



## CITY OF BURNABY

# BOARD OF VARIANCE

## MINUTES

A Hearing of the Board of Variance was held in the Council Chamber, main floor, City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, 2016 December 01 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, Development Plan Approvals Supervisor  
Ms. Eva Prior, Administrative Officer

The Chair called the meeting to order at 6:07 p.m.

### 2. MINUTES

#### (a) Minutes of the Board of Variance Hearing held on 2016 November 03

MOVED BY MR. NEMETH  
SECONDED BY MR. POUND

THAT the minutes of the Burnaby Board of Variance Hearing held on 2016 November 03 be adopted.

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.

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(a) **APPEAL NUMBER:** B.V. 6251

APPELLANT: Chloe Lee

REGISTERED OWNER OF PROPERTY: Bin Liu

CIVIC ADDRESS OF PROPERTY: 7416 17th Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 3; DL30; Plan 3036

APPEAL: An appeal for the relaxation of Section 105.11 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with attached garage at 7416 17th Avenue. The rear yard setback would be 20.71 feet where 24.6 feet is required. All projections into the proposed rear yard will conform to the requirements of Section 6.12. (Zone R5)

**APPELLANT'S SUBMISSION:**

Chloe Lee submitted an application to allow for the construction of a new home at 7416 17th Avenue.

Bin Liu, homeowner and a representative from Bouthouse Design Group appeared before members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS**

The subject site, which is zoned R5 Residential District, is located in the Edmonds neighbourhood, in which the age and condition of the single and two family dwellings vary. This shallow interior lot, approximately 66.0 ft. wide and 61.0 ft. deep, fronts onto Seventeenth Avenue to the northwest. The subject property is surrounded by single family dwellings to the southwest and northeast and two family dwellings across Seventeenth Avenue to the northwest. Vehicular access to the site is proposed via the rear lane to the southeast. Across the lane are single family dwellings (fronting onto Sixteenth Avenue), and two vacant lots owned by the City of Burnaby. The site is relatively flat with a downward slope of approximately 3.0 ft. in the north-south direction.

This property was the subject of an appeal before the Board on 2006 March 02 (BV 5459). Two variances were sought to allow the front setback to be reduced from 19.7 ft. to 13.16 ft. and the rear setback to be reduced from 24.6 ft. to 17.67 ft. The purpose of these variances was to allow for the construction of a front addition and attic addition to the existing single family dwelling. The Board allowed both appeals.

Currently, the property contains a one-storey bungalow with a front yard depth of 18.96 ft. and a rear yard depth of 17.67 ft. At the rear of the building, there is a deck (constructed without a building permit and intended to be removed) which observes a rear setback of 7.27 ft.

The subject site is proposed to be redeveloped with a new single family dwelling with attached garages, for which a variance is requested.

This appeal is to vary Section 105.11 – “Rear Yard” of the Zoning Bylaw from 24.6 ft. to 20.71 ft. The purpose of this variance is to allow the construction of the proposed single family dwelling with attached garage.

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.

The main body of the proposed dwelling will observe a rear yard setback of 24.71 ft. which meets the required rear yard depth (24.6 ft.). The only portion of the building, which would encroach into the required rear yard depth, is the attached garage proposed at the south corner of the dwelling. This 22 ft. wide garage will project from the rear elevation by 4 ft., resulting in a 3.89 ft. encroachment.

With respect to outdoor living space, there would be a sizable green area available in the eastern portion of the rear yard which is 24.71 ft. deep.

Considering the shallow depth of the lot (approximately 61.0 ft.) and the required 19.7 ft. front yard, providing a 24.6 ft. rear yard would leave 15.7 ft. of depth to build a house with an attached garage. Such reduced building depth creates a hardship to build an ordinary single family dwelling with an attached garage. It should be noted that the proposed building depth in this case is only 20.5 ft.

Further, it is noted that the Board approved the rear yard variance of 15.5 ft. on the neighbouring property to the north-east of the subject site, at 7424 Seventeenth Street, in 2007 (BV 5524).

Considering the above and since the proposed variance has limited impacts on the neighbouring residences, this Department does not object to granting of this variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from owners of 7402 17<sup>th</sup> Avenue advising that they are in opposition to the requested variance due to the loss of view.

