

Subject: Re: Council Agenda Items 2, 3, 4, & 5

Date: Tue, 02 Mar 2004 22:54:04 -0800

From: Brian Platts <bplatts@shaw.ca>

To: Don Bell <don_bell@dnv.org>, Alan Nixon <alan_nixon@dnv.org>, Ernie Crist <ernie_crist@dnv.org>, Janice Harris <janice_harris@dnv.org>, Lisa Muri <lisa_muri@dnv.org>, Maureen McKeon Holmes <Maureen_McKeonHolmes@dnv.org>, Richard Walton <rwalton@dnv.org>, NVD Council <dnvcouncil@dnv.org>

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Mayor & Council:

It was revealed at last night's meeting that Council will be reviewing the role of the Board of Variance with the aim of reducing the number of Development Variance Permits that end up on the weekly agendas. Quite frankly I think this is a positive move because, with all due respect, after seeing how you handled the DVPs last night I've lost all confidence in your abilities to consider these matters. I don't base this claim on the outcome of last night, but rather a full accumulation of your decisions on DVPs. If you wonder why so many DVPs find their way onto your agenda, look no farther than your decisions. The problem is simply that by approving so many ridiculous variance applications, you only encourage more to come forward. How can possibly approve, as you did last night, a "variance" of nearly 700 square feet (to gain some perspective, that's the size of a three-car garage) OVER the maximum house size as specified in the RS4 Zoning Bylaw? If that's not a defacto rezoning by way of a variance then I don't know what is. Listening to the discussion (and the questions put to staff) it is clear to me that the majority of Council really don't understand the necessary details of DVP applications. Perhaps the Board of Variance could do better ... and at least the applicants would have to prove some measure of hardship.

Sincerely,
Brian Platts

Brian Platts wrote:

Mayor & Council:

In the past I have provided my opinions on a number of individual Development Variance Permit applications. While I am in no way opposed to all DVPs, I have focused my input primarily on those applications which involve building designs that exceed the maximum allowed floor space or maximum building size. I have also addressed the District Council's practice of "regularizing" any existing legal nonconformities when approving a DVP.

This week there are no less than four DVPs on your agenda. Of these, agenda item #2 on Strathcona Road involves a 677 square foot "variance" to increase the maximum allowed building size. Agenda item #5 on Porteau Place includes a 206 sq ft variance to the maximum allowed floor space. As I've argued to no avail in the past, each separate single-family zone specifies a different maximum floor space and maximum building size. Increasing either beyond what is permitted in the Zoning Bylaw effectively alters the building density, which can only be legally done with a rezoning (in this instance, from RS4 to RS3). One year ago I wrote the following:

Mayor Bell's explanation is that the "use" of the building is single-family and the "density" is one single-family building. Isn't that really just the same definition of the two distinct terms? If this were the case, Council could approve with a simple variance a building of ANY size so long as the "use" is consistent with the Zoning Bylaw. This defies common sense. Development Variance Permits should be limited to minor increases to maximum allowed eave or roof height, parking structures, building depth and set backs etc., and NOT floor space [or maximum building size].

The DVP on Masefield Road includes a staff recommendation to "regularize" an existing legal non-conformity. This is completely unnecessary. As I have argued many times before, literally thousands of legal non-conformities exist throughout the municipality. There is no need to "regularize" them as they legally exist. We've heard all sorts of excuses that homeowners would not be able to re-build the same structure in the event of a catastrophic fire that destroys more than 75% of the building. One would hope that in such an event, the property owner would rebuild to the CURRENT Zoning Bylaw specifications and not those that existed years ago.

In summary, my recommendations for the four DVPs on your agenda are as follows:

Agenda Item #2 - 4595 Strathcona REJECT

There are different single-family zones that all specify different maximum building sizes. This proposal is for an RS3-sized building on an RS4 zoned lot. If the property owner wishes to build a house of this size, then the proper process should be to rezone the site from RS4 to RS3.

Agenda Item #3 - 714 Huntington Crescent REJECT

The impact on the neighbour is too great. The Zoning Bylaw ought to protect his interest and it is therefore unfortunate that staff have recommended approval.

Agenda Item #4 - 2740 Masfield Road APPROVE Staff Option 2

This option approves the variances but does not "regularize" the existing legal nonconformities

Agenda Item #5 - 881 Porteau Place REJECT

The staff recommendation makes good sense in this instance.

Sincerely,
Brian Platts