

Regular MeetingMay 1, 2012

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 1st, 2012.

Council members in attendance: Mayor Walter Gray, Councillors Andre Blanleil, Maxine DeHart, Gail Given, Mohini Singh, Luke Stack and Gerry Zimmermann.

Council members absent: Colin Basran and Robert Hobson

Staff members in attendance were: City Manager, Ron Mattiussi; Deputy City Clerk, Karen Needham; Urban Land Use Manager, Danielle Noble; and Council Recording Secretary, Arlene McClelland.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 6:14 p.m.

2. A Prayer was offered by Councillor Given.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting - April 16, 2012
 Regular A.M. WFN Meeting - April 16, 2012
 Regular P.M. Meeting - April 16, 2012
 Public Hearing Meeting - April 17, 2012
 Regular Meeting - April 17, 2012

Moved by Councillor Stack/Seconded by Councillor Singh

R376/12/05/01 THAT the Minutes of the Regular Meetings of April 16, 2012 and April 17, 2012 and April 23, 2012 and the minutes of the Public Hearing of April 17, 2012 be confirmed as circulated.

Carried

4. Councillor Singh 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. 10682 (Z12-0011) - Gazelle Enterprises Ltd. (Heartland Group)
 - 3195 Lakeshore Road

Moved by Councillor Given/Seconded by Councillor Stack

R377/12/05/01 THAT Bylaw No. 10682 be read a second and third time.

Carried

6. THE CITY CLERK WILL PROVIDE INFORMATION AS TO HOW THE FOLLOWING ITEMS ON THE AGENDA WERE PUBLICIZED.

The Deputy City Clerk advised that Notice of Council's consideration of the Development Variance Permit Applications was given by sending out or otherwise delivering 634 letters to the owners and occupiers of the surrounding properties between April 13, 2012 and April 20, 2012.

Regular MeetingMay 1, 2012

The correspondence and/or petitions received in response to advertising for the applications on tonight's Agenda were arranged and circulated to Council in accordance with Council Policy No. 309.

7. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

- 7.1 Land Use Management Department, Draft Resolution, dated May 1, 2012 re: Development Variance Permit Application No. DVP12-0021 - Stephen & Elizabeth Foster - 4637 Fordham Road

Moved by Councillor Blanleil/Seconded by Councillor Zimmermann

R378/12/05/01 THAT Council defers consideration of Development Variance Permit Application No. DVP12-0021 to the May 15, 2012 Regular Meeting at 6:00 pm in the Council Chamber.

Carried

- 7.2 Land Use Management Department, dated March 16, 2012 re: Development Variance Permit Application No. DVP12-0032 - Ian and Marguerite Sisett (Weninger Construction) - 3112 Watt 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

Staff:

- Clarified that variances do not change the footprint of existing structure.
- Clarified that the existing structure is legal non-conforming and the same structure could not be rebuilt. Approving the variances would make the structure legal conforming.
- Clarified that riparian area restoration proposal not acceptable by Applicant.

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

Letters of Opposition:

James Walasko, 301 Meikle Avenue
Jane Hatch and Warwick Shaw, 3124 Walnut Street (2)
Ian Pooley, 3110 Walnut Street

Letters of Support:

Michael and Michele Neill, 3132 Watt Road

Additional Information:

14 pages of additional information as submitted by the property owners, Ian and Marguerite Sisett, 3112 Watt Road.

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

Ian Sisett, Applicant

- Canvassed the neighbourhood at the last minute. Did receive verbal support from a Watt Road neighbour. Three neighbours across the creek fronting onto Walnut Street are in opposition. Clarified the footprint of the building is not increasing and they are not setting up a bed and breakfast; are considering future potential of a carriage house.

Regular MeetingMay 1, 2012

- Acknowledged that there currently is a stack of roof tile occupying the yard that may be a bit of an eyesore however this home is well hedged; Once construction is complete this will be taken care of.
- Clarified that the space is for family accommodation and will not be rented out.
- Confirmed that Fascieux Creek is running.
- Commented that the garage has been neglected and is in need of repair; The roof is in need of repair and needs to be re-roofed.
- Would prefer architectural balance that is more attractive to the neighbourhood; Asking for an increase of 2 feet.
- Commented on staff support of the variances with special terms that were unreasonable and not fair. Terms suggested by staff were vague, uncertain and open ended; asked for public creek access.
- Would support restoration but within reason and should not be the only one who is burdened with the task.
- Staff's alternate recommendation asks for bathroom compliance and would accommodate if Council deemed it necessary but would prefer to leave it as is.
- Vehemently opposed to providing any public access of the creek through property.
- Asked Council to impose a fee of \$2,500 for improvement of the Watt Road Park as evidence of sincerity.

