

**CITY OF VICTORIA
BOARD OF VARIANCE MINUTES
JANUARY 12, 2017**

Present: Andrew Rushforth, Chair
Rus Collins
Trevor Moat

Absent: Jaime Hall
Margaret Eckenfelder

Staff: Nina Jokinen, Planning Technician
Quinn Anglin, Secretary

The meeting was called to order at 12:27pm.

1a. **Minutes:** Meeting of December 8, 2016

Moved: Trevor Moat

Seconded: Rus Collins

That the minutes of December 8, 2016 be adopted as presented

Carried (unanimous)

1b. **Minutes:** Meeting of December 22, 2016

Moved: Trevor Moat

Seconded: Rus Collins

That the minutes of December 22, 2016 be adopted as presented

Carried (unanimous)

2. **Appeals**

**12:30 Board of Variance Appeal #00617
Josh Collins, Adapt Design, Applicant
1321 Rockland Avenue**

Present Zoning: R1-A - Rockland Single Family Dwelling District
Present Use: Single Family Dwelling

The proposal is to construct a new accessory building.

Bylaw Requirements

Schedule F-Section 1

Relaxation(s) Requested

Relaxation for the location of an accessory building from the rear yard to the side yard (West).

Schedule F-Section 4.d

Relaxation for the separation space between an accessory building and the principle building from 2.40m to 1.22m.

Josh Collins, Adapt Design, Applicant; Larry Kahn, Owner; were present.

Quinn Anglin, Board of Variance Secretary, read a letter in opposition of the application, Notified Neighbour of 1325 Rockland Street.

Applicant

- There is no other space for the garage other than in the side yard without triggering building into the retaining wall
- There is a garden in the back that would be destroyed and also trigger a height variance with the slope of the property
- There is room on the side yard setback to move the structure over a bit but the intention is to maintain the tree that is also located there
- The covered patio area design is a preference not a hardship
- The setbacks between the principal building and the accessory building are being taken from the posts on the veranda, although typically this is measured to the outside wall
- City staff previously recommended the garage to be put along the side of the home when the original garage was removed at a previous Board of Variance meeting to allow for an additional structure
- Wants to maintain the garden in the back.

Board

- What is the covered area used for?
 - A walkway.
- Could it be 4 or 5 feet instead of 7, lessening the variance requested?
 - Yes, they could make it smaller if required as it was just an aesthetic preference.
- What was the problem with the previous garage?
 - They had an additional structure that was too close to the garage, so they were required to remove the garage for that structure to remain
- What is the distance from the garage to the house?
 - Approx. 8 feet

Public portion of the meeting closed

- The location of the proposed garage works well and is a practical solution
- Staff clarified that the garage wasn't suggested to be in the side yard at a previous meeting but was instead suggested in the rear yard, but has no bearing on the application of today

Moved: Rus Collins

Seconded: Trevor Moat

That the following variances be allowed;

Schedule F-Section 1 Relaxation for the location of an accessory building from the rear yard to the side yard (West).

Schedule F-Section 4.d Relaxation for the separation space between an accessory building and the principle building from 2.40m to 1.22m.

Carried (unanimous)

**12:50 Board of Variance Appeal #00618
Raymond Witty, Applicant/Owner
17 Lotus Street**

Present Zoning: R1-B - Single Family Dwelling District
Present Use: Single Family Dwelling

The proposal is to legalize an existing non-permitted deck at the rear of the single family dwelling.

Bylaw Requirements

Relaxation(s) Requested

Schedule F - Section 4.d. Relaxation for the separation space between an accessory building and the principal building from 2.40m to 0.25m.

Raymond Witty; Owner/ Applicant; Mark Hornell and Karen Platt, Observers, were present.

