



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 December 06** at 6:00 p.m.

1. CALL TO ORDER

PRESENT: Mr. Stephen Nemeth, Chair
Mr. Rana Dhatt, Citizen Representative
Ms. Brenda Felker, Citizen Representative

ABSENT: Mr. Brian Pound, Citizen Representative
Mr. Wayne Peppard, Citizen Representative

STAFF: Ms. Sharon Knapp, Development Plan Technician
Ms. Lauren Cichon, 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 2018 November 01](#)

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

THAT the minutes of the Burnaby Board of Variance Hearing held on 2018 November 01 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. 6346

APPELLANT: Gary Gao

REGISTERED OWNER OF PROPERTY: Sidi and Liuzhen Deng

CIVIC ADDRESS OF PROPERTY: [3162 Astor Drive](#)

LEGAL DESCRIPTION OF PROPERTY: Lot: 6; DL:6; Plan: NWP17068

APPEAL: An appeal for the relaxation of Section 102.7(a) of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of a new single family dwelling with a secondary suite and detached two-car garage at 3162 Astor Drive, with a principal building depth of 63.75 feet, where the maximum building depth of 59.16 feet is permitted. Zone R2.

APPELLANT'S SUBMISSION:

Gary Gao, on behalf of the property owners, submitted an application to allow for the construction of a new single family dwelling with a secondary suite and detached two-car garage at 3162 Astor Drive.

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

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R2 Residential District, is located in the Lyndhurst Neighbourhood, which is a neighbourhood where the age and condition of the single family dwellings vary. The lot fronts onto Astor Drive to the Northwest. The site is an irregular shape, best described as a triangular lot with a truncated southeastern corner. However, at 7,771 sq. ft., the subject site exceeds the minimum R2 lot size (7,200 sq. ft.) by 571 sq. ft.

The property is abutted by a newer single family home (3136 Astor Drive) immediately to the northeast and it faces two single family dwellings (3125 and 3141 Astor Drive) across Astor Drive to the northwest. To the south, the site is bounded by the lane separating it from the rear yards of the single family homes which front onto Sullivan Drive.

The grade of the site is consistent from the southwest to the northwest: the elevation at the southeastern corner where Astor Drive and the lane intersect (el. 177.98 feet) rises less than one foot in height to 178.97 feet at the northwestern corner. From southwest to southeast, the site slopes upwards across the 150.00 foot rear property line at the lane: from the elevation of 178.97 feet to 186.12 feet. Vehicular access will be taken from the lane at the rear (south side) of the property. The applicant proposes to build a

single family dwelling with a secondary suite and a two car attached garage, and requests that the following variance be granted: to vary the requirement for the maximum building depth from 59.16 feet to 63.75 feet. The intent of the Bylaw in limiting building depth is to prevent the visual intrusiveness and sense of confinement that an over long building wall can impose on neighbouring properties.

When a lot is irregularly shaped, the building depth calculation is based on the building depth as projected onto the lot depth. To determine the lot depth, a line is drawn to join each end point of the front property line. The measurement of the lot depth starts from the midpoint of this line and extends at a right angle until it connects with the midpoint of the rear property line. In this case, the lot depth measures 116.41 feet, and the Bylaw also states that when the lot depth is less than 120.00 feet, the principal building depth cannot be greater than 50% of the lot depth, which is 59.16 feet. When measured from the center line, the depth of the proposed dwelling is 63.75 feet, which exceeds the maximum permitted building depth by 4.59 feet. (It should be noted that maximum permitted building depth in all residential zones is 60.00 feet, and that the proposed dwelling exceeds this maximum depth.)

The subject site is a prominent corner lot (115.03 feet fronting onto Astor Drive, and 150.30 feet fronting onto the lane between Astor and Sullivan Drives. Due to the sloping terrain, the base elevation of the proposed dwelling house (el. 184.17 feet) will be higher than the main floors of the dwellings at 3125 and 3141 Astor Drive (approximately el. 177.16 feet), so that the additional length and the massing of the building will be fully visible.

