

October 24, 2019

Subject Property:

4039 Lakeside Rd

Lot 22, Block 209, District Lot 190, Similkameen
Division Yale District, Plan 466

Application:

Development Variance Permit PL2019-8596

The applicant is constructing a 3 storey single-family dwelling featuring a rooftop patio. To construct the dwelling as proposed, the applicant is requesting a Development Variance Permit to vary the following sections of Zoning Bylaw No. 2017-08:

- Section 4.4.2: increase the percentage of a rooftop appurtenance from 10% to 12.9%
- Section 6.5: decrease the required on-site parking from 2 spaces to 1 space
- Section 10.1.2.4: increase the height of a principal building from 10.5m to 11.2m

Information:

The staff report to Council and Development Variance Permit PL2019-8596 will be available for public inspection from **Friday October 25, 2019 to Tuesday, November 5, 2019** at the following locations during hours of operation:

- Penticton City Hall, 171 Main Street
- Penticton Library, 785 Main Street
- Penticton Community Centre, 325 Power Street

You can also find this information on the City's website at www.penticton.ca/publicnotice.

Please contact the Planning Department at (250) 490-2501 with any questions.

Council Consideration:

Council will consider this application at its Regular Council Meeting scheduled for **6:00 pm, Tuesday, November 5, 2019** in Council Chambers at Penticton City Hall, 171 Main Street.



Public Comments:

You may appear in person, or by agent, the evening of the Council meeting, or submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, November 5, 2019** to:

Attention: Corporate Officer, City of Penticton

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

Email: corpadmin@penticton.ca

No letter, report or representation from the public will be received by Council after the conclusion of the November 5, 2019 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.

Blake Laven, RPP, MCIP

Manager of Planning

Date: November 5, 2019
To: Donny van Dyk Chief Administrative Officer
From: Blake Laven, Planning Manager
Address: 4039 Lakeside Road
Subject: Development Variance Permit PL2018-8596

File No: RMS/Address

Staff Recommendation

THAT Council approve "Development Variance Permit PL2018-8165" for Lot 22, Block 209, District Lot 190, Similkameen Division Yale District, Plan 466, located at 4039 Lakeside Road, a permit to: increase the permitted height of a single family house from 10.5m to 11.2m; increase the permitted size of a rooftop appurtenance from 10% to 12.9%; and, reduce the required parking from 2 spaces to 1 space;

AND THAT staff be directed to issue "Development Variance Permit PL2018-8596."

Background

The subject property (Attachment A) is zoned R1 (Large Lot Residential) and designated by the City's Official Community Plan as detached residential. This lot is included in a grouping of challenging building lots. The lots, originally created in the early 1900s, are all very steep and narrow. They lots are also subject to the lake setback and riparian area regulations. As such, each of the lots that have been built upon have been issued several variances – usually for front and side yard reductions. The following table outlines the variances that have been approved to date:

Address	Approved variances
4037 Lakeside Road	*Minimum front yard: decrease from 6.0m to 3.0m *Minimum interior side yard (north): decrease from 1.5m to 0.9m *Maximum height of a retaining wall: increase from 1.2m to 4.3m *Driveway setback: reduce from 0.5m to a property line to 0.0m
4041 Lakeside Road	Minimum interior yard: decrease from 1.5m to 1.0m
4043 Lakeside Road	Minimum front yard: decrease from 6.0m to 3.0m Minimum interior side yards: decrease from 1.5m to 1.0m
4045 Lakeside Road	Minimum front yard: decrease from 6.0m to 3.0m Minimum interior side yards: decrease from 1.5m to 1.2m
4047 Lakeside Road	Minimum front yard: decrease from 6.0m to 3.0m Minimum interior side yard (north): decrease from 1.5m to 0.9m Maximum retaining wall height: increase from 1.2m to 3.0m Interior side yard: open stairways permitted to project to the property line
*Variance application pending	

Council, in December 2017, approved a variance to reduce the front and side yards of the subject lot to accommodate the construction of a three storey single-family dwelling with a roof top patio. That house was issued a building permit in July 2018. Through the construction process, several deficiencies were noted by the City's Building Department, ultimately leading to the project being put on hold and a new design and construction team being brought in. The house is currently framed to its full height but is considered on hold subject to revised plans addressing the deficiencies.

The new design team is proposing changes to the building envelope to meet drainage and other code compliances that were not being addressed in the original plans. A fuller description of the history of the deficiencies and current condition of the structure are included in a letter to Council prepared by the new architect (Attachment C).

While the revised plans do not substantially change the massing or character of the building, they have triggered the need for additional zoning bylaw variances. The architects are proposing three variances. The first two have to deal with the height of the building. The third is to reduce the amount of on-site parking.

