



CITY OF BURNABY

BOARD OF VARIANCE

NOTICE OF OPEN MEETING

MINUTES

A Hearing of the Board of Variance was held in the Council Chamber, Main Floor, City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, 2017 September 07 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. Wayne Peppard, Citizen Representative
Mr. Brian Pound, Citizen Representative

STAFF: Ms. Margaret Malysz, Planning Department Representative
Mr. Mr. Maciek Wodzinski, Planning Department Representative
Ms. Monica Macdonald, Administrative Officer
Ms. Eva Prior, Administrative Officer

The Chair called the meeting to order at 6:10 p.m.

2. MINUTES

(a) Minutes of the Board of Variance Hearing held on 2017 August 10

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

THAT the minutes of the Burnaby Board of Variance Hearing held on 2017 August 10 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:** BOV 6297

APPELLANT: Alan McIver

REGISTERED OWNER OF PROPERTY: Alan and Elizabeth McIver

CIVIC ADDRESS OF PROPERTY: 1630 Howard Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 7: DL: 126: Plan: NWP23722

APPEAL: An Appeal for the relaxation of Sections 102.9(1) and 102.10 of the Burnaby Zoning Bylaw which, if permitted, would allow for interior alterations, addition, and a carport enclosure to an existing single family dwelling at 1630 Howard Avenue. The following variances are requested:

- a) A side yard width of 3.10 feet, where a minimum side yard width of 4.90 feet is required;
- b) A combined sum of both side yard widths of 9.61 feet, where a minimum combined sum of 11.50 feet is required; and,
- c) A rear yard setback of 29.40 feet, where a minimum rear yard setback of 29.50 feet is required. Zone R2

A previous Board of Variance (BOV 2974 1985 June 06) decision allowed a side yard setback of 3.0 feet.

APPELLANT'S SUBMISSION:

Alan McIver submitted an application to allow for renovations to his home at 1630 Howard Avenue.

Mr. McIver appeared before the 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 Parkcrest-Aubrey neighbourhood, in which the age and condition of single dwellings vary. This interior lot, approximately 57.0 ft. wide and 123.0 ft. deep, fronts onto Howard Avenue to the west. Single family dwellings are located immediately north, east and south of the subject site. Vehicular access to the site is provided from Howard Avenue; there is

no lane access. The lot site observes a downward slope of approximately 16.2 ft. from the north-east (rear) corner to the south-west (front) corner.

The subject property is improved with a single family dwelling including attached carport, originally built in 1962. In 1985 this property was the subject of an appeal before the Board (BV 2974). A variance was sought to allow the east side setback to be reduced from 4.92 ft. to 3.0 ft. The purpose of this variance was to allow for the construction of a rear addition to the existing single family dwelling. This Department supported the request and the Board allowed the appeal.

The applicant proposes now further additions and alterations, of which only the proposed rear addition and the conversion of the existing attached carport into an attached garage are the subject of three appeals. All three appeals are co-related.

The first a) appeal is to vary Section 102.9 (1) – “Side Yards” of the Zoning Bylaw requirement for the minimum side yard width from 4.9 ft. to 3.1 ft. to allow the construction of the proposed rear addition and the conversion of the existing attached carport into an attached garage to the existing single family dwelling.

The second b) appeal is to vary Section 102.9 (1) – “Side Yards” of the Zoning Bylaw requirement for the minimum sum of both side yards from 11.5 ft. to 9.61 ft. to allow the construction of the proposed rear addition and the conversion of the existing attached carport into an attached garage to the existing single family dwelling.

The third c) appeal is to vary Section 102.10 – “Rear Yard” of the Zoning Bylaw from 29.5 ft. to 29.4 ft. to allow the construction of the proposed rear addition to the existing single family dwelling.

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

In reference to the first a) appeal, the existing dwelling observes a south side yard setback of 3.1 ft., and is legal non-conforming with respect to the side yard setback requirement (4.9 ft.).

As noted above, the Board previously allowed an addition over an existing rear deck which observes the south side yard setback of 3.1 ft. This deck area, which includes an enclosed workshop space underneath, is attached to the south-east corner of the existing dwelling. The current proposal is to extend the addition over the entire deck/workshop area. This additional area would be approximately 19.92 ft. deep and 16.25 ft. wide. The one storey addition would feature a sloped roof, with a height up to approximately 16.8 ft. at the peak of the roof, when viewed from the side and rear property lines. The addition would be in line with the existing south face of the building. This results in a side yard encroachment area of 19.92 ft. by 1.8 ft. which would fully overlap with the neighbouring rear yard to the south. However, considering the north-

south relation and an absence of windows on the south side (facing the neighbouring rear yard), the proposed rear addition is unlikely to negatively impact the neighbouring property to the south with respect to sunlight and privacy.

