REDACTED]
Date: [REDACTED]
To: [REDACTED]

No property sight line



Sent from my iPhone

Exhibit DD

From: [REDACTED]
Subject: [REDACTED]
Date: [REDACTED]
To: [REDACTED]

No property sight line



Sent from my iPhone

Brief response from Daniel Geck to Mr. Bryson's letter of March 12, 2021

Overview

Development Officer Schiefer will respond to the incorrect statements made by Mr. Bryson.

Page 2 - the "vacant land" referred to in Photo B is in fact the front yard of the cabin. This is apparent as TIR has clearly stated that access to the new cabin will be from Eisenhower Road (see Exhibit AA attached). Initially, we were going to place the cabin on this portion of the property. We specifically downgraded our cabin from a two-storey to a 1.5 storey cabin to minimize any view impacts. Our neighbour Mr. Paul Kellogg was living in his house directly behind the fence shown on Photo B of Mr. Bryson's letter (Paul's house was torn down this past November 2020 and purchased by the TIR). Paul did not want our cabin directly in his view of the bay. We therefore moved it down as far as we could, after pursuing all avenues of placement for the cabin to be the least intrusive and in consideration of both neighbours.

Points

Page 2 - we do not want to deviate from the issue at hand regarding the Variance and will only say that we have received and continue to receive deplorable treatment from these neighbours and it is clear to us that newcomers are not welcome. We are very unfamiliar with not being on great terms with our neighbours, but the enjoyment of our property has hereby been severely impeded.

Page 2 - we are completely shocked to see Mr. Bryson's completely false statement of us specifically intending to maximize intrusion of Derek's view. We have gone above and beyond to minimize any disruptions to all of our neighbours, despite there being no height or view restrictions set out in the bylaw for this district.

Page 5 - photo A is taken looking across our property as opposed to looking out from their own property. See attached Exhibit BB taken from across the bay that shows all of our views looking straight out from our properties are identical.

The grounds of appeal will be responded to by Development Officer Schiefer.

As came up in discussion at the last zoom meeting, Mr. Bryson wants to "look into the property pin". Mr. Bryson stated we should be able to see our property line. In fact, our property contains trees and shrubs that impede the possibility of any line of sight (see Exhibits CC and DD). It wasn't until we expended much time and effort that we were able to uncover said property pin (see page 39 of Mrs. Schiefer's submission for the photo of said pin). Page 43 of this submission also shows where the property pin is located. That is the pin we relied on.

The surveyor, Dylan at Able Surveys, who completed the Site Survey Certificate, stated that the location pin was there due to the fact that in the past pins were able to be placed for proposed plans. If the plans did not proceed, the pin was not required to be removed nor registered. He also stated that, since 2014, 2016 and 2018, the rules and regulations regarding the above have been updated so that pins can no longer be left unregistered.