

**CITY OF VICTORIA
BOARD OF VARIANCE MINUTES
JULY 13, 2017**

Present: Andrew Rushforth, Chair
Rus Collins
Margaret Eckenfelder
Jaime Hall

Absent: Trevor Moat

Staff: Nina Jokinen, Zoning Technician
Katie Lauriston, Secretary

The meeting was called to order at 12:30 pm.

1. **Minutes:** Meeting of June 22, 2017

Minutes deferred to August 10, 2017 meeting.

2. **Appeals**

**12:30 Board of Variance Appeal #00654
Nicole Hopkins, Owner / Applicant
1633 Davie Street**

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

The proposal is to construct a new single family dwelling.

Bylaw Requirements

Relaxations Requested

Part 1.2.5 (c)	Relaxation for the (north) side yard setback from 1.50m to 1.22m
Part 1.2.5 (c)	Relaxation for the (south) side yard setback from 3.00m to 1.22m
Part 1.2.5 (d)	Relaxation for the combined side yards from 4.50m to 2.44m

Nicole Hopkins, Owner, and Anne Hopkins, relative, were present.

Applicant

- Without setback variances, what could be build would be quite small. We are looking to build a single family dwelling beside the house we live in, consistent with the look of the neighbourhood.
- The hardship is in the setbacks of the lot limiting what we can build on the property.

Board

- Was the lot recently subdivided?
 - It has been subdivided for a long time, and the two lots were separate at the time of purchase.
- Is the intention to build the house and then sell it?
 - There are many options, and this is a possibility.
- Are there lots of a similar width in the neighbourhood?
 - Yes, there are lots in Fernwood and in the Dallas Road are with similar width.

Katie Lauriston, Secretary, read a letter opposing the application from the Notified Neighbour of 1629 Davie Street.

- The Owner clarified that there is a tall hedge and no windows on the side of the building facing 1629 Davie Street. They have been careful to design the proposed home with privacy in mind, so there would be no windows on either of its sides.
- On whose property is the hedge?
 - The hedge is on the Applicant's property, but would have to be removed for construction.

Nina Jokinen, Zoning Technician, confirmed that the side yard interior setback for small lots is 1.5m or 2.4m for any portion of a dwelling used for habitable space and which has a window.

- The Applicant explained that they received a letter in support of the application from the owners of 1646 and 1648 Davie Street. The owners of 1642 Davie also gave their verbal endorsement of the Application.
- As for the other neighbours, the Applicant wrote letters and knocked on their doors, but no response has been received by the Applicant.

Public portion of the meeting closed.

- The variances requested are reasonable.
- Windows are necessary in dwellings. Because the lots are narrow, it is difficult to accommodate the setbacks.

Moved: Rus Collins

Seconded: Margaret Eckenfelder

That the following variances be allowed:

Bylaw Requirements

Relaxations Requested

Part 1.2.5 (c)

Relaxation for the (north) side yard setback from 1.50m to 1.22m

Part 1.2.5 (c)

Relaxation for the (south) side yard setback from 3.00m to 1.22m

Part 1.2.5 (d) Relaxation for the combined side yards from 4.50m to 2.44m

CARRIED

**12:50 Board of Variance Appeal #00656
Gareth James, Owner / Applicant
2612 Doncaster Drive**

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

The proposal is to construct an accessory building (garage) and to reconstruct the front and rear deck and steps for the single-family dwelling.

Bylaw Requirements

Relaxations Requested

Part 1.2.5 (a)	Relaxation for the front yard setback from 7.50m to 5.75m
Part 1.2.5 (b)	Relaxation for the rear yard setback from 7.50m to 6.10m
Schedule F Section 1	Relaxation for the location from the rear yard to the side yard
Schedule F Section 4 (c)	Relaxation for the flanking street setback from 3.50m to 0.80m

Gareth James, Owner, was present.