On the opposite side of the residence, at the south-west corner of the existing dwelling, the proposal is to convert the existing attached carport into an enclosed garage. The existing second floor fully extends over the existing carport. With respect to the neighbouring residence to the south, the enclosed garage would overlap this residence by its full length of approximately 25.5 ft. However, this residence does not feature any windows on its north elevation (facing the subject area). Also, considering the relatively small additional massing created by enclosing the existing recessed carport area, it is not expected that such enclosure would affect this neighbouring residence.

Considering the above and since the proposed variance has limited impacts on the neighbouring property to the south, this Department does not object to the granting of this first a) variance.

In reference to the second b) appeal, the existing dwelling observes a sum of side yard setbacks of 9.61 ft., and is legal non-conforming with respect to the sum of side yard setback requirement (11.5 ft.).

Both the rear addition and the carport enclosure necessitate this variance. As discussed under the first a) appeal, these addition/alterations would not significantly impact the neighbouring property to the south. Since there are no exterior changes proposed to the existing dwelling on the north side, this variance would not create any impacts on the neighbouring property to the north.

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

In reference to the third c) appeal, the existing dwelling observes a rear yard setback of 29.4 ft. as measured to the rear deck, and is legal non-conforming with respect to the rear yard setback requirement (29.5 ft.).

Again, as discussed under the first a) appeal, the proposed addition over the existing rear deck/workshop area necessitates this variance. The applicant wishes to utilize the existing non-conforming concrete walls underneath the deck, approximately 5.5 ft. high, as foundation walls for the new addition. However, given the marginal scale of the resultant rear yard encroachment (0.1 ft.), no impacts are expected on the surrounding neighbouring properties.

With respect to outdoor living space, since the proposed rear addition would not alter the existing footprint of the dwelling, a plentiful amount of green space will remain in the rear yard.

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

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. POUND
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

(b) APPEAL NUMBER: B.V. 6298

APPELLANT: Angelo Marrocco

REGISTERED OWNER OF PROPERTY: Roy Mattarollo

CIVIC ADDRESS OF PROPERTY: 8675 11th Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 86: DL 13; Plan: NWP13983

APPEAL: An appeal for the relaxation of Sections 110.7(b) and 110.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for interior alteration and an addition to an existing single family dwelling at 8675 11th Avenue. The following variances are requested:

a) A principal building depth of 59.92 feet, where a maximum building depth of 55.80 feet is permitted; and,

b) A front yard setback of 28.13 feet, where a minimum set back of 29.53 feet is required based on front yard averaging. Zone R10

APPELLANT'S SUBMISSION:

Angelo Marrocco, representing the homeowner, submitted an application to allow for interior alterations and an addition to a single family dwelling at 8675 11th Avenue.

Roy Mattarollo, homeowner, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject property is located in the Cariboo-Armstrong area, in a mature R10 District neighbourhood, characterized by low-scale single family dwellings. This interior lot is 59.21 ft. wide and approximately 141.11 ft. deep and relatively flat. The site is surrounded by single family dwellings to the northeast and southwest and across the lane to the northwest. There is a C1 Zoned, Neighbourhood Commercial District, Crest Shopping Centre located across Eleventh Avenue to the southeast. Vehicular access to the site is provided via the rear lane.

The site is improved with a single family dwelling and an attached carport, which was built in 1956. Currently, the applicant is proposing various interior and exterior alterations/additions to the existing dwelling, including the rear extension of the dwelling. The length of the dwelling created by the proposed rear extension and two proposed projections into the front yard setback are the subjects of these appeals.

The first appeal is to vary Section 110.7(b) – “Depth of Principal Building” of the Zoning Bylaw from 55.8 ft. to 59.92 ft. in order to allow the rear extension.

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 of the existing dwelling, where the garage and master bedroom above it projects beyond the rear face of the house.

The subject building exceeds the maximum permitted building depth by 4.12 ft. at the garage/cellar level and 1.67 ft. at master bedroom/main level. The portion of the building where the excess building depth occurs is limited to the 21.08 ft. wide northeast part of the dwelling and it consists of the pantry, mudroom and the garage at the cellar level, and kitchen, dining area and walk-in-closet, ensuite and master bedroom above the garage on the Main Level. Although the size of the extension is clearly a design choice, it will have a very limited impact on the closest neighbouring dwelling to the northeast, as it has its own 2 storey addition projecting several feet further to the rear of the subject site's garage and its own garage projects even further behind the proposed extension.

In summary, the requested variance would not conflict with the existing development pattern in the subject block and would create little impact on the neighbouring property. Therefore, this Department does not object to the granting of the first a) variance.

The second b) appeal is to vary Section 110.8 – “Front Yard” of the Zoning Bylaw from 29.53 ft. based on the front yard averaging to the proposed 28.13 ft. Section 6.12(c) – “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 the 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.

