

**CITY OF VICTORIA
BOARD OF VARIANCE MINUTES
DECEMBER 13, 2018**

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

Absent for a portion of the meeting: Trevor Moat

Staff: Nina Jokinen, Planning Technician
Katie Lauriston, Planning Secretary

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

1. Minutes

Minutes from the meeting held November 22, 2018

Moved: Margaret Eckenfelder

Seconded: Jaime Hall

That the minutes from November 22, 2018 be adopted as amended.

Carried Unanimously

2. Appeals

**12:30 Board of Variance Appeal #00753
David and Lori Basich, David and Gail Lale, Owners
972 Walker Street**

Present Zoning: R1-B – Single Family Dwelling District
Present Use: Single Family Dwelling (1912)

The proposal is to legalize a deck constructed over a property line. The property contains two parcels, Part 20 (north parcel) and Part 19 (south parcel). A previous variance application was approved with the deck contained wholly within Parcel 19 (south parcel).

Bylaw Requirements

Relaxations Requested

Part 1.2.5 (b)	Reduce the minimum rear yard setback to the deck from 7.50m to 2.60m
Part 1.2.5 (c)	Reduce the minimum south side yard setback to the deck from 1.50m to 0.00m <i>*Note: existing is 0.00m to the house.</i>
Part 1.2.5 (d)	Reduce the minimum combined side yard setback to include the deck from 4.50m to 3.60m <i>*Note: existing is 3.60m to the house.</i>

Local Government Act Section 531 (1)	To allow for the non-conforming use of a single family dwelling to continue for the structural alterations and additions
General Regulations Section 19	To allow for the deck to be erected partly on one lot and partly on another.

David and Lori Basich, David and Gail Lale, Owners, were present.

Owners

- The owners also own the adjacent property at 718 Pine Street, and have lived in this location for many years.
- The deck was not built larger than proposed, but it was constructed just 2ft. to the north of what was previously approved. The property to the north is 718 Pine Street.
- The deck is now constructed in a better location than what was previously approved. The door accessing the area under the porch is in a convenient location.
- Other neighbours are not concerned about the location of the deck, and the neighbours at 720 Pine Street have written a letter supporting this application. 720 Pine Street would be the only other neighbour affected by the location of the deck.

The owners presented a photo of the "jog out" from the house.

- The house at 972 Walker Street and 718 Pine Street have a similar bump out.
- The surveyor has told the owners that the deck is in a good location.

Board

- Are most of the variances caused by the house being constructed over two lots?
 - Nina Jokinen, Planning Technician, confirmed that this feature of the lot is what causes the variance to the south side yard setback.
- Why was the deck constructed in its present location?
 - The owners realized that the deck was not constructed as approved when the most recent survey was completed. The surveyor noted that the deck was almost 2ft. north of what was approved.
 - The deck's location is close to where it should be, but was moved over by about 1.5ft.
- Is the shift in the deck's location what prompted this application?
 - Yes, the deck was constructed in its present location by mistake, and the owners are not certain how to correct this error.
 - The neighbours appreciate that the owners take care of the property.

Public portion of the meeting closed.

Motion:

Moved: Rus Collins

Seconded: Trevor Moat

That the following variances be approved as requested:

Part 1.2.5 (b)	Reduce the minimum rear yard setback to the deck from 7.50m to 2.60m
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Part 1.2.5 (c)	Reduce the minimum south side yard setback to the deck from 1.50m to 0.00m
Part 1.2.5 (d)	Reduce the minimum combined side yard setback to include the deck from 4.50m to 3.60m
Local Government Act Section 531 (1)	To allow for the non-conforming use of a single family dwelling to continue for the structural alterations and additions
General Regulations Section 19	To allow for the deck to be erected partly on one lot and partly on another.

Carried Unanimously

**12:50 Board of Variance Appeal #00754
Duane Ensing of Villamar Design, Designer; Kha Huynh, Owner
633 Manchester Road**

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

The proposal is to renovate the existing house which includes a house lift and the construction of a two-storey addition at the rear, and to change the use to include a secondary suite. The application also proposes to legalize the accessory building (garage) located in the side yard.

Bylaw Requirements Relaxation Requested

Primary building (single family dwelling with secondary suite):

Section 1.2.5 (a) Reduce the minimum front yard setback from 7.50m to 6.99m

Note: existing is 6.99m.

Accessory building (garage):

Schedule F Section 1 To allow for location partly within the side yard

Schedule F Section 4 (b) Reduce the minimum side yard setback from 0.60m to 0.42m

Schedule F Section 4 (d) Reduce the minimum separation space to the main building from 2.40m to 2.00m.

Megan McKeage and AJ Williamson of Villamar Design, and Bella Huynh and Kha Huynh, Owners, were present.

Correspondence supporting the application from Debbie McMillan of 632 Manchester Road was read aloud.

