

**CITY OF VICTORIA
BOARD OF VARIANCE MINUTES
APRIL 14, 2022**

Present: Trevor Moat, Chair
Margaret Eckenfelder
Rus Collins
Joanne Thibault

Absent: Rosa Munzer

Staff: Thom Pebernat, Zoning Administrator
Alena Hickman, Planning Secretary

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

1. Minutes

Minutes from the meeting held March 24, 2022

Moved: Margaret Eckenfelder

Seconded: Rus Collins

That the minutes from March 24, 2022 be adopted as amended.

Carried Unanimously

2. Appeals

**12:30 Board of Variance Appeal #00937
Spot Design Company, Applicants; Katherine Lowther & Jonathan Lowther,
Owners
1443 Grant Street**

Present Zoning: R1-B
Present Use: SFD with SS

The proposal is to construct a three-storey addition to the side of the existing single-family dwelling with secondary suite.

Bylaw Requirements

Relaxations Requested

Section 1.2.4.a

Height of building relaxed from 7.6m to 8.31m and number of storeys relaxed from 2 maximum to 3

Section 1.2.5.b

Rear yard setback relaxed from 7.79m to 5.94m for rear deck

Section 1.2.5.c

Side yard (west) relaxed from 3.0m to 2.4m for deck and stairs

Section 1.2.5.d

Combined side yard setbacks relaxed from 4.5m to 3.49m

Paul Terstappen, Spot Design, Applicant; Jonathan Lowther, Owner; Cliff Morrison neighbour at 1454 Begbie Street were present.

Submitted correspondence was acknowledged.

Applicant

- The original structure is over the allowable height. We are looking to match the floors and rooflines to the existing building to be aesthetically pleasing.
- The purpose of the renovation is to create space for the owner's growing family.
- The existing suite on the bottom floor is currently being used for office space and extra space for the family and childcare provider. A new suite is proposed in the addition.
- The deck is already within the setback, so any work in the back yard making the deck work with the new design will require a variance.
- With the existing house there is a garage that sits on the lot line and is part of the reason we didn't explore any kind of added accessory building. The garage will be demolished as part of the renovation plan.
- All immediate neighbours were consulted and are supportive.

Neighbours

- Cliff Morrison 1454 Begbie Street– neighbour, is in support of the proposed variances.

Board

- Is the plywood structure behind the back fence your garage?
 - No, that is the neighbours' accessory building.
- We received a letter of support from a Mr. Bornhold, do you know what his address is?
 - 1437 Grant Street.
- Which roofline gives us the variance or is it the dormer which adds the variance?
 - The main roof, even without the dormers, would require a variance because the original roof is already too high. The new and final height will be slightly higher due to the dormer.
- Why is the proposed deck so much larger than the current one?
 - If we were to make it conform, the deck could not be extended across the entire rear of the house. We would like to a set of double doors as well as storage under the stairs for the suite.
- Did you have any expressions of concern from neighbours?
 - We did from the neighbours across the street about street parking. After we went over and explained the project, they were comfortable with the proposal.
- I think this is a 1911 vintage house. There is a small bay window with some stained-glass, are you going to keep that?
 - Yes, we love that beautiful window, and we are going to keep it on the interior of the house.
- In discussions with the City of Victoria did you speak to any heritage planners?
 - No because it's not a heritage registered property.

Public portion of the meeting closed.

- Neighbours have been well consulted and support the proposal.
- Appreciate that the proposal is in keeping with the aesthetic of the block.
- Appreciate the effort in trying to keep the Heritage nature of the dwelling.

Motion:

Moved: Margaret Eckenfelder

Seconded: Rus Collins

That the following variances be approved:

Bylaw Requirements

Relaxation Requested

Section 1.2.4.a

Height of building relaxed from 7.6m to 8.31m and number of storeys relaxed from 2 maximum to 3

Section 1.2.5.b

Rear yard setback relaxed from 7.79m to 5.94m for rear deck

Section 1.2.5.c

Side yard (west) relaxed from 3.0m to 2.4m for deck and stairs

Section 1.2.5.d

Combined side yard setbacks relaxed from 4.5m to 3.49m

Carried Unanimously

**1:00 Board of Variance Appeal #00932
Robert Blaney Designs, Applicant; Sarah Pridy & Reed Pridy, Owners
1909 Moss Park Gardens**

Present Zoning: R1-B-R
Present Use: SFD

The proposal is to construct a new single-family dwelling.

