

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 April 02 at 1:00 p.m.

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

STAFF: Ms. S. Knapp, Planning Department Representative  
Mr. E. Prior, Administrative Officer

**1. CALL TO ORDER**

The Secretary called the Hearing to order at 1:05 p.m.

**2. MINUTES**

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

"THAT the minutes of the Hearing of the Burnaby Board of Variance held on 2015 March 05 be adopted as circulated."

CARRIED UNANIMOUSLY

**3. 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. 6151**

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 28.67 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 relaxation of the Burnaby Zoning Bylaw to allow for construction of a new single family dwelling at 5469 Forglen Drive.

Mr. Dharam 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 28.67 ft. to the foundation where a minimum front yard setback of 35.66 ft. is required based on front yard averaging. The window seat projects 1.0 foot beyond the foundation. The overhang projects 2.0 ft. beyond the foundation and the porch stairs project 3.5 ft. beyond the foundation.***

The applicant is proposing to build a new single family dwelling. The following relaxations are being requested:

The front yard setback, to the foundation, will be 28.67 ft. where a minimum front yard setback of 35.66 ft. is required based on front yard averaging. The window seat projects 1.0 foot beyond the foundation. The overhang projects 2.0 ft. beyond the foundation. The porch stairs project 3.5 ft. 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 an upward slope of approximately 17.8 ft. in the north-south direction. Vehicular access to the site is provided from the rear lane. This property came before the board (BOV 6142) in February 2015, and was withdrawn. The proposal with a slightly greater front yard setback has been brought before the Board today.

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 28.67 ft., 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. deep respectively, resulting in an average setback of 35.66 ft. The proposed setback is 28.67 ft. The 9 ft. wide bay window, which is proposed in the southern portion of the front elevation, would project a 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 31.5 ft. from the foundation to the front property line.

The proposed siting would place the subject dwelling 10.39 ft. in front of the neighbouring dwelling to the northwest and in line with 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 7.56 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 1.81 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 is minimal, consisting primarily of roof elements and a shallow bay window on the main floor.

However, there remains the 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 11.33 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 northwest 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, while consistent with this southernmost lot, provides an abrupt transition

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 35.18 ft., measured from the rear covered deck. As such, there is still more 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 on 2015 April 02 from Ms. Claire Stegen, 4981 Buxton Street in opposition to this appeal.

No further submissions were received regarding this appeal.

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. G. CLARKE  
MS. C. RICHTER

OPPOSED: MR. S. NEMETH

CARRIED

(b) APPEAL NUMBER: B.V. 6152

APPELLANT: Tom Harman

REGISTERED OWNER OF PROPERTY: Tom Harman

CIVIC ADDRESS OF PROPERTY: 16 Holdom Avenue North

LEGAL DESCRIPTION OF PROPERTY: Lot 5; District Lot 218; Plan 4953

APPEAL: An appeal for the relaxation of Sections 105.3(1) and 105.8(1) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new deck at the rear of a single family dwelling at 16 Holdom Avenue North. The

following variances are being requested:

- a) the lot coverage will be 1709.6 square feet where a maximum lot coverage of 1603.7 feet is permitted; and,
- b) the depth of the principal building will be 72.06 feet where a maximum depth of 60.0 feet is permitted.

APPELLANT'S SUBMISSION:

Tom Harman submitted an application for the relaxation of the Burnaby Zoning Bylaw to allow for the construction of a new deck at the rear of a single family dwelling at 16 Holdom Avenue North.

Mr. Tom Harman and Mr. Jason Harman appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

***An appeal for the relaxation of Sections 105.3(1) and 105.8(1) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new deck at the rear of a single family dwelling at 16 Holdom Avenue North. The following variances are being requested:***

- a) the lot coverage will be 1709.6 square feet. where a maximum lot coverage of 1603.7 square ft. is permitted; and,***
- b) the depth of the principal building will be 72.06 ft. where a maximum depth of 60.0 ft. is permitted.***

The applicant has built an uncovered deck (without permit) at the rear of an existing single family dwelling. The following relaxations are being requested:

- 1) Lot coverage will be 1709.6 sq. ft. where maximum lot coverage of 1603.7 sq. ft. is permitted.
- 2) The depth of the principal building will be 72.06 ft. where a maximum depth of 60 ft. is permitted.

