



CITY OF BURNABY

BOARD OF VARIANCE

NOTICE OF OPEN MEETING

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, 2015 November 05 at 1:00 p.m.

1. CALL TO ORDER

PRESENT: Ms. C. Richter, Chair
Mr. B. Bharaj, Citizen Representative
Mr. B. Pound, Citizen Representative

ABSENT: Mr. G. Clark, Citizen Representative
Mr. S. Nemeth, Citizen Representative

STAFF: Ms. M. Malysz, Development Plan Approvals Supervisor
Ms. J. Adam, Planning Assistant
Ms. E. Prior, Administrative Officer

The Chair for the Board of Variance called the meeting to order at 1:00 p.m.

2. MINUTES

MOVED BY MR. B. POUND:
SECONDED BY MR. B. BHARAJ:

THAT the Hearing of the Burnaby Board of Variance held on 2015 October 01 be adopted as circulated.

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(a) APPEAL NUMBER: B.V. 6192 WITHDRAWN

APPELLANT: Ron Bijok

REGISTERED OWNER OF PROPERTY: Kevin Snelgrove and Sabrina Machel

CIVIC ADDRESS OF PROPERTY: 5883 Monarch Street

LEGAL DESCRIPTION OF PROPERTY: Lot 22; District Lot 80; Plan 1798

This appeal was WITHDRAWN prior to the Hearing.

(b) APPEAL NUMBER: B.V. 6193

APPELLANT: Rosa Alexander

REGISTERED OWNER OF PROPERTY: Rosina Alexander

CIVIC ADDRESS OF PROPERTY: 175 Ranelagh Avenue North

LEGAL DESCRIPTION OF PROPERTY: Lot 22; District Lot 189; Plan 4953

APPEAL: An Appeal for the relaxation of Sections 105.6(1)(a) and 6.12(3)(a) of the Burnaby Zoning Bylaw which, if permitted, would allow for the substantive reconstruction of the basement, main floor and upper floor of an existing single family home at 175 Ranelagh Avenue North. These would include interior alterations to the basement and main floor; a new porch, deck and addition to the main floor; and a new upper floor. The following variances are being requested:

a) the principal building height, measured from the rear average grade, would be 30.41 feet where a maximum of 29.5 feet is permitted. Note the height measured from the front average grade would be 28.31 feet, and

b) the side yard setback would be 2.6 feet where a minimum side yard setback of 3.3 feet is required. (Zone R5)

APPELLANT'S SUBMISSION:

Rosa Alexander submitted an application to allow for substantive interior and exterior reconstruction of an existing single family home at 175 Ranelagh Avenue.

Rosa Alexander and Michael Haig appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R5 Residential District, is located in the Capitol Hill neighbourhood, in which the age and condition of single and two-family dwellings vary. This interior lot, which is approximately 33 ft. wide and 121.4 ft. deep, fronts onto the west side of Ranelagh Avenue North. The subject site observes a downward slope of approximately 7.3 ft. in the northeast - southwest direction. Single family dwellings are located immediately north, south, directly across Ranelagh Avenue North to the east and directly across the lane to the west of the subject site.

The subject site was originally improved with a two storey single family dwelling (main floor and basement), built in 1956. In 2014, a building permit (BLD14-01151) was issued for further improvements to the dwelling, including an upper floor addition and various exterior/interior alterations to the basement and main floor. Subsequently, when construction started, a deviation from the building permit drawings was identified by the City staff. As a result, the applicant is requesting two variances in order to legalize the unpermitted construction.

The first a) appeal proposes a building height of 30.41 ft., measured from the rear average elevation to the upper floor addition, where a maximum height of 29.5 ft. is permitted for sloping roofs.

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

The second b) appeal proposes a side yard setback of 2.6 ft. from the north property line to the existing dwelling, with a further projection for roof eaves of up to 2.0 ft., where a minimum side yard setback of 3.3 ft. is required.