In this case, the front yard averaging calculations are based on the two neighbouring properties to the southwest 8665 and 8669 Eleventh Avenue and the two neighbouring properties to the northeast 8679 and 8685 Eleventh Avenue. These front yards are 29.7 ft., 29.7 ft., 29.3 ft. and 29.4 ft. respectively. The front wall of existing subject dwelling is perfectly aligned with its closest north-easterly neighbour at 29.3 ft. and within 5 inches of the rest of the remaining facades. In fact, it creates a front yard setback in line with all of the neighbouring houses that were built in the mid-1950s, when most of the dwellings on this block were originally built. The encroachment is created by two proposed bay windows, whose combined width would be approximately 2/3 of the front wall from which they project from. The two 7.0 ft. wide bays project 1.17 ft. from the front façade, creating a 1.4 ft. deep encroachment into the front yards, as determined by front yard averaging. The remainder of the front façade of the dwelling is staggered with further recesses varying from 1.2 ft. to 4.2 ft.

In reference to the broader neighbourhood context, the siting of the existing dwelling is consistent with the majority of the dwellings of a similar vintage within the subject block. The addition of the two bay windows, while a design choice, will not affect the coherence of the streetscape or have any negative impacts on the adjacent residences.

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

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. POUND
SECONDED BY MR. PEPPARD

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

CARRIED UNANIMOUSLY

(c) **APPEAL NUMBER:** B.V. 6299

APPELLANT: Chris Chung

REGISTERED OWNER OF PROPERTY: David Ng and Emily Wong

CIVIC ADDRESS OF PROPERTY: 3917 Lozells Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 13; DL: 43 Plan: 3227

APPEAL: An appeal for the relaxation of Section 101.6(1)(a) of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of a new single family dwelling with a secondary suite and an attached garage at 3917 Lozells Avenue. The following variances are requested:

a) A principal building height of 30.94 feet measured from the rear average grade, where the maximum height of 29.50 feet is permitted; and,

b) A principal building height of 29.79 feet measured from the front average grade, where the maximum height of 29.50 feet is permitted.
Zone R1

APPELLANT'S SUBMISSION:

Chris Chung, Architect, submitted an application to allow for construction of a new single family dwelling at 3917 Lozells Avenue.

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

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R1 Residential District, is located in the Government Road neighbourhood in which the age and condition of single family dwellings vary. This corner lot, approximately 80.00 ft. wide and 120.0 ft. deep, fronts onto Lozells Avenue to the east and flanks Dorchester Drive to the north. The subject site abuts single family residential lots to the south and west. (The neighbouring lot to the west is currently under construction for a new single family dwelling.) Vehicular access to the subject site is proposed to be relocated from Lozells Avenue to Dorchester Drive; there is no lane access. The subject property is relatively flat with a downward slope of approximately 3.3 ft. in the north-south direction.

The subject lot is proposed to be re-developed with a new single family dwelling, with a secondary suite and attached garage, for which two variances have been requested.

The first a) appeal is to vary Section 101.6(1)(a) – “Height of Principal Building” of the Zoning Bylaw from 29.5 ft. to 30.94 ft. as measured from the rear average elevation, to allow the construction of the proposed single family dwelling with a sloping roof.

The second b) appeal is to vary Section 101.6(1)(a) – “Height of Principal Building” of the Zoning Bylaw from 29.5 ft. to 29.79 ft. as measured from the front average elevation, to allow the construction of the proposed single family dwelling 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.

As noted by the applicant in the hardship letter, the original submission for a building permit appeared to be in a full compliance with the height requirements. The subsequent Engineering Department's review through the building permit process revealed that there is an incompatibility between the proposed cellar level (too low) and the existing sewer connection level (too high) without further modifications to the proposed design. The applicant discussed various options with the Engineering Department, such as adding a sump pump facility or raising the cellar slab level in order to connect to the City services by gravity, with the option to relocate the sanitary service 9 m south of the north property line being the final outcome of these discussions.

The detailed Engineering Department's comments with respect to the points raised by the applicant in the hardship letter are attached under *Supplementary Information #1*.

The current proposal is for the cellar level to be raised by 2.93 ft. from the originally proposed 104.5 ft. to 107.43 ft., which would most likely not require adding a sump pump facility if the relocation of the sanitary service (9 m south of the north property line) is pursued. This design decision resulted in two variance requests for building height. To lessen severity of the required relaxations, the applicant modified the roof design by changing the roof slope from 5 in 12 to 4 in 12, which is the minimum slope allowed for sloping roofs.

With respect to both variances, the proposed height encroachments: 1.44 ft. at the rear elevation and 0.29 ft. at the front elevation, are limited to the main roof peak area only, approximately 37.5 ft. in width. This over height portion of the main roof will be set back approximately 36.0 ft. from the rear face of the building and approximately 18.0 ft. from the front face. Considering the small scale and the generous setbacks, the proposed height encroachments on both sides of the dwelling would not be essentially visible from the surrounding properties.

