

August 20, 2020

Subject Property:

424 Nelson Avenue

Lot 42, District Lot 250, Similkameen Division Yale District,
Plan 845

Application:

Development Variance Permit PL2020-8797

The applicant has constructed an addition onto the single detached dwelling and a driveway in the front yard without the benefit of permits. In order to legalize the completed works, the applicant has requested to vary the following sections of Zoning Bylaw 2017-08:

1. Section 10.2.2.6.i: Reduce the minimum interior side yard setback (west) from 1.5m to 1.3m to allow for the addition onto the existing single detached dwelling.
2. Section 10.2.3.1: To allow vehicular access from the street.

Information:

You can find the staff report to Council and Development Variance Permit PL2020-8797 on the City's website at www.penticton.ca/latestannouncements. Select the Public Notice category.

Please contact the Planning Department at planning@penticton.ca or (250) 490-2501 with any questions.

Council Consideration:

Council will consider the development variance permit at its Regular Council Meeting scheduled for **1:00 pm, Tuesday, September 1, 2020**.

In response to COVID-19, Regular Council meetings will remain closed to the public. All meetings will be live streamed via the City's website at: www.penticton.ca/city-hall/city-council/council-meetings. Select the 'Watch Live' button.

Public Comments:

Any person whose interest may be affected by the proposed development variance permit, may submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, September 1, 2020** to:

Attention: Corporate Officer, City of Penticton

171 Main Street, Penticton, B.C. V2A 5A9

Email: corpadmin@penticton.ca

Subject Property



No letter, report or representation from the public will be received by Council after the conclusion of the September 1, 2020 Council meeting.

Please note that all correspondence submitted to the City of Penticton in response to this Notice must include your name and address and will form part of the public record and will be published in a meeting agenda when this matter is before the Council or a Committee of Council. The City considers the author's name and address relevant to Council's consideration of this matter and will disclose this personal information. The author's phone number and email address is not relevant and should not be included in the correspondence if the author does not wish this personal information disclosed.

Audrey Tanguay
Planning Manager

Date: September 1, 2020
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner 1
Address: 424 Nelson Avenue

Subject: Development Variance Permit PL2020-8797

File No: RMS/424 Nelson Avenue

Staff Recommendation

THAT Council approve "Development Variance Permit PL2020-8797" for Lot 42 District Lot 250 Similkameen Division Yale District Plan 845, located at 424 Nelson Avenue, a permit to vary Section 10.2.2.6.i of Zoning Bylaw 2017-08 to reduce the minimum interior side yard (west) from 1.5m to 1.3m to allow the construction of an addition onto the existing single detached dwelling.

AND THAT Council direct staff to issue Development Variance Permit PL2020-8797.

Strategic Priority Objective

Community Vitality: The City of Penticton, guided by the Official Community Plan, will promote the economic wellbeing and vitality of the community.

Proposal

The applicant has constructed an addition at the rear of the single detached dwelling and installed a driveway in the front yard without the benefit of permits. In order to legalize the completed works, the applicant has submitted a development variance permit application to seek relief for two sections of the Zoning Bylaw. The requested variances are to reduce the interior side yard setback for the principal building from 1.5m to 1.3m (west side), and to allow vehicular access to the property from the street.

Background

The subject property is located on the south side of Nelson Avenue, near Manitoba Street (Figure 1). A single detached dwelling and two sheds currently exist on the property. The subject property is zoned R2 (Small Lot Residential) and is designated 'Detached Residential' in the Official Community Plan (OCP). Surrounding

land uses consist of single detached dwellings and duplexes. Homes in this neighbourhood are located close together on narrow lots.

On May 8, 2020 an enforcement letter was sent to the property owner after it was brought to the City's attention that an addition to the house and installation of a driveway were completed without the benefit of permits. In addition, the applicant had installed a fence along the rear lot line which exceeded the maximum allowable height as set out in the Zoning Bylaw. Since the letter was sent to the applicant, the over-height fence has been removed. Staff have worked with the applicant to prepare the development variance permit application, as the applicant wishes to legalize both the addition and front driveway.

The applicant has submitted supporting documents with this application to justify retaining the front driveway (Attachments 'F' and 'G'). An additional reason for the requested front driveway variance is due to a medical condition, which has been verified with doctor letters.

Technical Review

This application was reviewed by the Technical Planning Committee (TPC). The TPC discussed BC Building Code requirements for the addition, should the variance request for the reduced side yard setback be approved. These comments have been sent to the applicant for information. Access around the building is maintained which satisfies the Fire Department should emergency services need to attend the property in the future. The TPC discussed the request for to retain the front driveway and determined that the request is not in keeping with the intent of the Zoning Bylaw and Official Community Plan and have therefore recommended that the request be denied. Should Council choose to support the front driveway variance, Development Engineering has provided comments to the applicant regarding the driveway permit application requirements.

Analysis

When considering a variance to a City bylaw, staff encourages Council to consider if approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable. Staff have considered both requested variances below.

Side yard setback

The applicant has requested a variance to Section 10.2.2.6.i of the Zoning Bylaw to reduce the principal building's interior side yard setback (west) from 1.5m to 1.3m to keep an addition on the rear of the house (Figure 2).

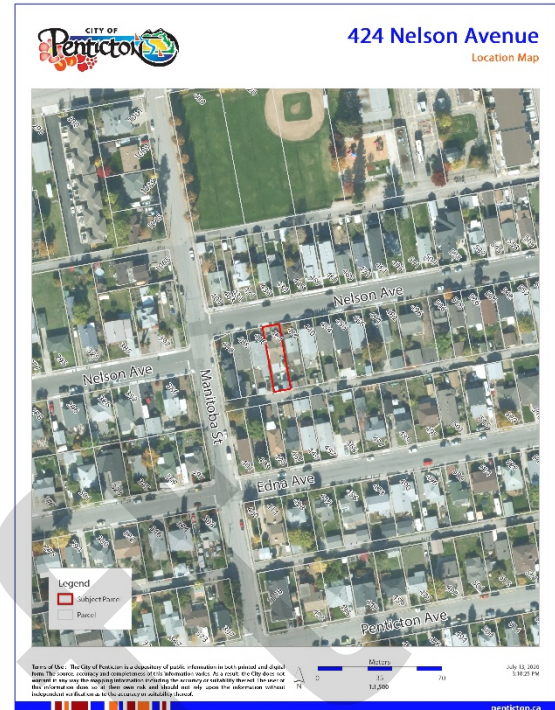


Figure 1 - Location Map



Figure 2 - Image of covered patio addition, proposed to be enclosed.

