

**CITY OF VICTORIA
BOARD OF VARIANCE MINUTES
JULY 22, 2021**

Present: Trevor Moat, Chair
Rosa Munzer
Margaret Eckenfelder
Jaime Hall

Absent: Rus Collins

Staff: Nina Jokinen, Zoning Technician
Katie Lauriston, Administrative Assistant

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

1. Minutes

Minutes from the meeting held July 8, 2021

Moved: Margaret Eckenfelder

Seconded: Rosa Munzer

That the minutes from July 8, 2021 be adopted as amended.

Carried Unanimously

2. Appeals

**12:30 Board of Variance Appeal #00903
Peter Waldbuber, Applicant
20 Marlborough Street**

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

The proposal is to renovate the existing building which includes lifting the house, upper floor addition, secondary suite and new deck at rear.

Bylaw Requirements

Relaxations Requested

Section 1.2.4 a

Relaxation to the number of storeys from 2 to 3

Section 1.2.5 c

Relaxation to the south side yard setback from 3.00 to 2.80m

Peter Waldbuber, applicant, was present.

The correspondence submitted concerning the application from Wayne Hollohan & Karen Dellert of 15 Cook Street, Robin Steffanick of 11 Cook Street, and Alexander Bjornson of 24 Marlborough Street was acknowledged.

Applicant

- The owners purchased the home in 1996, and the family has been living in the home ever since. The owners have no plans to move.
- The house is a very small bungalow, and the owners are looking to raise the house by six inches to allow space for the family. The owners feel that it's time to renovate, rather than demolish, to suit the family's needs. The intent is to keep the house within the existing building footprint.
- The house has an unfinished basement with a footprint of about 900 sq. ft. The basement is considered the first floor, so technically the upper floor of the house is considered a third storey. However, the house will only be raised by six inches to accommodate the family's needs.
- The hardship with the number of storeys has to do with having enough space for the family. If the addition was kept to only a half storey, this would only allow 633 sq. ft for the upper addition. This is not large enough to accommodate the bedrooms and bathrooms the family needs.
- The owners don't want to add a rear addition. They appreciate the back yard and don't want to impede on neighbours' ocean corridor views. Adding space in the upper area of the house is the least impactful way to achieve the family's needs.
- The side yard setback is an existing nonconforming condition. The proposed renovations will not change this setback at all.
- The owner is a builder and has completed many similar projects. The owner feels that the proposal will fit well within the neighbourhood.
- The roof slope has been changed to eliminate a variance and to satisfy neighbours to the north, so that they have some view over the house. After speaking with neighbours, this seemed an agreeable solution.
- The applicant has consulted with all surrounding neighbours and provided pamphlets over the last several weeks and has heard only support for the proposal. Three neighbours have written letters of support.

Board

- Which neighbours wrote in support for the proposal?
 - Neighbours at 25, 15 and 12 Marlborough Street.
- A neighbour suggested that the house at 12 Marlborough Street managed to build with only 2.5 storeys. Can you explain the difference between that project and this one?
 - The house at 12 Marlborough Street was a brand-new build, with a square footage of around 1200 sq. ft.
 - The house at 20 Marlborough Street starts with a much smaller footprint, so 2.5 storeys would only allow 633 sq. ft in the upper floor – not enough room for the family's needs.

Public portion of the meeting closed.

- The variances are reasonable in light of the age of the house. The proposal will fit in well with the neighbourhood, and there is support from neighbours.
- There were some concerns and questions from the neighbours, and the Board is satisfied that the questions have been addressed.
- The proposal to not extend the house to the rear yard is a good way of accomplishing the needs of the owners.

Motion:

Moved: Margaret Eckenfelder

Seconded: Jaime Hall

That the following variances be approved:

Bylaw Requirements

Relaxations Requested

Section 1.2.4 a

Relaxation to the number of storeys from 2 to 3

Section 1.2.5 c

Relaxation to the south side yard setback from 3.00 to 2.80m

Carried Unanimously

**1:00 Board of Variance Appeal #00904
Frederic Denis & Catherine Condé, Applicants
1320 Denman Street**

Present Zoning:

R-2 – Two Family Dwelling District

Present Use:

Single Family Dwelling

The proposal is to construct an upper floor addition and renovate for single family dwelling with secondary suite.

Bylaw Requirements

Relaxation Requested

Section 1.2.5.b

Rear yard setback relaxed from 8.76m to 7.64m

Frederic Denis & Catherine Condé, applicants, were present.

Applicant

- The owners bought the house over 12 years ago and saw potential to add a second storey to the building. A structural engineer was engaged to assess the project, and the addition requires a rear yard setback variance.
- The house was built with permits without rear foundation footings. The existing rear wall is located within the rear yard setback.
- If the upper floor addition were built to the allowed setback, the rear wall would not align with the rear foundation wall and the two rear bedrooms would become too small to use. In addition, this would add costs that were not anticipated for the project.
- The setback variance would also allow an entrance at the rear of the building.
- Without the rear yard setback, the project would have to be reengineered and usable space on the second floor would be decreased. An upstairs bedroom would also become too small to be useable, without the rear yard setback variance.
- The proposal will not decrease the property's green space or usable rear yard.

