

February 16, 2023

Address & Legal Description:

126 Fawn Court

Lot 11 District Lot 2710 Similkameen Division Yale District
Plan EPP74844

Subject & Proposal

Development Variance Permit PL2022-9486

The applicant is proposing to construct a retaining wall in their rear and side yard setback, which will be adjacent to a lane. The applicant plans to install a pool in their backyard, and they require a retaining wall to support the proposed pool. As such, the applicant has requested the following variance to Zoning Bylaw 2021-01:

- Section 5.4.2.1: To increase the maximum retaining wall height from 1.2 m to 1.9 m.

Council Consideration:

Council will consider the Development Variance Permit at a Special Council Meeting scheduled for **4:00 pm, Tuesday, February 28, 2023** in Council Chambers at Penticton City Hall, 171 Main St.

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.

Information:

You can find the staff report to Council and Development Variance Permit PL2022-9486 on the City's website at www.penticton.ca/publicnotice or scan the QR code on the right.

Please contact the file manager Jordan Hallam at 250-490-2429 or jordan.hallam@penticton.ca with any questions.



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, February 28, 2023**, to:

Attention: Corporate Officer, City of Penticton
171 Main Street, Penticton, B.C. V2A 5A9
Email: corpadmin@penticton.ca

Please ensure the following is included in your correspondence:

Subject: 126 Fawn Court; DVP PL2022-9486

No letter, report or representation from the public will be received by Council after the conclusion of the February 28, 2023 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 & Licencing Manager

Date: February 28, 2023
To: Donny van Dyk, Chief Administrative Officer
From: Jordan Hallam, Planner I
Address: 126 Fawn Court
Subject: Development Variance Permit PL2022-9486

File No: RMS/126 Fawn Crt

Staff Recommendation

THAT Council approve “Development Variance Permit PL2022-9486” for Lot 11 District Lot 2710 Similkameen Division Yale District Plan EPP74844, located at 126 Fawn Court, a permit to vary Section 5.4.2.1 of Zoning Bylaw 2021-01, to increase the maximum retaining wall height from 1.2 m to 1.9 m in a required yard, in order to facilitate the construction of a retaining wall.

AND THAT Council direct staff to issue “Development Variance Permit PL2022-9486”.

Proposal

The applicant is proposing to construct a retaining wall in their rear and side yard setback, which will be adjacent to a lane (Figure 1). The applicant plans to install a pool in their backyard, and with the natural slope of the property from east to west, they require a retaining wall to support the proposed pool. As such, the applicant has requested a variance to increase the maximum retaining wall height in a required yard from 1.2 m to 1.9 m.



Figure 1 – Proposed retaining wall.

Background

The subject property is located on the west side of Fawn Court, which is in the Ridge subdivision in the Columbia Heights area of the city (Figure 2). The property contains a single detached dwelling, which is currently under construction and planned to be completed shortly. The property is zoned R1 (Large Lot Residential) Zoning Bylaw, and is designated ‘Detached Residential’ by the Official Community Plan (OCP).

Technical Review

This application was reviewed by the Technical Planning Committee (TPC). The TPC raised comments regarding the proposed pool, and that in accordance with the BC Building Code, at minimum a 1.2 m high fence will also be required around the pool as it was not shown on the submitted plans. An engineer will also be required to review the proposed retaining wall as part of the building permit, should Council approve the requested variance, to ensure the retaining wall can support the proposed pool.

Analysis

Development Variance Permit

When considering a variance to a City bylaw, staff encourage Council to consider whether meeting the bylaw difficult or impossible, whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable.

The applicant is requesting to vary Section 5.4.2.1 of Zoning Bylaw 2021-01, to increase the height of a retaining wall in a required yard from 1.2 m to 1.9 m, in order to facilitate the construction of a retaining wall in the rear and side yard. Staff have reviewed the requested variance and are recommending support for the following reasons:

1. Property topography

The subject property is located on a slope that is higher on the east side of the property, sloping down to the west with an approximate elevation difference of 5.5 m (18 ft). The applicants are proposing an at grade pool in their back yard, and therefore require a retaining wall to support their proposal. The applicant wants to take full advantage of the usable area on their lot. The proposed pool has to be located further away from the balcony as well.

2. The proposed wall is adjacent to a lane

The proposed wall is adjacent to a back lane and is physically separated from the properties further west. There is a considerable separation between the subject property and neighbours to the west. The applicant is proposing to add texture to the wall similar to wood plank to match the design of the house. This physical distance reduces the likelihood of impact on rear neighbours.



Figure 2 – Property Location Map

3. Support from neighbours

The applicant has provided letters of support from immediate neighbours to the north and south for the proposed retaining wall (Figure 3). Neighbours signed letters of support, which were submitted by the applicant with their variance application. The letters of support submitted are included in Attachment 'E'. Staff and Council consider potential negative impacts when reviewing a variance request, and these letters of support indicate that negative impacts to neighbours are not anticipated.



