

**Beaubassin Planning Review and Adjustment Committee**  
**STAFF REPORT**  
**Variance Request**

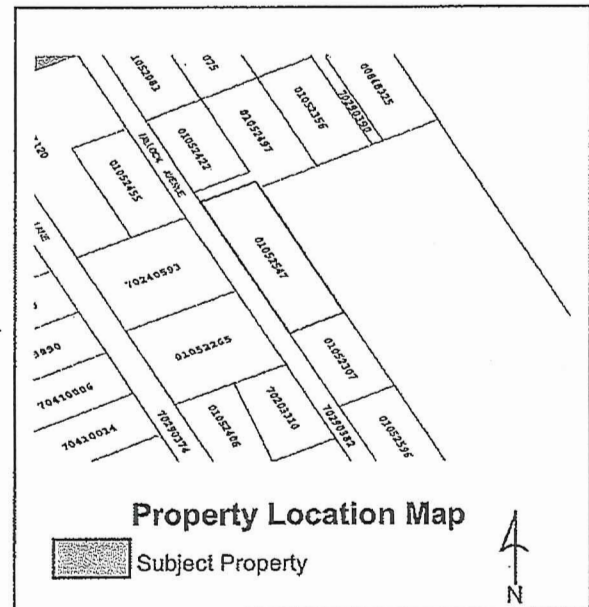
**Subject :** Main building setback to the rear lot line  
**File number:** 15-1035  
**Meeting Date:** Wednesday, August 19, 2015  
**From :** Nicolas Landriau  
 Development Officer

**GENERAL INFORMATION**

**Applicant/:** PETER Cumming

**Landowner :** PETER

**Proposal:** Asking to enlarge an existing building and place the extension at 3' from the rear lot line where Beaubassin West planning area rural plan regulation section 10.7(1) (c) is asking for 19.6' from rear lot line. The lot occupancy is going from 31% to 45%. (section 10.8 of the same rural plan)



**SITE INFORMATION**

**Location:** 11 Millock avenue, LSD Pointe-du-Chêne

**PID:** 01052547

**Lot Size:** 745 m<sup>2</sup>

**Current Use:** Residential

**Zoning:** Coastal residential

**Future Land**

**Use:** Residential

**Surrounding**

**Use & Zoning:** Residential and provincial park/ Coastal residential and Crown Land

**Municipal**

**Servicing:** GSSC sewer system

**Access/Egress:** Millock avenue

## **Municipal Plan Policies**

### **(a) Residential Uses**

#### **Policy**

It is the policy of the community to conserve the existing rural character of the residential zones, which form most of the residential zones in the planning area

It is the policy of the community to recognize and make efforts to enhance the quality of life for residents of coastal residential areas where a higher density of residential developments exists.

#### **Proposals**

It is proposed that development along a secondary road be low density.

It is proposed that development and construction standards be established and enforced uniformly for seasonal and permanent residences.

It is proposed that cottage and resort development be controlled and coordinated so that it may eventually be transformed successfully into permanent development.

## **Zoning Bylaw and or Subdivision By-law Regulation**

### **Location of Buildings and Structures on a Lot**

#### **10.7(1)**

No main building or structure may be placed, erected or altered so that any part of it

(a) is less than

(i) 15 metres from the boundary of an arterial or collector highway, or

(ii) 7.5 metres from the boundary of a street, private access, lane, right-of-way or highway other than

an arterial or collector highway;

(b) with respect to a side lot line, is within 1.5 metres on one side and 3 meters on the other side; or

**(c) is within 6 metres of the rear of lot.**

### **Lot Occupancy**

#### **10.8**

**Buildings and structures on a lot shall not occupy more than 35% of the ground area of the lot where they are located.**

## **Internal Consultation & External Consultation**

The client spoke with the development officer and the contractor in order to elaborate the project.

## **Discussion**

When evaluating a variance, the Planning Act provides the following criteria or test to evaluate the requests.

### **Is it reasonable?**

The client is asking for a variance that will set the extension at 3' from the rear lot line. The rural plan is asking for 19.6'. The required variance is 16.6'. This represent a 85% variance of the required rear setback.

The distance between the proposed extension and the property limit with the lot bearing PID 00861013 (Crown land) will be 3'. Even if the lot configuration is not showing a lot of depth, there is possibility to built an extension and keep reasonable distance with the rear lot line.

The proposed variance for lot occupancy will bring the lot coverage to 45% of the surface. Considering that the lot is already a double lot and is undersize even for a lot deserved by a sewer system (the lot is 48 meters / 15 meters / 745 m<sup>2</sup> when the minimum would be 23 meters wide/ 30 meters deep and 672 m<sup>2</sup>)

The proposed variances are not reasonable.

