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**From:** Celia Belamour Redacted  
**Sent:** Tuesday, April 06, 2021 11:17 PM  
**To:** cityclerk  
**Cc:** ICE Michelle Belamour  
**Subject:** Resident Comments Re: Development Variance Permit Application No. VP100582  
**Attachments:** Resident Comments\_2720 Moyie Street.pdf

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To Whom It May Concern,

Please find attached our comments on the Development Variance Permit Application No. VP100582 to be discussed at the city council meeting on April 12, 2021.

I request our comments to be included on the agenda for Council's review despite it being past 5pm. I did my best, but I have a disability that makes working at computers very challenging.

Please let me know that these comments will be on the agenda and not provided to Council on the day of the meeting.

Thank you for your consideration.

Sincerely,

Celia & Michelle Belamour

# RESIDENT COMMENTS RE: DEVELOPMENT VARIANCE PERMIT APPLICATION NO. VP100582

DATE: April 6, 2021

TO: MAYOR AND COUNCIL

NAMES AND TITLE: Celia & Michelle Belamour, Neighbours

SUBJECT: Resident comments re: Development Variance Permit No. VP100582  
Applicant: Starbaby Creek Holdings Ltd., Inc. No. BC1129857  
Location: 2728 Moyie Street

ATTACHMENTS: Photos of site as of April 6, 2021  
Photo of eaves removed January 15, 2021  
Photos of property markers as of April 6, 2021  
Photos of foundation hole taken August 12, 2018

## RECOMMENDATION(S):

That Council REFUSES Development Variance Permit No. VP100582:

1. The distance from the cantilevered wall itself is too close to the property line and ought to be removed.
2. Application is made based on eaves projecting from cantilevered wall. The eaves with a gutter as of April 6, 2021 are less than approximately 0.3m. This is no where near the 0.75m applied for variance from 1.2m to 0.45m setback.
3. The current property line is indeterminate and ought to be professionally surveyed.
4. The permit applicant is an educated, licensed, and registered home builder who ought to have known the setback requirements. Ignorance is not an excuse.
5. Concerns about the proximity of the build to the property line applied for in the variance were raised in July 2018. Additional concerns were raised throughout 2019. We called the city in the summer of 2019 to express concerns with how close the house at 2728 Moyie Street was to the property line, and we were told the build was allowed and there were no issues.
6. Currently, side yard maintenance at 2728 Moyie Street requires access to our property. Once a fence is built, the yard will become difficult to maintain unless the cantilevered wall is removed.
7. Proximity may pose fire risk to older homes in the neighbourhood. Our home is most at risk.
8. Multiple concerns about the professionalism of the builder; it is not too late to make it right. One can learn from their mistakes.

INTRO: We are Celia and Michelle Belamour, owners and residents of 2720 Moyie Street which is the north adjacent property to 2728 Moyie Street and the property most affected by this variance application. We have a few issues of concern with the application for variance.

1. In the March 24, 2021 Staff Report to Council, the variance requested is a change from the zone requirement setback of 1.2m to 0.45m. This change is described as minimal. Below we have attached two photos that show that this is not the case. We have a pallet up along the property line where there will be a fence built. As you can see, the 0.45m described in the report seems to measure the property line to the foundation, not to the cantilevered wall. In fact, with the exhaust vent, communications hubs, and electrical meter, we have deep concern whether a fence will be able to be safely built at all. **We believe the actual distance from the property line to the wall and projections is much less than 0.45m. We believe the cantilevered wall is too close to the property line and should be removed.**



2. In the same March 24<sup>th</sup> report, it was described that “the Building Inspector observed that the eaves were too close to the property line.” While that may have been the case at the time of the report, we argue that the eaves are clearly not the issue as the applicant builder cut most of the eaves off on January 15, 2021 (photo below). The remaining eaves **do not** make a 0.75m difference to account for the 1.2m to 0.45m variance requested. **On these grounds alone, the development variance permit variance request as written should be refused.** Additionally, we are curious why the Building Inspector did not make an observation as to the proximity of the wall itself to the property line.



