



## **BOARD OF VARIANCE**

### **MINUTES**

A Hearing of the Board of Variance was held in the Council Chamber, Burnaby City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, **2017 December 07** at 6:00 p.m.

#### **1. CALL TO ORDER**

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

STAFF: Ms. Sharon Knapp, Planning Department Representative  
Ms. Monica Macdonald, Administrative Officer

The Chair called the meeting to order at 6:00 p.m.

#### **2. MINUTES**

##### **(a) Minutes of the Board of Variance Hearing held on 2017 November 02**

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

THAT the minutes of the Burnaby Board of Variance Hearing held on 2017 November 02 be adopted.

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. 6309**

APPELLANT: Bill Van Beek

REGISTERED OWNER OF PROPERTY: Suncor Energy Inc.

CIVIC ADDRESS OF PROPERTY: 9955 Barnet Road and 631 North Road

LEGAL DESCRIPTION OF PROPERTY: Lot D; DL 31; Plan NWP3859 and  
Lot W; DL 26/31; Plan NWP23362

APPEAL: An appeal for the relaxation of Section 407.5(1) of the Burnaby Zoning Bylaw which, if permitted, would allow construction of a new utility bridge at 9955 Barnet Road and a covered catwalk platform structure at 631 North Road. The following variances are requested for the two properties:

9955 Barnet Road

a) A yard depth along the southeast property line of 9.84 feet where a minimum of 19.69 feet to the boundaries of the lot is required; and,

b) A yard depth along the northwest property line of nil feet where a minimum 9.84 feet is required where a lot abuts another lot.

631 North Road

c) A yard depth along the southeast property line of 4.77 feet where a minimum 9.84 feet is required where a lot abuts another lot; and,

d) A yard depth along the northwest property line of nil feet where a minimum 9.84 feet is required where a lot abuts another lot.

Zone Marine District 2 M7a.

**APPELLANT'S SUBMISSION:**

Bill Van Beek, Suncor Energy Inc., submitted an application for relaxation of the Burnaby Zoning Bylaw to construct a new utility bridge and covered catwalk.

Mr. Brendan McCarthy, representing Suncor Energy Inc., appeared before members of the Board at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

There are two sites that are the subject of this application, 9955 Barnet Road and 631 North Road, which are located in the M7a district, which regulates water oriented uses and related activities. Both sites are located in the northeast corner of the city, immediately west of the boundary between Burnaby and the City of Port Moody, and they extend eastwards into the City of Port Moody, where they are zoned M3 General Industrial. The two properties are separated from each other by the CPR rail corridor, which is a legal lot.

As noted above, this appeal concerns two sites which are not connected. However, this area has been historically under one operation as a Marine Terminal for over 60 years, despite the fact that it spans over the various pieces of land registered under different ownership (including Suncor Energy Inc., CPR and the Port of Vancouver), different levels of government (federal and municipal) and under different jurisdictions (City of Burnaby and City of Port Moody). This complicated ownership is reflected in the unusual lot configurations, which largely limit design options and as such, could be considered a contributing factor when assessing grounds for a hardship.

As a part of the Marine Terminal upgrade, the applicant proposes to construct a new utility bridge and covered catwalk structure. In order for the Preliminary Plan Approval (PPA16-00332), to proceed, the applicant requests that the following four variances will be granted.

Two variances are related to the utility bridge at 9955 Barnet Road, and two variances are related to the covered catwalk at 631 North Road. Each property will be discussed separately.

**9955 Barnet Road**

The southern property, 9955 Barnet Road is bounded by the Barnet Road Right-of-Way (R.O.W.) on the southeast, and the CPR rail corridor to the northwest. The terrain slopes steeply down in a southeast-northwest direction from above Barnet Road down to Burrard Inlet.

The subject site is an irregularly shaped lot, approximately 317.5 m. in length from its western boundary at the unopened Highland Avenue to the boundary between the City of Burnaby and Port Moody to the east. The lot varies in width from less than 1.0 m. wide to 64.0 m. wide, and the site is 10.28 m. wide where the variances have been requested. The proposed utility bridge would span over the CPR tracks, with the southern bridge structure located on 9955 Barnet Road and northern structure on the lands owned by the Port of Vancouver.