No further 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

(b) **APPEAL NUMBER:** B.V. 6252

APPELLANT: Gurdeep Sandhar

REGISTERED OWNER OF PROPERTY: Manjit Malhi, Amarjit and Sarabjeet  
Lehal, Aneeta Sandhar

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CIVIC ADDRESS OF PROPERTY: 4467 Marine Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 2; DL 157; Plan 12963

APPEAL: An appeal for the relaxation of Section 102.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with secondary suite and detached garage at 4467 Marine Drive. The front yard setback would be 81.56 feet where a minimum front yard setback of 93.87 feet is required based on front yard averaging. (Zone R2)

It was noted that a typo on the referral letter read '**attached garage**' and should have read '**detached garage**'.

APPELLANT'S SUBMISSION:

Gurdeep Sandhar submitted an application to allow for the construction of a new home at 4467 Marine Drive.

Gurdeep Sandhar appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, which is zoned R2 Residential District, is located in the Sussex-Nelson neighbourhood, in which the age and condition of single family dwellings vary. Abutting the subject site across the lane to the north, and to the east and west on Marine Drive are single family dwellings. The site observes a significant downward slope from the northeast corner of the lot at the lane to the southwest corner of the property at Marine Drive, dropping 33.0 ft. over 185.0 ft. The proposed development consists of a single family home with a secondary suite and a detached garage. The proposed access to the site is from the rear lane.

The appeal requests a front yard setback of 81.56 ft. to the post on the front porch, where front yard averaging requires a minimum setback of 93.87 ft.

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 dwellings at 4443 and 4455 Marine Drive west of the subject site, and on the front yard setbacks of the two dwellings at 4479 and 4491 Marine Drive to the east. These front yards are 90.23 ft., 64.11 ft., 130.82, and 90.33 ft., respectively. It is noted that the older dwelling constructed immediately to the east at 4479 Marine Drive skews the averaging, and the new house sits between the two properties with the most extreme front yard setbacks.

The proposed front yard setback is measured perpendicular to Marine Drive, which is skewed at an approximately 30 degree angle in relation to the side property lines. As a result, the residences along Marine Drive are staggered in relation to each other, even when the same front yard setback depth is observed. Each residence overlooks the front yard of the residence to the east and the rear yard of the residence to the west.

As the house immediately to the east at 4479 Marine Drive has an unusually deep front yard setback (130.82 ft.), the application of front yard averaging would not significantly change the relationship between the two houses. Front yard averaging would place the front wall of the main floor of the new house approximately 24 ft. in front of the front face of the existing dwelling, due to the angled front property lines. The requested variance would place the southeast corner of the new house approximately 28 ft. in front of the south west corner of the older dwelling. Either location would fit in with the existing context of staggered front yards on the north side of Marine Drive.

On the western side, the new house will abut 4455 Marine Drive, the house with the shortest (64.11 ft.) front yard setback. Under front yard averaging, the front porch post of the new house (the point of measurement for the variance) would be placed 2.0 ft. behind the the southeast corner of the existing dwelling at 4455 Marine Drive. The bulk of the new house would be set approximately an additional 10.0 ft. behind the front façade of 4455 Marine Drive. However, siting the new house (which has a permitted 59.0 ft. depth) at this location would bring the back face of the covered deck which abuts 4455 Marine Drive to the minimum 29.5 ft. rear yard setback. Approximately 6.0 ft. back from the covered deck; the new house observes its full two storey height. Moving the house farther back could lead to reduced back yard privacy and reduced morning light at 4455 Marine Drive.

The front yard variance of 81.56 ft. that has been requested would place the front of the new dwelling in line with 4455 Marine Drive, since the new house is set 7.0 ft. behind the porch post, which is the point of measurement. The design of the new house would mitigate the effects of this placement. Where the southwest corner of the new house would abut the southeast corner of 4455 Marine Drive, the massing has been removed at the second floor level. The south (Marine Drive) facing wall of second floor is set 14.0 ft. back from the ground floor wall, and the master bedroom is constructed at the opposite side of the second floor. The west facing wall of the master bedroom is approximately 25.0 ft. back from the western facing wall on the main floor adjacent to 4455 Marine Drive. Generally, the requested front yard variance setback combined with the configuration of the massing would permit the new house to fit in with its closest neighbour at 4455 Marine Drive.

In terms of the general neighbourhood context, the requested front yard setback dwelling would be consistent with the “staggered” alignment of the neighbouring residences in the subject block. Further, the proposed minor front yard encroachment would not be noticeable from the Marine Drive streetscape.

In summary, the application of front yard averaging would provide the new house with slightly better front yard relationships with its immediate neighbours, but it has the potential to create an adverse effect on 4455 Marine Drive, by overlooking and overshadowing its rear yard.

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

ADJACENT OWNER'S COMMENTS:

Correspondence was received from owners of 4479 Marine Drive advising that they are not opposed to the variance requested providing that the trees be retained.