Bylaw Requirements

Relaxations Requested

Section 1.2.3.b

Floor area of 1st and 2nd floors relaxed from 280m² to 321.7m²

Section 1.2.5.a

Front yard setback relaxed from 7.5m to 6.84m

Section 1.2.5.c

Side yard setback relaxed from 2.6m to 1.93m

Section 1.15.2

Height of building relaxed from 4.6m to 6.53m

Section 8 (f)(ii) of the tree protection bylaw for removal of trees numbered 3621 and 3625 in arborist report and plan

Section 8(e) of the tree protection bylaw for removal of trees numbered 3603, 3604, 3608 and 3613 in arborist report and plan

Robert Blaney, Robert Blaney Design, Applicant; Reed Pridy, Owner; Kevin Hartley neighbour at 626 Foul Bay Road; Theresa Palmer neighbour at 620 Foul Bay Road and Hans Grundmann neighbour at 626 Normanton Court, were present.

Submitted correspondence was acknowledged.

Applicant

- This property is the largest property in this specific zone. It backs onto zones that are more forgiving in height than this lot is.
- The first hardship is the sign of bedrock on the property. Disposing of bedrock through blasting is a very aggressive way to develop and can disturb the neighbourhood.
- The slope of the lot rises about 7ft. from the curb to the side. Then from the curb to the rear of the property the slope rises about 17.5ft.
- This property has very limited exposure to the road. So, we do not have a choice as to where we can move the driveway in order to make driveway access work.
- The third hardship is the property was unkept and extremely overgrown. It was hard to get a clear idea of challenges on the lot before a survey was available.
- The owners want to maximize the space for the upper two floors and not build a basement.
- In order to keep the footprint of the house as small as we have, we needed to expand that upper floor footprint.
- Driveway access is a big factor. The driveway is the only space to park a vehicle on and around this lot.
- We used the front yard setback to separate ourselves from the house to the north.
- We will require an extensive network of retaining walls to hold back earth and support the house. They are also required to provide access to the yard from the main floor.
- The family has a need for guest bedroom on the main floor with wheelchair access.
- A considerable number of trees will be taken out to allow for construction. Unfortunately, a number of trees on the site are also diseased.
- The previous owner of the property resided here and sold the remaining lots that make up Moss Park to a developer. The reason why the homes are so consistent is that the developer built and sold those homes at the same time.

Neighbours

- Kevin Hartley Neighbour at 626 Foul Bay Road: We are not objecting to a new house. The proposed house is too big and will look into our yard and kitchen. Additional height will cause issues for the neighbours and we have concerns with the number of trees being removed. There's nothing stopping the owners from going underground rather than building up.
- Theresa Palmer neighbour at 620 Foul Bay Rd: We are not against a development, as long as they build within the bylaw. The pool will come up to our property line and would like some clarification on that. There are two beautiful Garry Oak trees that we would like to make sure are protected as they benefit the ecosystem and should not be taken out to facilitate a swimming pool.

- Hans Grundmann Neighbour at 626 Normanton court: We were not spoken to by the owners of the property. We have an issue with their interpretation that it meets the 1.5 floor space ratio. The floor space on the ground floor has been increased. It seems like it's an attempt to upgrade the zoning to R1-B from where they currently stand. The 3 trees that interfere with the pool are protected trees. The floor plan would be easy to move to the existing footprint. The height and privacy are our main concerns.
- Theresa Palmer: Garry Oaks are on the property line, and I would like to ask that the owners give them serious thought before removal.
 - I can confirm that the healthy Gary Oak will stay. There is no intent to take it down. The arborist has said that the one is diseased at the base.