The subject R5 property is located in the Capitol Hill neighbourhood, in which the age and condition of single family dwellings varies. This interior lot, approximately 33 ft. wide and 121.38 ft. long fronts onto North Holdom Avenue to the west. The lot slopes downwards from Holdom Avenue to the lane, so that the house has the appearance of a two storey house in front, and a three storey house at the lane. The subject house was before the Board twice in 1988 for variances to reduce the width of the south side yard. Both requests were granted, and a south side yard of 2.5 ft. where 3.3 ft. is required was approved.

The deck under discussion faces the lane to the east of the principal building.

**The first requested variance would permit the** lot coverage to be 1709.6 sq. ft. where maximum lot coverage of 1603.7 sq. ft. is permitted.

The intent of the Bylaw in regulating lot coverage is to control massing, so that there are no negative impacts on the adjacent properties, and to ensure that there is adequate outdoor recreation area for the subject property.

In this instance, the area under the deck is open, and it does not increase the perception of massing on the subject site. The rear yard has an area 24.38 ft. deep by 33 ft. wide for outdoor recreation, plus access to the 8 ft. by 33 ft. wide area below the deck.

In this instance, the increase in the permitted lot coverage does not appear to have a negative impact on the subject site in terms of removing outdoor living area or creating additional massing. However, it is difficult to determine hardship in this case. Until a year ago, there was a deck off the dining room which spanned half the width of the back of the house. Subsequently, a deck which spans the full 28 ft. width of the house was constructed. When the house received its building permits in 1988, the lot coverage was 1,517 sq. ft. where the Bylaw permits 1,603 sq. ft. Therefore, a deck that is 8 ft. wide and 11 ft. long could be constructed that would comply with the Bylaw. As design options exist to provide a deck that would be in compliance with the Bylaw, this Department **cannot support** this request for a **variance**.

**The second variance would permit** the depth of the principal building to be 72.06 ft. where a maximum depth of 60 ft. is permitted.

The existing house was constructed in 1989 with an attached two car garage facing onto North Holdom. The 68 foot depth of the house was permissible at that time for a house in the R5 zone. In 1996, the R5 Bylaw was changed to restrict the depth of all principal buildings to a maximum of 60 ft. or 50% of the lot depth, with the intention of preventing new dwellings which would present long walls, such that the massing of the building impacted on the neighbouring properties.

The existing house is legal non-conforming by 8 ft.. The proposed deck, which was constructed without the benefit of a building permit, increases the apparent building depth to 76 ft.. However, the measurement of building depth allows for a 3.94 foot projection from the house which is not included in the overall building depth, so that the variance requested is to permit a building which is 72.06 ft. long.

In this instance, the deck is unroofed and underside of the deck is open, which mitigates the perception of the building massing. However, the proposed deck overlooks and further encloses the rear yard of the property to the immediate south, which is already flanked by the south wall of the existing dwelling. In addition, the proposed deck overlooks the rear yard of the property to the immediate north, including a small deck adjacent to the shared property line. As noted above, design alternatives exist to decrease the size of the deck; a smaller deck could be placed in the center of the rear elevation and thus reduce impacts on the neighbouring properties to either side.

For the reasons stated above, this department **cannot support** the granting of **this variance**.

ADJACENT OWNER'S COMMENTS:

A petition letter, dated 2015 March 29, was received from homeowners/occupants of 3, 9, 12, 14, 17, 18, 21, 41 and 79 Holdom Avenue North, and 11, 15, 51, 91, 105 and 109 Sea Avenue North. The petition read as follows:

“We urge the Board of Variance to reject the above appeal relating to the construction of a sundeck at the rear of the dwelling at 16 North Holdom Avenue.”

Correspondence dated 2015 April 02, was received from Jack and Donna Picknell, 14 Holdom Avenue North, in opposition to the appeal.

Correspondence dated 2015 April 02, was received from J. F. Morris, 97 Sea Avenue North, expressing the following two concerns: 1) the balcony, as it is presently constructed, does not have railings or proper support; and 2) if the variance is granted, the owner would then enclose the balcony or the area underneath which the author is opposed to.

Correspondence dated 2015 April 02, was received from Ms. A Barbera, occupant of the subject property at 16 Holdom Avenue North, in support of the variance.

Mr. Jack Picknell, 14 Holdom Avenue North, appeared in opposition to the variance. Mr. Picknell expressed concern regarding loss of privacy and construction without a building permit.

