



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, **2019 May 02** at 6:00 p.m.

1. CALL TO ORDER

PRESENT: Mr. Stephen Nemeth, Chair
Mr. Rana Dhatt, Citizen Representative
Ms. Brenda Felker, Citizen Representative
Mr. Wayne Peppard, Citizen Representative

ABSENT: Mr. Jag Dhillon, Citizen Representative

STAFF: Ms. Margaret Malysz, Development Plan Approvals Supervisor
Ms. Lauren Cichon, Administrative Officer

The Chair called the meeting to order at 6:02 p.m.

2. MINUTES

(b) Minutes of the Board of Variance Hearing held on 2019 April 04

MOVED BY MR. DHATT
SECONDED BY MR. PEPPARD

THAT the minutes of the Burnaby Board of Variance Hearing held on 2019 April 04 be adopted.

CARRIED UNANIMOUSLY

3. APPEAL APPLICATIONS

(a) APPEAL NUMBER: B.V. 6360

APPELLANT: Sandy Jung

REGISTERED OWNER OF PROPERTY: Xiao Ling Chen

CIVIC ADDRESS OF PROPERTY: 2130 Jordan Drive

LEGAL DESCRIPTION OF PROPERTY: Lot: 146 DL: 131 Plan: NWP27789

APPEAL: An appeal for the relaxation of Section 102.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for interior alterations and convert the carport to a garage to an existing single family dwelling at 2130 Jordan Drive, with a front yard depth of 25.88 feet where a minimum depth of 31.64 feet is required based on front yard averaging. Zone R2.

APPELLANT'S SUBMISSION:

Ms. Sandy Jung, on behalf of the property owner, submitted an application to allow for interior alterations and convert the carport to a garage to an existing single family dwelling at 2130 Jordan Drive.

Ms. Sandy Jung and Mr. Donald Gunn, the property owner's husband, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R2 Residential District, is located in the Sperling-Broadway neighbourhood, in which the age and condition of single family dwellings vary. This irregular (skewed trapezoid) interior lot is 121.6 feet deep along its south (side) property line and 131.9 feet deep along its north (side) property lines, and has a gently curving frontage, of approximately 70.0 feet, onto Jordan Drive to the west. The site is bordered by single family residential lots all around. Along the southeast (rear) property line, the property is restricted by an approximately 15.0 feet wide easement for drainage purposes; Crab-Apple Creek runs through the neighbouring properties to the southeast, in close proximity to this property line. Vehicular access to the subject site is proposed to be retained from the Jordan Drive frontage; there is no lane access. The site observes a downward slope of approximately 10.1 feet from the northwest (front) to the southeast (rear) corner.

The subject site is improved with a two storey single family dwelling, including a basement and an attached carport, originally built in 1966. The site is proposed to be further improved with various exterior and interior alterations, including the enclosure/conversion of an existing attached carport into an attached garage. Only the proposed carport enclosure/conversion into a garage (construction of which has already started without the benefit of a building permit) is subject of this appeal.

The appeal is to vary Section 102.8(1) – "Front Yard" of the Zoning Bylaw from 31.61 feet (based on front yard averaging) to 25.88 feet to allow the enclosure/conversion of an existing attached carport into an attached garage, encroaching into the required front yard abutting Jordan Drive.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were being constructed 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 intent of the amendment was to harmonize the siting of new dwellings within the existing street frontage, and to minimize massing impacts.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings immediately north of the subject site at 2110 and 2120 Jordan Drive and the two dwellings immediately south of the subject site at 2150 and 2160 Jordan Drive. The front yard setbacks for these properties are 30.39 feet, 27.23 feet and 36.51 feet and 32.44 feet respectively.

This variance is directly related to the placement of the existing dwelling on the subject site. The existing dwelling observes a front yard setback of 25.88 feet, which is legal non-conforming with respect to the front yard requirement (the front yard setback of 25.0 feet was permitted by the Building Permit B17865 in 1966). This setback is measured from the west (front) property line to the northwest corner of the existing carport/proposed garage. The garage is proposed to remain within the existing footprint of the carport, which is attached to the southern portion of the west (front) building face.

Due to the skewed orientation of the dwelling in relation to the front property line, the front yard setback gradually increases to 27.96 feet at the southwest corner of the carport/garage, with the main body of the dwelling observing a much larger setback of 38.98 feet at the northwest corner.