The intent of the Bylaw is to mitigate the impacts of building massing on neighbouring properties.

In this case, the existing dwelling observes a north side yard setback of 2.6 ft., and is legal-non-conforming with respect to the side yard setback requirement (3.3 ft.).

The approved building permit drawings indicate that the non-conforming part of the dwelling, particularly the outermost north wall and adjacent floor area at the basement and ground level, were to be retained. However, during construction, the wall and floor were removed and rebuilt, as they were in poor condition. The portion of this new floor and wall that encroaches into the required side yard is approximately 0.7 ft. wide and 31 ft. long, and is the subject of the second b) appeal.

In addition, this new wall/floor construction required slightly higher wall studs, which increased the overall building height. The proposed increase in building height from the

originally approved 29.5 ft. to the constructed 30.41 ft., as viewed from the rear property line, is the subject of the first a) appeal.

With respect the second b) variance, the increased side yard encroachment does not materially change the massing relationship, at the ground floor, between the existing dwelling and the neighbouring property to the north of the subject site. In addition, the new upper floor is proposed to be set back an additional 3.25 ft. from the outermost north face of this encroachment area. The resulting total upper floor setback of 5.85 ft. is well over the minimum side yard setback requirement of 3.3 ft.

With respect to the first a) appeal, the proposed height encroachment of 0.91 ft. would be limited to a very small triangular area at the top fascia board junction of the upper roof (the small roof over the upper deck would not be part of this encroachment). In addition, the proposed upper floor is set back 10.18 ft. from the outermost west face of the rear elevation at the ground level, which further mitigates any impacts. Also, when viewed from the front property line, the proposed building height of 28.31 ft. is well under the dimensional height requirement for the R5 District (29.5 ft.).

In summary, considering the small scale of the proposed side yard and height encroachments, no significant impacts are expected to neighbouring properties and the existing streetscape.

In view of the above, this Department does not object to the granting of the first a) and second b) variances.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from Mr. Michael Wong, concerned that the height variance would block their view. The writer also expressed concern that allowing this variance would set a precedent in the neighbourhood.

No further correspondence was received regarding this appeal.

MOVED BY MR. B. POUND:
SECONDED BY MR. B. BHARAJ:

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

CARRIED UNANIMOUSLY

MOVED BY MR. B. POUND:
SECONDED BY MR. B. BHARAJ:

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

CARRIED UNANIMOUSLY

MOVED BY MR. B. POUND:
SECONDED BY MR. B. BHARAJ:

THAT the Hearing do now recess until 1:15 p.m.

CARRIED UNANIMOUSLY

The Hearing recessed at 1:08 p.m.

MOVED BY MR. B. POUND:
SECONDED BY MR. B. BHARAJ:

THAT the Hearing do now reconvene.

CARRIED UNANIMOUSLY

The Hearing reconvened at 1:15 p.m.

(c) APPEAL NUMBER: B.V. 6194

APPELLANT: Tony Gill

REGISTERED OWNER OF PROPERTY: Belltown Homes LTD and A-Pacific
Development LTD

CIVIC ADDRESS OF PROPERTY: 7357 Newcombe Street

LEGAL DESCRIPTION OF PROPERTY: Lot 32; District Lot 25; Plan 14945

APPEAL: An appeal for the relaxation of Section 6.3.1 of the Burnaby Zoning Bylaw, which, if permitted, would allow for the construction of a new single family home at 7357 Newcombe Street. The distance between the principal building and the detached garage would be 0.53 feet where a minimum distance of 14.8 feet is required. (Zone R10)

A previous Board of Variance (BOV 6177 2015 July 09) denied an appeal requesting the front yard setback of 24.93 feet measured to the foundation where a minimum front yard setback of 40.63 feet is required.

