

**CITY OF VICTORIA
BOARD OF VARIANCE MINUTES
JANUARY 28, 2021**

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

Absent: Rosa Munzer

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

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

1. **Appeals**

**12:30 Board of Variance Appeal #00885
Karen Hillel Architect, Applicant; Parry Street Developments Ltd C/O, Homewood
Constructors Ltd, Owners
928 Richmond Avenue**

Present Zoning: R1-42
Present Use: Under Construction

The proposal is for an amendment to strata building currently under construction.

Bylaw Requirements

Relaxations Requested

Section 1.134.4.a

Height relaxed from 5.0m (max.) to 5.2m

Karen Hillel, Applicant and builder John Newton were present.

Correspondence submitted by Jennifer Bennett, neighbour; Emma McWalter of 1720 Lyman Duff Lane and Susan Wynne-Hughes of 926 Richmond Avenue was acknowledged.

Applicant

- This particular house is part of a three lot strata project that was approved under a DP application.
- During the construction of house two we encountered some site servicing challenges. In order to make proper connections and avoid any crossing of lines we were forced to raise the house 22 inches out of the ground to clear those services
- The developer went through a lot to mitigate the height and was able to bring the variance down from 22 inches to 8 inches
- It is only the centre flat roof that exceeds 8 inches above the maximum permitted height.

- The basement floor was raised up and 6 inches were taken out of the basement floor, the main floor was also reduced, and 2 inches was also taken out of the clerestory to try and get the variance as low as possible.

Board

- Is this property zoned R1-A?
 - The zoning for this lot is R1-42 site specific.
- Did this go through the rezoning process?
 - Yes
- Where did the 5m height restriction come from?
 - It came from the site specific rezoning. It was part of the initial proposal that's why it was tailored that way.
- Was that height proposed by the developer or was that mandated by the City?
 - The height came from the applicants. Karen please correct me if I'm wrong.
 - I believe it came from the City and it was because we were dealing with a panhandle lot.
- I'm curious about the sequence of steps here. Is it correct that you knew you were going to be over the allowable height but kept building regardless?
 - We didn't know it was going to be that high. We knew we had a problem with the sewer line so that's where the issues started. It wasn't until later that we realized we might be over, and not until after we built the roof that the surveyor pointed out that we were over by the 200mm. We were trying to do everything to reduce the height because we knew we had to bring it up so much because of the sewer lines.
- The discovery of the sewer line height occurred after the development application to City Council was heard is that correct?
 - Yes
- Isn't determination of the height something that would be done before you moved forward with your Rezoning?
 - Yes, we assumed the sewer lines were at the proper depth because we had no other issues with the other sewer lines on the south side of the property.
- On the site plan it shows proposed building two, where are the laterals on this drawing?
 - Drawing A1.2, If you look at SRW plan 36829, it's in that easement towards the corner where the driveway comes up and widens out. The house we are talking about is in the back corner.
- It seems there is good grade on that driveway, accompanied by a lot of rock, did you not want to do any blasting?
 - No, we did blast rock. In that easement we have a storm and sewer line and where we crossed over the storm line is where we increased by 8 inches. There was no way to go underneath it.
- Are you aware of the correspondence from neighbours opposing this application?
 - Yes, we are aware. I spoke with the neighbour at 1723 Lyman Duff Lane who called, and he seemed pleased with my response. We are also more than happy to adjust any landscaping to cooperate with neighbours.
- If the Board declined this application how would you address the issue?
 - I'm not sure, we would be in trouble.
- Can you please speak to the fact that most of the neighbours feel that this application is asking for forgiveness rather than requesting permission?
 - When we first noticed we tried to mitigate it the best we could. I think part of the issue is that we have proceeded with the work, and we didn't think this would be

an issue. We are trying to do everything we can to work with all neighbours. Unfortunately, the one issue that has come up is out of our control.

Board

- We understand it feels late coming but are sympathetic to the circumstances and the applicant has made a great effort to mitigate the issue as much as possible.

Motion:

Moved: Margaret Eckenfelder

Seconded: Jaime Hall

That the following variance be approved

Carried Unanimously

Bylaw Requirement

Relaxation Requested

Section 1.134.4.a

Height relaxed from 5.0m (max.) to 5.2m

**1:00 Board of Variance Appeal #00858
Ryan Wylie, Applicant; Marc Nakhleh & Sarah Brabant, Owners
326 Arnold Avenue**

Present Zoning: R1-B
Present Use: SFD

The proposal is for renovations which include a new front porch with steps and a new deck with steps at the rear. Interior renovations are to include a secondary suite. Also, the proposal seeks to bring the existing accessory building into conformance.

Bylaw Requirements

Relaxations Requested

Section 1.2.5.a
Section 1.2.5.d
Schedule F Section 1

Front yard setback relaxed from 7.5m to 7.17m
Rear yard setback relaxed from 11.02m to 8.78m
Location of accessory building relaxed from rear yard to side yard

Schedule F Section 4.b
0.0m
Schedule F Section 4.d

Side yard setback (north) relaxed from 0.6m to 0.0m
Separation space from main building relaxed from 2.4m to 1.02m

Section 5(2)(a)

Of the Tree Preservation Bylaw No. 05-106 varied for removal of tree #3 (ornamental plum) located on

the south side yard of the property adjacent to the existing deck as detailed in the August 5, 2020 Arborist Report on site plan on Schedule A.

