

**CITY OF VICTORIA
BOARD OF VARIANCE MINUTES
JULY 26, 2018**

Present: Andrew Rushforth, Chair
Margaret Eckenfelder
Trevor Moat

Absent for a portion of the meeting: Rus Collins

Absent: Jaime Hall

Staff: Thom Pebernat, Zoning Administrator
Katie Lauriston, Secretary

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

1. Minutes

Minutes from the meeting held July 12, 2018

Moved: Margaret Eckenfelder

Seconded: Rus Collins

That the minutes from July 12, 2018 be adopted as amended.

Carried Unanimously

2. Appeals

12:30 Board of Variance Appeal #00727

**Ryan Goodman of ARYZE Developments Inc., Applicant; Belinda Owen-Flood,
Owner
1115 Collinson Street**

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

The proposal is to rebuild the exterior rear landings and steps to bring them up to current code requirements.

Bylaw Requirements

Relaxations Requested

Section 1.2.4 (c)

To permit a roof deck

Note: the roof deck is existing

Section 1.2.5 (b)

Decrease the rear yard setback from 9.15m to 7.09m

Note: existing is 7.44m

Section 1.2.5 (c)

Decrease the (west) side yard setback from 3.00m to 2.76m

Note: existing is 2.76m.

Belinda Owen-Flood, Owner, was present.

Owner

- The owner has had the fourplex since 2001 and has had a few long-term tenants.
- It has come time to replace the exterior staircase for safety reasons. The owner has been advised that the stair replacement will require a variance.
- The owner would like to complete the project in a timely manner.
- The staircase predates the owner's purchase of the property, so their construction date is not certain.
- The owners wish to build the stairs properly and to code.

Public portion of the meeting closed.

- The variances requested relate to existing conditions and the proposed modifications are minor.
- The intent is to comply with code and to improve safety.

Motion:

Moved: Trevor Moat

Seconded: Margaret Eckenfelder

That the following variances be approved as requested:

- | | |
|-------------------|--|
| Section 1.2.4 (c) | To permit a roof deck |
| Section 1.2.5 (b) | Decrease the rear yard setback from 9.15m to 7.09m |
| Section 1.2.5 (c) | Decrease the (west) side yard setback from 3.00m to 2.76m. |

Carried Unanimously

**12:50 Board of Variance Appeal #00726
Eric Leydon and Kathleen Hegan, Owners / Applicants; Interactive Construction
Inc., Builders
2596 Empire Street**

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

The proposal is to construct a lower floor addition at south side of the property which includes a new secondary suite.

Bylaw Requirements

Relaxations Requested

- | | |
|-------------------|---|
| Section 1.2.5 (a) | Decrease the front yard (Empire Street) setback from 7.50m to 5.39m |
| | <i>Note: existing is 2.55m</i> |

Section 1.2.5 (b)	Decrease the rear yard (west) setback from 7.50m to 4.02m <i>Note:</i> existing is 4.10m
Schedule F Section 1	Relaxation to the location of an accessory building from the rear yard to the side yard (accessory building 1 – NE)
Schedule F Section 4 (c)	Decrease the flanking street setback from 3.50m to 2.94m (accessory building 1 – NE)
Schedule F Section 1	Relaxation to the location of an accessory building from the rear yard to the side yard (accessory building 2 – NW)
Schedule F Section 4 (c)	Decrease the flanking street setback from 3.50m to 1.65m (accessory building 2 – NW)
Schedule F Section 1	Relaxation to the location of an accessory building from the rear yard to the side yard (gazebo – S).

Eric Leydon, Owner / Applicant, was present.

The correspondence submitted by the applicant in favour of the application from Andrew and Sara Pye of 1187 Kings Road, Lorraine Rosenfeld of 2592 Empire Street, Daniel and Margaret Herlinger of 1175 Kings Road, Kyle Dahle of 2667 Empire Street was acknowledged.

Owner

- The owner intends to construct a secondary suite within the existing single family dwelling. A one-level addition at the south end of the property is being proposed.
- The house was purchased in 2017 with the intent of building a secondary suite, and has found through the design process that variance would be required.
- The addition requires variances due to the orientation of the house and the existing structure. The front and rear setback variances are due to the orientation of the house on the property, which creates an unusable building area on the lot.
- A 7.5m setback is required for the zone, and a relaxation would allow a building within the property.
- The other variances relate to the location of the shed and gazebo, which are existing accessory buildings.
- The owner has consulted their neighbours to inform them of their intentions. The owner was initially unable to contact the owner of the duplex directly behind their property, but they have since spoken. This neighbour was concerned for a potential impact on parking, and the owner will be complying with the City's parking bylaw for secondary suites. The neighbours did not note any reservations about the proposal itself.