The front yard encroachment is limited to the one storey garage area: 20.24 feet wide by 5.76 feet deep at the northwest corner, and gradually decreasing to 3.65 feet deep, at the southwest corner, due to the angled placement. Considering the small scale of this encroachment, the additional massing created by enclosing the existing carport structure, would not create significant impacts on the neighbouring properties. The generous side yard setbacks, approximately 30.0 feet to the north and 9.0 feet to the south of the garage encroachment area, would be further mitigating factors.

With reference to the broader neighbourhood context, there is no strong sense of a consistent streetscape due to the slightly curving alignment of Jordan Drive within the subject block. As a result, most of the neighbourhood residences are placed at slight angles in relation to their front property lines and in relation to each other. In consideration of this, a small garage enclosure encroachment would not be readily perceived within the existing neighbourhood context.

Considering that the proposed variance poses little impacts on neighbouring properties and the existing streetscape, and is directly related to the existing dwelling location, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the residents of 2131 Jordan Drive, 2150 Jordan Drive, and 2151 Jordan Drive supporting the requested variance.

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

(b) **APPEAL NUMBER:** B.V. 6361

APPELLANT: Darren Cielanga

REGISTERED OWNER OF PROPERTY: Darren Cielanga

CIVIC ADDRESS OF PROPERTY: 3860 Harper Court

LEGAL DESCRIPTION OF PROPERTY: Lot: B DL: 35 Plan: EPP80024

APPEAL: An appeal for the relaxation of Section 105.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with a secondary suite and attached garage at 3860 Harper Court, with a principal building depth of 58.23 feet, where the maximum building depth of 48.57 feet is permitted. Zone R5.

APPELLANT'S SUBMISSION:

Mr. Darren Cielanga, property owner, submitted an application to allow for the construction of a new single family dwelling with a secondary suite and attached garage at 3860 Harper Court.

Mr. Doug Chernoff, appeared on behalf of the property owner, before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R5 Residential District, is located in the Garden Village neighbourhood, in which the age and condition of single and two family

dwellings vary. This irregular interior lot is roughly pie shaped. The lot has a frontage of approximately 23.4 feet along the Harper Court cul-de-sac to the northeast. It is also approximately 97.14 feet deep as measured from the center of the curving front property line at the northeast portion of the site, to the center of the rear property line to the west.

The subject lot is one of the three single family lots created by Subdivision (SUB17-00011) in 2018. The subject lot and the lot immediately to the southeast are vacant lots. The third lot (4756 Smith Avenue), which overlaps the northern portion of the west (rear) property line of the subject site, contains the original single family dwelling.

The subject site abuts single family lots across the lane to the north (side) and across the Harper Court cul-de-sac to the northeast, and a two family lot to the west (rear), along the southern portion of the west (rear) property line. To the southeast (side) the lot is bordered by the above mentioned vacant lot. This lot was subject of the appeal BV 3656 before the Board on 2019 April 04 for a similar relaxation of the allowable building depth.

Vehicular access to the subject site is proposed via the lane to the north (side). The northwest (rear) corner of the site is restricted by an easement, 20.0 feet wide by 20.0 feet deep, to facilitate an access to 4756 Smith Avenue (to the west of the subject site) from the north lane. The site observes a relatively moderate downward slope of approximately 10.0 feet from the south (rear) corner to the northeast (front) corner.

A new single family dwelling with a secondary suite and an attached garage is proposed for the subject site, for which the following variance is requested.

The appeal is to vary Section 105.8(1) – “Depth of Principal Building” of the Zoning Bylaw requirement for the maximum building depth from 48.57 feet (based on 50 percent of the lot depth) to 58.23 feet to allow construction of a new single 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, where the massing of the building impacts the neighbouring properties.

In this case, the building depth calculation is based on the building depth as projected onto the lot depth, which is the line joining the center points of the front and rear property lines. Due to the site geometry, this line is angled in relation to the front and side property lines. The siting of the proposed dwelling is also rotated in relation to the lot depth line; the proposed dwelling would be generally oriented to the east (perpendicular to the Harper Court west-east alignment), with a “staggered” footprint along the southeast (side) property line and with a “parallel” footprint along the north (side) property line.

Measured along this line, the proposed projected building depth is 58.23 feet, which exceeds the maximum permitted building depth by 9.66 feet. The Bylaw requires the

building depth to not exceed the lesser of 50 percent of the lot depth or 60.0 feet. In this case, since the calculated lot depth is only 97.14 feet, the allowed maximum building depth is based on 50 percent of the lot depth.

It should be noted that with the same design on a regular lot, the proposed building length would be approximately 37.0 feet, as measured from the outermost front face (east) to the outermost rear face (west), and would not require a variance.

