



**CITY OF BURNABY**

**BOARD OF VARIANCE**

***NOTICE OF OPEN MEETING***

**MINUTES**

A Hearing of the Board of Variance was held in the Council Chamber, Main Floor, City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, 2015 June 04 at 1:00 PM

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

ABSENT: Mr. B. Pound

STAFF: Ms. M. Malysz, Planning Department Representative  
Mr. S. Cleave, Deputy City Clerk

**1. CALL TO ORDER**

The Secretary called the Hearing to order at 1:06 p.m.

**2. MINUTES**

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

THAT the Minutes of the Hearing of the Burnaby Board of Variance held on 2015 May 07 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. 6165**

APPELLANT: Biagio Gargiulo

REGISTERED OWNER OF PROPERTY: Annette and Biagio Gargiulo

CIVIC ADDRESS OF PROPERTY: [6497 Parkcrest Drive](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 10; District Lot 130; Plan 12119

APPEAL: An appeal for the relaxation of Sections 6.13(1)(a) and 6.13(1)(b) of the Burnaby Zoning Bylaw which, if permitted will allow for construction of a new single family home at 6497 Parkcrest Drive. The following variances are being requested:

a) a structure along the vision clearance line facing Parkcrest Drive with varying heights up to a maximum of 5.13 feet where the maximum permitted height along the vision clearance lines is 3.28 feet; and

b) a structure along the vision clearance line facing Kensington Avenue with varying heights up to a maximum of 4.0 feet where the maximum permitted height along the vision clearance lines is 3.28 feet; and

c) a structure along the vision clearance line facing the lane with varying heights up to a maximum of 4.04 feet where the maximum permitted height along the vision clearance lines is 3.28 feet; and

d) a structure along the vision clearance line facing Kensington Avenue with varying heights up to a maximum of 4.69 feet where the maximum permitted height along the vision clearance lines is 3.28 feet.(Zone R-2)

**APPELLANT'S SUBMISSION:**

Mr. Gargiulo submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for the construction of fences/walls necessary for the safety of his family.

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

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

The subject site, zoned R2 Residential District, is located in the Parkcrest-Aubrey neighbourhood in which the age and condition of single family dwellings vary. This corner lot, approximately 69.5 ft. wide and 120 ft. long, fronts onto the north side of Parkcrest Drive and flanks Kensington Avenue to the east. Abutting the subject site to the west, south (across Parkcrest Drive) and east (across Kensington Avenue) are single family dwellings. Vehicular access to the site is provided from the lane to the north. The site observes a downward slope of approximately 8.4 ft. in the northeast-southwest direction. Construction of a new single family dwelling on the lot, including detached garage, is in its final stages with a provisional occupancy permit issued on 2015 April 15. The two requested variances are related to the partially constructed fences/walls along the south (Parkcrest Drive), east (Kensington Avenue) and north (lane) property lines.

The first a) and the second b) appeal is to allow the partially constructed fences/walls to encroach into the vision clearance area at the intersection of Parkcrest Drive and Kensington Avenue, with a varying height of up to 5.13 ft. at the Parkcrest Drive property line and up to 4.0 ft. at the Kensington Avenue property line, where the maximum height of 3.28 ft. is permitted.

The third c) and fourth d) appeal is to allow the partially constructed fences/walls to encroach into the vision clearance area at the intersection of Kensington Avenue and the lane, with a varying height of up to 4.04 ft. at the lane property line and up to 4.69 ft. at the Kensington Drive property line, where the maximum height of 3.28 ft. is permitted.

The Bylaw's intent in providing vision clearance is to facilitate vehicular, pedestrian and cyclist safety at street and lane intersections. The vision clearance is a triangular area formed by the property lines and a line joining two points along the property lines. In reference to the first a) and the second b) appeal, the joining line must be 29.53 ft. distant from the intersection of the streets. In reference to the third c) and fourth d) appeal, the joining line must be 19.69 ft. distant from the intersection of the street and the lane.

In both cases, the vision clearance areas in the southeast and northeast corners are at the higher side of the subject site. To address the sloping terrain, the picket fences/walls are proposed in stepped sections separated by decorative pilaster elements, approximately 0.5 ft. higher than the fencing. This stepped design reflects an effort to address vision clearance requirements in the context of development needs and site topography. The decorative 1 ft. by 1 ft. concrete pilasters and associated low concrete retaining walls are already built. The proposed fencing, which consists of aluminum vertical pickets spaced approximately 0.42 ft. apart, is not yet constructed.

With respect to the first a) and the second b) variance, when viewed from Kensington Avenue, only the top portions of the first three decorative pilasters at the southeast corner of the site, and slivers of the intervening fencing, encroach into the vision clearance zone; the maximum height encroachment is 0.72 ft. When viewed from Parkcrest Drive, only the top areas of the first four decorative pilasters at the southeast corner of the site, and some upper portions of the fencing, encroach into the vision clearance zone; the maximum height of these pilasters is 5.13 ft., which represents a 1.85 ft. height encroachment. The minimal massing of the over height portions of the structure, which consists primarily of widely space pilasters, reduces the impacts of this vision clearance encroachment. Further, it is noted that there is a stop sign for east bound traffic on the south side of Parkcrest Drive, which would help to mitigate safety concerns with respect to the resultant minor reduction in the sightlines to Kensington Avenue and its associated sidewalks.