Staff have reviewed this request and are recommending support for the following reasons:

1. The requested setback matches the existing setback of the single detached dwelling.

This house and the surrounding neighbourhood were built in the 1940s. The lots in this area are narrow, and in most circumstances the existing building setbacks would not meet today's requirements. As shown on the site plan, the west side yard setback of the existing single family dwelling is 1.3m and the east side yard setback is 0m (Attachment 'E'). The applicant is proposing to legalize an addition onto the rear of the single detached dwelling and requires a variance to the west side yard from 1.5m to 1.3m for the new addition. The east side yard of the new addition meets the minimum 1.5m required. There is minimal impact anticipated to the adjacent (western) property owner given that the building is no closer to the shared property line than the existing setback of the dwelling. The setback is in keeping with the character of the neighbourhood, and the applicant has with consulted neighbours prior to submitting this application.

2. Clear, unobstructed access to the rear yard from the street is maintained.

The proposal maintains adequate space to access the rear yard from the street between the building and the property line. The Fire Department requires 1.1m between a structure and property line, to ensure access to the rear of properties. In this case, the proposed 1.3m setback to be continued exceeds the minimum width required by the Fire Department.

Vehicular access

The applicant has requested a variance to Section 10.2.3.1 of the Zoning Bylaw to allow vehicular access from the street, where a rear lane is provided (Figure 3).

Staff have reviewed this request and are recommending against its approval for the following reasons:

1. There is sufficient space at the rear of the property to park a vehicle.

As shown in the photos of the property (Attachment 'C'), there is a gate and adequate space off of the rear lane to park a vehicle. There is no hardship given that the applicant can park on their property from the lane.

2. The request is not in keeping with the intent of the Zoning Bylaw.

The intent of requiring vehicle access and parking off of the rear lane in the R2 zone is to make the highest use of the rear lanes for residential traffic and maintain the street for on-street public parking. In addition, having vehicle access primarily from the rear lane maintains a continuous landscaping strip along the boulevard of the street which would be lost if multiple driveway crossovers were installed. By allowing a driveway from the street, the amount of on-street parking is reduced.

Minimizing driveways also improves and enhances the pedestrian experience, and the connection maintained between the public realm and the private realm in the front yards of these homes. By utilizing the rear lanes for access to parking on private property, more front yard landscaping and recreational space remains for users of the property.

3. The existing parking space does not meet Zoning Bylaw standards.

Should Council approve the request to allow vehicle access from the street, the applicant would be required to obtain a driveway permit. At that time, the applicant would be required to expand the parking space to meet the required dimensions in the Zoning Bylaw, which is 5.8m long and 2.7m wide. The reason for this standard size is so that the parking space can accommodate a variety of vehicle sizes.

4. The majority of properties on this block of Nelson Avenue do not have front driveways.

There are 46 properties on this block of Nelson Avenue and aside from the driveway on the subject property, staff noted only three (3) other properties that have front driveways. The majority (95%) of properties on this block do not have driveway access onto the street. The proposed front driveway is not consistent with the character of this block in which driveways are primarily off of the rear lane.



Figure 3 - Image of front driveway

Given the reasons above, staff are only recommending support for one of the requested variances. The reduced interior side yard setback is considered reasonable and appropriate in this instance, while the request to allow vehicle access from the street is not considered suitable nor in keeping with the intent of the Zoning Bylaw. As such, staff recommend that Council approve the applicant's request to reduce the interior side yard setback (west) and deny the applicant's request to allow vehicular access from the street.

Alternate Recommendations

Council may consider that neither variance request is appropriate in this instance. If this is the case, Council should deny both requested variances. Staff recommend against this option, as in staff's opinion the reduced side yard setback is considered reasonable.

1. THAT Council deny "Development Variance Permit PL2020-8797".

Council may wish to support both requested variances if Council considers the completed works to be appropriate given the site context and applicant's reasoning. If this is the case, Council should approve both requested variances. Staff recommend against this option, as in staff's opinion the requested variance to allow vehicular access from the street is not suitable and does not maintain the intent of the Zoning Bylaw.

2. THAT Council approve amended "Development Variance Permit PL2020-8797", to allow for a reduced interior side yard setback of 1.3m and vehicle access from the street.

Attachments

Attachment A – Zoning Map of Subject Property

Attachment B – Official Community Plan Map of Subject Property

Attachment C – Images of Subject Property

Attachment D – Letter of Intent

Attachment E – Site Plans

Attachment F – Neighbourhood Support for Front Driveway

Attachment G – Neighbourhood Front Driveways Data (from applicant)

Attachment H – Draft Development Variance Permit PL2020-8797

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner 1

Concurrence

Director	Chief Administrative Officer
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Attachment A – Zoning Map of Subject Property



424 Nelson Avenue

Zoning Map



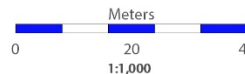


424 Nelson Avenue

Official Community Plan Map



Terms of Use : The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.