Board

- Did I hear correctly that the slope from front to rear is about 17ft?
 - 13ft from front to rear, my apologies. The property slopes from corner to corner.
- How much blasting will be required to put in the pool?
 - The pool location has not been chosen if we are even able to provide it. We haven't decided or been able to tell if there is bedrock in that area.
- Are the trees scheduled to be removed in that location because of the pool?
 - We put the pool in the location we felt would have the least bedrock. I'm not sure about the diseased trees.
- Can you please point out the allowable build area is on the plans?
 - There is a dotted black line on the plan that is the building envelope.
- Is the upper floor deemed a half-storey by virtue of being less than 70% of the main floor area?
 - Yes, it does.
- You could have built a single-storey house using some of the rear yard and some of what is being designated for the pool to achieve the same square footage without some of these variances, correct?
 - Yes. But the slope of the lot was a huge factor in our decision. We are trying to balance the driveway on one side of the property and an exposed back yard on the other side. We have a 5ft variation, with the house we currently have. If we had to increase that main floor level to the back it gets rid of yard space for the family and it's creating a higher rear yard for us to bring down with the retaining wall. Another reason we kept it to the far north is because that's where the shallowest part of the property was.
- How long have you owned the property?
 - It was purchased January 1st, 2022.
- Were you a resident of Victoria prior to now?
 - Yes, for 20 years.
- Can you speak to the neighbours concerns and feedback?
 - Yes, I'm shocked to hear this information from them today because we have reached out multiple times to most of the surrounding neighbours and knocked on doors and we have heard back basically nothing from them.
- I would like to clarify the catchment zone for your consultation.
 - We have been in more contact with all Moss Park Gardens residents as they are part of our strata. The neighbouring houses also sit much higher, at 625 Normanton Court the surveyor surveyed the ridges between properties and there is a 3.6m difference.

- This was the original house of the strata which sits right at the center. So, you share property lines with 7 immediate neighbours and the driveway. There must have been some reason that whoever put this strata plan together placed a height restriction on this property.
 - we were told by the previous owner that the original owner of this property was the owner of all of property that makes up Moss Park Gardens. In 1989 he sold everything but #1909 (the subject property) to a developer, who built the road and subdivided it into 6 lots, and then built the homes, which is why they all look very similar. As far as I'm aware, we have not been provided with any sort of building scheme for the road. There are some bylaws and requirements that touch upon keeping yards in good maintenance and repair. The subject property is in default in that regard and has been for quite some time. There are restrictions relating to parking because it has a very narrow road. There is nothing in the strata bylaws or a building scheme that relates to design.
- The pool and trees coming out are a concern.
 - we don't know if we will be able to put in the pool at this point. It is the hope, but nothing is confirmed.
- Are any of the diseased trees located in the area indicated by the pool?
 - We started on the plans for this before we owned the property. There are some trees that would come down if we are able to put that pool in. The trees are right in the middle of the yard, and it would make it hard in general to even have a functioning lawn.
- If the tree is deemed to be diseased and needs to be removed, then is it still deemed to be a protected tree?
 - City of Victoria Planning: It's hard for me to answer that because I cannot speak for the parks department.
- Can someone please clarify the Oak tree to be removed?
 - Yes, it is deemed diseased, and the arborist has said it needs to come down.
- Can you explain how far you are sinking the house into the ground?
 - The line shown is the existing grade level. Section 1 is a cross section through the front of the property. Which is a guess on where we will hit bedrock. This is the least buried portion of the house.
- Please explain what the hardship of blasting is.
 - The blasting for the home of this size could last 3-7 days and removal could take 15-30 days and the cost implications would be in the \$100,000's.
- We went door to door to everyone on Moss Park Gardens and Normanton Court. In January we then had email the strata of Moss Park Gardens. Once the variances came out, we went to Moss Park Gardens, Normanton Court and Foul Bay to discuss.

Public portion of the meeting closed.

- We have to take into consideration this meeting and the neighbour's feedback.
- I wish the neighbours had the opportunity to speak with the builder beforehand, to really understand the height component, because it is not that tall of a house.
- The challenge with the bedrock on the lot and the desire to minimize the requirement to blast is reasonable, especially given the disruption and potential collateral damage it can cause.

- The Tree Protection Plan is well done. Indeed, there have been years of neglect and it seems every effort is being made now to protect what can be done and to replant.
- The applicants have stated that they made best efforts to contact all affected neighbours. However, it is concerning to hear such strong opposition from a group of neighbours, some of whom feel they were not fully consulted beforehand.
- The house is large, and the pool does seem to be a red flag for some of the neighbours.

Motion:

Moved: Margaret Eckenfelder

Seconded: Rus Collins

That the following variances be approved:

Bylaw Requirements

Relaxation Requested

Section 1.2.3.b

Floor area of 1st and 2nd floors relaxed from 280m² to 321.7m²

Section 1.2.5.a

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Carried Unanimously

Meeting Adjourned at 2:50 pm.