Board

- Were the accessory buildings already existing when the property was purchased?
 - Yes, the owners now want to make these legal.

- Are further additions or removal of buildings planned?
 - The owner is not certain; once the addition is built, new landscaping will be required. The owner wants to create a usable area outside for their children.
- Was a flat roof considered instead of the proposed low-pitch roof? This could allow for a future expansion of the main floor.
 - Initially the designer suggested a flat roof with a deck, but this would add costs to the project. The owner intends to create a suite that is minimally disruptive to tenants from the family above.
- Will trusses be required for the roof?
 - Yes. The design suits the owners' desired footprint and area.
- Does the yellow rectangle on the plans show the allowable build area, if the front of the lot were located elsewhere?
 - Yes.
- Would the new construction fit within the allowable setbacks if the frontage were along Kings Road?
 - The Zoning Administrator confirmed that this would be correct.

Public portion of the meeting closed.

- The proposal is within the parameters of the lot.
- The variance arises from the definition of 'front lot'.

Motion:

Moved: Margaret Eckenfelder

Seconded: Trevor Moat

That the following variances be approved as requested:

Section 1.2.5 (a)	Decrease the front yard (Empire Street) setback from 7.50m to 5.39m
Section 1.2.5 (b)	Decrease the rear yard (west) setback from 7.50m to 4.02m
Schedule F Section 1	Relaxation to the location of an accessory building from the rear yard to the side yard (accessory building 1 – NE)
Schedule F Section 4 (c)	Decrease the flanking street setback from 3.50m to 2.94m (accessory building 1 – NE)
Schedule F Section 1	Relaxation to the location of an accessory building from the rear yard to the side yard (accessory building 2 – NW)
Schedule F Section 4 (c)	Decrease the flanking street setback from 3.50m to 1.65m (accessory building 2 – NW)
Schedule F Section 1	Relaxation to the location of an accessory building from the rear yard to the side yard (gazebo – S).

Carried Unanimously

**1:10 Board of Variance Appeal #00732
Jason Hodgins of the Greater Victoria School District, Project Manager / Applicant
2827 Belmont Avenue (Oaklands Elementary School)**

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

The proposal is to construct a portable classroom in the front yard facing Belmont Avenue.

Bylaw Requirements	Relaxations Requested
Schedule F Section 2 (a)	Increase the permitted floor area from 37m ² to 102.73m ²
Schedule F Section 3 (a)	Increase the permitted height from 3.5m to 4.42m
Schedule F Section 1	Relax the rear yard siting requirement to permit an accessory building in the front/side yard
Part 1.2.6 (a)	Increase the permitted site coverage from 40% to 41.9%.

Jason Hodgins of the Greater Victoria School District, Project Manager / Applicant was present.

Applicant

- Oaklands Elementary requires another learning studio due to increased enrollment and more children falling within the school's catchment area.
- Other areas on the lot have been considered, but none of the school's lots provide dimensions that would allow the situation of a portable.
- The Ministry of Education requires a minimum 75m² classroom area, and the school district requires at least 80m². The added floor area allows for a boot room and HVAC system.
- The existing lot is already slightly over the allowable site coverage. This school is situated over about 15 separate lots; if these were all one parcel, the addition would be well under the allowable site coverage. The studio cannot be squeezed onto another lot while complying with the necessary separation distances, and the lot with the school is already occupied by the school building and parking lot.
- The added height allows for lots of natural light and a crawlspace for maintenance, in addition to the thick floor and ceiling for energy efficiency.
- The side yard location is proposed because a front yard location would be too close to Belmont Avenue.
- The City does not want buildings located on the Morley Street right-of-way.

Board

- Was building on top of the existing annex or in the parking area considered, to minimize the visual effect of a studio?
 - Given the project's time constraints and the fact that construction on the parking area would take years, this is not viable. The applicant is not certain whether it would be feasible to add a second storey to the annex. Either alternate location would not be able to meet this year's school needs.