Proposal



The applicant is proposing to construct a single-family dwelling on the subject property. The dwelling will be 3 storeys in height with approximately 2500ft² of living space and featuring a rooftop patio. To construct the dwelling as proposed, the applicant is requesting a Development Variance Permit to vary the following sections of Zoning Bylaw No. 2017-08:

- Section 4.4.2: increase the percentage of a rooftop appurtenance from 10% to 12.9%
- Section 6.5: decrease the required on-site parking from 2 spaces to 1 space
- Section 10.1.2.4: increase the height of a principal building from 10.5m to 11.2m

Financial implication

Approval of the subject variances are not anticipated to affect City finances. All costs of the development including off-site works and servicing are the responsibility of the property owner.

Technical Review

This application was forwarded to the City's Technical Planning Committee (TPC) and reviewed by the Engineering and Public Works Departments. Servicing requirements, storm water management and building code requirements have been identified and will be addressed as part of the building permit process. If the requests for the variances are supported, BC Building Code and City bylaw provisions, such as height restrictions, will apply.

Development Statistics

The following table outlines the proposed development statistics on the plans submitted with the variance applications:

Item	Requirement R1 zone	Proposed
Maximum Lot Coverage:	40%	37.1%
Minimum Lot Width:	16.0m	9.134m*
Minimum Lot Area:	560m ²	247.67m ² *
Vehicle Parking:	2 spaces per dwelling unit	1 spaces (variance required)
Required Setbacks		
Front yard (east, Lakeside Road):	6.0m 6.0m	3.0m (approved reduction) 9.76m
Rear yard (west):	1.5m	1.2m (approved reduction)
Interior yard (north):	1.5m	1.2m (approved reduction)
Interior yard (south):		
Maximum Height	10.5m	11.2m (variance required)
Other Information:	- The subject property is located within the Riparian Assessment Area Development Permit Area and has received a RAR Development Permit outlining a 10m Streamside Protection and Enhancement Area (SPA) and detailed restoration plan. - <i>*The minimum parcel standards (in terms of width and area) only apply when a new parcel is being created, not through development of an existing parcel.</i>	

Analysis

As stated in the architect's letter of intent, several issues with the original building design and construction of the house have led to a redesign and ultimately additional variances not previously considered. Staff's comments on the individual variance requests are as follows:

Section 4.4.2: increase the percentage of a rooftop appurtenance from 10% to 12.9%

- The house design includes a rooftop patio. The patio was originally accessed via an outside staircase attached to the side of the building. For structural and aesthetic reasons, the staircase is now being removed from the outside of the building and the internal staircase providing access to all floors of the building is being extended to provide access to the rooftop patio. To meet building code requirements the enclosure of the stairway is a minimum size which equals approximately 12.5% of the roof surface. As per the zoning bylaw rooftop appertuances are only permitted to be 10% of the roof area or they are considered in the calculation of height.
- In staff's consideration of this variance request, the additional 2% will not create any additional negative impact on neighbouring properties. The alternative would be keeping the external staircase, which has a greater impact on neighbouring properties.

Section 6.5: decrease the required on-site parking from 2 spaces to 1 space

- The original design of the house had a parking pad for two vehicles. During construction of the house, it turned out that at the road level and the house ended up 6 feet lower than originally intended. This has created a situation where the parking pad needs to be supported by the house and the load of an additional vehicle would put the building envelope at risk. While the reduction in parking is not ideal, Lakeside Road does have parking on both sides of the street. The only alternative would be to remove the construction currently done and rebuild.

Section 10.1.2.4: increase the height of a principal building from 10.5m to 11.2m

- In the original design of the building, the height was measured from an artificially raised grade that was intended to be created through the construction of retaining walls. Through re-analysis of this proposal, the retaining walls and grade are not possible given the riparian area. In addition, the original design did not allow for the roof to be properly graded for drainage. When this 2% grade is applied, the height of the parapet around the rooftop patio is slightly higher than originally proposed. While the building from Lakeside Road will be similar to what was originally approved, the actual building will be taller than what the zoning bylaw requires. Given that the building is only slightly more than one storey at the road level, and below what other houses along this stretch seem, staff consider this request to be reasonable.

If the variances are not supported, the alternative is to demolish all of the work done to date and restart the construction process. Approval of the variances, in staff's consideration, will resolve an unfortunate situation and allow the owners to complete the construction of their house with relatively minimal impacts on neighbours. Given the above, staff are recommending that Council support the variances.

Deny/Refer Variance

Council may consider that the proposed variances will negatively affect the neighborhood and that the property owner should be required to take down the already-built structure and rebuild in line with the previously approved variances and the development regulations of the Zoning Bylaw. If this is the case, Council should deny the variance.

