



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 June 02 at 6:00 p.m.

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. Sharon Knapp, Planning Department Representative
Mr. Maciek Wodzynski, Planning Department Representative
Ms. Eva Prior, Administrative Officer

The Chair for the Board of Variance called the meeting to order at 6:00 p.m.

2. MINUTES

(a) Minutes of the Board of Variance Hearing held on 2016 May 05

MOVED BY MR. POUND
SECONDED BY MR. DHATT

THAT the minutes of the Burnaby Board of Variance Hearing held on 2016 May 05 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. 6227

APPELLANT: Mayumi Hasegawa

REGISTERED OWNER OF PROPERTY: Vivek and Anju Soni

CIVIC ADDRESS OF PROPERTY: 4688 Alpha Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 25; DL 122/123/124; NWP16792

APPEAL: An appeal for the relaxation of Section 110.6(2)(a) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home (currently under construction) at 4688 Alpha Drive. The principal building height would be 25.74 feet where a maximum building height of 24.90 feet is permitted. (R10)

APPELLANT'S SUBMISSION:

Mayumi Hasegawa submitted an application to allow for the construction of a new home at 4688 Alpha Drive.

Ms. Hasegawa and Ms. Soni appeared before members of the Board of Variance Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

In September 2015, a building permit (BLD15-00683) was issued for construction of a new single family dwelling with secondary suite and detached garage on the subject site. During construction, a deviation from the building permit drawings was identified by City staff. As a result, the applicant is requesting a variance in order to legalize the unpermitted construction.

The subject site, which is zoned R10 Residential District, is located in the Brentwood neighbourhood, in which the age and condition of single family dwellings vary. This irregular shaped interior lot, which is approximately 55 - 75 ft. wide and 122 - 127 ft. deep, fronts onto the southeast side of Alpha Drive. The subject site observes a downward slope of approximately 13.5 ft. in the northwest - southeast direction. Single family dwellings are located immediately northeast, southwest, directly across Alpha Drive to the northwest and directly across the lane to the southeast of the subject site.

Properties across Alpha Drive are located above the subject site and the street level. Properties across the lane are located below subject site and lane level.

The front elevation of the single family dwelling, which faces Alpha Drive, has a full two storey appearance and is located on a grade that is approximately 4.73 – 6.71 ft. below street level. The second storey is set back from the main storey on the rear and northeast side elevations. The roof meets the minimum required 4 in 12 pitch for a sloping roof, although an approximately 160 sq. ft. central portion is flat.

The appeal proposes a building height of 25.74 ft., where a maximum height of 24.9 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.

As noted above, the building was not constructed in accordance with the drawings approved under the issued building permit. Specifically, the floor elevation of the second storey was increase by 1.0 ft., resulting in a building height that is 0.84 ft. above the maximum height permitted in the R10 District.

The proposed height encroachment of 0.84 ft. is limited to the central, flat portion of the roof and to parts of the adjacent sloped roof on the rear and side elevations. The proposed height increase is small, and unlikely to significantly impact neighbouring properties; however, it is noted that because the excess height is the result of raising the second floor level, it represents an increase in the bulk of the entire building, not just the roof element. In addition, alternatives that conform to the Bylaw clearly exist, including the design approved under the issued building permit.

In view of the above, this Department cannot support granting of this variance.

ADJACENT OWNER'S COMMENTS:

Letters of support were received from owners/residents at 4678 Alpha Drive, 4690 Alpha Drive, 4681 Westlawn Drive advising of no objection to the variance requested.

No further correspondence was received regarding this appeal.

Mr. Jay Spiro, 4672 Alpha, appeared in opposition to the appeal. Mr. Spiro expressed concern regarding precedent setting decisions that may affect future building in the area.

Mr. Stig Tollefsen, 4551 William Street, appeared in opposition to the appeal. Mr. Tollefsen expressed concerns regarding potential drainage issues due to the modification of the property slope.

MOVED BY MR. POUND
SECONDED BY MR. CLARK

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED

OPPOSED: Mr. Nemeth
Ms. Richter

(b) APPEAL NUMBER: B.V. 6228

APPELLANT: Ron Lee

REGISTERED OWNER OF PROPERTY: Ron and Karen Lee

CIVIC ADDRESS OF PROPERTY: 6624 Charles Street

LEGAL DESCRIPTION OF PROPERTY: Lot 9; DL 132; Plan NWP2419

APPEAL: An appeal for the relaxation of Section 6.14(5)(b) of the Burnaby Zoning Bylaw, which if permitted, would allow for the construction of a new single family home at 6624 Charles Street. The fence at the rear of the lot would have varying heights up to a maximum of 6.83 feet where the maximum permitted height is 5.91 feet. (R4)

APPELLANT'S SUBMISSION:

Ron Lee submitted an application to allow for the construction of a new home at 6624 Charles Street.