Figure 3 – Letters of support submitted by owners of two properties (yellow).

Given the reasons above, staff consider the variance request is reasonable in this instance. As such, staff are recommending that Council approve the variance and direct staff to issue the permit.

Should Council approve the variance, staff would proceed with processing the required Building Permit prior to construction occurring.

Alternate Recommendations

Council may consider the requested variance is undesirable and that the applicant should build within the Zoning Bylaw regulations. If this is the case, Council should deny "Development Variance Permit PL2022-9486". If this decision is made, the applicant would need to update their plans to meet the Zoning Bylaw regulations. It is recommended that Council allow the applicant to speak on behalf of the proposed variance if Council is considering denying the application. Staff are recommending against this option, as the requested variance is considered reasonable in this instance and the letter of intent indicates that there will be minimal impacts on surrounding properties.

1. THAT Council deny "Development Variance Permit PL2022-9486".

Attachments

- Attachment A – Zoning Map
- Attachment B – Official Community Plan Map
- Attachment C – Photos of Property
- Attachment D – Letter of Intent
- Attachment E – Letters of Support from Neighbours
- Attachment F – Draft Development Variance Permit PL2022-9486

Respectfully submitted,

Jordan Hallam
Planner I

Concurrence

Director of Development Services	Chief Administrative Officer
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Draft

Attachment A – Zoning Map

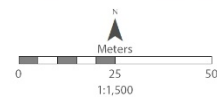


126 Fawn Court Zoning Map



Legend

- Subject Parcel
- FG - Forestry and Grazing
- R1 - Large Lot Residential
- RD1 - Duplex Housing
- P2 - Parks and Recreation
- RM1 - Bareland Strata Housing
- RM3 - Medium Density Multiple Housing



Terms of Use : The City of Penticton is a dispenser 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 use of this information does not constitute an endorsement and should not rely upon the information without independent verification as to the accuracy or suitability thereof.

Wednesday, December 14, 2022 10:21:46 AM

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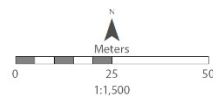
126 Fawn Court

OCP Map



Legend

- Subject Parcel
- Detached Residential
- Natural and Conservation Areas
- Ground Oriented Residential
- Urban Residential
- Parks



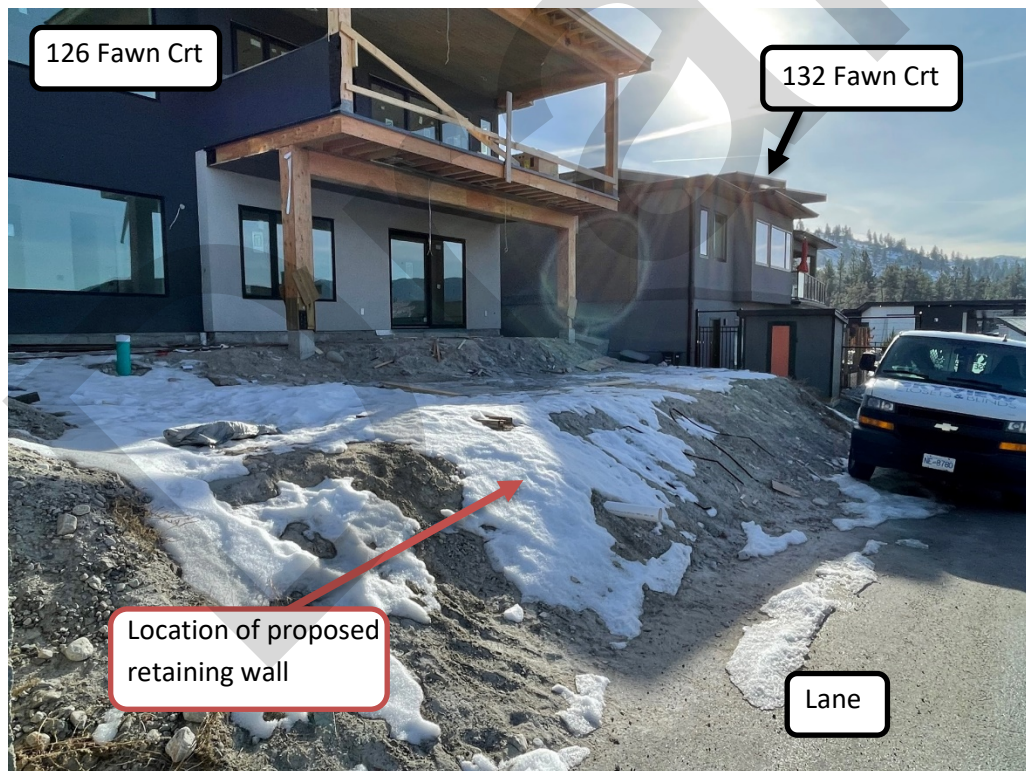
Terms of Use: The City of Penticton is a repository of public information in both printed and digital form. This means, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user 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.

