

**CITY OF VICTORIA
BOARD OF VARIANCE MINUTES
OCTOBER 25, 2018**

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

Staff: Nina Jokinen, Planning Technician
Katie Lauriston, Secretary

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

1. Minutes

Minutes from the meeting held September 13, 2018

Moved: Margaret Eckenfelder

Seconded: Trevor Moat

That the minutes from September 13, 2018 be adopted as amended.

Carried Unanimously

2. Appeals

12:30 Board of Variance Appeal #00747

**Sean Katz and Cam Brown of Krown Enterprises Inc., Applicants; Peter Gubbels, Owner
1912 Shotbolt Road**

Present Zoning: R1-G – Single Family Dwelling (Gonzales) District
Present Use: Single Family Dwellings on all three existing lots

The proposal is to reduce the required side yard setback to allow the existing single family dwelling to remain as-is due to lot line adjustment for subdivision.

Bylaw Requirements

Relaxation Requested

Section 1.6.5 (d)

Reduce the interior (east) side yard setback from 4.00m to 3.02m.

Sean Katz and Cam Brown of Krown Enterprises Inc., Applicants, Peter Gubbels, Owner, Kyle Leggett and Natalie Saunders of Java Designs, Designers, and neighbours Chaseten Rouillard of 1907 Fairfield Avenue, Paul Gubbels of 1906 Shotbolt Road and John Prins of 1901 Shotbolt Road were present.

Applicants

- This project will create two 460m² lots from one, which seems prudent given the current size of the lot. As a consequence of the land donation from 1915 Fairfield Road to

create sufficient space for two lots, the house at 1912 Shotbolt Road will no longer be compliant with the setback requirements.

- The proposal helps achieve density and is fairly consistent with the Official Community Plan and the Gonzales Neighbourhood Plan, as additional housing with basement suites would go towards addressing the rental shortage. The applicants are looking to create the large lots sought in the neighbourhood.

Owner

- As proposed, the garage is about a meter too close to the property line. If the setback cannot be relaxed, the garage will have to be torn down. The owner uses the garage every other day and would like for the garage to remain attached to the house.

Board

- Is the intention to register an easement for the adjacent lot, with no physical change to the property?
 - Yes, no physical change is proposed. A similar process has been done with lots A and B along Shotbolt Road, as well as to lots A and B on Fairfield Road.
- Was a similar easement arrangement put in place in these other locations, with no noticeable change to the property?
 - Yes. The applicants have spoken to as many neighbours as possible, although they have been unable to reach the neighbours at 1907 Fairfield Road.
- Does the owner live in the house?
 - No, the house is currently vacant and is ready to be torn down.
 - The tree canopy is of great concern. The applicants have every intention to keep all the trees if possible; however, the large tree in front of the house at 1915 Fairfield Road may have to be removed and replaced. The applicants will be following the advice of the City's Parks department.

Neighbours

- Paul Gubbels noted that he lives adjacent to his father at 1906 Shotbolt Road. His father bought the property in 1974 and uses the garage quite frequently. The garage should be retained.
- Chaseten Remillard presented concerns for the proposal, including the following points:
 - he bought his property specifically for the unique urban tree canopy, which is protected under the new neighbourhood plan. Protecting the existing garage does not make sense unless there are strict guarantees to protect the tree canopy. He does not understand the desire to remove such a unique tree
 - he has been at his property almost every day, and has not been consulted. The first he heard of this proposal was through the City's notice. He wants open conversation on the future of this and other lots
 - moving the property line will destroy a whole section of greenery between 1912 and 1915 Shotbolt Road. The change will not be invisible; the fence line will also show the location of the easement
 - there is a larger plan at play, which will have three lots turned into five. The houses will be much more pinched in, with large windows looking onto spaces that were not designed for homes. More million-dollar homes will not create affordability or density. He understands the need to rebuild a house on the property, but not in an area specifically designated as an urban canopy.

Applicants

- The applicants have worked on other large projects, and pride themselves on well-conducted neighbourhood consultations.

Neighbours

- John Prins noted that his property was granted a variance from the garage to the east property line over 20 years ago. The owner's outbuilding is useful and it would be a shame to have it destroyed and sent to the landfill.