With respect to the third c) and fourth d) variance, when viewed from Kensington Avenue, again, only the top portions of the first three decorative pilasters at the northeast corner of the site, and minor portions of the fencing, encroach into the vision clearance zone; the maximum height encroachment at this corner is 1.41 ft. When viewed from the lane, the top areas of three decorative pilasters at the northeast corner of the site, and minor portions of the fencing, encroach into the vision clearance zone; with a maximum height encroachment of 0.76 ft. As noted above, the minimal massing of the over height portions of the structure are unlikely to significantly reduce sightlines and traffic safety.

In summary, most of the fence /wall portions would observe heights no greater than 3.28 ft. and the over height portions of the structure would have little impact on sightlines and traffic safety. Therefore, this Department does not object to the granting of all four variances.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

DECISION:

MOVED BY MR. B. BHARAJ:

SECONDED BY MR. S. NEMETH:

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

CARRIED UNANIMOUSLY

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

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

CARRIED UNANIMOUSLY

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

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

CARRIED UNANIMOUSLY

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

THAT based on the plans submitted part (d) of this appeal be ALLOWED.

CARRIED UNANIMOUSLY

**(b) APPEAL NUMBER: B.V. 6166**

APPELLANT: Lev Keselman

REGISTERED OWNER OF PROPERTY: Lev Keselman and Tammy Chu

CIVIC ADDRESS OF PROPERTY: [7842 Kerrywood Crescent](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 28; District Lot 42; Plan 23102

APPEAL: An appeal for the relaxation of Sections 101.8 and 101.9(1) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new single family home at 7842 Kerrywood Crescent. The following variances are being requested:

a) a front yard setback of 16.54 feet to the foundation where a minimum front yard setback of 31.03 feet is required based on front yard averaging. The roof overhang will be 1.0 feet beyond the foundation; and

b) a side yard setback of 6.13 feet to the foundation where a minimum side yard setback of 7.9 feet is required.(Zone R-1)

APPELLANT'S SUBMISSION:

Les Keselman and Tammy Chu submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of their new home.

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

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

The subject site, zoned R1 Residential District, is located in a stable single-family neighbourhood in the Government Road area. This irregular corner lot, approximately 140 ft. wide (along the west property line) and 100 ft. long (along the north property line) fronts onto Kerrywood Crescent to the west and flanks the undeveloped Kentwood Street right of way to the north. Single family dwellings abut the subject site to the south and across Kerrywood Crescent to the west. Two large R1 District properties, which are currently vacant, abut the subject site to the east and across the Kentwood Street right of way to the north. Vehicular access to the subject site is provided from Kerrywood Crescent; there is no lane access.

Eagle Creek transverses the rear portion of this lot. As such, this proposal is subject to Section 6.23 of the Zoning Bylaw (Streamside Protection and Enhancement Areas) and is currently in a review/approval process by Environmental Review Committee (ERC). A Greater Vancouver Sewerage and Drainage District (GVS&DD) easement, which generally follows the creek alignment, occupies almost half of the subject lot. With the exception of this easement area, which contains the creek ravine, the remainder of the site is relatively flat with an approximately 5 ft. downward slope to the rear. It is noted that the location of the creek and associated easement significantly impact the area available for development and represent a substantial hardship.

This site was the subject of a successful appeal to the Board on at least two occasions. In 1968, two relaxations were allowed to construct a dwelling observing a minimum front yard setback of 20 ft. and a minimum south side yard setback of 6 ft. In 1994, a variance was allowed to construct an addition to the existing dwelling observing a minimum front yard setback of 22 ft., where a minimum front yard setback of 40.45 ft. was required.

A new single family dwelling with an attached garage is proposed for the subject site, for which two variances are requested. These variances are related to front yard setback and side yard setback requirements.

The first a) appeal requests a front yard setback of 16.54 ft., measured to the

proposed single family dwelling, with a further projection for roof eaves of 1.0 ft., where front yard averaging requires a minimum setback of 31.03 ft.

The second b) appeal would permit a side yard setback of 6.13 ft. from the south property line to the proposed single family dwelling, with a further projection for roof eaves of up to 2.5 ft., where a minimum side yard setback of 7.9 ft. is required.

With respect to the first a) appeal, 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 7832 and 7822 Kerrywood Crescent south of the subject site. These front yards are 29.35 ft. and 32.71ft., respectively. The proposed front yard setback is measured to a small portion of the floor that cantilevers out 2.92 ft. from a central part of the building face. The remainder of the dwelling is proposed to be set back further from this face by 2.92 ft. at the southwest portion and 6.92 ft. at the northwest portion, resulting in setbacks of 19.46 ft. and 23.46 ft. respectively.

The proposed siting would place the subject dwelling 12.81 ft. in front of the neighbouring dwelling to the south, or 9.98 ft. in front if the southwest corner is considered; however, considering that this siting is consistent with the placement of the current dwelling, which is set back approximately 20 ft. from the front property line, the requested reduced front yard setback would not change the existing horizontal massing relation. The portion of the dwelling that encroaches into the front yard setback, although it is in a two storey form, would have a limited impact on the neighbouring dwelling to the south, as only one small window facing this residence is proposed at the upper floor. It should be noted that this portion of the proposed dwelling does not encroach into the required south side yard setback, which is the subject of the second variance, as it is placed further away from the south property line.

Similarly, the neighbouring property across Kerrywood Crescent to the west, oriented primary to Kentwood Street to the north and bordered by an approximately 6 ft. high concrete block wall at its side (east) property line, would be minimally affected. The proposed siting would not affect distant neighbouring residences to the northwest across Kentwood Street.

