



## **CITY OF BURNABY**

# **BOARD OF VARIANCE**

## ***NOTICE OF OPEN MEETING***

### **MINUTES**

A Hearing of the Board of Variance was held in the City Hall Cafeteria, Lower Level , 4949 Canada Way, Burnaby, B.C., on Thursday, 2016 September 08 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. Margaret Malysz, 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 August 04**

MOVED BY MR. POUND  
SECONDED BY MR. CLARK

THAT the minutes of the Burnaby Board of Variance Hearing held on 2016 August 04 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. 6242**

APPELLANT: Shao Ng

REGISTERED OWNER OF PROPERTY: Goei and Kong Ng

CIVIC ADDRESS OF PROPERTY: 584 Calvin Court

LEGAL DESCRIPTION OF PROPERTY: Lot 345; DL 207; Plan NWP55826

APPEAL: An appeal for the relaxation of Section 104.6(1)(a) of the Burnaby Zoning Bylaw which, if permitted, would allow for the interior alteration and addition to the upper floor of an existing single family home at 584 Calvin Court. The principal building height would be 3 storeys where a maximum of 2.5 storeys is permitted. (Zone R4)

**APPELLANT'S SUBMISSION:**

Shao Ng submitted an application requesting a relaxation of the zoning bylaw to expand the second storey and increase the size of the master bedroom. Mr. Ng is moving into his parent's home which they are vacating, and is renovating to create a more comfortable master bedroom.

Mr. Shao Ng and Mr. Kong Ng appeared before members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS**

The subject site is zoned R4 Residential District and is located in the Lochdale neighbourhood where the age and condition of the existing single and two family dwellings vary. This slightly irregular interior lot is approximately 59.5 ft. wide and 150.0 ft. deep and is fronting Calvin Court to the southwest. The subject site abuts single family lots to the northwest and southeast. A greenway of the Burnaby Mountain Urban Trail borders the site to the northeast. Along the northeastern (rear) property line, the site is restricted by an approximately 45.0 ft. wide "no built/landscape buffer" easement. Vehicular access to the subject site is provided via Calvin Court to the southwest. The site observes a downward slope of approximately 3.0 ft. from east to west.

The subject site contains a 2 ½ storey single family dwelling, consisting of a basement, main floor and upper floor which were originally built in 1980. The applicant proposes various additions and interior alterations to the dwelling, including an addition to the upper floor. The upper floor addition is the subject of this appeal.

The appeal is to vary Section 104.6(1)(a) - Height of Principal Building for single family dwelling of the Zoning Bylaw from 2 ½ storey and 29.5 ft. to 3 storey and 29.5 ft. for a building with a sloping roof.

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

The existing building contains an upper floor with an area of 748.0 sq. ft. which is located on the eastern section of the building. According to the Zoning Bylaw this section of the building is considered as a "storey, half" since it contains less than 50% of the gross floor area of the storey immediately below (first floor). The proposed addition would extend the upper floor 16.5 ft. further to the front of the building, while maintaining the existing width of 22.0 ft. As a result, the proposed upper floor with an area of 1132.3 sq. ft. would exceed 50% of the gross floor area of the main floor by 282.3 sq. ft. or 33 % (it is noted that the gross floor area of the main floor does not include an area of the existing 2-car garage, attached to the front of the dwelling). The proposed upper floor after extension would not be considered as a "storey, half" and will be counted as a "storey".

The proposed addition is the extension of the existing upper floor and would not increase the total height of the building. In fact, height of the proposed section of the upper floor would remain less than the height of the existing section of the upper floor. The addition would essentially appear as a large dormer, set back 4.5 ft. from the existing front face of the garage below.

The upper floor addition would not create an additional storey nor would add to the existing height of the building of approximately 28.15 ft. However, considering the definition of "storey" and "storey, half" in the Zoning Bylaw, the upper floor should be counted as a "storey" following the proposed extension compare to "storey, half" in the current condition.

The subject dwelling has a maximum building depth of 60.0 ft. Therefore, despite an approximate 13.0 ft. deep rear yard as a potential for horizontal extension of the building (with the rear yard setback of 57.9 ft.), there are limited design options which would not create a need for another variance on the subject site.