In summary, the proposed variances to the height requirements of the Zoning Bylaw

would not impact neighbouring properties and would not be noticeable within the existing street frontage. However, it appears that the need for both variances is driven by design choices, rather than a hardship.

In view of the above, this Department cannot support to the granting of both variances.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. NEMETH
SECONDED BY MR. PEPPARD

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

CARRIED UNANIMOUSLY

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

(d) **APPEAL NUMBER:** B.V. 6300

APPELLANT: Jagjewan Ranauta

REGISTERED OWNER OF PROPERTY: 1076194 BC LTD

CIVIC ADDRESS OF PROPERTY: 5458 Hardwick Street

LEGAL DESCRIPTION OF PROPERTY: Lot A: DL 74: Plan: 68350

APPEAL: An appeal for the relaxation of Section 103.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of a new single family dwelling with secondary suite and attached garage at 5458 Hardwick Street, with a front yard setback of 52.40 feet where a minimum set back of 61.61 feet is required based on front yard averaging. Zone R3.

APPELLANT'S SUBMISSION:

Jagjewan Ranauta, on behalf of the homeowners, submitted an application to allow for construction of a new single family dwelling at 5458 Hardwick Street.

Mr. Ranauta and his son appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site is a recently created lot through a subdivision of one single family lot into two single family lots (reference SUB 16-16). The subject site is located in the Douglas-Gilpin area, in a mature single family neighbourhood. The site is zoned R3 Residential District, which is intended to preserve the minimum density of development in mature single family areas. This interior lot, approximately 60.0 ft. wide and 130.9 ft. long, fronts onto Hardwick Street to the north. The subject site abuts single family lots to the west and east. To the south is a vacant lot for which there is currently a pending building permit application (This is the second of the two lots created by the above noted subdivision). Vehicular access to the subject site is provided via Hardwick Street; there is no lane access. The site is relatively flat with a downward slope of approximately 2.45 ft. from the rear to the front.

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

The appeal proposes the relaxation of Section 103.8 – “Front Yard” of the Burnaby Zoning Bylaw from 61.61 ft. (based on front yard averaging) to 52.40 ft. The purpose of this variance is to allow the proposed single family dwelling to encroach into the required front yard abutting Hardwick Street. 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 consistency and harmony of the new construction with the existing neighbourhood.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two single family dwellings immediately west of the subject site at 5428 and 5438 Hardwick Street and the single family dwelling second to the east of the subject site at 5470 Hardwick Street. The front yard setbacks for these properties are 65.55 ft., 66.67 ft. and 52.62 ft. respectively. (5460 Hardwick Street immediately east of the subject site is a through lot and therefore, it is not part of front yard averaging calculations. This lot observes the north front yard setback of 63.81 ft.)

The proposed 52.4 ft. front yard setback is measured from the north property line to the outermost eastern portion of the proposed dwelling which contains an attached garage. The posts of the proposed front porch, located off center to the west of the front elevation would also align with this eastern portion of the dwelling. Otherwise, the front face of the dwelling would observe various additional setbacks on both

levels. At the main level, the western portion of the front face would be set back 1.67 ft. and 5.67 ft. in relation to the eastern portion/front porch posts, as measured to the corner post of the veranda (which is an extension of the front porch on the western side of the dwelling) and as measured to the western portion itself, respectively. At the upper level, the central portion would be set back 5.67 ft. (except for a small balcony) in relation to the eastern portion/front porch posts, with areas to the side recessed an additional 1 ft. In addition, the upper floor front corners would be generously set back from the side faces of the main floor, 10.67 ft. at the west side elevation and 4.93 ft. at the east elevation.

The proposed siting would place the subject dwelling 14.27 ft. in front of the neighbouring dwelling immediately to the west and 11.41 ft. in front of the neighbouring dwelling immediately to the east (although this dwelling is not part of front yard averaging calculations). However, the subject dwelling will be set slightly behind the second dwelling to the east, by 0.22 ft.

Although it appears that this proposal would impact the immediate neighbouring properties to the west and east, there are several mitigating factors to consider.

First, the siting of the proposed dwelling would be closely in line with the placement of the existing dwelling on the subject site. This existing dwelling, which is now demolished, observed a front yard setback of approximately 52.6 ft. Therefore, the existing horizontal massing relationship with the adjacent neighbouring residences would not be substantially changed. In addition, the immediately adjacent neighbouring dwellings do not feature significant windows on the side elevations within the overlap area. The above noted various building setbacks proposed on both levels of the subject dwelling would further help mitigate massing impacts on these residences.

