



**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 September 03 at 1:00 p.m.

**1. CALL TO ORDER**

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

STAFF: Ms. E. Prior, Administrative Officer  
Ms. M. Malysz, Development Plan Approvals Supervisor

The Chair for the Board of Variance called the meeting to order at 1:00 p.m.

**2. MINUTES**

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

THAT the Hearing of the Burnaby Board of Variance held on 2015 August 06 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. 6188**

APPELLANT: Manjit Baughan

REGISTERED OWNER OF PROPERTY: Manjit Baughan

CIVIC ADDRESS OF PROPERTY: [7969 18th Avenue](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 10; District Lot 28; Plan 10459

APPEAL: An appeal for the relaxation of Section 6.2(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new home at 7969 18th Avenue with an accessory building in a required front yard where an accessory building is not allowed. The accessory building would be located 3.94 feet from the northwest property line abutting 19th Avenue and 4.01 feet from the southwest property line. (Zone R5)

**APPELLANT'S SUBMISSION:**

Manjit Singh Baughan submitted an application to allow for the construction of a new home at 7969 18<sup>th</sup> Avenue.

An agent, on behalf of Mr. Baughan, appeared before members of the Board of Variance at the Hearing.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

The subject site, which is zoned R5 Residential District, is located in the Second Street neighbourhood, in which the age and condition of single dwellings vary. This interior through lot, approximately 49.5 ft. wide and 119.5 ft. deep, fronts onto Eighteenth Avenue to the southeast and Nineteenth Avenue to the northwest. Abutting the subject site to the southwest and northeast are single family dwellings. Vehicular access to the subject site is proposed via Nineteenth Avenue; currently there is no vehicular access. The site is flat, with a downward slope of up to 1 ft. from the southeast property line to the northwest property line.

The subject site is proposed to be redeveloped with a new single family dwelling, including secondary suite and accessory attached garage, and a new accessory building. The proposed accessory building is the subject of this appeal.

The appeal is to allow an accessory building in the Nineteenth Avenue front yard where no accessory buildings are permitted in any required front yard.

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 30.92 ft. wide by 18.92 ft. deep, is proposed to be located at the west corner of the Nineteenth Avenue front yard, 3.94 ft. to 4.37 ft. away from the front (Nineteenth Avenue) property line, and 4.01 ft. away from the southwest side property line.

The proposed accessory building would occupy almost 2/3 of the lot width along the Nineteenth Avenue frontage, with the remainder accommodating a 12.58 ft. wide driveway access and small landscaped areas along the side property lines.

The accessory building would contain a storage alcove, approximately 13.42 ft. by 8.5 ft. in size, a powder room, 8.5 ft. by 5.5 ft. in size, and 2 parking spaces. The interior parking spaces would be accessed from the proposed driveway immediately to the northeast of the accessory building. This driveway would also provide vehicular access to the two-car attached garage proposed at the north corner of the principal building.

The accessory building is approximately 12.3 ft. high, as measured from the average natural grade to the top of its sloped roof, when viewed from the neighbouring properties across Nineteenth Avenue. Two of the proposed total five windows would be featured on this side.

This Department notes that it is difficult to provide four-car garage capacities on a standard sized lot without impacting adjacent properties. It is apparent that the neighbouring property across Nineteenth Avenue to the northwest would be impacted by this proposal. Also, the proposed accessory building would directly overlap the front lawn of the neighbouring property immediately southwest. Although the existing approximately 6 ft. high fence along the shared side property line would partially screen the proposed structure, substantial massing impacts are expected considering the proximity of the proposed accessory building to this property line and to the front property line.

As noted above, the proposal includes a two-car attached garage in addition to the two-car detached garage. As a result, a large paved maneuvering area/driveway is proposed, which would significantly reduce the available front yard green space on the subject site.

With respect to the broader neighbourhood context, Nineteenth Avenue provides vehicular access to the majority of lots in the subject block, with approximately half of the lots containing accessory buildings, mostly one-car detached garages. However, with the exception of two sheds at 7961 and 7991 Eighteenth Avenue (for which permit records have not been found), all other accessory buildings are located at least 17ft. away from the Nineteenth Avenue property line. The proposed accessory building would be substantially larger in massing and substantially closer to the front property line than any of these existing accessory buildings.

Further, Nineteenth Avenue provides the only street frontage for the opposite side of the block. There are no accessory buildings present on this side of the block, even though this is the only side from which vehicular access is available.

Therefore, the siting of the proposed accessory building would have a significant impact on the existing streetscape.