The first a) variance requested is to vary the Section 407.5(1) "Yards" requirement for the minimum yard depth to the boundaries of the lot, along the southeast property line from 6.0 m. (19.69 feet) to 3.0 m. (9.84 feet) in order to permit the construction of a new utility bridge.

The second b) variance requested would permit a yard depth along the northwest property line of nil feet where a minimum 3.0 m. (9.84 feet) is required when a lot abuts another lot.

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

The first a) variance is measured from the southeastern edge of the bridge foundation to the property line bordering Barnet Road R.O.W. The proposed foundation is located in the center of this portion of the lot, which measures approximately 10.28 m. (33.75 feet) wide. The foundation is parallel to the property lines so that both yards measure 3.0 m. (9.84 feet)

The second b) variance is measured at the point where the horizontal bridge span adjoins (and crosses over) the property line it shares with the CPR parcel.

The narrow lot provides inadequate depth to build a foundation that observes the required 6.0 m. (19.69 feet) setback. The foundation has been centered between the two property lines, creating two side yards with the minimum 3.0 m. (9.84 feet) width. In this case, the proposed north yard meets the Bylaw requirement, but not the south.

The Barnet Road R.O.W. in this location is approximately 80.0 m. wide. Barnet Road is located in the southernmost portion, at a much higher elevation than the proposed structure. A private service road leads downhill from Barnet Road and runs parallel to the subject property, down to the Suncor entrance. The Trans Canada Trail, which is located on the south side of the service road, is the closest point from which the public would see the new structure. An existing buffer of trees and bushes on the north side of the service road screens the views. The bridge structure will be visible in the distance during the fall and winter months when the leaves have fallen.

Given the narrowness of the property in this location, this compromise attempts to conform to the Bylaw's minimum width requirements. Given that there are no residences or other buildings in the vicinity, this relaxation would not defeat the intent of the Bylaw, which is to mitigate the massing impacts of buildings or structures on neighbouring properties. As such, this Department does not object to the granting of this variance a).

The second variance for a nil side yard occurs where the bridge structure meets the property line with the CPR parcel. Observing a nil side yard is necessary for the bridge to carry the pipe across to the second property. At the grade level, the foundation meets the necessary yard requirements. This Department notes that the applicant is working with CPR to obtain the necessary permissions for this aerial trespass.

The proposed bridge is an isolated structure that will only be visible in the distance from the Trans Canada Trail. Given that the CPR has agreed in principle for the structure to cross over their tracks, the property owner who will be most affected by the new bridge has indicated their support.

As this variance does not defeat the intent of the Bylaw to mitigate the massing impacts of buildings or structures on neighbouring properties, this Department does not object to the granting of this variance b).

### **631 North Road**

The northern property, 631 North Road is an irregularly shaped lot, extending westwards from the boundary line between Burnaby and Port Moody approximately 1000.0 m., and varying in width from 1.0 m. to 40.0 m. at its widest point. The lot also extends eastward into the City of Port Moody. It is bounded on the southeast by the CPR parcel.

631 North Road is relatively flat and has been developed with industrial port facilities. The proposed catwalk structure consists of a central raised platform, 2.3 m (7.5 feet) wide and 9.5 m. (31.0 feet) tall as measured from the finished grade to the roof ridge. The proposed catwalk, 13.6 m. (44.5 feet) wide as measured from the edges of the eaves, would run parallel to the property line for a distance of approximately 217.3 m. (713.0 feet), and approximately half of this distance would be on the Burnaby side of the boundary, with the setbacks from the property line varying from 0.25 m. (.83 feet) to 1.0 m. (3.33 feet).

The third c) variance requested would permit a yard depth along the southeast property line of 1.45 m. (4.77 feet) where a minimum of 3.0 m. (9.84 feet) is required where a lot abuts another lot; and,

The fourth d) variance requested would permit a yard depth along the northwest property line of nil feet where a minimum of 3.0. m. (9.84 feet) is required where a lot abuts another lot. The two variances are co-related and will be discussed together.