No further submissions were received regarding this appeal.

MOVED BY MR. POUND

SECONDED BY MR. DHATT

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(c) **APPEAL NUMBER:** B.V. 6253

APPELLANT: Beverly Kitasaka and Daniel Piskacek

REGISTERED OWNER OF PROPERTY: Beverly Kitasaka & Daniel Piskacek

CIVIC ADDRESS OF PROPERTY: 5469 Keith Street

LEGAL DESCRIPTION OF PROPERTY: Lot N; DL 158; Plan 14508

APPEAL: An appeal for the relaxation of Section 102.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new family home with detached garage at 5469 Keith Street. The front yard setback would be 28.09 feet where a front yard setback of 33.09 feet is required based on front yard averaging. (Zone 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.

Beverly Kitasaka and Daniel Piskacek appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

This property was the subject of an appeal before the Board on 2016 June 02. Three variances were sought to allow for the construction of a new single family dwelling with a detached garage, observing 1) the distance between the principal building and the detached garage of 14.22 ft. where a minimum distance of 14.8 ft. is required, 2) the accessory building height of 21.28 ft. where a maximum building height of 15.1 ft. is permitted and 3) height of the rear yard retaining wall up to a maximum of 11.7 ft., where a maximum height of 5.91 ft. is permitted. This Department supported the requests and the Board allowed all three appeals.

This Department's comments on the 2016 June 03 appeal are included as *Item 1* in the *attached* supplementary materials.

This appeal proposes the relaxation of Section 102.8(1) – “Front Yard” of the Burnaby Zoning Bylaw from 33.09 ft. (based on front yard averaging) to 28.09 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required front yard abutting Keith Street, as measured to the foundation of the proposed single family dwelling. Section 6.12 – “Yards” of the Zoning Bylaw which allows specific projections into the front yard will also be applicable.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were built in the established neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including requirement of a larger front yard where the average front yard depth of the two dwellings on either side of the subject site exceeds the required front yard applicable to the zone. The larger front yard requirement should be calculated through the “front yard averaging”. The intent of the amendment was to improve the consistency and harmony of the new construction with the existing neighbourhood.

This appeal locates the principal building 5.0 ft. closer to the front property line, as compared to the 2016 June 02 appeal. As a result, a variance for a distance between two structures is no longer required. Otherwise, this proposal is identical to the previous proposal.

In the new proposal, the main body of the dwelling observes the required front yard depth of 33.09 ft. The only portion of the dwelling which is proposed to encroach 5.0 ft. into the required front yard is the two-story element located in the middle of the front elevation. This 22.0 ft. wide element contains an open porch and powder room on the main floor and the bedroom on the second floor.

Considering that the southwest and southeast corners of the building would be essentially in line with the main bodies of the neighbouring residences to the west and east, respectively, the proposed variance would have limited massing impacts on the neighbouring properties to the west and east of the subject site.

As mentioned above, the Board previously approved an appeal to reduce the distance between the principal building and the detached garage (by 0.58 ft.). The applicant is now proposing a 5 ft. reduction to the required front yard depth and a 5 ft. increase to the distance between the principal building and the accessory building, from 14.22 ft. to 19.23 ft. where a minimum distance of 14.8 ft. is required. Since a much lesser variance of the front yard would eliminate a need for a variance related to the separation between two buildings, the requested variance is a design choice rather than a result of the siting restriction.

Further, with respect to a broader context, the majority of the neighbouring properties in the subject block observe similar front yard setbacks, of approximately 33.0 ft. Therefore, the proposed 5 ft. protrusion into the front yard would not be consistent with the existing unified streetscape.

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

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. NEMETH  
SECONDED BY MR. CLARK

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(d) **APPEAL NUMBER:** B.V. 6254

APPELLANT: David Song

REGISTERED OWNER OF PROPERTY: S Jala Investments LTD

CIVIC ADDRESS OF PROPERTY: 8580 Gilley Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 12; DL 159; Plan 2-14

APPEAL: An appeal for the relaxation of Sections 102.8(1) and 102.7(b) of the Burnaby zoning Bylaw which, if permitted would allow for the construction of a new single family home with attached garage at 8580 Gilley Avenue. The following variances are being requested:

- a) a front yard set back from Byrne Road of 69.10 feet where 104.25 feet is required based on front yard averaging; and,
- b) the depth of the principal building would be 61.0 feet where a maximum permitted depth of 60.0 feet is permitted. The sundeck would extend 3.94 feet beyond the building. (Zone R2)

APPELLANT'S SUBMISSION:

David Song submitted an application to allow for the construction of a new home at 8580 Gilley Avenue.