Mr. Ron Lee, homeowner, appeared before members of the Board of Variance Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, zoned R4 Residential District, is located in the Lochdale neighbourhood, in which the age and condition of single and two family dwellings vary. This rectangular lot, approximately 66 ft. wide at the front property line and 121.56 ft. long at the west side property line, fronts Charles Street to the north and faces the lane to the south. A single family dwelling under construction abuts the subject site to the east and an older single family home is abuts the site to the west. Vehicular access to the subject site is provided from Charles Street.

The appeal is for a fence at the rear property line with varying heights of up to 6.83 ft. at the southwest corner, where a maximum height of 5.91 ft. is permitted to the rear of the front yard.

The intent of the Bylaw in limiting the height of fences or walls to a maximum of 5.91 ft. to the rear of the required front yard is to limit the massing impacts of such structures on neighbouring properties.

The subject property slopes downward in a north-south direction, from a high point of 308 ft. at Charles Street to 303 ft. at the lane. At the rear (south) property line, a 2.5 ft. tall retaining wall raises the level of the rear yard to lessen the difference between the yard and the main floor level. The retaining wall, topped with a 5.91 ft. high fence, extends across the rear property line, except for a 10 ft. wide section at the south west corner. This section is the subject of the proposed variance.

The remainder of the fencing conforms to the Bylaw, as it is measured from the ground level of the raised rear yard that the retaining wall supports. The fencing at the southwest corner, however, which abuts the corner of the retaining wall, is measured from a lower grade level.

This section of fencing consists of a 7 ft. wide solid wooden fence panel and a 3 foot wide gate that measure 6.83 ft. tall from the elevation at the lane, exceeding the maximum permitted height by 0.92 ft. (approximately 11 inches). It is noted that this section of the fence is 1.67 ft. lower than the combined height of the adjacent fence and retaining wall, which present an 8.5 ft. high "wall" to the lane.

The fence/retaining wall treatment is similar to the existing fencing at the rear of 6614 Charles Street immediately to the west, and the proposed height of the gate/fence section is intended to match this neighbouring structure. The new house under construction at 6634 Charles Street immediately to the east has no fencing at this time. Directly across the lane from the subject property is an unfenced asphalt parking area for a duplex. Many houses along the lane in this block of Charles Street have solid wooden fences, so this proposal is not out of context.

As this proposal is similar to the existing fence conditions at the lane, and it is a minor, and lower, component of the rear fencing on the subject property, it is unlikely to have negative impacts on the neighbouring properties. However, the proposed excess height is a design choice, and does not have a basis in hardship. As such, this Department cannot support the granting of this appeal.

ADJACENT OWNER'S COMMENTS:

Mr. Tom Cheng, 6649 Kitchener Street, appeared expressing concern regarding the appearance of the retaining wall and fence.

MOVED BY
SECONDED BY

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED

OPPOSED: Mr. Nemeth
Mr. Dhatt

(c) **APPEAL NUMBER:** B.V. 6229

APPELLANT: Beverly Kitasaka and Daniel Piskacek

REGISTERED OWNER OF PROPERTY: Beverly Kitasaka and Daniel Piskacek

CIVIC ADDRESS OF PROPERTY: 5469 Keith Street

LEGAL DESCRIPTION OF PROPERTY: Lot N; DL 158; Plan NWP14508

APPEAL: An appeal for the relaxation of Sections 6.3.1, 6.6(2)(a) and 6.14(5)(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with detached garage at 5469 Keith Street. The following variances are being requested:

- a) The distance between the principal building and the detached garage would be 14.22 feet where a minimum distance of 14.8 feet is required;
- b) The accessory building height would be 21.28 feet where the maximum building height of 15.1 feet is permitted. The building height is measured from the average grade which is 144.85 feet; and
- c) A rear yard retaining wall would be of varying heights, to a maximum of 11.7 feet, where the maximum permitted height is 5.91 feet. (R2)

APPELLANT'S SUBMISSION:

Beverly Kitasaka and Daniel Piskacek submitted an application to allow for the construction of a new home at 5469 Keith Street.

