



BOARD OF VARIANCE

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, **2019 April 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

ABSENT: Mr. Jag Dhillon, Citizen Representative

STAFF: Ms. Margaret Malysz, Development Plan Approvals Supervisor
Ms. Lauren Cichon, Administrative Officer

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

2. ELECTIONS

(a) Election of Chair

Nominations for Chair of the Burnaby Board of Variance were called for.

Ms. Brenda Felker nominated Mr. Stephen Nemeth for the position of Chair of the Board of Variance from 2019 April 04 to 2019 December 31.

There were no further nominations received.

MOVED BY MS. FELKER
SECONDED BY MR. PEPPARD

THAT Mr. Stephen Nemeth be appointed as Chair of the Burnaby Board of Variance from 2019 April 04 to 2019 December 31.

CARRIED UNANIMOUSLY

3. **MINUTES**

(b) **Minutes of the Board of Variance Hearing held on 2019 March 07**

MOVED BY MS. FELKER

SECONDED BY MR. DHATT

THAT the minutes of the Burnaby Board of Variance Hearing held on 2019 March 07 be adopted.

CARRIED UNANIMOUSLY

4. **APPEAL APPLICATIONS**

(a) **APPEAL NUMBER:** B.V. 6356

APPELLANT: Douglas Chernoff

REGISTERED OWNER OF PROPERTY: Alison and Douglas Chernoff

CIVIC ADDRESS OF PROPERTY: [3862 Harper Court](#)

LEGAL DESCRIPTION OF PROPERTY: Lot: C DL: 35 Plan: EPP80024

APPEAL: An appeal for the relaxation of Section 105.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with a secondary suite and attached garage at 3862 Harper Court, with a principal building depth of 74.43 feet, where the maximum building depth of 60.0 feet is permitted. Zone R5.

APPELLANT'S SUBMISSION:

Mr. Douglas Chernoff, property owner, submitted an application to allow for the construction of a new single family dwelling with a secondary suite and attached garage at 3862 Harper Court.

Mr. Douglas Chernoff 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 Garden Village neighbourhood, in which the age and condition of single and two family dwellings vary. This irregular interior lot is roughly pie shaped. The lot has a frontage of approximately 23.4 feet along the Harper Court cul-de-sac to the north. It is also

approximately 145.4 feet deep as measured from the center of the curving front property line to the farthest rear point at the south-west corner of the subject site.

The subject lot is one of the three single family lots created by Subdivision (SUB17-00011) in 2018. This subject lot and the lot immediately to the northwest are vacant lots. The third lot (4756 Smith Avenue) farther to the west contains the original single family dwelling.

The subject site abuts single family lots to the east (side) and across the Harper Court cul-de-sac to the north, and two family lots to the south (rear). To the northwest (side) the lot is bordered by the above mentioned vacant lot. There is currently a pending Building Permit application (BLD18-01196) for this vacant lot which will eventually be referred to the Board for a similar relaxation of the allowable building depth.

Vehicular access to the subject site is proposed via the Harper Court cul-de-sac (front); there is no lane access. The site observes a relatively moderate downward slope of approximately 11.0 feet from the rear to the front.

A new single family dwelling with a secondary suite and an attached garage is proposed for the subject site, for which the following variance is requested.

The appeal is to vary Section 105.8(1) – “Depth of Principal Building” of the Zoning Bylaw requirement for the maximum building depth from 60.0 feet to 74.43 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.

In this case, 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 is also rotated in relation to the lot depth line; the proposed dwelling would be generally oriented to the Harper Court (front) property line, with a “staggered” footprint along the northwest (side) property line and with a “parallel” footprint along the east (side) property line.

Measured along this line, the proposed projected building depth is 74.43 feet, which exceeds the maximum permitted building depth by 14.43 feet. It should be noted that with the same design on a regular lot, the proposed building length would be approximately 59.0 feet, as measured from the outermost front face (north) to the outermost south face (south), and would not require a variance.

The proposed “staggered” footprint of the principal building along the northwest (side) property line is a response to the triangular shape of the site. As a result, the proposed dwelling would observe northwest (side) yard setbacks varying from 4.9 feet (at the

closest building face) to approximately 15.0 feet (at the farthest building face). Given this design and the rotated orientation of the subject dwelling with respect to the northwest (side) property line, the proposal would not create a long “wall” effect as viewed from the immediately adjacent property (the vacant lot to the northwest). The “staggered” massing of the dwelling would help to mitigate the massing impacts of the excess building depth along the northwest (side) property line.