3. The current, exact property line may be difficult to determine. Unfortunately, Starbaby Creek Holdings Ltd., dug the street side property pin up in the summer of 2018 and left the pin exposed to the elements and animals since then. Then, in the summer of 2020 a city truck grading the alley took out alley side property pin. (Photos below) From what we have observed and our current understanding, the applicant builder moved the markers and may have moved the pins. We have not observed a professional survey since the city truck incident. **We strongly believe that before a variance can be granted, the property must be professionally surveyed.**



4. In the March 24<sup>th</sup> report to Council, the variance applicant, who is also the licensed homebuilder and property owner, is described as “not aware” of the requirements for setbacks permitted for projections. We are curious how this is possible. In casual conversations shortly after purchasing

the adjacent lots in 2018, Mr. Gable shared his plans for the lots and his progress becoming a licensed builder. We question how it is that a newly educated and licensed home builder did not know the setback requirements as part of his basic knowledge? Would it not be the case that having just passed the builder's exams, this type of knowledge would be most fresh? **We believe that an educated, licensed, and registered homebuilder ought to know setback requirements as a matter of basic knowledge. As such, ignorance is no excuse.**

5. **Dating as far back to around July 2018, we expressed concerns verbally to Mr. Gable regarding the proximity of the build to the property line** as well as the lack of site safety. He had dug out the site at some point early summer 2018 while we were on vacation and left it abandoned for the rest of the summer. He brushed off concerns then about the build being too close. Attached below are photos from August 12, 2018 after a rainstorm washed parts of our side yard into his hole.

Again, as he was building the home through spring and summer of 2019, we verbally expressed concerns about how close he was building to our home. Again, we were brushed off. **Celia called the city at some point during the summer of 2019 and was told there was nothing to be concerned about and that the build was allowed to be that close these days.** We are curious if there is a record of these types of calls kept by the city.



6. The March 24<sup>th</sup> report states that the RS2 zoning “provides for complementary residential related uses that are compatible with the residential character of the area.” **The house built at 2728 Moyie Street is built completely out of character the rest of the neighbourhood** with the most immediately notable aspects being its height and its close proximity to our home. It has been described as ‘looming’.

Additionally, general upkeep of the yard is in keeping with the character of this neighbourhood. We have concerns that this will be an issue for the future residents of the subject property once a fence is built because **currently, to maintain the yard requires access to our property**. There is barely room to crawl under the cantilever wall with garden scissors if one avoids our property.

7. The March 24<sup>th</sup> report recommends approval of the permit based on the proposed distance from the property line being “compliant with BC Building Code requirements” [...] and “with all other Principal Development Regulations”. What this report fails to mention is that these codes and regulations change over time. **We are deeply concerned by risk of fire posed by the proximity of the subject property to our home**. While the subject property may be built to the latest in building codes and regulations, our home and the surrounding neighbourhood is older and not built to these latest codes. The cantilevered wall of the subject property sits next to the master bedroom of our home.

8. Concerns about overall professionalism of builder:

Build was started summer of 2018 with digging out foundation prior to the building permit being issued September 4, 2018 and possibly before builder was licensed and registered. We are curious if this is permitted in this industry?

Builder cut off the eaves that are the subject of this variance application in January 2021, but the report to council at the end of March 2021 still has them as the central issue that requires the permit.

Builder brushed off concerns when expressed numerous times by both of us, particularly when it came to the proximity of this build.

Builder and his workers access our property without communication or permission such as when performing yard maintenance, or when erecting scaffolding to cut eaves and then abandoning scaffolding for a week and half.

Builder has still not fixed damage to our property caused by his build in 2018 and 2019 such as a broken window and damage to the side yard subject to this variance permit application.

**We believe that professionalism ought to be expected from a home building professional.** While the subject property listed on the MLS as of April 6, 2021, it has not sold yet. **To the best of our knowledge, the builder is still the owner and he still has the chance to learn from his mistakes and to make this right.**

CONCLUSION: We believe that approving this permit, as written, is totally wrong. There are almost no overhanging eaves left. We no longer know exactly where the property line is. Based on where the

property markers currently are, the cantilevered wall itself and other projections such as vents, communications hubs, and the electrical meter are too close to the property line.

This is not a one-off mistake by a homeowner who didn't know better. This is the culmination of failures that have led to this moment: failures to listen to concerns spoken by neighbours in 2018 and 2019, failures for the city staff to hear our concerns when we called, failure of the building inspector to catch and/or communicate this issue to the builder, failure of the builder to build within the regulations.

It is not too late remedy these failures. The subject property is not sold yet. The builder can remove the cantilevered portion of the wall and fix his mistake.