Ms. Kitasaka and Mr. Piskacek, homeowners appeared before members at the Board of Variance Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, which is zoned R2 Residential District, is located in the Clinton-Glenwood area, in a mature single family neighbourhood. The majority of homes in the

subject block were built in the mid-1950s, with only a few properties having since undergone redevelopment. The subject site measures 61.99 ft. in width and 106.25 ft. in depth. The site is sloped, with a downward slope of approximately 23 ft. from rear to front. This interior lot fronts onto the north side of Keith Street. Immediately west, east and directly across the lane to the north and across Keith Street to the south of the subject site are single family dwellings. Vehicular access to the site is proposed from the rear lane, at the high point of the property.

A new single family dwelling with a detached garage is proposed for the subject site, for which three variances have been requested.

The first a) appeal would permit a distance of 14.22 ft. from the accessory detached garage to the principal building, with a further roof projection up to 2.0 ft., where a minimum distance of 14.8 ft. is required.

The second b) appeal would permit an accessory building height of 21.28 ft., where a maximum building height of 15.1 ft. is permitted. Building height is measured from average grade, which is 144.85 ft.

The third c) appeal would permit a retaining wall at the rear of the lot with heights up to 11.7 ft., where the maximum permitted height is 5.91 ft.

In reference to the first a) appeal, the Bylaw requires a separation between buildings on the same lot in order to ensure that the overall massing of the buildings does not have a negative impact on the occupants/users of the buildings.

In reference to the second b) and third c) appeals, the intent of the Bylaw is to mitigate the massing impacts of new buildings and structures on neighbouring properties and to ensure sufficient outdoor living area in the rear yard.

With respect to the first a) appeal, the distance between the two structures is measured from the side elevation of the accessory detached garage, to the rear elevation of the principal building. The proposed 22.0 ft. wide by 20.0 ft. deep detached garage is located in the northeast corner of the site, in the rear yard. The garage observes a 3.94 ft. setback from the rear lane and a 3.94 ft. setback from the east side property line, which are the minimum setbacks required for an accessory building. The proposed principal dwelling has a building depth of 35 ft. and observes the minimum required front yard setback of 33.1 ft. based on front yard averaging.

The proposed detached garage overlaps the principal building by a width of approximately 19.81 ft. Due to the topography of the site, the proposed garage is elevated approximately 7 ft. above the main floor level, and therefore primarily overlaps the second storey in the vertical dimension. The distance between the garage and the recessed second storey is 16.22 ft., which exceeds the minimum required separation of 14.8 ft. On the main level, the wall facing the garage is recessed by 4.5 ft., increasing the distance from the garage to 18.72 ft. It is only an

approximately 11.81 ft. wide section of the upper portion of the main floor in which the reduced separation occurs.

Given the relatively small overlap of habitable space at the ground floor level, the proposed 7 inch reduction in the required separation between the two structures would have minimal impacts on the interior of the dwelling.

With respect to the second b) appeal, the accessory building height of 21.28 ft. is measured from the average elevation of the four corners of the building. As noted above, the 23 ft. grade difference from the north (rear) to the south (front) of the subject site, and the associated retaining wall aligned with the south wall of the garage, contributes to the excess height. The proposed garage height of 14.93 ft., as measured from finished grade and the lane, is within the 15.1 ft. limit allowed by the Zoning Bylaw. The excess height, visible only from the south elevation, is completely obscured by the intervening residence when viewed from Keith Street.

Further, the proposed siting of the principal dwelling and detached garage would be consistent with the prevailing development pattern in the subject block, which features residences and detached garages in similar locations and at similar grade levels. As such, this relaxation would have little massing impact on adjacent properties.

With respect to the third c) appeal, 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, there is a strong presence of retaining walls in this neighbourhood.

With respect to impacts on neighbouring properties, the 5.79 ft. high over height portion of the 11.7 ft. high retaining wall would be only minimally visible from the neighbouring properties to the west and east of the subject site, and from the much higher neighbouring property across the lane to the north. Views of the wall from Keith Street would be substantially blocked by the residence, particularly given the lower elevation of the street. In addition, the proposed planter along the bottom of the retaining wall will soften its appearance as viewed from the subject property.

In summary, the requested variances would have no significant impacts on neighbouring properties and would be consistent with existing development in the subject block, which has been shaped by challenging topography. In general, the proposed design reflects an effort to balance development needs with the physical constraints of the site.

