

Regular MeetingFebruary 24, 2009

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 February 24, 2009.

Council members in attendance: Mayor Sharon Shepherd, Councillors Brian Given, Charlie Hodge, Graeme James, Angela Reid, Michele Rule and Luke Stack.

Council members absent: Councillors Andre Blanleil and Robert Hobson.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Urban Land Use Manager, Danielle Noble; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 6:33 p.m.

2. PRAYER

A Prayer was offered by Councillor Stack.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting – February 9, 2009
 Regular P.M. Meeting – February 9, 2009
 Public Hearing – February 10, 2009
 Regular Meeting – February 10, 2009
 Regular A.M. Meeting – February 16, 2009
 Regular P.M. Meeting – February 16, 2009

Moved by Councillor Given/Seconded by Councillor Stack

R190/09/02/24 THAT the Minutes of the Regular Meetings of February 9, 2009, February 10, 2009 and February 16, 2009 and the Minutes of the Public Hearing of February 10, 2009 be confirmed as circulated.

Carried

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

5. BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND AND THIRD READINGS)

5.1 Bylaw No. 10148 (Z08-0102) – Keith & Britta Morrice (Ruth Hall) – 3975 June Springs Road

Staff:

- All conditions associated with this Bylaw have been met and it can be considered for second and third readings and adoption.

Regular MeetingFebruary 24, 2009Moved by Councillor Given/Seconded by Councillor James

R191/09/02/24 THAT Bylaw No. 10148 be read a second and third time and be adopted.

Carried

5.2 Bylaw No. 10150 (Z08-0115) – Coraleen Priebe -1619 Oswell Drive

Moved by Councillor Rule/Seconded by Councillor Hodge

R192/09/02/24 THAT Bylaw No. 10150 be read a second and third time.

Carried

5.3 Bylaw No. 10151 (Z08-0112) – Karen Dilullo (Rick & Karen Dilullo) – 2315 Brentwood Road

Moved by Councillor Reid/Seconded by Councillor Stack

R193/09/02/24 THAT Bylaw No. 10151 be read a second and third time.

Carried

Councillors Hodge and James – Opposed.

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

6.1 Community Sustainability Division, dated January 15, 2009 re: Development Variance Permit Application No. DVP07-0141 – Adrian & Patricia Demmers – 1345 Shaunna Road **City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.**

The City Clerk advised that the following correspondence and/or petitions had been received:

- o Letter of Opposition
 - Dinah & Cambell Lane, 1337 Shaunna Road

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Adrian Demmers, Applicant

- Starting building the garage approximately 10 – 12 years ago when the sewer was being installed in the area.
- He thought he had applied for a Building Permit; however the City does not have a record of any Building Permit.
- Advised that he had spoken with the appropriate City staff and had an Inspector attend at the property who indicated that a variance would be required for the garage. Based on the Inspector's comments, he thought that the variance was approved by the City.
- He has had a history with the neighbouring property as a result of this garage. Once he put his fence back up, it blocked off the adjoining property's backyard, and since that time, the owner of the adjoining property decided he didn't like the garage and was not agreeable to the setbacks.

Gallery:

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- The garage hasn't been there for very long as she has owned the property for over 9 years and the garage was built after she moved in.
- There is a retaining wall on the site that she believes is located on her property and the garage was built over the retaining wall.
- Concerned about how the whole construction of the garage was handled by the applicant and is very concerned about the encroachment of the garage.
- It is possible that a few feet of her fence is located on City property.
- Advised that she cannot access her backyard because of the applicant's fence.

Staff:

- Advised that if the variance is not supported, staff will have to find ways to deal with the situation, which could end up being a civil matter.

Adrian Demmers, Applicant

- Provided a copy of his Survey Certificate, which was done in August 2007.
- Advised that the retaining wall is currently between the two (2) properties' fences.
- Advised that the retaining wall does not provide support to the garage.
- Confirmed that the Survey Certificate was conducted after the fence was erected and that his fence is within in property boundary.

There were no further comments.

Moved by Councillor Hodge/Seconded by Councillor James

R194/09/02/24 THAT council authorize the issuance of Development Variance Permit no. DVP07-0141 for Lot 113, Section 18, Township 27, ODYD, Plan 21008, located on Shaunna Road, Kelowna, B.C.;

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

Section 12.3.6 (d) Side Yard Setback

A variance to the side yard setback requirement, allowing a setback of 1.11m on the north side of the property where 2.0m is required;

AND THAT prior to issuance of the Development Variance Permit, a professional report be submitted by a structural engineer to the satisfaction of the Building and Permitting Manager and that relevant documentation be submitted to ensure that no fencing or retaining wall encroaches onto the abutting properties;

Carried

Councillor Stack – Opposed.

- 6.2 Community Sustainability Division, dated January 28, 2009 re: Development Variance Permit Application No. DVP08-0236 – Hae Seok Kang & Hye Kyung Shin (Kevin Pring) – 2002 Ethel Street **City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.**

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

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Sowon Kang, Applicant's Representative

- Is the daughter of the property owner.

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- Her parents want to ensure that the garage is upgraded in order to allow for their vehicles to be parked inside.

There were no further comments.

Moved by Councillor Given/Seconded by Councillor Rule

R195/09/02/24 THAT Council authorize the issuance of Development Variance Permit No. DVP08-0236 for Lot E, Section 19, Township 26, Osoyoos Division Yale District Plan 12546 located at Ethel Street, Kelowna, B.C.

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

Section 6.5.8 (a) Accessory Development
To vary the siting of an accessory building in an urban residential zone to be permitted in the required front yard setback;

Section 6.5.8(b) Accessory Development
To vary the minimum side yard set back from 1.0 m required to 0.08 m proposed on the south side of the property;

Section 13.6.6(c) RU6 – Two Dwelling Housing
The vary the required minimum front yard set back from 6.0 m required from a garage or carport to 0.6m proposed;

Carried

- 6.3 Community Sustainability Division, dated January 29, 2009 re: Development Variance Permit Application No. DVP08-0247 – Canadian Adult Communities and Lorne & Valerie Aston (Lorne Aston) - #234 – 550 Yates Road **City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.**

The City Clerk advised that the following correspondence and/or petitions had been received:

- o Letter of No Opposition
 - June Feldman, #118-550 Yates Road

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Valerie Aston, Applicant

- When the developer built the cement patios, they encroached upon the setbacks.
- When she applied for a Building Permit that triggered the requested variance.

There were no further comments.

Moved by Councillor Given/Seconded by Councillor Hodge

R196/09/02/24 THAT Council authorize the issuance of Development Variance Permit No. DVP08-0247 for Strata Lot 29, Section 32, Township 26, ODYD, Strata Plan KAS1635, located at #234 – 550 Yates Road, Kelowna BC;

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

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Section 13.5.6(g) Minimum Rear Yard Setback – To vary the rear yard setback for a bareland strata unit from 3.0 m required to 2.5 m proposed for a glass patio enclosure.

Carried

7. REMINDERS – Nil.

8. TERMINATION

The meeting was declared terminated at 7:32 p.m.

Certified Correct:

Mayor

City Clerk

/slh