



Committee of the Whole Report For the Meeting of March 11, 2021

To: Committee of the Whole **Date:** February 25, 2021
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: **Development Variance Permit Application No. 00255 for 161-167 Robertson Street**

RECOMMENDATION

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 Development Variance Permit Application No. 00255 for 161-167 Roberson Street, in accordance with:

1. Plans date stamped November 25, 2020.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. Floor area of all floor levels combined (maximum) be increased from 300m² to 373m².
3. The Development Variance Permit lapsing two years from the date of this resolution.”

LEGISLATIVE AUTHORITY

In accordance with Section 498 of the *Local Government Act*, Council may issue a Development Variance Permit that varies a *Zoning Regulation Bylaw* provided the permit does not vary the use or density of land from that specified in the *Zoning Regulation Bylaw*.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Variance Permit Application for the property located at 161-167 Robertson Street. The proposal is to allow an additional 73m² of floor area within the basement level of the existing single-family dwelling.

The following points were considered in assessing this application:

- The excavation for the dwelling revealed sub-surface soil conditions that required a deeper foundation than initially anticipated, thus triggering a change to the approved building plans. The change requested is to allow an area of 73m² originally shown as

crawlspace to be used as habitable floor area.

- The request to allow additional floor area in the basement level does not contribute to the building mass of the dwelling.
- The additional floor area within the basement involves no changes to the exterior of the dwelling, and, as such, there are no privacy or overlook issues resulting from the additional floor area.
- The density provision of the existing R1-G Zone, Single Family Dwelling (Gonzales) District, is not exceeded as the additional floor area in the basement level is exempt from the definition of floor space ratio; however, the combined floor area regulations for all levels of the building is exceeded by 73 m².

BACKGROUND

Description of Proposal

A one-and-a-half-storey, single-family dwelling with a basement is nearing completion on the subject property. The applicants have advised that in order to accommodate the design and seismic requirements of the new house, substantial excavation was required. This excavation was deeper than originally anticipated and as a result provided an opportunity to create additional habitable floor area.

The proposed variance is related to allowing an additional 73m² floor area in the basement level of the dwelling.

Sustainability

The applicant has not identified any sustainability features associated with this proposal.

Active Transportation

The applicant has not identified any active transportation impacts associated with this application.

Public Realm

No public realm improvements beyond City standard requirements are proposed in association with this Development Variance Permit Application.

Accessibility

The British Columbia Building Code regulates accessibility as it pertains to buildings.

Data Table

The following data table compares the proposal with the existing R1-G Zone, Single Family Dwelling (Gonzales) District. An asterisk is used to identify where the proposal does not meet the requirements of the existing zone. A double asterisk identifies an existing situation. A triple asterisk is used to identify Board of Variance approvals. Note that only one variance (in **bold**) is requested with this current application.

Zoning Criteria	Proposal	Zone Standard R1-G	Comments
Site area (m ²) – minimum	875	460.00	
Lot width (m) – minimum average	13.72 **	15.00	Existing non-conforming
Density (Floor Space Ratio) – maximum	0.27:1	0.5:1	Basement exempt from total floor area & FSR
1 st and 2 nd storey floor area (m ²) – maximum	239.94	240	
Total floor area (m ²) – maximum	372.77 *	300.00	Variance requested
Height (m) – maximum	8.08 ***	7.60	Board of Variance approved
Storeys – maximum	1.5 with basement	1.5 or 2 storey with basement	Half-storey is less than 70% of floor area of first storey
Site coverage (%) – maximum	29.82	30	
Open site space (%) – minimum	50.88	50	
Area of the lot			
Front yard	50.03	50	
Setbacks (m)			
Front – minimum	30.76	7.5	
Rear – from the front lot line to the rear of the building for water lots – maximum	50.00 *	36.50	Board of Variance approved
Side - minimum	2.06	2.06	15% of lot width
Side - minimum	2.19	2.06	15% of lot width
Combined side yards (minimum)	4.25 *	5.40	Board of Variance approved
Parking – vehicular – minimum	2	1	
Accessory structure (garage) – location (Robertson Street)	Front yard ***	Rear yard	Board of Variance approved
Accessory structure height at shoreline – maximum	5.22m ***	3.5m	Board of Variance approved

Relevant History

In 2019, a building permit for a new single-family residence was issued. The design of the new house and accessory building required a number of Board of Variance approvals, which are detailed in the Data Table. A Board of Variance appeal to allow the additional floor area in the basement was declined on March 12, 2020, and therefore the applicants are pursuing an approval through the Development Variance Permit process. The Board of Variance minutes are attached (Attachment F).

