



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, 2016 November 03 at 6:00 PM

1. CALL TO ORDER

PRESENT: Ms. Charlene Richter, Chair
 Mr. Guyle Clark, Citizen Representative
 Mr. Rana Dhatt, Citizen Representative
 Mr. Stephen Nemeth, Citizen Representative
 Mr. Brian Pound, Citizen Representative

STAFF: Ms. Margaret Malysz, Planning Department Representative
 Ms. Joy Adam, Planning Department Representative
 Ms. Eva Prior, Administrative Officer

The Chair for the Board of Variance called the meeting to order at 6:05 p.m.

2. MINUTES

(a) [Minutes of the Board of Variance Hearing held on 2016 October 06](#)

MOVED BY MR. POUND
SECONDED BY MR. CLARK

THAT the minutes of the Burnaby Board of Variance Hearing held on 2016 October 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. 6247

APPELLANT: Mikhail Serov

REGISTERED OWNER OF PROPERTY: Mikhail Serov

CIVIC ADDRESS OF PROPERTY: [35 Ellesmere Avenue](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 26; DL 189; Plan NWP4953

APPEAL: An appeal for the relaxation of Section 105.6(1)(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with a detached garage at 35 Ellesmere Avenue. The principal building height, measured from the front average elevation, would be 25.1 feet where the maximum building height of 24.3 feet is permitted. The principal building height, measured from the rear average elevation, would be 21.7 feet. (Zone-R5)

APPELLANT'S SUBMISSION

Mikhail Serov submitted an application requesting a relaxation of the zoning bylaw to allow for construction of a new home with a detached garage.

Mr. Serov appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, which is zoned R5 Residential District, is located in the Capitol Hill neighbourhood, in which the age and condition of the single and two family dwellings vary. This interior lot, approximately 33.0 ft. wide and 122.0 ft. deep, fronts Ellesmere Avenue to the east. The subject property abuts single family dwellings immediately to the north, south and across the lane to the west. Vehicle access to the site is provided via the rear lane. The site observes a downward slope of approximately 18.5 ft. from the front to the rear.

A new single family dwelling with a detached garage is currently under construction on the subject site (BLD16-00090). However, once the construction reached the mid-stage (sheathing), a deviation from the approved plans was identified by City staff upon inspection of the BC Land Surveyor's roof elevation certificate. As a result, a variance is requested in order to permit construction to continue with the deviation incorporated

into the approved plans.

The appeal is to vary Section 105.6(1)(b) – “Height of Principal Building” of the Zoning Bylaw from 24.3 ft. to 25.1 ft. to allow the construction of the proposed single family dwelling with a flat roof.

The intent of the height requirements of the Zoning Bylaw is to mitigate the massing impacts of the new buildings and structures on neighbouring properties and to preserve the views.

As explained by the applicant, the deviation from the approved drawings is related to the direction of the roof slope, which was modified during the preparation of the shop drawings for roof trusses. Original approved drawings indicate that the roof was to slope one way over its shorter dimension. The roof trussed was fabricated, however, to allow for a two way slope with the roof high point in the middle of its longer dimension. As a result, the overall building height was increased by 10 inches.

The proposed dwelling observes a rear elevation height of 21.7 ft. from the lane property line, which is 2.6 ft. less than the allowed maximum height. Therefore, this proposal would not affect the views from the properties directly across the lane to the west, which are at substantially higher elevations.

The requested variance is for the front elevation height. In this case, the height calculation is based on the natural average grade at the outermost face of the front elevation. This is also the proposed average grade. It should be noted that a substantial grade difference from the rear to the front of the subject site is a contributing factor to the excess height of the front elevation.

The proposed height encroachment of 0.8 ft. occurs approximately at the upper portion of the decorative fascia of the flat roof. According to the provided BC Land Surveyor's roof elevation certificate, the encroachment along the eastern (front) edge of the roof is only 0.3 ft. and gradually increases to 0.8 ft. at the mid-point of the roof, approximately 23.0 ft. away from the front face of the building.

Considering the small scale of the encroachment, the proposed variance to the height requirements of the Zoning Bylaw would not impact neighbouring properties and would not be noticeable within the existing street frontage.