The proposed “staggered” footprint of the principal building along the southeast (side) property line is a response to the triangular shape of the site. As a result, the proposed dwelling would observe southeast (side) yard setbacks varying from 4.9 feet (at the closest building face) to approximately 29.0 feet (at the farthest building face at the northeast corner). Given this design and the rotated orientation of the subject dwelling with respect to the southeast (side) property line, the proposal would not create a long “wall” effect as viewed from the immediately adjacent property (the vacant lot to the southeast). The “staggered” massing of the dwelling, in both horizontal and vertical directions, would help to mitigate the massing impacts of the excess building depth along the southeast (side) property line.

Similarly, the proposal would not create a long “wall” effect as viewed from the neighbouring properties across the lane to the north. As mentioned before, the outermost face of the dwelling, parallel to the north (side) property line, would be approximately 37.0 feet long, which is substantially less than the allowed building depth.

In summary, given the challenging geometry of the subject site and a lack of impacts of the proposal on the neighbouring properties, this Department does not object to the granting of this appeal.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MS. FELKER
SECONDED BY MR. PEPPARD

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

CARRIED UNANIMOUSLY

(c) **APPEAL NUMBER:** B.V. 6362

APPELLANT: Guan Peng

REGISTERED OWNER OF PROPERTY: Guan Peng

CIVIC ADDRESS OF PROPERTY: 4678 Northview Court

LEGAL DESCRIPTION OF PROPERTY: Lot: 42 DL: 33 Plan:
NWP15118

APPEAL: An appeal for the relaxation of Section 104.9 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with a secondary suite and detached garage at 4678 Northview Court, with a front yard depth of 26.09 feet where a minimum depth of 37.85 feet is required based on front yard averaging. Zone R4.

APPELLANT'S SUBMISSION:

Mr. Guan Peng, property owner, submitted an application to allow for the construction of a new single family dwelling with a detached garage at 4678 Northview Court.

Mr. Guan Peng appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R4 Residential District, is located in the Marlborough neighbourhood, in which the age and condition of single and two-family dwellings vary. This interior lot, approximately 55.7 feet wide and 107.3 feet deep, fronts onto Northview Court to the north. With the exception of the southwest corner, single family dwellings abut the subject site to the west, east, directly across Northview Court to the north and across the lane to the south. Directly opposite the southwest corner (across the lane to the south) is a two family dwelling. The site observes an upward slope of approximately 8.8 feet in the north-south (front to rear) direction. Vehicular access to the site is provided from the rear lane (south).

The subject property is proposed to be re-developed with a new single family dwelling, including a secondary suite and an accessory detached garage.

The appeal is to vary Section 104.9 – “Front Yard” of the Zoning Bylaw from 37.85 feet (based on front yard averaging) to 26.09 feet to allow the construction of a new single family dwelling encroaching into the required front yard abutting Northview Court.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were being constructed 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 intent of the amendment was to harmonize the siting of new dwellings within the existing street frontage, and to minimize massing impacts.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings at 4664 and 4670 Northview Court immediately west of the subject site and on the front yard setbacks of the two dwellings at 4686 and 4694 Northview Court immediately east of the subject site. These front yard setbacks are 39.87 feet, 32.28 feet, 39.91 feet and 39.34 feet respectively. The current one storey dwelling on the subject site observes a front yard setback similar to 4686 Northview Court immediately to the east (39.91 feet).

The front yard setback is proposed to be reduced by 11.76 feet as measured to the foundation of the main body of the proposed dwelling, with the main roof overhangs projecting 2.0 feet further into the yard. The 10.67 foot wide front porch, proposed in the center of the two storey high front elevation, projects a farther 3.92 feet into the proposed front yard. There are also two light wells, at the cellar level, and two bay windows, at the upper level, proposed on both sides of the front porch, which project 3.0 feet and 1.5 feet respectively. All of these projections into the proposed reduced front yard are permissible projections into the required front yard.

With respect to the neighbouring residence to the west, the proposed siting would place the subject dwelling 6.19 feet in front of this residence. If the actual 'corner to corner' relationship is considered, however, the subject dwelling would project approximately 14.9 feet (this residence observes a distance of approximately 41.0 feet from the front property line to its northeast corner).

Although the neighbouring residence to the west observes an approximately 12.0 feet wide side yard (abutting the subject lot), which is substantially larger than the minimum required side yard setback (4.9 ft.), this residence features large windows on both levels facing the subject site. Therefore, there is a concern that the proposed 27.5 feet high two storey massing (from the finished grade to the roof peak) within the entire front encroachment area (11.76 feet) would affect views from this residence and would impact the privacy of its front yard.

