
CITY OF KELOWNA
MEMORANDUM

Date: March 28, 2006

File No.: DVP05-0199

To: City Manager

From: Planning & Corporate Services Department

Purpose: To obtain a Development Variance Permit to vary the maximum projection for eaves into a required front yard from 0.60 m permitted to the 1.17 m proposed and into a required side yard from 0.60 m permitted to the 1.1 m proposed; to vary the requirements for a front yard setback from 4.5 m required to 1.77 m proposed; and to vary the requirements for minimum side yard from 2.0 m required for a 1 or 1 ½ storey portion of a building to 1.7 m side yard setback (east side) for the covered deck.

Owner: Monica Black **Applicant/Contact Person:** Milton Black

At: 1111 Brookside Avenue

Existing Zone: RU6 – Two Dwelling Housing

Report Prepared By: Shelley Gambacort

1.0 RECOMMENDATION

THAT Municipal Council not authorize the issuance of Development Variance Permit No. DVP05-0199, Monica Black; for that Part of Lot 8 shown on Plan B5938, Sec. 19, Twp. 26, ODYD, Plan 2704 except Plan H16728, located on Brookside Avenue, Kelowna, BC;

2.0 SUMMARY

The applicant is requesting approval for a Development Variance Permit in order to vary the front and side yard (north side only) setback requirements and the allowable eave projections for the front and side yard (north side only) in order to retain the existing covered deck, which has been constructed without a building permit.

3.0 The Proposal

The applicant has constructed the covered deck, as shown in the following photos, without a building permit application. A Building Inspector, when noticing that there were posts and beams constructed on the site, had advised the property owner to stop construction as there was no building permit in place authorizing the construction of the covered deck. The inspector also advised that he would likely need a variance as it did not appear that the required setbacks were being met. However, the applicant continued the construction (framing & roof system), without a building permit and was subsequently issued a stop work order by the Building Inspector. Since the construction of the covered deck was not in compliance with the front and rear side setback requirements for the RU6 – Two Dwelling Housing zone, the applicant submitted this application for a Development Variance Permit to authorize the siting of the deck as shown in the following photos.

Photo #1 is shown looking east from Gordon Drive at the subject property. The front yard setback from Brookside Avenue is shown as being 1.77 m and the required setback is 4.5 m, a variance of 2.73 m. The allowable 0.6 m eave projection into the required front yard is to be varied to project 1.17 m as shown. Photo #2 is shown looking south from Brookside Avenue at the subject property. The proposed east side yard (left side of photo) setback is shown as being 1.7 m and the required side yard setback is 2.0 m, a variance of 0.3 m. The allowable 0.6 m eave projection into the required side yard is to be varied to project 1.17 m as shown.

1.

