



The Corporation of the City of Courtenay

Staff Report

To: Council

File No.: 3090-20-2407/DVP00057

From: Director of Development Services

Date: September 25, 2024

Subject: Development Variance Permit No. 2407-844 3rd Street

PURPOSE:

For Council to consider approval of Development Variance Permit No. 2407 to vary Zoning Bylaw Section 8.1.6.ii minimum rear yard setback from “5.0 metres” to “1.5 metres”; vary section minimum side yard building setback from “1.5 metres” to “0.5 metres” on the northeast side; and vary section 8.1.10 to remove the requirement “that a vegetated buffer or screen fence not more than 1.5 metres high be provided along rear or side property lines adjoining other properties”, in order to permit the conversion of an existing non-conforming combined garage, workshop, and carport into a one storey detached accessory dwelling unit with small workshop and carport on the property legal described as LOT 1 DISTRICT LOT 127 COMOX DISTRICT PLAN VIP81510 (844 3rd Street), located within the Residential Small-scale Multi-unit Housing Zone (R-SSMUH).

BACKGROUND:

The property owners of 844 3rd Street are seeking variances to rear yard, northeast side yard and landscape screening requirements of Zoning Bylaw No. 2500, 2007 in order to permit the conversion of an existing non-conforming (side and rear yard setback siting) combined garage, workshop, and carport into a one storey detached accessory dwelling unit with small workshop and carport. Figures 1 and 2 below show legal parcel and site context. Figure 3 shows the site plan.

The property currently contains an existing single residential dwelling and an accessory building in the rear yard currently used as a garage, workshop and carport. The property frontage is along 3rd street and there is lane access from the rear property line that the accessory dwelling unit would access for vehicular parking.