From an historical perspective there were number of appeals to the Board related to the siting of detached garages in the subject block. For example, the Board denied appeals to allow a front yard setback of 4 ft. for a detached garage at 7931 Eighteen Avenue (BV 4218), 7943 Eighteen Avenue (BV 5890), and 7981 Eighteen Avenue (BV 4932). The Board, however, allowed a front yard setback of 17.18 ft. for a detached garage (where a setback of 44.98 ft. was required) at 7943 Eighteenth Avenue (BV 5905 and BV 5927).

Furthermore, it is difficult to find a hardship in this case. The proposed two-car attached garage satisfies all parking requirements for the proposed single family dwelling and secondary suite. Therefore, an additional accessory building containing two parking spaces (and other uses) is a design choice, not a necessity. Although the subject site requires a front yard on both sides of the property, it is not a hardship, as designs are available to accommodate the double frontage.

Finally, allowing a new accessory building is significant because the Zoning Bylaw explicitly prohibits accessory buildings in front of a principal dwelling.

In summary, this variance is major and clearly defeats the intent of the Bylaw. For these reasons, this Department recommends that the Board reject the appeal in accordance with Section 901(2) of the *Local Government Act*.

ADJACENT OWNER'S COMMENTS:

A petition letter was received from the applicant containing signatures from residents/occupants of 7997, 7975, 7964, 7955, 7943, 7937, 7923 18<sup>th</sup> Avenue in agreement of the accessory building setback.

No further correspondence was received regarding this appeal.

MOVED BY MR. B. BHARAJ:

SECONDED BY MR. S. NEMETH:

THAT based on the plans submitted this appeal be ALLOWED.

FOR: MR. B. BHARAJ

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

**DENIED**

**(b) APPEAL NUMBER: B.V. 6189**

APPELLANT: Amit K. Mittal

REGISTERED OWNER OF PROPERTY: 1033906 BC LTD. INC

CIVIC ADDRESS OF PROPERTY: [6538 Orchard Place](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 7; District Lot 92; Plan BCP51424

APPEAL: An appeal for the relaxation of Section 102.10 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling at 6538 Orchard Place. The rear yard setback, to the post, would be 4.0 feet where a minimum rear yard setback of 29.5 feet is required. The roof overhang would project 2.0 feet beyond the post. (Zone R2)

**APPELLANT'S SUBMISSION:**

Amit Mittal submitted an application to allow for the construction of a new home at 6538 Orchard Place.

Amit Mittal appeared before members of the Board of Variance at the Hearing.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

The subject property was recently created by the subdivision of three lots into eight single-family residential lots on a new cul-de-sac (SUB08-00006). The subject lot is located second from the southeast terminus of the eight-lot subdivision. Four lots, including the subject lot, are currently vacant; three lots contain residences under construction; and the remaining lot contains an existing dwelling. The property at 5971 Brantford Avenue, along the southern boundary of the Orchard Place right of way, is not part of this subdivision.

The subject site, zoned R2 Residential District, is located in the Kingsway-Beresford neighbourhood in which the age and condition of single family dwellings vary. This irregular through lot, approximately 119.68 ft. wide along the south property line and 93.87 ft. long along the west property line, fronts onto the Orchard Place cul-de-sac to the north and Oakland Street to the south. The north front property line parallels the Orchard Place cul-de-sac curvature, and then turns 90 degrees to the south. It continues southward approximately 22 ft., then turns 90 degrees to the east and continues approximately 50 ft. until connecting with the east side property line. The lot abutting the subject site along this 'offset' area, to the northeast of the subject site, is in the middle stages of construction for a single family dwelling. Single family dwellings adjoin the subject site to the east and to the northwest is a vacant lot. Vehicular access to the subject site is provided from the Orchard Place cul-de-sac. The site is relatively flat with a downward slope of approximately 4 ft. from the north to the south.

The subject site is proposed to be developed with a new single family dwelling, including secondary suite and accessory attached garage, for which a variance is requested.

The appeal is for a rear yard setback of 4.0 ft., measured to the entry porch posts of the proposed single family dwelling, with a further projection for roof eaves of up to 2.0 ft., where a minimum rear yard setback of 29.5 ft. is required.

The intent of the Bylaw is to mitigate the massing impacts of buildings and structures on neighbouring properties and to ensure sufficient outdoor living area in the rear yard.

The need for this relaxation is related to the unique property line configuration at the northeast portion of the site, as mentioned above. As a result, the 'offset' portion of the north property line is a rear property line. Given that the lot depth between this portion of the north property line and the south property line is 66 ft., and the required setbacks total 54.1 ft., a hardship is evident.