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

ADJACENT OWNER'S COMMENTS

The owner/resident at 42 Howard Avenue appeared in opposition to the proposed variance. The speaker expressed concern regarding the loss of view.

The owner/resident at 46 Howard Avenue appeared in opposition to the proposed variance. The speaker expressed concern regarding the loss of view.

Staff explained that the permitted height is 24.3 feet and that the variance would be for a further 0.8 feet, only at the midpoint of the roof.

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(b) APPEAL NUMBER: B.V. 6248

APPELLANT: TQ Construction

REGISTERED OWNER OF PROPERTY: Siaw Min Pui

CIVIC ADDRESS OF PROPERTY: [7267 Broadway](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 90; DL 136; Plan NWP28307

APPEAL: An appeal for the relaxation of Section 102.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home at 7267 Broadway. The front yard setback would be 70.0 feet where a minimum setback of 97.4 feet is required based on front yard averaging. (Zone R2)

APPELLANT'S SUBMISSION

Ellen Liu and Jaime Miller, TQ Construction, submitted an application on behalf of the homeowner requesting a relaxation of the zoning bylaw to allow for construction of a new home with a detached garage.

TQ Construction and Siaw Min Pui, homeowner appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, zoned R2 Residential District, is located in the Sperling-Broadway neighbourhood in which the age and condition of single family dwellings vary. This slightly irregular interior lot, approximately 100.0 ft. wide by 173.0 ft. deep (along the shorter east side property line), fronts onto Broadway to the south. The subject site abuts single family dwellings to the east. To the west and north the subject site is bordered by a large panhandle lot. This lot consists of the panhandle portion to the south, which runs immediately along the west (side) property line of the subject lot, and

the remaining portion, which is immediately north of the subject lot. This northern portion contains a residential dwelling and has a frontage onto Dorman Drive further to the north. Further to the west of the subject site is a vacant residential lot. Vehicular access to the subject site is proposed from Government Road; there is no lane access. The subject property observes a downward slope of approximately 17.2 ft. from the northeast corner to the southwest corner.

The subject lot is proposed to be re-developed with a new single family dwelling, with an attached carport and a small accessory building, for which a variance has been requested.

The appeal proposes the relaxation of Section 102.8 (1) – “Front Yard” of the Burnaby Zoning Bylaw from 97.4 ft. (based on front yard averaging) to 70.0 ft. The purpose of this variance is to allow construction of the proposed single family dwelling encroaching into the required front yard abutting Broadway. Section 6.12 – “Yards” of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were built in the established neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including the requirement of a larger front yard where the average front yard depth of the two dwellings on either side of the subject site exceeds the required front yard applicable to the zone. The larger front yard requirement should be calculated through the “front yard averaging”. The intent of the amendment was to improve the consistency and harmony of the new construction with the existing neighbourhood.

To calculate the required front yard of the subject property (front yard averaging), the front yard of the two neighbouring properties immediately west of the subject site, at 7243 Broadway and 2322 Dorman Drive, and the two neighbouring properties immediately east of the subject site, at 7279 and 7291 Broadway, were calculated. These front yards are 24.6 ft. (the minimum front yard setback assumed for the vacant lot) and 24.6 ft. (the minimum front yard setback assumed for the vacant “panhandle” portion of the lot) for the properties to the west and 33.1 ft. and 306.0 ft. for the properties to the east, respectively. The neighbouring property at 7291 Broadway (second to the east) affects these calculations. The average of the neighbouring properties’ front yards is 97.4 ft.

The subject dwelling is proposed to be one storey in height. The proposed front yard of the subject property is measured to the central portion of the front elevation, which is the closest face of the building with respect to the front property line. The body of the dwelling would observe various setbacks from this central portion, up to 6.08 ft. at the southwest corner and up to 16.33 ft. at the southeast corner (open carport), resulting in a setback of at least 78.0 ft. and 84.0 ft., respectively, from these corners to the front property line.

It appears that the proposed front yard setback would have a little impact on the immediately adjacent neighbouring properties and the neighbouring context. The proposed siting would locate the subject dwelling 36.9 ft. behind the neighbouring dwelling to the east. The panhandle portion of the neighbouring lot to the west of the subject site and the neighbouring lot further west is currently undeveloped.

