



Committee of the Whole Report

For the Meeting of September 5, 2019

To: Committee of the Whole **Date:** August 22, 2019

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: **Heritage Alteration Permit with Variance Application No. 00015 for 2251 Lydia Street**

RECOMMENDATION

That Council decline Heritage Alteration Permit with Variance Application No. 00015 for 2251 Lydia Street.

LEGISLATIVE AUTHORITY

In accordance with Sections 617 and 618 of the *Local Government Act*, Council may issue a Heritage Alteration Permit which may be subject to terms consistent with the purpose of the heritage protection of the property, including: (i) conditions respecting the sequencing and timing of construction, (ii) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings and structures and (iii) security. Council may refuse to issue a Heritage Alteration Permit for an action that, in the opinion of Council, would not be consistent with the purpose of the heritage protection of the property.

EXECUTIVE SUMMARY

The purpose of this report is to provide Council with information, analysis and recommendations for a Heritage Alteration Permit with Variance Application for the heritage-designated residence located at 2251 Lydia Street. The proposal is for an addition to the south elevation of the house that includes a new powder room, garage and deck. A side yard setback variance is requested. The property is subject to the small lot regulations.

The main issue is the location of the proposed addition and its impact on the neighbours. Staff recommend that Council decline this application.

BACKGROUND

Description of Proposal

As a condition of the Rezoning Application in 2007 to allow two small lots to be subdivided from this parcel, the existing house received Heritage Designation. The garage that was attached to

the house at that time was not included in the designation as the garage was not original to the house. This garage has subsequently been demolished, and the proposal is to construct a new garage on the south elevation with a roof deck above and a projection for a new powder room.

The applicant is requesting a variance from the R1-S2 Zone. The proposed variance is related to placement of the new garage and deck.

Sustainability Features

Diverting waste from the landfill by maintaining an existing house and reuse and refurbishing of existing materials supports green building principles.

Active Transportation Impacts

The applicant is not proposing any active transportation features with this proposal.

Public Realm Improvements

No public realm improvements are proposed in association with this Heritage Alteration Permit Application.

Relevant History

The existing house was built in 1910. It is an Edwardian Vernacular Arts and Crafts style and was a popular housing type built during the period of suburban expansion in Victoria. The Heritage Designation was a condition of a Rezoning Application to rezone the entire lot to a small lot zone to allow one lot to be taken off the side yard on Lydia Street and one lot to be taken off the rear yard on Denman Street. These new small lots have not been subdivided and a Development Permit Application for these two houses is also before Council; however, for the purposes of assessing this application, it is assumed that the subdivision is in place.

The owner has undertaken renovations to the house under a Delegated Heritage Alteration Permit issued in October 2018. The renovations are underway and include replacement of the foundation, replacement of the front and rear porches with similar (in-kind) materials and removal of the upper storey shingles to reveal the original underlying cladding.

Data Table

The following data table compares the proposal with the existing R1-S2 Zone, Restricted Small Lot (Two Storey) District. The table is based on the assumption that the small lot subdivision is in place. An asterisk is used to identify where the proposal is less stringent than the existing zone (variance requested). A double asterisk is used to identify where the existing house has non-conforming status.

Zoning Criteria	Proposal	Zone Standard R1-S2	Comments
Site area (m ²) - minimum	291	260	
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Density (Floor Space Ratio) - maximum	0.52:1	0.6:1	
Total floor area (m ²) - maximum	150.7	190	Excludes lower floor
Lot width (m) - minimum	11.23	10	
Height (m) - maximum	8.31**	7.5	
Basement ceiling height from grade (m) - maximum	1.69**	1.2	
Basement	No	Permitted	Floor area above 1.2m is a first storey
Storeys - maximum	3**	2	
Site coverage (%) - max	34.4	40	
Setbacks (m) - minimum			
Front (Lydia Street)	3.27**	6.0	To building face 1.83** m to stairs and porch
Rear (east)	7.39	6.0	
Side (south)	0.61*	1.5	Proposed garage/deck
Side on flanking street (north)	0.5**	2.4	
Vehicle parking - minimum	1	1	

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, this current application has been referred to the Fernwood Community Association four times, as there were a number of revisions.

A letter from the Fernwood Community Association, dated August 9, 2019, is attached to this report.

This application proposes a variance; therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variance.

ISSUES AND ANALYSIS

In terms of the proposal, the main issues are minor and can be summarized as follows:

- the appropriateness of the scale of the garage and deck: The applicant's intent is to retain the same proportions and openings as the original garage, with the inclusion of a deck and railing.
- protecting the character-defining elements of the house: The bevel siding pattern would be continued as the cladding material for the new garage. It is noted that this elevation has the least exposure to the public realm.
- the deck rails as an appropriate choice of materials: The deck rails have been chosen to match the original railing pickets on the stairs (as shown on inset photo provided on plans).

The primary concern is related to the requested variance for the reduced side yard setback to accommodate the proposed garage and deck, its proximity to the adjacent proposed small lot house to the south, and its effect relating to privacy and overlook of the neighbouring dwelling.