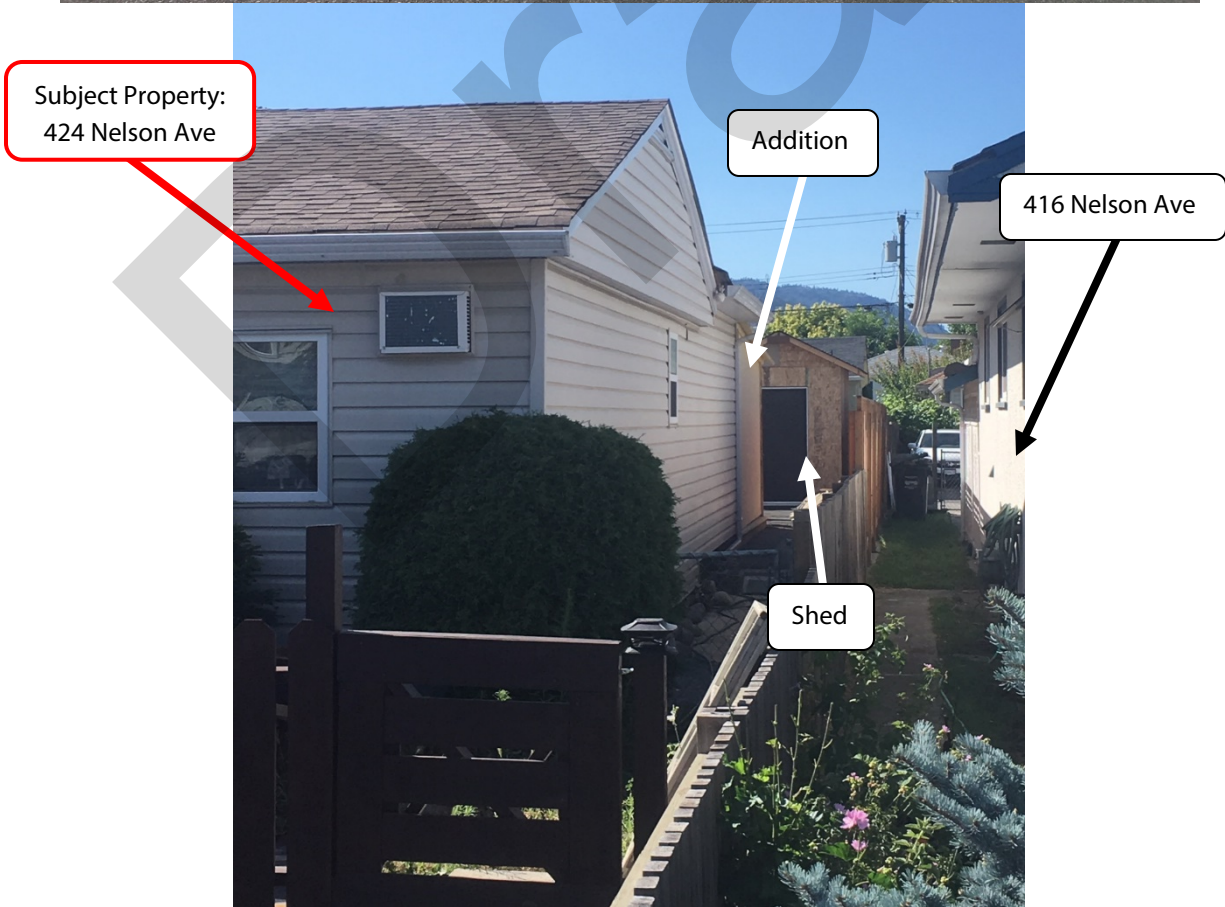
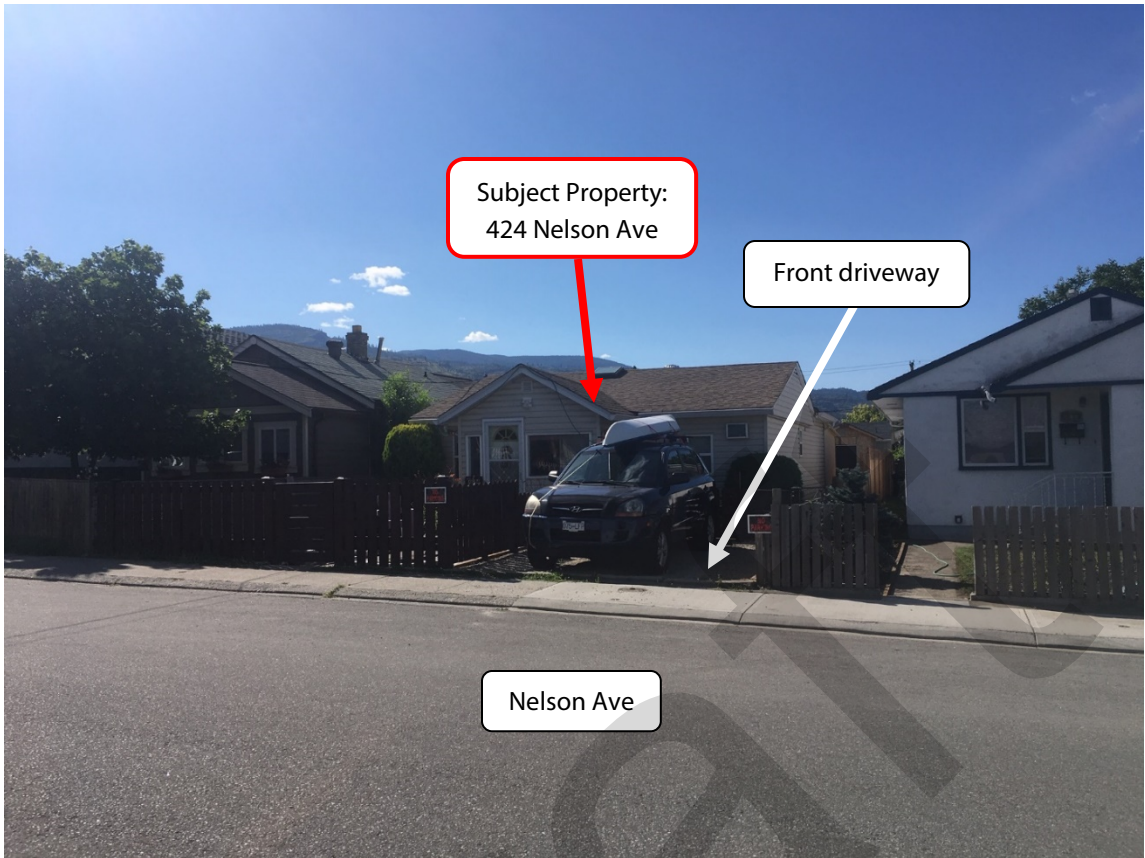


