



## CITY OF BURNABY

# SPECIAL MEETING OF THE BOARD OF VARIANCE

## MINUTES

A Special Meeting of the Board of Variance was held in the Council Chamber, main floor, City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, 2016 December 15 at 6:00 p.m.

### 1. CALL TO ORDER

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

ABSENT: Mr. Rana Dhatt, Citizen Representative

STAFF: Ms. Margaret Malysz, Development Plan Approvals Supervisor  
Ms. Eva Prior, Administrative Officer

The Chair called the Special Meeting to order at 6:05 p.m.

### 2. 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. 6260

APPELLANT: Adrian Botez

REGISTERED OWNER OF PROPERTY: Adrian and Victoria Botez

CIVIC ADDRESS OF PROPERTY: [4610 Marine Drive](#)

LEGAL DESCRIPTION OF PROPERTY: Lot: 110; DL 157; Plan 26519

APPEAL: An appeal to vary Section 102.6(1)(b) 'Height of Principal Building' of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with a flat roof and attached garage at 4610 Marine Drive. The height of the principal building, measured from the rear average elevation, would be 30.32 feet where a maximum height of 24.3 feet is permitted. The building height, as measured from the front average elevation, is proposed to be 19.0 feet.

APPELLANT'S SUBMISSION:

The applicant's letter refers to the steep slope of the site which creates design hardships such as a constructing a driveway from the street to the building. The applicant stated that his proposed design would not negatively affect neighbouring properties, and would enhance the existing streetscape.

Mr. Adrian Botez, homeowner, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site is located in the Big Bend neighbourhood, in which the age and condition of single family dwellings vary. This parallelogram interior lot, approximately 49.0 ft. wide by 200.0 ft. long, fronts onto the south side of Marine Drive. Abutting the subject site to the east and west are single family dwellings. South of the subject site is the parking lot for the Riverway Sports Complex. The properties to the north, across Marine Drive, contain single family dwellings. Existing and proposed vehicular access to the site is from Marine Drive. The site observes a significant downward slope from the north east corner of the lot at Marine Drive to the south west corner of the property at the rear property line, dropping 28.88 ft. over approximately 200 ft.

The site, which is the subject of one appeal, is proposed to be redeveloped with a new single family dwelling with an attached garage.

The appeal requests a building height of 30.32 ft., measured from the average rear elevation, where a maximum height of 24.3 ft. is permitted for a building with a flat roof. The principal building height, measured from the average front elevation, would be 19.0 ft.

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

With reference to this appeal, the height calculation is based on existing natural grade at the rear elevation. As noted above, the grade difference from the front to the rear of the subject site contributes to the excess height at the rear elevation. The proposed height encroachment of 4.6 ft. would extend across the entire south elevation. However, the height is measured to the highest point in the building, which is the roof on the top floor, which is set back approximately 28.0 ft. from the south façade. The setting back of the upper storey prevents a solid 30.32 ft. at the south elevation; here the main floor of the dwelling conforms with the height requirement.

In addition, the large size of the property will alleviate potential impacts on the neighbouring properties. The proposed overheight condition occurs 114.0 ft. from the rear property line adjoining the Sports Complex parking lot. A group of trees close to the south property line would mitigate the views from the parking lot toward the house. The property immediately to the east at 4614 Marine Drive is an older dwelling with a sundeck placed at the opposite corner from the new house. The views of the subject property from this house and deck are screened by trees and hedges, so the impact will be minimal. The property to the west is a newer house that extends beyond the rear elevation of the proposed house, and is unlikely to be affected by the overheight.

In summary, considering the size of the property, the site topography and the proposal's minimal impacts on the neighbouring properties, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

The homeowners of 4608 Marine Drive appeared in opposition to the proposed variance. The homeowners expressed concern regarding the height and potential mitigation of sunlight to their property.

Planning staff advised that the proposed home will be lower than the existing home at 4608 Marine Drive.

No further submissions were received regarding this appeal.

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. 6261**

APPELLANT: Harb Mann

REGISTERED OWNER OF PROPERTY: Jack and Paulina Chan

CIVIC ADDRESS OF PROPERTY: [8462 Royal Oak Avenue](#)

LEGAL DESCRIPTION OF PROPERTY: LOT 18; DL 158; Plan 1489

APPEAL: An appeal to vary Section 102.6(1)(b) 'Height of Principal Building' and Section 102.8(1) ' Front Yard' of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with secondary suite, sloped roof and attached garage at 8462 Royal Oak Avenue. The following variances are being requested:

a) the height of the principal building, measured from the front average elevation, would be 33.7 feet where a maximum height of 29.5 feet is permitted. The building height, as measured from the rear average elevation, is proposed to be 27.15 feet; and,

b) the front yard depth would be 24.60 feet where a front yard depth of 39.48 feet is required based on front yard averaging.

*Mr. Brian Pound declared a conflict of interest and left the Council Chamber at 6:20 p.m.*

APPELLANT'S SUBMISSION:

A letter was received from the contractor on behalf of the owners advising that the property is sloped thereby requiring a height variance. Without the height variance the driveway would be too steep to accommodate an attached garage.

Harb Man, representing the homeowners, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The two requested variances are co-related, and will be discussed together.

