



City of Kelowna Regular Council Meeting Minutes

Date: Tuesday, September 20, 2016
Location: Council Chamber
City Hall, 1435 Water Street

Council Members Present: Mayor Colin Basran, Councillors Maxine DeHart, Gail Given, Tracy Gray, Brad Sieben, Mohini Singh and Luke Stack

Council Members Absent: Councillors Ryan Donn and Charlie Hodge

Staff Present: Acting City Manager, Doug Gilchrist; City Clerk, Stephen Fleming; Community Planning Department Manager, Ryan Smith and Legislative Coordinator (Confidential), Arlene McClelland

(* Denotes partial attendance)

1. Call to Order

Mayor Basran called the meeting to order at 6:07 p.m.

2. Reaffirmation of Oath of Office

The Oath of Office was read by Councillor Given.

3. Confirmation of Minutes

Moved By Councillor Given/Seconded By Councillor Gray

R706/16/09/20 THAT the Minutes of the Public Hearing and Regular Meeting of September 6, 2016 be confirmed as circulated.

Carried

4. Bylaws Considered at Public Hearing

4.1 866 Glenmore Drive, BL11273 (Z16-0044) - Jeffery & Linda Giebelhaus

Moved By Councillor Given/Seconded By Councillor Gray

R707/16/09/20 THAT Bylaw No. 11273 be read a second and third time.

Carried

5. Notification of Meeting

The City Clerk advised that Notice of Council's consideration of these Development Variance Permit Applications and Heritage Alteration Applications was given by sending out or otherwise delivering 144 statutory notices to the owners and occupiers of surrounding properties between September 6 and September 9, 2016.

The correspondence and/or petitions received in response to advertising for the applications on tonight's Agenda were arranged and circulated to Council in accordance with Council Policy No. 309.

6. Development Permit and Development Variance Permit Reports

6.1 4338 Gallaghers Fairway South, DVP16-0164 - Debra June Sieben

Staff:

- Displayed a PowerPoint presentation summarizing the application.

The City Clerk advised that the following correspondence or petitions had been received:

Letter of Support

Larry and Jeannine Erickson, Gallaghers Fairway S, Kelowna
Bruni Zenker and Felix Newman, Gallaghers Boulevard South, Kelowna

Letter of Opposition

Doug and Michelle Rosser, Gallaghers Fairway South, Kelowna

Mayor Basran invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Randy Sieben, Applicant/Owner

- Commented that staff did a great job with the presentation.
- Advised that the grade at the time of purchase was level with the neighbour nine years ago.
- The development next door triggered the requirement for a retaining wall.
- Believes there was no other choice but to do it this way to protect the integrity of his foundation.
- Advised that the retaining wall was designed by a geotechnical engineer.
- Confirmed a Building Permit would be applied for in order for the City to inspect the construction of the wall.
- Responded to questions from Council.

Gallery:

Doug Rosser, Gallaghers Fairway South

- I am the immediate neighbour to the subject property and the elevations were not at grade as stated by the Applicant.
- Raised concerns with having to view a 12 foot wall as well as safety concerns living on the downside of it.
- Raised concern with documentation submitted regarding Applicant's geotech report.
- Engaged another geotech to examine the wall and it was stated that the construction did not follow recommendations of the design letter and identified issues with the wall.
- Spoke to the original plan to have a tiered wall with a 4 foot wall on his property, with his neighbour, however, negotiations broke down.
- Advised that part of the existing wall encroaches on his property and cannot be removed without causing the entire wall to collapse; taking the Applicant to court to seek a court order for the removal of the wall encroaching on his property.

- Raised concern that the Applicant has up to 2 years before the development variance permit expires; willing to accept the variance, as staff recommended, provided it complies with the bylaw and is done with 30 to 60 days.
- Responded to questions from Council.

Michelle Rosser, Gallaghers Fairway South

- I am the immediate neighbour to the applicant and purchased the lot 7 years ago.
- Spoke to the construction timelines and construction of wall between the two properties.
- Spoke to the encroachment of the wall onto their property as well as on a City covenant.
- Believes the applicant has a history of ignoring rules and stop work orders.
- Would like to see the pony walls removed.
- In support of development variance permit with the condition of a shorter timeframe.
- Responded to questions from Council.