A previous Board of Variance (BOV 6190 2015 September 03) denied an appeal requesting the front yard setback of 33.86 feet measured to the foundation where a minimum front yard setback of 40.63 feet is required; and allowed the distance between the principal building and the detached garage of 9.75 feet where a minimum distance of 14.8 feet is required.

APPELLANT'S SUBMISSION:

Tony Gill, Belltown Homes Ltd and and A-Pacific Development Ltd, submitted an application to allow for the construction of a new home at 7357 Newcombe Street.

Tony Gill and Inderjit Dhillon, designer, appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

This property was the subject of an appeal before the Board on 2015 July 09 (BV6177) and 2015 September 03 (BV6190).

In the 2015 July 09 appeal, a variance was sought for the construction of a new single family dwelling and detached garage observing a front yard setback of 24.93 ft., where a front yard setback of 40.63 ft. is required. This Department did not support this request, and the Board of Variance denied the appeal.

In the 2015 September 03 appeal, two variances were sought for the construction of a new single family dwelling with a detached garage. The first a) appeal was for a distance of 9.75 ft. from the accessory building to the principal building, where a minimum distance of 14.8 ft. is required. The second b) appeal was for a front yard setback of 33.86 ft. where a front yard setback of 40.63 ft. is required. While this Department did not support the first a) appeal for a reduced distance between the garage and residence, the Board granted it. Similarly, this Department supported the request for a reduced front yard setback, but the Board denied the second b) appeal.

This Department's comments on the 2015 September 03 appeal, which also references the 2015 July 09 appeal, are included as Item 1 in the attached supplementary materials.

Subsequently, in response to concerns raised by neighbours at the hearing, the applicant has revised the proposal. The revised design locates the principal building 40.63 ft. from the front property line, which meets the minimum front yard setback; however, this is achieved by a further reduction in the distance between the residence and the garage. Some changes to the windows, sunken patio and detached garage are also proposed. Otherwise, the revised proposal is similar to that presented in the 2015 July 09 appeal.

More specifically, the following relaxation is requested:

The appeal would permit a distance of 0.53 ft. from the detached garage to the principal building, with a 2.94 ft. roof projection from the principal building, where a minimum distance of 14.8 ft. is required.

The Bylaw requires a separation between buildings on the same lot in order to prevent massing impacts on the occupants of the subject property and neighbouring properties, as well as to provide for sufficient outdoor living space.

This variance relates directly to the revised siting of the principal building. In order to achieve the minimum required front yard setback, the proposed dwelling has been located 6.77 ft. closer to the accessory detached garage.

The siting of the detached garage remains the same, in the south corner of the rear yard, approximately 4 ft. from the southwest (rear) property line and 4 ft. from the southeast (side) property line. The detached garage has been reduced in width from 22.6 ft. to 20 ft.; in length from 20 ft. to 19.5 ft.; and in height

from approximately 12.19 ft. to the top of a hip roof to 9.45 ft. high to the top of a flat roof as viewed from the lane. This reduction in size and height helps mitigate, to a degree, the impacts of the reduced separation.

The proposed detached garage contains two parking spaces, accessed off the rear lane, and is consistent with the existing detached garage immediately to the southeast of the subject lot.

The 0.53 ft. distance is measured from the detached garage to the rear deck, which is proposed over the sunken patio immediately northwest of the garage. The proposed horizontal overlap between the deck and the garage is only 2.57 ft. The small overlap area, in this case, would not create substantial impacts, given the openness of the deck area. However, the proposed location of the deck itself is questionable. The proposed deck is located over the sunken patio, which is a primary source of daylight for the proposed secondary suite in the cellar. The deck would cover almost 2/3 of the sunken patio, which would result in substantial shading of this area.

In addition, the proposed distance of 3.43 ft. between the garage and the dwelling, which represents a dramatic reduction from the previously approved 9.75 ft., is a concern. The dwelling/garage overlap would be 18.5 ft., which is almost the entire width of the garage. It is noted that an attempt has been made to minimize impacts on the occupants of the residence, by removing all windows from the area of overlap (including the previously proposed two bay windows at the upper floor of the dwelling). As such, no primary living space would face the garage. However, with the required separation reduced by 11.37 ft. or 77 %, the dwelling and garage would effectively appear as a single building form. The neighbouring property immediately southeast of the subject site would be most affected by this proposal.