Similarly, the proposal would not create a long “wall” effect as viewed from the neighbouring properties to the east. The outermost face of the dwelling parallel to the shared east (side) property line would be approximately 51.0 feet long, which is substantially lesser than the allowed building depth.

In summary, 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 appeal.

ADJACENT OWNER’S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

(b) APPEAL NUMBER: B.V. 6357

APPELLANT: Nazeer Bawa, EWAN Design and Construct INC.

REGISTERED OWNER OF PROPERTY: Navdeep and Navraj Kahlon

CIVIC ADDRESS OF PROPERTY: [5570 Rugby Street](#)

LEGAL DESCRIPTION OF PROPERTY: Lot: 12 DL: 85
Plan: NWP17524

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 dwelling and attached garage at 5570 Rugby Street, with a front yard depth of 24.33 feet, where the minimum front yard depth of 29.50 feet is required. Zone R1.

APPELLANT'S SUBMISSION:

Mr. Nazeer Bawa, on behalf of the property owner, submitted an application to allow for the for the construction of a new single family dwelling and attached garage at 5570 Rugby Street.

Mr. Navraj Kahlon, owner, and Mr. Nazeer Bawa appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R1 Residential District, is located in the Morley-Buckingham area where the majority of single family dwellings were built in the late 1950s. The site is an irregularly shaped interior lot, approximately 127.0 feet wide along the northeast (rear) property line and 106.5 feet deep along the northwest (side) property line. The site fronts onto Rugby Street to the southwest; the southern portion of the site is "clipped" by the cul-de-sac which terminates Rugby Street to the southeast. Single family dwellings abut the subject site on all sides. Vehicular access to the subject site is proposed via an access easement on the neighbouring property at 5550 Rugby Street, which runs along the shared northwest (side) property line. In relation to this easement, there is also an access easement proposed at the north corner of the subject site to accommodate the already existing vehicular access to two neighbouring properties directly to the northeast. The site slopes downward approximately 20.3 feet in the east-west direction.

The subject site is proposed to be redeveloped with a new single family dwelling and an attached garage, for which the following variance is requested.

The appeal is to vary Section 101.8 – "Front Yard" of the Zoning Bylaw from 29.5 feet to 24.33 feet to allow the construction of a new single family dwelling.

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

The proposed dwelling is approximately 99.1 feet wide and 38.7 feet deep and resembles a rough "L" shape in response to the curved section of the front property line. The proposed front yard setback is measured from the curving front property line to the closest point of the front façade, which is approximately 22.0 feet from the south (front) corner of the dwelling. The front yard setback gradually increases up to approximately 28.5 feet at the south (front) corner of the dwelling and up to 35.5 feet at the west (front) corner; in fact the entire western half portion of the dwelling would observe a setback in excess of the minimum required front yard setback. Considering that the front yard encroachment is essentially limited to a small concaved area within the eastern portion of the front elevation, little massing impacts are expected on the neighbouring properties to the sides.

Further, based on the front yard setback (29.5 feet) and rear yard setback (29.5 feet) requirements for R1 Residential District, the building envelope on the subject site is limited. The lot depth is reduced by the crescent shaped southwest property line along the Rugby Street cul-de-sac, which is reflected in the lot depth of only 77.7 feet along the southeast (side) property line. As a result, the available building envelope depth within the eastern half of the subject lot varies approximately from 13.5 feet to 18.5 feet. In this case, the southeast (side) elevation of the dwelling is proposed to be approximately 16.0 feet deep. With the proposed rear yard setback of 30.0 feet, there is not much room available to relocate the dwelling closer to the rear property line. The reduce lot depth affects design options for this site.

With respect to the broader context, the proposed dwelling would fit within the existing streetscape. The proposed western portion of the dwelling would be in line with the neighbouring residence immediately to the northwest. The proposed eastern portion would be similar to the placement of the current dwelling on the subject site. It appears that the proposed dwelling would provide for a good transition between the residences oriented onto Rugby Street and the residences oriented directly onto the Rugby Street cul-de-sac.

In summary, as the proposed variance poses little negative impacts on neighbouring properties and the existing streetscape, and is directly related to the site geometry, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the resident of 5511 Canada Way opposing the requested variance. The writer expressed concern regarding the loss of neighbourhood characteristic.

