

MINUTES
BOARD OF VARIANCE
Held electronically via MS Teams
May 8, 2024 at 6:07 p.m.

Members: J. Uliana (Chair), M. Cole, A. Gill and K. Zirul

Staff: A. Whyte, Senior Planning Technician; and M. MacDonald, Senior Committee Clerk

Regrets: C. Schlenker

Minutes: **MOVED by M. Cole and Seconded by K. Zirul: "That the Minutes of the Board of Variance meeting held April 10, 2024, be adopted as circulated."**

CARRIED

Courtland Avenue Setbacks **Applicant: Nikolaos Lioucatis**
Property: 1368 Courtland Avenue
Variance: Relaxation of the minimum rear lot line setback from 7.5 m (24.61 ft) to 4.26 m (13.98 ft)

BOV #01073

The Notice of Meeting was read, the applicant's letter and two pieces of correspondence were received.

Applicants: N. Lioucatis and M. Kluijver, owners, were present in support of the application, the following was noted:

- The archeological review response was received after the application was finalized. This designates part of the property as an archaeological site.
- Building the garage will improve the functionality and appeal of the home.
- The small house does not have adequate storage. There is currently a dilapidated storage building which is nearly on the property line, which will be removed as it is no longer usable.
- Removal of the old structure will also allow for a privacy fence.
- Setbacks, septic system, a covenant and the archeologic site prevent building in other areas of the property. The proposed location is ideal.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The front lot line is technically on Interurban Road, despite the driveway and the address being on Courtland Avenue. This designation means that the rear lot line borders the adjacent lot on Courtland Avenue.
- The hardship of the lot is due to the septic system, the covenant area and the archeologic site which cannot be built on.
- Designation of the rear lot line also means the required setback is greater than it would be if it was an interior side lot line.

- While the rear lot line is defined as such, this area is what one would consider to be the side yard, as access to Courtland Avenue is from here.

In response to questions, the Senior Planning Technician stated the following:

- The front lot line is defined as the narrowest lot line on a street. The opposite lot line is defined as the rear.
- The house being located on a corner means that what appears to be the side yard on Interurban Road is the front lot line, and the rear lot line is opposite between the house and the neighbour.
- If the rear lot line was defined as an interior side lot line, the required setback would be 3 metres and this application would be compliant.

The following was noted during Board discussion:

- Site access for vehicles and visitors is off Courtland Street.
- The designation of the lot lines creates the hardship as the interior lot line setback would be less if the bylaw definitions were not as such.
- This is the only sensible location to build a garage.
- Given site specific conditions, such as the septic, right of way and archeologic site, the applicant cannot build on much of the lot.

MOTION: **MOVED by M. Cole and Seconded by K. Zirul: “That the following request to vary from the requirements of Zoning Bylaw 2003, Section 101.7(a) further to the construction of an accessory building on Lot 2, Section 1, Lake District, Plan VIP69607 (1368 Courtland Avenue) be APPROVED:**

- **Relaxation of the minimum rear lot line setback from 7.5 m (24.61 ft) to 4.26 m (13.98 ft)**

And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire.”

CARRIED

Haultain Street
Setbacks

BOV #01074

Applicant: Keltie Craig
Property: 1891 Haultain Street
Variance: Relaxation of the minimum rear lot line setback from 1.5 m (4.9ft) to 0.2 m (0.66ft)
Relaxation of the minimum exterior lot line setback from 3.5 m (11.5ft) to 0.3 m (0.98ft)

The Notice of Meeting was read, the applicant’s letter and one piece of correspondence was received.

Applicants:

K. Craig and P. Bogaert, owners, were present in support of the application, the following was noted:

- The existing house does not have a garage. A long-paved asphalt driveway extends from the front of the lot to the back.
- A shipping container was put at the back of the property prior to the applicants realizing that this was not bylaw compliant. It is located on

impermeable asphalt. Locating the structure within the compliant area would require removal of garden beds and mature trees.

- Any other location would create shade and reduce area for recreation.
- This location reduces environmental impacts. The hope is to modify the container to be less visually impactful. Plans to do so were put on hold pending consideration of the setback variance request.
- Correspondence received indicated that the structure was visually unappealing, relocating it to a compliant location will not change that.
- A small plastic shed would not provide the same space or security.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The structure being in this spot will protect the environment.
- One side of the yard is asphalt, the other is a garden and mature trees.
- Cutting the mature apple tree and magnolia tree would decrease the habitat for birds and pollinators. Relocation of the asphalt would be costly and difficult. The mature trees cannot be moved.
- Relocating the structure to the bylaw compliant area in the middle of the yard would prevent use of the yard.
- A shed of this size cannot be purchased in store, the shipping container is far more secure than a plastic structure.
- The existing driveway is an ideal location for this storage container, a variance would likely be required to build a garage or shed instead.