The third c) requested variance is measured from the edge of the shallow roof over the catwalk which measures 3.0 m. (4.77 feet) at the southeast property line where the roof borders the CPR. The roof is designed to cover the gangways that will be lowered from the central catwalk structure to access the roofs of the rail cars. The request for this variance is caused by the location of the existing railway tracks in relation to the property line.

The fourth d) requested variance is measured from the edge of the roof over the catwalk on the northwest property line where the lot abuts the CPR lot. The roof is designed to cover the gangways that will be lowered from the central catwalk structure in order to access the roofs of the rail cars. The request for this variance is caused by the location of the existing railway tracks, which are proposed to be extended further to the east and into the City of Port Moody portion of the subject lot, in relation to the property line. Like the utility bridge, the proposed catwalk structure will be visible only from a distance from the Trans Canada Trail in the fall and winter months when the trees are bare. Due to the major difference in grades between the trail and the catwalk structure, it will not be easily visible even in the winter months.

Both variances are requested in order to permit the catwalk structure to function properly. As the granting of these variances does not defeat the intent of the Bylaw, which is to mitigate the massing impacts of buildings or structures on neighbouring properties, this Department does not object to the granting of variances c) and d).

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. PEPPARD  
SECONDED BY MR. DHATT

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

CARRIED

OPPOSED: C. RICHTER

MOVED BY MR. PEPPARD  
SECONDED BY MR. POUND

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

CARRIED

OPPOSED: C. RICHTER

MOVED BY MR. PEPPARD  
SECONDED BY MR. POUND

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

CARRIED

OPPOSED: C. RICHTER

MOVED BY MR. PEPPARD  
SECONDED BY MR. POUND

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

CARRIED

OPPOSED: C. RICHTER

**(b) APPEAL NUMBER: B.V. 6310**

APPELLANT: Vikram Tiku

REGISTERED OWNER OF PROPERTY: Lei Duan

CIVIC ADDRESS OF PROPERTY: 6695 Eagles Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 151; DL 85; Plan 36335

APPEAL: An appeal for the relaxation of Sections 101.6(1)(a) and 101.7(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of a new single family dwelling with an attached garage at 6695 Eagles Drive. The following variances are requested:

a) A principal building height of 33.71 feet measured from the rear average grade (sloping roof), where the maximum height of 29.50 feet is permitted. The principal building height measured from the front average grade will be 24.67 feet; and,

b) A principal building depth of 60.67 feet where the maximum depth of 60.0 feet is permitted. Zone R1.

**APPELLANT'S SUBMISSION:**

Vikram Tiku, Designer, submitted an application for relaxation of the Burnaby Zoning Bylaw to construct a new single family dwelling.

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

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

The subject site, zoned R1 Residential District, is located in the Morley-Buckingham neighbourhood, where the ages and conditions of the dwellings vary. The subject lot has an irregular shape; the side property lines are 165.3 feet (west) and 192.3 feet long (east) and the lot is approximately 79.5 feet wide. The lot fronts onto Eagles Drive to the south and it is flanked by the unconstructed Sperling Avenue right-of-way to the west. The subject site abuts a single family lot to the east, and single family dwellings are located across the street. Vehicular access to the subject site is provided via Eagles Drive. The Sperling Avenue right-of-way is closed to vehicular traffic, and no plans currently exist to construct a road in this location. The subject site slopes significantly downward (approximately 32.9 feet along the western property line) towards the north. A new single family dwelling with a double attached garage is proposed for the subject site, for which two variances are requested.

The new dwelling will have three levels; the main entry level (elevation 191.0 feet), the lower level where the bedrooms are located (elevation 181.0 feet) and a cellar with a recreation room (elevation 171.0 feet) that opens onto the back yard. The principal building height of 33.71 feet is measured from the rear average natural grade, where the maximum height of 29.50 feet is permitted for a sloping roof. The principal building height measured from the front average natural grade facing Eagles Drive will be 24.67 feet.

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

In this case, the height calculation is based on the existing natural grade at the rear elevation. The substantial grade difference from the front to the rear of the subject property contributes to the excess height. This is compounded by the additional fill and enclosed crawl space that would raise the main floor above the natural grade at the front of the property. The proposed 6.5 feet of filling (as measured at the front dwelling elevation) creates a new main floor level of 191.0 feet. The raising of the main floor of the house has implications for the height of the elevation as measured at the rear.

