

CITY OF BURNABY
BOARD OF VARIANCE

MINUTES

A Hearing of the Board of Variance was held in the Council Chamber, City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, 2015 February 05 at 1:00 p.m.

PRESENT: Ms. C. Richter
Mr. B. Pound
Mr. S. Nemeth
Mr. G. Clark
Mr. B. Bharaj

STAFF: Ms. M. Malysz, Planning Department Representative
Mr. E. Prior, Administrative Officer

1. CALL TO ORDER

The Secretary called the Hearing to order at 1:00 p.m.

2. ELECTION OF CHAIRPERSON

Nominations for Chairperson of the Burnaby Board of Variance were called for.

Mr. S. Nemeth nominated Ms. C. Richter for Chairperson of the Board of Variance.

There were no further nominations received.

MOVED BY MR. S. NEMETH:
SECONDED BY MR. P. POUND:

"THAT Ms. C. Richter be appointed as Chairperson of the Burnaby Board of Variance from 2015 February 05 to 2015 December 03."

CARRIED UNANIMOUSLY

3. MINUTES

MOVED BY MR. B. POUND:
SECONDED BY MR. B. BHARAJ:

"THAT the minutes of the Hearing of the Burnaby Board of Variance held on 2015 January 09 be adopted as circulated."

CARRIED UNANIMOUSLY

4. APPEAL APPLICATIONS

The following persons filed application forms requesting that they be permitted to appear before the Board of Variance for the purpose of appealing for the relaxation of specific requirements as defined in the Burnaby Zoning Bylaw 1965, Bylaw No. 4742:

(a) APPEAL NUMBER: B.V. 6141

APPELLANT: Dave Ghataurah

REGISTERED OWNER OF PROPERTY: Satinder and Arvind Ghataurah

CIVIC ADDRESS OF PROPERTY: 4084 Fir Street

LEGAL DESCRIPTION OF PROPERTY: Lot 70; District Lot 35; Plan 27645

APPEAL: An appeal for the relaxation of Section 104.9 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new single family dwelling at 4084 Fir Street. The front yard setback will be 24.70 feet to the foundation where a minimum front yard setback of 42.67 feet is required based on front yard averaging. The overhang will project 2.0 feet beyond the foundation and the porch stairs will project 6.0 feet beyond the foundation.

APPELLANT'S SUBMISSION:

Dave Ghataurah submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of a new single family dwelling at 4084 Fir Street.

Mr. Ghataurah, and Ms. Satinder and Mr. Arvind Ghataurah appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

An appeal for the relaxation of Section 104.9 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new single family dwelling at 4084 Fir Street. The front yard setback will be 24.70 feet to the foundation where a minimum front yard setback of 42.67 feet is required based on front yard averaging. The overhang will project 2.0 feet beyond the foundation and the porch stairs will project 6.0 feet beyond the foundation.

The subject site, which is zoned R4 Residential District, is located in the Cascade-Schou neighbourhood, in which the age and condition of single and two-family dwellings vary. This interior lot, approximately 60 ft. wide and 148.6 ft. deep, fronts onto the south side of Fir Street. The site is relatively flat with a downward slope of approximately 4.9 ft. from the front (north) to the rear (south). Abutting the subject site to the east and across Fir Street to the north are single family dwellings. To the immediate west of the subject site, a 20 ft. wide

panhandle extends south from Fir Street along the length of the subject property; this panhandle is part of a single family residential lot that fronts onto Lister Court, a cul-de-sac that runs parallel to Fir Street. The two properties immediately west of this panhandle are occupied by two-family dwellings. Vehicular access to the subject site is provided from Fir Street; there is no lane access.

The subject site is proposed to be redeveloped with a new single family dwelling including an accessory detached garage, which is the subject of this appeal.

The appeal requests a front yard setback of 24.7 ft., measured to the foundation of the proposed single family dwelling, with a further projection for roof eaves of 2.0 ft., where front yard averaging requires a minimum setback of 42.67 ft.