Applicant

- Both neighbours on either side are in support.
- Purchased property in February of 2016, the deck was existing when he bought it and was also there when the previous owners had purchased the property, therefor, the original owner, believed to be Mike Hammon was responsible for building the deck.
- The process had been started to legalize the deck and there was a plumbing, electrical and building permit passed, but it was still required to go through the Variance process.
- The current owner had built it that way due to storm sewer pipes as there was a caveat on the property due to a sewer pipes to the gorge. His deck was designed and built in case the City ever needed to access to the pipes, as this property was the only access to it.
- The letter from the City indicates that they knew of the problem in 2015, before Raymond was the owner.
- The neighbour at 19 Lotus Street, Helen and Adam, were the ones who complained about the deck. The current owner asked what the problem was and she said it was simply that the previous owner never asked her about it and just went ahead and built it, and that you could now see into her living room as a result.

- The current owner then put up privacy glass and also built a privacy screen so that there was more privacy for her as well as himself. She was very thankful of that and it has made everyone happy.

Public portion of the meeting closed

- Is a pre-existing condition and is no fault of the current owner that there were outstanding issues when he purchased the home. The present owner has made every effort to accommodate the sources of the original complaint so there are no outstanding concerns on that front.
- The location of the storm sewer drainage pipes are not in favorable position to a more sensible structure which validates a strong case for hardship of the variance requested.

Moved: Trevor Moat

Seconded: Rus Collins

That the following variances be allowed;

Schedule F - Section 4.d.

Relaxation for the separation space between an accessory building and the principal building from 2.40m to 0.25m

Carried (unanimous)

**1:10 Board of Variance Appeal #00619
Bruce Breiddal, Applicant/Owner
1072 Davie Street**

Present Zoning: R1-G – Gonzales Single Family Dwelling District
Present Use: Triplex

The proposal is to renovate the interior of the existing triplex and to construct new decks and stairs at the rear.

Bylaw Requirements

Relaxation(s) Requested

Part 1.6.4.b.

Relaxation to permit a roof deck.

Part 1.6.5.b.

Relaxation for the rear yard setback from 10.95m to 8.82m.

Part 1.6.5.e.

Relaxation for the internal side yard setback (North) from 1.83m to 1.60m.

Part 1.6.6.a.

Relaxation for site coverage from 30% to 33%.
NOTE: Existing site coverage is 31%.

Justin Gammon; Designer; Brian and Brianna Breiddal, Owners and Applicant; J. Moss; 1945 Collinson Street, Notified Neighbour; were present.

Applicant

- John and Rosanna have lived in the house since 1989, and Rosanna actually grew up in the home.
- The property was converted to 3 apartments in 1958, and then at some point was returned to a Single Family Dwelling.
- The proposal is for the use of the family home being a multi-generational home and to return the upper floor of the building into an apartment for John and Rosanna to live in.
- Variances all relate to an exterior exit on an upper floor coming down to a stairway out to the deck
- Specifically the variances are to the side setback to the north, and the rear setback to the west both of which are related to the stairs that are at the code minimum widths, and kept as tight to the building as possible which is probably a reflection to the difference between what was allowed in the 1950 and now
- The design meets code requirements as tight as they can get to it
- The site coverage variance is the other variance and is only to reinstate the existing stairs
- The 3rd variance is referencing the definition in the exiting of the building as the bottom level counts as a full story because it doesn't meet the definition due to being partly underground. It is therefore considered the 1st level, which in turn classifies the second floor exit as a roof deck
- They have owned the home for close to 30 years, and are just trying to reinstate what was an existing in the 1950's.

Notified neighbour of 1047 Chamberlain Street – lives behind the property that is a 4 unit strata, and was attending meeting to look at the plans and get some information for herself and the other owners.

Board

- On plans there is a survey from November which includes two existing holly trees, and other types not marked but on your plan there are no trees identified?
 - No trees are being removed

Closed the public part of the meeting

- Perfectly reasonable set of requests and proposed a good case for why variances are necessary to allow a family to age in place and restore what was previously permitted.

Moved: Trevor Moat

Seconded: Rus Collins

That the following variances be allowed;

Part 1.6.4.b.

Relaxation to permit a roof deck.

- Part 1.6.5.b. Relaxation for the rear yard setback from 10.95m to 8.82m.
- Part 1.6.5.e. Relaxation for the internal side yard setback (North) from 1.83m to 1.60m.
- Part 1.6.6.a. Relaxation for site coverage from 30% to 33%.
NOTE: Existing site coverage is 31%.