From Astor Drive to Sullivan Drive the terrain continues to slope upwards, so the entire rear elevation (e.g. the building depth) of the proposed dwelling will also be visible from the main floors of 9471 and 9491 Sullivan Drive. Viewed from the lane, the proposal would create a long "wall" effect. Given that the subject site occupies such a prominent corner, it is preferable that the design complies with the Bylaw.

It is difficult to determine the hardship in this case: the lot exceeds the minimum size and is relatively flat. There are no statutory rights-of-way, easements or streamside setbacks to further restrict the building envelope. There are relatively minor modifications available that would achieve the maximum gross floor area permitted in this zone while observing the prescribed building depth.

The floor plans could easily absorb the 4.59 feet that exceed the permissible building depth. The central hallway (which measures 9.00 feet wide) and generous central common areas that measure from 16.00 to 27.00 feet wide could be reduced to meet the Bylaw requirement.

Alternately, modifications could be made to the southeastern and/or southwestern extremities, where the points of measurement have been taken. The southeastern corner of the dwelling containing bedrooms on both floors could be pulled back from the lane to remove 3.00 feet of depth. The width of the house in this location could be

increased 3.00 feet along the eastern side yard, from the stairwell to the edge of the redesigned bedrooms to recapture any floor area lost by removing it from the southeastern corner of the house. The resulting bedrooms would be similarly sized to the proposed ones, the rear yard would be enlarged and the remainder of the floorplan could be adjusted to remove 2.00 additional feet.

Alternately, the floorplan could remain as it is, and the garage at southwestern side of the house could be modified. If the attached two car garage was replaced by an attached single car garage, and a parking pad, it would meet the Bylaw parking requirement. In summary, there are many options to comply with the allowable building depth.

The request for the variance is the result of a design preference. The lot is larger than the minimum R2 lot size, and it is unencumbered by unusual geographic features or legal requirements. As there are many alternatives available to modify the dwelling and comply with the Bylaw, this Department does not support the request for a variance.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MS. FELKER

SECONDED BY MR. DHATT

THAT based on the plans submitted, this appeal be DENIED.

CARRIED UNANIMOUSLY

(b) **APPEAL NUMBER: B.V. 6347**

APPELLANT: Jonathan Ehling

REGISTERED OWNER OF PROPERTY: Stefano De Bei and
Joy Dalla Tina

CIVIC ADDRESS OF PROPERTY: [465 Springer Avenue North](#)

LEGAL DESCRIPTION OF PROPERTY: Lot: 9; DL: 189; Plan: NWP4953

APPEAL: An appeal for the relaxation of Sections 6.3.1, 102.7(b), 102.8(1) and 102.9(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of a new single family dwelling with a secondary suite and detached garage at 465 Springer Avenue North.

The following variances are requested:

- a) A distance between the buildings on the same lot of 12.75 feet, where a minimum distance of 14.80 feet is required;
- b) A principal building depth of 76.00 feet, where the maximum building depth of 60.00 feet is permitted;
- c) A front yard depth of 10.80 feet off of Harbour View Road, where a minimum front depth of 32.78 feet is required based on front yard averaging; and,
- d) A side yard setback for an accessory building of 4.17 feet where a minimum flanking street side yard setback of 11.50 feet is required. Zone R2.

APPELLANT'S SUBMISSION:

Jonathan Ehling, on behalf of the property owners, submitted an application to allow for construction of a new single family dwelling with a secondary suite and detached garage at 465 Springer Avenue North.

Mr. Ehling 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 Capitol Hill neighbourhood, in which the age and condition of single family dwellings vary. This irregular corner lot resembles a rough triangular with a rounded north-east corner. The lot is 125.3 feet deep along the west side property line and has approximately 126.5 feet of frontage on Harbour View Road to the north. However, the developed portion of the Harbour View Road right-of-way terminates in a cul-de-sac approximately within the first 25.0 feet of the frontage, starting from the north-west corner of the lot. At the north-east corner of the lot, the remaining undeveloped section of Harbour View Road right-of-way connects with the Springer Avenue North right-of-way (the rounded corner).