In 1991, Council responded to public concerns regarding the bulk and massing of newer and larger homes that were being built in existing neighbourhoods. Several text amendments to the Zoning Bylaw were adopted to address these concerns, including a requirement to set new construction back from the front property line based on an average of the two dwellings on either side of the subject site. The intent was to help to ease new construction into existing street frontages with minimal impact.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings at 4066/68 and 4078 Fir Street west of the subject site and on the front yard setback of the dwelling at 4088 Fir Street immediately east of the subject site. These front yards are 39.7 ft., 37.0 ft. and 51.3 ft. respectively. The existing dwelling to the east affects these calculations. The proposed front yard setback is measured to the foundation of the eastern portion of the front elevation which is also aligned with the posts of the centrally located recessed porch. As noted above, the roof overhang would project further into the front yard by 2.0 ft. The western portion of the front elevation is proposed to be set back further by 2.18 ft.

The proposed siting would place the subject dwelling 12.3 ft. in front of the neighbouring dwelling to the west, and 26.6 ft. in front of the neighbouring dwelling to the east. With respect to the neighbouring dwelling to the west, the approximately 32 ft. distance between this residence and the subject dwelling would help to mitigate the massing impacts of the proposed reduced front yard setback. Also, the existing mature hedge along the west edge of the panhandle that separates the two properties would provide screening.

However, this proposal would substantially impact the neighbouring property to the east. Although the proposed second floor is set back on this side by 24.67 ft. from the front face, the massing impacts would not be substantially reduced by this setback, as there is a high volume space proposed at the ground floor.

Further, the siting of the proposed dwelling would be approximately 10.3 ft. closer to the front property line in comparison to the siting of the existing dwelling on the subject site, which observes an approximately 35 ft. front yard setback, similar to 4078 Fir Street. In view of the above, the existing massing relationship between the proposed dwelling and the adjacent properties to the west and east would be substantially changed.

With regard to the broader neighbourhood context, although there are substantial frontage variations from 24.5 ft. (3956 Fir Avenue) to 76 ft. (4010 Fir Avenue) towards the west terminus of the subject block, the majority of the existing dwellings on the subject block front observe an average front yard setback of approximately 38 ft. Considering that the six lots immediately west of the subject site (excluding the 'panhandle' lot) observe a front yard setback of approximately 38 ft., the siting of the proposed dwelling would not fit within the existing streetscape.

Further, it is noted that the siting of the proposed dwelling would provide for a rear yard setback of approximately 63.88 ft., measured from the rear deck. As such, there is room for modifying the proposal in order to meet the intent of the Bylaw to ease the new construction into the existing street frontages with minimal impact.

Since this request involves a major relaxation that would negatively impact neighbouring properties and the existing streetscape, this Department objects to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

A petition letter was received from 4055 and 4079 Lister Court, 4083, 4088, 4095 and 4099 Fir Street and 4425 Carleton advising:

“That the following list of people support a front yard of 24.6 feet for 4084 Fir Street.”

Correspondence was received from Mei Yan Fen, 4077 Lister Court in opposition to this appeal.

*** Mr. Clarke retired from the hearing at 1:10 p.m. ***

DECISION:

MOVED BY MR. B. BHARAJ:

SECONDED BY MR. S. NEMETH:

“THAT based on the plans submitted this appeal be ALLOWED.”

FOR: MR. B. BHARAJ
MR. B. POUND
MR. S. NEMETH
OPPOSED: MS. C. RICHTER

CARRIED

*** Mr. Clarke returned to the hearing and took his place at the table at 1:12 p.m. ***

(b) **APPEAL NUMBER:** B.V. 6142 **WITHDRAWN**

APPELLANT: Dharam Kajal

REGISTERED OWNER OF PROPERTY: Sudesh and Dharam Kajal

CIVIC ADDRESS OF PROPERTY: 5469 Forglen Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 9; District Lot 32; Plan 17168

APPEAL: An appeal for the relaxation of Section 104.9 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new single family dwelling at 5469 Forglen Drive. The front yard setback will be 25.02 feet to the foundation where a minimum front yard setback of 35.66 feet is required based on front yard averaging. The window seat projects 1.0 foot beyond the foundation. The overhang projects 2.0 feet beyond the foundation and the porch stairs project 3.5 feet beyond the foundation.