The proposed front yard has minimal impact on the existing streetscape as the neighbouring properties' front yards in the block vary significantly. In general, a number of residences observe a front yard setback in the 40.0 ft. range and fewer residences observe larger front yard setbacks, up to 306.0 ft. at the second lot to the east of the subject lot. Therefore, the proposed front yard setback for the subject dwelling would not be out of character for the existing neighbourhood streetscape.

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

ADJACENT OWNER'S COMMENTS

Form letters in support of the variance were received from the owners/residents at 7223, 7377, 7582, 7584 Broadway and 2322 Dorman Drive.

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(c) **APPEAL NUMBER:** B.V. 6249

APPELLANT: Victoreric Design Group

REGISTERED OWNER OF PROPERTY: Ky Hoang and Toya Soo

CIVIC ADDRESS OF PROPERTY: [5105 Hardwick Street](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 104; DL 74; Plan NWP33374

APPEAL: An appeal for the relaxation of Sections 6.3.1 and 103.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home at 5105 Hardwick Street. The following variances were requested:

a) the distance between the principal building and a detached garage of 7.9 feet where a minimum distance of 14.8 feet is required; and,

b) the front yard setback of 24.03 feet where a minimum setback of 33.22 feet is required based on front yard averaging. (Zone R3)

APPELLANT'S SUBMISSION

Eric Lee, VictorEric Design Group, on behalf on the homeowners, submitted an application requesting a relaxation of the zoning bylaw to allow for construction of a new home.

Eric Lee and Ky Hoang appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site is located in the Douglas-Gilpin 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 measures approximately 54.9 ft. in width and 105.0 ft. in depth. The subject site fronts onto the north side of Hardwick Street. Single family dwellings abut the subject site to the west, east and across the lane to the north. Vehicular access to the subject site is proposed to be relocated from Hardwick Street to the rear lane. The site observes a downward slope of approximately 7.0 ft. in the southeast - northwest direction.

A new single family dwelling with a detached garage is proposed for the subject site, for which two variances have been requested.

The first a) appeal proposes the relaxation of Section 6.3.1 – “Distance between Buildings on the same Lot” of the Zoning Bylaw to allow the construction of a new single family dwelling and detached garage. The proposed distance between the detached garage and the principal building is 7.9 ft., 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 buildings does not have a negative impact on the subject property and neighbouring properties, as well as to provide for sufficient outdoor living space.

The proposed 23.0 ft. wide by 19.42 ft. deep detached garage would be located in the northeast corner of the site, in the rear yard. The garage would observe a 3.94 ft. setback from the rear lane, which is the minimum setback required from the lane, and a 6.39 ft. setback from the east side property line, where a setback from the side lot line need not to be provided. The Bylaw permits a nil side yard setback when an accessory building is situated within the rear 29.53 ft. of the lot, and not less than 70.54 ft. from the street on which the principal building fronts. In this case, the accessory detached garage would be within the rear 25.23 ft. of the lot and 79.77 ft. away from Hardwick Street.

The principal dwelling, with an approximately 41.67 ft. wide by 49.86 ft. deep footprint, would be sited in the middle and slightly to the south of the lot. The footprint includes a 20.08 ft. wide and 7.54 ft. deep covered deck proposed at the northwest (rear) corner

of the dwelling. The building would observe side yard setbacks of 6.82 ft. (west) and 6.38 ft. (east), where the minimum side yard setback of 4.9 ft. is required for a principal building.

The distance between the two structures is measured from the south elevation of the accessory detached garage, to the post of the rear porch attached to the north elevation of the principal building. The detached garage would overlap the principal building with its full width. However, the length of the overlap where the separation between two structures is compromised, at the rear deck, would be only 1.67 ft. Otherwise; the distance between two structures would be 15.44 ft., which exceeds the required minimum (14.8 ft.). Given this relatively small overlap area, the reduced separation between the two structures would have few impacts on the interior of the dwelling. Further, considering that the compromised distance between the two structures would occur in the middle of the subject lot, rather than close to the side property lines, this relaxation would have little massing impact on adjacent properties to the west and east of the subject site.