Alternate Recommendations

1. THAT DVP PL2019-8596 be denied.
2. THAT DVP PL2019-8596 be referred back to staff.

Attachments

Attachment A: Subject Property Location Map
Attachment B: Photos
Attachment C: Letter of intent from the architect
Attachment D: Plans
Attachment E: Permit for issuance

Respectfully submitted,

Blake Laven, MCIP, RPP
Planning Manager

Approvals

Acting Director Development Services	Chief Administrative Officer
	

Attachment A – Subject Property Location Map



Attachment B – Photos of subject property





Figure 5: East View of Subject Property (from Lakeside Road)



Figure 6: East View of Subject Property (from Lakeside Road)

Attachment C – Letter of intent from architect

f2a architecture ltd.

florian maurer
architect AIBC, MRAIC
austin hawkins
architect AIBC

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canada

236-422-2577
info@f2a.ca
www.f2a.ca

october 21, 2019

Pentiction City Council
c/o Blake Laven, Planning Manager
blake.laven@pentiction.ca

Re.: 4039 Lakeside Rd zoning variance requests

Dear City Council,

Due to significant errors, construction was halted on the residential project at 4039 Lakeshore Road at the conclusion of rough framing. Our goal is to continue construction using as much of the structure as possible. Our role is to resolve parking, entry, and updates to building layout as needed to accommodate grade, and to repair mistakes in building envelope.

Requested variances involve on-site parking, building height, and allowable area of a roof-top appurtenance. Existing setback variances have been approved by DVP PL2017-8103 and are not part of this application.

Variance request 1 - parking reduction:

Most notably, the building was sited 6' lower than intended. The biggest challenge the project faces is the parking structure. Since the top of the foundation wall is 6' lower than needed to retain a parking slab at road grade, a parking structure must be tied to bedrock at the east PL and bear on columns extending to native soil below. The parking deck must be held off the face of building (wood-framed at road grade) and the building's envelope will extend below the deck. A series of stairs will descend to the building entry and then to the lakeside. The bedrock bearing wall at the property line will extend vertically to provide a retaining wall re-establishing a level roadside. The retaining wall will be topped with a screen/guard. This scheme replaces backfill as originally planned and budgeted, but is safe, durable, and relatively economical.

The structure provides one generous on-site parking spot, access to the main level of the building, and a retained road-side visitor parking spot. Zoning bylaw requires two parking spots, but the load of an additional car would stress the proposed structure, pinned to the rock, and would put the building envelope at risk. Furthermore, two on-site parking spaces would provide no more parking than the proposed scheme. Therefore, we ask for relaxation of the parking bylaw in this unique, unfortunate, and unplanned circumstance.

Variance request 2 - building height:

Permitted finished grade at the west side of the building cannot be soundly realized. Finish grade was drawn above finished floor level, probably citing the localized depression clause of the bylaw. However, no retaining walls were built at base of the west side of the building and the riparian setback does not allow regrading along the west side of the building. It would be best to establish finished grade as 150mm below finished floor - even as we replace existing wood framing at the base of wall with concrete.

The existing construction has also not allowed for 2%-sloped roof drainage below roof decking. By adding the required build-up to achieve a technically sound roof deck, the existing parapet height becomes insufficient to act as a 1070mm-high guard as required by BC Building Code for an inhabited roof-deck and must be extended.

Finally, the permitted floor to floor heights were not observed during framing, resulting in a slightly higher building than planned.

Building height has been measured from the depicted west-side elevation to the top of parapet. We propose an allowable building height increase of 1160mm to accommodate the above factors.

Variance request 3 - size of rooftop projection:

The external stairway of the original design presents a building envelope challenge with a high risk of eventual failure. Furthermore, probably due to the above-cited increase in floor to floor heights, the existing roof access stair could not quite be made to meet building code riser and tread limitations. The stair cannot be re-framed to solve this as its length is limited by steel structure within the roof.

We therefore plan to extend the internal stair through the roof. The bylaw allows a covered staircase penetrating the roof without affecting the building height if its footprint covers less than 10% of the roof area. A <10% roof-area stair appurtenance is possible, but would simply result in a notched volume with an exterior rooftop storage nook. Instead we propose a rectangular, better-looking (less prone to messiness), economical, easily waterproofed, and more useful 12.9% stair. Due to site parameters, this building has a small footprint compared to its size, so the 10% appurtenance rule is particularly strict here. We've also carefully screened the roof terrace from view, simplifying and softening the building profile.

We recognize that zoning bylaws are set out by the planning department with expert authority and ratified by our governing council. For this reason, we like to design within their parameters! However, we make this application because this project has found itself in a (thankfully) uncommon situation requiring hard thought and flexibility to rescue the resources already invested.

