



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, 2017 January 05 at 6:00 p.m.

1. CALL TO ORDER

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

ABSENT: Mr. Guyle Clark, Citizen Representative

STAFF: Mr. Maciek Wodzinski, Development Plan Technician
Ms. Eva Prior, Administrative Officer

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

2. ELECTION

(a) Election of Chair

Nominations for Chairperson of the Burnaby Board of Variance were called for.

Mr. Brian Pound nominated Ms. Charlene Richter for the position of Chairperson of the Board of Variance for 2017.

There were no further nominations received.

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

THAT Ms. Charlene Richter be appointed as Chairperson of the Burnaby Board of Variance from 2017 January 05 to 2017 December 31.

CARRIED UNANIMOUSLY

3. **MINUTES**

(a) **Minutes of the Board of Variance Hearing held on 2016 December 01**

MOVED BY MR. POUND
SECONDED BY MR. DHATT

THAT the minutes of the Board of Variance Hearing held on 2016 December 01 be adopted.

CARRIED UNANIMOUSLY

(b) **Minutes of the Special Meeting of the Board of Variance held on 2016 December 15**

MOVED BY MR. NEMETH
SECONDED BY MR. DHATT

THAT the minutes of the Special Meeting of the Board of Variance Hearing held on 2016 December 15 be adopted.

CARRIED UNANIMOUSLY

4. **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. 6263**

APPELLANT: Amrik Singh Sahota

REGISTERED OWNER OF PROPERTY: Amrik, Jasbir and Amanbir Sahota

CIVIC ADDRESS OF PROPERTY: 3408 Dalebright Drive

LEGAL DESCRIPTION OF PROPERTY: LOT 170; DL 58; PLAN 34460

APPEAL: An appeal to vary Section 101.8 'Front Yard' 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 3408 Dalebright Drive. The following variances are being requested:

a) The depth of the front yard, fronting Lougheed Highway, would be 25.0 feet to allow for a detached garage outside of the resulting front yard, where a depth of 70.63 feet is required based on front yard averaging. All garage projections into the front yard will conform to the requirements of Section 6.12; and,

b) the depth of the front yard, fronting Lougheed Highway, would be 64.46 feet to build a principle building outside of the resulting front yard, where a depth of 70.63 feet is required based on front yard averaging.

All principle building projections into the resulting front yard will conform to the requirements of Section 6.12.

APPELLANT'S SUBMISSION

Mr. Amrik Sahota submitted an application requesting a relaxation of the zoning bylaw to allow for construction of a new home with a detached garage.

Mr. Sahota and Mr. Bhogal appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS

The subject site, zoned R1 Residential District, is located in a stable single-family neighbourhood in the Government Road area. This large through lot, approximately 70.0 ft. wide and 150.0 ft. long, fronts Dalebright Drive to the south and Lougheed Highway to the north. Single family dwellings abut the subject site to the east and west. A large industrial property and an elevated section of the Skytrain guideway are located directly across Lougheed Highway to the north. Vehicular access to the subject site is provided from Dalebright Drive. The site observes a downwards slope of approximately 8.6 ft. from the northwest (rear) corner to the southeast (front) corner.

A new single family dwelling with a secondary suite and a detached garage is proposed for the subject site, for which two variances are requested.

The first a) appeal proposes the relaxation of Section 101.8 – “Front Yard” of the Burnaby Zoning Bylaw from 70.63 ft. (based on front yard averaging) to 25.0 ft. The purpose of this variance is to allow the construction of a detached garage encroaching into the required front yard abutting Lougheed Highway.

The second b) appeal proposes the relaxation of Section 101.8 – “Front Yard” of the Burnaby Zoning Bylaw from 70.63 ft. (based on front yard averaging) to 64.46 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required front yard abutting Lougheed Highway.

In both appeals Section 6.12 – “Yards” of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

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.

As noted above, both appeals are related to the front yard setback requirement, in the first a) appeal in relation to the proposed accessory detached garage and in the second b) appeal in relation to the proposed principal building.

The second b) appeal is discussed first, with the comments on the first a) appeal following.

With respect to the second b) appeal, the proposed single family dwelling would observe a front yard setback from Dalebright Drive of 31.53 ft., which meets the minimum 31.12 ft. front yard setback required by front yard averaging calculations in the R1 District. Therefore, a consistent building edge would be maintained throughout the block, as all of the houses have similar front yard setbacks.