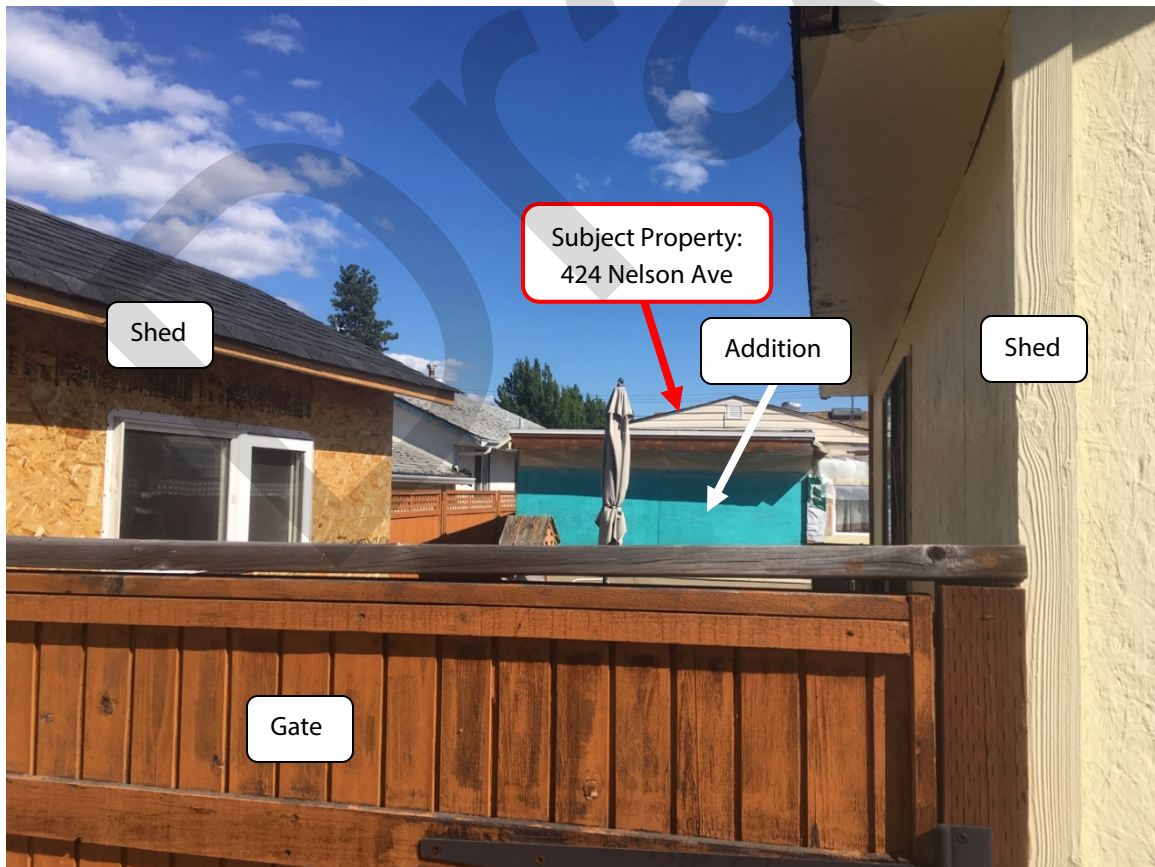
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penticton.ca

Attachment C – Images of Subject Property





Attachment D – Letter of Intent

June 28, 2020

Mr. Mayor and Members of the Council,

Following a remedial request from the City of Penticton's Building and Licensing Department, I am applying for 2 variances on my property at 424 Nelson Ave in Penticton BC.

1. **Variance to approve driveway built 3 years ago in my front yard.**

Issues with parking in the front:

Walking around my neighbourhood and seeing all these front yard driveways, I had been contemplating putting one up myself because of my mobility issues & the high traffic on our street and the future plans of the City to build more and more of these large duplexes so I decided to call the City of Penticton to find out what needed to be done to put one up – the woman who answered the phone told me: "you just go ahead put one up" so I did, 3 years ago. The driveway was created a few months after that telephone call & during the Grizzly Excavating road project. I used the driveway for a full year without any fencing (see attached picture), the following year the fence was build & last year, the gates were built and installed.

There were a few incidents when I parked on the street over the years; I had 2 cars backed into my vehicle right in front of my house (1 vehicle rolled into my Hyundai & the other attempted to turn around and backed into my Firebird), my Nissan hatchback window was broken to steal my \$15 speakers and all the cars on my side of the street were keyed.

Another issue with parking on the street was in the winter when there is snow. I would shovel a spot in front of my house with great pain, leave to go to work or for errands, come back and someone would have parked where I shoveled.

I have backed into my front yard driveway for the last 3 years and haven't had any issues.

I have spoken to my neighbours (30m from my house as the eye can see) and no one had issues with the driveway except for the guy that works in the Planning department for the City of Penticton who lives in a newly built duplex (he would not sign my survey). He stated that it doesn't look very good to have a driveway in the front yard but was very surprise when I told him there are over 60 front driveways 1 square block off our street.

I have included the survey with names, addresses, signatures or tel # & an email from a neighbour 2 houses down from me (440 Nelson Ave) who stated that a few years ago, the City of Penticton had suggested that she put up a driveway in her front yard because there wasn't enough street parking for a home business.

I have gone & counted how many front driveways there are 1 square block around 424 Nelson Ave and found that there are over 60 front yard driveways.

I have gone beyond that 1 square block & counted front driveways from Edmonton Ave to Duncan Ave between Main and Government St & found that there are 150 front driveways.

I only found 2 streets with no back lane access – Edna Ave between Main and Manitoba & Edmonton Ave between Manitoba and Government St.

I have included pictures of all the houses with front driveways within 1 square block of 424 Nelson Ave.

I have included 1 picture when a car rolled back onto my vehicle. I didn't have the pictures of the other incidents because I think they were in my old phone.

I have included before and after pictures of the driveway to show the great visual improvement.

I have included letters from my 2 doctors to confirm my mobility issues.

Now the issues with parking in the back:

1st of all the space is very narrow to get in and out of a back driveway when many old sheds and garages were built too close to the lane. It is also a very tight fit to have 2 cars side by side in the back alley.

I have had 2 occasions when there was an issue with unloading supplies from a pick up in the back alley. The neighbour at 425 Edna Ave thought he would have enough room to back into his back alley driveway but hit the corner of his garage with his new car and another neighbour drove past the truck as we were unloading and hit the truck's mirror with his vehicle. I did ask them at the time if they needed us to move the truck but they both declined.

Because of those incidents, let's say, I have 2 neighbours not impressed with me at all.

2nd issue, I would not feel safe to have to park in the back late at night.

