

Regular MeetingMay 2, 2006

A Regular Meeting of the Municipal Council of the City of Kelowna was held in the Council Chamber, 1435 Water Street, Kelowna, B.C., on Tuesday, May 2, 2006.

Council members in attendance: Mayor Sharon Shepherd, Councillors A.F. Blanleil, B.A. Clark, C.B. Day, B.D. Given, C.M. Gran, R.D. Hobson and M.J. Rule.

Council members absent: Councillor N.J. Letnick.

Staff members in attendance were: Acting City Manager/Director of Planning & Corporate Services, R.L. Mattiussi; City Clerk, A.M. Flack; Manager of Development Services, A.V. Bruce; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 7:13 p.m.

2. PRAYER

The meeting was opened with a prayer offered by Councillor Rule.

3. CONFIRMATION OF MINUTES

Public Hearing, April 18, 2006
Regular Meeting, April 18, 2006
Regular Meeting, April 24, 2006

Moved by Councillor Hobson/Seconded by Councillor Day

R401/06/05/01 THAT the Minutes of the Regular Meetings of April 18 and April 24, 2006 and the Minutes of the Public Hearing of April 18, 2006 be confirmed as circulated.

Carried

4. Councillor Rule was requested to check the minutes of this meeting.

5. BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)

5.1 Bylaw No. 9588 (Z06-0001) – 0727568 BC Ltd. (New Town Architectural Services Ltd. – 130 & 140 Barber Road and 795 Highway 33 West

Moved by Councillor Given/Seconded by Councillor Clark

R402/06/05/01 THAT Bylaw No. 9588 be read a second and third time.

Carried

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- 5.2 Bylaw No. 9586 (Z06-0010) - Hume-Smith Contracting & Development Co., Larry Shoemaker, Varitec Enterprises Ltd. (Kenyon Sinclair) – 824 Galbraith Place

Moved by Councillor Given/Seconded by Councillor Clark

R403/06/05/01 THAT Bylaw No. 9586 be read a second and third time, and be adopted.

Carried

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

- 6.1 Planning & Corporate Services Department, dated March 29, 2006 re: Development Variance Permit Application No. DVP06-0046 – Odette Morissette and Armand Delisle (Lynn Welder) – 860 Paret Road

Staff:

- The subject property is double-fronting with frontage also on Stoneybrook Road.
- The applicant obtained letters of support from the abutting owners to the west but not from the neighbour to the east.

The City Clerk advised that the following correspondence had been received:

- letter of opposition from Sam & Andrea Fiechter, 868 Paret Road.

Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the required variances to come forward.

Sam Fiechter:

- His property is on the east side and adjacent to the subject property:
- Is not happy with the development but will not object to the variances provided he can have assurance that the subject property will not be further developed. Has heard the owner is planning to build a third house fronting Paret Road.

Staff:

- Until the zone is changed, only one house is permitted on the subject property.

Lynn Welder, applicant:

- Indicated she had nothing to add.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R404/06/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP06-0046 for Lot 9, DL 579, SDYD, Plan 15130 except Plan KAP78302, located on Paret Road, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";

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

Section 13.1.6 (d) – RU1- Large Lot Housing

To obtain a variance to allow a side yard setback of 1.38 m where 2.0 m is required.

Section 13.1.6 (e) – RU1- Large Lot Housing

To obtain a variance to allow a rear yard setback of 4.76 m where 7.5 m is required.

Carried

- 6.2 Planning & Corporate Services Department, dated March 29, 2006 re: Development Variance Permit Application No. DVP06-0048 – Vernon & Margaret McGovern – 1873 Ethel Street

Staff:

- The applicant is proposing to convert an existing one-storey accessory building into a dwelling unit. Changing the use of the accessory building is what is triggering the variances.

The City Clerk advised that no correspondence had been received.

Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the required variances to come forward. There was no response.

Moved by Councillor Day/Seconded by Councillor Hobson

R405/06/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP06-0048 for Lot 3, DL 138, ODYD, Plan 3189, located on Ethel Street, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the buildings to be constructed on the land be in general accordance with Schedule "B";
3. The exterior finish of the accessory building to be finished in accordance with Schedule "B" prior to issuance of an Occupancy Permit;
4. Landscaping to be provided on the land be in general accordance with Schedule "C";
5. The applicant will be required to provide an unlocked gate (minimum 1.5 metres in width) within the north side yard;
6. The pathway between the accessory building and Ethel Street is to be lit;
7. The applicant be required to provide a turn-around at the front of the property to allow vehicles to exit the site in a forward direction;

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AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 6.5.8 (b) – Accessory Development

To obtain a variance to allow an accessory building containing a secondary suite to have a side yard setback of 1.67 m where 2.0 m is required;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council's approval of the development variance permit application in order for the permit to be issued.