The front yard setback from Lougheed Highway is the setback for which the relaxation is requested. The front yard averaging calculations are based on the setbacks of the two dwellings immediately west of the subject site at 3388 and 3398 Dalebright Drive, and the two dwellings immediately east of the subject site at 3418 and 3428 Dalebright Drive. The front yard setbacks for these properties are 66.82 ft., 69.67 ft., 78.05 ft. and 67.97 ft. respectively.

It should be noted that these front yard setbacks function as rear yards, with no vehicular access provided from this side. In addition, the frontages along Lougheed Highway consist primarily of fencing and tall hedges or other screening, with the visibility of the residences further reduced by the depth of the intervening yards.

The proposed siting would place the subject dwelling 5.21 ft. in front of the neighbouring dwelling immediately to the west and approximately 13.59 ft. in front of the neighbouring dwelling immediately to the east. The proposed front yard setback of 64.46 ft. is measured to the deck attached to the north face of the dwelling, excluding the outermost 3.94 ft. deep portion of deck, which is the allowable projection into the front yard. The main body of the dwelling is proposed to be set back further by 3.06 ft., resulting in the distance of 67.52 ft. to the north front (Lougheed Highway) property line. In addition, the northwest and northeast (rear) corners of the dwelling are proposed to be recessed, 8.67 ft. and 12.18 ft. respectively, on both the main and upper floor levels. The proposed "stepped" design would help mitigate immediate massing impacts on the neighbouring residences to the west and east of the subject site.

The proposed reduction in the front yard setback is substantial. However, the extent to which the proposal exceeds the established setbacks must be considered in the context of future redevelopment of the neighbourhood, given that most of the surrounding homes were built in the early 1970's to late 1980's and reflect the development standards present at that time. In particular, the depth of most surrounding buildings ranges from approximately 30 ft. to 50 ft., significantly less than the 60 ft. depth that is permitted under prevailing zoning. While this does not represent a physical hardship, it is a substantial constraint that warrants consideration.

In addition, the function of this second front yard as a rear yard must be considered. Given the width and high traffic volumes that characterize Loughheed Highway, there is little chance that this frontage will serve any other function in the foreseeable future. For these reasons, it may be suitable to relax the front yard averaging requirements for the second front yard, in order to permit the greater building depths provided for elsewhere in the Bylaw, while maintaining the generous frontages along Dalebright Drive.

In summary, the proposed relaxation is suitable given the relationship of the site and surrounding properties to Loughheed Highway, and may help to transition the development pattern of the neighbourhood to allow greater building depths consistent with prevailing zoning.

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

With respect to the first a) appeal, a need for this relaxation is related to the fact that under Section 6.2(2) of the Zoning Bylaw accessory buildings are not permitted within the required front yards. Therefore, a second front yard setback relaxation is requested in relation to the accessory detached garage proposed within the required front yard abutting Loughheed Highway.

The accessory detached garage is proposed in the northwest portion of the site, 4.0 ft. away from the west side property line and 25.0 ft. away from the north front property line. It should be noted that the proposed siting of the garage corresponds with the minimum 75 ft. setback for principal and accessory buildings or structures to the center line of Loughheed Highway, required under Section 6.16 "Building line Setbacks". The two-car detached garage would be approximately 13.67 ft. high and 21 ft. wide by 23.5 ft. deep, including the two-piece washroom area which projects 3.18 ft. from the garage south face. The distance between the proposed principal building and the proposed accessory detached garage would be 19.42 ft., which exceeds the required minimum distance between two structures by 4.62 ft.

The proposed reduction in the front yard setback is significant. The accessory building would encroach into the required 70.63 ft. front yard setback by 45.63 ft. Further, the accessory building would have little spatial or visual separation from the neighbouring property to the west.

In the broader context, the majority of lots in the subject block (approximately 14 lots out of 17 lots) do not feature accessory buildings within the Lougheed Highway frontages. Therefore, the placement of an accessory building, just 25 ft. away from the north front yard, would be out of place.

Further, the siting of the accessory building in this location is a design choice, as other options exist on a large lot such as the subject lot. For example, attaching the garage to the principal building should be considered, as it could potentially eliminate or significantly lessen a need for this variance.

In summary, this is a major variance that defeats the intent of the Zoning Bylaw and will impact the neighbouring properties. Therefore, this Department objects to the granting of this first a) variance.

ADJACENT OWNER'S COMMENTS:

Form letters were received from the owners/residents of 3388 and 3518 Dalebright Drive advising that they have no objection to the construction of the variances requested.

No further correspondence was received.