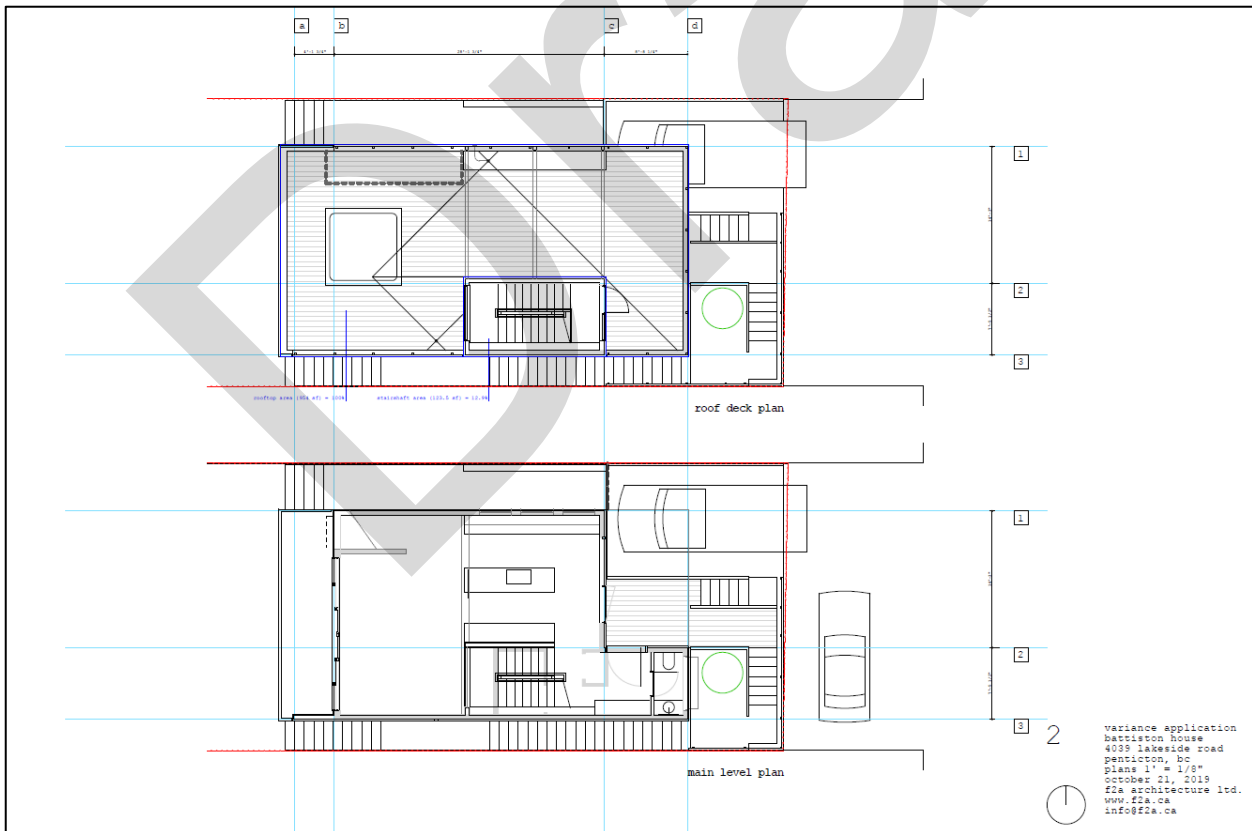
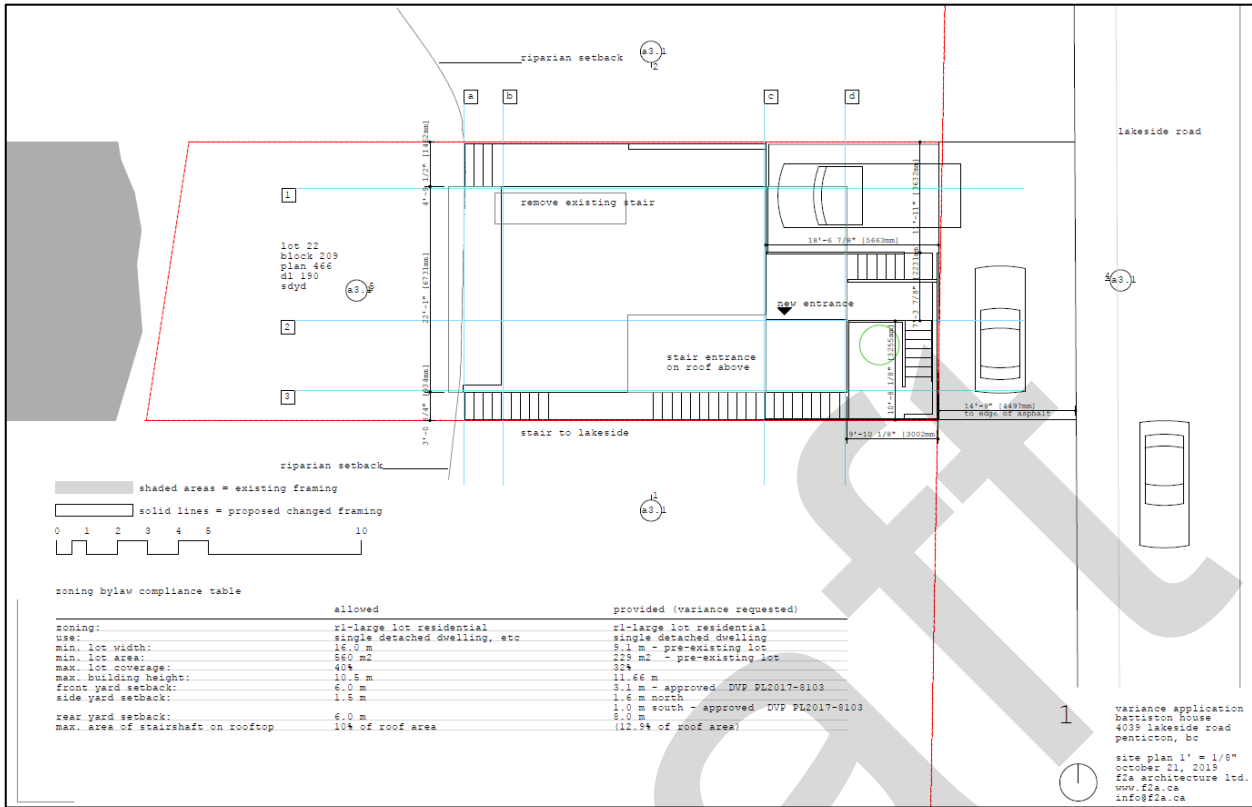
With your approval, we will succeed in resurrecting this building to merit its beautiful surrounding for years to come. Thank you for your time and consideration.