- Playground space would be lost if the portable were placed in the parking lot, and spaces would have to be reconfigured or a variance sought for lack of parking.
 - This is a portable structure, and is not permanently in place.
 - From a costs and technical standpoint, there is nowhere else to place the studio.
- Has the school been seismically upgraded?
 - The addition was built around 2000; the applicant is not sure if seismic was completed at this time.
- Why not place the studio to the north of the school?
 - The studio would have to comply with required fire separation distances, and the City is not interested in adding more buildings to this lot.
- Can the studio be attached to the existing building?
 - This would be very difficult, and there would be structural/seismic issues to consider.
- What are the future plans for the lots to the North?
 - These are City property at the moment, although the School District would likely be interested in acquiring these properties in the future.
- When will the project be completed?
 - In late fall, for use during the school year.
- What if the Board rejected this application?
 - The District might enter into negotiations with City, but even then studio locations are limited by protected trees, playground locations, and the fact that there are already two portables at northeast corner.

Public portion of the meeting closed.

- The school has a present need for classrooms.
- The School Board has assessed the location and budget considerations.

Motion:

Moved: Margaret Eckenfelder

Seconded: Rus Collins

That the following variances be approved as requested:

Schedule F Section 2 (a) Increase the permitted floor area from 37m² to 102.73m²

Schedule F Section 3 (a) Increase the permitted height from 3.5m to 4.42m

Schedule F Section 1 Relax the rear yard siting requirement to permit an accessory building in the front/side yard

Part 1.2.6 (a) Increase the permitted site coverage from 40% to 41.9%.

Carried

(2 in favour; 1 opposed)

Rus Collins recused himself from Appeal No. 00731 and left the meeting at 1:30pm.

1:30 Board of Variance Appeal #00731
Louis Horvat, Zebra Design & Interior Group Inc., Designer; Walter and Karen Madro, Owners
1980 Fairfield Place

Present Zoning: R1-G – Single Family Dwelling (Gonzales) District
Present Use: Vacant

The proposal is to construct a new single family dwelling.

Bylaw Requirements

Relaxations Requested

Part 1.6.5 (b) Reduce the rear yard setback from 14.01m to 7.08m (to the covered patio and deck) and 8.21m (to the building).

Louis Horvat, Zebra Design & Interior Group Inc., Designer; Walter and Karen Madro, Owners; Julie Budgen, Environmental Planner from Corvidae Environmental Consulting Inc.; neighbours Scott Chapman and Janya Freer of 330 Denison Road, Brad Atchison and Cheryl Shoji of 1968 Fairfield Place, Catherine and Philippe Doré of 1962 Fairfield Place, Arlene Lonergan of 388 Denison Place, Sheila Protti of 396 Denison Road, Helen Rodney of 308 Denison Road, Bev and Kevin Dickson of 235 Denison Road, Virginia Errick of 615 Foul Bay Road, Karen Ayers of 613 Foul Bay Road, Marion Cumming of 151 Sunny Lane, R. Steven Jones of 1541 Rockland Avenue, Cathy Armstrong of 302 Denison Road, Robin Jones of 234 Beechwood Avenue, Janine Wolfe of 550 Foul Bay Road, and Mary Doody Jones of 435 Kipling Street were present.

Correspondence regarding the application from the following was acknowledged: Cathy Armstrong, Executive Director of the Land Conservancy, Alva and Earl Jenson of 201 King George Terrace, Iain and Christine McAuley of 319 Denison Road, Kevin and Bev Dickson of 235 Denison Road, Karen Ayers of 613 Foul Bay Road, Virginia Errick of 615 Foul Bay Road, Daphne Schober of 417 Queen Anne Heights, Janya Freer of 330 Denison Road, Guy Pilch of Fairfield, Janet Simpson of 2125 Hall Road, Lisa and Bill Zickmantel of 6 Sylvan Lane, Dionne and Steven Baker of 20 Sylvan Lane and David and Jane Siegel of 301 Denison Road, Nic Humphreys of 167 Passmore Street, Paul and Helen Vincent of 198 Denison Road, Dr. Scott C. Chapman of 330 Denison Road, Susan Dulc of 758 Mountjoy Avenue, R. Steven Jones of 1541 Rockland Avenue, Steve and Arlene Lonergan of 388 Denison Road, Sheila Protti of 396 Denison Place, Brad Atchison of 1968 Fairfield Place, Catherine and Philippe Doré of 1962 Fairfield Place, Marion Cumming of 151 Sunny Lane, Kate Richmond of Victoria, Helen Rodney of 308 Denison Road, Dr. Danny Myers and Dr. Anita Gadzinska-Myers, Jean Hamilton of 563 Foul Bay Road, Mary Doody Jones of 435 Kipling Street, as well as a petition from residents concerned about Gonzales Hill Regional Park from the following: Steve and Dionne Baker, Britta Bentz, George and Joanne Browman, Mary Doody Jones, Catherine and Philippe Doré, Joan Fraser, Peter Kickham, Arlene and Steve Lonergan, Christine and Iain McCauley, Ray and Sheila Protti, Helen Rodney, Yvonee Rorison, Sybil Seitzinger, Jarek Swierczewski, Paul Vincent, Katie Warfield, and Franco and Terry Zava.