David Song and the homeowner appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site is located in the Edmonds neighbourhood, in which the age and condition of single family dwellings vary. This corner lot is approximately 66.0 ft. wide on the south side of Gilley Avenue by 145 ft. long on the western Firth Avenue frontage. Abutting the subject site to the east and across Firth Avenue on the west are



single family dwellings. Proposed vehicular access to the site is from Gilley Avenue. The site observes a significant downward slope from the northeast corner of the lot at Gilley to the southwest corner of the property, where Firth Avenue intersects with Byrne Road, dropping 18.0 ft. over 145.0 ft. The rear yard of the property contains the top of bank of the Byrne Creek ravine, which extends 9.0 ft. from the rear property line at the intersection with Firth Avenue to 45.0 ft. from the southeast corner of the lot. In addition, the back yard has a 32.8 ft. riparian setback extending northwards from the top of the bank where there can be no development.

The site, which is the subject of two appeals, is proposed to be redeveloped with a new single family dwelling with an attached garage. The following relaxations are being requested.

The first a) appeal is to vary Section 102.8(1) of the Burnaby Zoning Bylaw to allow a front yard setback from Byrne Road of 69.10 ft. where 104.25 ft. is required based on front yard averaging.

The subject property is a double fronting lot, with front yards on Gilley on the north-west and Byrne Road on the south-east. The front yard average is based on the front yards of the two properties to the north, 8570 and 8560 Gilley with front yards facing Byrne Road of 88.1 ft. and 120 ft. respectively. In this block Byrne Road is an unopened road right-of-way, which is part of the Byrne Creek Ravine Park, and will never be opened.

If a 104.25 ft. setback was required, the building envelope for the house would be restricted to 16 ft. deep at the Firth Avenue side and 32 ft. deep at the interior lot line. The proposed 69.10 ft. setback line provides a reasonable building envelope, and is outside of the required riparian setback.

Considering that the "front yard" backs onto a ravine, not a street and the proposal would have minimal impacts on the neighbouring properties, this Department does not object to the granting of this first a) variance.

The second b) variance being requested: the depth of the principal building would be 61.0 ft. where a maximum permitted depth of 60.0 ft. is permitted. The sundeck would extend 3.94 ft. beyond the building.

The intent of the Bylaw is to prevent the creation of overlong houses which present a long "wall" to their neighbours. In this case, the requested variance occurs at the northeast corner where the garage projects beyond the front face of the house.

The proposed floorplan has building depths that range from 42.0 ft. to 61.0 ft. The requested variance is the result of a design choice. The floor plan could easily be modified by 1.0 ft. in this section of the dwelling by shifting the rooms southward, or reducing the depth of the one or more of the several rooms/halls/closets by a total of 12" to conform to the Bylaw. As this request is the result of a design choice, this Department cannot support the granting of this second b) variance.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. CLARK

SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

MOVED BY MR. CLARK

SECONDED BY MR. POUND

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

CARRIED

OPPOSED: Ms. Richter

(e) **APPEAL NUMBER:** B.V. 6255

APPELLANT: Charles Maddison

REGISTERED OWNER OF PROPERTY: Tinny Jones

CIVIC ADDRESS OF PROPERTY: 7729 and 7731 Rosewood Street

LEGAL DESCRIPTION OF PROPERTY: Lot 4; DL 90; Plan 13173

APPEAL: An appeal for the relaxation of Section 105.7(2)(c) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new two family dwelling with detached garage at 7729 and 7731 Rosewood Street. The following variances are being requested:

a) the height of the principal building, measured from the rear average elevation, would be 24.79 feet where a maximum height of 20.0 feet is permitted; and,

b) the height of the principal building, measured from the front average elevation, would be 22.04 feet where a maximum height of 20.0 feet is permitted. (Zone R5)

APPELLANT'S SUBMISSION:

Boni Maddison Architects submitted an application to allow for the construction of a new home at 7729 and 7731 Rosewood Street.

Charles Maddison of Boni Maddison Architects, appeared on behalf of the homeowners before members of the Board of Variance Hearing.

#### BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, which is zoned R5 Residential District, is located in the Lakeview-Mayfield neighbourhood, in which the age and condition of the single and two family dwellings vary. This slightly irregular lot, approximately 61.0 ft. wide and 204.0 ft. deep, fronts onto Rosewood Street. The subject property is neighbouring two family dwellings to the east, west and north and single family dwellings across Rosewood Street to the south. The site is bordering two lanes to the northwest (rear) and to the west (side). Vehicular access to the site is proposed via the rear lane to the northwest. The site observes a downward slope of approximately 11.0 ft. in the south–north direction.