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

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

CARRIED

OPPOSED: Mr. Dhatt

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

(b) **APPEAL NUMBER: B.V. 6264**

APPELLANT: Antonio Rigor

REGISTERED OWNER OF PROPERTY: Nicholas and Theresa Fong

CIVIC ADDRESS OF PROPERTY: 3931 Harper Court

LEGAL DESCRIPTION OF PROPERTY: Lot: 104; DL 34; PLAN 46918

APPEAL: An appeal to vary Section 104.6(1)(a) 'Height of Principal Building' and Section 104.10(1) 'Side Yard' of the Burnaby Zoning Bylaw which, if permitted, would allow for the interior alteration and addition to basement and main floor, and a new upper floor addition to an existing single family home at 3931 Harper Court. The following variances are being requested:

- a) the height of the principal building, measured from the rear average elevation, would be 33.63 feet where a maximum height of 29.5 feet is permitted. The building height, as measured from the front elevation, is proposed to be 28.23 feet;
- b) the height of the principal building would be 3 storeys, where 2 1/2 storeys is permitted;
- c) the side yard would be 3.93 feet measured to the cantilevered upper floor, where a side yard of 4.90 feet is required; and,
- d) the side yard sum for both side yards would be 9.75 feet, where the sum of 11.50 is required. (Zone R4)

APPELLANT'S SUBMISSION

Mr. Nick Fong submitted an application requesting a relaxation of the zoning bylaw to allow for construction of interior alterations and additions to an existing single family home.

Mr. Fong, owner and Mr. Rigor, Architect, 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 Garden Village neighbourhood where the age and condition of the existing single and two family dwellings vary. This slightly irregular interior lot is approximately 60.0 ft. wide and 120.0 ft. deep and is fronting Harper Court to the south. The subject site abuts single family lots to the west and east. Vehicular access to the subject site is provided via the rear lane to the north. The site observes a moderate downward slope of approximately 12.6 ft. from the southwest corner to northeast corner.

The subject site contains a 2 storey single family dwelling, consisting of an unfinished basement and main floor, which was originally built in 1975. The applicant proposes various additions and interior alterations to the dwelling, including an addition of a secondary suite in the basement, conversion of the existing attached carport into an enclosed garage in the basement, addition of a front covered deck and partial roof cover over the existing rear deck at the main floor and an addition of an upper floor.

With the exception of a secondary suite addition, the proposed additions are the subject of four appeals.

The first a) and second b) appeals are related to the principal building height and are co-related.

The first a) appeal is to vary Section 104.6(1)(a) – “Height of Principal Building” of the Zoning Bylaw from 29.5 ft. to 33.63 ft., as measured from the rear average elevation.

The second b) appeal is to vary Section 104.6(1)(a) - Height of Principal Building” of the Zoning Bylaw from 2 ½ storey to 3 storey.

The purpose of both variances is to allow for construction of an addition of an upper floor, with a sloping roof, to the existing single family dwelling. Section 6.12 – “Yards” of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

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 subject upper floor addition is proposed over the entire width of the main floor (48.0 ft.), but set back from the front and rear building face by 4.0 ft. This upper floor addition would be aligned with the footprint of the main floor below on both sides of the existing building, except for two areas which are proposed to cantilever beyond this existing footprint. The 14 ft. long by 1.5 ft. deep cantilevered floor area is proposed on the west elevation and the 6.0 ft. long by 1.0 ft. deep cantilevered floor area is proposed on the east elevation. These two floor area projections would contain washrooms. There is also a high volume space proposed at the southeast portion of the upper floor which would be open to the entry hall and living area below.

With respect to the first a) appeal, the proposed upper floor addition observes a front elevation height of 28.23 ft. from the Harper Court property line, which is 1.27 ft. less than the allowed maximum height. Therefore, this proposal would not affect the views from the properties directly across the Harper Court to the south, which are at slightly higher elevations.

The requested variance is for the rear elevation height. In this case, the height calculation is based on the existing average grade at the outermost face of the rear elevation. It should be noted that a grade difference from the front to the rear of the subject site is a contributing factor to the excess height of the rear elevation.

The proposed height encroachment of 4.13 ft. occurs starting approximately 2 ft. above the fascia board over almost the entire width of the upper roof, when viewed from the rear lane. The proposed excess height, in combination with the fact that the entire rear elevation would appear as a three-storey form, would create negative massing impacts

the neighbouring residence across the lane to the north, which features a large raised deck in the rear yard, and it is at a lower elevation.

The encroachment along the western and eastern side edges of the roof would be limited to relatively small triangular areas at the roof peak, away from the roof edges, so limited impacts are expected on the neighbouring properties immediately to the west and east of the subject property.