Owners

- The owners are seeking a 6.95m variance to allow for a 7.08m setback in the rear yard. An 8.48m setback was previously requested, which would have allowed for a basement suite.

- The irregular shape of the lot imposes significant hardship. More than 30% of the lot cannot be built upon.
- If the house were built within the allowable setback, it would destroy the sensitive urban forest and ecosystem.
- Without the variance, 19 Garry Oak trees would have to be removed for the required driveway slope and turning radius. The requested setback allows for minimal disturbance of the existing trees.

Designer

Louis Horvat presented a shadow study of the proposal and renderings of proposed plantings and views from adjacent properties.

- The basement area has been reduced from the previous application, and is now in compliance with the permitted total square footage.
- The new house siting increases the distance to the adjacent neighbours and allows the peak of the rocky outcropping to be maintained. Blasting will be done in a strategic manner to maintain the high point of the hill and partially screen the building.
- The applicants intend to rehabilitate the area between the proposal and the park's parking lot. The trees in the rendering are shown as juveniles, as this is how the area will look at first.

Owners

- A further hardship with the application has to do with anchoring the house to the western slope of the property. Without the variance, considerably more blasting would be required.
- If the variance is granted, the owners will also be placing a restrictive covenant on the lot to protect the trees from further development and to prevent subdivision of the property.
- The owners are working with the CRD and the Land Conservancy (TLC) to create a Garry Oak ecosystem between the home and the CRD parking lot, returning the land to a native habitat.
- It is the owners' intention to build their home based on the concept of gentle densification.
- Since March 22nd, the owners have continued to meet with many people including the Chair of the CRD Parks committee, Victoria's Mayor, the City's Director of Sustainable Planning and Community Development, other Planning staff, TLC, CRD Parks Committee staff and individual neighbours.
- The proposal aligns with the principles of the Gonzales Neighbourhood Plan, which states that variances should be considered if required to retain natural features such as Garry Oak meadows.
- The owners have continued to work with their environmental consultant to determine the best siting for the house and to best mitigate environmental effects. The consultant's study has been included in the application for the Board's information.

Environmental Consultant

- The biophysical impacts of the proposal have been assessed, and the effect of the variance would be the removal of 8 trees as opposed to 19 if the variance were not

granted. Many of the 19 trees are larger and of greater health than the 8 that would be removed with the requested variance.

- The whole proposal has been evaluated, including both the house and the driveway, with the goal to preserve the urban forest.
- Corvidae will continue to be consulted throughout the duration of the project, including the construction and restoration phases. The restoration will be conducted over a period of about 2 years, continued into the future by the owners, and will include planting 11 trees within the park where there is currently mowed lawn. Native species will be planted to restore the area to the Garry Oak habitat. This is a great, long-term project that will add to the Garry Oak ecosystem.
- The applicants have met with Brett Hudson of the CRD, who has indicated that he is neither for or against the house project. There is no variance requested towards the park, as an adjacent neighbour.
- It is preferable that the habitat be conserved as much as possible, while preserving larger trees and compensating for the lost trees.
- The proposed vehicle access allows for minimal disturbance to the urban forest. The owners will place a covenant on the band of trees, which will provide a wildlife corridor habitat. Without the requested variance, the driveway would be pushed to the border of the lot, which is the most ecologically valuable habitat.

Owners

- The revisions to the proposal also include a change of 1.5m to the rear yard setback, to the benefit of the neighbours to the east. The basement suite has been replaced with a crawlspace.
- A turn area must be provided in the driveway, but this has been reduced as much as possible and the design includes a permeable driveway surface. The height of the retaining wall has been reduced to alleviate the visual impact to the western neighbours.
- The owners are intent on keeping the existing rock grade as undisturbed as possible, to minimize any impact to park visitors and neighbours to the east. The rendering provided shows how the house will appear from the park. The house will be most visible from the parking lot; as the trees mature, the presence of the house will be diminished. The intent is to be as discreet as possible.