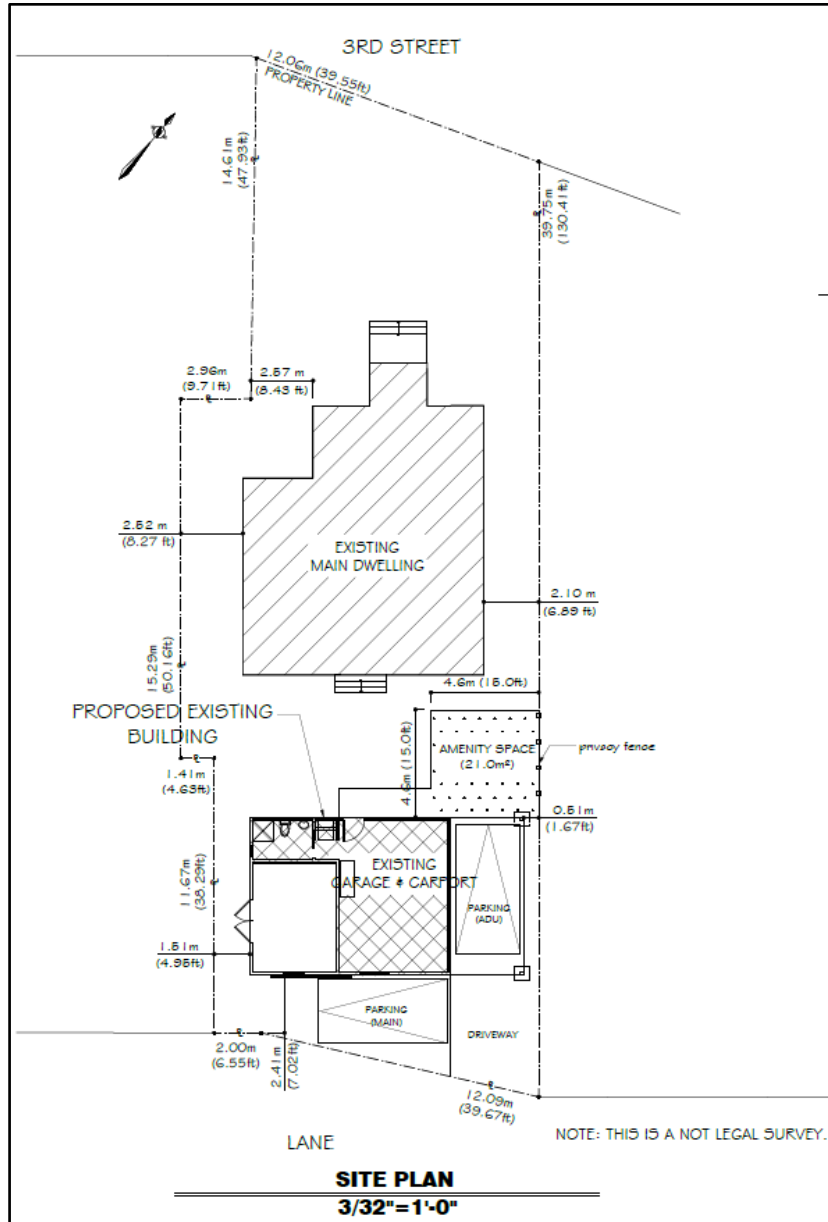
Figure 1: Legal parcel



Figure 2: Site context (image oriented north)



Figure 3: Site plan



The property is designated Urban Residential in the Official Community Plan, and is zoned Residential Small-Scale Multi-Unit Housing (R-SSMUH). The subject property is surrounded by similarly scaled single residential dwellings, with and without accessory buildings. Both the land use designation and zone permit detached accessory dwelling use.

The existing accessory structure has existed since 1986 when City records confirm its presence. In 2006, Development Variance Permit No. 0610 was issued to reduce the frontages of both 844 and 854 3rd Street to conform with the zone at that time (R1-D) and support the subdivision. At the time of subdivision, the existing carport was within the side yard property line setback and a variance could have been considered at that time. This variance is now being considered by Council in this Development Variance Permit No. 2407 844 3rd street.

DISCUSSION:

The applicant’s proposal is to convert part of the existing accessory building into a studio suite and retain the existing structures which are a workshop and a carport. There is no expansion to the current building footprint. The carport will undergo some minor changes: the existing flat roof is proposed to be altered to form a continuation of the workshop/garage’s peaked roof and the carport posts and associated existing roof setback in the northeast side yard setback will be physically removed and placed at a minimum 0.5 metre setback to comply with BC Building Code setback requirements. Minor changes to the façade are proposed to occur to doors and windows to support residential use.

The change in use from garage to residential requires a new occupancy classification and a building permit. The building permit requires that the existing accessory building comply with the zoning setbacks of the R-SSMUH zone that regulate this property. Further, the BC Building Code requires for fire separation purposes that the setback of an open aired carport structure be no less than 0.45 metres from property line.

The rear yard setback also requires variance and staff advise that the landscape screening requirement be varied for reasons described in the policy analysis section further below. Given the existing accessory building does not comply with the setbacks a Development Variance Permit is required and those variances are identified in the Table 1 below.

Table 1: Zoning analysis. Requested variances in bold text.

Regulation	Required	Proposed
Permitted Use	Accessory Dwelling Unit	Accessory Dwelling Unit
Minimum Lot Size	2,500 m ²	1,658 m ²
Maximum Lot Coverage	60% impermeable	~35%
Maximum Building Height	6.5 m	4.2 m
Minimum Front Setback (3 rd St)	4 m	> 4m
Minimum Rear Setback	5 m	2.4 m (existing) / 1.5m (proposed)
Minimum Side Setback(s)	1.5 m	Southwest side: 1.51m Northeast side: 0.5m
Landscape Buffer:	Rear and side yard: Vegetated buffer or screen fence not more than 1.5m high	Rear yard: Not required in the rear as it is used for parking. Side yards: Variance requested to permit existing screen fencing taller than 1.5m
Minimum Parking:	1 Space (2 per dwelling unit minus one for walkable area)	3 Spaces

POLICY ANALYSIS:

Staff evaluate all three variance requests as supportable for the following reasons:

1. Section 8.1.6 ii. – Minimum Rear Yard Building Setback – From “5.0 metre” minimum rear yard setback to “1.5 metre” rear yard setback.

The R-SSMUH zone adopted in June 2024 contains the requirement that the minimum rear yard setback for buildings shall be 5.0m. However, the May 8, 2024 staff report introducing the R-SSMUH zone identified a 1.5m minimum setback for ADUs. The 5.0m rear yard setback contained in the

existing R-SSMUH zone is a clerical error and should have had a minimum setback of 1.5m as required for ADUs. Staff will bring this and other minor amendments to the R-SSMUH zone for Council's consideration at a future date.