Ms. Barbera, occupant of the subject property appeared in support of the semi-constructed deck.

A petition letter was received with signatures from homeowners/occupants of 4, 16, 21, 22, and 41 Holdom Avenue North and 19, 51, 91 and 101 Sea Avenue North in support of the variances requested. The petition read as follows:

“We, the undersigned, neighbours and residents of 16 Holdom Avenue North, support the homeowner’s application, which is currently under review by the City of Burnaby Board of Variance, for permission to construct a new rear-facing deck and toward that end, relaxation of ss 105.3(1) and 105.8(1) of the Burnaby Zoning Bylaws.”

DECISION:

MOVED BY MR. B. BHARAJ:

SECONDED BY MR. S. NEMETH:

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

FOR: MR. B. BHARAJ  
MR. B. POUND  
MR. S. NEMETH

OPPOSED: MS. C. RICHTER  
MR. G. CLARK

CARRIED

MOVED BY MR. B. BHARAJ:

SECONDED BY MR. S. NEMETH:

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

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

OPPOSED: MR. G. CLARK

CARRIED

(c) **APPEAL NUMBER:** **B.V. 6153**

APPELLANT: Reid Thompson, Woodbridge NW (Deer Lake) Homes Ltd.

REGISTERED OWNER OF PROPERTY: Woodbridge NW (Deer Lake) Homes Ltd.

CIVIC ADDRESS OF PROPERTY: 4991 Claude Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 171; District Lot 85; Plan 40315

APPEAL: An appeal for the relaxation of Section 104.8(1) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new temporary residential sales centre building at 4991 Claude Avenue. The principal building depth will be 70.0 feet where a maximum building depth of 60.0 feet is permitted.

APPELLANT'S SUBMISSION:

Jim Billingsley, CEO Woddbridge Northwest Communities (property owner) submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of a new temporary residential sales centre building at 4991 Claude Avenue.

Mr. Reid Thompson appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

*An appeal for the relaxation of Section 104.8(1) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new temporary residential sales centre building at 4991 Claude Avenue. The principal building depth will be 70.0 ft. where a maximum building depth of 60.0 ft. is permitted.*

The applicant is proposing to construct a temporary residential sales centre for which the following variance is requested:

- 1) A principal building depth of 70 ft. where a maximum building depth of 60 ft. is permitted.

The subject site is located in the Rayside neighbourhood, in an area designated for multi-family residential and park uses in the Rayside Community Plan. The subject site is a recently consolidated lot, 106.23 ft. wide x 205.61 ft. deep. It is one of several properties that are the subject of a rezoning proposal from R4 Residential District (single and two family residential) to CD Comprehensive Development District based on the RM2 Multiple Family Residential District (medium density multi-family development). To the north, across Claude Avenue, are undeveloped R4 District lots under City and Provincial ownership. Older single family residences are located to the immediate east of the subject site. The proposed sales centre would be located approximately 167 ft. from the western property line it shares with 4951 Claude Avenue to the west and 30 ft. from the shared property line with the single family dwelling at 5003 Claude Avenue to the east.

The requested variance would permit an overall building depth of 70 ft. where the Bylaw permits 60 ft.. The intent of the Bylaw in regulating building length is to prevent the creating of a long building wall that could create negative effects from massing on neighbouring properties.

The proposed sales centre consists of a 1,761 sq. ft. single storey building. It is located approximately 30 ft. from the closest house, which is 5003 Claude Avenue to the east. This large side yard reduces the impact of the additional building length on the adjacent back yard. In addition, the applicant proposes to construct a solid 6 foot high cedar fence on the shared property line from the front face of the sales centre to the rear of the property. The front yard of the sales centre property will be defined by a three foot tall picket fence.

The additional massing created by the building length is mitigated by the modest scale of the structure and its varied design. The first 41 ft. of the building resembles a house with a traditional pitched roof. This 24 ft. tall "house" is well under the 29.5 ft. Height permitted in the Bylaw for a structure with a sloping roof. The rear 29 ft. of the sales centre is 15 ft. tall, which reduces the massing of the building considerably.