Board

- Will shadows cast by the proposal affect the house to the north?
 - The shadow studies show the effects at the solstice and at the equinox. In the winter at 3pm, the sun is so low that there could potentially be shadowing.
- Is it proposed that 8 trees will be removed for the driveway, and that they will be replaced by 11 new trees on the CRD's property?
 - Correct.
- Has the CRD reviewed the proposed tree replacement project?
 - The CRD has been consulted but they are not set up to receive funding for this type of project. The Land Conservancy's (TLC) office is located in the Gonzales Hill observatory and the organization is willing to work with the owners to assist in the restoration plan. The Garry Oak restoration plan will be a project taken on by the TLC and the owners, and will be managed by Corvidae.

Notified Neighbours

- Scott Chapman presented concerns for the proposal, including the following points:
 - the requested variance is not the minimum required to alleviate the difficulties identified; a minimal request would be supportable
 - the applicants must demonstrate that this is the minimal setback relief to achieve all of the priorities
 - the best compromise for building on the lot must be found while diminishing its visual impact
 - concern for shading issues; appreciation for the provision of a shadow study, but additional clarity would be appreciated on the difference between the previous and current proposal.

Designer

- The initial shadow study showed information only for the lot itself, without contours outside the property and without the trees. The current shadow study shows the shading impact of the current plans.

Board

- Is the proposed house geodetically lower than in the previous application?
 - Yes, however the biggest change in the shadow studies is the inclusion of additional conditions located outside the property lines.

Notified Neighbours

- Scott Chapman continued:
 - there are numerous houses in the area that present creative solutions to retain Garry Oak trees in driveways
 - all options should be explored
 - retaining three trees in exchange for a taller house does not appeal to many residents in the area
 - many houses in Victoria are anchored to steep slopes; this is not a unique engineering challenge
 - overdevelopment in other park areas has had a negative impact; any building should emulate the adjacent developments around Gonzales Hill, and should not negatively impact the park experience.

The meeting recessed at 2:30pm and reconvened at 2:40pm.

- Janya Freer presented concerns for the proposal, including the following points:
 - strong objection to the size of the requested variance
 - preserving trees requires a variance, but it has to be demonstrated that the requested setback is necessary and minimal
 - the proposal will impact the park and its visitors as well as neighbours' properties
 - the current application is virtually the same as the previous one, which was denied; the same problems arise with this application
 - there will be a major impact on the privacy and light at 330 Denison Road, especially as the proposal places the house on the peak of the hill
 - many other properties preserve Oak trees while complying with bylaws

- the application proposes a tradeoff between bylaws and landscape remediation; these issues need to be separated
 - the conversation has to be expanded to qualified community members
 - variances are not a right.
- Arlene Lonergan presented concerns for the proposal, including the following points:
 - Garry Oaks are categorized as being in the minimal area of concern in the International Union for Conservation of Nature red list
 - the proposed Oaks are shown to be 28'3"; trees will not grow on the rockery
 - there is little emphasis on the environment with the proposal
 - there is no hardship.
- Brad Atchison presented comments on the proposal, including the following points:
 - as the most impacted neighbour, he is anguished
 - all land use issues should consider the climate impact
 - the project is highly intrusive and impactful
 - the proposal's visual profile is exactly equivalent to a 5+ storey human-made structure
 - the applicants have tried to sell the lot to local governments, who have not wanted to purchase the land
 - the restoration plan is ineffectual and the driveway is too large
 - eliminating the deck would be nice
 - the relocation of the house is a fair and necessary compromise
 - if the variance is not approved, the Board will be asking that Brad and his wife bear the environmental impacts
 - the Board is encouraged to support the requested variance.
- The Land Conservancy (TLC), tenant of the CRD's Gonzales Hill Park, presented comments on the proposal including the following points:
 - the requested variance should be supported to minimize the impact on the Oaks
 - as the CRD is not in a position to take on the project, TLC will work on the restoration plan with the owners of 1980 Fairfield Place
 - the ecological value of the land is significant, and the landscape should be kept intact
 - TLC would also like to see the park enlarged, but this is privately held land
 - if the variance is rejected, a more impactful development would be built instead.
- Marion Cumming presented watercolor illustrations and comments on the proposal, including the following points:
 - this proposal could be an example of gentle densification
 - the applicants are working with the Garry Oak ecosystems recovery team; this indicates that the restoration is possible
 - appreciation for the restrictive covenant on the perimeter of the driveway
 - would like to see a more detailed comparison between the number of Garry Oak trees lost, but accepts the ecological assessment completed by the applicants
 - the views from the east will remain intact
 - appreciation for the restoration of the Garry Oak meadow.

Owners

- This is a question of hardship. The hardship is due to the irregular lot shape, which makes the rear yard setback approximately 30% of the property and significantly limits the location of the home and of the driveway.