Applicant

- Most of the hardships derive from my property being on a corner lot.
- All the evening sun would be lost if the garage was built in the rear yard. The rear yard is also the only place with privacy; this is where the Applicant's family spends all their time. Zoning regulations would require paving almost the entire private part of the yard.
- The corner of the property along Doncaster Drive and Pearl Street is muddy and damp.
- It is unsafe for young children to be playing in the western frontage of the lot along Pearl Street due to the high level of foot traffic.
- There is a high level of visibility on the western frontage, which has made theft from my property too easy.
- The Applicant wants to get rid of the driveway along Pearl Street and put it on Doncaster Drive to improve curb appeal and remove vehicles from the road.
- The proposed garage would fit with heritage look of neighbourhood.
- The neighbours are supportive of this proposal.
- The Applicant learned that the previous owner did not have a permit for the front porch, and the Applicant wants to keep the porch to socialize with neighbours.

- The location of the back stairs allows access from both the front and back of the house, which is necessary for safety. Removing the back stairs would significantly reduce access to the back yard.

Nina Jokinen, Zoning Technician, clarified that there was a permit for the front stairs with a landing, but not for the existing deck. The rear stairs existed originally but have since been re-built without permits in a different configuration.

Board

- Because the trees are not on the site plan, are they being taken down?
 - No, the Applicant intends to keep all the existing trees.
- Have you considered putting the garage closer to the house on the south-eastern side of the property?
 - The Applicant was considering removing an existing fence and extending the back yard along Doncaster Drive. This would make the back yard more private.
 - The corner of Doncaster Drive and Pearl Street is shaded and damp, and passerby often cut through the corner.
 - The proposed plans facilitate where the Applicant's family spends their time.
 - In the future, the Applicant wishes to put a fence along Doncaster to have more private yard space.

Public portion of the meeting closed.

- No concerns regarding the variances for the front and back decks or for the stairs.
- The best place for the garage is on the north-west of the existing dwelling. This would require less or no variance. However, the Board is sympathetic to the Applicant's desire for security and privacy. The placement of the garage in the southeast corner of the lot might be awkward given the current use of the outdoor space.
- Many people want south-facing property, and concerns about cutting through could be dealt with by putting up a fence.
- Given the odd shape of the lot and given the security issues stemming from the property being on a corner with high traffic, the variances for the garage are supportable.

Moved: Jaime Hall

Seconded: Margaret Eckenfelder

That the following variances be allowed:

Bylaw Requirements

Relaxations Requested

Part 1.2.5 (a)

Relaxation for the front yard setback from 7.50m to 5.75m

Part 1.2.5 (b)

Relaxation for the rear yard setback from 7.50m to 6.10m

Schedule F Section 1

Relaxation for the location from the rear yard to the side yard

Schedule F Section 4 (c) Relaxation for the flanking street setback from 3.50m to 0.80m

CARRIED

**1:10 Board of Variance Appeal #00657
Michael Winstone, Owner / Applicant
2315 Wark Street**

Present Zoning: R-2 - Two Family Dwelling District
Present Use: Four Light Housekeeping Units (Converted in 1950)

The proposal is for an existing addition to an existing garage.

Bylaw Requirements

Relaxations Requested

Schedule F Section 2 (a)	Relaxation for the combined floor area from 37.00m ² to 44.74m ²
Schedule F Section 4 (b)	Relaxation for the side yard setback from 0.6m to 0.21m

Wil Peereboom, Designer, was present.

Applicant

- This is an existing structure built before the Owner purchased the property
- The Owner is in the process of restoring the house by removing the stucco and restoring the porches.
- The Owner is now going through the Clean Hands procedure.
- We are requesting variances for the side yard setback and for the combined floor area.
- To avoid requesting another variance, the Applicant is removing the rear staircase from the southeast corner of the building and building the deck and stairs on the northeast corner.