With regard to the broader neighbourhood context, the subject block is crescent

shaped and as such the frontage line is not strongly defined. In addition, the proposed siting of the new dwelling, with the exception of the small staircase projection, is consistent with the placement of the current residence. As such, the proposed residence fits within the existing streetscape.

It is also noted that the neighbouring properties to the south are less impacted by Eagle Creek, which is located a greater distance from their front lot lines.

With respect to the second b) appeal, the intent of the Bylaw is to mitigate the impact of building massing on neighbouring properties.

In this case, the existing dwelling observes a south side yard setback of 5.8 ft., and is legal-non-conforming with respect to the minimum 7.9 ft. side yard setback requirement.

As mentioned under the first a) appeal, the siting of the proposed single family dwelling is similar to the location of the existing dwelling. Further, the proposed side yard encroachment area is limited to a thin wedge, approximately 2.1 ft. deep at the southeast rear corner of the proposed dwelling, and decreasing to zero in approximately 31 ft., at a point 16 ft. to the rear of the front corner of the house. The front corner of the proposed house observes a side yard setback of 9.55 ft. The proposed encroachment area directly overlaps with the neighbouring dwelling to the south, which observes a side yard setback of approximately 5.0 ft.

Considering the negligible scale of encroachment and the fact that there are only small high windows proposed on the overlapping portion of the south elevation, the proposed side yard encroachment is unlikely to create any negative impacts on the neighbouring residence to the south.

In view of the above, and since there is a significant hardship present, this Department does not object to the granting of this first a) and second b) variances.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

DECISION:

MOVED BY MR. S. NEMETH:

SECONDED BY MR. B. BHARAJ:

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

CARRIED UNANIMOUSLY



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

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

CARRIED UNANIMOUSLY

(c) **APPEAL NUMBER: B.V. 6167**

APPELLANT: Ed Piendl

REGISTERED OWNER OF PROPERTY: 684584 BC LTD

CIVIC ADDRESS OF PROPERTY: [3777 Keith Street](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 12; District Lot 175; Plan  
17608

APPEAL: An appeal for exemption from Section 911 (5) of the Local Government Act to allow for consolidation of 3777 and 3790 Keith Street, structural additions and alterations to the existing legal non-conforming industrial building and associated parking, loading and landscape revisions.(Zone M-5)

**APPELLANT'S SUBMISSION:**

Ed and Leanne Piendl submitted an application for exemption from Section 911(5) of the Local Government Act to allow for reconstruction of an industrial building damaged by fire.

Ed Piendl and his architect appeared before members of the Board of Variance at the Hearing.

**BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:**

The subject site is located in the Big Bend area, in which the age and conditions of buildings vary, as new business centre oriented developments are built around existing older industrial properties and single family lots.

The subject property, which was created in May 2015 by consolidating two existing lots, is split-zoned. The narrower northern portion of the site is zoned R2 Residential District and the wider southern portion is zoned M5 Light Industrial District. In general, the R2 District is intended for medium density single family dwellings and the M5 District is intended for high standard

industrial and business centre developments that can be located in closed proximity to residential areas with a minimum of conflict. According to the Official Community Plan, the R2 zoned portion of the subject site is designated for a future Park and Public use (as a continuation of Boundary Creek Ravine Park) and the M5 zoned portion is designated for a future Big Bend Business Centre use.

This irregular interior through lot, approximately 214 ft. wide at its widest point and 408 ft. deep, fronts onto Keith Street to the south and Marine Drive to the north. Vehicle access is provided from Keith Street. Across Keith Street to the south are industrial developments, containing primarily food wholesaling and warehouse uses. To the north of the subject property, across Marine Drive, is Boundary Creek Ravine Park. To the west, the southern portion of the subject site is bordered by an industrial property containing a sign manufacturer and the northern portion of the property is adjacent to a single family residence. These two properties are separated from each other by an unopened lane right of way. This undeveloped lane right of way runs along the northern edge of the southern portion of the subject site and stops at the point where the subject site narrows. To the east, the subject site is bordered by a split-zoned lot with a single family dwelling in the northern portion (zoned R2) and unlicensed industrial activity, consisting of a truck and other material storage, in the southern portion (zoned M5). It is noted that the 15 ft. wide private easement to allow access and deposition of fill, indicated on the provided survey located along the east side property line, has expired.

The site observes a substantial downward slope of approximately 44 ft. from the north to the south. A ravine containing Boundary Creek traverses the site from the northwest corner to the southeast corner. It is noted that the subject proposal is currently under review by the Environmental Review Committee (ERC) with respect to stream protection setbacks and conditions.

The subject property is improved with a two storey industrial building and related accessory storage buildings and structures. The industrial building contains a seafood processing plant on the ground floor and associated offices on the upper floor. The seafood processing use is a legal non-conforming use.

Based on City records, a brief history of the development on the subject site is as follows: the industrial building was built originally in 1957 and further improved with additions in 1961 and 1965 to accommodate processing of fish eggs for sports fishing bait. In 1966, a second floor was added to accommodate offices and in 1977, washroom facilities were added to the ground floor. In 1973, further expansion of the fish processing plant, in the form of storage area and freezer room additions, was granted through a successful appeal to the Board (BV#738) and subject to consolidation of the two subject lots which was recently completed. In 1992, the addition of two temporary freezer buildings, for a period of two years, was permitted through a

successful appeal to the Board (BV#3799). Subsequently, the property was further improved with additions to the principal building and new accessory buildings and structures without the benefit of a building permit, which became apparent following a fire incident in October 2014. The additions to the principal building are the subject of this appeal. With the exception of one accessory building that is proposed to be relocated, all accessory buildings and structures, are to be removed, and are therefore not included in this appeal.

