



City of Richmond
Urban Development Division

Report to Development Permit Panel

To: Development Permit Panel
From: Jean Lamontagne
Director of Development
Date: March 14, 2006
File: DV 05-312499
Re: **Application by Sergei Agafontsev for a Development Variance Permit at
16500 Westminster Highway**

Staff Recommendation

That a Development Variance Permit be issued which would vary the provisions of the Zoning and Development Bylaw No. 5300 to reduce the west side yard setback of the "Agricultural District (AG1)" from 4.5 m (14.76 ft.) to 0.0 m (0.00 ft.) in order to permit the construction of a barn located at 16500 Westminster Highway.



Jean Lamontagne
Director of Development

EL:blg
Att.

Staff Report

Origin

Sergei Agafontsev has applied to the City of Richmond for permission to reduce the required west side yard setback from 4.5 m (14.76 ft.) to 0.0 m (0.00 ft.) to permit development of a barn that is currently under construction at 16500 Westminster Highway (see **Schedule A**).

Findings of Fact

The subject site is a large parcel of agricultural land approximately 1.79 ha (4.42 acres) in size. The property is situated in East Richmond (near the Westminster Highway and No. 7 Road intersection) and is located within the Agricultural Land Reserve (ALR). The property is surrounded by a number of large sized agricultural parcels zoned "Agricultural District (AG1)" involved in farming activities of varying intensity.

Building Permits

The applicant first applied for a Building Permit for a 46 ft. x 90 ft. engineered barn structure in August, 2001. A Building Permit was issued in September, 2001. The applicant then built a 60 ft. x 130 ft. foundation structure for the barn, which is substantially larger than what was approved in the 2001 Building Permit. In November, 2004, the applicant applied to revise the Building Permit to allow a 60 ft. x 130 ft. engineered barn structure. A Building Permit was issued in December, 2004.

In May, 2005, the City received a complaint from BC Hydro regarding a possible encroachment into a road right-of-way (R.O.W.) at the subject site. Pursuant to a site inspection, staff confirmed that the barn structure being built on site encroaches into the side yard setback and may as well encroach into the road right-of-way (R.O.W.) to the west of the subject property. A stop work order was issued and a surveyor's certificate was requested. However, construction continued until the walls and roof were in place.

A surveyor's certificate was submitted in July, 2005 (see **Plan #2**). It shows the barn structure is situated 0.08 m to 0.56 m away from the west property line. In an effort to retain the structure, the applicant applied for a Development Variance Permit in September, 2005. It was noted in November, 2005, that the barn is practically completed. However, final building inspection has not commenced, pending the outcome of this Development Variance application.

Staff Comments

This Development Variance Permit application is being prompted by a survey error made by the applicant when he built the barn structure himself. The property is surrounded by two (2) ditches. The north ditch is located within the subject property, but the west ditch is situated on a dedicated but unconstructed road right-of-way (R.O.W.) adjacent to the subject site. The applicant thought the west ditch is located within his property and therefore mistaken that the west property line of the subject site is along the western bank of the ditch.

The applicant measured the required setbacks and formed the foundation of the barn structure based on the wrong "benchmark". In addition, he did not submit a Surveyor's Certificate for Building Approvals' review as part of the Building Permit process when the foundation of the barn structure is completed. This has resulted in an encroachment ranging from 3.92 m (12.86 ft.) to 4.42 m (14.50 ft.) into the required 4.5 m (14.76 ft.) west side yard setback.

It was also noted that the roof overhang of the barn structure is projecting approximately 0.35 m (1.15 ft.) from the building wall. This has resulted in an encroachment of approximately 0.27m (0.89 ft.) into the road right-of-way (R.O.W.) to the west of the subject property. Engineering and Transportation Staff have no objection to the encroachment as there is no immediate plan to use the road right-of-way (R.O.W.) for new roads. However, the owner would be solely responsible to remove the barn upon request from the City when it deems necessary for such an action.

An Encroachment Agreement is required to accommodate the roof overhang projecting over a City's road right-of-way (R.O.W.). This agreement must be registered on title prior to the variance permit being forward to Council. The agreement will include language to ensure the barn will be removed at owner's cost when required by the City. Since exact dimensions of the roof overhang are not shown in the Building Permit drawings, a surveyor's certificate is also required to verify the size of roof overhang in order to determine the scope of the encroachment.

Analysis

Staff do not foresee any adjacency issues. The barn is situated approximately 133 m (436 ft.) from Westminster Highway and adjacent to a undeveloped road right of way.