Board

- Is it only exterior renovation?
 - Yes
- What does it mean for this building to be classed as 'four light housekeeping units'?
 - The four suites do not share a bathroom, but share a kitchen.
 - According to the building code, now bathrooms must be added for them to be called suites.
- When was the addition to the shed built?
 - Applicant is not sure, as there is no documentation.
 - It is an existing addition, but it is labelled new because it is a new permit for that structure.

Public portion of the meeting closed.

- It is a structure that exists already and doesn't seem to cause issues for the neighbours.

Moved: Margaret Eckenfelder

Seconded: Rus Collins

That the following variances be allowed:

Bylaw Requirements

Relaxations Requested

Schedule F Section 2 (a)

Relaxation for the combined floor area from
37.00m² to 44.74m²

Schedule F Section 4 (b)

Relaxation for the side yard setback from 0.6m to
0.21m

CARRIED

**1:30 Board of Variance Appeal #00660
Nicholas Read, Owner / Applicant
141 Montreal Street**

Present Zoning: R-2 - Two Family Dwelling District
Present Use: Single Family Dwelling

The proposal is to construct an addition of a half storey to an existing garage and conversion to a garden suite.

Bylaw Requirements

Relaxation Requested

Schedule M Part 2 (e)

Relaxation for location from the rear yard to the
side yard.

Nicholas Read, Owner, was present.

Applicant

- Owners currently live in 145 Montreal Street, neighbouring the subject property. The Owners currently have possession but not occupation.
- The suite is being built for the Owner's mother, so that she can live closer to the family.
- The Owners have adopted the garden suite plans from the previous owners. The garden suite potential was part of the appeal for the purchase of the property.
- The Owner assumed that the accessory building had gone through an approval process, but was surprised to find out that this did not comply with zoning bylaws.
- According to zoning bylaws, garden suites must be in the rear yard. Because some of the suite extends into the side yard, a variance is required.

- Whether the suite is in the side or rear yard seems to be a minor issue, and the wording is misleading. The garden suite is in the rear yard, but part of it extends past a rear wall of the primary house.

Katie Lauriston, Secretary, read aloud two letters in support of the application from Notified Neighbours of 112 Montreal Street and 147 Ladysmith Street.

Board

- Have you heard from any other neighbours?
 - There was nothing but support.

Public portion of the meeting closed.

Moved: Rus Collins

Seconded: Margaret Eckenfelder

That the following variances be allowed:

Bylaw Requirements

Relaxation Requested

Schedule M Part 2 (e)

Relaxation for location from the rear yard to the side yard.

CARRIED

**1:50 Board of Variance Appeal #00663
Melissa Ollsin, Applicant / Owner; Charles Appleford, Owner
2665 Belmont Avenue**

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

The proposal is to legalize the height of an accessory building that is currently under construction with an approved building permit.

Bylaw Requirements

Relaxation Requested

Schedule F Section 3 (a)

Relaxation for height from 3.50m to 3.58m

Melissa Ollsin, Owner, was present.

Applicant

- This is the first time that one of our projects has been over height.
- The Applicant was not on site when the surveyor and architect shot the levels. They were shot from the middle of the property and from near the driveway, and a 6 in. drop in elevation was measured. However, the ground is quite level and the Applicant doesn't see how there can be a 6 in. drop.

- The architect thought that they were 3 in. under height but they were actually 3 in. over height. They believed that they were working on the safe side, but actually they were over height.
- The back of the property slopes quite drastically towards the neighbours' yard, which brings down the average grade.
- The finished grade of the property will be 19.4% and a retaining wall with a fence will be built between the property and the neighbours' property. This will help resolve drainage issues that neighbours beside and behind are concerned about.
- Measured by the finished grade, the garage will be under height, but by the average grade it is technically over height.

Board

- Did you discuss the plans with the neighbours?
 - Yes; they have been notified and no one raised any concerns other than not wanting the overhang removed.

Public portion of the meeting closed.