With respect to outdoor living space, this appeal would not significantly reduce the green area available on this site. In addition to the outdoor living area, of approximately 400 sq. ft., remaining between the principal building and the detached garage, there would be a larger green area of approximately 800 sq. ft. available in the rear yard, to the west of the proposed detached garage. As such, the requested relaxation would have little impact on the occupants/users of the subject site.

In summary, considering the small scale and confined nature of the requested variance, this relaxation would not create negative massing impacts on the neighbouring sites and the subject site. Although there is some room for an adjustment with respect to the siting of the two structures in relation to the side yards, limited design options exist, considering in particular the shallow depth of the site.

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

This second b) appeal proposes the relaxation of Section 103.8 – “Front Yard” of the Burnaby Zoning Bylaw from 33.22 ft. (based on front yard averaging) to 24.03 ft. The purpose of this variance is to allow construction of the proposed single family dwelling encroaching into the required front yard abutting the Hardwick Street. Section 6.12 – “Yards” of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were built in the established neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including requirement of a larger front yard where the average front yard depth of the two dwellings on either side of the subject site exceeds the required front yard applicable to the zone. The larger front yard requirement should be

calculated through the “front yard averaging”. The intent of the amendment was to improve the consistency and harmony of the new construction with the existing neighbourhood.

To calculate the required front yard of the subject property (front yard averaging), the front yard of the two neighbouring properties immediately west of the subject site, at 5075 and 5085 Hardwick Street, and the two neighbouring properties immediately east of the subject site, at 5115 and 5125 Hardwick Street, were calculated. These front yards are 40.74 ft. and 47.79 ft. for the properties to the west and 24.08 ft. and 20.28 ft. for the properties to the east, respectively. The neighbouring properties’ average front yards, measured from the front property line to the outermost section of the building, is 33.22 ft.

The proposed front yard of the subject property is measured to the posts of the front porch of the proposed dwelling as 24.03 ft. The partly recessed porch would be located in the center of the front elevation. The main body of the dwelling would observe various setbacks from the front porch post, up to 7.00 ft. at the southwest corner (excluding a 10.0 ft. wide and 1.87 ft. deep bay window) and up to 1.22 ft. at the southeast corner (excluding a 9.0 ft. wide and 1.87 ft. deep bay window), resulting in a setback of 31.03 ft. and 25.25 ft., respectively, from these corners to the front property line. The upper floor would be further set back, by approximately 4.0 ft., at its southwest portion in relation to the front porch posts.

According to the proposed front yard, the proposed dwelling would be located essentially in line with the neighboring residence to the east, or 1.27 ft. behind, if the southeast corner of the dwelling is considered. With respect to the neighbouring dwelling to the west, the proposed dwelling would be 23.76 ft. in front of this neighbouring dwelling, or 16.76 ft., if the southwest corner of the dwelling is considered. However, considering the required front yard setback (33.22 ft.), the length of the front yard encroachment, if the southwest corner of the proposed dwelling is considered, would be only 2.19 ft. The western portion of the upper floor, which is proposed to be further set back on this side (4.0 ft.), would not encroach into the required front yard. Considering these various building setbacks, it appears that only a small portion of the proposed dwelling would directly affect the neighbouring property to the west.

Further, it is noted that the current dwelling on the subject site observes a front yard setback of approximately 22.0 ft., as measured to the carport attached in the front. Therefore, this proposal would not change the existing massing relation with the neighbouring sites with respect to the front yard setback.

With respect to the neighbourhood context, the proposed front yard has a minimal impact, as the neighbouring properties’ front yards in the block vary, from approximately the 40.0 ft. - 50.0 ft. range to the west of the subject site (nine lots out of eleven lots in total) to approximately the 20.0 ft. – 25.0 ft. range to the east of the subject site (six lots including the subject lot). Further, the proposed design provides

for transitioning between deeper front yards to the west and shallower front yards to the east of the subject site. Therefore, the proposed siting of the subject dwelling would fit within the existing streetscape.

In view of the above, this Department does not object the granting of this second b) variance.

ADJACENT OWNER'S COMMENTS

A letter was received from owners/occupants of 5125 Hardwick Street in opposition to the proposed variances.