Public portion of the meeting closed.

- The requested variance is reasonable given the layout of the lot.
- The proposal will have little to no impact on neighbours and will provide usable space for the family.

Motion:

Moved: Rosa Munzer

Seconded: Margaret Eckenfelder

That the following variances be approved:

Bylaw Requirements

Relaxation Requested

Section 1.2.5.b

Rear yard setback relaxed from 8.76m to 7.64m.

Carried Unanimously

1:30 Board of Variance Appeal #00909

**Sean Burkhart - Burkhart Construction, Applicant; Jeffrey Devlin, Owner
361 Arnold Avenue**

Present Zoning:

R1-B – Single Family Dwelling District

Present Use:

Single Family Dwelling

The proposal is to increase the height of the lower floor level on the current footprint of the building.

Bylaw Requirements

Relaxation Requested

Section 1.2.4.a

Relaxation of the number of storeys from 2 to 2.5

Tim Rodier, designer; and Jeffrey Devlin, owner, were present.

The correspondence concerning the application from Dan & Lou Horan of 355 Arnold Avenue was acknowledged.

Applicant

- Originally, the plan was to create a full-height basement space by taking advantage of Victoria's definition of storeys and basement space. This would have kept the main floor almost exactly where it was, while creating more living space and adding service space in the basement.
- This was the plan until digging began at the site. The applicants brought in engineering consultants at Ryzuk geotechnical, who determined that the soil is very soft, and the water table is high at the site. Due to the soil conditions, the floor slab needed to be raised slightly.

- The problem is that as soon as the basement ceiling level rises, the lower level is no longer technically considered a basement. The two bedrooms added in the back of the home are then technically considered to be at a 2.5 storey level.
- The diagram on page V2 of the plans compares the original, conforming plan to the new proposal with the requested variance. The overall height is very similar, even dropped slightly due to the average grade calculation, but the service space in the basement is gone.
- The definition of basement is what has led to the need for a variance, and the site and soil conditions are what have caused hardship in this case.

Board

- To clarify, does page V2 show that you are not excavating as deep as originally planned and instead you will be sacrificing the mechanical space between the first and second floor, rather than pushing the house higher?
 - Yes; we don't want to push the building any higher, and we don't want to drastically change the existing presence of the house.
- What was the stage of demolition or construction when Ryzuk completed their report? Was work continued after this date?
 - The report was dated May 21, 2021, and work has happened since that date.
- What did the site look like on May 22nd of this year?
 - Ryzuk provided some photos in the report provided.
- What was the reason for consulting geotechnical engineers in the first place?
 - Water and wet soil conditions were found while excavating.
- Could the soil and water table conditions be found at this location, and not at other homes in the neighbourhood?
 - The applicants are not sure, but the geotechnical engineers could likely confirm if this is the case. The applicants were surprised to find the soil conditions that they did.
- What is the site coverage and allowable coverage?
 - The Planning Technician confirmed that the proposed site coverage is 30% while the zone allows for 40% coverage.
- Had the applicants considered building out rather than up?
 - Yes, but the desire was to remain within the existing building footprint.
- Some neighbours stated objections to the building height. Is there an opportunity to reduce the proposed height?
 - The elevation plans exaggerate the height of the rear addition – it will not appear as tall as it does in the plans.
 - The proposal is for a partial storey addition. The aim is to add functional space within the home without being too dominant on the neighbourhood.
 - As proposed, the house would still be within the allowable height for the zone.
- If the variance were denied, what options would the applicant pursue?
 - The bedrooms would have to be located in the basement, and this wouldn't eliminate the possibility of adding a basement suite. Adding a basement suite is something the owners want to do to, to provide housing.
 - If the plans were changed to create an addition on the rear of the house, this would take away important greenspace for the owners and potential tenants.
 - The front of the house is already located much further back on the property, compared to surrounding houses.

- Is a new foundation being added while the house is lifted?
 - The old foundation is being excavated and new foundation is being built.
- Could the house be moved forward to accommodate an addition in the rear?
 - This would entail significant cost to the owners. Although the house currently looks quite tall while it is lifted, once the foundation is done the house will be the same height as before.
- Will the rear deck be rebuilt?
 - The rear deck is removed and isn't planned to be rebuilt.
- Will the front deck be rebuilt?
 - Yes.
- The applicant mentioned that the two bedrooms can't be located in the lower level. Is there a hardship associated with building a larger secondary suite?
 - The owners are looking to create a rental unit for a family rather than for a student or other shorter-term use. There are not many 2-bed 2-bath suites available for renters.
- What is the existing front yard setback?
 - The existing setback is 9.2m to the deck, and 8.49m to the post.
- What is the allowed front yard setback?
 - The zoning allows for a 7.5m setback, with allowances for front stairs.
- How far could the house be moved forward?
 - Within the allowable setbacks, the house could be moved forward by about a metre, if there were no front deck.
- Are there any other options that you would be willing to consider alleviating the need for a variance?
 - There's no other way to create the basement space without the variance.
 - The only reason for the variance is due to the soil conditions.
 - The design intent is to retain the aesthetic of the home from the street.
 - By moving the house forward, this would reduce the usable space in the front yard, that the owners look forward to using regularly.
 - Across the street and in the immediate area there are taller dwellings on the street, so the additional height would not be out of place.