Moved: Margaret Eckenfelder

Seconded: Jaime Hall

That the following variances be allowed:

Bylaw Requirements

Relaxation Requested

Schedule F Section 3 (a)

Relaxation for height from 3.50m to 3.58m

CARRIED

2:10 Board of Variance Appeal #00664

**Dan Morisseau, Applicant; Stan and Dawn Chojnacki, Owners
1303 Slater Street**

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

The proposal is to legalize an existing accessory building constructed without permits.

Bylaw Requirements

Relaxations Requested

Schedule F Section 3 (a)

Relaxation for the height from 3.50m to 4.44m

Schedule F Section 4 (c)

Relaxation for the flanking street setback from 3.50m to 1.56m

Dan Morisseau, Applicant, and Evan Williams, Neighbour of 3147 Mars Street, were present.

Applicant

- The building is a boat storage shed. The Owners initially sought information from the Planning department and built according to what he believed was correct information. However, he found out after construction that some information was incorrect.
- The Owner suffered great expense for this boat shed so that it would look nice for the neighbours and so that it would be easy to maintain.
- At this point, the Owners are looking for a simple solution without further costs.
- The Owners wish to be good neighbours and want to make things right.
- It was a simple error that was made in constructing the shed.

Katie Lauriston, Secretary, read aloud a letter from Notified Neighbours of 3143 Mars Street supporting the Application.

Public portion of the meeting closed.

- The neighbours are supportive of this application.

Moved: Rus Collins

Seconded: Margaret Eckenfelder

That the following variances be allowed:

Bylaw Requirements

Relaxations Requested

Schedule F Section 3 (a)

Relaxation for the height from 3.50m to 4.44m

Schedule F Section 4 (c)

Relaxation for the flanking street setback from 3.50m to 1.56m

CARRIED

**2:30 Board of Variance Appeal #00666
Macahmad Holdings Ltd., Applicant / Owner
1760 Albert Avenue**

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

The proposal is to legalize an addition at the rear of the existing single family dwelling that was constructed without the required permits, and to change the use to single family dwelling with a secondary suite.

Bylaw Requirements

Relaxations Requested

Part 1.2.5 (c)	Relaxation for the east side yard setback from 1.52m to 1.20m
Part 1.2.5 (c)	Relaxation for the west side yard setback from 3.00m to 1.90m
Part 1.2.5 (d)	Relaxation for the combined side yard setbacks from 4.50m to 3.10m

Gary Spencer, Owner's representative, was present.

Applicant

- The Owner purchased the property last year with plans to put in a secondary suite in the basement. The Owner applied for a building permit, and found out that an addition from 1967 was put in without a permit, and renovated in 2005.
- City staff suggested applying to the Board of Variance, and the Applicant is seeking side yard and combined setback variances. The dwelling doesn't encroach any more than it did in 1913.

Katie Lauriston, Secretary, read a letter opposing the application from the Notified Neighbour of 1764 Albert Avenue.

Board

- Was the stop work order issued to the current Owner?
 - There was never a stop work order issued for this property. There was a stop work order notice posted for a property four doors down the street. Someone took that sign and put it on 1760 Albert Street.
 - The building inspector had already visited the property twice, primarily to look at how to restructure the basement posts and proceed with construction. As soon as the Applicant was told that there was an illegal addition, there was no more work done.
 - The Applicant built three fences down the side of the property, but the Applicant is not aware of any time when a neighbour's water was used.
 - Parking is very tight on such a narrow street, but Engineering has advised that parking is not allowed in front of the property. The complaint about parking in a neighbour's driveway doesn't make sense because nobody has a driveway.
 - The Applicant feels that he has made many accommodations for Notified Neighbour of 1764 Albert Avenue, including designing the sundeck railings to comply with the neighbour's requests. The railings were designed as a separation to give both the neighbours and owners privacy.
 - Although this part of the building is very close to the neighbours, it has been that way since 1913.
- Is the existing structure being modified?
 - Due to slight angle from the front of the building to the back, the east side yard setback increases from 1.1m to 1.2m.
- Was a building permit sought from the start?
 - Schedule J was in effect at the time. Because of the illegal construction in the 1960s, the size of the extension would have required a Development Variance Permit. Now that the City has amended its rules the extension built in 1995 is no

longer an issue. The Applicant was advised by staff that the variances sought today would be all we require to proceed with renovations.

