



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 June 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
Mr. Wayne Peppard, Citizen Representative

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

The Chair called the meeting to order at 6:01 p.m.

2. MINUTES

(b) Minutes of the Board of Variance Hearing held on 2019 May 02

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

THAT the minutes of the Burnaby Board of Variance Hearing held on 2019 May 02 be adopted.

CARRIED UNANIMOUSLY

3. APPEAL APPLICATIONS

(a) APPEAL NUMBER: B.V. 6366

APPELLANT: Nazeer Bawa, EWAN Design and Construct INC.

REGISTERED OWNER OF PROPERTY: Perlita and Steven Lee

CIVIC ADDRESS OF PROPERTY: 7727 Stanley Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 398 DL: 87 Plan: NWP48134

APPEAL: An appeal for the relaxation of Section 104.9 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 7727 Stanley Street, with a front yard depth of 24.58 feet where a minimum depth of 40.40 feet is required based on front yard averaging. Zone R4.

APPELLANT'S SUBMISSION:

Mr. Nazeer Bawa, 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 attached garage at 7727 Stanley Street.

Mr. Bawa, Project Manager, and Mr. Steven Lee, Owner, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R4 Residential District, is located in the Lakeview-Mayfield neighbourhood, in which the age and condition of single family dwellings vary. The site is an irregularly shaped interior lot which fronts onto Stanley Street to the south and abuts a lane in the north-east (rear) corner. This irregular shaped lot is 118.88 feet deep along its western (side) property line and has a frontage of 66.94 feet in a concave shape. The site slopes downward approximately 11.1 feet in a south-north (front to rear) direction along the eastern property line and 10.0 feet along the western property line. To the north, east, west and across Stanley Street to the south are single family dwellings. Vehicular access to the subject site is proposed to remain via the lane to the rear (northeast).

The site is constrained by a Storm sewer SROW (Statutory Right of Way) along the eastern and northern property lines. The SROW runs the length of the eastern property line approximately 10.0 feet wide and along the northern (rear) property line approximately 8.0 feet wide.

The curvature of the southern street fronting property line is mirrored directly across Stanley Street to the south by the adjacent neighbouring property. This curvature is a result of an existing road dedication that was retained for a possible future cul-de-sac to be constructed.

A new single family dwelling with a secondary suite and an attached garage are proposed for the subject site, for which the following variance is requested. The appeal is to vary Section 104.9 – "Front Yard" of the Zoning Bylaw requirement from 40.40 feet, based on front yard averaging, to the proposed 24.58 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 “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 neighbouring properties to the east: 7737 and 7757 Stanley Street and the neighbouring property directly to the west 7711 Stanley Street. These front yard setbacks are 35.2 feet, 37.8 feet, and 48.2 feet respectively. The two neighbouring properties to the east are significantly larger lots than the subject site with a depth of 169.0 feet. These neighbouring lots do not have the curved fronting property line or Statutory Right-of-Way that the subject site is constrained with. City records indicate that the existing dwelling on the subject site observed a front yard setback of approximately 25.0 feet.

The subject variance is measured to the foundation of the proposed single family dwelling at the most limiting location from the curved fronting property line. The fronting façade of the subject dwelling is proposed to be a long wall with a minimal recess on the upper floor. On the main floor there is a covered porch in the centre of the front façade which protrudes approximately 4.0 feet in front of the main wall of the subject dwelling. Directly above the porch on the second level is an 8.0 foot wide recess with a window setback approximately 3.0 feet from the main fronting façade of the subject dwelling. This recess helps to reduce impacts of massing and separates the long wall of the front façade.

In view of neighbouring properties, there is an established block frontage along the north and south sides of Stanley Street. The proposed variance is in line with the neighbouring dwellings to the east and west and would therefore have no negative impacts on these neighbouring dwellings.

With respect to hardship, the lot size and irregular shape directly contributes to the request for this variance.