APPELLANT'S SUBMISSION:

Dharam Kajal submitted an application for the relaxation of the Burnaby Zoning Bylaw to allow for the construction of a new single family home at 5469 Forglen Drive.

Mr. Kajal appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

An appeal for the relaxation of Section 104.9 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new single family dwelling at 5469 Forglen Drive. The front yard setback will be 25.02 feet to the foundation where a minimum front yard setback of 35.66 feet is required based on front yard averaging. The window seat projects 1.0 foot beyond the foundation. The overhang projects 2.0 feet beyond the foundation and the porch stairs project 3.5 feet beyond the foundation.

The subject site, which is zoned R4 Residential District, is located in the Marlborough neighbourhood, in which the age and condition of single and two-family dwellings vary. This interior lot, approximately 60 ft. wide and 115 ft. deep, fronts onto the southwest side of Forglen Drive. Abutting the subject site to the northwest, southeast and across the lane to the southwest are single family dwellings, and directly across Forglen Drive to the northeast is a two-family dwelling. The site observes a downward slope of approximately 17.8 ft. in the south-north direction. Vehicular access to the site is provided from the rear lane.

The applicant proposes to redevelop the site with a new single family dwelling including an accessory detached garage, which is the subject of this appeal.

The appeal requests a front yard setback of 25.02ft., measured to the foundation of the proposed single family dwelling, with a further projection for a bay window of 1.0 ft. and for roof eaves of 2.0 ft., where front yard averaging requires a minimum setback of 35.66 ft.

In 1991, Council responded to public concerns regarding the bulk and massing of newer and larger homes that were being built in existing neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including a requirement to set new construction back from the front property line based on an average of the two dwellings on either side of the subject site. The intent was to help to ease new construction into existing street frontages with minimal impact.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings at 5449 and 5459 Forglan Drive immediately west of the subject site and on the front yard setback of the dwelling at 4981 Buxton Street immediately east of the subject site. These front yards are 39.23 ft., 39.06 ft. and 28.68 ft. respectively. The 9 ft. wide bay window, which is located in this southern portion, would project further 1.0 ft. The roof eaves would project further from this southern portion by 2.0 ft. The northern portion of the front elevation is proposed to be set back further by 2.83 ft., resulting in a distance of 27.85 ft. to the front property line.

The proposed siting would place the subject dwelling 14.04 ft. in front of the neighbouring dwelling to the northwest and 3.66 ft. in front of the neighbouring dwelling to the southeast. With respect to the neighbouring dwelling to the northwest, if the actual 'corner to corner' relationship is considered, the subject dwelling would project 11.21 ft. in front of this residence. The proposed side yard setbacks, which measure slightly over 9 ft. on both sides of the proposed dwelling, somewhat mitigate the massing impacts of the proposal.

Also, on the southeast elevation, the second floor is set back a further 26.83 ft. from the front property line, to accommodate a high volume space on the main floor. The result is that the area of the proposed residence that extends past the neighbouring home to the southeast consists primarily of roof and wall elements, with few windows and no overlook. However, these elements would fully overlap the existing balconies at the front and northwest side elevation of the neighbouring dwelling, thus producing a sense of enclosure or confinement where currently none exists.

In addition, there is a concern that the proposed siting of the subject dwelling would dominate the neighbouring one-story dwelling to the northwest, which is at lower elevation.

Further, the siting of the proposed dwelling would be approximately 15 ft. closer to the front property line than the existing dwelling on the subject site, which observes an approximately 40 ft. front yard setback, similar to the adjacent lots to the northwest. In view of the above, the existing massing relationship between the subject property and the adjacent properties to the west and east would be substantially changed.