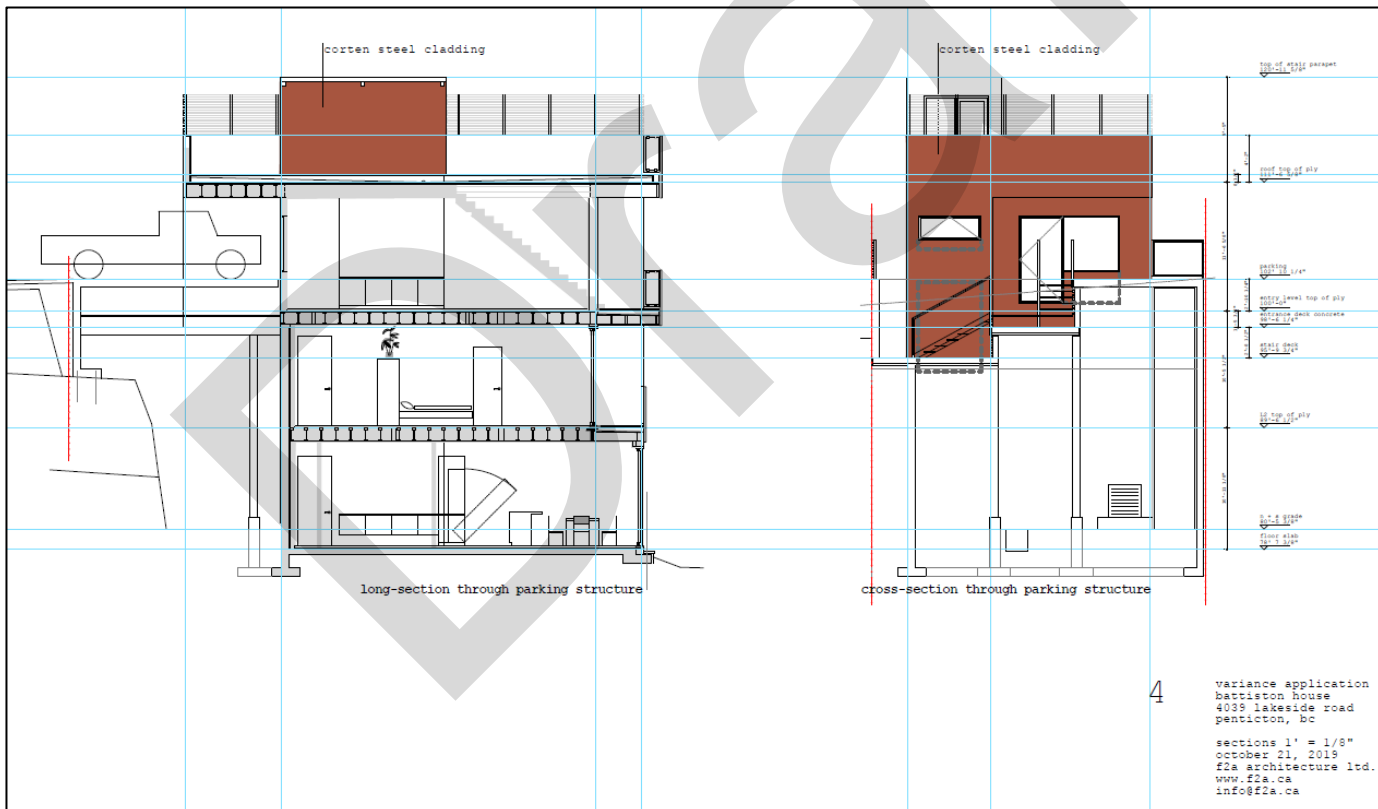
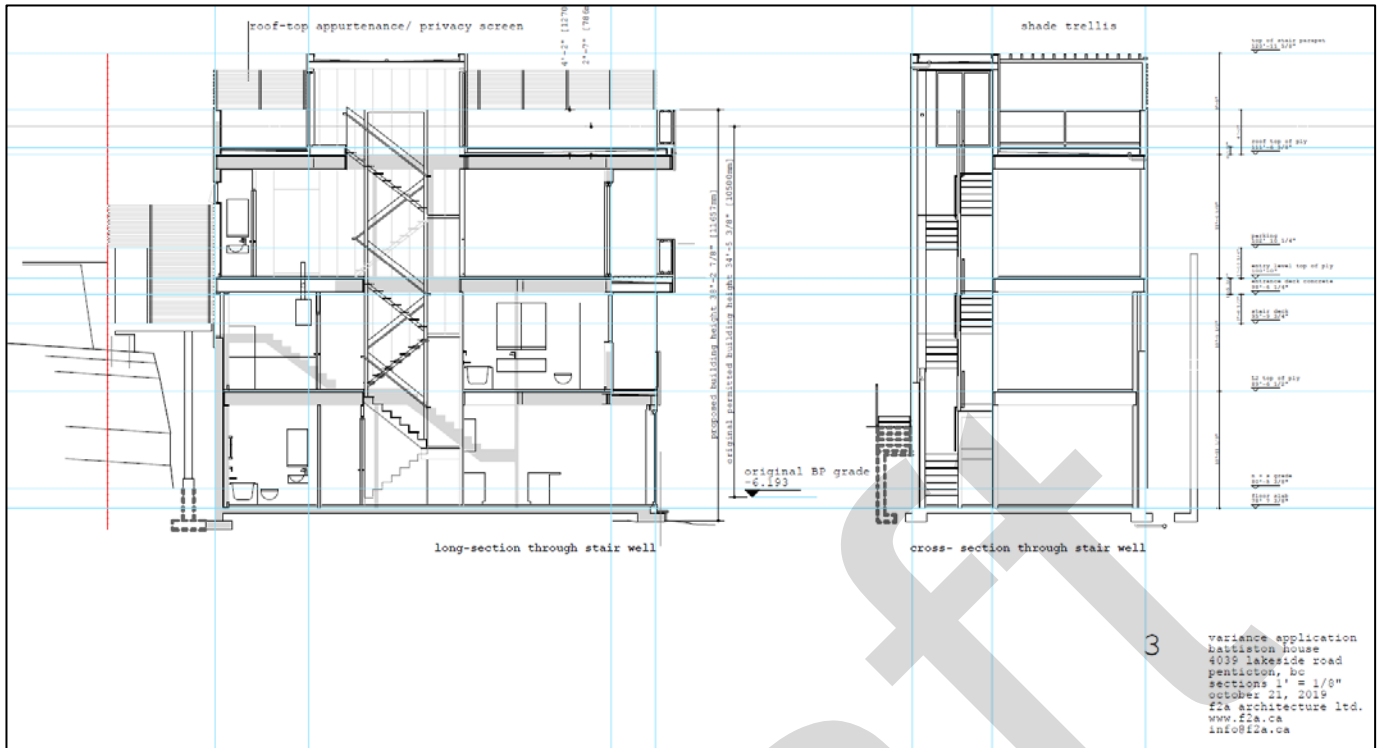
Sincerely,

