

**CITY OF VICTORIA  
BOARD OF VARIANCE MINUTES  
SEPTEMBER 14, 2017**

**Present:** Trevor Moat, Acting Chair  
Margaret Eckenfelder  
Jaime Hall  
Rus Collins

**Absent:** Andrew Rushforth

**Staff:** Nina Jokinen, Zoning Technician  
Katie Lauriston, Secretary

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

1. **Minutes:** Meeting of August 24, 2017

**Moved:** Margaret Eckenfelder

**Seconded:** Jaime Hall

That the minutes of August 24, 2017 be adopted as amended.

2. **Appeals**

**12:30 Board of Variance Appeal #00673**

**Carla Stucchi and Jason Leach, Applicants / Owners; John Armitage, Architect  
2747 Asquith Street**

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

The proposal is to lift the building and to change the use from a single family dwelling to include a secondary suite in the bottom level.

**Bylaw Requirements**

**Relaxations Requested**

Part 1.2.4 (a)

Relaxation for the storeys from 2 to 2.5

Part 1.2.5 (a)

Relaxation for the front yard setback from 7.50m to 4.10m to the porch

Part 1.2.5 (a)

Relaxation for the front yard projection of up to 2.50m for steps less than 1.70m in height to 2.24m in height

Jason Leach, Applicant / Owner, was present.

Applicant

- The upper level was originally left unfinished; now that the Owners are finishing the space, there is a technical additional storey.
- If the house were raised and moved back to comply with zoning, it would overlook neighbours' backyards and patios. The proposed siting of the house lets the house align with other houses on the street.
- A relaxation relating to the projection of the stairs is required due to the increased length of the stairs as they are raised.
- The house was built in 1912, and the Owners wish to keep the heritage look. The Applicant is raising house as little as possible to restore the porch and stairs, while keeping the existing look and feel.

Board

- Have the Owners spoken to neighbours about the proposed plans?
  - Yes; the neighbours across the street are positioned much higher on the slope and the proposed changes will not impact their view. There is also a tree separating the houses, so these neighbours will not see the changes very much.
  - The neighbours on both sides are not worried about the proposed changes.
- Are there any comments from neighbours about porch and side stairway?
  - No; all neighbours received notice and the Owners did not receive any objections.

*Public portion of the meeting closed.*

- The plans seem reasonable in light of the age of the house.
- Moving the house back would not make sense.
- The incursion of the stairs into the setback will not significantly change the look and feel of the house.

**Moved:** Margaret Eckenfelder

**Seconded:** Rus Collins

That the following variances be allowed:

**Bylaw Requirements**

**Relaxations Requested**

Part 1.2.4 (a)

Relaxation for the storeys from 2 to 2.5

Part 1.2.5 (a)

Relaxation for the front yard setback from 7.50m to 4.10m to the porch

Part 1.2.5 (a)

Relaxation for the front yard projection of up to 2.50m for steps less than 1.70m in height to 2.24m in height

**CARRIED**

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**12:50 Board of Variance Appeal #00674**  
**Matt and Wendy MacNeil, Applicants / Owners**  
**1525 Shasta Place**

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

The proposal is to construct a new single family dwelling and a new plus size garden suite.

**Bylaw Requirements**

**Relaxations Requested**

Part 1.1.5 (a)	Relaxation for the front yard setback of the single family dwelling from 10.50m to 9.70m
Part 1.1.5 (b)	Relaxation for the rear yard setback of the single family dwelling from 12.36m to 3.71m
Schedule M Section 2 (e)	Relaxation for the location of the garden suite from the rear yard to the side yard

Matt MacNeil, Applicant / Owner; Ines Hanl, Designer; Paul Cullen, Builder; Janet Simpson, President of the Rockland Neighbourhood Association and Louise Hartland of CTV News were present.

Designer

- The Owners and Designer wanted to keep the old carriage building in place, but soon discovered structural issues because the house was built as a barn. There are single-paned windows and there is no proper foundation.
- The house is very close to single and twin oak trees.
- Two house moving companies were consulted about the possibility of lifting the structure, and it was determined that the building would have to be cut in several pieces to be moved off-site.
- The Owners and Designer have consulted with City heritage planners.
- The current proposal is to build new, but the Owners like the look of the existing structure. The footprint of the main part of the house will be the same.
- The proposed plans include leveling the grade of the property as much as possible. This will be quieter for neighbours when using the driveway.
- The proposed garden suite design would create a nice courtyard where the existing driveway is currently.
- The proposal includes adding a garage with two guest suites above.

Applicant / Owner

- The Owner has a great respect for heritage buildings, but the wood is petrified and will not be able to be moved.
- As much as possible, materials will be salvaged and used in the new structure. Special features on the exterior will be included in the new structure.