The subject site is proposed to be redeveloped with a new two family dwellings with detached garages, for which two variances are requested. Both variances are related to a principal building height.

The first a) appeal is to vary Section 105.7(2)(c) – “Height of Principal Building. Two Family Dwellings” of the Zoning Bylaw from 20.0 ft. to 24.79 ft. The purpose of this variance is to allow the construction of the proposed two family dwelling with a flat roof to exceed the permitted maximum building height as measured from the rear average elevation.

The second b) appeal is to vary Section 105.7(2)(c) – “Height of Principal Building. Two Family Dwellings” of the Zoning Bylaw from 20.0 ft. to 22.04 ft. The purpose of this variance is to allow the construction of the proposed two family dwelling with a flat roof to exceed the permitted maximum building height, as measured from the front average elevation.

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 proposed two family dwelling consists of two units placed side by side with the “front” unit facing onto Rosewood Street and the “rear” unit facing onto the lane to the west. Considering the property’s topography, the two units are designed as split level units, with the front unit proposed 1.5 ft. higher than the rear unit. The proposed main floor of the front unit would be consistent with the existing grades at the front elevation of the building. The main floor of the rear unit is proposed approximately 1.75 ft. higher than the existing grades at the rear elevation of the building. The proposed split level design of the building is reflected in the roofline of the building: the roof would consist of two main flat roofs, with the roof over the rear unit located 1.5 ft. lower than the roof over the front unit. These two flat roofs will feature decorative roof overhangs, approximately 2.0 ft. deep and 2.96 ft. high, on all four sides of the building. The top flat roofs are proposed to be set back on each side of the building, consistent with the upper floor setbacks in relation to the main floor face. As a result, roof overhangs would be set back from the building face (at the main floor) ranging from approximately 3.18 ft. at the front to 6.18 ft. at the rear. Since the height exceeding the maximum

height permitted by the Bylaw would mainly occur over the decorative roof overhangs, the proposed roof setbacks would help mitigating the excess height impacts on the neighbouring properties on all four sides.

The siting of the proposed dwelling would be consistent with the existing dwelling on the subject site with respect to the front yard, but it would extend the building footprint further to the rear of the lot. It appears however, that the top flat roof over the rear unit (lower of the two roofs) would not project in front of the rear body of the neighbouring dwelling to the northeast (and would not overlap the existing covered patio at the rear of this dwelling).

In summary, considering the split design of the roof and the various roof setbacks from the building face, it appears that the requested variance would not create significant impacts on the neighbouring properties. However, simple design adjustments, such as modifying the oversized roof overhang, can reduce the proposed height of the building. For this reason this Department cannot support the granting of this appeal.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the homeowner/occupant of 7728 Rosewood Street opposing the variance, citing that the home would diminish the view currently enjoyed by them and devalue their property.

Correspondence was received from the homeowners/occupants at 7739 Rosewood Street in opposition to the variances. The writer advised that the proposed variances would diminish the natural light to their backyard, devalue their property and would be the tallest homes on the block.

Correspondence was received from the homeowners/occupants at 7736 Rosewood Street in opposition to the variances citing the loss of the view they currently enjoy.

Correspondence was received from the homeowners/occupants at 7740 Rosewood Street in opposition to the variances being requested.

No further correspondence was received regarding this appeal.

MOVED BY MR. CLARK  
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

MOVED BY MR. CLARK  
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

**(f) APPEAL NUMBER: B.V. 6256**

APPELLANT: Harb Mann

REGISTERED OWNER OF PROPERTY: Jack and Pauline Chan

CIVIC ADDRESS OF PROPERTY: 8462 Royal Oak Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 18; DL 158; Plan 1489

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 home with secondary suite and attached garage at 8462 Royal Oak Avenue. The height of the principal building would be 33.74 feet, measured from the front average elevation, where a maximum height of 29.5 feet is permitted. The principal building height, measured from the rear average elevation would be 27.15 feet. (Zone R2)

**This Appeal was rescheduled to the Special Meeting of the Board of Variance on 2016 December 15.**

**(g) APPEAL NUMBER: B.V. 6257**

APPELLANT: Adrian Botez

REGISTERED OWNER OF PROPERTY: Adrian and Victoria Botez

CIVIC ADDRESS OF PROPERTY: 4610 Marine Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 110; DL 157; Plan 26519

