

DATE OF MEETING | May 28, 2018 |

AUTHORED BY | TAMERA ROGERS, PLANNER, CURRENT PLANNING AND
SUBDIVISION |

SUBJECT | **DEVELOPMENT VARIANCE PERMIT APPLICATION NO. DVP348 –
6470 PTARMIGAN WAY** |

OVERVIEW

Purpose of Report

To present for Council's consideration, a development variance permit application to allow a pool deck and wooden stairs to be located within the side yard to allow an over-height fence and retaining walls at 6470 Ptarmigan Way. |

Recommendation

That Council issue Development Variance Permit No. DVP348 at 6470 Ptarmigan Way with the following variances:

- reduce the west side yard setback for a pool deck from 1.5m to 0.07m;
- reduce the west side yard setback from 1.5m to 0.22m and the east side yard setback from 1.5m to 0.33m for wooden stairs;
- increase the permitted front yard fence height from 1.2m to 1.43m;
- increase the permitted side yard fence height from 2.4m to 3.72m (east side yard) and from 2.4m to 3.33m (west side yard); and,
- increase the permitted interior yard fence height from 3m to 3.18m. |

BACKGROUND

A development variance permit application, DVP348, was received from Raymond de Beeld Architect on behalf of Tony and Leslie Harris to vary the provisions of City of Nanaimo "Zoning Bylaw 2011 No. 4500" to allow an existing pool deck in the west side yard, existing wooden stairs in the east and west side yards, and an existing over-height fence (and retaining wall) in the front yard, both side yards and in the interior yard at 6470 Ptarmigan Way.

A building permit (BP121520) was issued 2016-JAN-13 for the construction of a swimming pool. A subsequent inspection revealed that the pool had been completed without the required building permit inspections and was located too close to the west property line. The inspector also observed that the retaining walls had been constructed without a building permit. Council passed a resolution at their 2018-MAR-01 meeting to allow a bylaw contravention notice to be registered on title regarding these contraventions. The purpose of the development variance permit application is to request to legalize the siting of the pool deck and wooden stairs and the fence height to allow these features to remain. A geotechnical engineer has signed off on the project and building occupancy has already been granted.

Subject Property

<i>Zoning</i>	R1 – Single Dwelling Residential
<i>Location</i>	The subject property is located four lots west of the Lewis Road/Ptarmigan Way intersection adjacent to the ocean.
<i>Total Lot Area</i>	1,984m ²
<i>Official Community Plan</i>	Map 1 – Future Land Use - Neighbourhood

The subject property is located in the North Slope area adjacent to the ocean. The area is characterized by a single dwelling residential development with ocean views to the north.

Statutory Notification has taken place prior to Council's consideration of the variances. |

DISCUSSION

Proposed Development

The owners have built a new house on a previously vacant lot with the following features (already constructed) requiring variances:

- Pool deck to the rear of the house within the west side yard setback;
- Wooden stairs on either side of the house within the east and west side yard setbacks;
- Over-height front yard fence and gate; and,
- Over-height retaining walls with fences along both sides and the interior of the property.

Letters of support for the proposed variances were received from the neighbours on either side of the subject property at 6466 and 6480 Ptarmigan Way.

For more information, see the Attachments.

Proposed Variances

Minimum Side Yard Setback – Pool Deck

The minimum required side yard setback is 1.5m. The proposed west side yard setback for the pool deck is 0.07m, a proposed variance of 1.43m.

The neighbour immediately to the west of the subject property submitted a letter stating that they have no concerns with the setback variance for the pool deck. The proposed variance is not anticipated to negatively impact privacy of adjacent properties. To the west, overlook is limited by the existing retaining wall and fence and the generous side yard setback on the adjacent property at 6480 Ptarmigan Way.

Minimum Side Yard Setback – Wooden Stairs

The minimum required side yard setback is 1.5m. The proposed west side yard setback for the wooden stairs is 0.22m, a proposed variance of 1.28m. The proposed east side yard setback for the wooden stairs is 0.33m, a proposed variance of 1.17m.

Stairs that are built into the grade and are lower than 0.6m can be located within the side yard setback; however, as the stairs are above 0.6m, they require a variance to remain in their current location. The stairs are hidden from view by the retaining wall and fence. The immediate neighbours had no concerns about the location of the stairs.

Maximum Allowable Fence Height

The maximum allowable fence height is 1.2m in the front yard, 2.4m in the side yards, and 3m when located outside the required setback area (interior of the property). The calculation of fence height includes the height of retaining walls and is calculated on the lowest side of the fence. The proposed fence height variances are as follows:

- Front Yard: Increase the allowable fence height for a fence and gate from 1.2m to 1.43m, a proposed variance of 0.23m.
- East Side Yard: Increase the allowable fence height for a fence and retaining wall from 2.4m to 3.72m, a proposed variance of 1.32m.
- West Side Yard: Increase the allowable fence height for a fence and retaining wall from 2.4m to 3.33m, a proposed variance of 0.93m.
- Interior Yard: Increase the allowable fence height for a fence and retaining wall from 3m to 3.18m, a proposed variance of 0.18m.

As the fences and retaining walls have already been constructed, the neighbours have had the opportunity to see the finished result. The neighbours directly adjacent to the over-height fences have stated their support for the proposed fence height variances.

SUMMARY POINTS

- Development Variance Permit No. DVP348 proposes variances to allow an existing pool deck and wooden stairs in the side yard setbacks and to allow existing over-height retaining walls and fences within the subject property.
- The proposed variances are not anticipated to negatively impact views or the privacy of the adjacent properties.
- Letters of support for the proposed variances were received from the property owners directly to the east and west of the subject property.

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Location Plan
ATTACHMENT C: Site Survey
ATTACHMENT D: Context Photos
ATTACHMENT E: Aerial Photo

Submitted by:

L. Rowett
Manager, Current Planning and Subdivision

Concurrence by:

D. Lindsay
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