Randy Sieben, Applicant/Owner

- Advised that Gallagher's approved the house he built with a flat grade.
- Spoke to the building permit required to ensure the wall is up to geotechnical standards.
- Advised that it was the construction of a basement by his neighbour that triggered the wall be required.
- Advised that the encroaching pony wall built at the Rosser's request.

There were no further comments.

Moved By Councillor Given/Seconded By Councillor Stack

R708/16/09/20 THAT Council authorizes the issuance of Development Variance Permit No. DVP16-0164 for Strata Lot 51, Section 2, Township 26, Osoyoos Division Yale District Strata Plan KAS2124, Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1 and an Undivided 1/130 Share in Common Lot 1 Plan KAP63646 (See Plan as to Limited Access) and an Undivided 1/1560 Share in Common Lot G Plan KAP53116 (See Plan as to Limited Access), located at 4338 Gallaghers Fairway South, Kelowna, BC;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 7.5.9: Fencing and Retaining Walls Regulation

To vary the height of a side retaining wall from 1.2 metres to up to 2.4 metres in accordance with the drawings attached to the Development Variance Permit shown in Schedule "A"

AND THAT prior to the issuance of the Development Variance Permit, a Section 219 Covenant be registered on title requiring the following:

1. That the retaining wall be the sole responsibility of the upland property owner;
2. That the retaining wall be kept in good repair; and
3. That the retaining wall be inspected every five (5) years by a Professional Engineer who is licensed in the Province of British Columbia

AND THAT prior to the issuance of the Development Variance Permit, the retaining wall be reduced to a maximum height of 1.2 m in any area not being varied by this application, as shown in Schedule "A";

AND FURTHER THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Variance Permit Application in order for the permits to be issued.

Carried

6.2 268 Lake Avenue, BL11240 (Z16-0005) - Frank Renou & Joan Chapman

Moved By Councillor Gray/Seconded By Councillor Given

R709/16/09/20 THAT Bylaw No. 11240 be adopted.

Carried

6.3 268 Lake Avenue, DVP16-0039 & HAP16-0003 - Frank Renou & Joan Chapman

Staff:

- Displayed a PowerPoint presentation summarizing the application and responded to questions from Council.

The City Clerk advised that the following correspondence or petitions had been received:

Letter of Opposition

Rudy Schoenfeld, Maple Street, Kelowna
Ed Guy, Lake Avenue, Kelowna

Mayor Basran invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Applicant was not present.

Gallery:

Ed Guy, Lake Avenue

- Also speaking on behalf of daughter who is the owner of the carriage house that this application affects.
- Clarified that they are not opposed to the carriage house just the location of the window directly facing the bedroom window only five meters from it; the privacy of that bedroom would be severely compromised.
- Displayed photographs on the ELMO.
- Referenced the Official Community Plan guidelines regarding design of buildings, placement of windows and respect of privacy.
- Proposed a solution by moving the window from the gable to a dormer to face the north side.
- Responded to questions from Council.

There were no further comments.

Moved By Councillor Sieben/Seconded By Councillor Given

R710/16/09/20 THAT final adoption of Rezoning Bylaw No. 11240 be considered by Council;

AND THAT Council authorizes the issuance of Heritage Alteration Permit No. HAP15-0000 for Lot A, District Lot 14, ODYD, Plan 42536, located at 268 Lake Avenue, Kelowna, BC subject to the following:

1. The dimensions and siting of the primary dwelling to be constructed on the land be in accordance with Schedule "A,"
2. The exterior design and finish of the primary dwelling to be constructed on the land, be in accordance with Schedule "B";
3. The dimensions and siting of the carriage house to be constructed on the land be in accordance with Schedule "C";

4. The exterior design and finish of the carriage house to be constructed on the land be in accordance with Schedule "D";

AND THAT variances to the following section of Zoning Bylaw No. 8000 be granted:

Section 9.5b.1(e): Carriage House Regulations

To vary the upper floor area of the carriage house from 75% of the carriage house footprint (required) to 80% (proposed);

AND FURTHER THAT this Heritage Alteration Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

Carried
Councillors DeHart and Stack - Opposed

7. Reminders - N/A

8. Termination

The meeting was declared terminated at 7:19 p.m.

Mayor

/acm

City Clerk