With respect to the neighbouring residence to the east, the proposed siting would place the subject dwelling 13.82 feet in front of this residence. Although this residence does not feature large windows facing the subject site, there is a similar concern that that the proposed siting of the subject dwelling would create negative massing impacts on this property due to the two storey structure inside the entire encroachment area.

Further, the siting of the proposed dwelling would be approximately 13.82 feet closer to the front property line than the existing one storey dwelling on the subject site. In view of the above, the existing massing relationship between the subject property and the adjacent properties to the west, east and across Northview Court to the north (which are at a lower level) would be substantially changed. The proposed two storey massing inside the entire encroachment area provides no transition between the subject dwelling and the neighbouring residences.

With regard to the broader neighbourhood context, a strongly established block front exists in this case, with the majority of lots observing front yard setbacks in the range of approximately 39.0 feet. Therefore, the proposed siting would lack the harmony of the existing streetscape. The intent of the Bylaw to provide for siting a new dwelling into the existing context would be defeated.

Although the subject lot is a relatively shallow lot (107.3 feet), other design alternatives exist which would be more suitable for this site's dimensions. For example, a single family dwelling with an attached garage would have a lesser overall depth than if a detached garage is proposed.

The requested front yard reduction is a major variance which would create strong negative impacts on the neighbouring properties and the existing streetscape. It would defeat the intent of the Bylaw to integrate new development within an established neighbourhood.

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

ADJACENT OWNER'S COMMENTS:

The resident at 4670 Northview Court appeared before the Board expressing concerns regarding the loss of privacy, views, and enjoyment of the home.

Correspondence was received from the owners at 4686 and 4670 Northview Court opposing the purposed variance.

Correspondence was received from the owners at 4656, 4664 and 4694 Northview Court supporting the purposed variance.

MOVED BY MR. DHATT
SECONDED BY MR. PEPPARD

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

CARRIED UNANIMOUSLY

ADJACENT OWNER'S COMMENTS:

The resident at 4628 Northview Court requested permission to speak after the Board considered the application, BOV#6362:4678 Northview Court. With no objection from the Board members present, the Chair permitted the speaker to appear before the Board regarding 4670 Northview Court. Having listened to the speaker's concerns, the Chair advised the speaker and the Board that the concerns raised did not relate to the appeal being heard, and that the approval of the variance stands.

(d) APPEAL NUMBER: B.V. 6363

APPELLANT: Nikolai Golikov

REGISTERED OWNER OF PROPERTY: Nikolai and Olga Golikov

CIVIC ADDRESS OF PROPERTY: 3925 William Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 17 DL: 117 Plan: NWP1222

APPEAL: An appeal for the relaxation of Sections 105.9 and 105.10(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for exterior and interior alterations and a new detached garage to an existing single family dwelling at 3925 William Street. The following variances are requested:

a) a front yard depth of 30.0 feet, where a minimum depth of 31.75 feet is required based on front yard averaging; and,

b) a side yard setback of 4.8 feet, where a minimum setback of 4.9 feet is required. Zone R5.

APPELLANT'S SUBMISSION:

Mr. Nikolai Golikov, property owner, submitted an application to allow for exterior and interior alterations and a new detached garage to an existing single family dwelling at 3925 William Street.

Mr. Nikolai Golikov and Mr. Olga Golikov, Agent, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site is zoned R5 Residential District and is located in the Willingdon Heights neighbourhood, where the age and condition of the existing single and two family dwellings vary. This interior lot, approximately 50.0 feet wide and 121.7 feet deep, fronts onto William Street to the south. Single family dwellings abut the subject site to the west, east and across the lane to the north. Directly opposite the subject site across William Street (south) is an undeveloped lot owned by the City of Burnaby. The subject lot observes an upward slope of approximately 11.0 feet in the south-north (front to rear) direction. Vehicular access to the site is provided from the rear lane (south).

The subject property contains a two storey single family dwelling, which was built in 1990, consisting of an unfinished basement/attached garage and a main floor. The applicant proposes various additions and interior alterations, including finishing of the

basement, converting the attached garage into a livable space, the addition of an accessory detached garage and the addition of an open deck. Only the addition of an open deck is subject of the two requested variances. Both variances are related to the siting of the existing buildings on the subject site.