### **It is desirable for the development of the property?**

The proposed extension for garage and dwelling purpose will increase the value of the property. However, the variance asked will place the main building at 3' from the property line where a fence is located. This may compromise the access of the emergency services to the rear of the property in case of necessity. Moreover, the National Building Code may require higher standards regarding the fire resistance of the building part facing the rear of the lot (such as no opening at all on the rear wall, and non combustible materials, eventually including structural material) because of the distance from the property line.

The maintenance of the 3' wide strip between the wall and the fence may be complicated.

Increasing the lot occupancy rate will diminish the outdoor space of the property and constrain it to a very little portion of the lot. There is virtually no front yard and the proponent want to remove all of the rear yard.

The proposed variances are not desirable for the property.

### **Does the variance meets the intentions of the zoning by-law?**

The zoning by-law is requiring minimum setback from property lines to avoid conflict of use, to dispatch the use of the lot around the main building between privacy needs and security purpose. The 19.6' required setback from the rear lot line is asked to keep private part of the lot for outside and private activities purpose. This area need to be maintained and the access to the 3' wide strip at the rear of the lot will be compromised. Basically, the 3' setback asked will apply for an accessory

building no more high than 14.7' (a shed for example) and not for a main building.

The maximum lot coverage intend is to keep yards and outdoor space on the property. The enlargement proposition is going to remove rear yard and outdoor space.

The intentions of the zoning by-law are not met.

#### **Does the variance meets the intentions of the rural plan?**

The intentions of the rural plan are to enhance the quality of life for residents of coastal residential areas where a higher density of residential developments exists and to establish and enforce construction standards uniformly seasonal and permanent residence.

The intentions of the plan are not met.

#### **Public Notice**

Public Notice has been circulated to neighbouring landowners within 100 metres of the subject property.

#### **Legal Authority**

34(3) Subject to subsection (4), for greater certainty without limiting the general power conferred by subsection (1) or (2), a zoning by-law mentioned therein shall divide the municipality into zones, prescribe the purposes for which land, buildings and structures in any zone may be used, and prohibit the use of land, buildings and structures for any other purpose, and may

(a) regulate as to any zone

(iii) the height, number of storeys, ground area, floor area and bulk of buildings and structures,

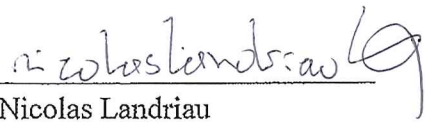
(v) the placement, location and arrangement of buildings and structures, including their setting back from the boundaries of streets and other public areas, and from rivers, streams or other bodies of water,

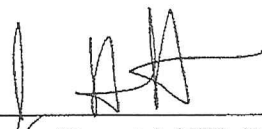
35(1) The advisory committee or regional service commission may permit, subject to such terms and conditions as it considers fit,

(b) such reasonable variance from the requirements of the zoning by-law falling within paragraph 34(3)(a) as, in its opinion, is desirable for the development of a parcel of land or a building or structure and is in accord with the general intent of the by-law and any plan or statement hereunder affecting such development

**Recommendation**

Staff recommends that the variances request from Peter Cumming on PID 01052547, to reduce the required setback from the rear lot line to 3' and to bring the lot occupancy to 45% of the lot **BE REFUSED.**

  
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Nicolas Landriau  
development officer

  
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Jesse Howatt MCIP, RPP  
Planner

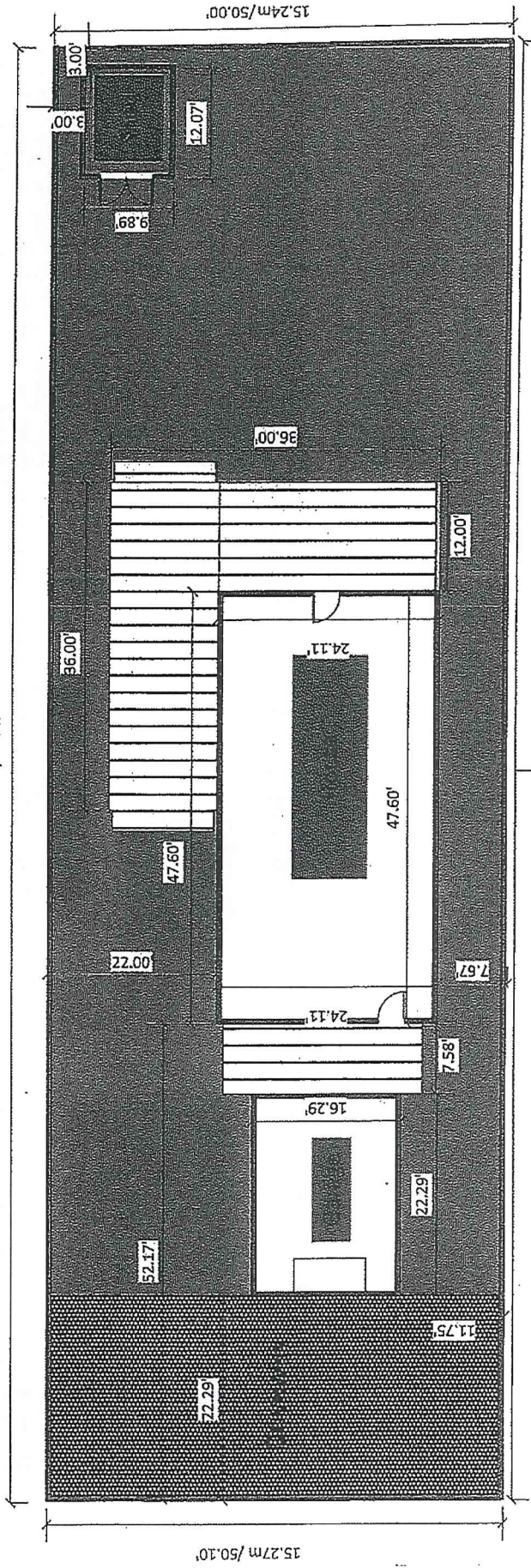
Residence of Peter Cumming and Catherine Lloyd