The appeal is to allow structural additions and alterations in a building containing an existing legal non-conforming use (fish processing plant).

The *Local Government Act* prohibits a structural alteration or addition to a building or other structure while the non-conforming use is continued, except as permitted by a Board of Variance under Section 901(2).

Specifically, the following structural additions and alterations are proposed:

- Relocation of the existing 20.25 ft. wide by 44.25 ft. long accessory storage building to the northeast corner of the existing industrial building;
- Retention of the existing 17.5 ft. wide by 35.5 ft. long cooler #2 (originally permitted as a temporary building in 1992 for a period of two years) immediately west of the proposed accessory storage building noted above;
- Retention of the existing 19.5 ft. wide by 16.5 ft. long cooler #3 and 10.5 ft. wide by 32.5 ft. long refrigerated trailer addition to the southeast corner of the existing industrial building; and
- Addition of a new electrical room (within the existing area) and new 9.5 ft. wide by 12 ft. long compressor enclosure immediately west of cooler/freezer addition in the front of the industrial building.

These structural additions and alterations constitute major extension to the existing legal non-conforming use. As mentioned above, this property was before the Board on two previous occasions. As both cases related to expansion of the processing plant operation, this Department did not support the appeals. As the use of the property continues to enjoy a legal non-conforming status, the purpose of the current proposal is to further expand the processing plant operation and legalize a number of unauthorized structural additions and alterations.

While the existing legal non-conforming use is permitted to remain in operation, this Department must oppose any further expansion of the facility. When the processing of fish products and abattoirs was deleted as a permitted use in the Zoning Bylaw, it was expected that existing uses of this sort would be removed through time. To permit the proposed expansion would strengthen

the economic viability of the non-conforming use and reduce the possibility of its removal at any time in the near future.

In view of the above, this Department objects to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

DECISION:

MOVED BY MR. S. NEMETH:

SECONDED BY MR. G. CLARK:

“THAT based on the plans submitted this appeal for exemption from Section 911(5) of the Local Government Act be ALLOWED.”

CARRIED UNANIMOUSLY

**(d) APPEAL NUMBER: B.V. 6168**

APPELLANT: Hijran Shawkat

REGISTERED OWNER OF PROPERTY: Mohammad N. Rahimyar,  
Mohammad D. Rahimyar and  
Mohammad I. Rahimyar

CIVIC ADDRESS OF PROPERTY: [6953 Kingsway](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 16; District Lot 95; Plan 7592

APPEAL: An appeal for exemption from Section 911 (5) of the Local Government Act to allow for exterior and interior structural alterations to the existing legal non-conforming single family dwelling at 6953 Kingsway. (Zone C-4)

APPELLANT'S SUBMISSION:

Hirjan Shawkat submitted an application for exemption from Section 911(5) of the Local Government Act to allow for exterior and interior structural alterations to his client's home, including a closet for the furnace and a stair to connect the main floor to the basement.

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

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

The subject site is located in the Richmond Park area, in a mixed-use commercial neighbourhood in which the age and conditions of buildings vary. The site is zoned C4 Service Commercial District, which is intended to accommodate vehicular oriented commercial uses of low intensity. The subject lot measures approximately 33 ft. in width and 103 ft. in depth. This interior site fronts onto the north side of Kingsway and takes vehicle access from a rear lane. There is a single family dwelling to the west and an office building containing a dental clinic to the east of the subject site. Across the lane to the north is a townhouse complex. The site observes a substantial downward slope of approximately 11 ft. from the rear to the front.

The subject property is improved with a two storey residential building and a two storey commercial building. The residential building contains a single family dwelling which is a legal non-conforming use.

The age of the subject buildings is unknown; however, an aerial photograph from 1965 indicates that both buildings existed at that time. In 1960, a detached carport was permitted in the rear yard (this was demolished sometime between 2004 and 2006). In 1964, construction of a recreational room in the basement of the residential building was the subject of a successful appeal to the Board. In 1966, the Board also permitted a second storey office addition to the commercial building. Recently, further improvements were made to the residential building without the benefit of a building permit; these improvements are the subject of this appeal.

The appeal is to allow exterior and interior structural alterations to an existing legal non-conforming single family dwelling.

The *Local Government Act* prohibits a structural alteration or addition to a building or other structure containing a non-conforming use, except as permitted by a Board of Variance under Section 901(2).

The proposed exterior and interior structural alterations include: relocation of an exterior door and addition of a ramp at the rear elevation; renovation of the existing front and rear porch to meet BC Building Code regulations; relocation of an internal stair connection; and addition of a new furnace closet.

The applicant's initial intent was to convert the basement of the single family dwelling into a commercial storage area. However, this proposal failed to meet BC Building Code requirements. The current proposal is to legalize the proposed exterior and interior alterations which have been partially constructed and which will permit the basement to be restored to residential use, specifically as a fitness room for the residents of the house.