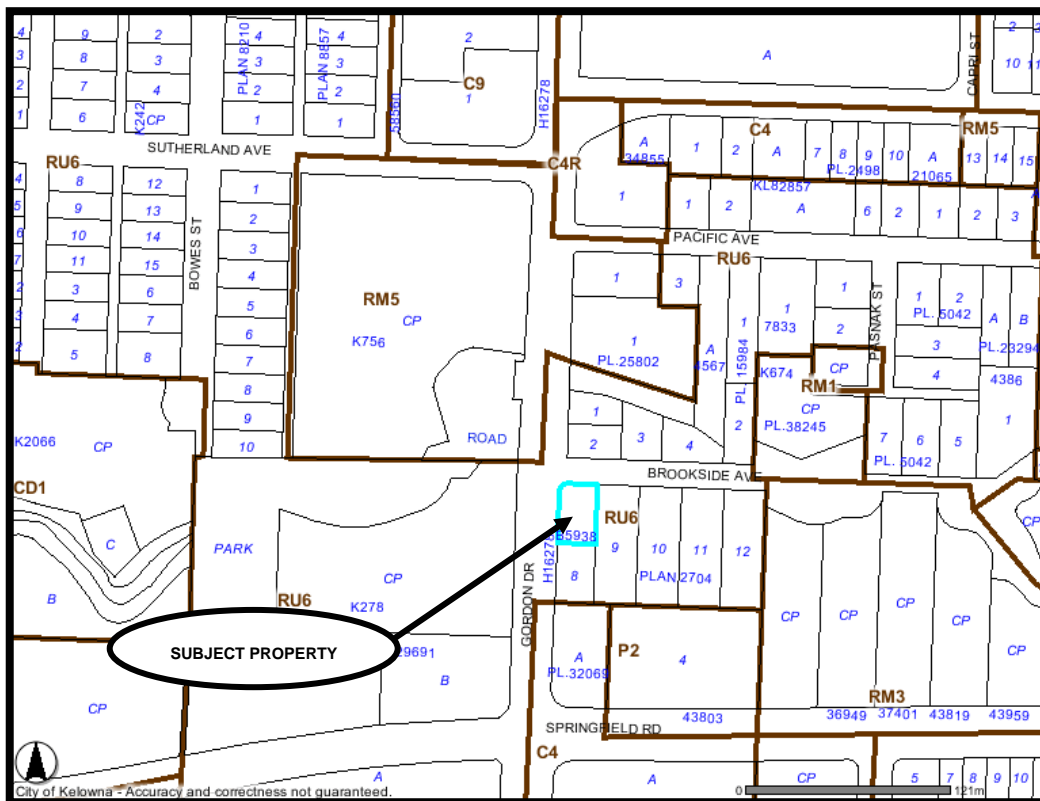


2.



3.2 Site Context

The subject property is located at the southeast corner of Gordon Drive and Brookside Avenue.



Adjacent zones and uses are, to the:

- North - RU6 – Two Dwelling Housing; Brookside Avenue & Single/two unit development
- East - RU6 – Two Dwelling Housing; Single/two unit development
- South - RU6 – Two Dwelling Housing; Single/two unit development
- West - RU6 – Two Dwelling Housing; Gordon Drive & townhouse development

4.0 CURRENT DEVELOPMENT POLICY

- KELOWNA 2020 – OFFICIAL COMMUNITY PLAN

The OCP Future Land Use designation of this area is Single/Two Unit Residential.

5.0 TECHNICAL COMMENTS

5.1 Works & Utilities

Development Permit and Site Related Issues – The requested variance to reduce the side yard setback from the required 2.0m to 1.7m, and the front yard setback from the required 4.5m to 1.77m, does not compromise Works and Utilities servicing requirements.

5.2 Inspection Services

Inspection Services does not support construction done prior to permit application and approvals.

5.3 Fire Department

No comments.

6.0 PLANNING COMMENTS

The Planning & Corporate Services Department is not prepared to recommend support for the 1.77 m front yard setback and 1.7 m east side yard setback and the 1.17 m front eave projection and 1.1 m side yard eave projection as shown on the attached sketch and as seen in the photos above. Had the property owner made application to the City, prior to construction, they would have been advised that they did not meet the required setbacks and that a variance of this magnitude would not be recommended for support.

This department does not condone property owners who commence construction without the proper approvals in place and if approved, both the extent of the variances and the disregard for the application process could set a precedent for other property owners to proceed in this manner.

6.1 ALTERNATE RECOMMENDATION

Should City Council support the front and side yard setback variances, the following recommendation is offered for consideration:

THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP05-0199, Monica Black; for that Part of Lot 8 shown on Plan B5938, Sec. 19, Twp. 26, ODYD, Plan 2704 except Plan H16728, located on Brookside Avenue, Kelowna, BC;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 6.4.2 – General Development Regulations – Projections Into Yards: -To vary the maximum projection for eaves into a required front yard from 0.60 m permitted to the 1.17 m proposed and into a required side yard from 0.60 m permitted to the 1.1 m proposed.

Section 13.6.6(c) – Development Regulations: - To vary the requirements for a front yard setback from 4.5 m required to 1.77 m proposed.

Section 13.6.6 (d) – Development Regulations: - To vary the requirements for minimum side yard from 2.0 m required for a 1 or 1 ½ storey portion of a building to 1.7 m side yard setback (east side) for the covered deck.

Andrew Bruce
Manager Development Services

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

AB/SG/sg

ATTACHMENTS

(not attached to the electronic copy of the report)

- Location Map
- Site Plan