The first appeal a) is to vary Section 105.9 – “Front Yard” of the Zoning Bylaw from 31.75 feet (based on front yard averaging) to 30.0 feet to allow the construction of a new open deck encroaching into the required front yard abutting William Street.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were being constructed 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 intent of the amendment was to harmonize the siting of new dwellings within the existing street frontage, and to minimize massing impacts.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings at 3909 and 3915 William Street, immediately west of the subject site, and on the front yard setbacks of the two dwellings at 3935 and 3951 William Street, immediately east of the subject site. These front yard setbacks are 37.8 feet, 32.0 feet, 28.8 feet and 28.4 feet respectively.

The existing dwelling on the subject site observes a front yard setback of 30.0 feet, which is legal non-conforming with respect to the current front yard requirements. The new open deck would not increase this non-conformity. The 20.5 foot wide deck is proposed at the southeast corner of the dwelling, over an area where the attached garage currently exists. The deck floor is proposed to extend 1.0 foot farther into the front yard (as compared to the existing garage footprint), which is a permissible projection into the required front yard. The deck would be surrounded by a 3.5 foot high glazed guard.

Considering that this proposal is to replace the existing lower sloping roof (over the garage) with an open deck and glazed guard, the proposed 1.75 foot front yard encroachment would not essentially increase the bulk and massing of the existing dwelling. As such, it would not defeat the intent of front yard averaging, which is to ease new and larger dwellings into an existing neighbourhood.

Given the siting of the existing dwelling and the minimal impact of the proposal on the neighbouring properties, this Department does not object to the granting of the first a) appeal.

The second appeal b) is to vary Section 105.10(1) – “Side Yard” of the Zoning Bylaw from 4.9 feet to 4.8 feet to allow the construction of a new open deck.

The intent of the Bylaw to require a side yard is to mitigate the impacts of building massing on neighbouring properties.

The existing dwelling observes the east side yard setback of 4.8 feet. Again, the proposed new deck, build over the existing footprint of the attached garage, would not increase this non-conformity.

Considering the existing conditions and the marginal impact of the proposal on the neighbouring property to the east, this Department does not object to the granting of the second b) appeal.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

(e) **APPEAL NUMBER: B.V. 6364**

APPELLANT: Barry Chau

REGISTERED OWNER OF PROPERTY: Hsing Wen

CIVIC ADDRESS OF PROPERTY: 6205 Broadway

LEGAL DESCRIPTION OF PROPERTY: Lot: 21 DL: 130 Plan: NWP17004

APPEAL: An appeal for the relaxation of Sections 6.3.1 and 102.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for interior alterations, additions and a secondary suite to an existing single family dwelling at 6205 Broadway.

The following variances are requested:

- a) a distance between buildings on the same lot of 6.35 feet, where a minimum distance of 14.8 feet is required; and,
- b) a front yard depth of 29.50 feet, where a minimum depth of 33.88 feet is required based on front yard averaging. Zone R2.

APPELLANT'S SUBMISSION:

Mr. Barry Chau, on behalf of the property owner, submitted an application to allow for interior alterations and additions to an existing single family dwelling at 6205 Broadway.

Mr. Barry Chau and Ms. Hsing Wen, property owner, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R2 Residential District, is located in the Parkcrest-Aubrey neighbourhood, in which the age and condition of single family dwellings vary. This interior lot, approximately 60.0 feet wide and 112.8 feet long, fronts onto Broadway to the southwest. The subject site abuts single family lots on all four sides. Vehicular access to the subject site is provided from the rear lane to the northeast. The site observes a downward slope of approximately 9.0 feet from the rear to the front.

The subject property contains a two storey (including basement) single family dwelling and an accessory detached garage (originally a detached carport), built in 1971. Around 1983 improvements were made to the site, which were the subject of two appeals before the Board: on 1983 July 08 (BV 2612) and 1983 August 05 (BV 2633). In the first appeal a variance was sought to allow the construction of an in-ground swimming pool observing the rear yard setback of 6.0 feet, where a minimum rear yard setback of 9.84 feet was required. In the second appeal a variance was sought to allow the enclosure of the existing detached carport observing the rear yard setback of 3.7 feet, where a minimum rear yard setback of 3.94 feet was required. The Board allowed both appeals.

Now the applicant proposes further improvements to the existing single family dwelling, including a secondary suite addition, a two storey rear addition and a front porch addition (already constructed without the benefit of a building permit). As a result, two variances are requested: only the proposed two storey rear addition is subject of the first a) variance and only the proposed front porch addition is subject of the second b) variance.