With regard to the broader neighbourhood context, three out of five lots in the subject block, excluding the subject lot, observe an average front yard setback of approximately 39-40 ft. The remaining lot at the south terminus of the subject block (immediately southeast of the

subject site), which is an irregular corner lot, observes a shorter front yard setback (28.68 ft.). The proposed siting would result in the most forward placement in the subject block and would not provide for transitioning between the longer front yard setbacks to the northwest and the shorter front yard setback of the lot to the southeast. Therefore, the intent of the Bylaw would not be met.

Further, it is noted that the siting of the proposed dwelling would provide for a rear yard setback of approximately 38.83 ft., measured from the rear covered deck. As such, there is some room for modifying the proposal in order to meet the intent of the Bylaw to ease the new construction into the existing street frontages with minimal impact.

Since this request would create negative impacts on the neighbouring properties and the existing streetscape, this Department cannot support to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from Ken and Linda Izumi of 5449 Forglen Drive in opposition to the variance as will adversely affect the street view of the homes along Forglen Drive.

DECISION:

This appeal was WITHDRAWN by the applicant prior to the vote.

(c) **APPEAL NUMBER:** **B.V. 6143**

APPELLANT: Nirmal Takhar

REGISTERED OWNER OF PROPERTY: Hirenkumar and Devang Patel

CIVIC ADDRESS OF PROPERTY: 7060 and 7062 (proposed strata address) Ramsay Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 115; District Lot 30; Plan 64617

APPEAL: An appeal for the relaxation of Section 105.9 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new two family dwelling at 7060 and 7062 (proposed strata address) Ramsay Avenue. The front yard setback will be 20.0 feet to the foundation where a minimum front yard setback of 28.02 feet is required based on front yard averaging. The roof overhang will project 2.95 feet beyond the foundation.

APPELLANT'S SUBMISSION:

Nirmal Takhar submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of a new two family dwelling at 7060 and 7062 Ramsay Avenue.

Mr. Takhar appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

An appeal for the relaxation of Section 105.9 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new two family dwelling at 7060/7062 Ramsay Avenue. The front yard setback will be 20.0 feet to the foundation where a minimum front yard setback of 28.02 feet is required based on front yard averaging. The roof overhang will project 2.95 feet beyond the foundation.

The subject site, which is zoned R5 Residential District, is located in the Richmond Park neighbourhood, in which the age and condition of single and two-family dwellings vary. This irregular shaped interior lot is approximately 120.2 ft. deep (along the northwest side property line) and has a frontage of approximately 66.2 ft. along the Ramsay Avenue cul-de-sac to the southeast. Two family dwellings abut the subject site to the northwest and across the lane to the northeast are single family dwellings. To the southeast the site is bordered by a parking lot for a large senior care development. A 10 ft. wide storm sewer statutory right of way is located along the southeast property line. Directly across the Ramsay Avenue cul-de-sac to the southeast is Cafferky Park. Vehicular access to the site is from the rear lane. The site is relatively flat with a downward slope of approximately 2 ft. from the rear (northeast) to the front (southwest).

The subject lot is proposed to be developed with a new two family dwelling including detached garage, for which a variance has been requested.

The appeal proposes a front yard setback of 20.00 ft. measured to the foundation of the proposed two-family dwelling, with a further roof eave projection of 2.95 ft., where front yard averaging requires a minimum setback of 28.02 ft. from the Ramsay Avenue property line.

In 1991, Council responded to public concerns regarding the bulk and massing of newer and larger homes that were being built in existing neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns including a requirement to set new construction back from the front property line based on an average of the two houses on either side of the subject site. The intent was to help to ease new construction into existing street frontages with minimal impact.

In this case, front yard averaging calculations are based on the front yards of two existing dwellings at 7040/7042 and 7050/7052 Ramsey Avenue immediately northwest of the subject site. The depth of these front yards is 29.3 ft. and 26.74 ft. respectively.