In summary, the proposed variance to the height requirements of the Zoning Bylaw would not impact neighbouring properties and would not be out of the ordinary within the existing street frontage.

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. POUND  
SECONDED BY MR. NEMETH

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

**(b) APPEAL NUMBER: B.V. 6243**

APPELLANT: Derek Drew

REGISTERED OWNER OF PROPERTY: 0779999 BC LTD

CIVIC ADDRESS OF PROPERTY: 3010 Boundary Road

LEGAL DESCRIPTION OF PROPERTY: Lot 1; DL 69; Plan NWP1321

APPEAL: An appeal for the relaxation of Sections 304.6, 6.13(1)(a) and 6.14(5)(a) of the Burnaby Zoning Bylaw which, if permitted, would allow for the retention of an existing deck and fence at 3010 Boundary Road. The following variances are being requested:

- a) an existing fence encroaching into the vision clearance area with varying heights up to a maximum of 5.5 feet where the maximum height of 3.28 feet is permitted;
- b) retention of the existing front yard fence which is of varying heights up to a maximum of 6.08 feet where the maximum height of 3.28 feet is permitted; and,
- c) an existing deck encroaching 2.1 feet into the required front yard of 6.5 feet. (Zone C4)

**APPELLANT'S SUBMISSION:**

Derek Drew, Sutton Centre Realty, submitted an application requesting a relaxation of the zoning bylaw to allow for retention of a fence and deck. Mr. Drew explained the fence does not block vision to traffic, and provides additional security to the property. As well, the deck and fence beautify the site, provide a private space for staff, and give it a more professional look.

Mr. Derek Drew and Mr. John Skender appeared before members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS**

The subject site is located in the Cascades-Schou area, in a mixed-use commercial neighbourhood in which the age and conditions of buildings vary. The site is zoned C4 Service Commercial District, which is intended to accommodate vehicular oriented commercial uses of low intensity. The subject lot measures approximately 66 ft. in width and 122 ft. in depth. This corner lot fronts onto the east side of Boundary Road and flanks Manor Street to the north. The site takes vehicle access from a rear lane to the east. The site is bordered by a parking area of a gasoline service station to the south. There is a single family dwelling across the lane to the east and a single family complex across Boundary Road to the west, within the Vancouver area. The site observes a downward slope of approximately 8.00 ft. in the south-north direction.

The subject property is improved with a two storey office building, including one level of underground parking, and associated on-site parking to the rear and landscape at the front. The existing building was originally built in 1977 and further improved with various interior alterations around 2004 and 2007. In 2014 the applicant applied for a preliminary plan approval with respect to a new deck proposal. Sometime around 2015 an outdoor deck and associated fence was built within the existing landscaped area at the front of the subject site without the benefit of the preliminary plan approval. This unauthorized deck and fence is the subject of the three appeals.

The first a) appeal is to allow the existing fence to encroach into the vision clearance area at the intersection of Boundary Road and Manor Street. The fence will have a varying height of up to 5.50 ft. along the Boundary Road property line to the west and along the Manor Street property line to the north, where a maximum height of 3.28 ft. is permitted.

The second b) appeal is to allow retention of the existing fence at the front yard along the Boundary Road, with varying heights up to a maximum of 6.08 ft. where the maximum height of 3.28 ft. is permitted.

The third c) appeal is to allow the existing deck to encroach 2.10 ft. into the property's front yard along the Boundary Road where no patio or deck/terrace is permitted within the required front yard of 6.50 ft.

With respect to the first a) variance, the intent of the Bylaw in requiring the vision clearance is to facilitate vehicular, pedestrian and cyclists' safety at street and lane intersections. The vision clearance area is a triangular area formed by the property lines and a line joining two points along the property lines. In this case, the joining line must be 29.53 ft. from the intersection of the streets.

With respect to the second b) and third c) variance, the intent of the Bylaw to limit the height of the fences or walls to a maximum height of 3.28 ft. and not permitting patios or decks/terraces within the required front yard is to ensure uniform open front yards and to limit the massing impacts of such structures on neighbouring properties.