Secondly, the subject lot is a shallow lot as compared to the two lots to the west, which are approximately 147.0 ft. deep (approximately 17.0 ft. deeper than the subject lot), and as compared to the through lot immediately to the east, which is approximately 230.0 ft. deep (almost twice as deep as the subject lot). It is also noted that the proposed dwelling would observe the minimum rear yard setback of 24.6 ft., which, in combination with the proposed building depth of 53.0 ft. (which is substantially lesser than the maximum 60.0 ft. depth permitted), limits the options for design modifications to shift the dwelling to the rear in order to accommodate the required front yard setback.

Further, with respect to the broader neighbourhood context, with the exception of the four lots west of the subject site and the one lot immediately to the east, all of which observe larger setbacks, the placement of the proposed dwelling would be consistent with, or exceeding the front yard setbacks of the remaining ten lots in the subject block to the east. These front yard setbacks gradually decrease from 52.6 ft. at 5470 Hardwick Street (second lot to the east of the subject site) to approximately 32.0 ft. at the last lot at the eastern terminus of the subject block. Therefore, the proposed siting of the dwelling would not be out of character within the existing context.

In summary, considering the development pattern in the subject block, the proposal would have minimal effects on neighbouring properties and the existing streetscape. Furthermore, it appears that the proposal is reaching a balance between minimizing impacts on the neighbourhood and meeting the applicant's development needs. As such, this Department does not object the granting of this variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the homeowner of 5460 Hardwick Street in opposition to this appeal.

Correspondence was received from the homeowners of 5476 Hardwick Street in opposition to this appeal.

Geraldine Mattis, 5460 Hardwick Street, appeared and spoke in opposition to the appeal.

Sean, representing his parents Bing Xu and Jian Tong owners 5445 Hardwick Street, appeared and spoke in opposition to the appeal.

Jessica Mitchel, 5467 Hardwick Street, appeared and spoke in opposition to the appeal.

No further submissions were received regarding this appeal.

MOVED BY MR. PEPPARD
SECONDED BY MR. POUND

THAT based on the plans submitted this appeal be DENIED.

CARRIED

OPPOSED: R. DHATT

(e) **APPEAL NUMBER:** B.V. 6301

APPELLANT: Jeevan Singh Saini

REGISTERED OWNER OF PROPERTY: Jeevan Saini, Inderneet Mann, Balbir Saini, and Baljinder Saini

CIVIC ADDRESS OF PROPERTY: 8263 19th Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 7: DL: 25 and 27: Plan: 14904

APPEAL: An appeal for the relaxation of Section 110.12(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with secondary suite and detached garage at 8263 19th Avenue. The following variances are being requested:

- a) Construction of a 3 foot high fence in the required front yard along the South, East and West property lines where no fence is permitted; and,
- b) Construction of a retaining wall ranging in height from 1.25 feet to 8 feet in the required front yard along the South, East and West property lines where no fence or other structures are permitted in front of the face of the principal building facing the front yard. Zone R10

APPELLANT'S SUBMISSION:

Jeevan Saini, homeowner, submitted an application to allow for construction of a fence and retention of retaining walls in the front yard of his new home at 8263 19th Avenue.

Mr. Saini and Ms. Inderneet Mann appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject property is located in the Second Street area, in a mature R10 District neighbourhood, characterized by low-scale single family dwellings. The R10 District in this area was established in 1995 through an area zoning process, at the request of residents, to control the form and character of new development. The subject lot measures 50.24 ft. in width and 146.72 ft. in depth. This interior site fronts onto Nineteenth Avenue to the southeast, and backs onto the lane to the northwest. There are single family dwellings to the northeast, southwest, across the Nineteenth Avenue to southeast, and across the lane to the northwest of the subject site. Vehicular access to the subject site is from the rear lane. The site observes a substantial descending slope of approximately 14.45 ft. from the front to the rear.

A new single family dwelling with secondary suite and a detached garage is already built on the site which is the subject of this appeal.

The first a) appeal is to permit 3.0 ft. height fences in the required front yard where no fence is permitted and the second b) appeal is to permit retaining walls in the required front yard where no fence or other structure is permitted in front of the face of principal building facing front yard. Both appeals are correlated and reviewed together.

Both appeals are to permit retaining walls with fences on top of the walls at the Nineteenth Avenue frontage where no fence or other structure is permitted in front of the face of the principal building facing the front yard.

The intent of the R10 District is to maintain the existing development pattern of the neighbourhood, which generally contains open lawns and a minimum of fencing. The R10 zone was created in response to the residents' desire to ensure that all new

development recognized the unique R10 architectural and landscape context. The R10 streetscape is characterized by low building profiles, uniform front yards, and the absence of fences.

This proposal differs from the approved Building Permit with respect to the site grading in the southeastern portion of the subject site, fronting onto Nineteenth Avenue. In the approved proposal, grading in this portion of the site sloped gradually 5.0 ft. to 6.0 ft. from the front property line to the face of the dwelling with a slowly stepping down pathway.