APPEAL: An appeal for the relaxation of Section 102.6(1)(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with detached garage at 4610 Marine Drive. The height of the principal building, measured from the front average elevation, would be 30.32 feet where a maximum height of 24.3 feet is permitted. The principal building height, measured from the rear average elevation, would be 19.0 feet. (Zone R5)

**This Appeal was rescheduled to the Special Meeting of the Board of Variance on 2016 December 15.**

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(h) **APPEAL NUMBER:** B.V. 6258

**APPELLANT:** Rob Hsu

**REGISTERED OWNER OF PROPERTY:** Ying On

**CIVIC ADDRESS OF PROPERTY:** 395 Glynde Avenue North

**LEGAL DESCRIPTION OF PROPERTY:** Lot 16; DL 189; Plan 4953

**APPEAL:** An appeal for the relaxation of Section 102.6(1)(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with attached garage at 395 Glynde Avenue North. The following variances are being requested:

a) the principal building height, measured from the rear average elevation, would be 33.5 feet where a maximum height of 24.3 feet is permitted; and,

b) the principal building height, measured from the front average elevation, would be 25.86 feet where a maximum building height of 24.3 feet is permitted. (Zone R2)

**APPELLANT'S SUBMISSION:**

Rob Hsu submitted an application to allow for the construction of a new home at 395 Glynde Avenue North.

Harry Lim, homeowner and Rob Hsu, architect appeared before members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS**

The subject site, zoned R2 Residential District, is located in the Capitol Hill neighbourhood in which the age and condition of single family dwellings vary. The first homes in this neighbourhood were constructed in the 1930s. In the past 30 years the area has been gradually redeveloped with larger homes. The subject lot is an interior lot, approximately 66.0 ft. wide and 130.9 ft. long, with a frontage onto North Glynde Avenue to the east. The site is bounded by single family dwellings to the north, west and south. Vehicular access to the site is provided via North Glynde Avenue; there is no lane access. The site observes a substantial downward slope of approximately 33.3 ft. in the southeast-northwest direction. A 10.0 ft. wide statutory right of way restricts the subject site along the rear (west) property line.

The subject site is proposed to be redeveloped with a new single family dwelling, with a secondary suite and an attached garage, for which two variances are requested. Both variances are related to a principal building height and are co-related.

The first a) appeal requests a building height of 33.5 ft., measured from the average rear elevation, where a maximum 24.3 ft. is permitted for a building with a flat roof. The second b) appeal requests a building height of 25.86 ft., measured from the average front elevation where a maximum 24.3 ft. is permitted for a building with a flat roof.

Section 102.6(b) of the Zoning Bylaw requires that the height of a building with a flat roof should not exceed 2 ½ storeys and 24.3 ft. as measured from the lower of the front average elevation or the rear average elevation to the highest point of the structure. The intent of the Bylaw for measuring the building height from the lower of the front average elevation or the rear average elevation is to ensure that no section of a building exceeds the maximum permitted building height. This requirement is to minimize the visual impact of the building mass on the neighbouring properties.

The proposed building exceeds the permitted building height of the buildings with a flat roof at the rear and front elevation.

The proposed building is considered a two-storey building, due to the lowest level being considered a “cellar”, rather than a “basement”, and therefore, not considered a “storey”. This is achieved by extensive lowering of the cellar floor in relation to the surrounding grades. As a result, the clear ceiling height in the cellar is proposed to be 11.5 ft. (the cellar will contain a secondary suite and media room).

With respect to the first a) appeal, the height encroachment of 9.2 ft. would occur approximately from the window sill line to the top of the roof, over the entire width of the rear elevation (52.63 ft.). This excess height will add bulk to the dwelling and the dwelling will appear as a three story form as viewed from the rear elevation. Therefore, this variance will create substantial massing impacts on the surrounding properties, particularly to the west.

With respect to the second b) appeal, the height encroachment of 1.56 ft. would occur approximately at mid-point of the roof, above the horizontal fascia board in the middle of the front elevation. The excess height will create some impact on views from the neighbouring residences across North Glynde Avenue to the east, although these properties are at higher levels.

Although it is recognized that the proposed building would be located on a steep slope, the building height exceeding the permitted height, by 9.2 ft. and 1.56 ft. at the rear and front, respectively, is partly due to the design choice. There are design options to lessen the impacts on the neighbouring properties and to bringing this proposal closer to compliance with the height requirements of the Bylaw. These options include lowering the proposed dwelling’s main and upper floor farther into the ground (the main floor is proposed approximately 2.0 ft. above the existing grades at the front elevations) or applying a terraced design concept.