Further, this proposal would have a limited impact on the neighbouring property to the northeast. The shared portion of the north property line is a side property line for this lot, with the principal building (under construction) oriented towards Brantford Avenue. There is an accessory detached garage (under construction) located 4 ft. away from this shared property line and 24.5 ft. away from the west property line along the straight section of the Orchard Place cul-de-sac. The eastern portion of the proposed dwelling would overlap the garage and the 24.5 ft. wide front yard area to the west of the garage.

The main body of the dwelling within the overlap area, approximately 30 ft. long, would be set back 1 ft. further away from the entry porch posts. The 12 ft. wide covered deck, attached to the east side of the dwelling, would be set back further by 7 ft. The upper floor would be set back 8 ft. in relation to the entry porch posts. Only one larger window and three small windows are proposed within the overlap area. The proposed 'stepped back' design in combination with a limited amount of windows would help reduce massing impacts on the adjacent yard of the neighbouring property to the northeast.

In summary, given the hardship imposed by the unusual site geometry and the proposal's limited impacts on the neighbouring property to the northeast, this Department supports the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. B. POUND:

SECONDED BY MR. G. CLARK:

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

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

THAT the Hearing do now recess until 1:15 p.m..

CARRIED UNANIMOUSLY

The Hearing recessed at 1:12 p.m.

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

THAT the Hearing do now reconvene.

CARRIED UNANIMOUSLY

The Hearing reconvened at 1:15 p.m.

**(c) APPEAL NUMBER: B.V. 6190**

APPELLANT: Tony Gill

REGISTERED OWNER OF PROPERTY: A-Pacific Development Ltd. Inc. and  
Belltown Homes Ltd

CIVIC ADDRESS OF PROPERTY: [7357 Newcombe Street](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 32; District Lot 25; Plan 14945

APPEAL: An appeal for the relaxation of Sections 6.3.1 and 110.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home at 7357 Newcombe Street. The following variances are being requested:

a) the distance between the principal building and the detached garage would be 9.75 feet where a minimum distance of 14.8 feet is required; and,

b) the front yard setback, to the foundation, would be 33.86 feet where a minimum front yard setback of 40.63 feet is required based on front yard averaging. The canopy overhang would project 3.94 feet beyond the foundation where a maximum projection of 3.94 feet is permitted. The porch stairs would project 2.0 feet beyond the foundation. (Zone R10)

A previous Board of Variance (BOV 6177 2015 July 09) denied an appeal requesting a front yard setback of 24.93 feet and porch stairs projecting 2.0 feet beyond the foundation.

APPELLANT'S SUBMISSION:

Tony Gill and Kanwaljit Khangura submitted an application to allow for the construction of a new home at 7357 Newcombe Street.

Tony Gill appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

This property was the subject of an appeal before the Board on 2015 July 09 (BV6177). A variance was sought to allow for the construction of a new single family dwelling with a detached garage observing a front yard setback of 24.93 ft. where a front yard setback of 40.63 ft. is required. This Department did not support this request, and the Board of Variance denied the appeal.

Subsequently, in response to the concerns raised by neighbours at the hearing, the applicant has revised the proposal. The revised design locates the principal building 8.93 ft. further from the front property line; otherwise, except for a small reduction in size of the upper floor deck, the proposal is essentially the same as in the previous 2015 July 09 appeal.

The subject property is located in the Second Street area, in a mature R10 District neighbourhood characterized by low-scale single family dwellings. The R10 District in this area was established through an area zoning process at the request of residents, in order to control the form and character of new development. The subject lot measures 49.27 ft. in width and 109.14 ft. in depth. This interior site fronts onto Newcombe Street to the northeast and flanks the lane to the southwest. There are single family dwellings to the northwest, southeast and across the lane to the southwest of the subject site. To the northeast across Newcombe Street, the entire block is bordered by the Cariboo Conservation Area. Vehicular access to the subject site is from the rear lane. The site observes an ascending slope of approximately 12 ft. from the front to the rear.

The proposal is for a new single family dwelling with a detached garage, for which two appeals are requested.

As the second b) appeal concerns the front yard setback, it is discussed first.

The second b) appeal requests a front yard setback of 33.86 ft., measured to the foundation of the proposed single family dwelling, with a further canopy projection of 3.94 ft., where front yard averaging requires a minimum setback of 40.63 ft. from the Newcombe Street 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 the



average setback 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 immediately northwest of the subject site at 7325 and 7341 Newcombe Street, and the two dwellings immediately southeast of the subject site at 7375 and 7391 Newcombe Street. The front yard setbacks for these properties are 40.63 ft., 40.0 ft., 42.39 ft. and 39.49 ft. respectively.