The proposed 20.0 ft. front yard setback is measured from the southeast property line to the closest portion of the proposed two family dwelling, which is the southeast dwelling unit. The northwest dwelling unit would observe a varying front yard setback from approximately 21ft. at its south (inner) point to approximately 28.83 ft. at its western corner, due to a curvature in the front property line.

With respect to its appearance along the streetscape, the proposed dwelling would actually appear to be approximately 8 ft. behind the adjacent dwelling at 7050/7052 Ramsay Avenue

to the northwest, again, due to a curvature in the front property line. As such, this proposal would not create negative impacts on the neighbouring dwelling to the northwest and the existing streetscape.

Further, the existing dwelling on the subject site observes a setback of approximately 19.69 ft. Therefore, this proposal would be consistent with the massing relationship of the existing dwelling and the neighbouring dwelling to the northwest.

In summary, given the geometry of the site, and the proposal's consistency with existing frontages on neighbouring properties and the streetscape in general, this Department supports the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

*** Mr. Clarke retired from the hearing at 1:30 p.m. ***

DECISION:

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

“THAT based on the plans submitted this appeal be ALLOWED.”

CARRIED UNANIMOUSLY

*** Mr. Clarke returned to the hearing and took his place at the table at 1:32 p.m. ***

(d) APPEAL NUMBER: B.V. 6144 WITHDRAWN

APPELLANT: Vijay Jain

REGISTERED OWNER OF PROPERTY: 0981909 BC LTD.

CIVIC ADDRESS OF PROPERTY: [7516 Edmonds Street](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 2; District Lot 30; Plan NWP3036

APPEAL: An appeal for the relaxation of the Local Government Act Section 911.(5) to allow construction of a new rear deck (including stairs and landing) to 7516 Edmonds Street. The appeal is to allow construction of a new rear deck (including stairs and landing) where no structural alteration or addition can be made in or to a building or structure while the non-conforming use is continued in all or any part of it.

(e) **APPEAL NUMBER:** B.V. 6145

APPELLANT: Vishal Dhami

REGISTERED OWNER OF PROPERTY: Samantha Wong and Ashwani Paul

CIVIC ADDRESS OF PROPERTY: 4718 Cambridge Street

LEGAL DESCRIPTION OF PROPERTY: Lot G; District Lot 188; Plan 15872

APPEAL An appeal for the relaxation of Sections 6.13(1)(b) and 6.14(5)(a) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a structure for a new single family dwelling currently under construction at 4718 Cambridge Street. The following variances are being requested:

- a) a structure along the vision clearance line facing Cambridge Street with varying heights up to a maximum of 6.3 feet and will allow a structure along the vision clearance line facing the lane with varying heights up to a maximum of 6.59 feet where the maximum permitted height along the vision clearance lines is 3.28 feet; and,
- b) a retaining wall in the required front yard with varying heights up to a maximum of 3.59 feet where the maximum permitted height is 3.28 feet.

APPELLANT'S SUBMISSION:

Vishal Dhami submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of a structure for a new single family dwelling at 4718 Cambridge Street.

Mr. Vishal Dhami and Ms. Jenna Asuncion appeared before members of the Board of Variance at the Hearing on behalf of the homeowners.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

An appeal for the relaxation of Sections 6.13(1)(b) and 6.14(5)(a) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a retaining wall/fence structure for a new single family dwelling currently under construction at 4718 Cambridge Street. The following variances are requested:

- a) *a retaining wall/fence structure along the vision clearance line facing Cambridge Street, with varying heights up to a maximum of 6.3 feet, and a retaining wall/fence structure along the vision clearance line facing the lane with varying heights up to a maximum of 6.59 feet, where the maximum permitted height along the vision clearance lines is 3.28 feet; and,*
- b) *a retaining wall in the required front yard with varying heights up to a maximum of 3.59 feet where the maximum permitted height is 3.28 feet.*

The subject site, which is zoned R5 Residential District, is located in the Capitol Hill neighbourhood in which the age and condition of single and two-family dwellings vary. This interior lot, approximately 51 ft. wide and 122 ft. deep, is located at the western terminus of the subject block, just south of where Cambridge Street turns 90 degrees and becomes Beta Avenue. Abutting the site to the east is a single family dwelling and across the lane to the west and south is Confederation Park. Vehicular access to the subject property is provided from the rear lane. The subject lot is relatively flat with a downward slope of approximately 7 ft. in the east-west direction.