Carried (unanimous)

**1:30 Board of Variance Appeal #00621
John Keay, Keay Cecco Architecture Ltd., Applicant; Ivan Habel, Belfry Theatre,
Contact
1291 Gladstone Avenue – Belfry Theatre**

Present Zoning: R1-C - Single Family Dwelling District (Extended Use)
Present Use: Theatre

The proposal is to enclose an internal courtyard to an existing theatre.

Local Government Act Requirements

Relaxation(s) Requested

Local Government Act Chapter 1,
Part 14, Division 14, Section 531,
Subsection 1

Relaxation to allow a structural alteration and addition to the building while the legal non-conforming Theatre use is continued.

Ivan Habel, Belfry Theatre, Contact; John Keay and Nicole Parker, Keay Cecco Architecture, Applicant; Neil Davis, 1296 Gladstone Avenue, Notified Neighbor; were present.

Applicant

- Lobby, which was the original church, was constructed in 1884, and beside that the main stage was constructed in 1894. The internal courtyard was originally built 25 years ago and was made for a place for people to smoke back when it was constructed.
- They need space in the lobby, as it is always jammed full so the idea is to create space for them there by enclosing the courtyard/lobby and putting a skylight in the courtyard.
- The theatre is in use for shows about 185 days of the year and in further use about 300 days a year outside of shows and rehearsal, and the expansion will help with creating more usable space for this.
- There are no exterior alterations at all, they are all for the interior courtyard.

Closed the public part of the meeting

Board

- Supportable as it is completely internal, affects no neighbours at all and pleasing that they are creating an area that won't allow for smoking anymore.

Moved: Rus Collins

Seconded: Trevor Moat

That the following variance be allowed;

Local Government Act Chapter 1,
Part 14, Division 14, Section 531,
Subsection 1

Relaxation to allow a structural alteration
and addition to the building while the legal
non-conforming Theatre use is continued.

Carried (unanimous)

1:50 Board of Variance Appeal #00623
Adam Fryatt, MDRN BUILT, Applicant, Mark Hornell and Karen Platt, Owners
1026 Clare Street

Present Zoning: R1-G - Single Family Dwelling District
Present Use: Vacant

The proposal is for a new single family dwelling with a secondary suite.

Bylaw Requirements

Relaxation(s) Requested

Part 1.6.4 a.	Relaxation for height from 7.60m to 8.10m.
Part 1.6.4 a.	Relaxation for storeys from 2 to 3.
Part 1.6.4 b.	Relaxation to permit a roof deck.
Part 1.6.5 a.	Relaxation for front yard setback from 7.50m to 7.05m

Adam Fryatt, MDRNbuilt, Applicant; Mark Hornell and Karen Platt, Owners; Jim Richardson, 35 Cambridge Street, Notified Neighbour; were present.

Applicant

- The height variance requested is for .5 of metre as a consequence of the driveway grade requirements which push the average grade of the property up.
- The additional variance requests are consequences of this height variance which then trigger require a story variance and a roof deck variance
- The front yard setback variance is for an architectural detail which has no effect on any of the neighbours, it is for a small wing wall
- Trying to accomplish with the design parking on the property which would accomplish bringing it off the street and also allowing for a garage on site for the owners
- The project was intended to be designed to fit within all the requirements of zoning and intentionally didn't want to request any variances at all but with having to successfully

meet the driveway grade requirements and also allow for a secondary suite this pushed the average grade calculation down and they were unable.

- Tried to put a garage in the back or rear yard but it wasn't possible without also asking for a height variance or greatly affecting the site area coverage.
- Have been considerate of the neighbourhood and designed sympathetically to the surrounding properties.
- Designed to help create more privacy – the 3 main bedroom walls are all pulled back to create a more private feel – not only for the owners, but for the neighbours as well. There is also a privacy screen that is incorporated where there is significant glazing on the home to further emphasize a more private feel.
- Tried to be as sensitive as possible to the neighbours with design, keep parking off the street while also designing a functional home with a secondary suite with patio.