Considering the large size of the subject lot, the solid fence preventing views into the adjacent property and the reduction in building height for the last 29 ft. of the structure, it does not appear that the additional ten ft. of building length will have a negative impact on the adjacent properties. As the intent of the Bylaw is not defeated by this request, this Department **does not** have any objections.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

DECISION:

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

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

CARRIED UNANIMOUSLY

(d) **APPEAL NUMBER:** **B.V. 6154**

APPELLANT: Gurdeep Sandhar

REGISTERED OWNER OF PROPERTY: Gurdeep and Aneeta Sandhar

CIVIC ADDRESS OF PROPERTY: 5591 Marine Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 9; District Lot 159 and 162; Plan 20185

APPEAL: An appeal for the relaxation of Sections 102.8, 6.14(5)(b) and 800.6 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new single family dwelling at 5591 Marine Drive. The following variances are being requested:

- a) the front yard setback will be 51.46 feet to the post where a minimum front yard setback of 65.05 feet is required based on front yard averaging;
- b) construction of a retaining wall at the rear of the lot with varying heights up to a maximum of 9.0 feet where the maximum permitted height is 5.91 feet; and,
- c) construction of an accessory building in a required front yard, located 4.0 feet from the North property line abutting Eleanor Street and 2.0 feet from the West property line, where siting of an accessory building in a required front yard is prohibited by the Zoning bylaw.

APPELLANT'S SUBMISSION:

Gurdeep Sandhar submitted an application for the relaxation of the Burnaby Zoning Bylaw to allow for the construction of a new single family dwelling at 5591 Marine Drive.

Mr. Gurdeep and Mrs. Aneeta Sandhar, homeowners, and Mr. Abtar Sandhar, brother of homeowners, appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

***An appeal for the relaxation of Sections 102.8, 6.14(5)(b) and 800.6 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new single family dwelling at 5591 Marine Drive. The following variances are being requested:***

***a) the front yard setback will be 51.46 ft. to the post where a minimum front yard setback of 65.05 ft. is required based on front yard averaging;***

***b) construction of a retaining wall at the rear of the lot with varying heights up to a maximum of 9.0 ft. where the maximum permitted height is 5.91 ft.; and,***

***c) construction of an accessory building in a required front yard, located 4.0 ft. from the North property line abutting Eleanor Street and 2.0 ft. from the West property line, where siting of an accessory building in a required front yard is prohibited by the Zoning bylaw.***

The applicant is proposing to build a new single family dwelling. The following variances have been requested:

- 1) The front yard setback from Marine Drive will be 51.46 ft. to the post where a minimum front yard setback of 65.05 ft. is required based on front yard averaging.
- 2) The relaxation of Section 6.14(5)(b) of the Zoning Bylaw, which, if permitted, will allow for the construction of a retaining wall at the rear of the lot with varying heights up to a maximum of 9.0 ft. where the maximum permitted height is 5.91 ft..
- 3) The relaxation of Section 800.6 of the Zoning Bylaw which if permitted, will allow an accessory building in a required front yard, located 4.0 ft. from the north property line abutting Eleanor Street and 2.0 ft. from the west property line, where siting of an accessory building in a required front yard is prohibited.

The subject site is located in the Big Bend area, in which the age and condition of single family dwellings vary. This rectangular interior lot, approximately 65 ft. wide by 153.29 ft. long, fronts onto the north side of Marine Drive, and also fronts onto the south side of Eleanor Street. Abutting the subject site to the east and west are single family dwellings. To the south, across Eleanor Street, are single family dwellings that sit higher on the slope than the subject lot. Existing and proposed vehicular access to the site is provided by Eleanor Street.

The site slopes downwards from the high point of 69.4 ft. at the northwest corner of the Eleanor Street property line to 46.6 ft. at the south west corner of the front property line on Marine Drive, dropping 22 ft. over the 153.29 foot length of the lot. The land continues to slope downwards across Marine Drive and the lots beyond.

The **first requested variance** would permit: front yard setback on Marine Drive to be 51.46 ft. to the front porch post where a minimum front yard setback of 65.05 ft. is required based on front yard averaging.

In 1991, Council responded to public concerns with respect to 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 the houses on either side of the subject site. The intent was to help to ease the new construction into existing street frontages with minimal impact. In this case, the front yard averaging calculation is based on the front yards of four single family dwellings to the east and west of the subject site. These front yards and their respective depths are 5611 and 5525 Marine Drive to the east (69.95 ft. and 68.92 ft.) and 5571 and 5581 Marine Drive to the west (61.58 ft. and 59.74 ft.).