Further, although the subject site has topographical constraints, the property’s

topographical condition does not represent a unique hardship; most of the properties on the west side of North Glynde Avenue have similar topographies. As such, the implications of the proposed variance on the existing neighbourhood and the future development (this application may set a precedent for the future development of the neighbouring properties) must be considered. In this broader context, granting of the requested variances could undermine the integrity of the Bylaw.

For the above reasons reason, this Department objects to the granting of the first a) and second b) appeals.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the homeowners at 400 North Hythe Avenue in opposition to the variance.

A petition in opposition was received at the meeting from homeowners/occupants of 440, 450, 460 North Glynde Avenue and 5104 Harbour View Road.

The homeowner of 460 North Glynde Avenue appeared before the Board of Variance in opposition to the appeal. The concerns of the homeowner were the loss of view and potential of setting precedence if this variance is permitted.

The homeowners of 450 North Glynde Avenue appeared before the Board of Variance advising that they had recently purchased their home and are concerned about losing their view.

The homeowner of 5107 Harbour View Road appeared before the Board of Variance expressed concern regarding the massing impact and loss of views that the proposed home will have on his/her property.

The homeowner of 391 North Glynde Avenue appeared before the Board of Variance to express his concern regarding the proposed height variance.

The homeowner of 440 North Glynde Avenue appeared advising that the appellants were aware of the slope on the property and lack of lane access prior to purchasing the home. The homeowner has requested that the appellants build within the guidelines of the Burnaby Zoning Bylaw.

The homeowner of 460 North Glynde Avenue spoke a second time requesting that the appellants build within the guidelines of the Burnaby Zoning Bylaw.

No further correspondence was received regarding this appeal.

*Mr. Stephen Nemeth declared a conflict of interest and left the Council Chamber at 8:05 p.m.*



MOVED BY MR. CLARK  
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

MOVED BY MR. CLARK  
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

(i) **APPEAL NUMBER:** B.V. 6259

APPELLANT: Raffaele and Associates

REGISTERED OWNER OF PROPERTY: Mela Properties LTD

CIVIC ADDRESS OF PROPERTY: 7774 Government Road

LEGAL DESCRIPTION OF PROPERTY: Lot 54; DL 42; Plan 26832

APPEAL: An appeal for the relaxation of Section 101.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home at 7774 Government Road. The front yard setback would be 43.81 feet where a minimum front yard setback of 114.5 feet is required based on front yard averaging. (Zone R1)

Although the requested variance to the front yard setback is the same as the 2016 November 03 appeal, 43.81 feet, the design form proposed in this appeal has been altered.

A previous Board of Variance appeal (BOV 6246, 2016 October 06) seeking a front yard setback of 29.53 feet was denied.

Prior to the commencement of this appeal a recess was requested to allow the Board members an opportunity to review submissions received prior to the hearing.

MOVED BY MR. POUND  
SECONDED BY MR. CLARK

THAT the Board of Variance Hearing recess.

CARRIED UNANIMOUSLY

The Board of Variance recessed at 8:15 p.m.

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Mr. Nemeth returned to the Board of Variance hearing at 8:15 p.m.

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

THAT the Board of Variance Hearing reconvene.

CARRIED UNANIMOUSLY

The Board of Variance reconvened at 8:30 p.m.

APPELLANT'S SUBMISSION:

Raffaele and Associates submitted an application to allow for the construction of a new home at 7774 Government Road.

Sonny Gujral, homeowner, Gurjit Padda, contractor and Mayumi Hasegawa, Raffaele and Associates appeared before members of the Board of Variance.

Ms. Hasegawa addressed issues and concerns raised by neighbours in opposition to the appeal.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

This property was the subject of an appeal before the Board on 2016 October 06 (BV 6246) and 2016 November 03 (BV 6250). In both appeals, a variance was sought to allow for the construction of a new single family dwelling, with a secondary suite and an attached garage. The proposed front yard depth of 29.53 ft., as per the first appeal (BV 6246), and a front yard depth of 43.81 ft., as per the second appeal (BV 6250) were requested, where a minimum front yard depth of 114.5 ft. (based on front yard averaging) is required at the Government Road frontage. Both appeals, while supported by this Department, were denied by the Board of Variance.

This Department's comments on the 2016 November 03 appeal, which also references the 2016 October 06 appeal, are included as *Item 1* in the *attached* supplementary materials.