The above noted exterior and interior alterations have no negative impacts on neighbouring properties and do not increase the intensity of use on the subject site; rather, the proposal is an attempt to reestablish the previous use and condition of the site prior to the recent unauthorized improvements.

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

**ADJACENT OWNER'S COMMENTS:**

A letter was received from Mrs. Patricia Grace, 6254 Buckingham Drive, Burnaby expressing no objection to the renovation project provided her concerns regarding rats and mice and the putrid smell from garbage bins are rectified.

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 for exemption from Section 911(5) of the Local Government Act be ALLOWED.”

CARRIED UNANIMOUSLY

**(e) APPEAL NUMBER: B.V. 6169**

**APPELLANT:** Karmjit Sanghera

**REGISTERED OWNER OF PROPERTY:** Karmjit Sanghera

**CIVIC ADDRESS OF PROPERTY:** [3785 Godwin Avenue](#)

**LEGAL DESCRIPTION OF PROPERTY:** Lot B; District Lot 76; Plan 70205

**APPEAL:** An appeal for the relaxation of Sections 6.3.1, 6.6(2)(c) and 6.6(2)(d) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new two family home with a detached garage at 3785 Godwin Avenue. The following variances are being requested:

a) a distance between the principal building and detached garage of 8.25 feet where a minimum distance of 14.8 feet is required;

b) a width of the detached garage of 22.5 feet where a maximum width of the detached garage of 22.0 feet is permitted; and

c) a setback between the detached garage and west property line of 2.5 feet where a minimum distance of 3.94 feet is required.  
(Zone R-12)

APPELLANT'S SUBMISSION:

Karmjit Sanghera submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of his new duplex and garage.

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

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

The subject property is located in the Douglas-Gilpin area, in a single and two-family R12 District neighbourhood characterized by smaller lot sizes. The subject site measures 33 ft. in width and 115.6 ft. in depth, with an area of 3,816 sq. ft. The site observes a downward slope of approximately 8.4 ft. from front to rear. This corner lot fronts onto Sprott Street to the south and flanks Godwin Avenue to the east. Immediately west of the subject site and across Sprott Street to the south are single family dwellings; across Godwin Avenue to the east and across the lane to the north are two-family dwellings. Vehicular access to the subject site is via the rear lane. A new two-family dwelling with two detached garages is proposed for the subject site, for which three variances are requested. All three variances relate to the proposed accessory building.

The first a) appeal would permit a distance of 8.25 ft. from the accessory building to the principal building, with the following further projections: a 2.0 ft. roof projection, a 1.5 ft. bay window projection and a 2.0 ft. balcony projection, where a minimum distance of 14.8 ft. is required.

The Bylaw requires a separation between buildings on the same lot to ensure that the overall massing of the building does not have a negative impact on the occupants of the buildings and neighbouring properties, as well as to provide for sufficient outdoor living space.

The second b) appeal would permit an accessory building, observing a width of 22.5 ft., where a maximum width of 22.0 ft. is permitted based on two-thirds of the width of the rear yard.

The intent of this Bylaw provision is to mitigate the massing impacts of accessory buildings and prevent a sense of confinement and crowding.

The third c) appeal would permit an accessory building observing a side yard setback from the west property line of 2.5 ft., with a further 1.0 ft. roof eave projection, where a minimum side yard setback of 3.94 ft. is required.

The intent of the Bylaw is to mitigate massing impacts on neighbouring properties.

The proposed accessory building would be set back 11.75 ft. from the north property line adjacent to the rear lane and 8 ft. from the east side property line flanking Godwin Avenue, in order to provide the required vision clearance at the intersection of Godwin Avenue and the rear lane. The accessory building would be 22.6 ft. wide and 19.82 ft. long by approximately 12.5 ft. high to the top of the hip roof. The building would contain two side-by-side single car garages, accessed off the rear lane. This building would be consistent with the detached garage directly across the lane north of the subject site and across Godwin Avenue to the east. There is no accessory building on the neighbouring property immediately west of the subject site.

With respect to the first a) appeal, the distance is measured from the proposed detached garages to the portion of the principal dwelling that contains the north unit. The principal building is split into two units located front-to-back, with the south unit occupying the front half of the building and the north unit occupying the rear half. The area between the garage and residence would be a green space available to the occupants of the north unit.

The overlap of the garage and residence would be 21 ft., which is almost the entire width of the garage. Although small recessed areas are proposed at the entry porch located at the northwest corner and at the balcony area above, the main living area of the proposed north unit is within the compromised separation zone. Further, the 9 ft. wide and 1.5 ft. deep bay window would effectively reduce the separation distance at the ground level to 6.75 ft., leaving insufficient outdoor living space for the occupants of the north unit.

With respect to the second b) appeal, the excess width of the proposed accessory building is only 0.5 ft. However, in combination with the reduced distance between the garage and residence, the excess width would further contribute to a sense of crowding and confinement. In addition, other design alternatives exist that could eliminate the need for this variance. For example, the internal dividing wall between the two garages could be removed, resulting in a potential width reduction of approximately 2.5 ft.

With respect to the third c) appeal, the proposed detached garage would encroach 1.44 ft. into the required side yard setback over its full length. At the same time, the garage would overlap the neighbouring dwelling to the west by approximately 10 ft. Therefore, some impacts on this residence are expected. In addition, it is not clear how the proposed access to the garage door on the



west elevation is going to be accommodated with only 2.5 ft. available for a pathway. Again, design options exist that could eliminate the need for this variance.