The front yard on the subject site has been measured from the Marine Drive property line to the front porch posts of the house, which project 3.92 ft. from the front face of the house. The portion of the house immediately adjacent to 5611 Marine Drive is further set back by 3.5 ft., so that in a corner to corner relationship, the subject house has a setback of 58.86 ft., and 5611 Marine Drive has a setback of 69.95 ft., placing the proposed house 11 ft. in front of 5611 Marine Drive.

The required setback of 65.05 ft., based on front yard averaging, would be consistent with the existing streetscape of the newer houses on Marine Drive. However, this may not be achievable with the current design of the principal building, given the required 42.85 ft. front yard setback from Eleanor Street based on front yard averaging. As proposed, the dwelling observes a 53.25 ft. setback from Eleanor Street, consistent with Bylaw requirements. The same dwelling, if shifted 10.4 ft. north, would observe the minimum required front yard setback from Eleanor Street and a 61.86 ft. setback from Marine Drive. If the depth of the building were reduced by 3.19 ft., it could achieve compliance with both required setbacks.

As the request appears to be the result of a design preference, and alternatives exist, this Department **cannot support** the granting of **this variance**.

The **second requested variance** is for the: relaxation of Section 6.14(5)(b) of the Zoning Bylaw, which, if permitted, will allow for the construction of a retaining wall at the rear of the lot with varying heights up to a maximum of 9.0 ft., where the maximum permitted height is 5.91 ft.

The proposed retaining wall runs east-west across the property, 29.5 ft. from the front property line at Eleanor Street. The retaining wall would support the parking area and a garage built at the existing level of Eleanor Street (elev. 69.4 ft.). The elevation at the bottom of the retaining wall would be approximately 61.0 ft.. At this level, a 28.6 ft. wide yard would extend to the rear face of the house, and within this area, two small sunken patios at an elevation of 52.17 ft. would connect with the cellar level.

The intent of the Bylaw in restricting height of walls in the front yard is to ensure uniform, open front yards and to limit the massing impacts on the neighbours.

In this case, the retaining wall would be visible primarily to the residents of the proposed house, and would not have a negative massing impact on the neighbouring properties. As this variance request does not defeat the intent of the Bylaw, this department has **no objections**.

The **third requested variance** is for the: relaxation of Section 800.6 of the Zoning Bylaw which, if permitted, will allow an accessory building in the required front yard, located 4.0 ft. from the north property line abutting Eleanor Street and 2.0 ft. from the west property line, where the siting of an accessory building in a required front yard is prohibited.

The intent of the Bylaw in prohibiting accessory buildings within the required front yard is to provide a uniform streetscape with open front yards and to limit massing impacts on neighbouring properties. The proposal shows a two car garage 21 ft. wide by 21 ft. deep and approximately 12 ft. tall placed in the northwest corner of the site. It is noted that the Engineering Department requires the new dwelling on Marine Drive to take access from Eleanor Street.

With respect to the subject streetscape, none of the properties on either side of Eleanor Street have garages in their front yards. Moreover, design alternatives exist to locate a garage further away from the Eleanor Street property line, either by integrating it into the proposed dwelling or directly adjacent to it. While these alternatives may necessitate some encroachment into the required 42.85 ft. setback, the placement of the garage directly adjacent to the street is not warranted by any hardship.

As design alternatives exist to provide a garage that would not be in the Eleanor Street front yard, and the proposed garage would be an anomaly in the open front yards of Eleanor Street, the proposal would defeat the intent of the Bylaw. For this reason, this Department **cannot support** the request for **this variance**.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

DECISION:

MOVED BY MR. S. NEMETH:

SECONDED BY MR. B. POUND:

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

FOR: MR. B. BHARAJ  
MR. B. POUND  
MR. S. NEMETH  
MR. G. CLARK

OPPOSED: MS. C. RICHTER

CARRIED

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

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

CARRIED UNANIMOUSLY

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

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

CARRIED UNANIMOUSLY

(e) **APPEAL NUMBER:** B.V. 6155

APPELLANT: Avtar Basra

REGISTERED OWNER OF PROPERTY: Canada Haojun Development Group Co. and  
A-G Tej Construction Ltd

CIVIC ADDRESS OF PROPERTY: 6696 Aubrey Street

LEGAL DESCRIPTION OF PROPERTY: Lot 3; District Lot 132; Plan 20814

APPEAL An appeal for the relaxation of Section 6.3.1 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new two family dwelling with a detached garage at 6696 Aubrey Street. The distance between the principal building and detached garage is 6.01 feet where a minimum distance of 14.8 feet is required. (Zone R-4).