While this existing accessory structure is 2.4m setback from rear property line, staff recommend authorizing the rear yard setback be 1.5 m rather than to the 2.4 m as shown on the site plan to align with the intent of the R-SSMUH zone.

2. Section 8.1.6 iii. - Minimum Side Yard Building Setback - From "1.5 metre" minimum side yard setback to "0.5 metres" on the northeast side.

The side yard variance request is to formalize an existing carport structure location that existed when the subdivision was approved in 2006. The variance however also requires that the existing carport be re-designed to comply with minimum BC Building Code fire separation setbacks thereby reducing its existing intrusion into the northeast side yard setback. As the existing structure has existed for many years with no reported negative impact on neighbouring properties, staff support this variance.

3. Section 8.1.10 – Landscaping and Screening – removing the requirement that a vegetated buffer or screen fence not more than 1.5 metres high be provided along rear or side property lines adjoining other properties.

Since June 2024, Staff have been working with applicants and the local building industry to discuss changes the R-SSMUH zone to improve implementation and design guidelines to align with Provincial Guidelines to remove barriers to housing supply.

The requirement for landscape screening is currently found in Development Permit Area guidelines and staff will be providing recommendations to remove landscaping prescriptions within the R-SSMUH zone, and only requiring form and character DPAs for R-SSMUH properties containing three dwelling units or more. Staff have evaluated that landscape prescriptions within the zoning bylaw cause restrictions and limit flexibility to address site conditions which can cause delays in processing applications. As such, Development Permit Guidelines are the better regulatory tool to create screening between dwelling units and streets or lanes.

Staff note that the existing property does contain existing screening as shown in Figures 4 and 5.

Figure 4: Existing fence screening along southwest side.



Figure 5: Existing fence screening along northeast side.



FINANCIAL IMPLICATIONS:

There is no direct financial implication related to this Development Variance Permit.

ADMINISTRATIVE IMPLICATIONS:

Processing Development Variance Permit applications is a statutory component of the corporate work plan and a core duty of the Development Services Department. Work to date has primarily been carried out by Development Services staff, although other departments have provided referral comments.

PUBLIC ENGAGEMENT:

Per *Development Procedures Bylaw No. 2106, 2023*, no Community Information Meeting (CIM) is required for this Development Variance Permit Application.

In accordance with *Local Government Act Section 499*, Staff mailed a public notification to 34 property owners and occupants within a 30 metre area on September 13, 2024 (Attachment No. 2). There are no public comments received at the time of writing this report, and any comments received by 1:00 p.m. on September 25, 2024, will be presented to Council at the regular council meeting.

OPTIONS:

1. THAT Council vary *Zoning Bylaw No. 2500, 2007 as follows*:
 - a) Section 8.1.6 ii. from “5.0 metres” to “1.5 metres”; and
 - b) Section 8.1.6 iii. from “1.5 metres” to “0.5 metres”; and
 - c) Section 8.1.10 remove “a vegetated buffer or screen fence not more than 1.5 m high shall be provided along rear or side property lines adjoining other properties”;
in order to permit the construction of a detached accessory dwelling unit; and
THAT Council approve “Development Variance Permit No. 2407 (844 3rd Street)”; and
THAT Council direct the Director of Development Services to issue “Development Variance Permit No. 2407 (844 3rd Street)”.
2. THAT Council Council defer and request additional information from staff for “*Development Variance Permit No. 2407 (844 3rd Street)*”.
3. THAT Council deny the the application for “*Development Variance Permit No. 2407 (844 3rd Street)*” and provide a reason for denial.

ATTACHMENTS:

1. Draft Development Variance Permit No. 2407
2. Public Mailout Notice

Prepared by: Nancy Gothard, RPP MCIP, Manager of Community and Sustainability Planning
Reviewed by: Marianne Wade, RPP MCIP, Director of Development Services
Concurrence: Geoff Garbutt, M.Pl., MCIP, RPP, City Manager (CAO)