If approved, this Development Variance Permit application will only apply to the existing barn structure currently under construction on the subject site based on the approved survey. All substantial renovations, building alternations, extensions or reconstruction shall be undertaken in accordance to the existing zoning.

Conclusions

This Development Variance Permit application is required to address a survey error in conjunction with a partially constructed barn structure located at 16500 Westminster Highway. If permitted, the applicant could complete construction of the barn and avoid costly reconstruction. Although such a variance is generally not supported, this variance will not create any adjacency issues. On this basis, the variance can be supported.



Edwin Lee
Planning Technician - Design
(Local 4121)

EL:blg

There are requirements to be dealt with prior to issuance of the Development Variance Permit by Council:

1. Submission of a Surveyor's Certificate showing the dimensions of the roof overhang; and
2. Registration on title an Encroachment Agreement with the City of Richmond.



City of Richmond
Urban Development Division

Development Variance Permit

No. DV 05-312499

To the Holder: SERGEI AGAFONTSEV

Property Address: 16500 WESTMINSTER HIGHWAY

Address: C/O UNIT 608 – 198 AQUAROUS MEWS
VANCOUVER, BC V6Z 2Y4

1. This Development Variance Permit is issued subject to compliance with all of the Bylaws of the City applicable thereto, except as specifically varied by this Permit.
2. This Development Variance Permit applies to and only to those lands shown cross-hatched on the attached Schedule "A" and any and all buildings, structures and other development thereon.
3. The "Richmond Zoning and Development Bylaw No. 5300" is hereby varied by reducing the west side yard setback of the "Agricultural District (AG1)" from 4.5 m (14.76 ft.) to 0.0 m (0.00 ft.) for the partially constructed barn structure located at 16500 Westminster Highway as shown on Plan #1 attached hereto. This Development Variance Permit applies to the existing barn structure only as indicated in the surveyed foundations (Plan #2). All substantial renovations, building alterations, extensions or reconstruction shall be undertaken in accordance with the existing zoning.
4. As a condition of this Development Variance Permit, a surveyor's certificate showing the dimensions of the roof overhang is required.
5. As a condition of this Development Variance Permit, an Encroachment Agreement with the City of Richmond is required and the Agreement must be registered on title.
6. The land described herein shall be developed generally in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit which shall form a part hereof.

No. DV 05-312499

To the Holder: SERGEI AGAFONTSEV
Property Address: 16500 WESTMINSTER HIGHWAY
Address: C/O UNIT 608 – 198 AQUAROUS MEWS
 VANCOUVER, BC V6Z 2Y4

7. If the Holder does not commence the construction permitted by this Permit within 24 months of the date of this Permit, this Permit shall lapse.

This Permit is not a Building Permit.

AUTHORIZING RESOLUTION NO.
DAY OF , .