No further submissions were received regarding this appeal.

MOVED BY MR. CLARK
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. CLARK
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

(d) **APPEAL NUMBER:** B.V. 6250

APPELLANT: Raffaele and Associates

REGISTERED OWNER OF PROPERTY: Mela Properties

CIVIC ADDRESS OF PROPERTY: [7774 Government Road](#)

LEGAL DESCRIPTION OF PROPERTY: Lot 54; DL 42; Plan NWP26832

APPEAL: An appeal for the relaxation of Section 101.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home at 7774 Government Road. The front yard setback would be 43.81 feet where a minimum setback of 114.5 feet is required based on front yard averaging. (Zone R1)

A previous Board of Variance (BOV 6246, 2016 October 06) denied an appeal requesting the front yard setback of 29.53 feet.

Prior to the commencement of this appeal a 15 minute recess was requested to allow the Board members an opportunity to review a submission received prior to the hearing.

MOVED BY MR. POUND
SECONDED BY MR. CLARK

THAT the Board of Variance Hearing recess until 7:00 p.m.

CARRIED UNANIMOUSLY

The Board of Variance recessed at 6:45 p.m.

MOVED BY MR. POUND
SECONDED BY MR. CLARK

THAT the Board of Variance Hearing reconvenes.

CARRIED UNANIMOUSLY

The Board of Variance reconvened at 7:05 p.m.

APPELLANT'S SUBMISSION

Raffaele and Associates submitted an application, on behalf of the homeowners, requesting a relaxation of the zoning bylaw to allow for construction of a new home.

Mayumi Hasegawa and Trevor Toy, Raffaele and Associates, and homeowners appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

This property was the subject of an appeal before the Board on 2016 October 06 (BV 6246). A variance was sought to allow for the construction of a new single family dwelling, with a secondary suite and an attached garage, observing a front yard setback of 29.53 ft. where a minimum front yard setback of 114.5 ft. (based on front yard averaging) is required at the Government Road frontage. The appeal was denied by the Board of Variance.

Subsequently, in response to the concerns raised by the neighbours at the hearing, the applicant has revised the proposal. The revised proposal relocates the principal building 14.28 ft. further away from the front property line, which results in the 43.81 ft. front yard setback. The relocation of the proposed dwelling to the rear of the lot is achieved by "slicing off" a portion of the southwest corner of the dwelling, in order to accommodate the angled portion of the environmental setback required along the west

side property line, which results in approximately the 146.7 sq. ft. reduction in gross floor area. Further, the overall building depth is proposed to be reduced from 60.0 ft. to 54.83 ft., by decreasing the front porch depth (from 6.83 ft. to 4.0 ft.) and by eliminating the rear patio roof cover (2.33 ft. deep). Finally, the concrete stair access to the cellar and the slightly raised concrete patio (approximately 9.0 ft. deep) to the rear of the dwelling, which were indicated in the previous appeal, are no longer proposed.

The revised front yard setback is an improvement to the previously proposed setback. Therefore, this Department's comments remain similar to the comments provided for the 2016 October 06 appeal.

As a reminder, the subject site, zoned R1 Residential District, is located in the Government Road neighbourhood in which the age and condition of single family dwellings vary. This interior lot, approximately 100.0 ft. wide and 155.09 ft. deep, fronts onto Government Road to the north. The subject site abuts single family residential lots to the east and south and further west. Vehicular access to the subject site is proposed to be retained from Government Road; there is no lane access. The subject property observes a downward slope of approximately 11.2 ft. from the northeast corner to the southwest corner, which contains the Eagle Creek ravine.

Eagle Creek, a Class A fish bearing stream, runs in close vicinity to the southwest (rear) portion of the subject site. As such, this proposal is subject to the Streamside Protection and Enhancement Area (SPEA) regulation provided in Section 6.23 of the Zoning Bylaw. This bylaw reflects the City's long standing policies for protecting the environment and protecting and enhancing open streams and fish habitat in the City. For this segment of Eagle Creek, in relation to the subject lot, a 30 meter SPEA, measured from the top of bank, is required. In cases where the full Bylaw-required SPEA makes development of the lot unfeasible, an application to vary the SPEA can be made to the Environmental Review Committee (ERC). The ERC makes recommendations to the Director of Planning and Building who has the authority to vary the boundaries of the SPEA. Any variance must also ensure compliance with federal and provincial regulations for fish habitat.