This section of Springer Avenue North is also partly undeveloped, within approximately the first 30.0 feet starting from the north-east corner of the lot. Springer Avenue North runs at an approximately 50 degree angle along the south-east side property line; this property line is a flanking street side property line. This property line connects with the west side property line in the south-west corner of the lot at a "rear" point; there is no rear property line.

Abutting the subject lot to the west and across Springer Avenue North to the south-east are single family dwellings. Across Harbour View Road to the north, the lot is bordered by a forested portion of the Capitol Hill Conservation Area.

Vehicular access to the site is proposed from Springer Avenue North at the south-west tip of the lot; there is no lane access, although there is a small extension off the Springer Avenue North right-of-way in this area, which provides a vehicular access for the immediately adjacent lot to the west.

The site observes a substantial downward slope of approximately 18.0 feet from the Springer Avenue North (south-east) property line to the north-west corner of the lot. A new single family dwelling with a secondary suite and a detached garage is proposed for the subject site, for which four variances are requested. The future in-ground pool is not part of this proposal.

The first a) appeal proposes the relaxation of Section 6.3.1 – “Distance between Buildings on the same Lot” of the Zoning Bylaw requirement to allow construction of a new single family dwelling and a detached garage. The proposed distance between the detached garage and the principal building is 12.75 feet, where a minimum distance of 14.8 feet 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.

In this case, the detached garage, which is proposed at the south-west corner of the subject site, would almost entirely overlap the proposed dwelling. However, it appears that essentially there is only a small “jogged area” where the garage northern face steps outwards by 2.5 feet (slightly off center to the east of its north elevation), where the separation between the proposed dwelling and the proposed detached garage is compromised. Further, this distance will be compromised only with respect to the second floor level, which would cantilever from the main floor level 2.0 feet. Otherwise, the distance between the two structures would be 14.75 feet to the west of the “jogged” portion of the garage and 15.0 feet to the east (or 17.0 feet as measured from the ground floor of the proposed dwelling to the east of the “jogged” portion of the garage).

With respect to outdoor living space, a sizable green area would be provided within the northeast portion of the subject site, surrounded by the greenery of the undeveloped street right-of-way sections.

Considering the minor nature of this variance and the unique site geometry, as well as a lack of impacts on the neighbouring properties or occupants on the subject site, this Department does not object to the granting of the first a) appeal.

The second b) appeal is to vary Section 102.7(b) – “Depth of Principal Building” of the Zoning Bylaw requirement for the maximum building depth from 60.0 feet to 76.0 feet to allow construction of a new single family dwelling. The intent of the principal building depth requirements of the Zoning Bylaw is to prevent construction of dwellings that

present long imposing walls, where the massing of the building impacts the neighbouring properties.

The building depth calculation is based on the building depth as projected onto the lot depth, which is the line joining the center points of the front and rear property lines; in this case the “rear” point. Due to the site geometry, this line is angled in relation to the front and side property lines. The siting of the proposed dwelling, which would be roughly half way (the western portion), parallel to the Harbour View Road (front) property line and half way (the eastern portion), parallel to the angled Springer Avenue North (side) property line, is also rotated in relation to the lot depth line. Measured along this line, the proposed projected building depth is 76.0 feet, which exceeds the maximum permitted building depth by 16.0 feet.

The proposed “broken” footprint of the principal building is a response to the triangular site geometry. Given this design and the partially rotated orientation of the subject dwelling with respect to the west (side) property line, the proposal would not create a long “wall” effect as viewed from the immediately adjacent property to the west. The outermost western face of the dwelling, closest to the shared west (side) property line, would be only 29.0 feet long. The eastern portion of the dwelling parallel to the Springer Avenue North (side) property line would be set further back at least 36.0 feet from this face.

Similarly, the proposal would not create a long “wall” effect as viewed from the neighbouring properties across Springer Avenue North to the south-east. The outermost face of the dwelling parallel to the Springer Avenue North (side) property line would be only 48.0 feet long. The western portion parallel to the Harbour View Road front property line, would observe a generous side yard setback, gradually increasing from 15.67 feet to 45.0 feet. Further, due to the sloping terrain, the proposed dwelling would appear as only one storey in height, when viewed from Springer Avenue North. The most western angled portion of the dwelling would be affectively screened by the detached garage (proposed in the south-west corner of the subject site).