*A previous Board of Variance (BOV 6140 2015 January 08) allowed: a) the principal building front yard setback from the east property line of 36.0 feet where a minimum 40.0 feet is required; and b) the detached garage measured from the north property line of 16.0 feet where a minimum 24.6 feet is required.*

APPELLANT'S SUBMISSION:

Avtar Basra submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of a new two family dwelling with a detached garage at 6696 Aubrey Street.

Mr. Vikram Tiku 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 Section 6.3.1 of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new two family dwelling with a detached garage at 6696*

***Aubrey Street. The distance between the principal building and detached garage is 6.01 ft. where a minimum distance of 14.8 ft. is required.***

***A previous Board of Variance (BOV 6140 2015 January 08) allowed: a) the principal building front yard setback from the east property line of 36.0 ft. where a minimum 40.0 ft. is required; and b) the detached garage measured from the north property line of 16.0 ft. where a minimum 24.6 ft. is required.***

The applicant proposed to construct a new two family dwelling with two detached garages at 6696/6698 Aubrey Street. The following variances are requested: the distance between the principal building and detached garage is 6.01 ft. where a minimum distance of 14.8 ft. is required.

The subject site, zoned R4 Residential District, is located in the Lochdale neighbourhood in which the age and condition of single and two-family dwellings vary. This corner lot, approximately 83.1 ft. wide and 121 ft. deep, fronts Sperling Avenue to the east and flanks Aubrey Street to the north. Abutting the site to the south and across the lane to the west are single family dwellings. Vehicular access to the subject property is proposed via the lane. The subject lot is relatively flat with a downward slope of approximately 3.6 ft. in the northwest-southeast direction. The subject site is currently vacant. The subject lot is proposed to be developed with a new two-family dwelling including two (2) two-car detached garage, for which one variance has been requested.

**Note:** The address of this lot has recently been changed from 1205 Sperling Avenue to 6696/6698 Aubrey Street.

On 2015 January 08, the Board approved the following requests (BV 6140): a) a principal building front yard setback, measured from the east property line to the principal building of 36.0 ft. where a minimum of 40.0 ft. is required based on front yard averaging; and b) a proposed detached garage (B-North) measured from the north property line to the detached garage, of 16.0 ft. where a minimum of 24.6 ft. is required. In the current proposal, the eastern front yard setback remains at 36 ft. The two detached single car garages have been replaced by two (2) two-car garages placed side by side in the south west corner of the lot.

**The appeal** proposes a distance between the principal building and detached garage of 6.01 ft. where a minimum distance of 14.8 ft. is required.

The Bylaw requires a separation between a principal building and an accessory building (in this case, the detached garage) to ensure that the overall massing of the buildings does not have a negative impact on subject and neighbouring properties, as well as to provide for sufficient outdoor living space.

With respect to the existing streetscape, the proposed double garage would be located 4.0 ft. from the south west corner of the lot at the lane. The proposed garage would be offset from the garage across the lane at 6690 Aubrey Street. The gable end of the garage would face the back yard of 1255 Sperling Avenue. It does not appear that the placement of the garage in this location would have an adverse effect on the adjacent properties. However, this

Department notes that the previous proposal, which the Board approved, was less intrusive because it consisted of two single car garages, with significantly less floor area, and the massing was broken up by the driveway which separated them.

In addition, the western unit of the duplex would be negatively impacted by the location of the proposed garage. The 6 foot separation requested between the garage and the house would occur for a distance of 36 ft. on the western side. (This Department notes that in the previous proposal, the garage exceeded the required 14.8 ft. separation from the principal building). In this proposal, the garages have increased in size, from two single garages totaling 453.6 sq. ft. to a twinned two car garage totaling 800 sq. ft.. The garages have also increased in height from 9.0 ft. to 14.0 ft. The presence of the garage wall located 6 ft. from the west side of the duplex for a distance of 36 ft. will have an adverse effect on the living space on the ground floor of the western duplex, in terms of light and views, as the kitchen and the wok kitchen have small windows that will face onto the garage wall. As well, the garage occupies almost 40% of the side yard of the western duplex, leaving little room for outdoor recreation for this unit.