Ryan Wylie, Applicant; Marc Nakhleh & Sarah Brabant, owners; were present

Applicant

- The purpose of these variances is to improve the function of the home and to accommodate a growing family.
- There is no access to the basement from the inside of the house. Currently you must go outside to access the laundry room in the suite.
- The owners would like to have the master bedroom on the same floor as their young children.
- The hardship is the technicality in how the City of Victoria determines the 25% rear yard setback and the impact on an odd-shaped lot like this one.
- We are trying to keep a similar footprint for the house.
- We have a concrete mass of stairs with no landing so we would like to improve the safety of those stairs as well as the aesthetic.
- The plum tree is a protected tree however the arborist report states that the roots may not survive with renovations and in that case should be removed. The tree does lean towards the house and could be unstable regardless.
- The neighbours to the south would also like that tree removed.
- That tree is also in our way to any access that is needed to do the renovations
- The accessory building has been in place for 50-60 years. We would like to keep it and would like to fire rate it and apply similar cladding. There is also an eave that encroaches on the north neighbour that we would like to fix.
- We spoke in great length to all the neighbours and we have their full support.
- We have had full talks about the accessory building with the neighbour whose house the eave encroaches on.

Board

- Have you spoken to the neighbours directly behind you?
 - We speak to them often. We left a letter and have not heard back – it appears they are away.

Public portion of the meeting closed.

- Reasonable request and a wonderful upgrade to the house
- Tree seems to be an issue regardless of the addition
- Will be a great addition to the neighbourhood to be updated.

Motion:

Moved: Rus Collins

Seconded: Margaret Eckenfelder

That the following variances be approved.

Bylaw Requirements

Relaxations Requested

Section 1.2.5.a
Section 1.2.5.d
Schedule F Section 1

Front yard setback relaxed from 7.5m to 7.17m
Rear yard setback relaxed from 11.02m to 8.78m
Location of accessory building relaxed from rear yard to side yard

Schedule F Section 4.b
0.0m

Side yard setback (north) relaxed from 0.6m to

Schedule F Section 4.d

Separation space from main building relaxed from 2.4m to 1.02m

Section 5(2)(a)

Of the Tree Preservation Bylaw No. 05-106 varied for removal of tree #3 (ornamental plum) located on the south side yard of the property adjacent to the existing deck as detailed in the August 5, 2020 Arborist Report on site plan on Schedule A.

Carried Unanimously

**1:30 Board of Variance Appeal #00873
Heels Design & Drafting Services, Applicant; Sara Comish & John Pullyblank,
Owners
610 Linden Avenue**

Present Zoning: R-2
Present Use: Single Family Dwelling

The proposal is to add a secondary suite in the basement which requires new in-ground steps.

Bylaw Requirement

Relaxation Requested

Section 1.2.4 a)

Relaxation to the height of the building from 7.60m to 8.32m.

Note: Existing height is 8.21m.

Heels Design & Drafting Services, Applicant; was present

Applicant

- The house will not become any higher than it is now. We are putting in recessed entrance ways into the basement suite which automatically calls for a recalculation of the average grade. It's a technical variance only on account of the recalculation.

Board

- What is the existing floor to ceiling height in the basement?
 - 6ft 3inches.
- How far down are you excavating?
 - 20 inches.

- Will there be new drainage tile requirements?
 - Yes, and probably a new sewer lateral at a greater depth as well.

Public portion of the meeting closed.

- Technical issue, very supportable
- This is a beautiful house and I think the request is reasonable

Motion:

Moved: Rus Collins

Seconded: Margaret Eckenfelder

That the following variance be approved.

Bylaw Requirement

Relaxation Requested

Section 1.2.4 a)

Relaxation to the height of the building from 7.60m to 8.32m.

Note: Existing height is 8.21m.

Carried Unanimously

**2:00 Board of Variance Appeal #00886
Ron Malzon, Applicant; Hugo Thauberger & Ida Thauberger, Owners
1020 Terrace Avenue**

Present Zoning: R1-A
Present Use: SFD

The proposal is for approval of amended roof projection at the southeast corner of the new addition.

Bylaw Requirement

Relaxation Requested

Section 1.1.5.b

Rear yard setback (west) relaxed from 14.93m to 8.5m

Ron Malzon, Applicant; Hugo Thauberger & Ida Thauberger, Owners were present.

Applicant

- The applicant thought this change would fit within the original 1.3m setback. It was a mistake on their part.

- The main reason the owners would like this is that it provides some nice coverage from rain and protects the front door. It covers a patio of about 84sq feet of area, faces the interior courtyard garden and is not visible to neighbours.
- I don't believe any neighbours have had any issues.

Board

- Why is it a 7.5m setback on that side, how did that up being a rear yard?
 - That goes way back to when I came to the BOV the first time in 2019, I was under the impression that McGregor was to be considered the front street and turns out that ended up not being the case.
- So that setback is technically the side yard?
 - Yes, it is considered a major change to what you approved in June so technically I have to come back to the BOV to inform of that change.
- Do the owners have any intention of enclosing this space in the future?
 - No.

Public portion of the meeting closed.

Motion:

Moved: Margaret Eckenfelder

Seconded: Jaime Hall

That the following variances be approved.

Bylaw Requirements

Relaxations Requested

Section 1.1.5.b

Rear yard setback (west) relaxed from 14.93m to 8.5m

Carried Unanimously

Meeting Adjourned at 2:10 pm.