MOVED BY MS. FELKER
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

As the next appeal was scheduled for 6:15 p.m., the Chair called for a recess.

MOVED BY MR. PEPPARD
MOVED BY MR. DHATT

THAT the Board of Variance Hearing recess until 6:15 p.m.

CARRIED UNANIMOUSLY

The Board recessed at 6:08 p.m.

MOVED BY MR. PEPPARD
MOVED BY MR. DHATT

THAT the Board of Variance Hearing reconvene.

CARRIED UNANIMOUSLY

The Board of Variance reconvened at 6:15 p.m.

(c) **APPEAL NUMBER:** B.V. 6359

APPELLANT: Jonathan Ehling Architect Inc.

REGISTERED OWNER OF PROPERTY: Peter Dutzi

CIVIC ADDRESS OF PROPERTY: [341 Hythe Avenue North](#)

LEGAL DESCRIPTION OF PROPERTY: Lot: 99 DL: 189
Plan: NWP32145

APPEAL: An appeal for the relaxation of Sections 102.6(2) and 102.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for an interior alteration to the main floor and second floor addition, including a new attached garage to an existing single family dwelling at 341 Hythe Avenue North. The following variances are requested:

a) a principal building height of 32.83 feet (flat roof), measured from the rear average grade, where the maximum height of 24.30 feet is permitted;

b) a principal building height of 24.91 feet (flat roof) measured from the front average grade, where the maximum height of 24.30 feet is permitted; and

c) a front yard depth of 22.70 feet, where a minimum front yard depth of 24.61 feet is required. Zone R2.

APPELLANT'S SUBMISSION:

Mr. Jonathan Ehling, on behalf of the property owner, submitted an application for an alternation to the main floor and addition to the second floor including a new attached garage.

Mr. Peter Dutzi, owner, and Mr. Ehling 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 Capitol Hill neighbourhood, in which the age and condition of single family dwellings vary. This slightly irregular (skewed rectangular) interior lot is 137.2 feet deep along its north (side) property line and has a frontage of approximately 60.0 feet onto Hythe Avenue North to the east. The site is bordered by single family residential lots all around. Along the west (rear) property line, the property is restricted by an approximately 7.5 feet wide statutory right-of-way for sewer purposes. Vehicular access to the subject site is proposed to be retained from the Hythe Avenue North frontage; there is no lane access. The site observes a significant downward slope of approximately 30.0 feet from the front to the rear.

The subject site is improved with a one storey single family dwelling and an attached carport, originally built in 1970. The site is proposed to be further improved with a second floor addition and various exterior and interior alterations. The second floor addition will contain a new attached garage and the existing attached carport at the main floor will be enclosed and converted to a livable space. The second floor addition and the main floor infill only are subject of the requested three variances.

The first two variances are related to building height.

The first a) appeal is to vary Section 102.6(2) – “Height of Principal Building” of the Zoning Bylaw from 24.3 feet to 32.83 feet, as measured from the rear average grade, to allow construction of a second floor addition with a flat roof.

The second b) appeal is to vary Section 102.6(2) – “Height of Principal Building” of the Zoning Bylaw from 24.3 feet to 24.91 feet, as measured from the front average grade, to allow construction of a second floor addition with a flat roof.

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

In this case, the second floor is proposed to be built over the entire existing main floor, which is approximately 45.0 feet wide and 40.0 feet deep. To the rear, the second floor area is proposed to extend a further 2.0 feet, with a 5.0 – 8.0 feet deep deck extending furthermore across the entire rear face. The proposed new roof will extend 5.0 feet over the rear deck area. The proposed roof form would resemble a “shallow” gable when viewed from the front and the rear. The proposed slopes are: 2.23 in 12 on the north side and 3 in 12 on the south side, which is just under the allowed maximum slope (4 in 12) for roofs to be considered flat roofs.

It appears that the building height relaxation requests are mainly related to the topography of the site. A substantial grade difference from the front to the rear of the subject site contributes to the excess height.

With respect to the first a) variance, the height calculation is based on the existing grade (which is also the proposed finish grade) at the rear elevation. When viewed from the rear elevation, the 8.53 feet height encroachment occurs over the entire second floor, from a level approximately 2.0 feet below the top window line (excluding clerestory windows). Although this is a substantial height encroachment, there are several mitigating factors when considering the massing impacts on the neighbouring properties.