11 Millock Ave, Pointe-du-Chene, NB E4P 8T5

PID 1052547 / PAN 2094958

Existing Lot Plan

46.48m / 152.49'



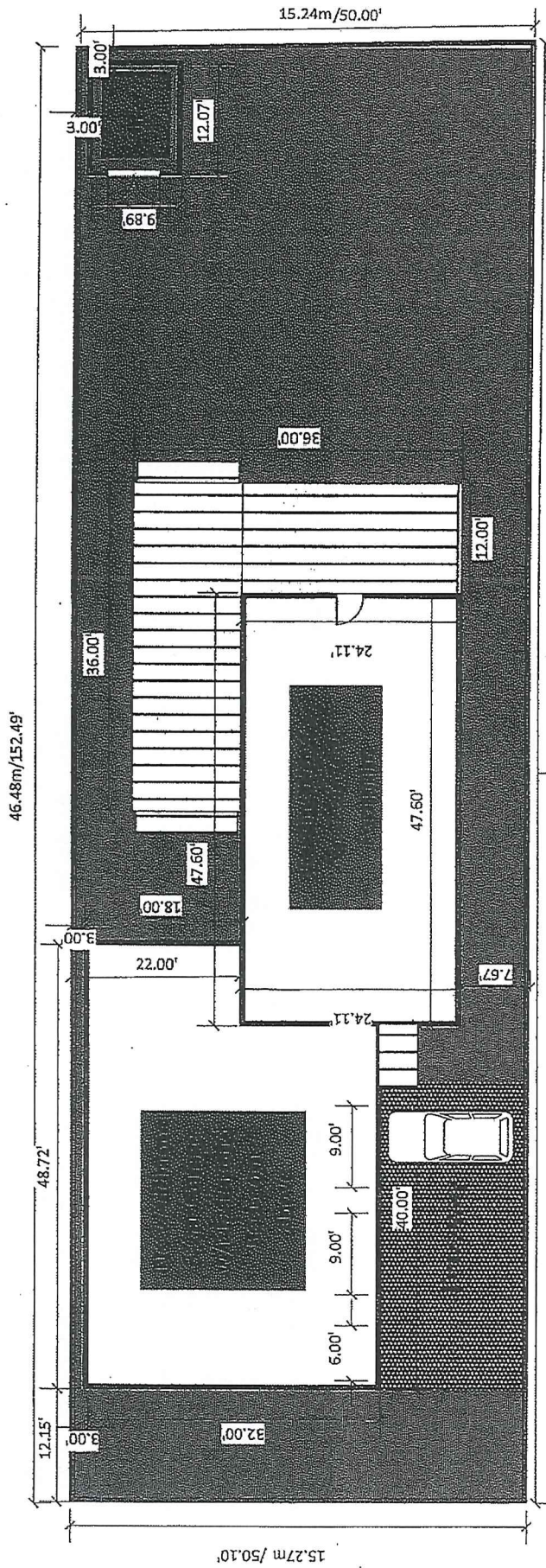
48.90m / 159.09'

existing lot occupancies  
building & structure = 235 m<sup>2</sup>  
lot surface = 745 m<sup>2</sup>  
lot occupancy = 31 %

Residence of Peter Cumming and Catherine Lloyd

1.1 Millock Ave, Pointe-du-Chene, NB E4P 8T5  
PID 1052547 / PAN 2094958

Proposed New Addition Lot Plan



Proposed  
lot occupancy

building and structure = 342 m<sup>2</sup>  
lot surface = 745 m<sup>2</sup>  
lot occupancy = 45%