If I forget to put out my garbage during the day, I skip a week so I don't have to go in the back alley at night.

My son had 2 bikes stolen from our backyard over the years, my next door neighbour had his golf cart stolen from his backyard, another neighbour had a motorbike stolen and my neighbour 2 doors down had her petty cash stolen.

While doing my survey a few days ago, another neighbour a few houses down from me informed me that someone had tried to take parts off his truck parked in the back alley and one across the street from me said a homeless person was roaming their yard a few days ago.

Like I said, our back alleys are not safe.

Since then I have replace the short fence with a 6' fence to avoid other incidents.

Sitting in my backyard in the evenings, I can hear the shopping carts going by & I'm sure there are other people/ transients roaming the alley at night.

I recently found out that this new bylaw was passed in 2011 not to allow front driveways when there is a back alley access. I was total unaware of that fact and feel that the bylaw is not appropriate in my situation because of my health issues and concern for my safety in the back alley.

Thank You

2. Variance to approve the distance of 4' between an addition or a covered patio and the property line to match the distance of 4' between the house and the west side of the property line.

I have included pictures to show the space and the distance between the existing house's soffits and the property line. (48" or 1.219 m)

If this variance is approved, I will request approval to keep the roof but only use the space as a patio.

I am proposing to either add 2 posts near the house wall with no footings since the flat roof is fairly light since it has 7/16" plywood covered with tar paper.

The 2nd option would be to add lag bolts from the 2X10X12 board to the house in addition to the board already mounted on the face of the soffit.

As requested the lot coverage is as follow:

Total land area 351.37 sq. m X 40% = 140.55 sq. m

House 90.673 sq. m

Other shed 13.12 sq. m

Tool shed 7.16 sq. m

Total habitable

Lot coverage 115.95 sq. m or 32%

Note: Covered patio is not included in lot coverage since it is under 23 sq. m.

Thank you for thanking the time to read all the information provided.

Ninon Smith
424 Nelson Ave
Penticton BC
V2A 2L2



Survey to my neighbours
asking if they have an
issue with my front
driveway at 424 Nelson Ave

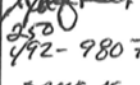
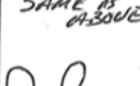
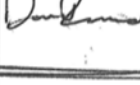
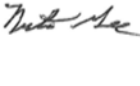
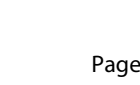
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1 email from A neighbour
2 doors down from me.

30m radius

June 22, 2021

Re: 424 Nelson Ave S
Penticton, BC V2A 2L2

Name	ADDRESS	Do you have an issue with Front Driveway?	Signature
<u>owners</u>			
Karyn Nelson	400 Nelson Ave	No	
Gary Jackson	433 Nelson Ave	NO	
Karla Jackson	433 Nelson Ave	no	
Shay Hayley	4415 Nelson Ave	NO	
Shay Hayley	439 Nelson	NO	
Chesni	466 Nelson Ave	No	
Sam Dagnan	456 Nelson Ave	No	
MARIA PEREIRA	454 NELSON AVE	NO!	
Donna Pereira	454 NELSON AVE	NO.	
Planning Dept City of Guy	457 Nelson Ave	Yes because it looks	
Dan Bravo	408 Nelson Ave	No	
<u>Dustin Gee</u>			
<u>Renters</u>			
Danna	431 Nelson Ave	No	
Justin	440 Nelson Ave Renter	no	
ZACK	440 NELSEN AVE RENTER	NO	
ARIZONA	440 Nelson Ave Renter	No	
Jon	432 Nelson Ave Renter	No	
Genevieve	445 Nelson Ave	No	

✓ DATA ON FRONT DRIVEWAYS IN MY neighbourhood

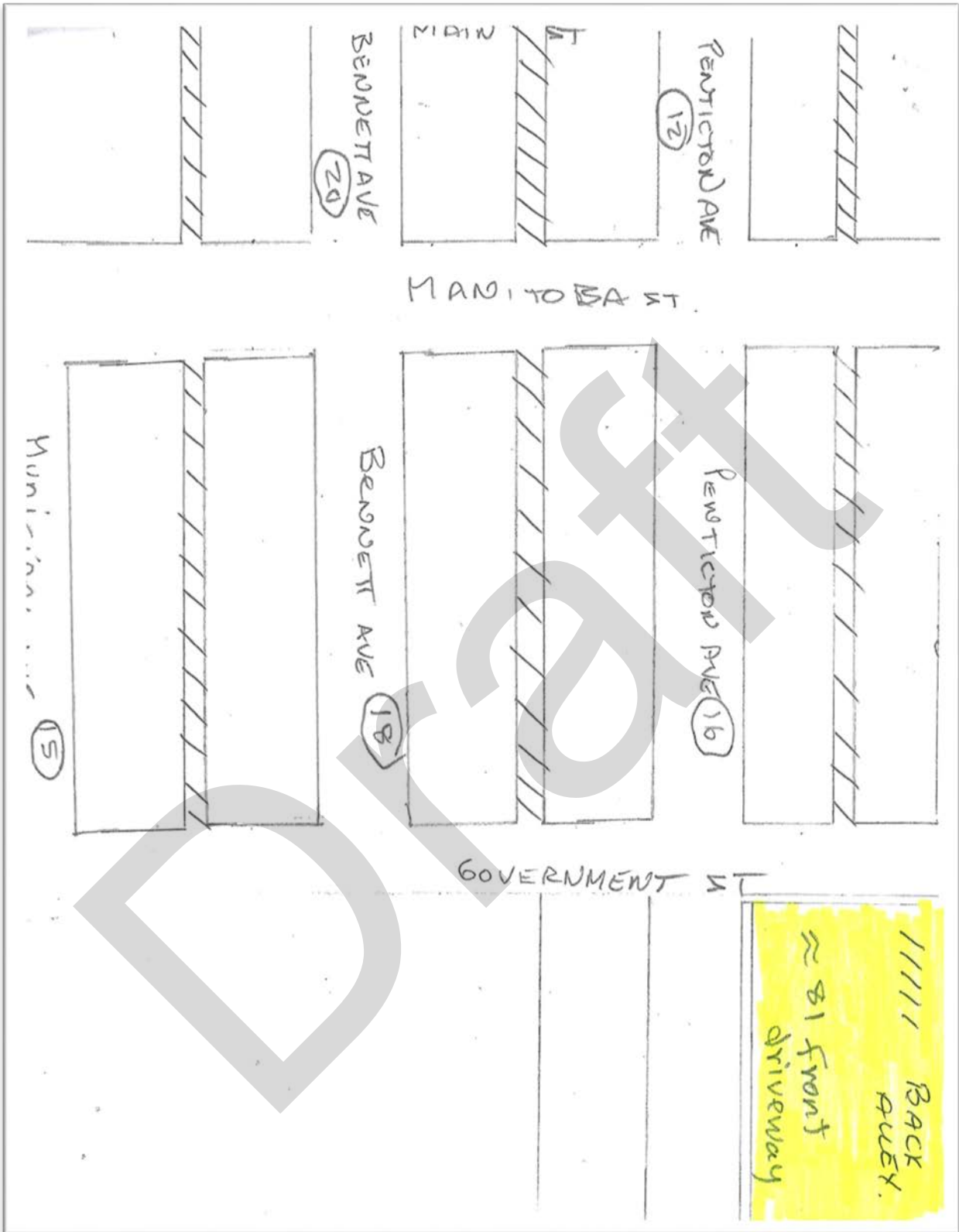
– Number of front driveways 1 square block around 424 Nelson Ave.