The subject site contains a single family dwelling and detached garage that are in the final stages of construction, in accordance with Building Permit #BLD13-00456. The two requested variances concern a structure, consisting of an already built retaining wall with a proposed fence on top, in the front yard. These variances are co-related.

The first a) appeal is to allow the retaining wall/fence structure to encroach into the vision clearance area at the intersection of Cambridge Street and the lane to the west. The structure will have a varying height of up to 6.3 ft. along the Cambridge Street property line, and up to 6.59 ft. along the lane property line, where a maximum height of 3.28 ft. is permitted.

The intent of the Bylaw in requiring vision clearance is to facilitate vehicular, pedestrian and cyclist safety at street and lane intersections. The vision clearance area is a triangular area formed by the property lines and a line joining two points along the property lines. In this case, the joining line must be 19.69 ft. distant from the intersection of the street and lane.

The second b) appeal is to permit retention of the already constructed retaining wall along the Cambridge Street frontage, with varying heights up to a maximum of 3.59 ft. where the maximum height of 3.28 ft. is permitted.

The intent of the Bylaw in limiting the height of fences or walls to a maximum of 3.28 ft. within the required front yard is to ensure uniform open front yards and to limit the massing impacts of such structures on neighbouring properties.

In this case, the vision clearance area in the northwest corner has been raised approximately 4 ft. to allow for a flatter front yard. As a result of this design decision and to address the sloping terrain, concrete retaining walls were built along the north (Cambridge Street) and west (lane) property lines. The current proposal is to add a 3 ft. high fence on top of these walls which would match the already built fence on top of the retaining wall to the rear of the front yard. This fence is made of 1-inch wide aluminum strips with a 1 inch gap in between. The overall height of the retaining wall/fence structure would be 6.3 ft. at the northwest corner of the site, and would slightly increase up to 6.59 ft. at the rear extent of the vision clearance zone (approximately 20 ft. away from the front property line), due to the descending terrain.

With respect to the first a) variance, the retaining wall/fence structure would fully encroach (by 19.69 ft.) into the vision clearance zone along Cambridge Street and the side lane. In addition, the structure within this vision clearance zone would be more than twice the maximum allowable height, which is a major variance. The proposed semi-transparent construction of the fence would to some extent mitigate safety concerns with respect to the reduction of sightlines to Cambridge Street. However, because the west lane enters the street at a 90 degree turn, no safety measures should be compromised.

In summary, given ongoing concerns regarding traffic safety, this Department questions the advisability of reducing the vision clearance setback. Therefore, this Department cannot support the granting of the first a) major variance, which reduces traffic safety at the street/lane intersection.

With respect to the second b) variance, according to the submitted drawings, only a small portion of the subject retaining wall along the west property line exceeds the permitted height, and then only by 0.31 ft. This minor height deviation from the building permit drawings is not noticeable when viewed in the context of the large green area of Confederation Park to the west.

Since the requested relaxation has no impact on the visual character of the neighbouring properties, this Department does not object to the granting of the second b) minor appeal.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from Peter Cech, 64715 Cambridge Street, advising that if an additional structure along the laneway (west) side of the property does not exceed three feet in height he has no objections. Regarding the front (north) side facing Cambridge, Mr. Cech does object to a metal or concrete structure on top of the existing retaining wall but would not object to a hedge or shrubs that do not exceed three feet in height along the existing retaining wall.