Board

- Behind the rear yard, there is a narrow strip of land. Who is affected by the rear yard setback?
  - There is a private laneway used only by one neighbour, at 915 St. Charles Street.
- Did the Applicant speak to the neighbours at 919 St. Charles Street?
  - No; the Owners put a letter in these neighbours' mailbox inviting them to come to an open house for the proposal, but the Owners received no response.
  - The one concern received from the neighbours was regarding a 4ft drop in grade, which has since been changed.

Neighbours

*Katie Lauriston, Secretary, read a letter concerning the application from Neighbours of 915 St. Charles Street and 1535 Shasta Place.*

Applicant:

- The Owners have spoken with the Neighbours of 915 St. Charles Street and 1535 Shasta Place, and discussed with them the icy driveway mentioned in the letter.

Board

- If the Applicant had been able to renovate within the existing house structure, where would the garage be located?
  - The garage would have been where the garden suite is now proposed, which would have caused more noise. The current plan makes more sense, frees up trees' root systems, and decongests the street by increasing off-street parking.
  - The current garden suite bylaws came into effect during the process of creating these plans.
- Regarding correspondence about shadowing of driveway, is the height requested necessary for the design?
  - The proposed height was designed to maintain a level height across the buildings, and to provide the ability to age in place.
- Would you consider conducting a shadow study, lowering the ceiling height, or changing the slope of the roof to alleviate the neighbours' concerns?
  - Yes, we will consider conducting a shadow study or looking at other options to alleviate height concerns, and return to Board with revised plans.

The Applicants elected to amend their application by withdrawing their request for the following variances:

Part 1.1.5 (b)	Relaxation for the rear yard setback of the single family dwelling from 12.36m to 3.71m
Schedule M Section 2 (e)	Relaxation for the location of the garden suite from the rear yard to the side yard

*Public portion of the meeting closed.*

- The request for the front yard setback seems reasonable.

**Moved:** Rus Collins

**Seconded:** Margaret Eckenfelder

That the following variances be allowed:

**Bylaw Requirements**

**Relaxation Requested**

Part 1.1.5 (a)

Relaxation for the front yard setback of the single family dwelling from 10.50m to 9.70m

**CARRIED UNANIMOUSLY**

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**1:10 Board of Variance Appeal #00679  
James and Yvonne Mann, Applicants / Owners  
2601 Avebury Avenue**

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

The proposal is to build a rear addition which includes a new secondary suite.

**Bylaw Requirements**

**Relaxation Requested**

Part 1.2.5 (e)

Relaxation for the side yard setback on a flanking street from 3.50m to 2.53m

Applicant

- The purpose of the addition is to add an outdoor suite and to expand the dining room space.
- The proposed changes will not extend beyond the existing non-conformance, and will be a minimal disturbance.
- The house is skewed on the lot, which affects the setbacks.
- Neighbours at 1420 Haultain wrote a letter indicating their support for the proposal.

*Public portion of the meeting closed.*

**Moved:** Margaret Eckenfelder

**Seconded:** Jaime Hall

That the following variances be allowed:

**Bylaw Requirements**

**Relaxation Requested**

Part 1.2.5 (e)

Relaxation for the side yard setback on a flanking street from 3.50m to 2.53m

**CARRIED**

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**1:50 Board of Variance Appeal #00676  
Daniel Carey, Owner / Applicant  
457 / 459 Kipling Street**

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Present Zoning: R1-B – Single Family Dwelling District  
Present Use: Legal non-conforming duplex (purpose-built)

The proposal is to make structural alterations to the interior while the legal non-conforming duplex use is continued.

**Bylaw Requirements**

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

**Relaxation Requested**

Relaxation to allow a structural alteration to the building while the legal non-conforming duplex use is continued

Daniel Carey, Owner / Applicant, was present.

Applicant

- The north side of the duplex receives less sun than the south; the Owners wish to let in more light. The Owners intend to remove a wall between the dining and living room and install a beam to create a more open living space.
- Another beam will allow sliding doors for the back door.
- In the basement, there is a very low beam that the Owners wish to connect with a supporting beam.

Board

- Are there any proposed exterior alterations?
  - The new rear door will be added on the exterior.
  - A parking stall was previously blocked over with a stone wall; the Owners will remove this wall and expose the garage doors that are still in place.
- Where are the parking stalls located?
  - One stall on each side of the duplex.
- Have you been in touch with your neighbours regarding the proposed alterations?
  - Yes; in addition to the previously letters of support that were submitted two more neighbours have expressed their support.

*Public portion of the meeting closed.*

- This request is supportable; it is simply the updating of an existing non-conforming structure.

**Moved:** Jaime Hall

**Seconded:** Margaret Eckenfelder

That the following variances be allowed:

**Bylaw Requirements**

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

**Relaxation Requested**

Relaxation to allow a structural alteration to the building while the legal non-conforming duplex use is continued

**CARRIED**

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**2:10 Board of Variance Appeal #00678**  
**Adam Helm, Applicant / Owner; Andrew MacElwee, Architect.**  
**1317 Vimy Place**

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

The proposal is to add a secondary suite and deck within the upper level, including a new dormer to be located at the rear.

