



## **BOARD OF VARIANCE**

### **MINUTES**

A Hearing of the Board of Variance was held in the Council Chamber, City Hall, 4949 Canada Way, Burnaby, B.C. on Thursday, **2018 May 03** at 6:00 p.m.

#### **1. CALL TO ORDER**

PRESENT: Mr. Wayne Peppard, In the Chair  
Mr. Rana Dhatt, Citizen Representative  
Ms. Brenda Felker, Citizen Representative  
Mr. Brian Pound, Citizen Representative

ABSENT: Mr. Stephen Nemeth, Chair

STAFF: Ms. Margaret Malysz, Development Plan Approvals Supervisor  
Ms. Monica Macdonald, Administrative Officer

The Administrative Officer called the meeting to order at 6:00 p.m.

#### **2. ELECTION**

##### **(a) Election of Chair**

MOVED BY MR. POUND  
SECONDED BY MS. FELKER

THAT Mr. W. Peppard be appointed as Chair of the Burnaby Board of Variance for the 2018 May 03 Hearing.

CARRIED UNANIMOUSLY

#### **3. MINUTES**

##### **(a) Minutes of the Board of Variance Hearing held on 2018 April 05**

MOVED BY MR. POUND  
SECONDED BY MR. DHATT

THAT the minutes of the Burnaby Board of Variance Hearing held on 2018 April 05 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. 6327

**APPELLANT:** Peter Smith

**REGISTERED OWNER OF PROPERTY:** Kitty Kit-Yu Cho

**CIVIC ADDRESS OF PROPERTY:** 8008 13<sup>th</sup> Avenue

**LEGAL DESCRIPTION OF PROPERTY:** Lot 2; DL 27; Plan 697

**APPEAL:** An appeal for the relaxation of Section 105.9 of the Burnaby Zoning Bylaw which, if permitted, would allow for construction of a new single family dwelling with a secondary suite and existing detached garage at 8008 13th Avenue, with a front yard depth of 20.67 feet where a minimum depth of 39.6 feet is required based on front yard averaging.

**APPELLANT'S SUBMISSION:**

Mr. Peter Smith, on behalf of the property owner, submitted an application to allow for the construction of a new single family dwelling with secondary suite.

Mr. Paul Aitken and Ms. Kitty Kit-Yu Cho, property owner, appeared before members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

The subject site, zoned R5 Residential District, is located in the Second Street neighbourhood in which the age and condition of single and two-family dwellings vary. This interior lot, approximately 51.28 ft. wide by 146.17 ft. deep, fronts onto Thirteenth Avenue to the northwest and abuts a lane to the southeast. Immediately across Thirteenth Avenue (to the northwest) and across the lane (to the southeast) are two family dwellings and immediately southwest and northeast of the subject site are single family dwellings. Vehicular access to the subject site is provided from the rear lane. The site observes a downward slope of approximately 12.6 ft. in the north-south direction.

The subject site is proposed to be redeveloped with a new single family dwelling, including a secondary suite, for which a variance has been requested. The existing detached garage is proposed to remain.

The appeal proposes the relaxation of Section 105.9 "Front Yard" of the Burnaby Zoning Bylaw from 39.60 ft. (based on front yard averaging) to 20.67 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required front yard abutting Thirteenth Avenue, as measured to the front porch post of the proposed single family dwelling. Section 6.12 "Yards" of the Zoning Bylaw which allows specific projections into the front yard will also be applicable.

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

In this case, the front yard averaging calculations are based on the front yard setbacks of the dwelling immediately southwest of the subject site at 8002 Thirteenth Avenue and the two dwellings immediately northeast of the subject site at 8012 and 8018 Thirteenth Avenue. The front yard setbacks for these properties are 24.57 ft., 67.89 ft. and 26.34 ft. respectively. The property at 8012 Thirteenth Avenue, immediately northeast of the subject site, affects these calculations.

As mentioned above, the front yard setback is measured to the front porch post located in the middle of the front elevation, which is one storey; there is no upper floor proposed. In relation to the front porch post, the main face of the building would be set back an additional 4.29 ft. at the central/eastern portion and 9.29 ft. at the western portion.

With respect to the existing streetscape, the proposed siting would place the subject dwelling 3.9 ft. in front of the neighbouring dwelling to the southwest and 47.22 ft. in front of the neighbouring dwelling to the northeast. If the "corner to corner" relation is considered, based on the submitted survey it is estimated that the proposed dwelling would be approximately 2.0 ft. behind the neighbouring dwelling to the southwest and approximately 43.0 ft. in front of the neighbouring dwelling to the northeast, but approximately 2.0 ft. in front of the second neighbouring dwelling to the northeast.

The proposed siting of the main body of the subject dwelling would be approximately 3.0 ft. closer to the front property line in comparison to the siting of the existing dwelling on the subject site; the existing dwelling observes a front yard setback of approximately 28.0 ft. Therefore, this variance would not create a substantial change in the massing relationship between the proposed dwelling on the subject site and neighbouring dwellings.

Further, with the exception to the property immediately northeast of the subject site, the varied setbacks proposed on the front elevation alleviate the massing impacts of the reduced front yard setback on the properties immediately to the southwest and northeast of the subject site. With respect to the property directly northeast of the subject site, considering the distant placement of the residence to the rear of this property (there is no direct overlap between this residence and the portion of the subject dwelling encroaching into the required front yard), any relevance of front yard averaging in this particular case could be questioned.