The front yard setback is measured to the foundation of the main body of the dwelling. The proposed center element of the upper floor is set back 9.67 ft. from the foundation. In addition, the proposed northwest corner of the upper floor is set back approximately 16.83 ft. further in order to accommodate a high volume space over the main floor living/dining area; the northeast corner of the upper floor consists of an open deck, which is approximately 14.5 ft. wide and 11.5 ft. deep.

The proposed siting would place the subject dwelling 6.14 ft. in front of the neighbouring dwelling to the northwest and 8.53 ft. in front of the neighbouring dwelling to the southeast. The modified siting of subject dwelling (set further back by 8.93 ft.) is more compatible with the neighbouring residences. The recessed portions of the proposed upper floor would be behind the neighbouring dwellings, which would noticeably lessen the massing impacts on these neighbouring properties. It is noted, however, in the northeast corner of the upper floor, an approximately 128 sq. ft. deck area extends into the required setback area and approximately 8.53 ft. in front of the neighbouring dwelling to the southeast, potentially causing overlook and privacy impacts on this dwelling.

Otherwise, this Department does not object to the granting of this second b) variance.

The first a) appeal would permit a distance of 9.75 ft. from the accessory building to the principal building, with a 2.94 ft. roof projection and a 1.5 ft. bay window projection, where a minimum distance of 14.8 ft. is required.

The Bylaw requires a separation between buildings on the same lot in order 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.

This variance is a direct result of the revised siting of the principal building discussed under the second b) appeal. In order to achieve a greater front yard setback, the proposed dwelling has been located 8.93 ft. closer to the accessory detached garage, which is located in the south corner of the rear yard, approximately 4 ft. from the southwest (rear) property line and 4 ft. from the southeast (side) property line.

The proposed detached garage is 22.6 ft. wide and 20.0 ft. long, and approximately 12.19 ft. high to the top of the hip roof as viewed from the lane. The proposed garage

contains two parking spaces, accessed off the rear lane, and is consistent with the existing detached garage immediately to the southeast of the subject lot.

With respect to outdoor living space, sufficient yard area would remain to the northwest of the garage.

The 9.75 ft. distance is measured from the proposed detached garage to the main body of the proposed principal building. The two bay windows at the upper floor of the dwelling would not effectively reduce the separation distance at the ground level. The overlap of the garage and residence would be 21 ft., which is almost the entire width of the garage. No primary living space would face the proposed garage.

However, the proposed secondary suite, located in the cellar, would be accessed via a sunken patio located directly opposite the garage. This patio is approximately 11.76 ft. below grade at the northeast elevation of the garage. The proposed northeast elevation of the garage is approximately 9.5 ft. high to the fascia board and approximately 14.29 ft. high to the top of the roof. The reduced distance between the proposed house and garage, in combination with the over 20 ft. height difference would unacceptably reduce the light available to the secondary suite. Furthermore, this variance could be eliminated by reducing the proposed two-car garage to a one-car garage and providing an additional surface parking space to satisfy parking requirements.

For these reasons, the Department cannot support the first a) variance.

ADJACENT OWNER'S COMMENTS:

A petition letter was received 2015 August 31, in opposition to the proposed variance appeal regarding the front yard setback. The petition was signed by owners/occupiers of 7275, 7291, 7307, 7325, 7341 and 7391 Newcombe Street and 8269 and 8275 18<sup>th</sup> Avenue and 8270 and 8278 19<sup>th</sup> Avenue.

A petition letter was received 2015 September 03, from the applicant in support of the variances requested. The petition was signed by owners/occupiers of 8290, 8272, 8266, 8262, 8248, 8238, 8236 18<sup>th</sup> Avenue, 8175, 8262, 8257, 8245, 8223 and 8250 19<sup>th</sup> Avenue, 8258 17<sup>th</sup> Avenue, 7439, 7355, 7345, 7338, 7350, 7332, 7268, 7278 and 7373 1<sup>st</sup> Avenue, and 7241, 7538 and 7357 Newcombe Street.

Ms. C. Antunes, 7341 Newcombe Street, appeared before the Board in opposition to the front yard setback.

Mr. R. Arseneault, 8249 19<sup>th</sup> Avenue, appeared before the Board in opposition to the front yard setback.

Mr. D. Grant, 7391 Newcombe Street, appeared before the Board in opposition to the front yard setback.

No further correspondence was received regarding this appeal.

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

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

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

OPPOSED: MR. S. NEMETH  
MR. G. CLARK

**ALLOWED**

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

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

FOR: MR. B. BHARAJ  
MR. B. POUND

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

**DENIED**

**4. NEW BUSINESS**

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

**5. ADJOURNMENT**

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

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 2:20 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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Ms. E. Prior  
ADMINISTRATIVE OFFICER