The proposed over height area is larger than the “bubbled” areas on the drawings. The over height portion of the roof is measured at the 203.35 foot level and extends across the width of the roof. When viewed from the west elevation, the proposed height encroachment spans across 35.0 feet, and varies from to nil to 1.0 foot high for a distance of approximately 17.0 feet, and from 1.0 foot to the full height encroachment of 3.5 feet for a distance of 35.0 feet. When viewed from the rear (north) elevation, the over height condition extends distance of 44.0 feet, with the central 24.0 feet at the maximum over height condition.

The over height roof area may have overshadowing and privacy impacts on the property to the west, 6685 Eagles Drive. The adjacent dwelling’s main floor elevation is 180.0 feet, and the proposed main floor elevation of the subject house will be 191.0 feet. There is an existing landscape buffer between the two properties which may screen the views from the new house. The additional height will create more overshadowing on the back yard of the adjacent property at 6685 Eagles Drive, although the landscape buffer is currently shading their rear yard.

On the east side of the subject property, the proposed variance will not adversely affect the views from 6705 Eagles Drive and 7399 Haszard Street. Due to the terrain and the siting of these properties, it is not anticipated that they will be affected by the additional roof height. Views of the new house from the walkway on the Sperling Avenue right-of-way will be buffered by tall hedging. Due to the extreme grade changes between the subject property and the back yard of 6690 Deer Lake Ave. to the north, it will not have an adverse effect on that property.



However, the proposed variance is a major one, and it is a design choice. The additional fill to raise the entry level of the house to provide a level access and to improve the views has created the request for the height variance. Opportunities exist to lessen the variance – the house could be placed on lesser fill. In addition, the dwelling contains three levels, with approximately 9.0 feet clear height on all three floors. If any or all of these levels were reduced, the request for the variance would be lessened.

As this is a major variance, and has the potential to create adverse effects on the property to the west, this Department cannot support the granting of the first a) variance.

The second variance would permit a principal building depth of 60.67 feet where the maximum building depth of 60.0 feet is permitted.

The intent of the Bylaw is to prevent the creation of overlong houses which present a long “wall” to their neighbours.

In this case, the excess building length is limited to a corner of the second master bedroom (lower floor) and the family room (main floor) at the northwest corner of the house. (The cantilevered balcony beyond the face of this wall is an allowable building projection and is not included in the measurement of the building depth.) The additional .67 foot length will not be discernable nor have a negative impact on the property to the west (6685 Eagles Drive). The additional length occurs approximately 66.0 feet from the rear property line at the north shared with 6690 Deer Lake Avenue. There is a major difference in elevation between the two back yards, so the lower property will not be affected by the proposed variance.

As the requested b) variance would not defeat the intent of the Bylaw, and would not have an adverse effect on the adjacent properties, this Department does not object to the granting of the second b) variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

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

CARRIED

OPPOSED: R. DHATT

MOVED BY MR. POUND  
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

(c) **APPEAL NUMBER:** B.V. 6311

APPELLANT: Tohmm Cobban Architect

REGISTERED OWNER OF PROPERTY: Andrea and Sarfraz Virani

CIVIC ADDRESS OF PROPERTY: 235 Liberty Place

LEGAL DESCRIPTION OF PROPERTY: Lot 74; DL 188; Plan 38681

APPEAL: An appeal for the relaxation of Sections 102.6(1)(b) and 102.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of a new two car attached garage, addition to the second floor, and interior alterations at 235 Liberty Place. The following variances are requested:

a) A principal building height of 27.12 feet measured from the rear average grade (flat roof), where the maximum height of 24.30 feet is permitted. The principal building height measured from the front average grade will be 12.52 feet; and,

b) A front yard depth of 19.17 feet facing North Beta Avenue where the minimum front yard depth of 24.6 feet is required based on minimum front yard depth. Zone R2.

**APPELLANT'S SUBMISSION:**

Tohmm Cobban, Architect, submitted an application for relaxation of the Burnaby Zoning Bylaw to renovate his clients' home and construct a new attached garage.