Board

- Maximum driveway grade is 8% which creates a huge hardship with trying to make the driveway grade for building.
- If all the dugout portions (the patio for the suite, and entrance etc.) were taken out - which would bring up your average grade, would you still require variances?
 - No they would not require variances
- The project was originally designed with the understanding that the driveway grade was to be 8% at first 8 feet and then 15% for the rest, but were misinformed by staff in Planning, which is what resulted in them asking for variances with the correct information.
- Could you pull the door to the garage back farther?
 - No, it would make the driveway slope even farther and more difficult to make.

Closed the public part of the meeting

- The driveway slope is very hard to meet, the variances are supported by all the neighbours and has been sympathetic in its design so there are no issues with the variances requested being accepted as presented.

Moved: Rus Collins

Seconded: Trevor Moat

That the following variances be allowed;

- | | |
|---------------|--|
| Part 1.6.4 a. | Relaxation for height from 7.60m to 8.10m. |
| Part 1.6.4 a. | Relaxation for storeys from 2 to 3. |
| Part 1.6.4 b. | Relaxation to permit a roof deck. |
| Part 1.6.5 a. | Relaxation for front yard setback from 7.50m to 7.05m. |

Carried (unanimous)

**2:10 Board of Variance Appeal #00622
Catharine Brouwer-Read, Applicant/Owner**

1127 McKenzie Street

Present Zoning: R1-B - Single Family Dwelling District
Present Use: Single Family Dwelling

The proposal is for an accessory building (garage) currently under construction with an active Building Permit.

Bylaw Requirements

Relaxation(s) Requested

Schedule F - Section 4.b.

Relaxation to (west) side yard setback of 0.60m to 0.51m.

Noah Read, Applicant; Catharine Brouwer-Read, Owner; were present.

Applicant

- In November of 2016 the owner took out building permits to re-develop their house and convert the home to an up down duplex that was stratified.
- The surveyor came and staked out the foundation for the garage to the required setbacks of 0.6 m and provided a sign sealed survey which was filed with the City.
- The owners assumed that this met the City's zoning requirements.
- As part of the strata process they had to get it re surveyed and when the same surveyor did the survey again he realized he had made a mistake and that instead of being 0.6m from the property it was 0.53 on one corner of the garage 0.51m the other which meant that they weren't conforming to the setback required.
- Have spoken to the neighbours and all supportive of the proposal and signed letters of approval.
- The cost and hardship to have to tear down, dispose and rebuild everything would not make sense.

Board

- The original survey is from mortgage documents not from the surveyor as a stamped survey, was this the one that was from the original survey for construction purposes as it should not be used for construction?
 - Yes it was, but the surveyor came back and staked out the foundation for the garage for them and the garage was built based on this.
- How was the mistake discovered?
 - When the same surveyor came back for strata purposes and measured again he discovered his own error.

Closed the public part of the meeting

Secretary, Quinn Anglin, read letters of support from notified neighbours of 1121 McKenzie Street, 1130 Oxford Street, 1129 McKenzie Street, and 1126 Oxford Street.

Moved: Trevor Moat

Seconded: Rus Collins

No intent to do anything wrong here and it would cause undue hardship for the owner to move or tear down the building and rebuild, further to that all the neighbours are fully supportive which validates the request for variance requested.

That the following variance be allowed;

Schedule F - Section 4.b.

Relaxation to (west) side yard setback of 0.60m to 0.51m

Carried (unanimous)

**2:30 Board of Variance Appeal #00624
Harvey Stevenson, Applicant/Owner
3125 Somerset Street**

Present Zoning: R1-B - Single Family Dwelling District
Present Use: Single Family Dwelling

The proposal is to enclose the front porch, extend a portion of the length of both floors by 3'0" at the rear and construct a deck and stairs at the rear. There is an active issued Building Permit to raise the house and add a secondary suite.