Furthermore, this variance could be substantially lessened by reducing the proposed two-car garage to a one-car garage and providing an additional surface parking space to satisfy parking requirements.

With respect to outdoor living space, a small yard area would remain to the northwest of the garage, but would be insufficient to meet the needs of both a primary dwelling unit

and a secondary suite. Additional outdoor space would be available in the sizable front yard; however, this area would not afford the privacy of a rear yard.

For the above reasons, the Department cannot support the requested variance.

ADJACENT OWNER'S COMMENTS:

Mr. R. Arseneault, 8249 19th Avenue, and Mr. D. Grant, 7391 Newcombe Street, appeared before the Board in opposition to the appeal.

No correspondence was received regarding this appeal.

MOVED BY MR. B. POUND:
SECONDED BY MR. B. BHARAJ:

THAT based on the plans submitted this appeal be ALLOWED.

FOR: MR. B. BHARAJ

OPPOSED: MS. C. RICHTER
MR. B. POUND

DENIED

(d) APPEAL NUMBER: B.V. 6195

APPELLANT: Xiao Jia Hu

REGISTERED OWNER OF PROPERTY: Yang and Xiao Hu

CIVIC ADDRESS OF PROPERTY: 4862 Gilpin Court

LEGAL DESCRIPTION OF PROPERTY: Lot 3; District Lot 34; Plan 15142

APPEAL : An appeal for the relaxation of Section 105.6(1)(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for: additions to the basement, main floor and upper floor; interior alterations/finishing to the basement and main floor; new main porch and deck; new upper floor deck, and a new basement attached garage at 4862 Gilpin Court. The following variances are being requested:

a) the principal building height, measured from the rear average elevation, would be 28.57 feet where a maximum of 24.3 feet is permitted, and

b) the principal building height, measured from the front average

elevation, would be 27.45 where a maximum of 24.3 feet is permitted. (Zone R5)

A previous Board of Variance (BOV 6111 2014 June 05) allowed a principal building height of 27.95 feet measured from the rear yard and 26.83 measured from the front yard, a principal building depth of 38.75 feet, a front yard setback of 14.08 feet and a rear yard setback of 7.92 feet.

APPELLANT'S SUBMISSION:

Xiao Jia Hu submitted an application to allow for additions and interior alterations of an existing home at 4862 Gilpin Court.

Xiao Jia and Yang Hu appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

This property was the subject of an appeal before the Board on 2014 June 06 (BV6111). The following variances were allowed for the construction of new additions to an existing single family dwelling:

- a) a building height of 27.95 ft., measured from the rear average elevation, where a maximum height of 24.3 ft. is permitted.
- b) a building height of 26.83 ft., measured from the front average elevation, where a maximum height of 24.3 ft. is permitted.
- c) a principal building depth of 38.75 ft. where a maximum building depth of 30.45 ft. is permitted.
- d) a front yard setback of 14.08 ft., where a minimum front yard setback of 19.7 ft. is required.
- e) a rear yard setback of 7.92 ft., where a minimum rear yard setback of 24.6 ft. is required.

Subsequently, a building permit (BLD14-00573) was issued and the construction of various additions and alterations to the existing dwelling began. When construction progressed to the framing stage, deviations from the permitted building height were identified by the City staff. As a result, the applicant is requesting two appeals for a further relaxation of building height, in attempt to legalize the as-built construction.

The first a) appeal proposes a building height of 28.57 ft., measured from the rear average elevation, where a maximum height of 24.3 ft. is permitted for a flat roof.