The already built deck, 24.00 ft. wide by 16.00 ft. deep, is located approximately 4.40 ft. away from the Boundary Road property line and 12.00 ft. away from the Manor Street property line. The deck is raised from the adjacent finished grade up to a maximum of 2.00 ft. at the northwest corner; this portion of the site observes the lowest grades. The finished grades around the deck area have been slightly raised, approximately 1.00 ft., as compared to the existing grades. The deck is enclosed partly with a solid wooden fence and partly with a semi-transparent wooden fence/guard, built around the seating area at the perimeter of the deck. Immediately in front of the west (Boundary Road) edge of the deck and the north (Manor Street) edge of the deck a tall hedge, approximately 6.00 ft. high, has been planted. The mature trees and shrubs currently exist within the Boundary Road and Manor Street boulevard area along the west and north property line.

It should be noted that the Zoning Bylaw requires no hedge, shrub, tree or other growth be maintained or allowed to grow so as to obstruct vision clearance within a private property.

With respect to the first a) variance, almost entire fence/guard enclosure along the north (Manor Street) edge of the deck and approximately a half of the guard enclosure along the west (Boundary Road) edge of the deck encroaches into the vision clearance area, which is a concern. The fence/guard structure within this vision clearance area is up to 2.22 ft. over the maximum allowable height, which is a major variance. A mitigating factor, to a degree, could be that there is a stop sign for the upcoming traffic from Manor Street going onto Boundary Road. Also, there is no left turn option at this point, as vehicles traveling in opposite directions are separated by the boulevard median in the subject section of Boundary Road.

In summary, given ongoing concerns regarding traffic safety, this Department questions the advisability of reducing the vision clearance setback. Therefore, this Department cannot support the granting of the first a) major variance, which reduces traffic safety at the street intersection.

With respect to the second b) variance, according to the submitted drawings, the over height portion of the fence/guard enclosure consists mainly of a solid fence section, approximately 8.08 ft. long, at the southern front portion of the deck, and a semi-transparent fence/guard section, approximately 15.93 ft. long, at the northern front portion of the deck. The solid fence section exceeds the permitted height by 2.80 ft. and the semi-transparent guard section exceeds the permitted height by up to 2.22 ft., which is a substantial variance. Further, although the excess height does not create direct massing impacts on the distant neighbouring buildings across the Boundary Road to the west, as well as neighbouring properties to the north and south, it appears that this variance is a result of a design choice rather than a necessity.

For this reason, this Department cannot support the granting of the second b) variance, which further contributes to the first a) variance.

With respect to the third c) variance, the raised deck/terrace and the fence around it encroach with its entire width (24 ft.) into the required front yard setback, 1.80 ft. at the northwest corner and 2.1 ft. at the southwest corner. Again, although the requested relaxation has no impact on the visual character of the neighbouring properties, it is difficult to find hardship in this case.

Further, Section 6.12(1)(e) "Projections into Required Yards" of the Zoning Bylaw permits uncovered patio or terrace, which may be open or enclosed, in any yard in an A, R or RM District (subject to the fence height limitations as specified in Section 6.14 of this Bylaw) which are generally residential oriented districts. Since the subject site is zoned C4 Service Commercial District, a front yard deck encroachment brings a question of suitability of an outdoor deck/terrace use in this case.

In view of the above, this Department cannot support the granting of the third c) appeal.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. CLARK  
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MR. CLARK  
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. CLARK  
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

(c) **APPEAL NUMBER:** B.V. 6244

APPELLANT: Amarjit Dhillon

REGISTERED OWNER OF PROPERTY: Sharon and Amarjit Dhillon

CIVIC ADDRESS OF PROPERTY: 7637 Clayton Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 88; DL 85; Plan NWP24538

APPEAL: An appeal for the relaxation of Section 101.7(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home at 7637 Clayton Avenue. The depth of the principal building would be 72.25 feet where a maximum depth of 60.0 feet is permitted. (Zone R1)

*Prior to the commencement of this appeal (approximately 6:35 p.m.), Mr. Rana Dhatt declared a conflict of interest and left the Cafeteria for the duration of this appeal.*

APPELLANT'S SUBMISSION:

Amarjeet Dhillon submitted an application to allow for the construction of a new home and is requesting a variance of the principal building depth.

