



BOARD OF VARIANCE

MINUTES

A Hearing of the Board of Variance was held in the Council Chamber, City Hall, 4949 Canada Way, Burnaby, B.C. on Thursday, **2018 October 04** at 6:00 p.m.

1. CALL TO ORDER

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

STAFF: Ms. Joy Adam, Development Plan Technician
Ms. Lauren Cichon, Administrative Officer

The Chair called the meeting to order at 6:09 p.m.

2. MINUTES

(a) Minutes of the Board of Variance Hearing held on 2018 September 06

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

THAT the minutes of the Burnaby Board of Variance Hearing held on 2018 September 06 be adopted.

CARRIED UNANIMOUSLY

3. APPEAL APPLICATION

The following person filed an application form 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. 6338**

APPELLANT: Vikram Tiku, T D Studio Inc.

REGISTERED OWNER OF PROPERTY: Francesco, Giovanna and
Lisa Perizzolo

CIVIC ADDRESS OF PROPERTY: [6279 Service Street](#)

LEGAL DESCRIPTION OF PROPERTY: Lot: 132 DL: 93 Plan: 30133

APPEAL: An appeal for the relaxation of Sections 6.6(2)(d), 6.3.1, 104.8(1) and 104.9 of the Burnaby Zoning Bylaw which, if permitted, would allow for new interior alterations, exterior alterations, addition at rear and new accessory building to an existing single family dwelling at 6279 Service Street.

The following variances were requested:

- a) A side yard setback of 1.97 feet, where a minimum side yard setback of 3.94 feet is required;
- b) A distance between the buildings on the same lot of 7.84 feet, where a minimum distance of 14.8 feet is required;
- c) A principal building depth of 62.43 feet, where the maximum building depth of 60.0 feet is permitted; and,
- d) A front yard depth of 26.38 feet, where a minimum depth of 31.25 feet is required based on front yard averaging. Zone R4.

APPELLANT'S SUBMISSION:

Mr. Vikram Tiku, T D Studio Inc., on behalf of the property owner, submitted an application to allow for interior alterations, exterior alterations, addition at rear and new accessory building to an existing single family dwelling at 6279 Service Street.

Mr. Tiku and Ms. Lisa Perizzolo, owner, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R4 Residential District, is located in the Windsor neighbourhood in which the age and condition of single and two family dwellings vary. This interior lot, approximately 135.33 feet long by 57.37 feet wide, fronts onto Service Street to the south and borders a green buffer across the lane to the north. To the west

and east of the subject site are single family dwellings. Vehicular access is provided via Service Street (there is no lane access). The subject site observes a downward slope of approximately 12.8 feet in the north-south (rear to front) direction.

The site has a 10.0 feet wide Statutory Right-of-Way (SROW) along the north property line for a future lane expansion.

The subject lot is improved with a single family dwelling, including an attached carport, originally built in 1968, and an accessory building. In July of 2017, the City received a building permit application (BLD 17-01016) for interior alterations and an addition to the rear of the dwelling. Through the review process City staff determined that various alterations, including the enclosure of the existing carport, rebuilding of the existing solarium and a new accessory building, had been constructed without the benefit of a building permit. As a result, the applicant is requesting four variances in an attempt to legalize the unauthorized construction. The first two variances are related to the new accessory building and the two other variances are related to the existing dwelling.

The first a) appeal is to vary Section 6.6(2)(d) "Accessory Buildings and Uses" of the Zoning Bylaw requirement for the minimum side yard setback from 3.94 feet to 1.97 feet. The intent of the Zoning Bylaw in limiting side yard setbacks is to mitigate the impact of an accessory building massing on neighbouring properties.

The already constructed accessory building (shed) is located directly north of the north-west corner of the existing dwelling. (The distance between the accessory building and the dwelling is the subject of the second b) appeal). The City's 2010 aerial indicates that a much smaller accessory building existed in a similar location and origins of which could be linked to the building permit B63302 records from 1987: a small accessory building was indicated on the site plan, siting of which appears to be in compliance with the Zoning Bylaw. The current accessory building appears on the City's 2012 aerial.

The accessory building is approximately 12.28 feet long by 8.84 feet wide and 9.0 feet high. The side yard encroachment of 1.97 feet, as measured to the foundations, occurs over the entire building length.

The accessory building is partly screened by an approximately 4.0 feet high fence (chain link fence with plastic slats) which runs along the west side property line. However, more than half of the accessory building elevation is fully visible from the rear yard of the western neighbour and as such, creates a negative massing impact on the neighbouring property to the west.

In consideration of the above, and since there is a larger area on site to locate an accessory building outside of the required side yards, this Department cannot support the granting of the first a) appeal.