The second b) appeal proposes a building height of 27.45 ft., measured from the front average elevation, where a maximum height of 24.3 ft. is permitted for a flat roof.

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

Both requests propose a 0.62 ft. (7.5 inch) increase to the previously relaxed building heights, as viewed from the front and rear of the dwelling. This additional overheight area is generally limited to an approximately 22 ft. by 10 ft. flat roof area. This area is centrally located at the top of the upper roof at the northern portion of the existing dwelling, where the new 2 ½ storey addition is being constructed.

Considering the relatively minor scale of the proposed increase to the granted height variances, this Department's comments remain similar to the comments for the 2014 June 06 appeal.

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 interior lot, which is approximately 60.9 ft. deep and 115.5 ft. wide, observes a frontage of approximately 50 ft. along Gilpin Court to the west. Abutting the subject site to the north, south and around the Gilpin Court cul-de-sac to the west are single family dwellings, and across the lane to the east are two-family dwellings. Vehicular access is provided from the Gilpin Court cul-de-sac. The site observes a downward slope of approximately 6 ft. in the south-north direction. The subject site contains a single family dwelling that was constructed in 1968 along with an attached carport.

The subject lot is unusual in that it is oriented laterally to its only road frontage, at the terminus of Gilpin Court along the western property line. It appears that because of this, the front yard has historically been measured from the shorter northern lot line, despite its lack of road frontage; and the rear yard has historically been measured from the southern lot line.

Consequently, the height of the residence was measured from the average natural grade of the lower of its north facade or its south facade, rather than from its actual front and rear elevations, which face Gilpin Court and the rear lane respectively. The height of the existing one and a half storey dwelling is proximately 18 ft. as measured from the actual rear elevation.

The proposed height relaxations are reviewed in the context of the rear elevation facing the lane (east) and the front elevation facing the Gilpin Court (west). In both cases, the height calculations are based on the existing natural grade at the rear elevation and front elevation respectively. The 6 ft. grade change from the rear to the front of the subject site contributes to the excess height of the building.

With respect to the first a) variance, the proposed 4.27 ft. (previously 3.65 ft.) height encroachment, as viewed from the rear elevation, consists of the upper roof of the proposed addition, above the approximate mid-point of the fascia board. Considering

that views from the neighbouring properties across the lane to the east are predominantly oriented to the east, it is not expected that the additional massing created by the proposed height encroachment would negatively impact these neighbouring sites.

With respect to the second b) variance, the proposed 3.15 ft. (previously 2.53 ft.) height encroachment, as viewed from the front elevation, consists of the upper roof of the proposed addition above the fascia board as well as a small decorative dormer in the center. This area of encroachment is relatively limited.

Considering the distant siting of the upper roof from the neighbouring properties to the north and to the southwest, and the absence of any direct conflict with views from these properties, it is not expected that the additional massing created by the proposed height encroachment would negatively impact these neighbouring sites.

Further, the proposed 4 in 12 roof pitch would result in a gently sloping design that minimizes the roof massing above the fascia board level, as viewed from the rear and front elevations.

Given the incremental nature of the proposed height encroachments, which increase the previously granted height relaxation by only 0.62 ft., and the limited impacts of this increase on the neighbouring properties and the existing streetscape, this Department does not object to the granting of both first a) and second b) variances.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from a resident expressing concern regarding loss of privacy in his home and backyard as well as the enjoyment of his home due to the significant renovations being done to 4862 Gilpin Court.

No further correspondence was received regarding this appeal.

MOVED BY MR. B. POUND:

SECONDED BY MR. B. BHARAJ:

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

CARRIED UNANIMOUSLY

MOVED BY MR. B. POUND:

SECONDED BY MR. B. BHARAJ:

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. B. POUND:
SECONDED BY MR. B. BHARAJ:

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 1:58 p.m.

Ms. C. Richter

Mr. B. Bharaj

Mr. B. Pound

Ms. E. Prior
ADMINISTRATIVE OFFICER