69

– Number of front driveways from Edmonton Ave to Duncan Ave + between Main + Government st.

81





Development Variance Permit

Permit Number: DVP PL2020-8797

Owner Name
Owner Address

Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
 - Legal: Lot 42 District Lot 250 Similkameen Division Yale District Plan 845
 - Civic: 424 Nelson Avenue
 - PID: 005-339-804
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2017-08 to allow for the construction of an addition to the single detached dwelling, as shown in the plans attached in Schedule 'A':
 - a. Section 10.2.2.6.i: to reduce interior side yard (west) from 1.5m to 1.3m.

General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the ____ day of _____, 2020.

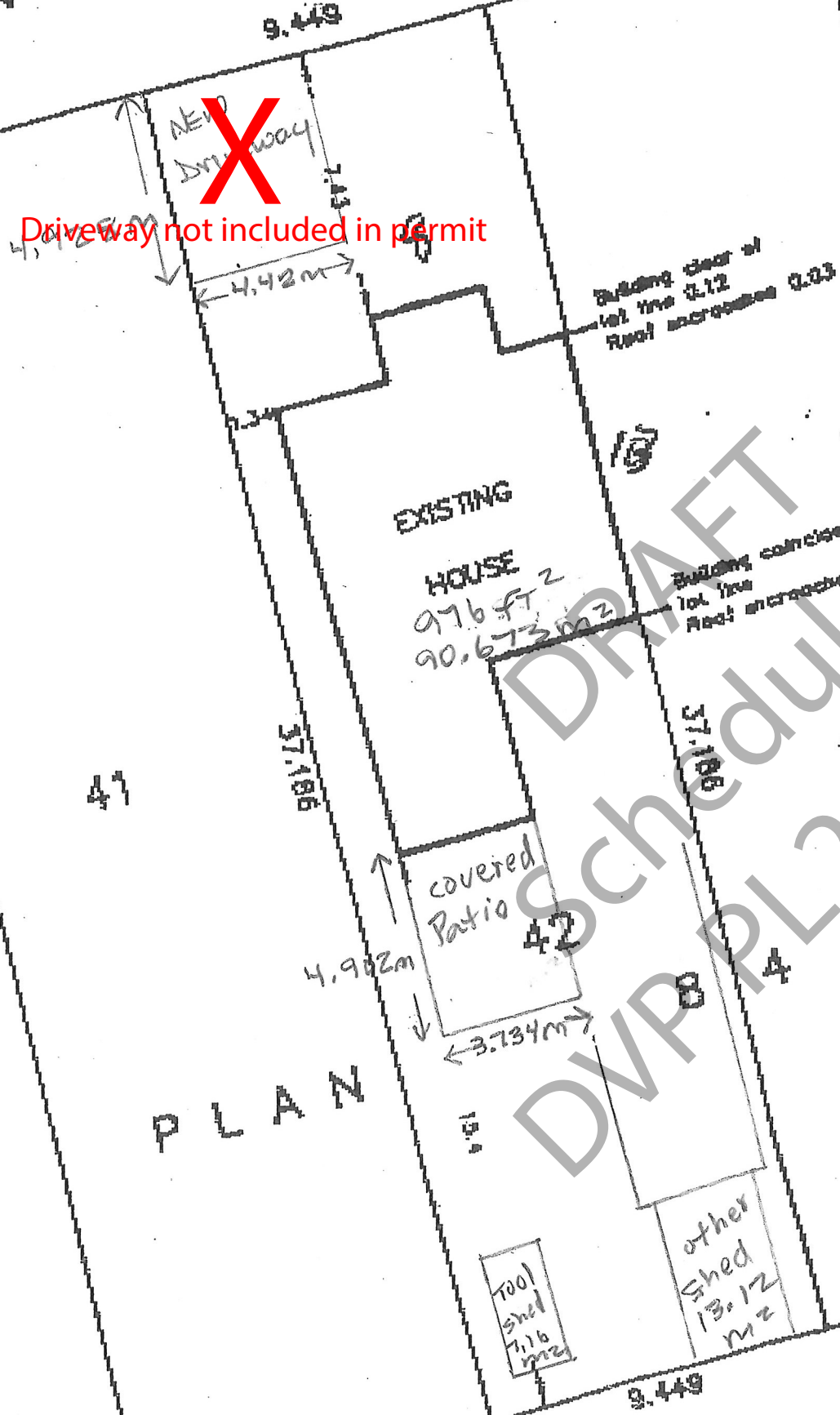
Issued this ____ day of _____, 2020.

Angela Collison
Corporate Officer

DRAFT

NELSON AVENUE

NEW Driveway
 Driveway not included in permit



PLAN

LANE

LAND 351.37 m²
 40% = 140.55 m²
 House 90.673 m²
 other shed 13.12 m²
 Tool shed 7.16 m²
 Total habitable lot coverage 110.95 m²

* Lot coverage 32%
 - covered patio not included in lot coverage since under 23m²

THIS CERTIFICATE IS FOR WORK AND NOT FOR PROPERTY LINE. NO RESPONSIBILITY IS ACCEPTED.

