

Subject: Agenda Item #1 Development Variance Permit - 2868 Panorama Drive

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Mayor & Council:

The issues surrounding the above-mentioned DVP application stretch beyond whether a parking structure should, or should not be approved for this particular address.

Use & Density:

I feel it necessary to point out yet again that Council can not legally alter through a variance either "use" OR "density". I have emphasized the word "or" because it is clear that both have different meanings. "Use" and "density" are not interchangeable terms. One refers to what you are permitted to do with the land, and the other refers to what you may build upon it. If the use is deemed "single family" then what is the density? Alternatively, if "single-family" is the density, then what is defined as the "use"? They both can't be the same. In this regard, I suggest that the Floor Space Ratio and Maximun Building Coverage is **the** building density permitted on the lot -- which can not be altered without a re-zoning. This application alters density, therefore, it must be denied on this basis alone.

Floor Space Ratio and Building Setbacks:

The Staff Report defends the floor space variance on the basis that when the house was constructed in 1967, the was no FSR regulation in place. The report uses language like "*under today's regulations*" and "*based on current standards*" implying than none existed when the house was built, or that because it is "current", the Zoning Bylaw does not somehow apply today.

While there was no FSR regulation, there certainly were front, rear, and side yard setbacks. There was also most certainly a maximum building coverage permitted on the lot. Was this house built within the Zoning Bylaw at the time of construction or was it constructed illegally either then or since? The report is silent on this salient question.

Further to the issue of floor space, Staff excuses this application on the basis of the size of other houses and parking structures in the area. This argument is particularly galling when one considers the number of variances approved on Panorama Drive in recent years. As each application is approved, it then becomes the basis for approval of the next one.

Setbacks:

The Staff report says that, "*In terms of the rear yard setback, it appears **likely** that at the time the house was constructed, the edge of the filled area was determined to be the rear lot line...*" Was determined? Determined by who? The property owner himself? Why the speculation? The legal survey of this lot must have been originally registered.

With respect to the reduced side yard setbacks, what happens if there is a fire at this house or one of the adjacent houses? Has anyone considered this possibility? Through one variance after another, the houses along Panorama Drive are packed together so tightly that one big house fire might well result in the fire jumping from house to house.

My personal experience five years ago with a house fire across the street from my home left an indelible impression upon me. Within minutes of it starting the fire raged through the house. Despite a 20 foot separation between houses, the neighbouring house was badly damaged by smoke and flames, and without the quick work of neighbours with garden hoses, it too would have caught fire and burned. A similar fire on Panorama Drive would be disastrous.

Parking:

On the issue of the parking structure itself, it is deemed necessary because the current "*situation presents a safety hazard for vehicles leaving the property.*" The alternative of an open parking pad (at street level) that maintains views of the waterfront are not even discussed. In addition, the current situation with this property has existed for many many years. What has changed to make it suddenly dangerous?

Double Standard:

One can't help notice what appears as a double standard with respect to the Staff recommendation re: Agenda item #2, 1188 West 22nd Street in Pemberton Heights. On Panorama Drive, the adjacent structures are used to justify approval of the variance application. On West 22nd, however, the recommendation is for denial. Staff says that although "*the proposed garage will be sited further back on the subject property [than the adjacent houses] ... these adjacent properties may redevelop and it is expected that new houses would respect the [current] setbacks and regulations.*" The report goes on to say that while "*the proposed house and garage will be located further back on the property than adjacent houses, the variance is not supportable as it is contrary to ... the Pemberton Heights neighbourhood zone regulations.*" Why is the same approach not taken on Panorama Drive?

Neighbourhood Zoning:

During the last DVP application for Panorama Drive, the question was asked as to why this area was not singled out for specific neighbourhood zoning like Edgemont or Canyon Heights. The answer from staff was that no one from the area requested the process. So in effect we have a Zoning Bylaw in place that is not being adhered to on Panorama Drive, yet a neighbourhood specific zoning bylaw is also not wanted. The result is a house by house process that is gradually becoming one big non-conforming mess.

Brian Platts