



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, 2016 May 05 at 6:00 PM

1. CALL TO ORDER

PRESENT: Ms. Charlene Richter, Chair
Mr. Guyle Clark, Citizen Representative
Mr. Rana Dhatt, Citizen Representative
Mr. Stephen Nemeth, Citizen Representative
Mr. Brian Pound, Citizen Representative

STAFF: Ms. Margaret Malysz, Planning Department Representative
Ms. Eva Prior, Administrative Officer

The Administrative Officer called the meeting to order at 6:05 p.m.

2. MINUTES

(a) Minutes of the Board of Variance Hearing held on 2016 April 07

MOVED BY MR. DHATT

SECONDED BY MR. NEMETH

THAT the minutes of the Burnaby Board of Variance Hearing held on 2016 April 07 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. 6223

APPELLANT: Tommy Ngo

REGISTERED OWNER OF PROPERTY: Coastalwind Development Inc

CIVIC ADDRESS OF PROPERTY: 6654 Walker Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 19 and 20; DL 91; Plan 1346

APPEAL: An appeal for the relaxation of Section 103.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home at 6654 Walker Avenue. The front yard setback would be 22.60 feet to the post where a minimum front yard setback of 36.43 feet is required based on front yard averaging. The roof overhang would be 1.5 feet beyond the post. (Zone R3)

APPELLANT'S SUBMISSION:

Tommy Ngo submitted an application to allow for the construction of a single family dwelling.

Mr. Ngo and Mr. Sohal, appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site is located the Richmond Park area, in a mature single family neighbourhood. The site is zoned R3 Residential District, which is intended to preserve the minimum density of development in mature single family areas. This interior lot, approximately 65 ft. wide and 122.5 ft. long, fronts onto Walker Avenue to the southwest. The subject site abuts single family lots to the northwest, southeast and northeast. Vehicular access to the subject site is provided via Walker Avenue; there is no lane access. The site is relatively flat with a downward slope of approximately 2 ft. in the southeast-northwest direction. The subject site is restricted by a 5 ft. wide sanitary easement along the northeast (rear) property line.

The subject site is proposed to be redeveloped with a new single family dwelling with a

secondary suite and attached garage.

The appeal proposes a front yard setback of 22.6 ft. measured to the front porch posts of the proposed single family dwelling, with a further projection for roof eaves of 1.5 ft., where front yard averaging requires a minimum setback of 36.43 ft. from the front property line.

In 1991, Council responded to public concerns regarding the bulk and massing of newer and larger homes that were being built in existing neighbourhoods. Several text amendments to the Zoning Bylaw were adopted to address these concerns, including a requirement to set new construction back from the front property line based on an average of the two dwellings on either side of the subject site. The intent was to help to ease 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 single family dwellings immediately northwest of the subject site at 6630 and 6642 Walker Avenue and the two single family dwellings immediately southeast of the subject site at 6666 and 6678 Walker Avenue. The front yard setbacks for these properties are 61.84 ft., 41.28 ft., 20.13 ft. and 22.48 ft. respectively. The existing dwelling at 6630 Walker Avenue affects the front yard averaging calculations.

The proposed 22.6 ft. front yard setback is measured from the southwest property line to the posts of the proposed front porch, located slightly off center to the southeast of the front elevation. The front face of the dwelling would observe various additional setbacks on both levels. At the main level, the southeastern portion of the front face would be set back 5.5 ft. in relation to the front porch posts and the northwestern portion would be set back 2.19 ft. At the upper level, the central portion would be set back 4.4 ft. in relation to the front porch posts, with areas to the side recessed an additional 1 ft. In addition, the upper floor would be generously set back from the side faces of the main floor, 12.48 ft. at the southeast side elevation and 8.75 ft. at the northwest elevation.

The proposed siting would place the subject dwelling 18.68 ft. in front the neighbouring dwelling to the northwest and 2.47 ft. in front of the neighbouring dwelling to the southeast. If the actual 'corner to corner' relationship is considered, the subject dwelling would project 16.49 ft. in front of the residence to the northwest, but would be positioned 2.88 ft. behind the residence to the southeast (according to the provided survey, this residence observes a distance of 25.22 ft. from the front property line at its northwest corner).

Although it appears that this proposal would impact the neighbouring property to the northwest, there are several mitigating factors to consider.