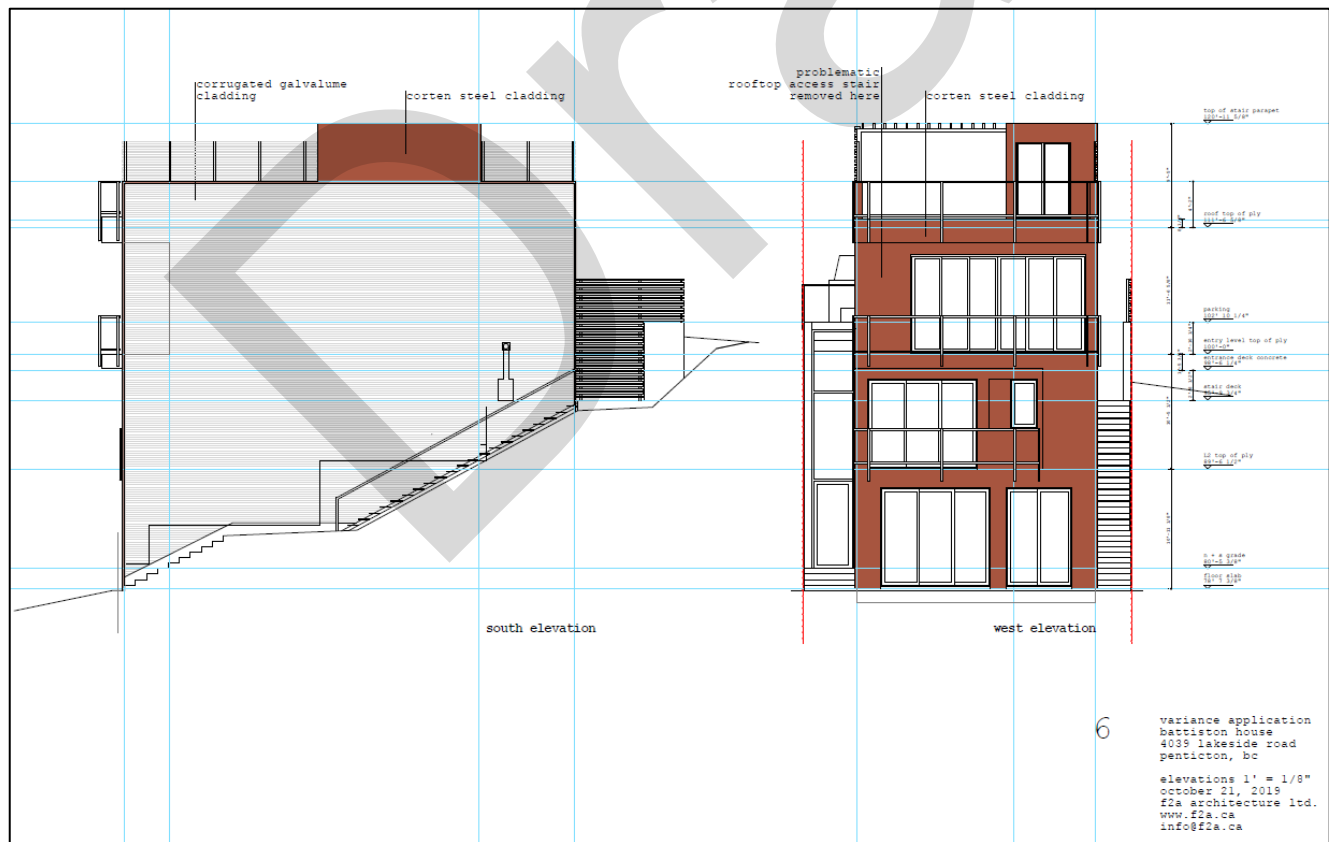