*** Mr. Clarke retired from the hearing at 1:40 p.m. ***

DECISION:

MOVED BY MR. B. BHARAJ:

SECONDED BY MR. S. NEMETH:

“THAT based on the plans submitted part a) of this appeal be DENIED.”

FOR: MR. B. BHARAJ
MS. C. RICHTER

OPPOSED: MR. B. POUND
MR. NEMETH

LOST (tie vote)

No further action was taken on this variance.

“THAT based on the plans submitted part b) of this appeal be ALLOWED.”

*** Mr. Clarke returned to the hearing and took his place at the table at 1:48 p.m. ***

Mr. Rogic and his designer appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

An appeal for the relaxation of Sections 101.6 (1)(a), 101.7(a) and 101.8 of the Burnaby Zoning Bylaw which, if permitted, will allow for a new single family dwelling at 5850 Braemar Avenue. The following variances are requested:

- a) the principal building height, measured from the rear average elevation, will be 34.89 feet, where a maximum building height of 29.5 feet is permitted; and*
- b) ~~the depth of the principal building will be 63.5 feet where a maximum depth of 60.0 feet is permitted; and~~ **WITHDRAWN***
- c) the front yard setback will be 27.59 feet to the post where a minimum front yard setback of 49.06 feet is required based on front yard averaging. The roof overhang will be 2.0 feet beyond the post.*

The subject site, zoned R1 Residential District, is located in a stable single-family neighbourhood in the Morley-Buckingham area. This corner lot, approximately 90 ft. wide and 130 ft. deep, fronts Braemar Avenue to the southwest and flanks Whelen Court to the northwest. Whelen Court terminates in a T-shaped cul-de-sac at the northwest corner of the property; a portion of the cul-de-sac extends 22 ft. along the rear property line. Abutting the site to the southeast and across Whelen Court to the northeast are single family dwellings. A wooded ravine containing Buckingham Creek Tributary 1 is located approximately 30 m to the east of the subject property. Vehicular access to the property is proposed from Whelen Court to the northwest, with the existing access from Braemar Avenue to be removed. The site slopes downward approximately 21.5 ft. towards the north.

A new single-family dwelling with attached garage is proposed for the subject site, for which two variances are requested. The originally requested third variance related to a building depth, which is the second b) appeal on the agenda, has been *withdrawn*.

The first appeal a) proposes a building height of 34.89 ft., measured from the rear average elevation, where a maximum height of 29.5 ft. is permitted.

The intent of the Bylaw is to mitigate the massing of new buildings or structures and their impacts on neighbouring properties.

In this case, the height calculation is based on the existing natural grade at the rear elevation. A substantial grade difference from the south front corner to the opposite rear corner of the subject site contributes to the excess height. Accordingly, the rear corner of the proposed dwelling, where the grades are lowest, is where the excess height would occur. The proposed height encroachment of 5.39 ft. would be generally limited to the north peak of the main gabled roof, which runs in a northwest-southeast direction approximately in the middle of the dwelling. This area of encroachment would be set back from the rear outermost building face, which is at the north corner of the dwelling, approximately 27.5 ft.

An area of encroachment would also occur at the very tip of the gable roof over this outermost building face. The distance from this outermost building face to the rear property line would be approximately 38.9 ft., with the roof eaves projecting a further 3 ft. When viewed from the flanking side elevation along Whelen Court, the proposed height encroachment would be primarily limited to the small triangular area at the top of the main roof gable, which consists of a large dormer at the northwest elevation. The height encroachment in this case would occur approximately 27.75 ft. from the northwest property line, as measure to the dormer face, with the roof eaves projecting a further 4 ft.

With respect to the massing impacts on the neighbouring dwellings across Whelen Court to the northeast (rear) and northwest (flanking side) of the subject site, considering the limited scale and distant siting of the encroachment areas at the rear and side elevations, it is not expected that the views from these neighbouring properties would be affected.