First, the siting of the proposed dwelling, with the exception of the small front porch, would be closely in line with the placement of the existing dwelling on the subject site, which observes a front yard setback of approximately 25 ft. Therefore, the existing

horizontal massing relationship with the adjacent neighbouring residences would not be substantially changed.

Further, with respect to the broader neighbourhood context, with the exception of the two lots immediately northwest of the subject site, the placement of the proposed dwelling would be consistent with the majority of dwellings in the subject block, with front yard setbacks of approximately 22-25 ft. These setbacks are consistent with the minimum front yard setback required in the R3 District, which is 19.7 ft., whereas the front yard setbacks on the two properties to the northwest of the subject site are two to three times greater than the minimum required.

In summary, considering the development pattern in the subject block, the proposal would have minimal effects on neighbouring properties and the existing streetscape. However, it is noted that the proposal is the result of a design choice, rather than hardship, as a greater front yard setback could be achieved by shifting the proposed residence rearward on the lot. As such, this Department cannot support the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. CLARK
SECONDED BY MR. POUND

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED

OPPOSED: Mr. Pound
Mr. Nemeth

(b) APPEAL NUMBER: B.V. 6224

APPELLANT: Dat Huynh, Christopher Bozyk Architects

REGISTERED OWNER OF PROPERTY: 0883893 BC LTD

CIVIC ADDRESS OF PROPERTY: 4050 Graveley Street

LEGAL DESCRIPTION OF PROPERTY: Lot 67; DL 117; Plan NWP43259

APPEAL: An appeal for the relaxation of Section 403.5(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a warehouse addition to an existing warehouse building at 4050 Graveley

Street, with a nil side yard setback where a minimum side yard setback of 19.69 feet is required. (Zone M3)

APPELLANT'S SUBMISSION:

Mr. Dat Huynh, agent for the appellants submitted an application to allow for the construction of a warehouse addition.

Margaret and Doug Bezdan, appeared before members of the Board of Variance at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned M3 Heavy Industrial District, is located in the West-Central Valley neighbourhood. The M3 District is intended for the accommodation of special types of industry and heavy industrial activities.

This interior lot, approximately 145.5 ft. wide and 131.8 ft. deep, fronts onto Graveley Street to the north. Directly across Graveley Street to the north are two lots containing residential dwellings. To the west, east and south the subject site is bordered by lots containing various industrial developments. Vehicle access to the site is provided from Graveley Street; there is no lane access. The subject site is restricted by the 10 ft. wide sanitary easement along the south (rear) property line.

The subject site is improved with a two-storey warehouse building, built in 1972, and associated parking and landscape areas. In 1988, the Board of Variance granted the subject property permission to retain an attached accessory building (storage shed) to the rear of the existing warehouse building for two years (BV3440). The accessory building observed a nil rear yard setback where a minimum rear yard setback of 9.84 ft. is required. This Department did not object to the temporary retention of the accessory building, which has since been removed.

This appeal concerns a proposed second floor warehouse addition to the existing warehouse building.

The appeal is for the construction of a warehouse addition to the existing warehouse building observing a nil east side yard setback, where a minimum side yard setback of 19.69 ft. is required when the other side yard setback is nil.

The intent of the Bylaw, when adopted, was to upgrade the quality of industrial development in order to increase its compatibility with other land uses.

The existing approximately 21.5 ft. high warehouse building occupies the western two-thirds of the site, with the remaining lot area utilized for parking/loading and frontage landscaping. The existing building observes a nil side yard setback along the west side property line.

The 58.75 ft. wide by 37 ft. deep second floor addition is proposed in the south-east corner of the subject site. The addition would be aligned with the existing building to the rear and would span across the entire remaining lot width, from the east building face to the east side property line. As a result, the 19.69 ft. wide portion of the proposed addition, along the east side property line, would encroach into the required east side yard setback. The proposed addition is raised approximately 12 ft. above grade level to permit the existing loading and parking function to continue underneath. The overall height of the proposed addition is 39 ft., consistent with the four storey maximum building height permitted in the M3 District.

It appears that, although the massing of the proposed addition would be substantial, relatively few visual impacts would result. To the east, the proposed addition would abut the neighbouring single storey building, which observes a nil setback along the shared side property line (this building observes a nil setback at both side property lines and is legal non-conforming with respect to the side yard setback requirements). The front and rear face of the proposed addition would be in line with this existing building. Directly to the south, the proposed addition would face the parking area of the neighbouring property at 1679 Gilmore Avenue. The existing building on this property, as well as the existing building on the adjacent property to the west (4055 First Avenue), front onto Gilmore Avenue to the east and First Avenue to the south respectively. These buildings have no windows facing the subject property. Massing impacts on the neighbouring residential dwellings across Graveley Street to the north would be mitigated by a generous front yard setback of approximately 85 ft.