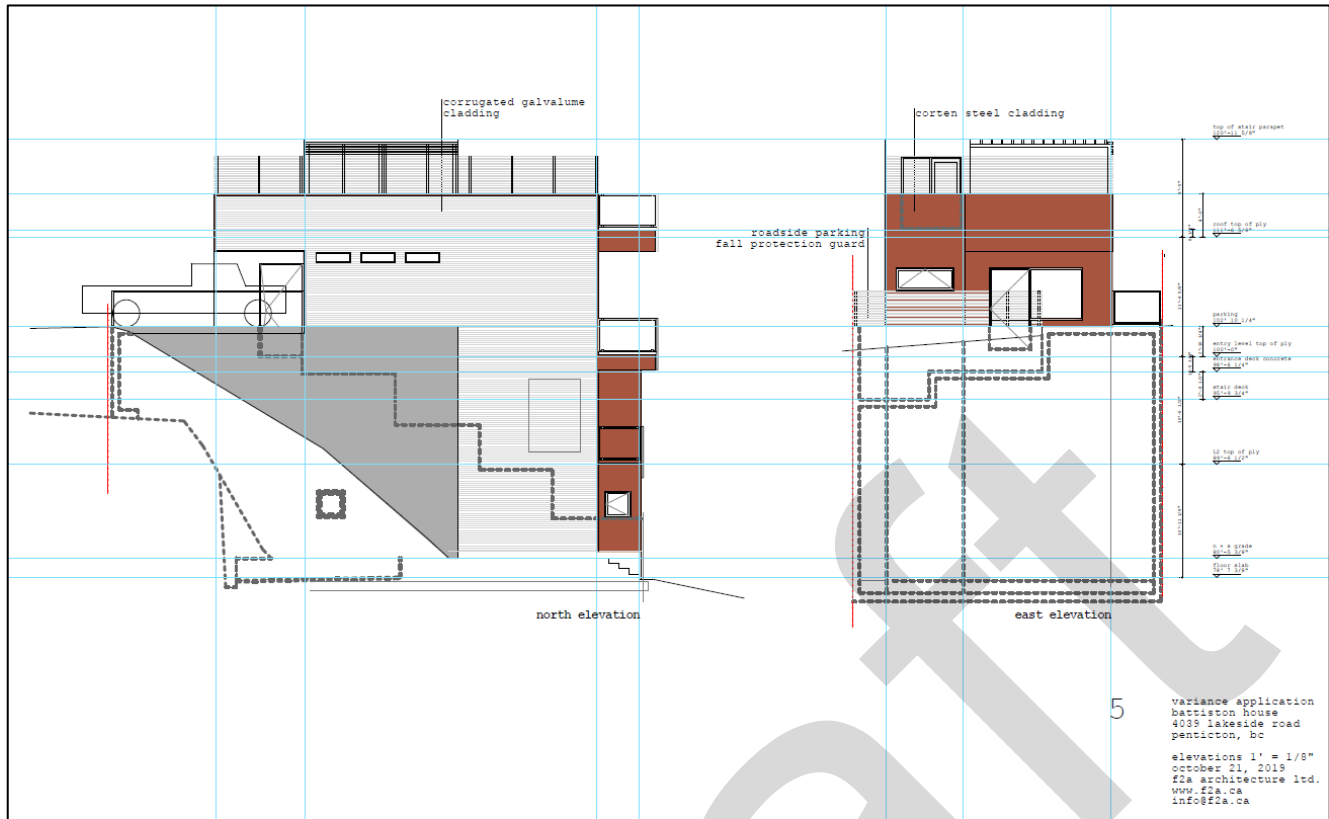