The subject site is located in the Clinton-Glenwood neighbourhood, which is an older, well established neighbourhood. This corner lot, approximately 70.00 ft. wide by 104.00 ft. long, fronts onto the east side of Royal Oak Avenue and the north side of Keith Street. Abutting the subject site to the east and west (across Royal Oak Avenue) are single family dwellings. The properties to the north, across the lane, contain single family dwellings. Existing and proposed vehicular access to the site is from the rear lane. The site observes a significant downward slope from the northeast corner of the lot at the lane to the southwest corner where Royal Oak Avenue and Keith Street intersect, dropping 18.74 ft. over 104.00 ft.

The first requested variance is to allow;

- 1) The principal building height, measured from the front average elevation will be 33.74 ft., where a maximum height of 29.50 ft. is permitted for sloping roofs.

With respect to the first requested variance to vary the building height, the intent of the Bylaw is to mitigate the massing impacts of new buildings or structures on neighbouring properties.

With reference to this appeal, the height calculation is based on existing natural grade at the front elevation, which is Keith Street. The proposed height encroachment of 4.24 ft. would extend across the entire Keith Street elevation (approximately 53.00 ft. wide) and over 50% (approximately 25.00 ft.) of the elevation (as viewed from Royal Oak Avenue. It is noted that the proposed dwelling would meet the allowable maximum

height (as measured from the rear average elevation) at the lane.

The grade difference from the rear to the front of the subject site contributes to the excess height at the front elevation. The difference between the elevation at the corner of the house at the northwest corner (where Royal Oak intersects with the lane) to the southwest (where Royal Oak intersects with Keith Street) is 4.93 ft., and the requested height variance is 4.24 ft.

This overheight situation is exacerbated by the proposed location of the dwelling, which is the subject of the second requested variance, which would;

- 2) Vary Section 102.8(1) to permit a front yard depth of 24.60 ft. where 39.48 ft. (based on front yard averaging) would be required.

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, the front yard of the two neighbouring properties immediately west of the subject site, at 5229 and 5249 Keith Street, were calculated. These front yards are 39.53 ft. and 39.42 ft. The resulting front yard requirement for 8462 Royal Oak would be 39.48 ft.

The variance that has been requested is 24.60 ft. The point of measurement is one of the posts which is set 5.00 ft. from the south wall of the dwelling. The posts support a roof that spans 41.50 ft. across the majority of the Keith Street elevation. The top of this roof is 24.00 ft. from finished floor elevation of the dwelling.

The proposed 24.60 ft. setback would place the bulk of the house almost 15.00 ft. in front of the two houses immediately to the east, 5229 and 5249 Keith Street. At this location, the new house, with the additional 4.00 ft. height would present a 2 1/2 storey elevation to Keith Street. It has the potential to block a portion of the southwestern view from these properties, particularly from 5229 Keith Street.

In terms of the neighbourhood context, this corner house would be a very prominent departure from the established streetscape of Keith Street. The majority of the existing dwellings on the North side of Keith Street observe an average front yard setback of approximately 39.00 ft. On the South side of Keith Street, there is a similar pattern of consistent front yard setbacks. As such, this proposal would not "fit in" with regard to the broader neighbourhood context. This is a major variance that has been requested, and one which defeat the intent of the Bylaw.

The design itself has created the request for the front yard variance. A different design with different programming could conform to the requirements of front yard averaging

or result in the request for a minor variance that would have less of an impact on the adjacent properties.

It is also noted that design changes could also reduce the requested height variance. For example, the 10.00 ft. ceiling heights in the basement and on the main floor could be reduced to 8.00 ft. for the basement and 9.00 ft. for the main floor, which would remove 3.00 ft. from the requested height variance. The floor of the basement could be sunk deeper into the ground. As the intention of the Bylaw in regulating building height is to mitigate the massing impacts of new buildings and structures on neighbouring properties, designs of new houses should be adapted to conform to the Bylaw.

In summary, considering the proposal's potential impacts on the neighbouring properties, and the existence of design options that could remove the need for this height variance, this Department cannot support the granting of the first variance to permit additional height.

Regarding the request for the front yard variance, this is a major variance, and one which defeats the intent of the Zoning Bylaw. Design options exist to minimize the new dwelling's impact on the established neighbourhood.

As such, this Department cannot support the granting of the second variance to permit a reduced front yard setback.

ADJACENT OWNER'S COMMENTS:

A letter in opposition to the proposed variances was received from the homeowner at 5250 Patrick. Should the height variance be allowed, it would adversely affect the view of the author's home as well as other homes on Patrick Street. The author advised that he purchased the home because of the view and paid a premium for it. The appeal, should it be allowed would also contribute to a loss of property value.

No further correspondence was received regarding this appeal.

MOVED BY MR. NEMETH  
SECONDED BY MR. CLARK

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

FOR: MR. NEMETH

OPPOSED: MS. RICHTER  
MR. CLARK

This appeal was declared as **DENIED**.

MOVED BY MR. NEMETH  
SECONDED BY MR. CLARK

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

FOR: MR. NEMETH

OPPOSED: MS. RICHTER  
MR. CLARK

This appeal was declared as **DENIED**.

*Mr. Brian Pound returned to the Board of Variance at 6:52 p.m.*

**3. NEW BUSINESS**

The Administrative Officer informed the Board of Variance members that Burnaby City Council, at its Open meeting held on 2016 December 05, adopted a report seeking approval to implement a Board of Variance application fee of \$425.00. The application fee will be applied as of the 2017 February 02 Hearing.

**4. ADJOURNMENT**

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:55 p.m.

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Ms. C. Richter

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Mr. G. Clark

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Mr. S. Nemeth

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Ms. E. Prior  
ADMINISTRATIVE OFFICER

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Mr. B. Pound