In summary, all three variances are related to the fact that the subject site is only 33 ft. wide, which is restrictive in the case of corner lots, often with little room for alternative placement of accessory buildings. Further, this proposal would not be out of the ordinary within the existing development pattern. However, this proposal would create negative impacts on the occupants of the north unit and the neighbouring property to the west. Moreover, alternatives exist that could minimize these impacts.

In view of the above, this Department objects to the granting of all three variances.

ADJACENT OWNER'S COMMENTS:

An email was received from Ms. Yasmin Kapadia, 5907 Sprott Street, Burnaby noting that adequate street parking should be provided for duplex and multiplex properties in the neighbourhood.

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 part (a) of this appeal be ALLOWED.

FOR: MR. B. BHARAJ

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

DEFEATED

MOVED BY MR. B. BHARAJ:

SECONDED BY MR. S. NEMETH:

THAT based on the plans submitted part (b) of this appeal be DENIED.

FOR: MR. B. BHARAJ

OPPOSED: MS. C. RICHTER

MR. S. NEMETH  
MR. G. CLARK

DEFEATED

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

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

CARRIED UNANIMOUSLY

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

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

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

OPPOSED: MS. C. RICHTER

CARRIED

(f) **APPEAL NUMBER: B.V. 6170**

**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 6.0 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.

A previous Board of Variance (BOV 6155 2015 April 02) denied an appeal requesting the distance between the principal building and the detached garage to be 6.01 feet where a minimum distance of 14.8 feet is required.

#### APPELLANT'S SUBMISSION:

Vikram Tiku submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of his client's new duplex and detached garage.

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

#### BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

This property was the subject of two recent appeals before the Board regarding siting of the proposed new two-family dwelling and detached garages.

On 2015 January 08, the Board approved the following requests (BV#6140): a) a 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 flanking side yard setback, measured from the north property line to the northernmost of two proposed detached garages, of 16.0 ft. where a minimum of 24.6 ft. is required. On 2015 April 02 (BV#6155) the Board of Variance denied an appeal to relax the required distance between the principal building and two newly proposed detached garages from 14.8 ft. to 6.01 ft. This Department's comments on the 2015 April 02 appeal are included as *Item 1 attached*.

The subject site is currently under construction for the new two-family dwelling. The construction of the originally approved two detached garages has not yet begun.

This appeal requests a relaxation of the distance between the principal building and a proposed detached accessory building containing both a two-car garage and a one-car garage with carport. The proposed distance between this building and the principal building is 6.00 ft., where a minimum distance of 14.8 ft. is required. As a reminder, the Bylaw requires a separation between a principal building and an accessory building (in this case, the detached garages/carport) to ensure that the overall massing of the buildings does not

have a negative impact on the subject property and neighbouring properties, as well as to provide for sufficient outdoor living space.

With the exception of the one-car garage and carport, which replaces what was previously a two-car garage; the current proposal is essentially identical to the 2015 April 02 appeal. In that appeal, the two detached one-car garages that were originally proposed and approved under BV#6140 were replaced by two detached two-car garages, placed side by side in a single building in the southwest corner of the lot.

The overall siting of the detached garages/carport would be the same as the previously proposed detached garage building, with a negligible reduction in the distance to the principle building from 6.01 ft. to 6.00 ft. The overall area of the proposed accessory building is also the same (800 sq. ft.) as proposed in the second appeal, which is significantly larger than the two single garages (totaling 453.6 sq. ft.) approved under the original proposal.

With respect to the massing impacts on subject properties, although the more open carport structure would help reduce overall massing, the western unit of the duplex would still be negatively impacted. The 6 foot separation requested between the garage and the house would occur over a distance of approximately 32 ft. on the western side of the house, with approximately 21 ft. contributed by the garages to the south and approximately 11 ft. contributed by carport to the north. (Again, this Department notes that in the approved proposal, the garages exceeded the required 14.8 ft. separation from the principal building). This narrow separation would adversely affect the living space on the ground floor of the western duplex, in terms of light and views, as the family room, wok kitchen and kitchen all face onto the garage wall and carport space. Also, the garage/carport would continue to occupy almost 40% of the side yard of the western duplex, leaving little room for outdoor recreation for this unit.

With respect to the neighbouring properties, while the proposed garage/carport structure has less overall massing and fewer impacts on the streetscape than the 2015 April 02 proposal, it has significantly greater impacts than the originally approved design. This design, 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 summary, 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 separation between two structures. 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. B. BHARAJ:

SECONDED BY MR. S. NEMETH:

"THAT based on the plans submitted this appeal be ALLOWED."

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

OPPOSED: MS. C. RICHTER  
MR. S. NEMETH

MOTION LOST

(g) **APPEAL NUMBER: B.V. 6171**

APPELLANT: Long Nguyen

REGISTERED OWNER OF PROPERTY: Anna Wijesinghe

CIVIC ADDRESS OF PROPERTY: [7615 Coldicutt Street](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 1; District Lot 11; Plan 88412

APPEAL: An appeal for the relaxation of Section 103.7 (b) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new rear deck cover to upper floor and new secondary suite to bottom floor at 7615 Coldicutt Street. The building depth will be 66.25 feet where a maximum depth of 60.0 feet is permitted. (Zone R-3).

APPELLANT'S SUBMISSION:

Robin Young submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for retention of a sundeck cover to his client's home. Mr. Young noted the structure was built by a previous owner of the property.

