
BOARD OF VARIANCE / PARKING VARIANCE BOARD
APPEAL DECISION

Appeal Decision - 138 West 12th Avenue

Appeal Section: 573(1)(a) Appeal of Decision – DP Refusal
Legal Description: Lot C, Block W, District Lot 526 and Plan VAP 2104.
Lot Size: Lot Area = 3,141 sq. feet
Zone: RT-6
Related By-Law Clause:

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2024-00737 and a request to permit exterior alterations to this existing single detached house with bed & breakfast room accommodation and alter **and convert the existing accessory building (detached garage) to a church use.**

Name of Appellant(s): **Carman Kwan - Architectural Collective Inc.**

This appeal was heard by the Board of Variance on May 06th, 2025 and was **ALLOWED in PART with conditions, thereby overturning the decision of the Director of Planning who refused Development Application No. DP-2024-00737 and **APPROVED** exterior alterations to this existing single detached house with a bed & breakfast room accommodation and alter and convert the existing accessory building (detached garage) **to a ‘church use’**, and subject to the following conditions:**

- (1). that the Board of Variance approved the ‘church use’ within the approved accessory building for a limited-time approval of 1-1/2 years and expires on: November 01st, 2027. The Board may grant an extension for the ‘church use’ on/before November 01st, 2027;
- (2). that the Board of Variance did NOT approve the ‘covered patio area’ adjacent/attached to the accessory building, and also the Owner(s) MUST REDUCE the overall size of the accessory building’s footprint to be in compliance with the accessory building ‘width’ regulations to 80% maximum allowance as outlined in the RT-6 District Schedule; and
- (3). that the development shall otherwise comply with the requirements and regulations of the Zoning and Development By-law to the satisfaction of the Director of Planning.

Board’s summary and decision based on the following:

-The City’s representative (Mr. Bosnjak) stated that the Director of Planning is 'opposed' to the granting of this appeal, and noting the rear additions built without City permits (and non-compliance with the FSR/floor area and the building depth regulations, and the ‘church use’ is not permitted at this site). The Director of Planning further stated that the site already has an approved ‘bed & breakfast’ unit with a one-family dwelling unit and cannot allow a second (separate) ancillary use to the main principal building. The City notified 271 property owners surrounding the site – and seven (7) owners responded with five (5) letters in opposition, and two (2) letters in support of the proposed ‘church use’ within the accessory building.

-The Board members voted 5-0 (with a majority in support of the appeal) and overturned the City’s decision with imposed conditions and approved a ‘church use’ (– and by the City’s zoning definition and a ‘Synagogue’ is considered ‘church use’). The majority of the board members did find a site hardship to allow a ‘church use’ within the proposed accessory building with a limited-time approval of 1-1/2 years (future extensions for this church use after the 1-1/2 years can be extended by the ‘Board of Variance’).

However, the board did NOT find a ‘site hardship’ to allow the unauthorized rear additions/development to remain at the site (mainly the work without permit ‘covered patio area’), and the Owner(s) must remove the unauthorized rear covered patio area, and also the Owner(s) must reduce the overall-size of the current accessory building footprint with a maximum allowance of 80% width of the lot to meet the RT-6’s District Schedule. The board further noted that the rear lane must not be blocked by parked vehicles during the ‘church use’ and that the board will review this case file again in 1-1/2 years time (from May 06th, 2025) and urged the Owner(s) of 138 West 12th Avenue to work with the immediate (adjacent) neighbours and definitely NOT block the lane. Three (3) neighbours attended the meeting and spoke in opposition to the appeal regarding the unauthorized church use and parking concerns along the lane.

-The Board’s site office received five (5) support letters and five (5) opposition letters from the neighbourhood (prior to the appeal hearing on May 06th, 2025).

***** IMPORTANT NOTE to the Appellants:**

The Board’s decision is valid for one-year and the Owner(s) are required to obtain the City’s Development-Building Permit **by May 06th, 2026.** Once the Board’s decision expires, then the Owners are required to appeal (again) to request an extension.



Secretary to the Board of Variance