With respect to the neighbouring property directly opposite the subject site to the west (rear), which is at much lower level than the subject site, considering that the height encroachment area is more than 60.0 feet away from the subject sites' rear property line, and that the views from the neighbouring property are predominantly directed towards the west, no significant impacts are expected.

Viewed from the south (side) elevation, the proposed dwelling would appear over height essentially only at the small western portion of the roof, over the rear deck area. Due to the sloping terrain, the proposed dwelling would be partly underground, thus substantially reducing the building height as viewed from this side elevation. Considering the small scale of the over height area, the height encroachment would not create substantial massing impacts on the neighbouring property to the south.

When viewed from the north (side) elevation however, the proposed dwelling would appear over height for most of the entire building length; except at the northeast (front) corner. The existing grades here are approximately 9.0 feet (east) to 5.0 feet (west) lower than on the south side of the building. The height encroachment occurs from a level approximately 1.0 feet below the top window line, or 2.0 feet below the roof fascia board. A mitigating factor in this case could be that the roof massing above the fascia board (5.0 feet in height) would not be readily visible from the neighbouring property to the north, considering that this is a flat roof. Also, the residence on this property does not have any windows facing directly the subject site.

With respect to the second b) variance, the height calculation is based on the existing grade at the front elevation. When viewed from the front elevation, the 0.61 feet height encroachment occurs just at the peak of the roof, and would not be noticeable from the neighbouring dwelling across Hythe Avenue North to the east.

In fact, the subject dwelling would appear as one storey in height when viewed from the street. This is because the attached garage has been proposed at the southeast corner of the second floor addition, just over the existing attached carport (converted to a livable space). Consequently, the new driveway access would be approximately 8.0 feet higher than the existing driveway, which would help to alleviate the current steep connection to the street.

In summary, considering the challenging topography and existing conditions of the subject site, and since the requested variances would have small impacts on neighbouring properties, this Department does not objects to the granting of the first a) and second b) variances.

The third c) appeal is to vary Section 102.8(1) – “Front Yard” of the Zoning Bylaw from 24.61 feet to 22.70 feet to allow the construction of the additions to the existing single family dwelling.

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

This variance is directly related to the placement of the existing dwelling on the subject site. The current dwelling observes a front yard setback of 21.7 feet at its southeast corner (where the attached carport is located), which is legal non-conforming with respect to the front yard requirement. Due to the slightly skewed orientation of the dwelling in relation to the front property line, the dwelling observes a larger setback of 26.4 feet at its northeast corner.

As mentioned in the comments under the first a) and second b) appeal, the proposed second floor addition and the carport infill at the main floor are generally proposed within the existing perimeter of the dwelling, except a slightly larger setback is proposed at the southern portion of the front elevation. This results in the slightly larger front yard setback (22.7 feet), which is the subject of this appeal.

The front yard encroachment area is limited to the small triangular area at the southern portion of the front elevation. The 1.91 feet encroachment starts at the southeast corner of the dwelling and gradually decreases to 0.0 feet approximately at the mid-point of the front elevation. Given the small scale of this encroachment, further alleviated by the fact that only the second floor is visible from the street, the proposed front yard reduction would not be noticeable from the surrounding properties.

Considering that the proposed variance poses no impacts on neighbouring properties and the existing streetscape, and is directly related to the existing dwelling location, this Department does not object to the granting of this third c) variance.

ADJACENT OWNER'S COMMENTS:

The homeowner of 371 Hythe Avenue North appeared before the Board expressing concerns regarding loss of shade, privacy, and neighbourhood characteristic.

The resident of 391 Hythe Avenue North appeared before the Board expressing concerns regarding the construction of the home at 341 Hythe Avenue North, effect of frontage, loss of trees, and loss of neighbourhood characteristic.

MOVED BY MR. PEPPARD
SECONDED BY MS. FELKER

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

CARRIED

OPPOSED: MR. NEMETH

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

5. **NEW BUSINESS**

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

6. **ADJOURNMENT**

MOVED BY MR. PEPPARD
SECONDED BY MS. FELKER

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:53 p.m.

Mr. S. Nemeth, CHAIR

Mr. R. Dhatt

Ms. B. Felker

Ms. L. Cichon
ADMINISTRATIVE OFFICER

Mr. W. Peppard