Further, the subject property is constrained by the lack of a rear lane, which increases the space required for on-site maneuvering of vehicles and thus reduces the buildable area of the site. By raising the floor of the proposed addition, the applicants have devised a creative solution to increase floor area while maintaining parking and loading functions underneath. Moreover, the location of the proposed addition at the rear of the property, as noted above, minimizes the impacts of the proposed nil setback. As such, this proposal appears to reach a balance between satisfying parking and loading requirements, minimizing impacts on the neighbourhood and meeting the applicant's development needs.

Further, there is precedent for a similar side yard setback relaxation within the subject block. The neighbouring property immediately to the west (4040 Graveley Street) was granted a relaxation of the side yard setback to nil, where a minimum side yard setback of 19.69 ft. is required, by the Board of Variance in 2002 (BV 5015). Several other properties in the vicinity, constructed prior to the adoption of the setback requirement, also enjoy nil side yard setbacks on both sides.

In view of the above, although the proposed variance is not strictly the result of hardship, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

An email was received on May 05, from Jordan Parente, 4099 Graveley Street, in opposition to the appeal. Mr. Parente advised that the variance would negatively impact livability, aesthetics and property values in the neighbourhood. Mr. Parente also expressed concern regarding further parking congestion on Graveley Street.

No further submissions were received regarding this appeal.

In response to the parking concern, Ms. Bezdan advised that they will still be able to provide the required number of parking stalls.

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANOMIOUSLY

(c) **APPEAL NUMBER: B.V. 6225**

APPELLANT: Sanja Gavrilovic

REGISTERED OWNER OF PROPERTY: Marko and Jelena Markovic

CIVIC ADDRESS OF PROPERTY: 1655 Howard Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 60; DL 126; Plan 25437

APPEAL: An appeal for the relaxation of Section 102.6(1)(a) of the Burnaby Zoning Bylaw, which if permitted, would allow for the construction of a new single family dwelling at 1655 Howard Avenue. The principal building height, measured from the Heathdale Drive front average elevation would be 32.28 feet where the maximum building height of 29.5 feet is permitted. The principal building height, measured from the Howard Avenue front average elevation would be 23.33 feet. (Zone R2)

A previous Board of Variance (BOV 6172, 2015 June 04) allowed an appeal for a front yard setback from Heathdale Drive to the post of 39.10 feet, where a minimum setback of 44.57 feet is required based on front yard averaging. The cantilevered deck joists would extend 2.0 feet beyond the post; and construction of an accessory building in a required front yard, located 3.94 feet from the West property line abutting Heathdale Drive and 4.0 feet from the South property line, where siting of an accessory building in a required front yard is prohibited by the Zoning Bylaw.

APPELLANT'S SUBMISSION:

Sanja Gavrilovic submitted an application to allow for the construction of a new single family dwelling.

Stephen Gavrilovic, agent for the homeowners and Marko Markovic, homeowner, 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 June 04 (BV6172), in which two variances were sought for the construction of a new single family dwelling with a detached garage. The first a) appeal was for a front yard setback of 39.1 ft. where a front yard setback of 44.57 ft. is required from the Heathdale Drive property line. The second b) appeal was for an accessory building in the Heathdale Drive front yard where accessory buildings are prohibited. While this Department supported the first a) appeal and did not support the second b) appeal, the Board granted both appeals.

This Department's comments on the 2015 June 04 appeal are included as *Item 1* in the *attached* supplementary materials.

A new single family dwelling with a detached garage is currently under construction on the subject site (BLD15-00542). However, the applicant is proposing modifications to the approved design, which are the subject of this appeal.

The subject site, zoned R2 Residential District, is located in the Parkcrest-Aubrey neighbourhood in which the majority of single family dwellings were constructed in the 1960s. This through lot, approximately 57.5 ft. wide and 123.5 ft. long, fronts Howard Avenue to the east and Heathdale Drive to the west. The 50 ft. wide Heathdale Drive right-of-way is not fully developed; the easternmost 20 ft. of the right-of-way is paved and as the remainder is undeveloped green space. A large R1 District property, which is currently vacant, is located across Heathdale Drive to the west. Single family dwellings abut the subject site to the north and the south. Vehicular access to the site is provided from Heathdale Drive. The site observes a substantial downward slope of approximately 18 ft. in the northeast-southwest direction.