Neighbours

- Lou Horan of 355 Arnold Avenue noted that their concerns are not allayed by the information provided so far. The proposal will cause shading.
- Moving the house forward would align the houses along the street while still allowing for playing area in the front yard.
 - The owners noted that there should be no shading to the neighbouring yard to the south, due to the angle of the sun. The addition is in the rear, beside the neighbouring house. The shade will be cast towards the north, where the house has a greater setback to the property line.

Board

- Is it correct that the addition will sit on the existing rear wall of the house?
 - Yes. The proposed partial storey in the rear will not be a full second storey at the roof edge. The applicants have limited the ceiling height to avoid this.
 - There are no windows overlooking neighbours in the proposed addition, and any shading would be angled towards the north, rather than towards the neighbours.

Public portion of the meeting closed.

- The application is somewhat controversial. Concern that this could encourage forgiveness rather than well thought through design and development from the start. However, the Board is sympathetic to the soil conditions discovered on the site. Without the soil conditions, the proposal would be built the same today without need for a variance.
- After listening to alternate solutions, the proposed plan seems to be the best solution to the challenging circumstances of the property.
- This appears to be a legitimate and unforeseen hardship. It's good that the applicants found out about the soil conditions when they did, and not after construction.

Motion:

Moved: Margaret Eckenfelder

Seconded: Jaime Hall

That the following variance be approved:

Bylaw Requirements

Relaxation Requested

Section 1.2.4.a

Relaxation of the number of storeys from 2 to 2.5

Carried Unanimously

2:00 Board of Variance Appeal #00910

**Adam Muir – My Kiwi Construction, Applicant; Michelle Winkle & Lauren Nackman, Owners
141 Joseph Street**

Present Zoning:

R1-B – Single Family Dwelling District

Present Use:

Duplex Conversion (1969)

The proposal is for approval of the placement of addition and deck to the rear of existing duplex conversion.

Bylaw Requirement

Relaxation Requested

Section 1.2.5.c

Side yard setback (north) relaxed from 1.51m to 1.15m

Adam Muir of My Kiwi Construction, applicant; and Michelle Winkle & Lauren Nackman, owners, were present.

The correspondence concerning the application from Neal & Anna Mutadi of 147 Joseph Street was acknowledged.

Applicant

- The original permit application was submitted to the City and approved. However once work started, the applicants realized there was a discrepancy in the plans. The existing door was justified to the wrong side, and once corrected, the proposed addition would interfere with the door.
- The request is to move the structure over by about 13 inches, so that the addition will be flush with the existing home. The addition will be no closer to the property line than the existing house.

Board

- There don't appear to be floor plans submitted with the application. Where exactly is the location of the door?
 - The original stairway off the deck was removed. There is a door on the 2nd storey that comes out of the kitchen; this will be closed in with a handrailing.
 - The door in question is the bottom door. The proposal shifts the addition over to be flush with the existing home.
- The setback in question is on the north side of the property. Is the intent to include the door within the addition?
 - Yes, the door on the lower level will stay in its current location. Building the addition to comply with the setback allowance would run into the existing door. Therefore, the setback variance is required so that the addition is flush with the existing home.
- If the door could be moved, could the addition be built without a variance?
 - Yes.

Neighbours

- Neal Mutadi of 147 Joseph Street noted that this is a single family house that will become a fourplex or more. The building was given duplex status in 1969. There are already issues with parking in the area, and neighbours are concerned about an increase in density in terms of fire safety, public health, and reducing green space.
 - The Planning Technician clarified that the application is for an addition to an existing, legal conforming duplex. The building is not changing to a multiple dwelling.
- This doesn't appear to be the case, however this will be clear to the City's inspectors when the work is completed.
 - There will be an inspection, and the inspector will expect the project to be built in accordance with the plans submitted to the City.
 - The owner clarified that the original intention was simply to repair the deck. The proposed addition is only for a small, heated storage room. There is no intention of creating multiple dwellings with the addition.

Public portion of the meeting closed.

- The variance is technical and very minor in nature.

Motion:

Moved: Margaret Eckenfelder

Seconded: Rosa Munzer

That the following variance be approved:

Bylaw Requirement

Relaxation Requested

Section 1.2.5.c

Side yard setback (north) relaxed from 1.51m to
1.15m

Carried Unanimously

Meeting Adjourned at 2:28 pm.