Also, the proposed dwelling will observe a height of 28.75 ft. when viewed from the Braemar Avenue front property line, which is considerably less than the maximum height of 29.5 ft. allowed by the Zoning Bylaw. As viewed from the neighbouring dwelling to the southeast, the proposed dwelling would observe a height within the permitted 29.5 ft. limits, except for a tip of the main gable roof.

In summary, given the site's topographical constraints, and the proposal's limited impacts on neighbouring properties and the existing streetscape, this Department does not object to the granting of the first a) variance.

The third c) appeal requests a front yard setback of 27.59 ft., measured to the front porch posts of the proposed single family dwelling, with a further projection for roof eaves of 2.0 ft., where front yard averaging requires a minimum setback of 49.06 ft.

In 1991, Council responded to public concerns regarding the bulk and massing of newer and larger homes that were being built in existing neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including a requirement to set new construction back from the front property line based on an average of the two dwellings on either side of the subject site. The intent was to help to ease new construction into existing street frontages with minimal impact.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings at 5870 and 5890 Braemar Avenue immediately southeast of the subject site. These front yards are 24.61 ft. and 73.51 ft. respectively. The existing dwelling at 5890 Braemar Avenue, second to the southeast, affects these calculations. As noted above, the front yard setback is measured to the posts of the front porch which is located slightly northwest of center on the front elevation. The porch roof overhang and steps would project further into the front yard by 2.0 ft. With the exception of the front porch, the main body of the dwelling would be set back further by 3.5 ft. at the southern portion and 4.5 ft. at the northern portion.

The existing dwelling on the subject site observes an approximately 25 ft. front yard setback, similar to 5070 Braemar Avenue. It should be noted that the existing residence was

the subject of a successful appeal to the Board in 1975, (Reference #BV 1189), which allowed a front yard setback of 25 ft. where 30 ft. was required.

The siting of the proposed dwelling would be approximately 2.59 ft. further away from the front property line in comparison to the siting of the existing dwelling. In this context, this proposal improves the existing massing relationship between the proposed dwelling and the adjacent residence to the southeast. The proposed siting would place the subject dwelling 2.98 ft. behind this residence, or 6.48 ft. behind if a 'corner to corner' relationship is considered. The 5.33 ft. deep recessed covered patio, proposed at the south corner of the subject dwelling, and the large second floor setback of 20.5 ft. proposed on the same side would further help reduce potential massing impacts.

With regard to the broader neighbourhood context, considering that currently three out of four lots in the subject block, including the subject site, observe a front yard setback in the 24-25 ft. range, with the remaining lot at 5890 Braemar Avenue observing a much larger front yard setback, the siting of the proposed dwelling would be consistent with the existing streetscape. In addition, with respect to the flanking block front on the opposite side of Whelen Court, the siting of the proposed dwelling would be approximately 7.75 ft. further away from the Whelen Court property line than the existing dwelling. The increased setback would further ease the proposed construction into the existing neighbourhood.

Since this request would not impact neighbouring properties and the existing streetscape in general, this Department does not object to the granting of this third c) variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

*** Mr. Clarke retired from the hearing at 1:50 p.m. ***

DECISION:

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

“THAT based on the plans submitted part a) of this appeal be ALLOWED.”

CARRIED UNANIMOUSLY

Part b) of the Appeal was **WITDRAWN** prior to the Hearing.

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

“THAT based on the plans submitted part c) of this appeal be ALLOWED.”

CARRIED UNANIMOUSLY

*** Mr. Clarke returned to the hearing and took his place at the table at 1:52 p.m. ***

5. NEW BUSINESS

No items of new business were brought forward at this time.

ADJOURNMENT

MOVED BY MR. S. NEMETH:

SECONDED BY MR. B. POUND:

"THAT this Hearing do now adjourn."

CARRIED UNANIMOUSLY

The Hearing adjourned at 1:55 p.m.

Ms. C. Richter

Mr. B. Bharaj

Mr. G. Clark

Mr. S. Nemeth

Mr. B. Pound

E. Prior
Administrative Officer