ADJACENT OWNER’S COMMENTS:

A letter was received from the owner at 7748 Stanley Street expressing concerns regarding the size of the home, and unpermitted uses. The author does not oppose the purposed front yard depth if it going to line up with the adjoining houses at the front of the property.

Correspondence was received from a resident at [REDACTED] expressing concerns regarding parking issues.

MOVED BY MR. DHATT
SECONDED BY MR. PEPPARD

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

CARRIED UNANIMOUSLY

(b) APPEAL NUMBER: B.V. 6367

APPELLANT: Nicole Kliwer, Sarah Gallop Design Inc.

REGISTERED OWNER OF PROPERTY: [REDACTED]

CIVIC ADDRESS OF PROPERTY: [REDACTED]

LEGAL DESCRIPTION OF PROPERTY: Lot: 3 DL: 175 Plan: NWP11760

APPEAL: An appeal for the relaxation of Sections 6.2(2) and 6.14(5)(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with a secondary suite and detached garage at [REDACTED]. The following variances are being requested:

- a) an accessory building in a required front yard located 8.00 feet from the front (Clinton Street) property line and 10.03 feet from the west property line, where no accessory building can be located in a required front yard;
- b) a fence height of 9.05 feet located to the rear of the required front yard, where a maximum height of 5.91 feet is permitted; and,
- c) a retaining wall height of 10.47 feet located to the rear of the required front yard, where a maximum height of 5.91 feet is permitted. Zone R2.

APPELLANT'S SUBMISSION:

Ms. Nicole Kliewer, 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 garage at [REDACTED]

Ms. Kliewer, Designer, and [REDACTED], Owner, 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 Suncrest neighbourhood, in which the age and condition of single family dwellings vary. This interior through lot, approximately 59.98 feet wide and 120.03 feet long, fronts Suncrest Drive to the south and Clinton Street to the north. Single family dwellings abut the subject site to the east and west as well as across Clinton Street to the north and Suncrest Drive to the south. The subject lot observes an upward slope of approximately 17.7 feet in the south-north (front-rear) direction along the western property line and 10.6 feet along the eastern property line. Vehicular access to the subject site is proposed to remain off Clinton Street to the north.

The subject site is proposed to be redeveloped with a new single family dwelling with secondary suite and accessory detached garage, which is the subject of the first appeal a). This property was the subject of four previous appeals before the Board of Variance: 1970, July 02 (BV #289), 1979 June 08 (BV #1959), 1983 Dec 01 (BV #2685), and 1987 Aug 06 (BV #3293). Three of these appeals requested variances to the rear yard setback and one for a nil side yard setback for an existing carport in a front yard. All of these appeals were granted by the Board.

The first appeal a) is to vary Section 6.2 (2) - "Location and Siting of Buildings" of the Zoning Bylaw requirement which if permitted would allow for the construction of an accessory building in a required front yard, where no accessory building can be located in a required front yard. The proposed accessory building is 8.0 feet from the front (Clinton Street) property line and 10.03 feet from the west property line.

The intent of the Zoning Bylaw in prohibiting construction of accessory buildings in front yards is to ensure a uniform streetscape with open front yards and to limit massing impacts of such structures on neighbouring properties.

The proposed accessory building, approximately 21.83 feet wide by 20.08 feet deep, is proposed to be located in the northwest corner of the front yard, 8.0 feet from the front (north) property line and 10.03 feet from the side (west) property line. The initial 16.6 feet of the depth of the proposed accessory building will be located in the required front yard. However, the remaining 3.48 feet of the depth of the proposed garage will be located outside the required front yard within the permitted siting area for accessory structures.

