



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

## Legislation Details (With Text)

**File #:** 19-242      **Version:** 1      **Name:**  
**Type:** Staff Report      **Status:** Passed  
**File created:** 5/17/2019      **In control:** Council  
**On agenda:** 5/27/2019      **Final action:** 5/27/2019  
**Title:** 457 Nelson Street - Development Variance Permit for Driveway, Staff Report EPW-19-016  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Driveway Grades

Date	Ver.	Action By	Action	Result
5/27/2019	1	Council	approved	Pass

## REQUEST FOR DECISION

**DATE:** May 27, 2019      Report No. EPW-19-016  
**TO:** Laurie Hurst, Chief Administrative Officer  
**FROM:** Jeff Miller, Director of Engineering and Public Works

**SUBJECT:**  
457 Nelson Street, Development Variance Permit for Driveway

### RECOMMENDATION:

That Council direct staff to advise the property owner to initiate the Development Variance Permit process seeking variances from the Subdivision and Development Control Bylaw and the Parking Bylaw for the driveway grade for 457 Nelson Street.

### RELEVANT POLICY:

Subdivision and Development Control Bylaw, 1997, No. 2175  
Parking Bylaw, 1992, No. 2011

### STRATEGIC RELEVANCE:

Well Maintained and Well Managed Infrastructure

### BACKGROUND:

On April 10, 2019, Staff Report EPW-19-013 was presented to Council. Through Council's discussion, it was requested that additional information be presented in order to assist Council in making a decision on this matter.

When a lot is developed, there are a number of bylaws that provide information and guidance to the property owner on what is required in order to develop the lot/subdivision. The property owner is then to utilize this information and carry out work with their consultant(s) to provide a design for review by the Township. This review is carried out to ensure that there is compliance with the various bylaw requirements. This information is provided during the various phases of the development, which are:

- Zoning
- Development Permit
- Provision of a site servicing plan
- Building Permit

With respect to the driveway grade, three pieces of information are required in order to determine the grade. They are:

- The elevation of the garage floor (A)
- The horizontal distance from the building to the back of walk/gutter (B)
- The elevation of the back of walk/gutter (C)

Please refer to Attachment 1 from the April 1, 2019 delegation presentation for a drawing. "C" has been added to the supplied drawing.

The maximum grade of 15% has been set to ensure that the driveway will allow the vast majority of vehicles to access the property without being high ended or having the bumper drag as the vehicle transits the driveway.

Staff have reviewed the various submissions and determined that the property owner had provided specific numbers for A and B but did not supply any value for C in any of the submissions. At the Zoning and Development Permit stages of the development, the proposed slab elevation for the garage was set at 14.50 m (A) and the horizontal distance was set at 5.8 m (B). No information was provided for C.

Based on the existing ground elevations that were available, it appeared that the requirements of the Parking Bylaw and the Subdivision and Development Control Bylaw would be met (i.e. maximum driveway grade of 15%). Past experience has indicated that a property owner can meet these requirements because they have ability to set the grade since they decide what A and B are and based on that calculate what C will be.

When the development reached the Building Permit stage there was change in A; it had increased to 14.73 m (increase of 0.23 m/9 inches) from 14.50 m. B remained the same at 5.8 m. The elevation of C was not provided. With the change in A's elevation, the driveway slope could not achieve the requirements of the two Bylaws.

To date, the Township has not received any information from the Developer regarding the driveway grade and how to deal with its variance from the requirements of Drawing R8 and the Parking Bylaw.

## **ISSUES:**

### **1. Rationale for Selected Option**

In order for the property owner to complete the works associated with the development, one of two alternatives needs to be undertaken.

The first option is for the property owner to initiate a Development Variance Permit application. This action would allow the property owner to present their rationale justifying the variances from the Parking Bylaw and the Subdivision and Development Control Bylaw. Council would then have the ability to either grant or deny any variances.

The Development Variance Permit process is statutory in nature as it is laid out by the Local Government Act. Within the process, there is a requirement for public notification and any decision must be made by Council. The application will need to follow the established procedure prior to coming before Council, including the payment of any required fees.

The second course of action would be for the property owner to obtain an engineering report that details how the requirements of Subdivision and Development Control Bylaw and the Parking Bylaw can be met with the elevations and distances available to the property owner now that construction of the structures are complete. This may result in lowering of the slab elevation and modification to the entrance and exterior of the structure.

It is staffs' recommendation that property owner initiate the Development Variance Permit process seeking the necessary variances from the Township.

## **2. Organizational Implications**

The issue is being dealt with by the Director, Technologist III and the Senior Planner. Activities related to this issue are not imposing any significant organizational implications.

## **3. Financial Implications**

There are no significant financial implications to the Township. The Property Owner is responsible for providing a driveway surface that meets the requirements of the Subdivision and Development Control Bylaw as well as the Parking Bylaw.

## **4. Sustainability & Environmental Implications**

There are no sustainability or environmental implications.

## **5. Communication & Engagement**

The Township will advise the property owner of the need to initiate the Development Variance Permit process and detail the information that is required for the Permit. The property owner will also be informed of the time frame and costs associated with this process.

## **ALTERNATIVES:**

1. That Council direct staff to advise the property owner to initiate the Development Variance Permit process seeking variances from the Subdivision and Development Control Bylaw and the Parking Bylaw for the driveway grade for 457 Nelson Street.
2. That Council direct staff to advise the property owner to provide an engineering report that details how the requirements of Subdivision and Development Control Bylaw and the Parking Bylaw can be met with the elevations and distances available to the property owner now that construction of the structures are complete.