Mr. Tohmm Cobban appeared before members of the Board at the Hearing.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

The subject site is located in an R2 neighbourhood in Capital Hill, where the ages and conditions of the single family dwellings vary. The site is an irregularly shaped through lot located on a cul-de-sac; one front yard faces Liberty Place (east) and the second front yard faces west onto North Beta Avenue. The site slopes downward in an east-

west direction from a high point of 283 feet at the southeast corner at Liberty Place down to 257.1 feet at the northwest corner at North Beta Avenue. Access for this lot and for the adjacent sites is taken from the North Beta Avenue, or Penzance Avenue. The site is currently improved with a single family home constructed in the early 1970s.

The first requested a) variance would permit the roof over the new kitchen addition to be 27.12 feet in height where the Bylaw permits a maximum height for a flat roof to be 24.3 feet.

The intent of the Bylaw in regulating height is to mitigate the effects of massing of new construction and their impacts on adjacent properties.

The shape of the lot and the substantial grade difference from the front to the rear of the property combine to create the over height condition at the rear. The lot is "pie-shaped," so the original house was sited 42.6 feet from the Liberty Place property line to achieve a 21 foot wide floor plate. From this front yard setback, the grade drops 21.45 feet downwards across the remainder of the lot (approximately 76.0 feet) to the property line at North Beta Avenue. While the house will measure 12.52 feet in height from Liberty Place, the rear height will be 27.12 feet.

The new roof is 10.5 inches lower than the existing roof, which is 28.0 feet high when measured from the existing natural grade at the rear, so the addition will not be visible from Liberty Place. In addition, the proposed extension will be screened from the adjacent properties (245 Liberty place to the north and 225 Liberty Place to the south) by trees and landscaping. Both of these properties are also sited so that views from rear windows and decks are oriented away from the subject site. No residential properties to the west will be adversely affected because Confederation Park lies on the other side of North Beta Avenue.

As this proposal would not add excessive height at the rear of the existing bungalow or have an adverse effect on the adjacent properties, this Department does not object to the granting of this a) variance.

The second requested b) variance would allow the construction of an addition, including a sundeck and garage that would observe a front yard setback of 19.7 feet where the Bylaw prescribes a front yard setback of 24.6 feet.

The intent of the Bylaw in requiring a minimum front yard setback is to create a cohesive streetscape.

The subject lot is a through lot; the front (east) façade faces onto Liberty Place, and the rear (west) yard faces onto North Beta Avenue. The proposed variance is measured from the property line at North Beta Avenue to the face of the attached garage at the rear of the house. The streetscape on Liberty Place is unified; these houses were all constructed in the early 1970s and the front yard setbacks observe a regular rhythm around the cul-de-sac. Most of the Liberty Place properties back onto a lane, except for

the subject site and the two properties to the north, and the property to the south, which have second front yards facing onto North Beta Avenue, (which turns into Penzance Drive), which function as rear yards.

The existing house and addition measure 55.73 feet in depth, which is within the allowable 60.0 foot building depth. The proposed variance, if granted, would place the face of the second floor of the new addition approximately 9.5 feet in front of the northwest corner on the main floor of the house at 225 Liberty Place. However, this house is 23.0 feet away and screened by landscaping on the subject site. Due to the configuration of the lots and the siting of the houses, the proposed addition will not be visible from the dwelling at 245 Liberty place; the new deck could be visible from their rear deck in winter, when the trees are bare, but it would be 71.0 feet distant. Due to the shape of the lots, both of the adjacent properties were sited so that views from their rear windows and decks are oriented away from the subject site.

As the requested variance b) would not defeat the intent of the bylaw to create a cohesive streetscape nor have an adverse effect on the adjacent properties, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. DHATT  
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. DHATT  
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

**4. NEW BUSINESS**

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

5. **ADJOURNMENT**

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:58 p.m.

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Ms. C. Richter, CHAIR

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Mr. R. Dhatt

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Mr. S. Nemeth

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Mr. W. Peppard

\_\_\_\_\_  
Ms. M. Macdonald  
ADMINISTRATIVE OFFICER

\_\_\_\_\_  
Mr. B. Pound