Carried

6.3 Planning & Corporate Services Department, dated March 28, 2006 re: Development Variance Permit Application No. DVP06-0045 – David Boyce and Cathy Jameson (Ian Paine Construction Ltd.) – 4644 Fuller Road

Staff:

- The applicant is proposing to construct a one-storey addition on the south side of the house.

The City Clerk advised that no correspondence had been received.

Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the required variances to come forward.

Applicant:

- Indicated he had nothing to add at this time.

Moved by Councillor Hobson/Seconded by Councillor Given

R406/06/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP06-0045 for Lot A, Section 25, Township 28, SDYD, Plan 39139 located on Fuller Road, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the buildings to be constructed on the land be in general accordance with Schedule "B";
3. No structures and/or impermeable surfaces are permitted within the 15.0 m riparian management area setback;

AND THAT the applicant be required to complete the above-noted conditions within 180 days of Council's approval of the development variance permit application in order for the permit to be issued.

AND FURTHER THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 13.1.6 (d) – Large Lot Housing

- To obtain a variance to allow a side yard setback to a flanking street of 3.2 m where 4.5 m is required.

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6.4 Planning & Corporate Services Department, dated February 3, 2006 re: Development Variance Permit Application No. DVP06-0009 – Brian & Donna Widrick – 136 Clifton Road

Staff:

- The applicant started building a garage without permits and construction was stopped when a City Building Inspector advised that siting was an issue and that a permit was required.
- The garage is 22 ft. x 36 ft. or the equivalent of a triple car garage but there is only one door at the end so the building is probably intended for storage as well.
- If the building had been sited differently no variances would have been required.

The City Clerk advised that the following correspondence had been received:

- letter of opposition from Monique Edwards, 131 Clifton Road North
- letter of opposition from Fred March, 127 Clifton Road North
- letter of opposition from Eileen Hill, 132 Clifton Road North

Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the required variances to come forward.

Brian Widrick, applicant:

- Thought the contractor had the permit, but he had just applied for it.
- Stopped work when asked.
- One neighbour who had provided a letter of support has apparently changed her mind.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R407/06/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP06-0009; Lot 3, Sec. 6, Twp. 23, ODYD Plan 30121, located on Clifton Road, Kelowna, B.C.;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 be granted in accordance with Schedule "A":

Section 6.5.8 (a):

Vary the front yard setback from 12.0 m required to 10.96 m proposed to allow for the encroachment of an accessory building;

Section 6.5.8 (b):

Vary the required side yard setback from 2.0 m required to 1.52 m proposed to allow for the encroachment of an accessory building.

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6.5 Planning & Corporate Services Department, dated March 28, 2006 re: Development Variance Permit Application No. DVP05-0199 – Monica Black (Milton Black) – 1111 Brookside Avenue

Staff:

- The applicant commenced construction of an L-shaped covered deck addition to the dwelling without a building permit. A City Building Inspector advised the property owner to stop construction as there was no building permit and noted also that variances would probably be required for siting of the building.
- Staff would have recommended non-support even if the owners had applied for the variances in the beginning; the extent of the setback requirement down to 1.7 m to Brookside Avenue raises concern about precedent.

The City Clerk advised that the following correspondence had been received:

- letter from the owner giving reasons why she believes the variances should be approved.

Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the required variances to come forward.

Monica Black, applicant:

- The City Building Inspector told her husband to talk to the neighbours and all four neighbours signed letters of consent to the variances. Those letters were forwarded to the City.
- They applied for a building permit but were told the building permit could not be approved without the variances.
- The roof was partially completed but the deck underneath was finished. They knew the City would not like them finishing the roof but the tiles were there and they wanted to complete the roof to protect the deck.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R408/06/05/01 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.