Long Nguyen appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

The subject site is located the Cariboo-Armstrong area, in a mature single family neighbourhood. The site is zoned R3 Residential District, which is intended to preserve the minimum density of development in mature single family areas. This interior lot, approximately 50 ft. wide and 130 ft. long, fronts onto Coldicutt Street to the northeast. The subject site abuts single family lots to the northwest and southeast. Vehicular access to the subject site is provided via Coldicutt Street; there is no lane access. Green space that is part of Cariboo Hill Secondary School borders the site to the southwest. The site is relatively flat with a downward slope of approximately 3 ft. in the northwest-southeast direction.

The subject site is improved with a single family dwelling, originally built in 1991. The property immediately to the southeast is improved with a similar residence constructed around the same time. Sometime before 2006, the subject site was further improved with alterations to the main floor to accommodate a secondary suite and a roof addition over the rear deck on the upper floor. These improvements were made without the benefit of a building permit. The roof addition only is the subject of this appeal.

The appeal is for a principal building depth of 66.25 ft. where a maximum building depth of 60.0 ft. is permitted.

The Bylaw's intent in limiting building depth is to prevent the creation of dwellings that present a long wall, such that the massing of the building impacts neighbouring properties.

It should be noted that the existing dwelling is approximately 71 ft. deep and is legal non-conforming with respect to the requirements of the Zoning Bylaw. The requested building depth (66.25 ft.), which is measured to the roof addition, is 4.75 ft. less than this existing non-conformity. The roof addition contributes 6.25 ft. to the excess building depth.

The new roof is 13 ft. deep and 21.67 ft. wide and covers the entire rear deck at the southwest corner of the existing dwelling. It consists of a flat aluminum roof, supported on aluminum posts and beams, which connects to the main roof of the dwelling just at the gutter level.

With respect to the neighbouring dwelling to the northwest of the subject property, the new roof projects approximately 25 ft. beyond this residence, which observes a substantial rear yard setback of 70 ft. and side yard setback of 30 ft. However, considering the distance between this residence and the

subject roof addition, and the small massing of the proposed roof within the footprint of the existing dwelling no significant impacts are expected.

The new roof is not visible from the neighbouring dwelling to the southeast of the subject property, as it is set back from the outermost rear face of the subject dwelling on the opposite corner. Many similar deck covers are found in the subject block.

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

ADJACENT OWNER'S COMMENTS:

An email was received from Ms. Antonietta A. Baldonero, 7630 Coldicutt Street, Burnaby in opposition to this appeal.

Ms. Kasper, 7609 Coldicutt Street, Burnaby appeared before members of the Board in opposition to the appeal if the applicant is proposing to construct another suite.

Planning staff noted the subject dwelling contains an existing secondary suite. No additional suite is being proposed for construction.

No further correspondence was received regarding this appeal.

DECISION:

MOVED BY MR. S. NEMETH:

SECONDED BY MR. G. CLARK:

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

CARRIED UNANIMOUSLY

(h) **APPEAL NUMBER: B.V. 6172**

APPELLANT: Stevan Gavrilovic

REGISTERED OWNER OF PROPERTY: Jelena and Marko Markovic

CIVIC ADDRESS OF PROPERTY: [1655 Howard Avenue](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 60; District Lot 126; Plan 25437

APPEAL: An appeal for the relaxation of Sections 6.2(2), 102.8(1) and

800.6(1) of the Burnaby Zoning Bylaw which, if permitted, will allow for the construction of a new single family dwelling at 1655 Howard Avenue. The following variances are being requested:

a) a front yard setback from Heathdale Drive, to the post, of 39.10 feet where a minimum front yard setback of 44.57 feet is required based on front yard averaging. The cantilevered deck joists will extend 2.0 feet beyond the post; and

b) construction of an accessory building in a required front yard, located 3.94 feet from the West property line abutting Heathdale Drive and 4.0 feet from the South property line, where siting of an accessory building in a required front yard is prohibited by the Zoning Bylaw.(Zone R-2)

APPELLANT'S SUBMISSION:

Stevan Gavrilovic submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for construction of his client's new home.

Stevan Gavrilovic and Marko Markovic appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENTS COMMENT:

The subject site, zoned R2 Residential District, is located in the Parkcrest-Aubrey neighbourhood in which the majority of single family dwellings were constructed in the 1960s. This through lot, approximately 57.5 ft. wide and 123.5 ft. long, fronts Howard Avenue to the east and Heathdale Drive to the west. A large R1 District property, which is currently vacant, abuts the subject site across Heathdale Drive to the west. Single family dwellings abut the subject site to the north and the south. Vehicular access to the site is provided from Heathdale Drive. The site observes a substantial downward slope of approximately 18 ft. in the northeast-southwest direction.

A new single family dwelling with a detached garage is proposed for the subject site, which is the subject of two appeals.

The first a) appeal requests a front yard setback of 39.1 ft., measured to the deck post of the proposed single family dwelling, with no further projection for roof eaves, where front yard averaging requires a minimum setback of 44.57 ft. from the Heathdale Drive 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 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.

The proposed dwelling would observe a front yard setback from Howard Avenue of 31.53 ft., which exceeds the front yard averaging requirement of 30.06 ft. It is noted that a consistent building edge would be maintained throughout the block, as all the houses have similar front yard setbacks.