The first appeal a) is to vary Section 6.3.1 - "Distance between Buildings on the same Lot" of the Zoning Bylaw requirement for the minimum distance from 14.8 feet to 6.35 feet to allow the rear addition to the existing single family dwelling.

The Bylaw requires a separation between a principal building and a detached garage 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 space.

The existing principal building observes a rear yard setback of 51.29 feet. The northeast corner of the rear yard is occupied by the accessory detached garage, 20.2 feet by 20.2 feet in size. The two storey (including basement) rear addition is proposed at the northern portion of the principal building; this placement results in an approximately 8.0 foot overlap where the distance between the proposed addition and the detached garage is compromised. Otherwise, the addition observes a rear yard setback of 30.5 feet, which slightly exceeds the required minimum rear yard setback (29.5 feet).

The proposed 22.0 foot deep by 34.0 foot wide addition contains a new secondary suite in the basement, with a light well along the northern face and a sunken patio immediately to the east, and a new kitchen and a new covered deck at the main level. The 9.3 foot wide by 21.0 foot deep deck is proposed to the east. Almost the entire width (approximately 8 feet) of the deck will overlap with the detached garage. Otherwise, only one (kitchen) window, west of the deck, would be within the required 14.83 foot separation zone. Therefore, there are minor impacts from this variance on the occupants of the subject residence. Further, the overlap area would be at least 18.0 feet away from the southeast shared property line, and this generous side yard setback helps to alleviate any possible impacts on the neighbouring property to the southeast.

Furthermore, this appeal would allow an approximately 650 square feet of green area to remain within the rear yard (excluding the surface parking for a secondary suite), to the northeast (rear) of the proposed addition. As such, the requested relaxation would have little impact with respect to outdoor space.

Considering the existing site conditions and the lack of impacts on the neighbouring properties and the subject site; this Department does not object to the granting of the first a) appeal.

The second appeal b) is to vary Section 102.8(1) – “Front Yard” of the Zoning Bylaw from 33.88 feet (based on front yard averaging) to 29.5 feet to allow the construction of a new front porch encroaching into the required front yard abutting Broadway.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were being constructed 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 intent of the amendment was to harmonize the position of the new construction within the existing street frontage, and to minimize massing impacts.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings at 6187 and 6197 Broadway immediately northwest of the subject site and on the front yard setbacks of the two dwellings at 6225 and 6245 Broadway immediately southeast of the subject site. These front yard setbacks are 30.4 feet, 32.5 feet, 32.7 feet and 39.9 feet respectively.

The existing dwelling on the subject site observes a front yard setback of approximately 33.8 feet, which is essentially in compliance with the current front yard requirements, and in line with the neighbouring properties immediately to the northwest and southeast. The setback is measured from the front property line to the exterior wall face of the front elevation at the main floor level; the main floor level projects 0.95 feet from the basement level. There is also a small area where the exterior wall projects 0.95 feet from the middle of the front elevation at the basement level; this is where a new front porch is proposed. The new 7.2 foot wide by 4.5 foot deep front porch consists of two posts and a flat roof. The proposed front yard setback is measured to the front porch posts, with the roof projecting a further 2.71 feet into the front yard.

Considering that the new front porch addition does not essentially increase the bulk and massing of the existing dwelling, the proposed 4.38 foot front yard encroachment does not impact the Broadway streetscape. Further, the central location of the proposed porch, away from the side property lines, mitigates impacts on the neighbouring properties on both sides of the subject site.

Given the existing conditions and the minimal impact of the proposal on the neighbouring properties and the existing streetscape, this Department does not object to the granting of the second b) appeal.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the owners at 6225 Broadway expressing concern for the loss of views, decreasing property values, and safety reasons.

MOVED BY MS. FELKER
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MS. FELKER
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

Prior to the commencement of this appeal (approximately 6:37 p.m.), Ms. Brenda Felker declared a conflict of interest and left the Council Chamber for the duration of this appeal.

(f) APPEAL NUMBER: B.V. 6365

APPELLANT: Vern Milani

REGISTERED OWNER OF PROPERTY: Vern and Nicole Milani

CIVIC ADDRESS OF PROPERTY: 5591 Oakland Street

LEGAL DESCRIPTION OF PROPERTY: Parcel "One" (Plan 11711)
except Parcel "F" (Plan
68816), DL 94, Group 1, New
Westminster District

APPEAL: An appeal for the relaxation of Sections 6.3(1)(b), 104.9 and 104.10(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for interior alterations, new secondary suite and new addition to an existing single family dwelling at 5591 Oakland Street. The following variances are requested:

a) a distance between overlapping exterior walls of the same building on the same lot of 12.5 feet, where a minimum distance of 14.76 feet is required;

b) a front yard depth of 15.63 feet, where a minimum front yard depth of 24.6 feet is required; and,

c) a side yard setback of 10.11 feet adjoining the flanking street, where a minimum side yard setback of 11.5 feet is required. Zone R4.