Board

- Which is the tree that could be removed?
 - The large tree in front of the house at 1915 Fairfield Road has been marked and inventoried by the arborist. It will likely have to be removed prior to demolition due to the tree's proximity to the house. The tree is not native to the area, and is not located on the property subject to this application.
- Are the Garry oaks protected?
 - The applicants have had discussions with the Parks department given the unique characteristics of the neighbourhood and the desires of its residents. The applicants expect Parks to have recommendations for the protection of the Garry oaks.
- Can the large tree be preserved?
 - The applicant is not an arborist, so cannot say for certain. However, the tree has been in place longer than the house, and the odds of survival seem low because the house's concrete foundations will have to be removed.

Board

- If the garage were removed, would the house's situation be within the setbacks?
 - Nina Jokinen, Planning Technician, confirmed that this would be the case.

Public portion of the meeting closed.

- The request is reasonable, and it would be unreasonable to force the demolition of a garage with a perfectly good setback.
- The Board is sensitive to issues around the tree canopy and the preservation of the neighbourhood. It is the Board's understanding that the applicants will consult with their neighbours and an arborist in this project. There have been important points brought up by the community that should be considered in this development.

Motion:

Moved: Rus Collins

Seconded: Margaret Eckenfelder

That the following variance be approved as requested:

Section 1.6.5 (d)

Reduce the interior (east) side yard setback from 4.00m to 3.02m.

Carried Unanimously

12:50 Board of Variance Appeal #00748
Charles Kierulf of de Hoog & Kierulf Architects, Applicant / Architect; Stella McClure Holdings, Owner
1038 McClure Street

Present Zoning: R-78 – McClure Street Multiple Dwelling District
Present Use: Vacant / Under construction

The proposal is for a new multiple dwelling currently under construction, and the application specifically relates to the parking structure.

Bylaw Requirements

Relaxations Requested

Section 3.101.6 (b)	Reduce the minimum rear yard setback from 6.0m to 0.0m for the parking structure
Section 3.101.6 (c)	Reduce the minimum side yard setback (east) from 3.0m to 0.0m for the parking structure
Section 3.101.7 (a)	Increase the maximum the site coverage from 49% to 63% for the parking structure
Section 3.101.7 (b)	Reduce the minimum open site space from 51% to 37% for the parking structure.

Charles Kierulf of de Hoog & Kierulf Architects, Applicant / Architect; Don Mattrich, Owner, Melanie Smith, VP office, and Ryan Hain of Story Construction were present.

Jaime Hall noted that his firm has previously worked with the project's architect, but that he does not have a relationship that would conflict or bias his decision for this application.

Applicant

- Rezoning and development permit applications were completed in 2015 for the construction of rental units. The property changed hands, and the development permit was extended to 2018. Assembling the property with adjacent sites was attempted, but in February 2017 the decision was made to proceed with the original approved development permit. The applicants began a phased permit process in July 2018.
- The site is currently under construction, the foundation walls are up and the excavation and foundation permit have been issued. The geotechnical and structural engineers determined that the existing retaining wall on the west property line could not support the loose soils during excavation.
- The applicants undertook a slot-cut approach with pre-cast panels, and the elevation of the tops of the panels was set to support the footing of the retaining wall. Because the top of the pre-cast panel was higher than originally planned, the slab was brought up with it. The slab is carried through the whole parking box, so all corners have been affected.
- In the original development permit application, the slab was below grade. The current proposal still has the slab below finished grade, but it is raised and the top of the parking box daylights around the northeast corner of the property. Through the building permit review, the Planning department identified the need for variances due to the parking box

being above the existing natural grade. Although it is above the existing natural grade, it is not above the finished grade.

- The building's first floor elevation has not changed. The edge condition will still have a low landscaping wall and landscaping soil up against the wall. Additional soil will be added to maintain adequate planting depth.
- The slab has been raised by about 13", and because the corner of the site is a lower existing grade, it is slightly above the existing grade. The only change is the relative position of the slab underneath the soil. This will not change the proposal's relationship to neighbours.
- The main issue is that the building is currently under construction. The applicants would typically take this issue to Council, but due to the meeting schedule around the election, the earliest Public Hearing date would be December 13th, possibly even into January. Meanwhile, framing is due to begin mid-December. The owners are looking to reduce their level of risk and are seeking a more expedient decision from the Board, so that construction can proceed.