Gallery:Warwick Shaw, 3124 Walnut Street

- Business man living at current residence since 2002.
- Environmentally conscious and wants to protect the creek where water runs year round.
- Questioned why variances would be considered as they allow development within 3 meters of a riparian zone.
- Home looks straight at the Applicant's garage which is covered with garbage; would like it cleaned up.
- Is a non conforming building; issues with the height.
- Stated this could set a precedent.
- Opposed to this Application.

Albert Weistock, 3195 Walnut Street

- Garage is visible from property and with the renovation it would look aesthetically pleasing.
- Unaware of building material in the yard.
- Supportive of this application.

Applicant:

- The material will disappear with the project and gave assurances to the neighbour that the unsightly mess will be cleaned up.
- Confirmed a fence was built blocking from the Watt Road view of the yard but not the affected neighbour.

There were no further comments.

Moved by Councillor Stack/Seconded by Councillor Given

R379/12/05/01 THAT Council NOT authorize the issuance of Development Variance Permit No. DVP12-0032, for Lot 9, District Lot 14, ODYD, plan 6069, located on 3112 Watt Road, Kelowna, BC.

DEFEATED

Mayor Gray, Councillors Blanleil, DeHart, Singh - Opposed

Regular Meeting

May 1, 2012

Moved by Councillor Blanleil/Seconded by Councillor Singh

THAT Council authorize the issuance of Development Variance Permit No. DVP12-0032, for Lot 9, District Lot 14, ODYD, plan 6069, located on 3112 Watt Road, Kelowna, BC;

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

Section 6.5.7 Accessory Development - lot coverage:

To vary the maximum allowable lot coverage for an accessory building from 90m² permitted to 102 m² proposed (as per Schedule "A");

Section 6.5.8(a) Accessory Development - siting:

To vary the minimum front yard setback for an accessory building in a residential zone from 18.0m required to 3.4m proposed (as per Schedule "B");

Section 13.1.6 (b) Development Regulations - building height:

To vary the maximum height permitted for an accessory building from 4.5m to 6.2m proposed (as per Schedule "C").

Amendment Moved by Councillor DeHart/Seconded by Councillor Blanleil

R380/12/05/01 THAT the applicant be required to bring the existing bathroom facility into compliance with current zoning regulations prior to receiving final occupancy for the addition.

Carried
Councillors Stack, Zimmermann - Opposed

The original motion as amended was then voted on and carried as follows:

Moved by Councillor Blanleil/Seconded by Councillor Singh

R381/12/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP12-0032, for Lot 9, District Lot 14, ODYD, plan 6069, located on 3112 Watt Road, Kelowna, BC;

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

Section 6.5.7 Accessory Development - lot coverage:

To vary the maximum allowable lot coverage for an accessory building from 90m² permitted to 102 m² proposed (as per Schedule "A");

Section 6.5.8(a) Accessory Development - siting:

To vary the minimum front yard setback for an accessory building in a residential zone from 18.0m required to 3.4m proposed (as per Schedule "B");

Section 13.1.6 (b) Development Regulations - building height:

To vary the maximum height permitted for an accessory building from 4.5m to 6.2m proposed (as per Schedule "C").

AND THAT the applicant be required to bring the existing bathroom facility into compliance with current zoning regulations prior to receiving final occupancy for the addition.

Carried
Councillors Stack, Zimmermann - Opposed

Regular Meeting

May 1, 2012

- 7.3 Land Use Management Department, dated April 5, 2012 re: Development Variance Permit Application No. DVP12-0038 - Nicole & Kerry Begrand-fast - 4920 Westridge Drive 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 Deputy City Clerk advised that no correspondence and/or petitions had been received.

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

The Applicant was not in attendance.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Zimmermann

R382/12/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP12-0038 for Lot 63, Section 29, Township 29, SDYD, Plan KAP 52450, located at 4920 Westridge Drive, Kelowna, BC;

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

Section 6.2.1 - Swimming Pools: To allow a swimming pool to be located in a front yard where one is not permitted, as per Schedule 'A'.