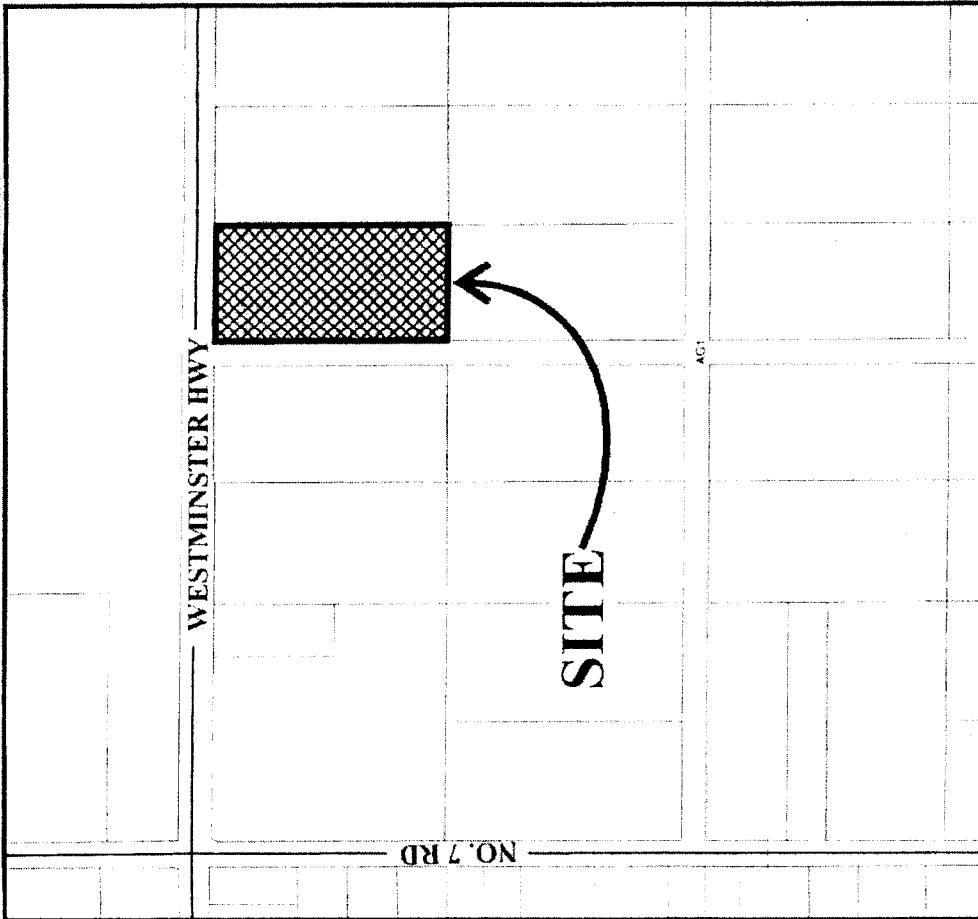
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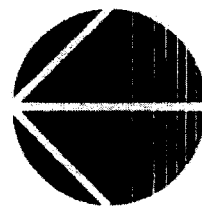
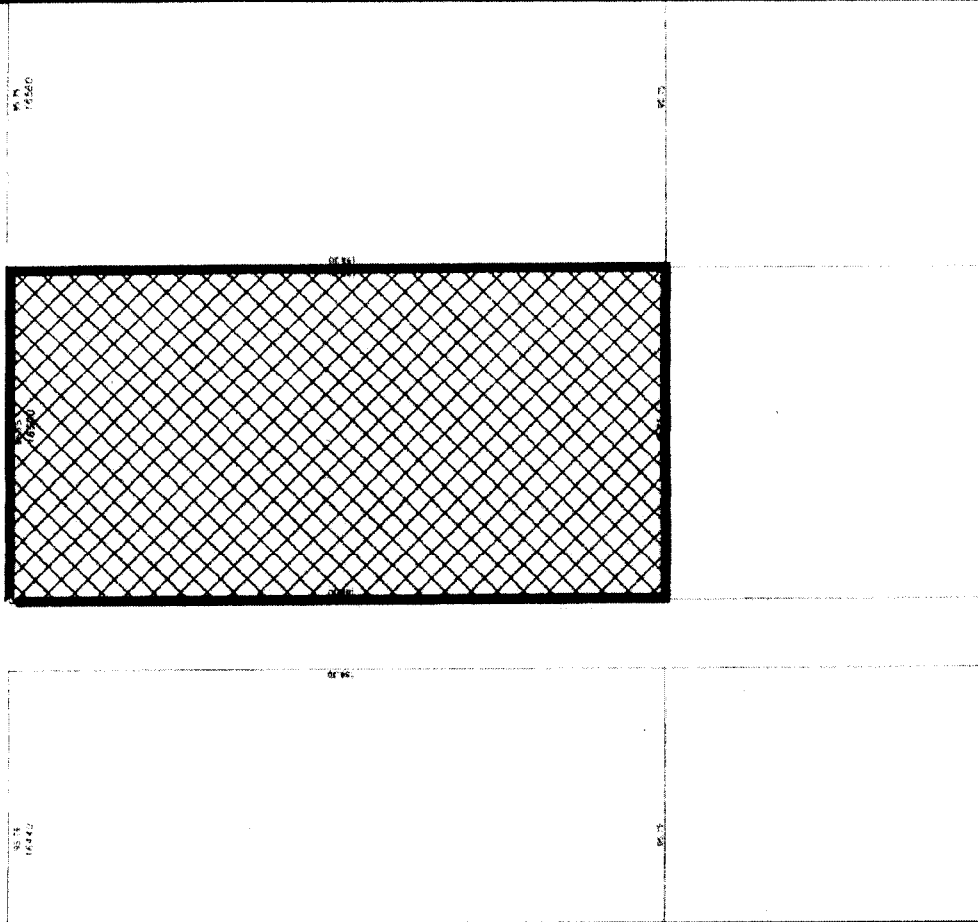
MAYOR



City of Richmond



WESTMINSTER HWY



DV 05-312499
SCHEDULE "A"

Original Date: 09/27/05

Revision Date:

Note: Dimensions are in METRES

DV05312499

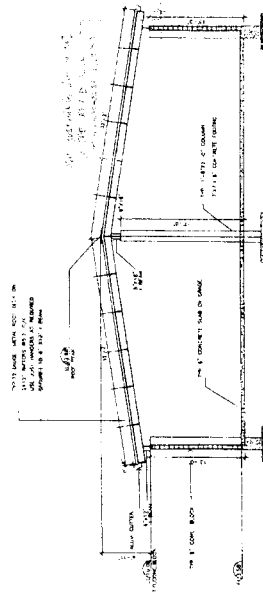
FAST EVALUATION

 $1/R^* = 1.0$
$$\frac{1}{10} = .1$$

EAST ELEVATION

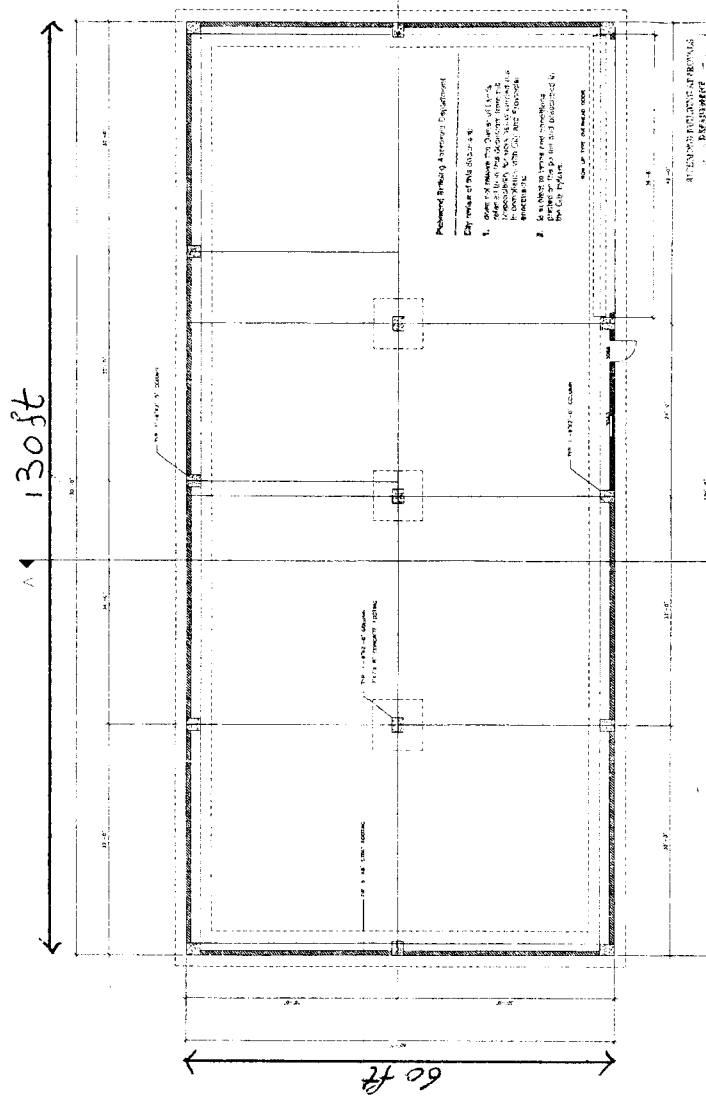
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ALST ELEVATION

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CROSS SECTION A-A

SCAF 1/8" = 1'-0"



MAIN FLOOR PLAN

$$\nabla g^* = 0.$$

The following are the names of the persons who have been appointed to the various committees of the Board of Directors:

[illegible]

B.C. LAND SURVEYORS CERTIFICATE OF LOCATION
 SHOWING CONCRETE COLUMNS OF BUILDING ON LOT 5
 EXCEPT: PART (478.7 SQUARE METRES SHOWN
 OUTLINED BOLD ON PLAN BCP3594)
 SECTION 11 BLOCK 4 NORTH RANGE 5 WEST
 NEW WESTMINSTER DISTRICT, PLAN 1433
 PARCEL IDENTIFIER: 000-629-570

R-05-14783

CLIENT REF: SERGEI AGAFONTSEV

PLAN #2

CURRENT ADDRESS:
 16500 WESTMINSTER HIGHWAY
 RICHMOND, B.C.