Board

- How is the soil depth maintained for landscaping?
 - There was always a landscaped wall with a 6ft fence proposed on the north side of the property. The soil and the top of the wall were raised to compensate, creating more wall and less fence overall. The soil now berms up towards the fence and down towards the building.
- Were the soil conditions unknown prior to excavation?
 - There are several ways to go about excavation. For this project, due to the parking box being pushed out so far, a straight cut was necessary. However, the soils could not support a straight cut.
 - The retaining wall was created when the soil conditions could be determined, and the parking box was adjusted at this time. The applicants didn't think it would be an issue until it was identified by the Planning department as a change in grade.

Owners

- The owners are seeking the Board's support to build this rental building.

Board

- Has there been any feedback from neighbours?
 - There has been no feedback so far.
- Have the residents of 1065 Burdett been consulted?
 - This building is operated by the same rental firm, and so far there have not been any concerns expressed.
- Is the Board entitled to make a decision on this matter?
 - Nina Jokinen, Planning Technician, clarified that an application would not be accepted if the Board did not have the jurisdiction to make a decision.

Public portion of the meeting closed.

- The Board is sympathetic to the applicants' timeframe issues.

- The Board is concerned that they may be being asked to usurp the jurisdiction of Council. The Board does not typically see applications for major commercial developments. However, the variances are minor.
- The variances are supportable in light of the circumstances and because there will be no difference to the finished building.

Motion:

Moved: Margaret Eckenfelder

Seconded: Trevor Moat

That the following variances be approved as requested:

Section 3.101.6 (b)	Reduce the minimum rear yard setback from 6.0m to 0.0m for the parking structure
Section 3.101.6 (c)	Reduce the minimum side yard setback (east) from 3.0m to 0.0m for the parking structure
Section 3.101.7 (a)	Increase the maximum the site coverage from 49% to 63% for the parking structure
Section 3.101.7 (b)	Reduce the minimum open site space from 51% to 37% for the parking structure.

Carried Unanimously

**1:10 Board of Variance Appeal #00749
Gail Fortune, Applicant
315 Edward Street**

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

The proposal is to remove the exterior west side steps and to replace them with a disability lift.

Bylaw Requirements

Relaxations Requested

Section 1.2.5 (c)	Reduce the minimum west side yard setback from 1.50m to 0.83m
Section 1.2.5 (d)	Reduce the minimum combined side yard setbacks 4.50m to 1.82m.

Gail Fortune, Applicant, was present.

The correspondence submitted in favour of the application from Amy Dove and Michael Dahlke of 314 Langford Street, Kathleen Cochran and Alice Madsen of 318 Edward Street, Mark Fulmer of 805-811 Mary Street and Mike Brosselard of 313 Edward Street was acknowledged.

Applicants

- The applicant's father has had his leg amputated. In order for him to come home from the hospital, the side stairs need to be removed to install a lift.
- The lift is temporary, and is not attached to the house. It is on a concrete stand of its own, and goes straight up and down.
- The lift will not interfere with any neighbours' enjoyment of their properties.

Board

- Why is a variance required for a temporary lift?
 - Nina Jokinen, Planning Technician, explained that the lift is considered steps, and their temporary nature does not change the zoning requirements.

Public portion of the meeting closed.

- This is an understandable request that will have very minimal impact, except for immediate neighbour to the west.
- There is evidence of strong neighbourhood support for the proposal.

Motion:

Moved: Trevor Moat

Seconded: Jaime Hall

That the following variances be approved as requested:

Section 1.2.5 (c) Reduce the minimum west side yard setback from 1.50m to 0.83m

Section 1.2.5 (d) Reduce the minimum combined side yard setbacks 4.50m to 1.82m.

Carried Unanimously

Meeting Adjourned at 1:30 pm.