With reference to the broader neighbourhood context, the front yard vary on the subject block, from approximately 15.0 ft. at 8024 Thirteenth Avenue (third lot to the northeast of the subject site) to 67.89 ft. at 8012 Thirteenth Avenue (immediately adjacent lot to the northeast) and the average setback is approximately 26.0 ft. As such, the siting of the proposed dwelling would not be out of ordinary within the existing neighbourhood context.

With respect to hardship, the requested variance is partly the result of a design choice: with the proposed generous rear yard (over 65 ft. deep), there is room to relocate the proposed dwelling farther to the rear of the property in order to comply with the front yard averaging requirement. However, there are grounds for hardship considering the existing development pattern in the subject block, which affects front yard averaging calculations.

In view of the above, and since the proposed development would create low impacts on neighbouring properties and the existing streetscape, this Department does not object the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. POUND  
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

(b) **APPEAL NUMBER: B.V. 6328**

**APPELLANT:** Bruno Trotolano

**REGISTERED OWNER OF PROPERTY:** Rafelina and Bruno Tortolano;  
Diana and Elio Tortolano

CIVIC ADDRESS OF PROPERTY: 5456/5458 Georgia Street

LEGAL DESCRIPTION OF PROPERTY: Lot 107; DL 127; Plan  
NWP48332

APPEAL: An appeal for the relaxation of Section 6.3.1 of the Burnaby Zoning Bylaw, which if permitted, would allow for construction of a new detached garage on a lot with an existing two family dwelling at 5456/5458 Georgia Street. The proposed distance between the principal building and the new garage is 4.0 feet, where the minimum distance between buildings on the same lot is 14.8 feet.

APPELLANT'S SUBMISSION:

Mr. Bruno Tortolano, property owner, submitted an application to allow for the construction of a new detached garage.

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

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R4 Residential District, is located in the Parkcrest-Aubrey neighbourhood in which the age and condition of single and two family dwellings vary. This corner lot, approximately 72.0 ft. wide by 122.0 ft. deep, fronts onto Georgia Street to the north and flanks Howard Avenue to the east. Single family dwellings abut the subject site on all four sides. Vehicular access to the subject site is proposed to remain via the rear lane to the south. The site observes a substantial downward slope of approximately 13.0 ft. from front to rear.

The subject property is improved with a two family dwelling with an attached carport/rear deck, built in 1975. The site is proposed to be further improved with a new detached garage, for which a variance has been requested.

The appeal proposes the relaxation of Section 6.3.1 "Distance between Buildings on the same Lot" of the Zoning Bylaw to allow the construction of a new detached garage. The proposed distance between the detached garage and the principal building is 4.0 ft., where a minimum distance of 14.8 ft. is required.

The Bylaw requires a separation between buildings on the same lot to ensure that the overall massing of the buildings does not have a negative impact on the subject property and neighbouring properties, as well as to provide for sufficient outdoor living space.

The proposed 23.50 ft. wide by 19.18 ft. deep accessory building, which would contain two one-car garages placed side by side, is proposed in the center of the rear yard. These detached garages would observe a 4.08 ft. setback from the rear lane, which is

slightly more than the minimum setback required for an accessory building (3.94 ft.). The 4.0 ft. distance between two structures is measured from the north face of the proposed detached garages to the outermost south face of the existing rear deck (the carport below would be replaced with a concrete patio). This deck, approximately 25.33 ft. wide and 17.0 ft. deep, projects (approximately 17.0 ft.) from the middle of the rear elevation. Therefore, if the separation between the proposed detached garage and the rear building face is considered, the measurement would be approximately 21.0 ft. In this context, the reduced separation between the two structures would not have impacts on the interior of the dwelling.

With respect to the rear deck/patio areas, some impacts are expected on the patio uses; the proposed accessory building would overlap the rear deck/patio for almost the entire width (21.08 ft.). It appears however, that a sense of over enclosure would be mitigated by the fact that the detached garages are proposed within the portion of the lot where the lowest grades occur. Due to the grade drop within the rear yard, the proposed garage slab level (at 101.4 ft.) would be approximately 4.6 ft. below the concrete patio level (assumed to be at 106.0 ft.) underneath the raised deck. This will result in the lesser exposed wall height at the north side of the garages (facing the dwelling), approximately 7.0 ft. to the bottom of the fascia board (or 10.23 ft. to the top of the garage's sloping roof). The submitted drawings indicate that the top of the garage roof would be below the existing deck level; therefore, the garage will have no visual impacts on deck activities.

With respect to outdoor living space, this appeal would not reduce the green space available on this site; the proposed detached garages would be located within an area where the access driveway to the deck/carport structure currently exists. Further, there would still be outdoor living areas of over 1,000 sq. ft. in the rear yard to the west and east of the proposed detached garages.

Furthermore, since the reduced separation between the two structures would occur in the interior of the site, rather than close to the side property lines (over 24.0 ft. away from west and east side property lines), this relaxation would have little massing impacts on the adjacent properties to the west and across Howard Avenue to the east of the subject site.

In view of the above, and in the consideration of the challenges related to balancing the development needs with the existing site conditions, this Department does not object to the granting of the appeal.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. POUND  
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

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 6:14 p.m.

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Mr. W. Peppard, CHAIR

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Mr. R. Dhatt

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Ms. B. Felker

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Ms. M. Macdonald  
ADMINISTRATIVE OFFICER

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Mr. B. Pound