- It appears that a lot of work has been done over the years; why was no variance sought before now?
 - The renovations were to replace existing exterior stairs and resurfacing the deck. On the interior, construction was started based on visitation from the building inspector, before the Applicant found out about the unpermitted addition.
- The structure looks new; is that all from 2005?
 - Everything on the physical structure of the house is from 1965, and then renovated in 2005.
 - We had to have plans drawn based on minimal City records, and everything since 1913 seems to have been illegal.

Public portion of the meeting closed.

Moved: Jaime Hall

Seconded: Margaret Eckenfelder

That the following variances be allowed:

Bylaw Requirements

Relaxations Requested

Part 1.2.5 (c)

Relaxation for the east side yard setback from 1.52m to 1.20m

Part 1.2.5 (c)

Relaxation for the west side yard setback from 3.00m to 1.90m

Part 1.2.5 (d)

Relaxation for the combined side yard setbacks from 4.50m to 3.10m

CARRIED

**2:50 Board of Variance Appeal #00661
Brent Limbeek, Owner / Applicant; Deanna Reid, Owner
2202 and 2204 Cook Street**

Present Zoning: R-2 - Two Family Dwelling District
Present Use: Purpose Built Non-Conforming Duplex

The proposal is to construct a third storey addition and to reconstruct the rear deck and stairs.

Bylaw Requirements

Relaxations Requested

Part 1.2.4 (a)

Relaxation for the height from 7.60m to 7.68m

Part 1.2.4 (a)	Relaxation for the storeys from 2 to 3
Part 1.2.4 (c)	Relaxation to permit a roof deck
Part 1.2.5 (a)	Relaxation for the front yard setback from 7.50m to 4.19m
Part 1.2.5 (b)	Relaxation for the rear yard setback from 7.50m to 1.86m
Part 1.2.5 (c)	Relaxation for the side yard setback from 1.83m to 1.51m
Part 1.2.5 (e)	Relaxation for the flanking side yard setback from 3.50m to 2.50m
Part 1.2.5 (a)	Relaxation for the combined side yards setback from 4.50m to 4.01m
<i>Local Government Act Chapter 1, Part 14, Division 14, Section 531, Subsection 1</i>	Relaxation to allow a structural alteration and addition to the building while the legal non-conforming duplex use is continued.

Brent Limbeek, Owner / Applicant, Rob Reid, Owner's relative, and Wayne Hartley, Notified Neighbour of 1054 Princess Avenue, were present.

Applicant

- The Owners have recently purchased the duplex. Each unit has one bed and one bath, and both are in poor condition.
- Development potential is limited given the small size of the duplex.
- The Owners intend to move in to 2202 Cook Street, rent 2204 Cook, and make functional family homes by adding a third storey.
- Most of the variances requested arise from the building being nonconforming.
- The Owners are requesting 4 in. above zoning regulations to accommodate the traditional sloped roof, which will fit with the brick exterior and the neighbourhood context.
- The Owners are also requesting third storey and roof deck as a result of the main floor basement being considered the first storey. However, no one would consider this functional space.
- The Owners' plan does its best to respect the original intent of the bylaw.

Katie Lauriston, Secretary, read aloud two letters from Notified Neighbours of 1054 Queens Avenue and 2206 Cook Street supporting the Application. A petition supporting the application was also read aloud from Neighbours of 1054 Queens Avenue, 3-1054 Princess Avenue, 1046 Princess Avenue, 1046B Princess Avenue, 1055 Princess Avenue, 2011 Cook Street and 2206 Cook Street.

Board

- The windows on the drawing don't match the existing windows; are there plans to change them?
 - The intention is to leave the windows as they are. This is an error on the drawings.

Public portion of the meeting closed.

