

MINUTES of a regular meeting of COMMITTEE OF THE WHOLE of the Municipal Council of The Corporation of the District of Oak Bay, held in the Council Chambers, Oak Bay Municipal Hall, 2167 Oak Bay Avenue, Oak Bay, B.C., on Monday, November 2, 2009 at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
Councillor J. D. Herbert
Councillor N. B. Jensen
Councillor T. Ney

STAFF: Municipal Administrator, W. E. Cochrane
Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Director of Building and Planning, R. Thomassen

Mayor Causton called the meeting to order at 7:30 p.m.

LAND USE SECTION: (Chairman – Councillor Cassidy)

1. 2009-338 DIRECTOR OF BUILDING AND PLANNING, October 27, 2009
Re Development Variance Permit Application – 614 Monterey Avenue

MOVED by Councillor Braithwaite

Seconded by Councillor Jensen, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 614 Monterey Avenue, as outlined in correspondence item no. 2009-338, be prepared and brought forward to Council for consideration.

CARRIED

2. 2009-339 DIRECTOR OF BUILDING AND PLANNING, October 27, 2009
Re Development Variance Permit Application – 2657 Cavendish Avenue

Councillor Herbert declared a conflict of interest with respect to correspondence item no. 2009-339 in that he lives on Cavendish Avenue across the street from the applicant. Councillor Herbert left the meeting at 7:34 p.m.

The Director of Building and Planning circulated a revised plan and advised that the owners may consider changing the shape of the deck, which would reduce its size by approximately 10 square metres. Mr. Thomassen said the applicants will advise by Wednesday and the appropriate plans will be included with the next meeting's agenda package if the Committee moves forward with the application.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 2657 Cavendish Avenue, as outlined in correspondence item no. 2009-339, be prepared and brought forward to Council for consideration.

Bruce Wilkin, Bruce Wilkin Design, wished to draw attention to the fact that the variance being requested is due to the existing basement being less than 0.8 metres below grade, and although not considered an occupiable living space, it must be included in the gross floor area calculation.

The question was then called.

CARRIED

Councillor Herbert returned to the meeting at 7:37 p.m.

3. 2009-340 DIRECTOR OF BUILDING AND PLANNING, October 29, 2009
Re Development Variance Permit Application (Revised) – 63 Sylvan Lane

Responding to a question from a member of the Committee regarding the two driveways accessing 63 Sylvan Lane, the Director of Building and Planning confirmed that the second driveway is considered illegal and was thought to have been installed without a permit some time between 1985 and 2001.

It was pointed out by Mayor Causton that the second driveway was installed by a previous owner, and that it would be unusual for a new owner to check with the building department to see if both driveways were allowed.

Discussion turned to the renovation plans and requested variances, and although it was noted that the second floor plans were not included in the agenda package, it was the consensus of the Committee that should the application go to the next stage of having an authorizing resolution placed before Council the plans could be reviewed at that time.

It was acknowledged that previous variances had already been granted for 63 Sylvan Lane, and Mr. Thomassen provided an overview of the history in that regard. He also clarified that the current variances now being sought are due, largely, to the excavation below the garage which has increased the floor area significantly, along with a small expansion of the upper floor balcony. The size of the house, he confirmed, has not increased based on this most recent application. As for the height variances, he said the actual building will not physically be any higher, however the calculated height has been revised following an incorrect survey point being used previously.

Darren Behn, homeowner, thanked members of the Committee for coming to his property for a site visit.

Dr. Behn said that after hearing about the illegal driveway he spoke to some of the neighbours and was told that the driveway was likely built when the property was subdivided in the 1980's.

Responding to questions with respect to the changes made to the upper balcony without the consent of the Municipality, Dr. Behn stated that at the time he was unaware that the contractor had extended the depth of the balcony.

Mike Miller, Abstract Developments Inc., stated that the expanded balcony was likely the decision of the builder who may have been unaware of Oak Bay's regulations, adding that only Oak Bay includes outdoor space in the floor area calculations, and therefore the expansion without approval was an oversight on his part and should not have gone unchecked.

Councillor Braithwaite voiced her disappointment that the Committee is being asked for forgiveness rather than permission before the work commences, particularly upon hearing that the applicant and owner were told they would need a development variance permit prior to commencement of the most recent work under the garage.

Mr. Miller agreed that there was a lack of communication and that the storage area under the garage could be filled in if the variance is not approved, however he felt that the way the construction has been carried out was appropriate for the property.

There was further discussion regarding the requested variances, and while concerns were expressed regarding the process followed by the applicants, it was the majority view of the Committee that moving the application forward to the next stage was supportable. As far as possible concerns from neighbours went, it was noted that should a resolution to issue the permit be brought forward to Council, it would allow for the notice to be given to neighbours who could voice their opinions through that process.

MOVED by Councillor Ney

Seconded by Councillor Herbert, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 63 Sylvan Lane, as outlined in correspondence item no. 2009-340, be prepared and brought forward to Council for consideration.

The Committee observed that the variances related to the lower garage area, if approved, would tacitly legitimize a second driveway constructed without municipal sanction some years ago. It was noted, however, that the Driveway Access Bylaw did provide for the possibility of an exemption from the “one driveway” rule where required for safety reasons. It was the majority view that the topography of the site would have warranted such an exemption had the second driveway been duly applied for at the time of installation.

The owners were advised that any repairs to or reconstruction of the public portion of either driveway would have to be pre-approved by the Engineering Department and inspected to ensure conformance with the required construction standards.

The question was then called.

CARRIED

(Councillor Braithwaite against the motion)

ADJOURNMENT:

MOVED by Councillor Braithwaite

Seconded by Councillor Cassidy, That the open portion of the Committee of the Whole meeting be adjourned and that a closed session be convened for discussions respecting the proposed provision of a municipal service that is in its preliminary stages and that, in the view of the Committee, could reasonably be expected to harm the interests of the Municipality if they were held in public.

CARRIED

The meeting adjourned at 8:30 p.m.

Certified Correct:

Municipal Clerk

Chairman, Land Use Section