The second b) appeal is to vary Section 6.3.1 "Distance between Buildings on the same Lot" of the Zoning Bylaw requirement for the minimum distance from 14.8 feet to 7.84 feet.

The intent of the Zoning Bylaw in limiting the distance between buildings on the same lot is to minimize effects of building massing on neighbouring properties as well as to provide sufficient outdoor living space for residents.

In this case, the dwelling features a window at the lower level which partly overlaps the accessory building. Considering that the required separation between two structures is reduced almost by a half, there is a concern that day lighting of the lower north-west portion of the dwelling is affected by this variance. (No plans of the lower level were submitted.)

Further, there is approximately 32.0 feet of the rear yard available to the north of the accessory building, excluding the rear SROW. Therefore, there is sufficient outdoor living space for residents. The sizable rear yard setback would allow for other design options to be explored in order to accommodate an accessory building in compliance with the Zoning Bylaw and with no impacts on the dwelling residents.

In consideration of the above, and since the placement of the accessory building is driven by a design choice rather than a hardship, this Department cannot support the granting of the second b) appeal.

The third c) appeal is to vary Section 104.8(1) "Depth of Principal Building" of the Zoning Bylaw requirement for the maximum building depth from 60.0 feet to 62.43 feet.

The intent of the Zoning Bylaw in limiting the principal building depth is to prevent construction of dwellings that present long imposing walls, such that the massing of the building impacts neighbouring properties. The building depth is calculated as a horizontal distance between the point of the building nearest the front lot line and the point of the building nearest the rear lot line.

In this case, the existing dwelling resembles a rough "Z" in shape, with the attached carport (already enclosed) projecting 12.63 feet from the front face at the south-west corner of the dwelling and with the solarium (already rebuilt) projecting 15.5 feet from the rear face at the north-east corner.

According to the building permit B63302 records (from 1987), the existing dwelling observes a depth of 62.43 feet, which is legal non-conforming with respect to the current Zoning Bylaw requirements. The Zoning Bylaw at the time of construction did not regulate a maximum principal building depth.

This proposal does not increase the existing building depth; the subject renovations: enclosing of the carport and rebuilding the existing solarium, are within the existing footprint of the dwelling.

Further, the staggered design of the subject dwelling effectively eliminates the appearance of a unbroken long wall; the portions of the dwelling immediately adjacent to the west and east side property lines are 46.51 feet and 44.15 feet long, respectively, which is substantially less than the maximum permitted depth (60.0 feet).

In summary, considering the existing conditions and that this variance creates little impacts on the neighbouring properties, this Department does not object to the granting of the third c) variance.

The fourth d) appeal is to vary Section 104.9 "Front Yard" of the Zoning Bylaw requirement for a front yard depth, based on front yard averaging, from 31.25 feet to 26.38 feet.

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.

In this case the front yard averaging calculations are based on the front yard setbacks of the two dwellings immediately to the west (6237 and 6251 Service Street) and on the front yard setback of the dwelling to the east (6061 Gilley Ave). The front yard setbacks for these properties are 35.05 feet, 33.15 feet, and 25.55 feet, respectively.

In this case, the front yard setback is measured to the existing foundation of the carport. As mentioned above, the carport projects 12.63 feet from the south-west corner of the existing dwelling. The remaining body of the dwelling observes a distance of 39.01 feet to the front property line.

According to the building permit B21369 records (from 1968) a front yard setback of 25.0 feet was permitted. The existing dwelling actually observes a slightly larger front yard setback of 26.38 feet. Therefore, the existing dwelling is legal non-conforming with respect to the current Zoning Bylaw requirements. The Zoning Bylaw at that time did not contain a requirement for front yard averaging.

The request for this variance is a result of enclosing the existing 25.6 feet wide by 12.63 feet deep carport with walls; the southern portion of the wall enclosure now encroaches into the required front yard (based on front yard averaging) by 4.87 feet. However, since there is no change to the existing carport roof lines and the new wall enclosure remains within the existing footprint, the additional massing impacts on the neighbouring residence to the west of the subject site is minimal.

With regard to the broader neighbourhood context, the additional massing created by the carport wall enclosure is not impactful when viewed from the Service Street side.

In summary, considering the existing conditions and that this variance creates little impacts on the neighbouring properties and the existing streetscape, this Department does not object to the granting of the fourth d) variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. DHATT
SECONDED BY MR. POUND

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

MOVED BY MR. DHATT
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

THAT based on the plans submitted, part (d) 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. DHATT

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:33 p.m.

Mr. S. Nemeth, CHAIR

Mr. R. Dhatt

Ms. B. Felker

Mr. W. Peppard

Ms. L. Cichon
ADMINISTRATIVE OFFICER

Mr. B. Pound