- The proposed plans are a significant improvement from the existing conditions.
- The plans show a good type of house for the neighbourhood.

Moved: Rus Collins

Seconded: Jaime Hall

That the following variances be allowed:

Bylaw Requirements

Relaxations Requested

Part 1.2.4 (a)	Relaxation for the height from 7.60m to 7.68m
Part 1.2.4 (a)	Relaxation for the storeys from 2 to 3
Part 1.2.4 (c)	Relaxation to permit a roof deck
Part 1.2.5 (a)	Relaxation for the front yard setback from 7.50m to 4.19m
Part 1.2.5 (b)	Relaxation for the rear yard setback from 7.50m to 1.86m
Part 1.2.5 (c)	Relaxation for the side yard setback from 1.83m to 1.51m
Part 1.2.5 (e)	Relaxation for the flanking side yard setback from 3.50m to 2.50m
Part 1.2.5 (a)	Relaxation for the combined side yards setback from 4.50m to 4.01m
<i>Local Government Act Chapter 1, Part 14, Division 14, Section 531, Subsection 1</i>	Relaxation to allow a structural alteration and addition to the building while the legal non-conforming duplex use is continued.

CARRIED

**3:10 Board of Variance Appeal #00662
Derek Dolsen, Applicant / Owner
1256 Acton Road**

Present Zoning: R-2 - Two Family Dwelling District
Present Use: Single Family Dwelling

The proposal is to construct a half storey addition and a new secondary suite in the lowest level.

Bylaw Requirements

Relaxations Requested

Part 1.2.4.a.

Relaxation for the number of storeys from 2 to 2.5

Part 1.2.5.a.

Relaxation for the front yard setback from 7.50m to 5.92m

Megan Walker, Owner; Justin Gammon, Designer; Brian Dolsen, Owner's relative; and Adam Nagasahi, Owner's relative were present.

Owner

- The Owners are returning to Victoria to start a family.
- The Owners love the neighbourhood and want to keep the character of the house while adding more space to live.

Applicant

- The Owners are proposing a significant renovation, but will retain key characteristics by not changing the house's footprint or the ridge height.
- The Owners seek to add a suite in the lower level, which will be beneficial to the larger community.
- The building has had multiple additions, and the street view shows a very unusual roofline. The Applicant is proposing normalizing the roofline by bringing the gable forward and adding dormers in the upper level to create a family home.
- The Applicant is seeking a variance for the number of allowable storeys because the lower level is at 1.26m below average grade from the ceiling.

Neighbours

- All the neighbours present support the Application.

Board

- Is there a reason for the difference in styles of dormers from one side to the other?
 - This was to allow for the maximum loft at the top of the stair landing. For this reason shed dormers were used over the landing and traditional dormers elsewhere, where they are more visible.
 - Shed dormers had to be on the west so that we could have enough headroom above the stairs. The Applicant could have put shed dormers on both sides, but the Applicant wanted to keep the appearance as traditional as possible.
- Why are the upper floor windows missing on the floorplan, and why are the windows not centered in the dormers from the exterior?
 - The windows are centered within the rooms, so they appear offset from the exterior.
 - The windows don't show on the floorplan due to an error in the drawings.

- Wouldn't centering the windows from the exterior be more in keeping with the desire for a traditional look?
 - Yes; there is adequate room in the room to make this change.
- To where is the main roof height measured?
 - The height is measured to the flat dormer; specifically, to the notch dividing the two dormers.

Public portion of the meeting closed.

- The variances requested are reasonable.
- It is commendable to be restoring an older house in the area.

Moved: Rus Collins

Seconded: Margaret Eckenfelder

That the following variances be allowed:

Bylaw Requirements

Relaxations Requested

Part 1.2.4.a.

Relaxation for the number of storeys from 2 to 2.5

Part 1.2.5.a.

Relaxation for the front yard setback from 7.50m to 5.92m

CARRIED

Meeting Adjourned: 3:20 pm