I HEREBY CERTIFY THAT THE WORK LOCATED ON THE ABOVE IS SITUATED AS SHOWN.

DATED THIS 28 DAY

[Signature]
 BRITISH

VALID ONLY IF BEARING THE AND ORIGINAL SEAL. THIS PLAN MAY NOT BE COPIED FROM WRITTEN CONSENT.

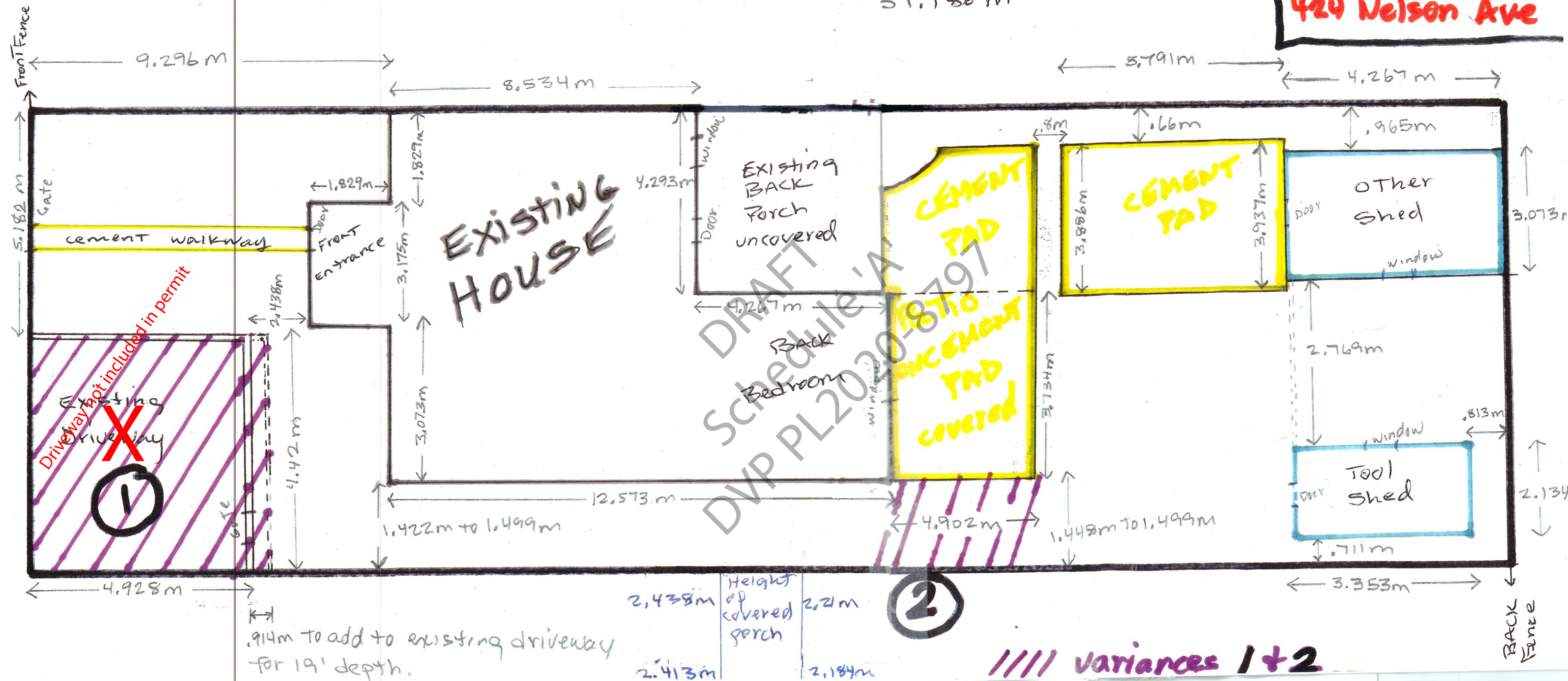
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 ALL DIMENSIONS ARE IN METERS
 DIMENSIONS ARE FROM RECORDS

STEVEN J.