**Bylaw Requirements**

**Relaxations Requested**

Part 1.2.4 (a)	Relaxation for the number of stories from 2 to 2.5
Part 1.2.4 (c)	Relaxation to allow a roof deck

Adam Helm, Applicant / Owner; Michael Helm, Owner; and Neighbours from 1332, 1331, 1319 and 1321 Vimy Place were present.

Applicant

- The Owners purchased the property and immediately began work on the roof which was in disrepair. When the chimney was removed, a space that was not in previous plans was revealed.
- The Owners planned on occupying the main level and having an income suite above. The existing suite in the upper level was very poorly constructed. The Owners are trying to make previously existing upper suite more liveable.
- The upper level is considered a third storey and the basement a first floor, but the Owners do not agree with this. There are only foundation walls and a sloping floor in the basement with a ceiling height of about 4-6 ft. The first floor is not habitable space.
- The Owners' Architect consulted the City regarding what constitutes a roof deck and what is a balcony. The Owners believe that because the deck is on top of the first floor, that it is a balcony.
- The Owners are fully aware that they did their neighbours a disservice by not consulting with the community earlier. However, there was an intent to do this legally and no work was being done at the time when the inspector came and put the stop work order in place.

*Nina Jokinen, Zoning Technician, clarified the definition of a Roof Deck.*

Neighbours

- The Neighbours at 1319 Vimy state that within a week of possession, a side door on 1317 Vimy was removed and construction of a dormer began. Neighbours were concerned about the quality of the construction as a new roof, balcony and large dormer were built without permits. After the stop work order was in place, the property sat vacant and untended for a year. Everyone in the neighbourhood opposes this application.
- The Neighbours at 1319 Vimy state that a suite could be put in place without adding dormer. Noise from construction carries throughout the entire neighbourhood. There is no hardship because all the information was available when the Applicants purchased

1317 Vimy. The Neighbours at 1319 Vimy excavated their basement to make it usable, and the Applicants could have done the same.

- The Neighbours at 1319 Vimy indicate that the large new addition overlooks their kitchen, bedrooms and sundeck. The addition changes the views from their property and diminishes the amount of light to their property. To request variances from the Board of Variance is the wrong way to go about the process; permits should have been sought from the beginning and the impact upon neighbours should have been considered. Perhaps if discussion with neighbours was sought from the beginning an agreement could have been reached.
- The Neighbour at 1331 Vimy Place notes that due process has not been followed so this request should not be granted. No neighbourhood consultation occurred and to make such significant changes on the assumption that they would later be approved is not acceptable.
- The Neighbour at 1321 Vimy Place states that floor plans show 6ft and 5ft height in basement, as well as chimney on the upper level. It is unreasonable to claim a hardship when the property was purchased with the intent to develop and this freely available information indicates construction constraints.

#### Board

- If house was lowered slightly and basement was excavated, could the definition of basement be met?
  - Nina Jokinen: Yes.
- If the basement was filled in so that it was 4 ft. tall, would variances be required?
  - Nina Jokinen: No; the deck would be coming off second storey rather than the half storey.
- Are the Owners considering the first floor to be uninhabitable?
  - Yes; it is under height but the City considers it a first storey.
- Do the Applicants feel that they have conducted adequate due diligence for this project?
  - The Owners made 30 offers at the time of purchase of this property; there was no time to consider what was being purchased.
- Are there changes to the wiring of the house, and if so, were permits sought?
  - The wiring was changed and no permit was obtained.
- Is there something unique to this property that gave you no other options?
  - The intention was never to develop the basement. There was an evident first and second level to the house, and the Owners believed that because they were not changing the footprint of the building that the changes were not major.
- Any further justification for hardship?
  - No.

*Public portion of the meeting closed.*

- As a purchaser of a property, the Applicant had the responsibility to conduct due diligence.
- Market conditions do not justify development without permits or without consultation with neighbours. Work without permits puts people at risk.
- It is a very big mistake to not consult neighbours.
- It is not the Board's place to penalize work without permits, but the Board should not have to figure out a way to approve something because it is already in place.
- Had the Applicants obtained permits the Board may have still have been examining the same issue of the number of storeys and roof deck.

- Concern was noted about so much of the project occurring without permits and with no clear plan for the project, and the lack of community consultation.
- The variances requested are reasonable, and although the Board does not condone work without permits, the ramifications of not approving the variances are quite extreme.

**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 stories from 2 to 2.5

Part 1.2.4 (c)

Relaxation to allow a roof deck

**CARRIED**

Meeting Adjourned 2:55 pm

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