APPELLANT'S SUBMISSION:

Mr. Vern Milani, property owner, submitted an application to allow for interior alterations, new secondary suite and new addition to an existing single family dwelling at 5591 Oakland Street.

Mr. Vern and Ms. Nicole Milani 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 Windsor neighbourhood. Residences in this area include a mix of single and two family dwellings, of varying ages and conditions. This large corner lot, trapezoid shaped, is

approximately 159.58 feet wide and 154.52 feet deep along the east (longer) side property line. The site fronts onto Oakland Street to the south and flanks Elgin Place to the west. To the north, the site is bordered by a 10.0 foot wide lane right-of-way, which is undeveloped. Single family dwellings surround the subject site on all sides. Vehicular access is provided at the southeast tip of the lot, from the secondary Oakland Street connection, off Banff Place further to the east. There is a significant grade difference (over 41.0 feet) from the southwest (front) corner of the site to the northeast (rear) corner, but the site has been flattened over the years with several terraced areas supported by retaining walls along the edges.

The subject site is improved with a larger two storey single family dwelling with cellar and attached garage and a second smaller one storey single family dwelling, the origins of which go back to 1950s, prior to the enactment of the Zoning Bylaw in 1965. Over time, the site and both dwellings have undergone various renovations, including an addition to the rear of the smaller secondary dwelling (around 1984), reconstruction of sundeck to the rear of the larger dwelling (around 1986), an addition to the larger dwelling (around 1997), all of which were subject of successful appeals to the Board of Variance: BV 2858, BV 3128, BV 4485 respectively. All appeals were related to the fact that the site contains two single family dwellings. Around 2005, the site was further improved with a swimming pool and a related accessory (mechanical) space, which were approved under BLD04-01337.

The BC Local Government Act regulates that no addition or structural alteration can be made in a building while the non-confirming use is continued in all or any part of it, except one permitted by a Board of Variance. Until recently, the subject site enjoyed the status of legal non-confirming with respect to use: the site contains two single family dwellings where the R4 District does not permit two single family dwellings on the same lot.

Around 2017, the smaller dwelling on the property was largely demolished, with the intent to rebuild, all of which was carried out without the benefit of a building permit. However, the BC Local Government Act regulates that if a building or structure, the use of which does not conform to the provisions of a bylaw, is damaged or destroyed to the extent of 75% or more of its value above its foundations, such a structure must not be repaired or reconstructed except for a conforming use in accordance with the bylaw. In this case, the second single family dwelling could not be reconstructed with another single family dwelling existing on the subject lot. The smaller dwelling is currently the subject of an active Bylaw Code Case.

In attempt to resolve the unauthorized construction of the second single family dwelling on the subject site, the applicant is proposing various additions and exterior/interior alterations, including the addition of a secondary suite and conversion of an accessory mechanical building into a (mechanical) crawl space. As a result, three variances are requested in order for the currently pending building permit application BLD18-00260 to move forward.

The first appeal a) is to vary Section 6.3(1)(b) - "Distance between Buildings on the same Lot" of the Zoning Bylaw requirement for the minimum distance between overlapping exterior walls of the same building from 14.76 feet to 12.5 feet to allow the new additions and exterior/interior alterations to the existing single family dwelling.

The Bylaw requires a separation between overlapping exterior walls of the same building or of any two buildings in a group on the same lot to ensure that the overall massing of the building(s) does not have a negative impact on the subject property, as well as to provide for sufficient outdoor space.

The second appeal b) is to vary Section 104.9 - "Front Yard" of the Zoning Bylaw for the minimum front yard depth from 24.6 feet to 15.63 feet to allow the new additions to the existing single family dwelling.

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.

The third appeal c) is to vary Section 104.10(2) - "Side Yards" of the Zoning Bylaw requirement for the minimum side yard width from 11.5 feet to 10.11 feet to allow the new additions to the existing single family dwelling.

The intent of the Bylaw to require a side yard is to mitigate the impacts of building massing on neighbouring properties.

All three requests are related to the proposed addition of a secondary suite, which would replace the original second single family dwelling to the east of the main single family dwelling. The secondary suite is proposed to be connected to the principal dwelling by a small corridor link at its west elevation, where the master bedroom exists. By linking the two structures the proposed secondary suite would become fully contained within the single family dwelling and therefore, remove the non-conformity situation of two single family dwellings on a single lot.