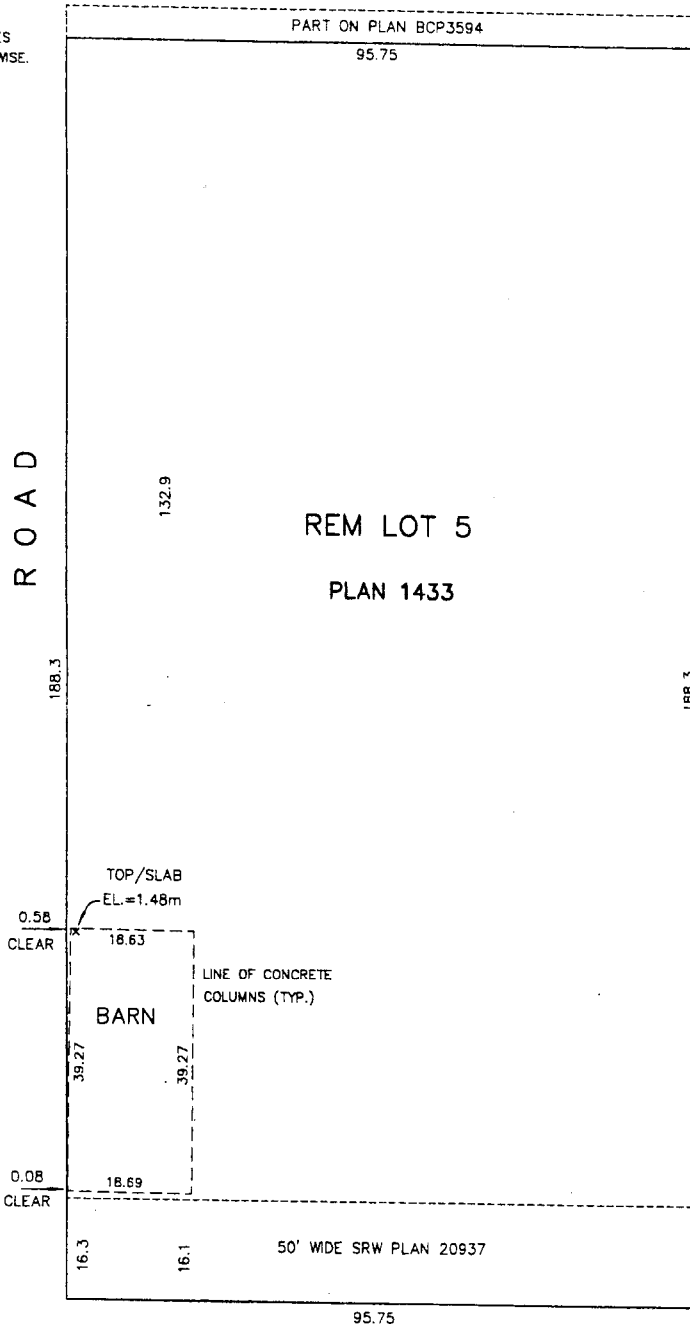
WESTMINSTER HIGHWAY



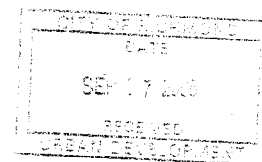
SCALE 1:750
 DIMENSIONS ARE IN METRES
 UNLESS INDICATED OTHERWISE.

TOP OF CONCRETE SLAB @
 NW COR. = 1.48 METRES

DIMENSIONS ARE MEASURED
 AT GRADE, TO VERTICAL FACE
 OF CONCRETE COLUMNS
 UNLESS INDICATED OTHERWISE.



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DATE OF SURVEY:
 27th DAY OF JULY, 2005

Sergei Agafontsev
 B.C. LAND SURVEYOR

THIS DOCUMENT IS NOT VALID UNLESS
 ORIGINALLY SIGNED AND SEALED.

© COPYRIGHT
MATSON PECK & TOPLISS
 SURVEYORS & ENGINEERS
 # 210 - 8171 Cook Road
 Richmond, B.C.

THIS CERTIFICATE IS VALID ONLY UNDER THE
 ORIGINAL TERMS AND CONDITIONS OF OUR
 CONTRACT WITH THE PARTY FOR WHICH IT WAS
 PREPARED, AND AS SUCH ONLY ON THE DATE
 CERTIFIED HEREON. SUBSEQUENT ADDITIONS AND
 MODIFICATIONS TO TITLE, PROPERTY LINES,
 OR IMPROVEMENTS AND THE PASSAGE OF TIME
 WILL CAUSE IT TO BE INVALID AND OUT OF DATE.

THIS PLAN IS INTENDED ONLY TO SHOW THE POSITION OF
 CERTAIN IMPROVEMENTS WITHIN THE SUBJECT PARCEL.
 NO OTHER INFORMATION IS IMPLIED.
 IN PARTICULAR THIS IS NOT TO BE USED FOR THE LOCATION
 OF PROPERTY LINES OR FOR BUILDING MODIFICATIONS.
 WE ACCEPT NO RESPONSIBILITY FOR ANY UNAUTHORIZED USE.

V6Y 3T8
 Ph: 604-270-9331
 Fax: 604-270-4137 CADFILE: 14783.ENC

R-05-14783