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- 6.6 Planning & Corporate Services Department, dated March 30, 2006 re: Development Permit Application No. DP06-0007 and Development Variance Permit Application No. DVP06-0008 – 678026 BC Ltd. (Troika Developments Inc.) – 1425 Glenmore Road

Staff:

- Staff consider the RM3 zoning of the subject property to be an anomaly given the rural/agricultural context of the surrounding area.
- The applicants are proposing to develop the site with a 122-unit condominium project within the RM3 zoning regulations but with variances. Access would be at the north end of the site, off Tutt Road which is currently an unconstructed road. There would be five residential buildings and one amenity building. All required parking would be below the buildings. Additional visitor parking would be provided at-grade.
- The applicant is acquiring an acre of land from the neighbour to the east that would be used as private open space for the development and to mitigate the zero setback.
- Staff recommend non-support because of the rural context of the site.
- Staff would be willing to support some RM3 development on the site but would encourage a low scale, rural architectural style development.

The City Clerk advised that no correspondence and/or petitions had been received.

Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the required variances to come forward.

Renee Wasylyk, Troika Developments:

- Gave a PowerPoint presentation of the proposed development.
- Could achieve the same density project under the existing zoning without any variances but that would be a poor utilization of land and amenity space would be lacking.
- The four variances would allow them to achieve the optimal design.
- The public consultation process produced an overwhelming response of support.
- Their goal is to provide entry level housing, starting in the \$120,000 range.
- They have held this property for 3½ years now and were just waiting for the road connection that is hopefully pending. They are targeting the UBC-O market.

JP Squire, corner of Galiano and Glenmore Roads:

- Concerned about the similarity between the proposed development to what was just approved on Highway 33 in Rutland. This would be a major urban development 1.2 km removed from where the City Limits begin.
- There is a commercial property across the street. Someone could decide to put a plaza there and all they would need is a building permit. The commercial zoning of that property is an anomaly too.
- Most of the properties in the area are used for agricultural purposes. The project is out of place and does not belong in this area.

Peter Newton, 1301 Glenmore Road North:

- Supports the proposal because it will provide affordable housing, extend sanitary sewer past his property, and the site will look better than it does now.

Patricia Newton, 1301 Glenmore Road North:

- Supports the variances and the project proceeding because Kelowna needs housing for first home buyers and the Glenmore area is becoming less and less rural every day.

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Marvin Tonn, 1555 Glenmore Road:

- Supports the variances and agrees that the site would look better than it does now.
- Read a letter from his parents, Len and Marlene Tonn, 1555 Glenmore Road, also supporting the application and confirming that they have entered into an agreement to sell the applicant the adjacent 1 acre of agricultural land.

Moved by Councillor Blanleil/Seconded by Councillor Given

R409/06/05/01 THAT Council authorize the issuance of Development Permit No. DP06-0007 for Lot 1, Sections 9 and 16, Township 23, ODYD Plan KAP47448 Except Plan 75589, located on Glenmore Road North, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP06-0008; Lot 1, Sections 9 and 16, Township 23, ODYD Plan KAP47448 Except Plan 75589, located on Glenmore Road North, Kelowna, B.C.;

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

Section 13.9.6 (c):

The applicant is seeking to vary the building height from 2.5 storeys permitted to 3 storeys proposed for buildings #1, 2, and 3;

Section 13.9.6 (b):

The applicant is seeking to vary the site coverage for buildings from 40% permitted to 42% proposed;

Section 13.9.6 (b):

The applicant is seeking to vary the site coverage for buildings, parking and driveways from 50% permitted to 54% proposed;

Section 13.9.6 (e):

The applicant is seeking to vary the internal side yard setback from 4.5m required to 0.0m proposed for buildings #1, 2 and 3;

AND THAT the applicant be required to complete the proposed lot line adjustment by adding one acre of land to the eastern boundary of the subject property;

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AND THAT the applicant be required to enter into a restrictive covenant in favour of the City of Kelowna, registerable under Section 219 of the Land Title Act. The covenant must be worded to the effect that vehicular access is not permitted from abutting lots. The subdivision plan must be endorsed to the effect that a covenant is to be registered. The covenant must be registered as a priority charge and is to be indicated on the Lot Grading Plan;

AND THAT the applicant be required to enter into a restrictive covenant in favour of the City of Kelowna, registerable under Section 219 of the Land Title Act noting that the subject property is located adjacent to land that is zoned for Agricultural Use and part of the Agricultural Land Reserve and it is reasonable to expect certain impacts as a result of this proximity;

AND THAT the applicant be required to enter into a restrictive covenant in favour of the City of Kelowna, registerable under Section 219 of the Land Title Act in order to designate the 1 acre of land added to the site as a "no-build" area;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Carried

7. REMINDERS – Nil.

8. TERMINATION

The meeting was declared terminated at 9:02 p.m.

Certified Correct:

Mayor

City Clerk

BLH/am