Mr. Dhillon appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, which is zoned R1 Residential District, is located in a stable single-family neighbourhood in the Morley-Buckingham area. This irregular interior lot is an existing oversized lot (12,582.20 sq. ft.) with a lot width of approximately 80.00 ft. and a lot depth of 165.10 ft. (along the northern property line). The site at the southeast corner is “clipped” where Clayton Avenue (approaching from the south) connects to Gordon Street (approaching from the east). At the intersection, Clayton Avenue continues to the north as a 10.00 ft. wide public walkway. As a result, the subject site has a frontage of approximately 50.00 ft. wide at the intersection and a 38.00 ft. wide along the public walkway.

Following construction of the new dwelling, vehicular access to the site will remain off Clayton Avenue at the southeast corner of the site. There is no lane access at the rear or side of the property. The site is adjoining single family dwellings on the north, west, and south and across the public walkway to the east. The site observes a downward slope of approximately 10.00 ft. from the front lot line (eastern property line) to the rear (western property line).

The subject lot is proposed to be redeveloped with a new single family dwelling, a secondary suite and an attached garage.

The appeal is to vary Section 101.7(b) – Depth of Principal Building of the Zoning Bylaw from 60.00 ft. to 72.25 ft. 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 the dwellings that present long imposing walls, where the massing of the building impacts the neighbouring properties.

The proposed building will exceed the maximum permitted building depth by 12.25 ft. The applicant is required to submit a revised plan reducing depth of the roof overhang to a maximum of 2.95 ft. Section 3 of the Zoning Bylaw exclude the roof overhang up to 2.95 ft. in length from calculation of the building depth (the proposed depth of the roof overhang is currently 3.92 ft.). The proposed building depth is significantly higher than the 60.00 ft. permitted building depth in R1 Residential District.

The proposed building is located approximately at the same location as the existing dwelling. The building is a two-storey dwelling featuring three major recesses at the front and rear elevations. The proposed design would provide the required front yard setback of 29.5 ft. following the “clipped” circular portion of the site (at the southeast corner). As a result, the south and north elevations adjoining the properties to the south and north would not appear as long imposing walls with significant negative impacts on the neighbouring properties.

The proposed depth of the building will appear smaller than the maximum permitted building depth of the Zoning Bylaw (56.93 ft. viewing from the south and 55.75 ft. viewing from the north). In addition, the generous setbacks of the upper floor from the

main floor building footprint at the front and rear elevations (8.25 ft. and 9.25 ft. respectively) will further help to mitigate massing impacts of the additional building depth.

Although the site geometry may present some challenges with respect to the construction, it is difficult to identify any hardship on this site. In fact, on this oversized lot, the need for relaxation of the building depth appears to be a result of the design preference (i.e. proposing two large covered decks, 10.00 ft. by 22.25 ft. and 10.67 ft. by 23.57 ft. in size on the west (rear) of the building will contribute to the excessive building depth by 10.0 ft.).

The proposed setbacks and the building design will mitigate the visual impacts of the building massing on the neighbouring properties. However, staff recommends that a modification should be made to the design of the residence, perhaps by relocating or reducing the decks size, in order to bring this proposal into compliance with the building depth requirements of the Bylaw. Alternatively, a modification to the design, which would result in a substantial reduction in the requested variance, is recommended.

For this reason, this Department does not support the granting of this variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the property owner of 7629 Clayton Avenue in opposition to this appeal. The writer advised that he will be greatly impacted by the construction of the proposed home as he shares a south side property line.

The owner of 7629 Clayton Avenue appeared at the Board of Variance. The owner requested that his correspondence be withdrawn as his concerns were allayed after speaking with the appellant.

MOVED BY MR. NEMETH  
SECONDED BY MR. POUND

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

*Upon conclusion of this appeal (approximately 6:45 p.m.), Mr. Dhatt returned to the Board of Variance hearing and took his seat at the table.*

4. NEW BUSINESS

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

5. **ADJOURNMENT**

MOVED BY MR. POUND  
SECONDED BY MR. NEMETH

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:50 p.m.

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Ms. C. Richter

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Mr. G. Clark

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Mr. R. Dhatt

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Mr. S. Nemeth

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Ms. E. Prior  
ADMINISTRATIVE OFFICER

\_\_\_\_\_  
Mr. B. Pound