Section 12.3.6(c) Development Regulations: To vary the minimum front yard from 6.0m required to 2.0m proposed, as per Schedule "A".

Carried

- 7.4 Land Use Management Department, dated April 5, 2012 re: Development Variance Permit Application No. DVP12-0034 - Corcoran Industries Ltd. & 634562 BC Ltd. (Ken Corcoran) - 316 Poplar Point Drive 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 Deputy City Clerk advised that the following correspondence and/or petitions had been received:

Letter of Concern:

Gary and Sandra Hales, 274 Poplar Point Drive

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

Ken Corcoran, Applicant

- This application enables the installation of a spiral staircase to provide the neighbour's with their easement access to the foreshore and to redevelop the property.
- Clarified that the new easement moves with title.
- Received neighbour support from 3 affected neighbours.
- Garage structure that has existed since 1970 has been a garage and workshop and would like to incorporate into the house to be an office and media room.

Regular Meeting

May 1, 2012

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Stack

R383/12/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP12-0034 for Lot A, District Lot 219, ODYD, Plan KAP81704 and an undivided 1/3 share in Lot 4, District Lot 219, ODYD, Plan 30206 (see plan as to limited access), located at 316 Poplar Point Drive, Kelowna, BC;

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

Section 13.1.6(c) Development Regulations: To vary the minimum front yard from 4.5m required to 0.6m proposed, as per Schedule "A".

Carried

7.5 Land Use Management Department, dated April 3, 2012 re: Development Variance Permit Application No. DVP12-0045 - Daniel & Jamie Kreeft (Reg Rempel) - 1371 Mountain Avenue 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 Deputy City Clerk advised that no correspondence and/or petitions had been received.

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

The Applicant was not in attendance.

There were no further comments.

Moved by Councillor Singh/Seconded by Councillor Given

R384/12/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP12-0045, for Lot B, Section 30, Township 26, O.D.Y.D., Plan 92177, located on Mountain Avenue, Kelowna, BC;

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

Section 7.5.9 Fencing and Retaining walls:
To vary the maximum allowable height of a retaining wall from 1.2m permitted to 3.05 meters proposed (as per Schedule "A").

Carried

Regular MeetingMay 1, 2012

- 7.6 Land Use Management Department, dated March 13, 2012 re: Development Variance Permit Application No. DVP11-0137 - Cara Glen Estates Ltd. (Keystone Design) - 520 Caramillo Court 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 Deputy City Clerk advised that no correspondence and/or petitions had been received.

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

Ray Lefebvre, Keystone Design, Applicant Representative

- Retained by Caramillo Estates to settle the matter.
- There has never been any proper site plans, no occupancy permit was given and has never been occupied.
- Trying to mitigate issues identified by staff; been asked to draft a plan and fix the property.
- Clarified that a landscape plan was submitted to the City last year but no work has been done to date.

Council:

- Suggested adding the landscape agreement as a condition of issuance.

Gallery:

Gary Falkin, Neighbour

- Pleased with the decision to put an agreement in place that will bond a landscaping agreement.
- Concerned with having to replace his lawn due to the weeds.
- Glad to hear the property will be cleaned up.

There were no further comments.

Moved by Councillor Singh/Seconded by Councillor Stack

R385/12/05/01 THAT Council authorize the issuance of Development Variance Permit No. DVP11-0137, for Lot B, Sec. 32, Twp. 26, O.D.Y.D., Plan KAP87096, located on Caramillo Court , Kelowna, BC;

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

- a) Section 7.5.9 Fencing and Retaining Walls:
To vary the maximum height of retaining walls from 1.2 m permitted to 2.0 m proposed;
- b) Section 13.1.6(b) Development Regulations:
To vary the maximum building height from 9.5 m or 2 ½ storeys permitted to 10.25 m / 3 storeys proposed (as per Schedule "A").

AND THAT the issuance of the Development Variance Permit be subject to the receipt of a Geotechnical Engineer review and sign-off completed to the satisfaction of the Chief Building Official;

Regular Meeting

May 1, 2012

AND THAT the variances be granted subject to the Applicant entering into a Landscape Agreement with the City.

Carried

- 8. BYLAWS
- 9. REMINDERS
- 10. TERMINATION

The meeting was declared terminated at 8:29 p.m.

Certified Correct:

Mayor

ACM/dld

Deputy City Clerk