This variance request appears to be the result of a design choice rather than hardship, as alternatives exist to redistribute or reduce the proposed floor area to meet the required setback. It is noted that the Board has already approved a variance that would permit two smaller garages that would have less of an impact. As design solutions exist, and an alternative has been approved, this Department **cannot support** the granting of **this variance**.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

DECISION:

MOVED BY MR. G. CLARK:

SECONDED BY MR. B. BHARAJ:

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

FOR: MR. G. CLARK  
MR. B. BHARAJ

OPPOSED: MR. B. POUND  
MR. NEMETH  
MS. C. RICHTER

DENIED

(f) APPEAL NUMBER:

**B.V. 6156**

APPELLANT: Afsana Malik

REGISTERED OWNER OF PROPERTY: Darmendra and Shoba Singh

CIVIC ADDRESS OF PROPERTY: 5875 Royal Oak Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 50; District Lot 32; Plan 17623

APPEAL: An appeal for the relaxation of Sections 104.8(1), 104.9 and 104.11 of the Burnaby Zoning Bylaw which, if permitted, will allow for construction of a new single family dwelling at 5875 Royal Oak Avenue. The following variances are being requested:

- a) the depth of the principal building will be 41.17 feet where a maximum depth of 30.88 feet is permitted based on 50 percent of the lot depth;
- b) the front yard setback will be 11.00 feet to the porch post where a minimum front yard setback of 42.75 feet is required based on front yard averaging. The porch overhang and stairs project 2.0 feet and 1.83 feet respectively beyond the foundation; and,
- c) the rear yard setback will be 11.33 feet to the foundation where a minimum setback of 29.5 feet is required. The overhang projects 2.5 feet beyond the foundation.

APPELLANT'S SUBMISSION:

Afsana Malik, on behalf of the homeowners, submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of a new single family dwelling.

Ms. Malik, Mr. Darmendra and Shoba Singh appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

*An appeal for the relaxation of Sections 104.8(1), 104.9 and 104.11 of the Burnaby Zoning Bylaw which, if permitted, will allow for construction of a new single family dwelling at 5875 Royal Oak Avenue. The following variances are being requested:*

- a) the depth of the principal building will be 41.17 ft. where a maximum depth of 30.88 ft. is permitted based on 50 percent of the lot depth;*
- b) the front yard setback will be 11.00 ft. to the porch post where a minimum front yard setback of 42.75 ft. is required based on front yard averaging. The porch overhang and stairs project 2.0 ft. and 1.83 ft. respectively beyond the foundation; and,*
- c) the rear yard setback will be 11.33 ft. to the foundation where a minimum setback of 29.5 ft. is required. The overhang projects 2.5 ft. beyond the foundation.*

The applicant is proposing to build a new single family dwelling. The following relaxations are being requested:

- 1) The depth of the principal building will be 41.17 ft. where a maximum depth of 30.88 ft. is permitted based on 50 percent of the lot depth;
- 2) The front yard setback will be 11.00 ft., to the porch post, where a minimum front yard setback of 42.75 ft. is required based on front yard averaging. The porch overhang projects 2.0 ft. beyond the foundation. The porch stairs project 1.83 ft. beyond the foundation; and,
- 3) The rear yard setback to the foundation will be 11.33 ft. where a minimum rear yard setback of 29.5 ft. is required. The overhang projects 2.5 ft. beyond the foundation.

The subject site is located in the Marlborough area, in a single and two family residential neighbourhood where the age and condition of the dwellings vary. This triangular shaped, approximately 6,775.88 sq. ft. corner lot measures 114.04 ft. along its Royal Oak Avenue frontage by 94.32 ft. along the interior property line on the north. The subject property observes an upward slope of approximately 7.2 ft. in the north-south direction.

Immediately to the north of the site is a single family home which also fronts onto Royal Oak Ave. Across the rear lane on the west side of the subject lot are the rear yards of four single family dwellings that front onto Forglen Drive. Vehicular access to the site is proposed from the lane, at the northwest corner of the lot. A new single family dwelling with an attached garage is proposed for the subject site, for which three variances are requested.

The **first appeal** proposes a principal building depth of 41.17 ft. where a maximum depth of 30.88 ft. is permitted based on 50 percent of the lot depth.