The applicant has provided a report from Ryzuk Geotechnical dated March 2, 2020, providing details of the excavation and foundation conditions. The excavation created a deeper foundation, which created an opportunity to change area in the basement from a crawlspace to habitable area. This is more fully described in the section titled Regulatory Considerations.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, on December 10, 2020 the application was referred for a 30-day comment period to the Fairfield-Gonzales CALUC. At the time of writing this report, a letter from the CALUC had not been received.

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

ANALYSIS

Tree Preservation Bylaw and Urban Forest Master Plan

There are no *Tree Preservation Bylaw* impacts with this application for additional floor area in the basement.

Regulatory Considerations

The property is subject to the regulations of the R1-G Zone, Single Family Dwelling (Gonzales) District. This Zone allows for a single-family dwelling, with the following limitations to the floor area of the dwelling:

- maximum floor space ratio of 0.5:1
- maximum floor area for the first and second storey combined of 240 m²
- maximum total floor area of all levels (first and second storey and basement) of 300 m².

The development of the subject property meets the requirements for floor space ratio and for the maximum floor area of the first and second storey combined. The floor space ratio is 0.27:1, which is below the requirement 0.5:1. The new or additional floor area outside the scope of the regulations is within the basement level. According to the definition of basement within the *Zoning Regulation Bylaw*, the lowest level ceiling cannot be more than 1.2m above grade. The changes requested by this variance application do not impact the interpretation of the bylaw as the lower level remains consistent with the definition of basement and is 1.2m below grade.

In order to be considered floor area, the floor to ceiling height must be greater than 1.5m (4.9 feet). Floor to ceiling height less than 1.5m in height is considered non-habitable crawlspace, which is generally used for storage or utilities within a home. The approved building plans for

this dwelling originally showed approximately half the basement level as crawlspace. With the deeper excavation the clearance height was increased, converting 73m² of area formerly noted as crawlspace to habitable area. This change to the floor plans in the basement level allows for a larger bedroom and full height storage. In the applicant's letter dated November 25, 2020, it is indicated that the additional floor area may accommodate a secondary suite at a later date, which is permitted within the zone.

This application presents a conundrum in that it appears to circumvent regulations that are intended to cap the total floor area and limit the overall size of houses and potential ancillary uses such as secondary suites. However, the structure and additional floor area are already built and the remedy for compliance with the *Zoning Regulation Bylaw* is to fill in or build a bulkhead or suspended ceiling within the additional 73m² of floor area to return it to its classification of crawlspace. While this sort of corrective approach would bring the building in line with the *Zoning Regulation Bylaw*, it would not change the outward appearance nor reduce the massing of the existing single-family dwelling. As such, there would be no change in terms of the building's impact on the adjacent properties.

CONCLUSIONS

Requesting approval after the fact is not an ideal situation; however, the exterior form and massing of the single-family dwelling has not changed as a result of the additional floor area and no privacy impacts to adjacent neighbours are attributed to the additional floor area.

ALTERNATE MOTION

That Council decline Development Variance Permit Application No. 000255 for the property located at 161-167 Robertson Street.

Respectfully submitted,

Lucina Baryluk
Senior Planner
Development Services

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped November 25, 2020
- Attachment D: Letter from applicant to Mayor and Council dated November 25, 2020
- Attachment E: Letter from Ryzuk Geotechnical dated March 2, 2020
- Attachment F: Board of Variance minutes, dated March 12, 2020
- Attachment G: Correspondence.