The appeal proposes a building height of 32.28 ft., measured from the Heathdale Drive front average elevation, where a maximum height of 29.5 ft. is permitted for sloped roofs.

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

This proposal differs from the 2015 June 04 appeal with respect to the site grading in the western portion of the subject site, fronting onto Heathdale Drive. In the previous proposal, grading in this portion of the site generally followed the natural terrain with a

downward slope of approximately 8 ft. from the west face of the dwelling to the west property line. Also, a small sunken patio was proposed at the west elevation. The current proposal lowers the grades by approximately 4.5 ft. around the western portion of the dwelling. The proposed new grades match the cellar level and allow for more flat area between the dwelling and the detached garage. Although the roof peak elevation remains unchanged, the proposed new grades increase the building height calculation by approximately 4.41 ft.

Considering the nature of this height encroachment, little impact is expected on the neighbouring properties. The additional exposed portion of the building at the cellar level would not be visible from the neighbouring property to the north and would be fully screened by the existing fence along the south side property line. In addition, a large portion of this additional exposed area would be screened by the detached garage when viewed from Heathdale Drive and the vacant property to the west.

In summary, given the challenging site topography and the lack of any negative impacts on neighbouring properties and the existing streetscape, this Department does not object to the granting of the proposed variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(d) APPEAL NUMBER: B.V. 6226

APPELLANT: Matt Durocher, Enduring Construction

REGISTERED OWNER OF PROPERTY: Jaimie and Lilian Tamayo

CIVIC ADDRESS OF PROPERTY: 8151 17th Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 21; DL 27; Plan NWP1049

APPEAL: An appeal for the relaxation of Section 105.10(3) and 6.12(3)(a) of the Burnaby Zoning Bylaw which, if permitted, will allow for the addition and interior alterations to an existing single family dwelling at 8151 17th Avenue. The side yard setback will be 3.0 feet to the foundation where a minimum side yard setback of 3.3 feet is required. (Zone R5)

APPELLANT'S SUBMISSION:

Matt Durocher submitted an application to allow for the construction of an addition and interior alterations.

Matt Durocher, agent for the homeowners, 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 Second Street neighbourhood, in which the age and condition of single and two-family dwellings vary. This interior lot, approximately 33 ft. wide and 146.4 ft. deep, fronts onto the northwest side of Seventeenth Avenue. Single family dwellings are located immediately southwest, northeast and directly across the lane to the northwest of the subject site. Directly across Seventeenth Avenue to the southeast, is a parking area for the Second Street Community School. The subject site observes a downward slope of approximately 5 ft. in the south - north direction.

The subject site was originally improved with a two storey single family dwelling (main floor and basement), built in 1928, and further improved with an accessory detached garage, built in 1994. In 2016, a building permit (BLD16-00160) was issued for further improvements to the dwelling, including various interior alterations and a rear addition to the basement and main floor. This building permit was issued in error with respect to the side yard setback requirement, which was approved at 3.0 ft. instead of 3.3 ft. as required. This error was identified by City staff upon inspection of foundation work. As a result, a variance is requested in order to permit construction to continue according to the approved plans.

The appeal proposes a side yard setback of 3.0 ft. from the northeast property line to the proposed addition to the existing dwelling, with a further projection for roof eaves of up to 1.5 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 northeast side yard setback of 3.0 ft., and is legal-non-conforming with respect to the side yard setback requirement (3.3 ft.). The approved building permit drawings permit a 21 ft. deep two storey (main floor and basement) addition to the rear of the dwelling, aligned with the northeast side face of the existing dwelling. As a result of this alignment, the outermost 0.3 ft. wide section of this addition encroaches into the required side yard.

The side yard encroachment does not materially change the massing relationship between the existing dwelling and the neighbouring residence to the northeast of the subject site. Given the small scale of the proposed side yard encroachment and the limited amount of windows in the overlap area, facing the subject site, no impacts are expected to this neighbouring property.

In view of the above, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

THAT based on the plans submitted 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 6:40 p.m.

Ms. C. Richter

Mr. G. Clark

Mr. R. Dhatt

Mr. S. Nemeth

Ms. E. Prior
ADMINISTRATIVE OFFICER

Mr. B. Pound