Austin Hawkins
Architect AIBC

Attachment D – Plans









seen from above Lakeside Rd
variances pictured:
- parking reduction
- 12.5% roof appurtenance
- increased parapet height

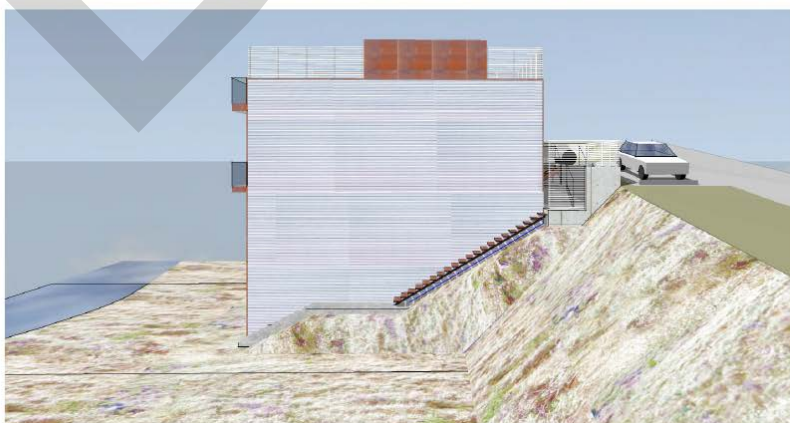
7

variance application
battiston house
4039 lakeside road
penticton, bc

model image
october 21, 2019
f2a architecture ltd.
www.f2a.ca
info@f2a.ca



seen from lake shore looking east
variances pictured:
- increased parapet height



seen from Lakeside Rd looking north
variances pictured:
- parking reduction
- 12.5% roof appurtenance
- increased parapet height

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variance application
battiston house
4039 lakeside road
penticton, bc

model images
october 21, 2019
f2a architecture ltd.
www.f2a.ca
info@f2a.ca



seen from Lakeside Rd
looking west
variances pictured:
- parking reduction
- 12.5% roof asperturnance
- increased parapet height



seen from Lakeside Rd
looking south
variances pictured:
- parking reduction
- 12.5% roof asperturnance
- increased parapet height

9

variance application
battiston house
4039 lakeside road
penticton, bc
model images
october 11, 2019
f2a architecture ltd.
www.f2a.ca
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City of Penticton
171 Main St. | Penticton B.C. | V2A 5A9
www.penticton.ca | ask@penticton.ca

Development Variance Permit

Permit Number: PL2019-8596

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 22, Block 209, district Lot 190, Similkameen Division Yale District, Plan 466
Civic: 4039 Lakeside Road
PID: 012-323-179
3. This permit has been issued in accordance with Section 922 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2011-23:
 - Section 4.4.2: increase the percentage of a rooftop appurtenance from 10% to 12.9%
 - Section 6.5: decrease the required on-site parking from 2 spaces to 1 space
 - Section 10.1.2.4: increase the height of a principal building from 10.5m to 11.2m

General Conditions

4. In accordance with Section 928(2) 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 926 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 _____, 2019

Development Variance Permit PL2019-8596 is

Issued this _____ day of _____, 2019

Angela Collison
Corporate Officer

Draft

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