Wednesday, December 14, 2022 10:22:28 AM

penticton.ca

Attachment C – Photos of Property





Jack Radu
126 Fawn Court
Penticton BC
V2A0C8

To whom it may concern,

I am applying for a Variance for this property regarding the rear and side retaining walls .

I have attached a rendering of the rear of the property and a site plan. There are certainly challenges when building on a property with steep grade from front to back. It makes retaining the rear of the property difficult. As you can see from the site plan that there is a pool in the back of the house and we are backing onto an alleyway, When designing the house, to allow enough room for the pool, we have cantilevered the deck post back 4feet from where they should have been originally to allow us more room in the back yard. Through the course of construction we have found out that we can't install a pool less than 4 ft from the edge of the footing pads for the deck post. With your guidelines set we have to go up 4ft from the rear property line and then in another 4 ft before going up another 4 ft and the south west corner would have to be the same. This creates problems for placement of the pool. A solution is to build one retaining wall on the property line on the west and south side as shown in the rendering. This wall would be of Concrete and will be structurally engineered and inspected by the City of Penticton. I will add texture to the face of the wall so it will look like wood planks .I have also reached out to my neighbors on the North and South sides of my property and have attached their thoughts. I have also attached some pictures of retaining walls up at the Ridge that other people have done, clearly you can see that they are a lot higher than 4 ft and are made of concrete.

Thx Jack

bedrock

From: "Raina Kucheran" [REDACTED]
Date: December 1, 2022 10:15 AM
To: <bedrockconcrete@shaw.ca>
Attach: Radu Residence - 126 Fawn Ct- revised retaining 3D - July 13, 2022 1 wall.pdf
Subject: Fwd: Variance for retaining wall

Hi Jack,

Thanks for sending along the rendering of your retaining wall. We agree this will fit in nicely with the neighborhood and have a cleaner look than a tiered wall.

Looking forward to you guys getting finished and moved in.

All the best!

Raina & Jon Kucheran

----- Forwarded message -----

From: Jon Kucheran [REDACTED]
Date: Thu, Dec 1, 2022 at 10:11 AM
Subject: Fwd: Variance for retaining wall
To: Raina Baynton [REDACTED]

Sent from my iPad

Begin forwarded message:

From: bedrock <bedrockconcrete@shaw.ca>
Date: November 30, 2022 at 11:09:25 AM PST
To: [REDACTED]
Subject: Fw: Variance for retaining wall

Hi Jon could you do the same please thx

From: bedrock
Sent: Wednesday, November 30, 2022 10:41 AM
To: [REDACTED]
Subject: Variance for retaining wall

Hi Jim . It was nice talking to you about the retaining wall . Please I have attached a rendering of the retaining wall the way it will look . Can you please write me a letter explaining your thoughts on the way you think it will look . Note I'm going with one wall not two . I think it looks cleaner and will be more private for you .

Thanks Jack [REDACTED]

2022-12-01

bedrock

From: "Jim Maguire" [REDACTED]
Date: November 30, 2022 12:22 PM
To: "bedrock" <bedrockconcrete@shaw.ca>
Subject: Re: Variance for retaining wall

Jack:

I have looked at the rendering and gone outside to see how it might look in the actual setting. It will fit in nicely.

I have an eight foot high shed near that corner of my yard and will hardly notice this wall. I agree that it will look cleaner than a two tiered wall. What I typically see is that the lower level of a two tiered wall is generally neglected. I would prefer that you build a single solid wall. I also believe it will not appear imposing because the terrain is rising behind it and the houses are therefore much higher than the laneway.

The proposed wall is a great way to finish the landscaping on your property, which is next to mine. If you have any further questions please let me know.
Thanks for the advance notice.

Jim Maguire & Donna Sawchyn
132 Fawn Court, Penticton, BC V2A 0C8
[REDACTED]

On Wed, 30 Nov 2022 at 10:41, bedrock <bedrockconcrete@shaw.ca> wrote:

Hi Jim . It was nice talking to you about the retaining wall . Please I have attached a rendering of the retaining wall the way it will look . Can you please write me a letter explaining your thoughts on the way you think it will look . Note I'm going with one wall not two. I think it looks cleaner and will be more private for you .

Thanks Jack [REDACTED]

2022-11-30

Development Variance Permit

Permit Number: DVP PL2022-9486

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 11 District Lot 2710 Similkameen Division Yale District Plan EPP74844
 - Civic: 126 Fawn Court
 - PID: 030-380-936
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2021-01 to allow for the construction of a retaining wall, as shown in the plans attached in Schedule 'A':
 - a. Section 5.4.2.1: to increase the maximum retaining wall height from 1.2 m to 1.9 m in a required yard.

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 28th day of February, 2023.

Issued this ____ day of March, 2023.

Angela Collison
Corporate Officer

Draft



$\pm 1.38m$
($\pm 4'-6\frac{1}{4}"$)

grade
f 8" below
the front

$\pm 1.88m$
($\pm 6'-2"$)