

DATE OF MEETING August 29, 2022

AUTHORED BY PAYTON CARTER, PLANNING ASSISTANT, CURRENT PLANNING

**SUBJECT DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP435
– 740 HALIBURTON STREET**

OVERVIEW

Purpose of Report

To present for Council’s consideration, a development variance permit application to reduce the minimum side yard setback requirement from 1.5m to 0.5m to allow the siting of an existing non-conforming single residential dwelling at 740 Haliburton Street.

Recommendation

That Council issue Development Variance Permit No. DVP435 at 740 Haliburton Street to reduce the minimum required side yard setback on the south property line from 1.5m to 0.5m.

BACKGROUND

A development variance permit application, DVP435, was received from ER Homes Ltd., to vary the provisions of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) to reduce the minimum side yard setback requirement for an existing non-conforming single residential dwelling. The property contains a single residential dwelling and a detached garage. The house was originally constructed in the early 1900s, prior to the establishment of zoning setback requirements.

In 2018, a Building Permit (BP124674) was issued to facilitate a renovation with a secondary suite. The scope of work approved through BP124674 was within the limits provided for with regard to non-conforming structure under the *Local Government Action* Section 532 (1). During the course of a regular inspection, the inspector observed that the work had gone beyond the scope of the permit in that the dwelling had been fully reconstructed. A Stop Work Order was issued. The applicant subsequently applied to the Board of Variance in December 2019; however, the application was denied. On 2020-MAR-05, Council approved that a Notice of a Bylaw Contravention be registered on the property title.

Following discussions with Staff, a development variance permit application was received in August 2022, to allow the reconstruction of the non-conforming dwelling to be completed.

Subject Property

<i>Zoning</i>	R1 – Single Dwelling Residential
<i>Location</i>	The subject property is located on the west side of Haliburton Street, north of Woodhouse Street and south of Robins Street.
<i>Total Lot Area</i>	808m ²

<i>City Plan</i>	Schedule 2, Future Land Use Designations – Neighbourhood Schedule 9, Development Permit Area (DPA) 4: Abandoned Mine Workings Hazard Schedule 13, Development Permit Area (DPA) 8: Form and Character
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Statutory Notification has taken place prior to Council’s consideration of the variance.

DISCUSSION

Proposed Development

The applicant proposes to complete the reconstruction of the dwelling including elevating the building to add a secondary suite on the lower level, within the existing foundation.

Proposed Variance

Minimum Required Side Yard Setback

The minimum required side yard setback for a single residential dwelling in the R1 zone is 1.5m. The applicant proposes to reduce the minimum required side yard setback on the south side from 1.5m to 0.5m. This represents a variance of 1.0m.

Staff support the proposed side yard (south) setback variance, which will allow the completion of the dwelling reconstruction on the original foundation. There is an existing storm sewer line located within the northern portion of the subject property. The location of the storm sewer line limits the buildable area of the site to the southern portion of the property. The dwelling adheres to all other zoning requirements, and the proposed variance will not impact the residential use of the subject property.

As a condition of the Development Variance Permit, the applicant will be required to enter into an agreement for a Statutory Right-of-Way for the existing unprotected storm sewer line, to be registered prior to final inspection.

The applicant has provided letters of support from neighbours at 725, 729, 734, 743, and 745 Haliburton Street.

SUMMARY POINTS

- Development Variance Permit No. DVP435 proposes a variance to reduce the minimum side yard setback (south side) from 1.5m to 0.5m to allow reconstruction of an existing non-conforming single residential dwelling.
- The applicant has submitted several letters of support from neighbouring property owners.
- Staff support the proposed variance.

ATTACHMENTS:

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Context Map
ATTACHMENT C: Location Plan
ATTACHMENT D: Site Survey
ATTACHMENT E: Building Elevations
ATTACHMENT F: Aerial Photo

Submitted by:

Lainya Rowett
Manager, Current Planning

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
General Manager, Development Services
/ Deputy CAO