The front yard setback from Heathdale Drive is the yard for which a setback relaxation is requested. The front yard averaging calculations on this side of the property are based on the front yard setbacks of the two dwellings immediately north of the subject site at 1625 and 1635 Howard Avenue, and the two dwellings immediately south of the subject site at 1685 and 1725 Howard Avenue. The front yard setbacks for these properties are 37.19 ft., 53.94 ft., 44.17 ft. and 42.98 ft. respectively.

As noted, the front yard setback is measured to the posts of the centrally located uncovered deck, which is raised approximately 5.5 ft. above the adjacent natural grade. With the exception of the deck, the main body of the dwelling would be set back from the post face an additional 8 ft. at its southern portion and an additional 10 ft. at its northern portion. There is also a covered deck proposed at the southwest corner of the upper floor which would project 2.5 ft. from the main body of the dwelling.

The proposed siting would place the subject dwelling 14.84 ft. in front of the neighbouring dwelling to the north, or 4.84 ft. in front if only the northwest corner is considered; however, considering that this siting is consistent with the placement of the current dwelling, which is set back approximately 43 ft. from the front property line, as measured to the existing raised deck at its northwest corner, the requested front yard setback would be consistent with the existing horizontal massing relationship. Also, the generous north side yard setback of 11.12 ft. at the area of encroachment would help mitigate any impacts of the reduced front yard setback on this neighbouring property.

The proposed siting would place the subject dwelling 5.07 ft. in front of the neighbouring dwelling to the south, or 2.93 ft. behind if only the southwest corner is considered. A generous south side yard setback of 7.34 ft., where a minimum side yard setback of 4.9 ft. is required, would be a mitigating factor.

With reference to the broader neighbourhood context, no sense of street frontage exists along the east side of Heathdale Drive, as the adjacent residential frontages function as rear yards, some with detached garages abutting the lane and most with decks, lawn area and other recreational components consistent with this function. The three homes whose frontages

are oriented towards Heathdale Drive are located on the opposite side of the street and approximately 60 m (197 ft.) south of the subject site. As such, the siting of the proposed dwelling fits within the existing neighbourhood context.

In view of the above, this proposal would not create a negative impact on the existing neighborhood. Therefore, this Department does not object to the granting of the first a) variance.

The second b) appeal is for an accessory building in the Heathdale Drive front yard where accessory buildings are prohibited.

The intent of the Bylaw in prohibiting accessory buildings within the required front yard is to provide for a uniform streetscape with open front yards and to limit the massing impacts of such structures on neighbouring properties.

The proposed accessory building, approximately 20 ft. long by 22 ft. wide by 14 ft. high, is located at the southwest corner of the front yard, 3.94 ft. away from the front property line and 4.0 ft. away from the south side property line. The proposed siting would place the accessory building in line with the existing detached garages on the neighbouring properties to the south and north of the subject site. The proposed accessory building would be immediately adjacent to the existing garage to the south. The accessory building would serve as a two-car garage accessed directly from Heathdale Drive.

Under Section 901 of the *Local Government Act*, the Board can rule on a bylaw respecting the siting of a structure. However, permitting an accessory building in the front yard, where it is expressly prohibited, is a major variance in that it is a complete reversal of a bylaw provision that would defeat the intent of the bylaw. It is noted that Heathdale Drive currently functions more as a lane than a street. Although Heathdale Drive is within a right-of-way that is 15.24 m (50 ft.) in width, this right-of-way is not fully developed. In this case, the paved area, approximately 20 ft. wide, is confined to the eastern half of the right-of-way, with the western side remaining as an undeveloped green area. In addition, this right-of way ends approximately 35 m (115 ft.) north of the subject site. However, a fully developed segment of Heathdale Drive begins approximately 70 m (230 ft.) to the north of this terminus. It is expected that the subject section of Heathdale Drive will be improved once the necessary right-of-ways to connect to the northern segment are obtained.

It is also noted that the majority of neighbouring lots in the subject block have garages oriented towards Heathdale Drive, some with reduced setbacks. As noted above, these properties use the Heathdale Drive yards more like rear yards, with less formal and more private arrangements. As such, the proposed similar siting of the accessory building would not be out of ordinary in this case.

Nonetheless, given the age of neighbouring dwellings, most of which were built in 1964, new development should anticipate the redevelopment of the surrounding properties and be designed to meet the intent of the Bylaw rather than existing conditions. As such, this Department objects to the granting of the second b) variance.

ADJACENT OWNER'S COMMENTS:

A letter dated 2015 June 3 was received from F. Kranz, owner of 1660 Nation Way, Burnaby opposing the appeal.

No further correspondence was received regarding this appeal.

DECISION:

MOVED BY MR. S. NEMETH:

SECONDED BY MR. B. BHARAJ:

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

CARRIED UNANIMOUSLY

MOVED BY MR. S. NEMETH:

SECONDED BY MR. G. CLARK:

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

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

OPPOSED: MS. C. RICHTER

CARRIED

(i) **APPEAL NUMBER:** B.V. 6173

CIVIC ADDRESS OF PROPERTY: 8210 Burnlake Drive

This appeal was WITHDRAWN prior to the Hearing.

#### **4. 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. BHARAJ:

SECONDED BY MR. S. NEMETH:

"THAT this Hearing do now adjourn."

CARRIED UNANIMOUSLY

The Hearing adjourned at 2:33 p.m.

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Ms. C. Richter

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Mr. B. Bharaj

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Mr. S. Nemeth

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Mr. G. Clark

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S. Cleave  
Deputy City Clerk