In April 2016, the Environmental Review Committee (ERC) supported the application to vary the SPEA from 98.4 ft. (30.0 m) to a variable setback, ranging from 49.2 ft. (15.0 m) to 75.5 ft. (23.0 m) consistent with the "SPEA Protection Zone" at the southwest (rear) portion of the subject site. The width of the variable setback was determined by a Qualified Environmental Professional (QEP) and is the minimum distance possible for this reach of Eagle Creek to also ensure compliance with provincial regulations. The requested variance was approved by the ERC/Director, subject to the following conditions: 1) permanent fencing and enhancement of the SPEA with native plantings, 2) provision of a 26.3 ft. (8.0 m) meter wide space for formal rear yard, measured from the south boundary of the "potential development area" (since the SPEA is no longer available for typical rear yard uses) and 3) registration of a restrictive covenant protecting the SPEA and formal rear yard.

The registration of the covenant is now in progress. In addition, a Greater Vancouver Sewerage and Drainage District (GVS&DD) easement, which generally follows the creek alignment, occupies the southwest corner of the subject lot.

Location of the above mentioned covenants and easement would result in an approximately 55.82 ft. (17.01 m) deep “no built” zone along the rear property line which would significantly restrict the developable area within the property. In this context and considering the required averaged front yard (114.5 ft.), no developable area would be available on the subject site.

This appeal proposes the relaxation of Section 101.8 – “Front Yard” of the Burnaby Zoning Bylaw from 114.5 ft. (based on front yard averaging) to 43.81 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required front yard abutting the Government Road. Section 6.12 – “Yards” of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were built in the established neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including requirement of a larger front yard where the average front yard depth of the two dwellings on either side of the subject site exceeds the required front yard applicable to the zone. The larger front yard requirement should be calculated through the “front yard averaging”. The intent of the amendment was to improve the consistency and harmony of the new construction with the existing neighbourhood.

To calculate the required front yard of the subject property (front yard averaging), the front yard of the two neighbouring properties immediately west of the subject site, at 7732 and 7750 Government Road, and the two neighbouring properties immediately east of the subject site, at 7798 and 7814 Government Road, were calculated. These front yards are 179.6 ft. and 137.0 ft. for the properties to the west and 73.8 ft. and 67.6 ft. for the properties to the east, respectively. All four neighbouring properties affect these calculations, particularly the two lots immediately west of the subject site, which are approximately 307.0 ft. deep (the two lots immediately east of the subject site are approximately 230.0 ft. deep). The neighbouring properties’ average front yards, measured from the front property line to the outermost section of the building (none of the buildings has a front porch), calculated as 114.5 ft.

The proposed new front yard of the subject property is measured to the posts of the front porch of the proposed dwelling as 43.81 ft. The porch, which measures 19.18 ft. wide and 4.0 ft. deep (reduced), would be located off center to the east of the front elevation. The main body of the dwelling would observe various setbacks from the front porch post, up to 8.0 ft. at the northeast corner and up to 12.0 ft. at the northwest corner, resulting in a setback of 51.81 ft. and 55.81 ft., respectively, from these corners to the front property line. The upper floor would be generally aligned with the main floor at the front.

According to the new proposed front yard, the proposed dwelling will be located 29.99 ft. further to the north compared to the detached garage on the neighbouring property to the east. This property was recently redeveloped, following a successful appeal to the Board of Variance in August 2011 (BV 5922) with respect to the front yard setback and height of the accessory building (detached garage). According to the Building Permit drawings (BLD 11-01085) the principal building at this property observes a front yard setback of 111.56 ft. Therefore, considering the proposed new front yard setback (43.81 ft.) and the proposed new dwelling depth of 54.83 ft., including the front porch, there would be no direct overlap between the two dwellings. The existing dwelling on the subject site partly overlapped the neighbouring residence to the east (the existing dwelling on the subject site, which is now demolished, observed a front yard setback of 83.8 ft.). Further, since the proposed dwelling features a limited amount of windows at the upper level facing east toward the neighbouring property, the proposed front yard would have minimal impacts on the neighbouring residence to the east. At the hearing however, a concern was raised by the owner of this property with respect to the views from their upper floor balcony, located at the northeast portion of the front (north) elevation. According to the Building Permit drawings (BLD 11-01085) this balcony is located approximately 28.0 ft. away from the shared (west) property line. This generous distance and the additional 9.42 ft. of the side yard setback proposed at the northeast corner of the subject dwelling, would help moderate massing impacts created by the proposed reduced front yard setback.