Designers

- This application stems from a stop work order. The designers want to finish the project for the homeowners.
- The owners bought the house about a year ago, and drawings for a renovation were included with the sale of the property. As new Canadians, the owners mistakenly understood the working drawings to be approved plans for construction.
- The designers have been hired to rectify the situation and to assist the homeowners through the renovation process.
- The proposal is to lift the house and make the lower level habitable.
- The requested variances address pre-existing conditions of the house, which has been in place for several decades. In order to complete the work and rectify the current status of the house, variances for these pre-existing conditions are triggered; this is the hardship.
- An additional hardship would be the cost of accommodating the current zoning requirements; removing the existing foundation and shifting the house by a couple feet would be cost prohibitive. The house and the garage have been sited in their current locations for decades.
- There would be great environmental cost and little community benefit to shifting the house, and there would be no visible difference in a small change in location. Completing the work will positively impact the character of the neighbourhood.
- The only variance caused by the renovation is the front yard setback. While the house is raised by a foot, it is still well under the allowable height.
- Seeking variances seems the only reasonable course of action in this situation.

Board

- Other than existing non-conformities, is the only variance for the projection into the front yard?
 - Yes, there is a projection at the front of the house, beside the front steps.
- Is no variance required for the front steps?
 - Nina Jokinen confirmed that the steps were allowable within the zoning requirements.
- Was the garage already constructed prior to the new ownership?
 - Yes.
- Is the rear addition located with sufficient distance to the garage?
 - Yes, but the garage location does not meet the minimum separation space to the existing portion of the house.
- Does the addition also project into the side yard?
 - The rear addition is within the allowed rear and side yard setbacks.
- Does the garage have a concrete foundation?
 - The designers believe that the garage is on a concrete pad, and are not certain of the depth of the footings. The garage is not very large.
- Were there any concerns from neighbours?
 - The neighbouring properties are mostly rentals, and the occupants were ambivalent about the application.

Public portion of the meeting closed.

- The front projection and the location of the garage are existing conditions.

- The new addition is reasonable and well-sited, and does not worsen the separation distances to the garage.
- There is ample space on the lot and no objections from adjacent neighbours.

Motion:

Moved: Trevor Moat

Seconded: Margaret Eckenfelder

That the following variance be approved as requested:

Primary building (single family dwelling with secondary suite):

Section 1.2.5 (a) Reduce the minimum front yard setback from 7.50m to 6.99m.

Accessory building (garage):

Schedule F Section 1 To allow for location partly within the side yard

Schedule F Section 4 (b) Reduce the minimum side yard setback from 0.60m to 0.42m

Schedule F Section 4 (d) Reduce the minimum separation space to the main building from 2.40m to 2.00m.

Carried Unanimously

**1:10 Board of Variance Appeal #00755
Edward Gornall, Owner; James Kerr, Architect
620 Rockland Place**

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

The proposal is to construct an addition to the existing third storey at the west side of the property, a new dormer at the east side of the property, and to rebuild the existing addition on the first storey at the north side of the property.

Bylaw Requirements

Relaxations Requested

Section 1.1.4 (a) Increase the minimum number of storeys from 2.5 to 3
Note: existing is 3 storeys

Section 1.1.5 (b) Reduce the minimum rear yard setback (west) from 17.07m to 0.70m
Note: existing is 0.70m

Section 1.1.5 (d) Reduce the minimum side yard setback (north) from 3.00m to 0.13m

Note: existing is 0.00m.

Ted Gornall, Owner; James Kerr, Architect, and neighbours Ross Main of 638 Rockland Place and Bart Griffin of 608 Charles Street were present.

Owner

- The owners have owned the property for many years. The house was constructed in 1885 as stables for the adjacent property, and was converted to a residence in 1936.
- The house is sited very close to the northern and western property lines, and is non-conforming. The hardship is based on this non-conformity.
- The house is in need of repair and maintenance, and very modest upgrades are proposed.
- The owners have spoken with and have showed plans to their neighbours to the north and to the south.

Architect

- The house is located at the rear of a large panhandle, with access via Rockland Avenue. It does not conform to the required rear, north and south side yard setbacks.
- The proposed work is for the general rehabilitation of the structure. An existing addition at the north will be reconstructed, and the 105 sq. ft. addition at the south end of the upper level will create a new master bedroom with an ensuite.
- At the moment, a half flight of stairs separates the bathroom from the master bedroom.
- The existing roof ridge will be continued southward with the upper storey addition. The small dormer proposed on the east elevation creates a window to the new ensuite bathroom.
- A restrictive covenant at the east side of the house is in place to protect the neighbours' view corridor, and prohibits construction in this area. This significantly restricts the location of any addition to the house.
- Due to the existing partial basement's ceiling height, the upper level addition technically makes the house a three-storey structure. However, each level is basically a split level. The house is still within the maximum height for the zone.
- The existing northern addition encroaches towards the neighbours, and will be rebuilt within the property lines. This northern addition to the mudroom was previously reviewed by the Board in 2013. A slightly different roofline is now proposed, so that the addition wraps around the northeast corner of the house, forming a small, open porch.
- The mudroom provides a secondary entrance to the house, as well as laundry and storage. The house is small relative to the size of the property.
- Today's regulations would require a 17m rear yard setback, and all additions would be within the rear yard.
- The maximum number of storeys is today's requirement, and would be punitive to enforce for a house built so long ago.
- The proposed changes will have little or no effect on adjacent neighbours.

Section 1.1.5 (d)

Reduce the minimum side yard setback (north) from 3.00m to 0.13m.

Carried Unanimously

Meeting adjourned at 1:35 pm.