The accessory building will contain one parking space accessed off Clinton Street by an overhead door. The accessory building will appear approximately 12.09 feet high, as measured from the proposed grade to the top of the proposed flat roof, when viewed from the neighbouring property across Clinton Street. Although the subject accessory building is proposed to be setback 8.0 feet from the Clinton Street property line, it would still be visible to the northern neighbours across Clinton Street creating some negative impacts. The properties bordering the subject site to the east front onto Patterson Avenue. The rear yards of these sites adjoin the eastern property line of the subject site. Due to the significant amount of shrubbery and deciduous trees bordering the adjoining property line, these sites will not be affected by the requested variance.

With regard to the overall neighbourhood context, the subject block fronting Clinton Street has two similar accessory buildings in front yards located immediately west of the subject property. The lot directly west of the subject lot, 7907 Suncrest Drive, appeared before the Board on 1977 July 07 (BV# 1659) for a similar variance requesting an accessory carport in the front yard. This variance was approved by the Board. Similarly, the second lot to the west, 7913 Suncrest Drive, appeared before the Board on 2015 May 07 (BV# 6161) requesting a variance for an accessory detached garage in a front yard that had been partially constructed in error before appearing before the Board. Although the Planning Department did not support the requested appeal, it was approved by the Board. There are no other lots in this block with accessory buildings fronting Clinton Street.

Although the site topography presents some challenges, it appears that other design options exist that would not require the need for this variance.

The second appeal b) is to vary section 6.14(5)(b) – “Fences” of the Zoning Bylaw from 5.91 feet to a maximum of 9.05 feet for heights of constructed fences located to the rear of the required front yard.

The third appeal c) is to vary section 6.14(5)(b) – “Fences” of the Zoning Bylaw from 5.91 feet to a maximum of 10.47 feet for heights of constructed retaining walls located to the rear of the required front yard. In reference to both appeals b) and c), the intent of the Bylaw is to mitigate the massing impacts of new fences, walls and other structures on neighbouring properties.

With respect to the second appeal, the fence height is determined by measuring from the ground level at the average grade level within 2.95 feet of both sides of the fence. In this case, the portion of the retaining wall above the average grade level is included in the calculation.

With respect to the third appeal, the retaining wall height is determined by measuring from the exposed ground level to the surface of the ground which the retaining wall supports. In this case, the portion of the retaining wall above this surface is not included in the calculation.

In both cases, the requested variances are located in the northwest corner of the subject lot starting from the southwest corner of the proposed accessory garage, continuing to the west for approximately 9.5 feet terminating 0.53 feet east of the western property line.

As the subject fence and retaining wall are setback approximately 27.25 feet from the north fronting property line, neighbouring dwellings across Clinton Street to the north would not be affected by these variance requests. The property directly west of the subject site, is similarly sloped and contains an accessory structure in the northeast corner, as mentioned above. Existing shrubs and greenery along the bordering property line would prevent negative impacts from being present on this neighbouring site.

The over-height portions of the proposed retaining wall and fence will be visible only by the occupants of the subject site from within their property. Although the rear façade of the proposed dwelling is setback 20.11 feet from the subject fence and wall, a closed in feel will be present in the rear outdoor living space of the subject site.

In summary, it is noted that the use of retaining walls, fences and guards is common when dealing with challenging site topography, such as that of the subject site. Accordingly, the use of retaining walls is common in this neighbourhood. However, despite the challenging topography of the site, it appears that other design options exist that would not require the need for these variances.

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, part (a) of this appeal be ALLOWED.

CARRIED

OPPOSED: MR. NEMETH

MOVED BY MS. FELKER
SECONDED BY MR. DHATT

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

CARRIED

OPPOSED: MR. NEMETH

MOVED BY MS. FELKER
SECONDED BY MR. DHATT

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

CARRIED

OPPOSED: MR. NEMETH

4. NEW BUSINESS

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

5. ADJOURNMENT

MOVED BY MS. FELKER
SECONDED BY MR. PEPPARD

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:22 p.m.

Mr. S. Nemeth, CHAIR

Mr. R. Dhatt

Ms. B. Felker

Ms. L. Cichon
ADMINISTRATIVE OFFICER

Mr. W. Peppard