



BOARD OF VARIANCE

MINUTES

A Hearing of the Board of Variance was held in the Council Chamber, Burnaby City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, **2017 November 02** 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, Supervisor – PPA/Subdivision Approvals
Ms. Monica Macdonald, Administrative Officer

The Chair called the meeting to order at 6:04 p.m.

2. MINUTES

(a) Minutes of the Board of Variance Hearing held on 2017 October 05

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

THAT the minutes of the Burnaby Board of Variance Hearing held on 2017 October 05 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.

(a) **APPEAL NUMBER:** B.V. 6307

APPELLANT: Zach Switzer

REGISTERED OWNER OF PROPERTY: Zach Switzer and Erika Switzer

CIVIC ADDRESS OF PROPERTY: 4802 Oaktree Court

LEGAL DESCRIPTION OF PROPERTY: Lot 82; DL 82; Plan NWP56119

APPEAL: An appeal for the relaxation of Section 104.9 of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of interior alterations, an addition and a new secondary suite to an existing single family dwelling at 4802 Oaktree Court, with a front yard setback of 24.50 feet where a minimum set back of 30.30 feet is required based on front yard averaging. Zone R4.

The front yard setback was **AMENDED** from 24.70 feet to 24.50 feet.

APPELLANT'S SUBMISSION:

Zach Switzer submitted an application for relaxation of the Burnaby Zoning Bylaw to allow for alterations, including construction of an addition and secondary suite, to his home.

Mr. Zach Switzer, homeowner, and Mr. Kevin Ratcliffe, 4810 Oaktree Court, appeared before members of the Board at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R4 Residential District, is located in the Marlborough area where majority of single family dwellings were built in the 1980's. This trapezoid shaped corner lot is 50.9 ft. wide along the Oaktree Court frontage to the west and 118.8 ft. deep along the south property line. The subject lot is flanked by Moscrop Street to the north; the north side property line runs at slight angle in relation to the south side property line (following the inclined section of Moscrop Street along this side of the subject property). To the east, south and across Oaktree Court (west) of the subject lot are single family dwellings. Across Moscrop Street (north), the site is bordered by the large green area of the Forest Lawn Cemetery. Vehicular access to the subject site is proposed to remain via Oaktree Court, with the existing vehicular access via Moscrop Street proposed to be removed. The lot is relatively flat with a downward slope of approximately 1.5 ft. from the rear to the front property line.

The subject site contains a 2-storey single family dwelling which was originally built in 1980. The applicant proposes various additions and interior alterations to the dwelling, including a 2-storey addition, enclosure of the attached carport into a garage and addition of a secondary suite. Only the front portion of the 2-storey addition, which will include the enclosure of the attached carport to create a garage, is the subject of this appeal.

The appeal is to vary Section 104.9 – “Front Yard” of the Zoning Bylaw from 30.30 ft., based on the front yard averaging, to the proposed 24.50 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 “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 front yard setbacks of the two neighbouring properties to the south: 4810 and 4820 Oaktree Court. These front yard setbacks are 29.50 ft. and 31.10 ft. respectively. The existing dwelling on the subject site observes a front yard setback of 24.50 ft. as measured to the foundation. It is noted that the existing dwelling is legal non-conforming with respect to the front yard averaging requirements; the building was constructed prior to the Zoning Bylaw Amendment (1991) to include front yard averaging requirements.

The 2-storey addition is proposed along the entire north side of the dwelling and will extend 10.2 ft. further to the rear (the second suite is proposed at the rear of this addition). The addition will also extend over the entire front portion of the dwelling, which is 1-storey in height. At the main floor, the front portion of the addition will contain an attached garage (which is proposed to replace the existing carport at the north-west corner of the dwelling). At the upper floor, the front portion of the addition will contain a games room; there is also a high volume of space proposed over the existing living room below, at the south-west corner of the dwelling. The whole front face of the addition would be aligned with the existing front façade of the dwelling, which results in the 5.6 ft. encroachment into the required front yard setback.

With respect to the neighbouring properties, some massing impacts are expected on the neighbouring property across Oaktree Court to the west; however, the presence of mature trees around the Oaktree Court frontage (and along the Moscrop Street side) will help mitigate these impacts. The neighbouring residence to the south would be minimally affected by a small increase to the roof/fireplace chimney massing related to the proposed high volume ceiling over the living room area. Otherwise, no other properties would be affected by this variance.

In reference to the broader neighbourhood context, the proposed addition does not generally alter the siting of the existing dwelling. The addition, while a design choice, will not affect the coherence of the streetscape or have significant impacts on the adjacent residences.

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

ADJACENT OWNER'S COMMENTS:

A petition was received from 4810 and 4820 Oaktree Court. The petition read:

"The undersigned have reviewed the proposal submitted by the applicant and have no concerns related to the set-backs on the front and side yards."