With respect to the neighbouring property to the west, considering the location of the neighbouring residence at the rear of the property, as well as a complete visual separation provided by the mature greenery of the Eagle Creek tributary area between the two properties, this proposal would have minimal impact on the neighbouring residence to the west.

The proposed front yard has minimal impact on the neighbourhood context, as the neighbouring properties' front yard in the block vary significantly, ranging from approximately 14.8 ft. (third property west of the subject lot) to 179.6 ft. (second property west of the subject lot). Considering the neighbouring block directly opposite the subject area, the neighbouring properties observe generally unified front yard setback in the 80.0 – 85.0 ft. range, with the exception to the two properties at 7709 and 7731 Government Road. Eagle Creek runs through the rear portion of the property at 7709 Government Road (which is a trapezoid shaped lot, approximately 130.0 ft. deep, on average) and through the front portion of the property at 7731 Government Road (which is an irregular lot, approximately 200.0 ft. deep). As a result, there is approximately a 60.0 ft. difference in the depth of these two properties' front yards (these front yards are approximately 38.0 ft. and 98.0 ft., respectively). In this context, the proposed siting of the subject dwelling would not be out of ordinary within the existing streetscape.

Moreover, given the presence of the stream setback and sewer easement on the subject site, the transitioning of the front yard setback forward is suitable for the subject site.

For all of the reasons stated above, as well as considering the efforts made by the applicant to address the comments from the neighbour to the west, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS

A submission was received on behalf of the owners/occupants of 7798 Government Road in opposition to the proposed variance. The submission advised that the front yard setback variance would affect the use and enjoyment of their home, as well as adversely impacting the area.

The submission also included a letter from the owners/residents of 7798 Government Road citing that the front yard variance would obstruct sunlight into the entrance of their home and create a view of the rear of the proposed home from the balcony of 7798 Government Road. The owners/residents also stated that the proposed plan would devalue properties in the surrounding area.

As part of the submission, form letters in opposition to the front yard variance were included. Letters were received from owners/residents at 7709, 7755, 7785, 7798, 7959, 7969 and 8017 Government Road.

A letter from the owners/residents of 7731 Government Road was received as part of the submission package advising that they are not formally opposed to the variance as they are not directly affected by it, but they supported the concerns voiced by the owners/residents of 7798 Government Road.

Letters in support of the variance were received from 7468, 7478, 7508, 7732, 7750 and 7775 Government Road.

Letters were received both in support and opposition from owners/residents at 7765 Government Road.

The owner/occupant of 2948 Phillips Avenue, appeared before the Board of Variance advising that he is a member of the Burnaby Streamkeepers. The speaker requested that the Streamside Protection and Enhancement Area be maintained on Eagle Creek and that the Burnaby Streamkeepers are ensured access to the creek.

A representative and the owner/occupant for 7798 Government Road appeared in opposition to the appeal advising that the variance would adversely affect the use and enjoyment of their home.

No further submissions were received regarding this appeal.

MOVED BY MR. CLARK
SECONDED BY MR. NEMETH

THAT based on the plans submitted this appeal be DENIED.

CARRIED

OPPOSED: Mr. Pound
Mr. Dhatt

4. **NEW BUSINESS**

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

5. **ADJOURNMENT**

MOVED BY MR. NEMETH
SECONDED BY MR. CLARK

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 8:13 p.m.

Ms. C. Richter

Mr. G. Clark

Mr. R. Dhatt

Mr. S. Nemeth

Ms. E. Prior
ADMINISTRATIVE OFFICER

Mr. B. Pound