The Bylaw's intent in limiting the building depth is to prevent the creation of dwellings that present a long "wall", such that the massing of the building impacts neighbouring properties. In this case, the building depth calculation is based on the projected building depth onto the lot depth, which is the line joining the centre points of the front and rear property lines. Due to the site geometry, this line is on an angle in relation to the front property line. Measured along this line, the proposed building depth is 41.17 ft., which exceeds the maximum permitted building depth by 10.29 ft. Given the orientation of the lot, the relaxation of the lot depth at the south west corner of the house would be most visible from the back yards of the properties at 5918 Forglen Avenue and 5883 Royal Oak Avenue. The view of the proposed house from the rear yard of 5918 Forglen Avenue, which would be approximately 76 ft. distant, would be screened by the garage of 5918 Forglen Avenue, which is located at the lane. The house at 5883 Royal Oak is sited to emphasize the views to the south west, looking away from the proposed house. Consequently, the closest portion of the house at 5883 Royal Oak is 120 ft. distant from the closest wall of the proposed house. The proposed depth of the new house is not likely to have an adverse effect on either property due to the distances involved. As the intent of the Bylaw would not be defeated by the granting of this variance, this Department **does not object** to the granting of **this variance**.

The **second** and **third variances** are interrelated and the result of the triangular shape of the lot, so they will be discussed together. The second variance and third variances are as follows:

The front yard setback, to the porch post, will be 11.00 ft. where a minimum front yard setback of 42.75 ft. is required based on front yard averaging. The porch overhang projects 2 ft. beyond the foundation. The porch stairs project 1.83 ft. beyond the foundation.

The rear yard setback to the foundation will be 11.33 ft. where a minimum rear yard setback of 29.5 ft. is required. The overhang projects 2.5 ft. beyond the foundation.

In 1991, Council responded to public concerns with respect to 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 the houses on either side of the subject site. The intent was to help to 'ease' the new construction into existing street frontages with minimal impact.

When front yard averaging is applied to a triangular shaped lot, the available building envelope becomes very restricted. In this case, the front yard averaging calculation is based on the front yards of two single family dwellings on rectangular lots at 5839 and 5849 Royal Oak Avenue immediately north of the subject site. These front yards are 31.83 ft. and 53.67 ft. deep respectively. The front yard setback of the dwelling at 5849 Royal Oak particularly affects the average.

In this case, the front yard measurement for the subject site is taken from the front property line to the post on the front porch. The porch overhang projects 2 ft. beyond the foundation. The porch stairs project 1.83 ft. beyond the foundation. The proposed house would be 20.83 ft. in front of the house immediately to the north. However, it would not be possible to construct a house that meets the front yard averaging requirement of 42.75 ft. and a rear yard setback requirement of 29.5 ft. , because the subject lot is a triangular shape. The lot depth at the side of the triangle, at right angles to the Royal Oak frontage where the lot deepest, is only 93.92 ft. deep, and the lot depth continues to decrease to a narrow point at the southwest corner, 114.11 ft. away.

The proposed house is situated so that the requested variances for front and rear setbacks are both approximately 11.0 ft..

As such, the proposed design attempts to balance the front and rear yard variances. In the case of the rear yard, the setback is measured at the closest point of the structure to the curving rear property line. This is the most extreme condition; at the foundation closest to the northern property line, the house is 32.1 ft. from the rear property line.

The intent of the Bylaw in requiring a rear yard setback is to ensure sufficient outdoor living area in the rear yard and to mitigate the massing impacts of new buildings or structures on neighbouring properties. Given the geometry of the site, which permits a greater rear yard setback along the northern property line, which borders the only abutting lot, the impacts of the proposal on adjacent properties appear to be minimal. In addition, outdoor living space has been provided in the rear yard, plus in the triangular yard at the south end of the lot,

which is approximately 1,092 sq. ft. As such, the outdoor living space for the occupants would not be compromised by this proposal.

In view of the above, this Department **does not object** to the granting of **this proposal**.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

DECISION:

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

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

CARRIED UNANIMOUSLY

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

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

CARRIED UNANIMOUSLY

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

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

CARRIED UNANIMOUSLY

**5. NEW BUSINESS**

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

A D J O U R N M E N T

MOVED BY MR. B. POUND:

SECONDED BY MR. S. NEMETH:

"THAT this Hearing do now adjourn."

CARRIED UNANIMOUSLY

The Hearing adjourned at 3:05 p.m.

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Ms. C. Richter

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Mr. B. Bharaj

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Mr. G. Clark

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Mr. S. Nemeth

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Mr. B. Pound

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E. Prior  
Administrative Officer