No further submissions were received regarding this appeal.

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

THAT based on the plans submitted, this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(b) APPEAL NUMBER: B.V. 6308

APPELLANT: Deirdre Spencer

REGISTERED OWNER OF PROPERTY: Eveline Rosin

CIVIC ADDRESS OF PROPERTY: 5307/5309 Schou Street

LEGAL DESCRIPTION OF PROPERTY: Lot 3; DL 74; Plan BCP47211

APPEAL: An appeal for the relaxation of Sections 105.9, 105.11, 105.8(1), and 105.7(2)(b) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new two family dwelling with a detached garage at 5307/5309 Schou Street. The following variances are requested:

a) A front yard setback of 8.64 feet, where a minimum set back of 19.70 feet is required;

b) A rear yard setback of 8.56 feet, where a minimum rear yard setback of 24.60 feet is required;

c) A principal building depth of 65.0 feet where the maximum building depth of 41.14 feet is permitted, based on 50% of the lot depth; and,

d) A principal building height, measured from the front average grade, of 25.51 feet, where a maximum height of 25.0 feet is permitted. The principal building height, measured from the rear average grade, will be 22.81 feet. Zone R5

The principal building height was **AMENDED** from 25.41 feet to **25.51** feet.

APPELLANT'S SUBMISSION:

Dierdre Spencer, Terra Firma Design Ltd., submitted an application for a relaxation of the Burnaby Zoning Bylaw to allow for construction of her client's new home.

Ms. Dierdre Spencer and Ms. Andrea Rosin-Healey, appeared before members of the Board at the Hearing.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject lot was created in 2011 by subdividing a single residential lot into three duplex lots, reference # SUB07-00056. The subject site, zoned R5 Residential District, is located in the Douglas-Gilpin neighbourhood, in which the age and condition of single and two family dwellings vary. This large interior lot is approximately 82.25 ft. deep (along the shallower south and north property line) and 138.5 ft. wide (along the longer north and south property line). The lot observes a frontage of approximately 26 ft. along Schou Street to the west, starting at the south-west corner of the lot; this is the width of the short section of the street right-of-way which then connects to the cul-de-sac, to the east terminus of Schou Street. The remaining portion of the front (west) property line, borders a lot which contains a two family dwelling. To the south and east the site abuts single family dwellings. Across the lane to the north, the site abuts partly a vacant lot (to the west) and partly a lot which contains a single family dwelling (to the east). These are the two remaining lots created by the above mentioned subdivision. Vehicular access is proposed via the north lane. The site is relatively flat with a downward slope of approximately 3.0 ft. in the south-north direction. The subject site is currently vacant.

The subject lot is unusual in that it is oriented laterally to its only road frontage, at the terminus of Schou Street along the western property line. Under Section 3 "Definitions" of the Zoning Bylaw, the front lot line of the property is the lot line that abuts Schou Street.

The subject lot is proposed to be developed with a new two family dwelling, with detached garages, for which four variances have been requested. The first a), second b) and third c) appeals are directly related to the site orientation and the fourth d) appeal relates to the building height and is indirectly related to the site orientation.

The first a), second b) and third c) appeals:

The first a) appeal proposes the relaxation of Section 101.8 – “Front Yard” of the Burnaby Zoning Bylaw from 19.7 ft. to 8.64 ft. The purpose of this variance is to allow construction of the proposed two family dwelling encroaching into the required front yard abutting the Schou Street. Section 6.12 – “Yards” of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

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

The second b) appeal is to vary Section 105.11 – “Rear Yard” of the Zoning Bylaw from 24.6 ft. to 8.56 ft. to allow construction of a new two 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 third c) appeal is to vary Section 105.8 – “Depth of Principal Building” of the Zoning Bylaw from 41.14 ft. to 65.00 ft. (based on 50 percent of the lot depth) to allow construction of a new two family dwelling.

The intent of the principal building depth requirements of the Zoning Bylaw is to prevent construction of dwellings that present long imposing walls, so that the massing of the building impacts the neighbouring properties.

As previously mentioned, all three variances a), b) and c) are related to the site orientation established by the only road frontage at the terminus of Schou Street along the western property line. This orientation results in the lot depth (82.25 ft.) which is substantially less than the lot width (138.5 ft.) and, therefore, could be considered affecting the design options available for the subject site.

The proposal is to orient the two family building under the assumption that the south lot line is the front lot line and consequently the north lot line is the rear lot line, with west and east lot lines as side lot lines. Consequently, the two units are proposed “side by side” (as opposed to “back to front” under the provisions of the Zoning Bylaw), with their fronts oriented to the south. The accessory building containing two one-car garages, also placed “side by side”, is proposed off the north lane.