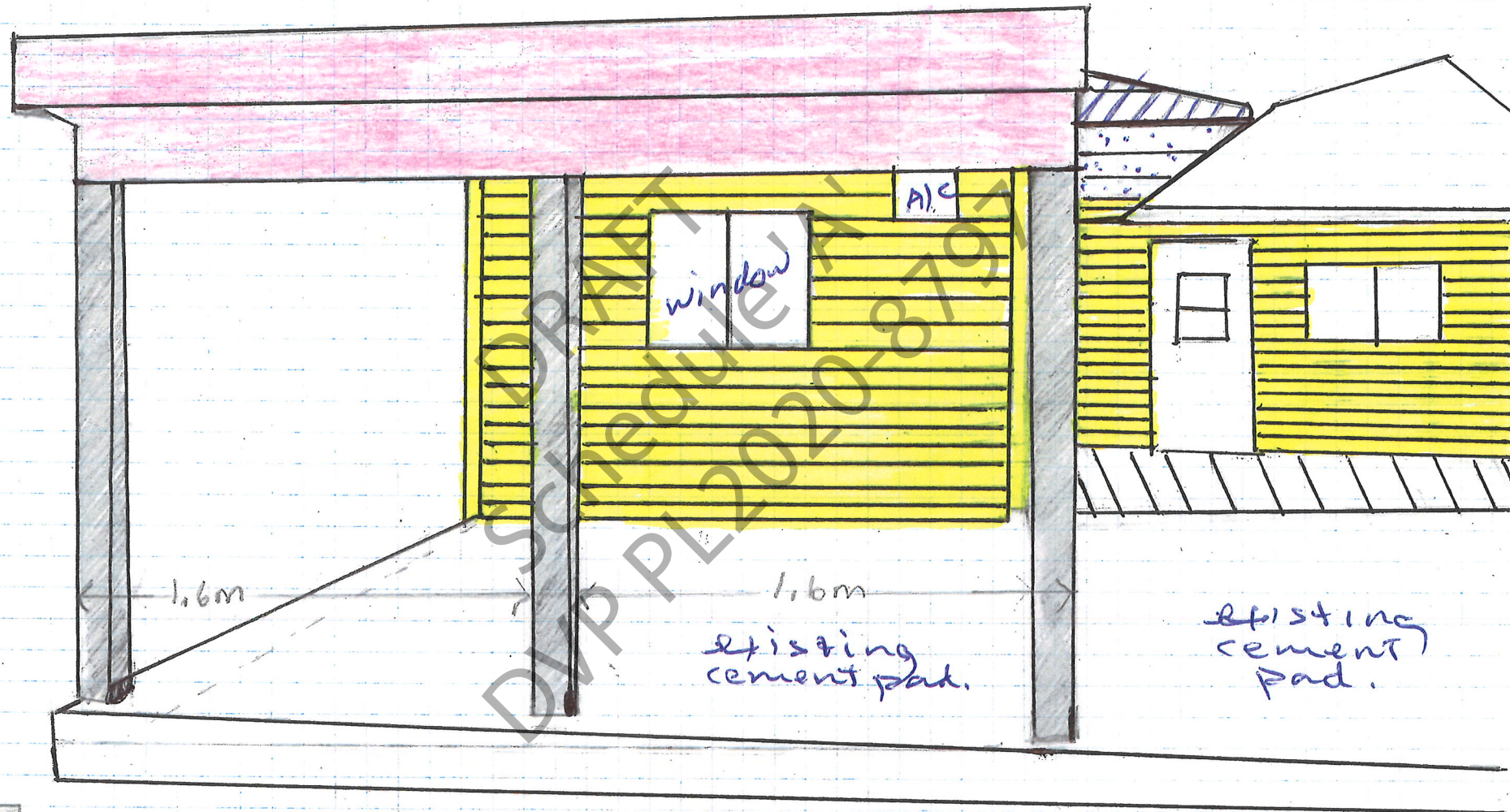
37.186 m

424 Nelson Ave

9.449 m



front view of
covered patio.

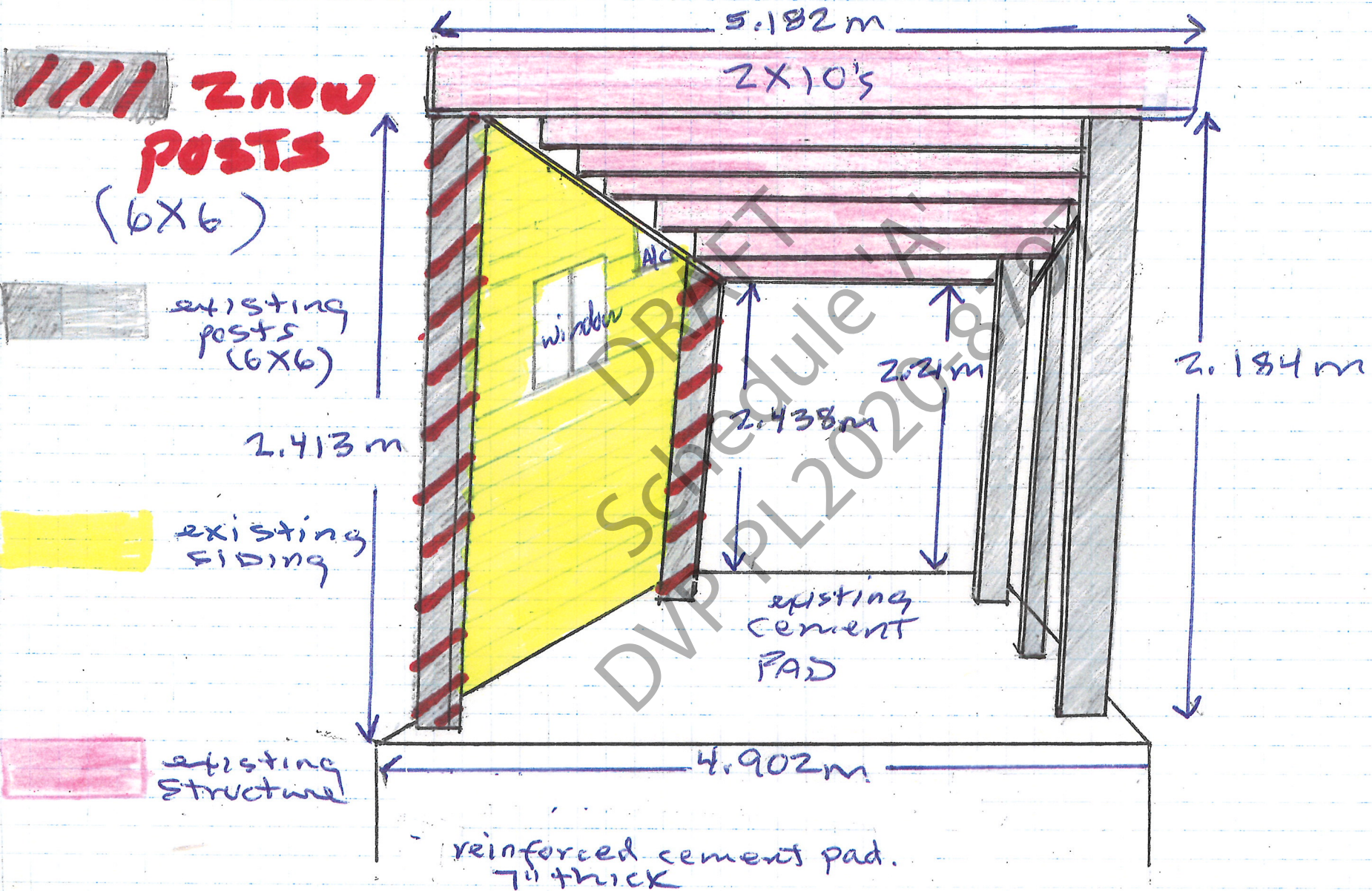


existing
posts

Left side view
of covered patio

With 2 posts added on the house side

1st option
to securing
weight of roof



Right side view
of covered patio

1st option to
securing weight
of roof

With 2 new posts added on the horse side

2 new
posts
(6x6)

existing
posts
(6x6)

existing
siding

existing
structure

existing
cement
pad

reinforced cement pad
4" thick

Space between the House &
the property line

The amendment (2) is to match
the space with a covered patio or an
addition