With regard to the first variance a), the overlapping walls do not contain habitable rooms; only one small window on the interior east elevation (for the secondary suite bathroom) and two clerestory windows 8.0 feet above floor level, on the interior west elevation (for the master bedroom ensuite bathroom). These windows would not overlap directly; so the user's privacy would not be impacted. Also, approximately 78.0 square feet of the proposed corridor would have a little effect on the plentiful outdoor space existing on the subject site.

In view of the above and considering the relatively small scale of this request to reduce the required wall separation 14.76 feet by 2.26 feet, this Department does not object to the granting of this first variance a).

With regard to the second variance b), the requested 8.97 feet front yard encroachment is a major variance. However, there are several mitigating factors. The front yard setback is measured to the southwest corner of the principal building, which

is the closest point to the angled front property line. The front yard setback gradually increases to the east, up to approximately 31.0 feet at the southeast corner of the building.

The eastern portion of the principal building, which is the closest to the front property line, is where the secondary suite is proposed. This is also, where the original second single family dwelling existed since approximately 1948. The proposed one storey massing of the addition would be consistent with the previous structure. Therefore, this variance would not create a significant change to the existing conditions.

It should be noted that the subject site originally observed a much more generous front yard setback, of over 40.0 feet, until the mid-1980's when improvements of Oakland Street took place. At that time a large portion of the front yard was acquired by the City of Burnaby to accommodate the widening and re-alignment of Oakland Street (from the west-east direction to the angled west-southeast direction). Vehicular access to the site was also relocated from the Oakland Street frontage along the south property line (as per the original alignment), to the east side, at the southeast corner of the lot. As such, the subject site became legal non-conforming with respect to the front yard setback requirements. Since the proposed secondary suite would be essentially within the footprint of the original second dwelling on the subject site, this variance, if granted, would not increase this non-conformity.

With regard to the broader neighbourhood context, due to the dropping terrain, the proposed addition, which is at the lower level than the street level, would be almost entirely (except for the roof peak area) screened by a mature hedge along the front property line. As such, the siting of the proposed addition would have a minimal impact on the existing streetscape.

For all of the reasons stated above, this Department does not object to the granting of this second variance b).

With regards to the third variance c), again, the siting and massing of the proposed addition would be essentially consistent with the original second single family dwelling on the subject site. As such, there would be no significant change to the existing massing relationship between the proposed addition and the neighbouring residence to the west.

It is difficult to assess if the original second dwelling observed the same non-conforming side yard setback that has been requested for this addition. According to some City records, the original second dwelling observed a side yard setback of 15.71 feet on Elgin Street. However, City aerials do not support these records; it appears that the location of the addition (which has already commenced construction) is consistent with the original second dwelling which was set back at approximately 10.0 - 11.0 feet. Only the relatively small triangular area at the upper portion of the roof gable would be visible as viewed from Elgin Place (west); the remainder of the addition would be screened by a mature hedge along the east side property line. As a result, little impact is expected to result from the proposed side yard setback variance.

Considering all of the above and the relatively small scale of the requested 1.39 foot side yard encroachment, this Department does not object to the granting of this third c) variance.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the residents at 5830 Elgin Place, 5835 Elgin Place, 5850 Elgin Place, 5930 Elgin Place, 5935 Elgin Place, 5950 Elgin Place, 5975 Elgin Place, and 5855 Elgin Place opposing the requested variances.

Mr. Peppard, Board Member, referenced correspondence received regarding the appeal. Correspondence submitted identifies concerns in regard to the subject property. Based on the comments submitted, the Board requested additional information from staff prior to making a decision on the appeal. Arising from discussion, the Board introduced the following motion:

MOVED BY MR. PEPPARD
SECONDED BY MR. DHATT

THAT this appeal be **DEFERRED** to the next meeting.

CARRIED UNANIMOUSLY

Upon conclusion of this appeal (approximately 6:40 p.m.), Ms. Felker returned to the Board of Variance hearing and took her seat at the table.

4. **NEW BUSINESS**

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

5. **ADJOURNMENT**

MOVED BY MR. DHATT
SECONDED BY MR. PEPPARD

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:43 p.m.

Mr. S. Nemeth, CHAIR

Mr. R. Dhatt

Ms. B. Felker

Ms. L. Cichon
ADMINISTRATIVE OFFICER

Mr. W. Peppard