Subsequently, in response to the concerns raised at the hearing by the Board and the neighbour immediately east of the subject site, the applicant has revised the proposal. This appeal proposes the relaxation of Section 101.8 – "Front Yard" of the Burnaby Zoning Bylaw from 114.5 ft. (based on front yard averaging) to 43.81 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required front yard abutting Government Road. Section 6.12 – "Yards" of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

Although the proposed front yard setback of the subject dwelling is the same as the last appeal, the proposed design form of the dwelling is substantially modified.

To address the raised issues at the hearing, the proposed design of the dwelling, in essence, is a "flipped" version (from side to side) of the previous proposed design. In

addition, the area of the main and upper floor is proposed to be reduced, by approximately 214 sq. ft. and 277 sq. ft., respectively, and redistributed to the cellar level (increased by approximately 574 sq. ft.).

In the revised design the one-storey high portion of the dwelling is now facing the neighbouring property to the east, with the two-storey high portion oriented to the west. As a result, the upper floor would be set back from the east property line by approximately 29.0 ft., which is a considerable larger distance than what was previously proposed (approximately 9.0 ft.). The depth of the dwelling at the upper floor, facing toward east, would also be substantially reduced, from 48.33 ft. to 29.08 ft. In addition, the main floor would be recessed at the southeast corner by approximately 6.0 ft., resulting in a generous distance of 15.19 ft. to the east property line.

The proposed design modifications to the subject dwelling will substantially help minimizing the direct impacts of the proposed reduced front yard on the neighbouring residence to the east. In addition, the mature hedge located along the shared property line between the subject property and the neighbour to the east, will provide screening effects at the lower levels of the proposed dwelling.

In summary, the proposed design form of the subject dwelling is a further improvement to the previous two proposals. Given the fact that there are grounds for hardship related to the site geography, as well as, considering the continuous efforts made by the applicant to address the issues from the Board and the neighbour to the east, this Department supports the granting of this variance.

ADJACENT OWNER'S COMMENTS:

Form letters in support of the proposed variance were received from the occupants/homeowners of 7508, 7732, 7750, and 7775 Government Road.

Letters in support of the proposed variance were received from occupants/homeowners of 7448, 7468, 7478 Government Road.

Form letters in opposition to the proposed variance were received from the occupants/homeowners of 7568, 7709, 7785, 7798, 7969, 8017, 8032, 8055, 8076 and 8088 Government Road.

A letter in opposition was received from homeowners of 7798 Government Road due to diminished sunlight, compromised view and decreased value to their property.

A letter in opposition to the proposed variance was received from the homeowners of 8088 Government Road. The author cited that allowing the variance would adversely affect the property to the east, as well as eroding the character of the neighbourhood and effect all future front yard setback averaging calculations.

Form letters both in support and opposition were received from the occupants/homeowners of 7765 Government Road.

Mitch Foster, Legal Council for Heather and Tony Baldassarre, homeowners of 7798 Government Road, appeared before the members of the Board of Variance. Mr.

Foster advised that the changes presented in the latest appeal package were minimal. Mr. Foster stated that the appellants were aware of the lot limitations prior to demolishing the existing home. If the requested setback were granted, the proposed home would appear to be in the middle of the driveway of 7798 Government Road and the view from their balcony would be of the back of the proposed home. In conclusion, Mr. Foster cited the Local Government Act advising that this is not a minor variance and there is no undue hardship.

Drawings were also submitted by 7798 Government Road with a proposal for a home demonstrating a 65.2 foot front yard setback on the subject site.

The homeowners of 7798 Government Road also appeared before the members of the Board of Variance reiterating Mr. Foster's concerns.

The homeowner of 7785 Government Road appeared before the members of the Board of Variance and expressed concerns regarding the affect the proposed variance would have on the neighbourhood and the precedent it would set if approved.

The homeowner of 7709 Government Road appeared before the members of the Board of Variance requesting information regarding the required riparian setback.

No further correspondence was received regarding this appeal.

The Board members requested a brief recess to consider all verbal submissions.

MOVED BY MR. CLARK  
SECONDED BY MR. POUND

THAT the Board of Variance Hearing recess.

CARRIED UNANIMOUSLY

The Board of Variance recessed at 9:25 p.m.

MOVED BY MR. POUND  
SECONDED BY MR. NEMETH

THAT the Board of Variance Hearing reconvene.

CARRIED UNANIMOUSLY

The Board of Variance reconvened at 9:35 p.m.

MOVED BY MR. DHATT  
SECONDED BY MR. NEMETH

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED

OPPOSED: Mr. Nemeth  
Mr. Clark

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4. **NEW BUSINESS**

No items of new business were brought forward for consideration 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 9:40 p.m.

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Ms. C. Richter, CHAIR

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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

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Mr. B. Pound