With respect to the second b) appeal, according to the Zoning Bylaw a storey is considered a "storey, half" if it contains less than 50% of the gross floor area of the storey immediately below. The proposed new upper floor with an area of 1,220 sq. ft. would exceed 50% of the gross floor area of the main floor (1,674 sq. ft.) by 383 sq. ft. or 46 %, which is a major variance. It is noted that the gross floor area of the main floor does not include an area of the existing two-car carport (which is proposed to be enclosed) attached to the rear of the dwelling. However, the gross floor area of the upper floor does not include high volume open areas proposed over the entry hall and living area, which, however, add to the bulk of the building.

The subject dwelling has a building depth of 52.42 ft. (where the maximum building depth of 60.0 ft. is permitted). Therefore, with the rear yard setback of 43.58 ft. (where the minimum rear yard setback of 29.5 ft. is required) there is an approximate 7.58 ft. deep rear yard as a potential for horizontal extension of the building. As such, there are design options in relation to the second b) appeals, which would not create a need for another variance on the subject site.

In summary, the requested variances to the height requirements of the Zoning Bylaw would create negative impacts the neighbouring property across the lane to the north, as well as the second b) relaxation is significant and appears to be the result of design choices rather than a hardship, and could be lessened with design modifications.

For these reasons, this Department does object to the granting of the first a) and second b) variances.

The third c) and fourth d) appeals are related to the side yard setback and are co-related.

The third c) appeal proposes a side yard setback of 3.93 ft., where a minimum side yard setback of 4.9 ft. is required.

The fourth d) appeal proposes a sum of side yard setbacks of 9.75 ft., where a minimum sum of side yard setbacks of 11.5 ft. is required.

The purpose of both variances is to allow for construction of the proposed basement and main floor additions and the upper floor addition to the existing single family dwelling. Section 6.12 – "Yards" of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

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

The existing dwelling observes the east side yard setback of 4.73 ft. and a sum of side yard setbacks of 11.38 ft., and is legal non-conforming with respect to the side yard setback requirement (4.9 ft.) and the sum of side yard setback requirement (11.5 ft.).

The proposed east side yard setback is measured from the east property line to the cantilevered portion of the proposed upper floor addition on the east side of the existing dwelling. The proposed sum of side yard setbacks is measured from the east property line to the cantilevered portion of the proposed upper floor addition on the east side of the existing dwelling and from the west property line to the cantilevered portion of the proposed upper floor addition on the west side of the existing dwelling.

With the exception of the two upper floor areas cantilevered beyond the existing footprint, the other proposed additions would be essentially in line with the footprint of the existing dwelling. The proposed 21.5 ft. deep enclosure of the existing carport, which is attached to the northeast corner of the existing dwelling, would marginally decrease the east side yard setback at its northeast corner, from 4.73 ft. to 4.41 ft., due to the slightly angled placement of the existing dwelling in relation to the east side property line. The 4.0 ft. deep front covered deck addition, proposed in the southeast corner of the existing dwelling, as well as the 16.0 ft. deep roof cover over the existing rear deck (above the carport) would be consistent with the existing east side yard setback and would create the relatively small additional massing. Also, the main face of the upper floor (excluding the cantilevered 1.0 ft. by 6.0 ft. portion) would encroach only 0.17 ft. into the required east side yard.

With respect to the west side yard, only the proposed cantilevered 14 ft. long by 1.5 ft. deep portion of the upper floor would decrease the existing west side yard setback by 1.5 ft. and subsequently decrease the sum of two setbacks requirement accordingly.

In summary, considering the small scale of the proposed side yard encroachments, no significant impacts are expected to neighbouring properties. However, both side yard relaxation requests appear to be the result of design choices rather than a hardship. Similarly to comments under the first a) and second b) appeals, modifications could be made to the upper floor to expand in the horizontal direction in order to eliminate the cantilevered portions over the main floor, which are main contributors to the side yard setbacks encroachments. Such elimination would also help to lessen the overall impacts of the requested height relaxations.

In view of the above, this Department cannot support to the granting of the third c) and four d) variances.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. POUND
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MR. POUND
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

5. **NEW BUSINESS**

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

6. **ADJOURNMENT**

MOVED BY MR. POUND
SECONDED BY MR. DHATT

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:45 p.m.

Ms. C. Richter

Mr. R. Dhatt

Mr. S. Nemeth

Ms. E. Prior
ADMINISTRATIVE OFFICER

Mr. B. Pound