Thus, the proposed dwelling would observe a 41.7 ft. setback from the south (assumed front) lot line; a 46.2 ft. setback from the north (assumed rear) lot line; and the building

length (assumed building depth) of 50.5 ft. measured parallel to the Schou Street frontage. Under the provisions of the Zoning Bylaw, however, the proposed dwelling observes a south side yard setback of 41.7 ft.; a north side yard setback of 46.2 ft.; a front yard setback of 8.64 ft.; a rear yard setback of 8.56 ft. and a building depth of 65.0 ft.

With respect to the first a) appeal, although the required front yard is reduced by 11.06 ft., no impacts are expected on the neighbouring two-family residence immediately to the west. This residence is fronting Schou Street to the south, with its side (east elevation) facing the subject site. In fact, the proposed dwelling would appear similar in form and in line with this residence. With the proposed generous south side yard (over 40.0 ft.), no impacts are expected on the neighbouring residence immediately to the south, which fronts the Schou Street cul-de-sac to the west, with the side (north elevation) facing the subject site.

With respect to the broader context, the proposed “reversed” orientation of the subject site would be consistent with the south-north orientation of the next five neighbouring dwellings to the west of the subject block. There would be no special relevance of this proposal with the neighbouring dwellings to the south, which observe varying setbacks and orientations along the Schou Street cul-de-sac. Therefore, no impacts are expected on the existing streetscape.

With respect to the second b) appeal, although the required rear yard is reduced by 16.04 ft., again, little impact is expected due to the distance between the proposed dwelling and the neighbouring residences to the east. The proposed dwelling would directly overlap the large green areas of the neighbouring properties’ rear yards. With respect to outdoor living area, although this proposal would not provide a sufficient green space in the rear yard immediately to the east of the dwelling, there is plenty of green space proposed within the generous side yards.

With respect to the third c) appeal, although the allowable building depth is exceeded by 23.86 ft., given the orientation, the proposed dwelling would not result in a long “wall” effect as viewed from the neighbouring properties to the south and north, considering the proposed stepped design. This design includes various recesses for porches/covered decks around the corners and substantial setbacks of the upper floor in relation to the main floor. The generous south and north side yards of over 40.0 ft. would further help to mitigate any impacts.

In summary, because the shallow depth of the subject lot represents a hardship, and considering this proposal’s limited impact on neighbouring properties and the existing streetscape, this Department supports the granting of all three: first a), second b) and third c) variances.

The fourth d) appeal:

The fourth d) appeal is to vary Section 105.7(2)(b) – “Height of Principal Building” of the Zoning Bylaw from 25.0 ft. to 25.41 ft., as measured from the front average grade, to allow construction of a new two 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 above, the front yard is measured from the west lot line (and the rear yard is measured from the east lot line). Consequently, the height of the residence is measured from the average natural grade of the west façade, which is the front façade under the provisions of the Zoning Bylaw (and from the average natural/proposed grade of the east façade which is the rear façade under the provisions of the Zoning Bylaw).

The proposed 0.51 ft. height encroachment is limited to the small area at the top of the upper roof, which would be set back approximately 9.5 ft. from the outermost building face. Considering the small scale of this encroachment and the setback, relatively little impact is expected on the neighbouring residence to the west. In addition, this residence features a limited amount of windows on the side (east elevation) facing the subject site.

It is noted that the proposed dwelling would observe a height of 22.81 ft. when viewed from the rear (east) property line, which is considerably less than the maximum height allowed by the Zoning Bylaw (25.0 ft.).

It should be noted also, that if the assumed “reversed” site orientation is considered, the proposed building height measures 23.76 ft. when viewed from the south elevation and 24.56 ft. when viewed from the north elevation, in which case a height variance would not be required.

Given the constraints of the site, and the limited impacts of the proposal on the neighbouring properties and the existing streetscape, this Department does not object to the granting of this fourth d) variance.

ADJACENT OWNER’S COMMENTS:

A letter was received from 5350 Schou Street in support of the appeal.

A letter was received from 5303 Schou Street 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 UNANIMOUSLY

MOVED BY MR. PEPPARD
SECONDED BY MR. NEMETH

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

CARRIED UNANIMOUSLY

MOVED BY MR. PEPPARD
SECONDED BY MR. POUND

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

CARRIED UNANIMOUSLY

MOVED BY MR. PEPPARD
SECONDED BY MR. NEMETH

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 6:15 p.m.

Ms. C. Richter, CHAIR

Mr. R. Dhatt

Mr. S. Nemeth

Mr. W. Peppard

Ms. M. Macdonald
ADMINISTRATIVE OFFICER

Mr. B. Pound