Bylaw Requirements

Relaxation(s) Requested

Part 1.2.5 a.	Relaxation for the front yard setback from 7.50m to 5.60m.
Part 1.2.5 a	Relaxation for the stair projection into the front setback from 2.50m to 2.82m.
Part 1.2.5 b.	Relaxation for the rear yard setback from 7.50m to 4.65m.

Harvey Stevenson, Applicant/Owner; was present.

Applicant

- The 1st variance is in relation to when they started doing construction on the home and opened up the deck on the front porch to discover it was rotting and needed to be rebuilt. They decided to instead use the existing footprint to make some more livable space from the bedroom on the front of the house which is quite small, this doesn't change the existing footprint it just changes the plans slightly from as they were originally presented.
- The second is in relation to the front stairs, which originally did a straight run down to Somerset. They decided to add a landing to the stairs which breaks up the straight run down and looks better aesthetically, it also reduces the setback variance by about 3-4 feet from what was originally planned.
- The stairs off the back deck were running off the middle of the building and are now off to the side on the corner, and offers easier egress for tenants of the secondary suite.

Board

- In the original application – did the stairs used to come straight down in the front?
 - Yes they did, that was from the original design at the BOV meeting – but they saw a design that was more cosmetically appealing and reduced their variance request that they felt would work better for them.
- If the landing was brought up a little more and the stairs came down on only one side, instead of both, maybe that would be a better approach and would also reduce the variance amount requested into the setback?
 - Yes, they aren't requesting anything more than what they asked before, they just need to have the requested changes approved.

Closed the public part of the meeting

Changes are an improvement that look better aesthetically, there are no concerns with any of the requested changes and anything that improves tenant egress makes this application supportable

Moved: Trevor Moat

Seconded: Rus Collins

That the following variances be allowed;

- | | |
|---------------|---|
| Part 1.2.5 a. | Relaxation for the front yard setback from 7.50m to 5.60m. |
| Part 1.2.5 a | Relaxation for the stair projection into the front setback from 2.50m to 2.82m. |
| Part 1.2.5 b. | Relaxation for the rear yard setback from 7.50m to 4.65m |

Carried (unanimous)

**2:50 Board of Variance Appeal #00625
Ryan Wyllie, Ryan Hoyt Designs; Applicant
1423 Thurlow Road**

Present Zoning: R1-B - Single Family Dwelling District
Present Use: Single Family Dwelling

The proposal for the single family dwelling is to add floor area to the front and west side, first storey excavation and legalize existing rear deck built without permits

Bylaw Requirements

Relaxation(s) Requested

- | | |
|---------------|---|
| Part 1.2.4 a. | Relaxation for height from 7.60m to 8.50m.
*Note - The existing height is 8.40m. |
|---------------|---|

Part 1.2.5 b. Relaxation for rear yard setback from 9.15m to 8.90m.

Jaime Ross, Applicant; Ryan Wyllie, Designer; were present.

Applicant

- In reference to the rear deck, the applicant had looked into the existing deck by contacting the previous owner and discovered that it was built without a permit by the owner previous to him, and he had rebuilt the structure himself but it is hard to know when the deck was built.
- They would just like to maintain the footprint of the existing deck but rebuild it new.
- The height relaxation request comes from the average grade calculations which were brought down by the two lower access areas for the proposed lower floor slab. The ridge of their home stays at the same height but it pulls the average grade calculation down resulting in a height variance.

Quinn Anglin, Board of Variance Secretary read two letters of support provided by the applicant from Notified Neighbours of 1419 Thurlow Street, and 1416 Fairfield Street.

- Support of all the neighbours, although not letters from all of them were provided.

Board

- How long has the house been owned by the applicant?
 - Since December 2015.

Closed the public part of the meeting

- Variances are minor, one is a technicality of the roof height and the applicant has full approval of the neighbours which supports the variances requested as proposed.

Moved: Rus Collins

Seconded: Trevor Moat

That the following variances be allowed;

Part 1.2.4 a. Relaxation for height from 7.60m to 8.50m.
*Note - The existing height is 8.40m.

Part 1.2.5 b. Relaxation for rear yard setback from 9.15m to 8.90m.

Carried (unanimous)

Meeting Adjourned: 3:00 pm

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