

THE CORPORATION OF THE DISTRICT OF OAK BAY

BYLAW NO. 4870

A Bylaw to amend Development Application Procedures Bylaw No. 4844 (2023)

The Municipal Council of the Corporation of the District of Oak Bay, in open meeting assembled, enacts as follows:

1. TEXT AMENDMENT

The “District of Oak Bay Development Application Procedure Bylaw No. 4844” is hereby amended as follows:

Add a new section 6.1 xvi) as follows:

xvi) To issue a development variance permit if the proposed variance is minor, and for this purpose.

Criteria

1. The criteria for determining whether a proposed variance is minor are as follows:

(a) Setback:

Variances to the minimum setback from building(s) or structure(s) to a property line, as set out in the Zoning Bylaw, where:

- (i) For individual setbacks, the resulting setback remains greater than or equal to 1.5 metres;
- (ii) For total side lot line setbacks, the proposed variance is for less than or equal to a 25% increase; or,
- (iii) The proposed variance is to accommodate an existing building or structure where no change to the siting of the building or structure is proposed.

(b) Roof Height and Building Height:

Variances to the maximum permitted height of buildings or structures, as set out in the Zoning Bylaw, where:

- (i) The proposed variance is for an increase of 10% or less in excess of the allowed height; or,
- (ii) The proposed variance is to accommodate an existing building or structure where no change to the height of the building or structure is proposed.

(c) Projections into the Required Setback:

Any proposed variance to the regulations for projections into a required setback as set out in the Zoning Bylaw.

(d) Building Separation Regulation:

The proposed variance is for a reduction of not more than 10% of the building separation requirement as set out in the Zoning Bylaw.

(e) Siting of Paved Surfaces:

The proposed variance allows an increase in the maximum permitted paved surface area of 10% or less of the required paved surface area requirement as set out in the Zoning Bylaw.

(f) Live landscaping requirement:

Variances to the required live landscaping requirement as set out in the Zoning Bylaw where the variance is justified by a report from a Qualified Landscape Architect demonstrating why the requirement cannot be met on the site, and:

- (i) The proposed variance is for a reduction of 10% or less of the required live landscaping coverage; or,
- (ii) The proposed variance pertains to the configuration of the minimum consolidated live landscaping area but does not vary the total area required.

(g) Fence Height:

The proposed variance results in a fence height of no greater than 2.0 metres.

(h) Impermeable surface coverage:

The proposed variance is for an increase of 10% or less over the required impermeable surface coverage maximum as set out in the Zoning Bylaw.

Guidelines

2. The Director must consider the following guidelines in deciding whether to issue a development variance permit:

- (a) If the proposed variance is consistent with the general purpose or intent of the applicable bylaws and policies, including the Official Community Plan; and,
- (b) If the proposed variance is necessary to address a physical or legal constraint associated with the site (e.g., unusual parcel shape, topographical feature, statutory right-of-way, etc.); or,
- (c) If there is a community, environmental, or heritage protection benefit to the larger community in granting the variance.

Decision by the Director

3. The Director, may, in their sole discretion, make any of the following decisions, all of which must be communicated to the owner who applied for the development variance permit (the “Applicant”):

- (a) If the Director has determined that the application is a minor variance as set out in Section 1 and has considered the guidelines in Section 2 above, issue the development variance permit, and include any conditions the Director deems appropriate;
- (b) The Director may refer the application to Council for Council’s consideration if the Director determines that it would be in the public interest to do so (“Director Referral”);
- (c) The Director may refuse to issue the development variance permit. If the Director refuses to issue the development variance permit, the Director must provide reasons in writing to the Applicant.

Director Referral and Reconsideration Process

4. If the Director opts for a Director Referral under Section 3(b) above, then the Director will provide the Municipal Clerk with the original application within ten (10) days of their decision to refer.

5. If the Director refuses to issue the development variance permit, under Section 3(c) above, then the Applicant may apply to have the decision reconsidered by Council by applying in writing to the Municipal Clerk within ten (10) days after the decision of the Director has been communicated in writing to the Applicant (the “Reconsideration Application”). The Applicant must include the following information in its Reconsideration Application:

- (a) The development variance permit application as it appeared before the Director;
- (b) A copy of the reasons provided by the Director under Section 3(c) above;
- (c) The reasons why the Applicant wishes Council to reconsider the decision; and,
- (d) The new decision the Applicant requests Council to make, with brief reasons to support the new decision.

6. When the Municipal Clerk receives either a Director Referral or Reconsideration Application, the Municipal Clerk must:

- (a) Schedule the item on the agenda of a regular meeting of Council in accordance with Sections 8 and 9 below; and,
- (b) Deliver to each Council member a copy of the information that was provided under Sections 4 and 5 above.

7. For the Director Referral, the Applicant is not required to pay an additional fee to have the item appear before Council.

8. For both the Director Referral and Reconsideration Application, waiver of notice under Section 499(1.1) of the Local Government Act does not apply, and the municipality is required to follow the notice requirements for development variance permits as set out under Section 499.1 of the Local Government Act.

9. Council must hear the Director Referral or Reconsideration Application within ten (10) weeks after the date of delivery to the Municipal Clerk.

2. CITATION

This Bylaw may be known and cited for all purposes as “Development Application Procedures Bylaw No. 4844, 2023, Amendment Bylaw No. 4870, 2025”.

READ A FIRST TIME the 14th day of October, 2025

READ A SECOND TIME the 14th day of October, 2025

AMENDED the 27th day of October, 2025

READ A THIRD TIME the 27th day of October, 2025

ADOPTED the 10th day of November, 2025

Mayor

Corporate Officer