The applicant proposes to flatten the first half of the front yard from the street, and to add stairs down with planter/retaining walls parallel to the street in the middle of the front yard and to expand the flat portion of the front yard in front of the dwelling. Due to the sudden drop in grades, retaining walls were built on both side of the property with 3.0 ft. height aluminum fences on top of them.

The retaining wall along southwest property line is built along the whole length of the property with the 8.0 ft. height portion in the front yard between the planter and the dwelling. The height is reduced towards the street due to the stepping up of the planter and the rising grade. The wall is very exposed and highly visible from the street and from the front yard of the neighbouring property to the northeast.

The retaining wall along the northeast property line in the front yard has the height of approximately 2.67 ft. between the planter and the dwelling. This wall has very limited exposure from the street and from the southwesterly neighbours.

The planter creates two steps down from the street towards the dwelling: the first, 1.25 ft., the second, 3.25 ft. and the planter retaining walls are not visible from the street level.

The proposed 3.0 ft. height aluminum fences on all of the retaining walls will be visible from the street and from all properties surrounding it. Fences placed parallel to the street are particularly disjunctive in the R10 zone. The fences or guardrails on top of the retaining walls are to mitigate the possibility of falling; however, various options exist with respect to creating barriers against falling, like hedges or other landscape solutions (which would be permissible in this zone) or by eliminating the danger of falling by creating more gradual landscaped "steps" in the front yard.

Given that this request would impact the neighbouring properties and jeopardize the fence-free and structure-free character of the streetscape, and defeating the intent of the neighbourhood initiated R10 Residential District regulations, this Department cannot support the granting of the first a) and second b) variance.

ADJACENT OWNER'S COMMENTS:

A petition letter in support of the variances being requested was received signed by residents of 8256, 8262, 8270, 8278, 8249, 8275 19th Avenue; 7341 and 7307 Newcombe Street; 8248, 8274 and 8280 Wedgewood Street. The petition read as

follows:

"We, the neighbourhood citizens, petition the Board of Variance to Appeal Inderneet Mann's Burnaby Zoning Bylaw violation and permit him to maintain the retaining walls and build fencing on his property.

We have been aware of the retaining walls since construction and have not had any concerns regarding them. We feel that there is an extreme safety hazard to the community, our children, and the elderly homeowners residing at 8263 19th Ave, Burnaby, BC. The retaining walls do not impact the aesthetic of the community, and the proposed design of the fencing is appealing and fits with the neighbourhood décor.

Requiring a change in design would put an unnecessary burden on Inderneet Mann as well as disrupt the peace within the community and add substantial safety risks to everyone. Because of this, we believe that an appeal should be granted and that Inderneet Mann should be allowed to keep the retaining walls and add fencing."

Correspondence was received from the homeowner of 8257 19th Avenue in support of the appeal.

Correspondence was received from the homeowner of 8271 19th Avenue in support of the appeal.

Rob Arseneault, 8249 19th Avenue, appeared and spoke in support of the appeal.

Holly MacIntosh, 8262 19th Avenue, appeared and spoke in support of the appeal.

No further submissions were received regarding this appeal.

MOVED BY MR. PEPPARD
SECONDED BY MR. POUND

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

CARRIED

OPPOSED: C. RICHTER
S. NEMETH

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

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

CARRIED

OPPOSED: C. RICHTER
S. NEMETH

(f) **APPEAL NUMBER:** B.V. 6302

APPELLANT: Yu Guan

REGISTERED OWNER OF PROPERTY: Yu Guan

CIVIC ADDRESS OF PROPERTY: 7991 Gray Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 5; DL 157; Plan 15273

APPEAL: An appeal for the relaxation of Sections 102.7, 102.8(1), 102.10, and 6.14(5)(a) of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of a new single family dwelling with secondary suite and attached garage at 7991 Gray Avenue. The following variances are being requested:

a) A principal building depth of 67.83 feet, where a maximum depth of 44.16 feet is permitted;

b) A front yard setback of 13.99 feet, where a minimum setback of 24.60 feet is required based on front yard averaging;

c) A rear yard setback of 5.09 feet, where a minimum setback of 29.50 feet is required; and,

d) Construction of a retaining wall ranging in height from 3.80 feet to 5.06 feet in the required front yard, where the maximum wall height of 3.51 feet is permitted. Zone R2

APPELLANT'S SUBMISSION:

Diana Yu Guan, homeowner, submitted an application to allow for construction of a new single family dwelling at 7991 Gray Avenue.