As such, this Department does not object to the granting of the first a), second b) and third c) variances.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. NEMETH
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

MOVED BY MR. NEMETH
SECONDED BY MR. CLARK

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

CARRIED UNANIMOUSLY

(d) **APPEAL NUMBER:** B.V. 6230

APPELLANT: Malkit Athwal

REGISTERED OWNER OF PROPERTY: Malkit and Rajwinder Athwal

CIVIC ADDRESS OF PROPERTY: 6011 10th Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 17; DL 173; Plan NWP1034

APPEAL: An appeal for the relaxation of Section 6.6(2)(a) of the Burnaby Zoning Bylaw, which if permitted, would allow for the construction of two new accessory buildings at 6011 10th Avenue. The following variances are being requested:

a) The height of the detached garage would be 17.64 feet, where the maximum permitted height is 15.1 feet; and

b) The height of the accessory building would be 17.54 feet, where a maximum permitted building height is 15.1 feet. (A2)

APPELLANT'S SUBMISSION:

Malkit Athwal submitted an application to allow for the construction of two new accessory buildings at 6011 10th Avenue.

Malkit Athwal and Sandhar Avtar appeared before members at the Board of Variance Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, zoned A2 Small Holdings District, is located in the Willard neighbourhood, in which the age and condition of structures varies. The lot, which is 125.5 ft. wide by 311 ft. deep, is flanked on either side by deep lots with agricultural uses in their rear yards. The lot fronts onto Tenth Avenue to the southeast, and the rear lot line faces directly onto the rear yard of 6012 Twelfth Avenue, which is used for agricultural purposes. The subject site is being redeveloped with a new single family residence, with a detached garage and a separate accessory building.

The first (a) appeal requests a detached garage height of 17.64 ft., as measured from the average elevation, where a maximum accessory building height of 15.1 ft. is permitted.

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

The proposed detached two car garage is located 20 ft. to the rear of the residence, and 179 ft. from the front property line. The 34 ft. long garage is sited approximately 10 ft. from the property line that it shares with 6031 Tenth Avenue to the northeast. The subject site is in the Fraser River Flood Plain, and thus subject to Zoning Bylaw Section 6.18. This section provides minimum building elevations for the purposes of protecting lives and property. (The Engineering Department provides this information to the Building Department, and it becomes a building permit requirement.)

In this case, the required flood plain elevation is 12.80 ft. As the existing elevation is 8.6 ft., 4.2 ft. of fill is required to achieve the necessary level. However, building height is measured from the natural grade, so the height of the fill is added to the measurement of the height of the structure. The garage itself measures 13.5 ft. from the average finished grade to the peak of the roof, but with the additional fill dimension, the overall height is 17.54 ft.

It is noted that the provision of the required flood plain elevation is a condition of the building permit. The flood plain elevation cannot be varied by the Board; however, the Board can permit a variance for the overall building height, which is the result of meeting the required flood plain elevation.

There are no habitable structures or recreation areas in the rear yards near the proposed accessory building that might be affected by the additional height; the area immediately adjacent on the adjoining property at 6031 Tenth Avenue is used for agricultural purposes. The rear of the property at 5981 Tenth Avenue is occupied by greenhouses.

As the flood plain elevation is a Zoning Bylaw and building permit requirement that cannot be varied, and no negative impacts on the neighbouring properties are anticipated, this Department does not object to the granting of this first a) variance.

The second request for a variance is for an accessory building height of 17.54 ft., measured from the average elevation, when a maximum accessory building height is 15.1 ft. is permitted.

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

The accessory workshop and storage building is located 38.75 ft. from the rear property line, which borders a large market garden at 6012 Twelfth Avenue. It is located 9.83 ft. from the shared property line with 6031 Tenth Avenue to the west. There are no habitable structures or outdoor recreation areas near the proposed building; the adjacent areas are used for agricultural purposes.

The height of the accessory building is 13.5 ft. from the finished grade to the peak of a shallowly pitched roof. As with the garage, the height is measured from the average existing grade, which 8.6 ft., and the required floodplain elevation is 12.80 ft. The necessary 4.2 ft. of fill required to meet the flood plain requirement creates the overheight measurement.

The floodplain elevation is a Zoning Bylaw and building permit requirement intended to protect lives and property from flood damage. It cannot be varied by the Board, but the Board can permit a variance for the overall building height, which is the result of the required flood plain elevation. Due to its location and size, there will not be a significant impact on the surrounding properties.

As the flood plain elevation is a Zoning Bylaw and building permit requirement that cannot be varied, and no negative impacts on the neighbouring property are anticipated, this Department does not object to the granting of this second b) variance.

In summary, as the proposed variances are the result of compliance with required floodplain regulations, this Department does not object to either variance.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

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. POUND
SECONDED BY MR.DHARR

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 7:10 p.m.

Ms. C. Richter, Chair

Mr. G. Clark

Mr. R. Dhatt

Mr. S. Nemeth

Ms. E. Prior
ADMINISTRATIVE OFFICER

Mr. B. Pound