Given the restrictive geometry of the subject site and no apparent impacts of the proposal on the neighbouring properties, this Department does not object to the granting of this second b) appeal.

The third c) appeal is to vary Section 102.8(1) – “Front Yard” of the Zoning Bylaw requirement for the minimum front yard depth, based on front yard averaging, from 32.78 feet to 10.80 feet along the Harbour View Road property line to allow construction of a new single family dwelling.

In 1991, Council responded to public concerns with respect to the bulk and massing of newer and larger homes that were being built in existing neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including a requirement to set new construction back from the front property line based on an

average of the two houses on either side of the subject site. The intent was to help to ease the new construction into existing street frontages with minimal impact.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings at 5160 and 5170 Harbour View Road immediately west of the subject property. These front yards are: 34.05 feet and 31.50 feet deep respectively.

As mentioned under the second b) appeal, the subject dwelling is proposed to be split into two roughly equal parts, with the western portion oriented (parallel) to Harbour View Road and the eastern portion oriented (parallel) to Springer Avenue North. As a result of this “broken” design, the most northern area of the eastern portion of the dwelling, triangular in shape, would encroach into the required front yard up to 21.98 feet; the proposed front yard setback of 10.80 feet is measured from the north property line to the most northern tip of this triangular area.

The western portion of the dwelling would observe a distance of 32.78 feet from the Harbour View Road property line which meets the required minimum front yard depth.

The entire eastern wing, including the encroachment area, would overlap the undeveloped section of the Harbour View Road right-of-way and the forested portion of the Capitol Hill Conservation Area further to the north and east. Therefore, the only neighbouring residence which could be affected by this variance is the residence immediately to the west of the subject site. However, the distant location of the front yard encroachment area, starting approximately 44.0 feet away from the shared west (side) property line, would be a mitigating factor.

With regards to the broader neighbourhood context, it appears that the proposed “broken” sitting of the dwelling is a reasonable compromise between fitting closely in line with the adjacent neighbouring residences to the west and responding to the triangular geometry of the subject site, which restricts design options.

Since the challenging geometry of the site creates a hardship and in the absence of any anticipated negative impacts on the adjacent properties and the existing streetscape, this Department does not object to the granting of this third c) appeal.

The fourth d) appeal is to vary Section 102.9(2) – “Side Yards” of the Zoning Bylaw requirement for the minimum side yard width, when adjoining the flanking street, from 11.50 feet to 4.17 feet to allow construction of a new detached garage along the Springer Avenue North property line.

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

Again, this variance is related to the triangular geometry of the lot. The detached garage, proposed in the south-west “tipped” corner of the subject site, although oriented parallel to the west side property line, would be at angle with respect to the south-east side property line (flanking Springer Avenue North). As a result, a triangular area at the south-east corner of the garage would encroach up to 7.33 feet into the required side

yard. The south-west corner, however, would observe a setback of approximately 17.5 feet, which exceeds the minimum required side yard width by approximately 6.0 feet.

It should be noted that currently this site has no vehicular access. The undeveloped portions of both Harbour View Road and Springer Avenue North limit the options for an access. In view of this and considering that an access off Harbour View Road would not be permitted by the Engineering Department, the new access proposed at the south-west corner appears to be a logical choice. There is also most room to negotiate the subject site's sloping terrain. Further, the siting of the garage would be consistent with the existing detached garage on the neighbouring property to the west, near the shared west property line.

In summary, some minor visual impacts are anticipated on the neighbouring property directly across Springer Avenue North to the south-east, although this property is at much higher level. Nevertheless, given the unusual site geometry and orientation of the subject site, which limits the development options available on this site, this Department does not object to the granting of this fourth d) variance.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

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

CARRIED UNANIMOUSLY

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

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

CARRIED UNANIMOUSLY

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

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. DHATT
SECONDED BY MS. FELKER

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:19 p.m.

Mr. S. Nemeth, CHAIR

Mr. R. Dhatt

Ms. L. Cichon
ADMINISTRATIVE OFFICER

Ms. B. Felker