In response to questions, the Senior Planning Technician stated the following:

- The shipping container is allowable within the Zoning Bylaw, provided all other aspects such as lot coverage and setbacks are met.
- A building permit will be required.
- The setback on this side of the property is considered an exterior lot line.
- The pathway is considered a road; the setbacks are more for a road frontage. If there was a neighbouring house instead of the pathway, this would be considered an interior lot line.

The following was noted during Board discussion:

- The shipping container is considered a structure, the use of the structure and the hardship of the lot are what need to be considered.
- The area beside and behind the property are not residential lots.
- This location would be ideal for a garage or other structure, complying with the Zoning Bylaw would be difficult in this location.
- Removal of the mature apple tree would not be ideal.
- Building a structure with conventional construction, would likely not be approved in this location, the setback request may not be minor for a permanent structure. Moving the shipping container is an option.
- The requirement would be a 1.5 metre setback from the rear and side lot lines if designation of the exterior lot line along the pathway was different.
- The application asks for more than what would be allowable even if the designation of the exterior lot line was considered a side lot line instead.
- The hardship of the tree needing to be removed is debatable. Under different circumstances this may not be considered undue hardship.
- The setback requirement is the same for all, the structure could be moved to a different location to be compliant.

- There is a gravel right of way on the other side of the yard, so the structure cannot go on that side. The grade change and retaining wall further limit options for the structure. Locating this structure in the middle of the yard would not be ideal for many reasons.
- The proposed location does not adversely effect neighbours.
- The existing apple and magnolia tree are not native and not subject to the Tree Preservation Bylaw. Realistically, these could be removed and replaced elsewhere.
- The rear yard would be far less usable if the structure must be moved.
- The Board is not supposed to go against the intent of the Zoning Bylaw.
- Buildings right on the property line are not supposed to happen, that is why setbacks exist, however there are not many other options for this lot.

MOTION: **MOVED by A. Gill and Seconded by K. Zirul: “That the following request to vary from the requirements of Zoning Bylaw 2003, Sections 5.34 (a)(i) & (ii) further to the construction of an accessory building on Lot 5, Section 35, Victoria District, Plan 7436 (1891 Haultain Street) be APPROVED:**

- **Relaxation of the minimum rear lot line setback from 1.5 m (4.9ft) to 0.2 m (0.66ft)**
- **Relaxation of the minimum exterior lot line setback from 3.5 m (11.5ft) to 0.3 m (0.98ft)**

And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire.”

CARRIED

Middleton Street Setbacks BOV #01075	Applicant: Katie Bell Property: 757 Middleton Street Variance: Relaxation of the minimum interior side lot line from 1.5 m (4.9 ft) to 0.9 m (2.95 ft) Relaxation of the combined interior sideyards from 4.5 m (14.8 ft) to 3.0 m (9.84ft)
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The Notice of Meeting was read and the applicant’s letter received.

Applicants: K. Bell was present in support of the application, the following was noted:

- The current non-compliant deck has been in place for over 40 years, it is falling apart and has become liability and therefore rendered unusable.
- A recent survey determined that the deck and existing carport addition to the house do not comply. The hope is to rebuild the deck with a modest increase to size, which does not increase the variance request.
- The deck door is used to access the house, the variance is required to do so. If the door was no longer usable, it could be a safety concern.
- Privacy between this house and the effected neighbour will be improved.
- The current non-conforming deck has been in place for decades without issues between the neighbouring houses.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The deck will be expanded slightly to increase the size of the deck. This proposed new space will be built towards the rear lot line along the same side yard setback as the existing deck, it will not increase the variance.
- The proposed new deck will not be any closer to adjacent properties.

In response to questions, the Senior Planning Technician stated the following:

- Any rebuilding will need a variance, replacing the deck will still require a permit, even if it was built exactly as it was previous.

The following was noted during Board discussion:

- Rebuilding the existing deck is favorable.
- The deck is rotten and needs to be replaced.
- Neighbours have not expressed concern; privacy is being increased.
- This will not negatively affect the environment.
- The door location means that the only alternative option for the deck would require extensive interior changes, including relocating the door and windows. This would be undue hardship to the applicant.

MOTION: MOVED by K. Zirul and Seconded by M. Cole: "That the following request to vary from the requirements of Zoning Bylaw 2003, Sections 210.4 (a)(ii) further to the construction of an addition on Lot 3, Section 21, Victoria District, Plan 4974 (757 Middleton Street) be APPROVED:

- Relaxation of the minimum interior side lot line from 1.5 m (4.9 ft) to 0.9 m (2.95 ft)
- Relaxation of the combined interior sideyards from 4.5 m (14.8 ft) to 3.0 m (9.84ft)

And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire."

CARRIED

Adjournment On a motion A. Gill, the meeting was adjourned at 7:11 pm.

J. Uliana, Chair

I hereby certify that these Minutes are a true and accurate recording of the proceedings.

Recording Secretary