While the previous garage has been a point of discussion between the applicant and City staff, the garage has now been removed to accommodate the changes to the height of the basement (the house was lifted to accommodate a full height basement). However, the applicant wishes to construct a garage in the same location (using the same building footprint) and construct outdoor patio space on top of this garage.

The required side yard setback for this interior lot line is 1.5m. The proposed garage (using the same footprint) is 0.6m from this side lot line. As such, to construct a garage in the proposed location, the side yard setback must be decrease from 1.5m to 0.6m.

If the previous garage had been retained, this setback reduction would also be required to accommodate the subdivision, as the subdivision approval cannot create a situation that is contrary to the *Zoning Regulation Bylaw*. For clarity, the existence of a garage in that location would not provide any non-conforming status. Additionally, the garage has been fully demolished.

The *Small Lot House Design Guidelines* state that variances may be appropriate to facilitate interesting and innovative design solutions provided the encroachment into the setback does not adversely affect the privacy, sunlight or views of the adjacent property. Further, the guidelines state that above-ground balconies, decks and windows should be carefully placed and may be oriented to face away from neighbouring yards to respect the neighbours' wishes for privacy.

Of main concern is the potential privacy impacts with windows on the proposed small lot house to the south, and potential overlook into the rear yards of both small lots. An elevated deck off

of the kitchen may potentially be well-used by its occupants and create sound and other intrusions affecting the neighbours' privacy.

The applicant has provided house plans for the new small lot houses, which the applicant intends to construct. The proposed dwelling on Lydia Street would be most impacted by the deck location. The proposed dwelling will be sited 1.5m from the common lot line. The window locations are in the rooms as follows:

- basement level: recreation room and living area (habitable space) and bathroom
- main floor: kitchen
- upper floor: bathroom and laundry.

As per the applicant's letter, the garage location is fixed as the roof supports a new washroom; as such, relocating the garage to the rear yard is not practical. The applicant also notes that complying with the setbacks would reduce the width of the garage and would not be practical for vehicular parking. However, vehicle parking can be accommodated in the side yard without the presence of a garage addition, and other options to provide on-site bike storage are available that do not require a variance.

In terms of privacy concerns, the deck would be approximately 1.8m above grade, meaning it could potentially cause privacy concerns with windows on the proposed house on Lot 2, as well as an overlook situation into the rear yards of Lot 2 and Lot 3.

The driveway on this side of the house provides the opportunity for sufficient off-street parking. Staff recommend that Council decline this variance. It is recognized that the deck would be built before either of the neighbouring houses, and as such, the owners/occupiers of the new small lot houses could assess any apparent potential for privacy and overlook concerns. The planning rationale is to limit the creation of situations that could be potential issues for future occupants. Given these perspectives, an alternate motion is provided if Council wishes to advance this application to an opportunity for public comment.

Tree Preservation Bylaw and Urban Forest Master Plan

The details of the tree preservation are discussed in detail in the Development Permit report on this property.

Heritage Advisory Panel

The application was reviewed by the Heritage Advisory Panel at its August 13th meeting and the Panel recommended approval subject to the trim board feature on the house being continued along the top of the garage to better visually tie in with the house. The applicant has agreed to these changes in discussion with the Heritage Advisory Panel.

CONCLUSIONS

As the exterior of the home is protected, changes to the exterior of the existing house, and additions to the house (such as a garage) require further approvals by way of a Heritage Alteration Permit to ensure any additions are sympathetic to the existing architectural style. The addition of the garage and deck do not create a concern with respect to the heritage aspects of this proposal; the issue is with respect to the variance request. The requested side yard variance for Lot 1 (existing) for the garage and roof deck is not supportable. Generally roof decks are prohibited in single family residential zones due to the potential of views (privacy

concerns) into adjoining properties. The *Small Lot House Design Guidelines* specifically note privacy and overlook concerns associated with above grade balconies.

If the garage is removed from the plans, a variance is not required, construction can continue on this house (with modifications to the existing building permit) and the subdivision can proceed.

ALTERNATE MOTION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of Heritage Alteration Permit with Variances Application No. 00015 for 2251 Lydia Street for the existing house, in accordance with:

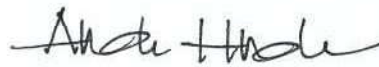
1. Plans, date stamped June 24, 2019.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - Part 1.23 - reduction of the minimum site yard setback from 1.5m to 0.6m
3. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Assistant Director, Development Services Division, Sustainable Planning and Community Development, with the changes recommended by the Heritage Advisory Panel incorporated into the design.
4. Heritage Alteration Permit lapsing two years from the date of this resolution."

Respectfully submitted,



Lucina Baryluk
Senior Planner
Development Services

gH.



Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager



Date: Aug 28, 2019

List of Attachments

- Attachment 1: Subject Map
- Attachment 2: Aerial Map
- Attachment 3: Plans, date stamped June 24, 2019
- Attachment 4: Applicant's letter, dated June 22, 2019
- Attachment 5: Letter from the Fernwood Community Association, dated August 9, 2019.