Ms. Guan 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 Sussex-Nelson area which is a mature single family neighbourhood. This irregular (roughly trapezoid shaped) corner lot measures 80.53 ft. in width (along the west rear property line) and 99.94 ft. in depth (along the longer north side property line). The subject site fronts onto Gray Avenue to the east and flanks McKee Street to the south. Directly at the intersection of these two streets, Gray Avenue (which runs in the south-north direction) offsets approximately 35.0 ft. to the west at approximately 33 degree angle and continues further to the north. As a result of this Gary Avenue alignment, the south-east portion of the subject lot is significantly truncated. Single family dwellings

abut the subject site to the west and north. Vehicular access to the subject site is proposed to be relocated from Gray Avenue to McKee Street; there is no lane access. The site observes a substantial downward slope of approximately 10.0 ft. in the north-south direction.

The subject site is proposed to be re-developed with a new single family dwelling with a secondary suite and an attached garage, for which four variances have been requested.

The first a) appeal is to vary Section 102.7(a) - "Depth of Principal Building" of the Zoning Bylaw from 44.16 ft. (based on 50% of the lot depth) to 67.83 ft. to allow the construction of the proposed single family dwelling.

The intent of the Bylaw is to prevent the creation of overlong houses which present a long "wall" to the neighbouring properties.

In this case, the subject dwelling exceeds the maximum permitted building depth by 23.67 ft. and this excess depth occurs along the whole width of the proposed dwelling (24.33 ft.), on all levels: cellar, main and upper level.

It is noted that the subject site provides generous side yard setbacks: 26.33 ft. to the south, (flanking McKee Street), and 29.87 ft. to the north (where a minimum side yard setback of 4.9 ft. and 11.5 ft. from flanking street is required), which would help mitigate massing impacts of the proposed excess building depth. Additionally, the neighbouring property to the north is at a higher level in relation to the subject lot and contains an accessory building in the rear yard, at its southwest corner, which would further alleviate the impacts of this variance request. It is also noted that the proposed building depth would be consistent with the currently existing building on the subject site, which is approximately 68.0 ft. deep. In fact, the placement of the proposed dwelling would be similar to the location of the existing residence.

However, despite the above noted mitigating factors, the requested building depth variance (23.67 ft.) is a major variance and there is a concern that the 67.83 ft. long and two-storey high north elevation will present a long "wall" to the neighbouring property to the north. It is also noted that the need for this variance is related to the design decisions with respect to the proposed orientation of the dwelling towards McKee Street rather than Gray Avenue.

In summary, although it is recognized that the site geometry presents a challenge, a need for this variance is largely related to a design choice rather than related entirely to a hardship. Therefore, this Department cannot support the granting of the first a) variance.

The second b) appeal is to vary Section 102.8(1) – "Front Yard" of the Burnaby Zoning Bylaw from 24.60 ft. to 13.99 ft. to allow the proposed single family dwelling to encroach into the required front yard abutting Gray Avenue. Section 6.12 – "Yards" of the Zoning Bylaw which allows specific projections into the front yard will also be

applicable.

The intent of the Bylaw is to mitigate the massing impacts of new buildings and structures on neighbouring properties and to preserve a unified streetscape.

In this case, the front yard averaging requirement does not apply as the two properties to the north of the subject site, at 7981 and 7957 Gray Avenue; observe shallow front yard setbacks of 21.66 ft. and 19.83 ft., respectively, and as such, do not trigger a need for the averaging as stipulated by the Zoning Bylaw.

As discussed above, the truncated south-east portion of the subject property results in an irregular front (east) property line. Starting from the north-east corner, this front property line runs for the first 24.6 ft. to the south and then turns at approximately 33 degree angle and runs for the remaining 66.5 ft. to the most southeast corner of the site.

The proposed siting locates the dwelling in front of the angled portion of the front property line. With the proposed generous north side yard (29.83 ft.), the dwelling would not overlap the straight (northern) portion of the front (east) property line. The proposed staggered design of the front (eastern) façade of the dwelling reflects the angled alignment of the front property line.

The proposed front yard setback of 13.99 ft. is measured perpendicular from the most south-east corner of the dwelling (the closest point) to the angled portion of the front property line. However, if the straight (northern) portion is considered, the dwelling would observe a setback of approximately 27.0 ft., which substantially exceeds the required front yard setback (24.6 ft.). In fact, the proposed siting would place the subject dwelling approximately 5.34 ft. behind the neighbouring residence immediately to the north. Therefore, this variance would not create negative impacts on this residence.

With respect to the neighbouring dwellings directly across Gray Avenue (east) and across McKee Street (south), the proposed staggered design at the eastern facade of the dwelling, in combination with distant siting of these residences, would help reduce impacts of the front yard encroachment within the angled portion of the front yard.

Further, with respect to the broader neighbourhood context, the placement of the proposed dwelling slightly behind the residence immediately to the north (and consistent with the current dwelling on the subject site), as well as its stepping design addressing the angled portion of Gray Avenue, would fit within the existing context.

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

The third c) appeal is to vary Section 102.10 - "Rear Yard" of the Zoning Bylaw from 29.5 ft. to 5.09 ft. to allow the construction of the proposed single family dwelling.

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 subject dwelling encroaches into the required rear yard by 24.41 ft. on all floor levels, with a window bay (6.67 ft. wide) protruding an additional 1.5 ft. on the main floor. The proposed dwelling directly overlaps the neighbouring residence to the west; this residence is fronting onto McKee Street and observes a side yard setback of approximately 4.0-5.0 ft. along the shared property line. There is a concern that the two-storey form of the new dwelling will create large impacts on the front yard of the neighbouring property to the west, although the current dwelling on the subject site (which is one-storey high) observes a similar setback and is located further to the south as compared to the siting of the proposed dwelling.

With respect to outdoor living area, a large green area would be available in the generous north side yard (almost 30.90 ft. wide).

However, as noted under comments for the first a) appeal, a need for this variance is related to the proposed orientation of the dwelling towards McKee Street rather than Gray Avenue.

In summary, the 24.41 ft. encroachment into the required rear yard is significant and will create impacts on the neighbouring property to the west. Further, this variance appears to be a result of the design choice. Therefore, this Department cannot support the granting of the third c) variance.

The fourth d) appeal is to vary Section 6.14(5)(a) - "Fences" of the Zoning Bylaw from 3.51 ft. to 3.80 ft., 4.56 ft. and 5.06 ft. with respect to the maximum permitted height for fences and walls located in the required front yard.

The intent of the Bylaw in limiting the height of retaining walls to a maximum of 3.51 ft. in the required front yard is to ensure unified 'open' front yards and to limit the massing impacts of such structures on neighbouring properties.

In this case, the proposal is to alter the front yard along the Gray Avenue frontage, from a continuously sloping terrain, with a drop of approximately 7.0 ft. in 35.0 ft., to terraced structures that provide flat planters and an exterior access/sunken patio for the secondary suite. In order to negotiate the grade difference retaining walls are proposed, some of which exceed the permitted height. The most northern retaining wall, which starts at the north-east corner of the dwelling and continues towards Gray Avenue, is proposed to be 3.80 ft. high, marginally higher (0.29 ft.) than the permitted height (3.51 ft.). The retaining walls around the access area/sunken patio are proposed to be 5.06 ft. (north) and 4.56 ft. (south) in height. Both retaining walls are not visible from the street and therefore, would not impact the neighbouring properties.

However, although the site geometry and topography is a contributing factor, again, a need for this variance appears to be related to the design decision to orient the dwelling's frontage towards McKee Street, with the Gray Avenue side containing more private activities (sunken patio), as oppose to typically more formal arrangements of front yards.

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

In conclusion, it appears that all four requested variances are a result of the assumed site orientation with a frontage onto McKee Street to south, a rear yard to the north and a side yards to the west and east (flanking Gray Avenue). This assumed site orientation reflects the current dwelling's appearance on the subject site. The current dwelling, which was built around 1957 and before the Zoning Bylaw was elected (1965), is legal non-conforming with respect to the front yard, rear yard and bulging depth.

According to the City records, a 12 ft. front yard along Gray Avenue and 21.6 ft. side yard along McKee Street was identified as per Permit 7663-A. Further, this historically established orientation is consistent with the majority of the lots in the subject block (four, including subject lot, out of five lots). A new development proposal must be based on the same orientation principal in addition to all other current Zoning Bylaw requirements. (A legal non-conforming status ceases to exist with a new development.)

Nevertheless, with respect to the second b) variance, this Department's position is that there are sufficient grounds for hardship with respect to the front yard variance request, considering the restrictive site geometry and minimal impacts on the neighbourhood, and there are no objections to the granting of this second b) appeal only.

ADJACENT OWNER'S COMMENTS:

An email was received from 4655 McKee Street expressing concern with the excavation work, proposed retaining wall and the negative impact this may have on her 2 60+ year old cedar trees. A City of Burnaby tree inspector advised that the excavation would not have any serious effect on the health of the trees in front of 4655 McKee Street.

A petition letter in support of the variances being requested was received signed by residents of 7930, 7950, 7970, 7980, 7981, 7990, 8015, and 8049 Gray Avenue; and 4655 McKee Street. The petition read as follows:

"This is to confirm we are aware of the Guan's new construction plans, and we do not oppose the variances in the Board of Variance Letter."

No further submissions were received regarding this appeal.

MOVED BY MR. NEMETH
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

MOVED BY MR. NEMETH
SECONDED BY MR. PEPPARD

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

CARRIED UNANIMOUSLY

4. NEW BUSINESS

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

5. ADJOURNMENT

MOVED BY MR. POUND
SECONDED BY MR. DHATT

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 7:50 p.m.

Ms. C. Richter, CHAIR

Mr. R. Dhatt

Mr. S. Nemeth

Mr. W. Peppard

Ms. M. Macdonald
ADMINISTRATIVE OFFICER

Mr. B. Pound