



## 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 July 04** at 6:00 p.m.

#### 1. CALL TO ORDER

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

STAFF: Mr. Maciek Wodzynski, Development Plan Technician  
Ms. Lauren Cichon, Administrative Officer

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

#### 2. MINUTES

##### (b) Minutes of the Board of Variance Hearing held on 2019 June 06

MOVED BY MR. DHATT  
SECONDED BY MS. FELKER

THAT the minutes of the Burnaby Board of Variance Hearing held on 2019 June 06 be adopted.

CARRIED UNANIMOUSLY

#### 3. APPEAL APPLICATIONS

##### (a) APPEAL NUMBER: B.V. 6368

APPELLANT: Gary Takhar, 78 Home Designs Ltd.

REGISTERED OWNER OF PROPERTY: Ann and Michael Frost

CIVIC ADDRESS OF PROPERTY: 6228 Thorne Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot: 1 DL: 173 Plan: NWP1034

APPEAL: An appeal for the relaxation of Section 6.3(1)(b) 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 6228 Thorne Avenue, with a distance between overlapping exterior walls of the same building on the same lot of 15.50 feet (4.72 meters), where a minimum distance of 24.61 feet (7.50 meters) is required. Zone A2.

APPELLANT'S SUBMISSION:

Mr. Gary Takhar, on behalf of the property owners, submitted an application to allow for the construction of a new single family dwelling with a secondary suite and attached garage at 6228 Thorne Avenue.

Mr. Tika Tran, representing 78 Home Designs Ltd., and Mr. Michael Frost, Homeowner, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned A2 Agricultural, Small Holdings District, is located in the Big Bend neighbourhood, which includes a mix of residential dwellings and agricultural buildings, of varying ages and conditions. This long and narrow rectangular lot is approximately 50.00 feet (15.24 meters) wide and 268.50 feet (81.84 meters) deep. The undeveloped site fronts onto Thorne Avenue to the north-west and the vehicular access is provided from that street. Single family dwellings surround the subject site on both sides. A small portion of the rear lot to the south is exposed to the curve of Willard Street. The remainder of the rear property line faces undeveloped BC Transportation properties to the south-east. The property is flat with a 1.32 foot (0.40 meters) elevation difference between the front and rear property lines.

The appeal 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 24.61 feet (7.50 meters) to 15.50 feet (4.72 meters).

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 overlapping walls are located in a niche in the middle of the south-western wall of the proposed dwelling. The north-west side of the niche, which is 2-storeys in height,

consists of a windowless staircase wall. The opposite, south-east niche wall, with a large dining room window on the ground floor and the master bedroom on the second floor, which has no windows on overlapping wall.

It is worth noting that the horizontal overlap of the two walls is only 11.00 feet (3.35 meters), however the vertical overlap is approximately 28.00 feet (8.50 meters), the entire two storey height. In this case, the maximum required distance of 24.61 feet (7.50 meters) should be provided between the walls. However, a distance of 15.50 feet (4.72 meters) is proposed.

Both walls overlap the entire area; however there are no windows located on the staircase wall and only one 6.00 x 6.00 feet (1.82 x 1.82 meters) dining room window on the ground floor of the opposite overlapping wall. There are no windows in the second floor bedroom facing the overlapping staircase wall. Besides the proposed window on the overlapping wall, the dining room has two other windows: 6.00 x 2.00 feet (1.82 x 0.61 meters) facing south-west and another 6.00 x 6.00 feet (1.82 x 1.82 meters) window facing south-east. With windows on three sides, the dining room will have an adequate amount of daylight.

The overlapping walls do not create a negative impact on the outdoor space. The more than 30.00 feet (9.00 meters) of front yard landscaping will provide outdoor space for the proposed secondary suite and there is an over 142.00 feet (43.00 meters) of rear landscaped yard devoted to the owner's outdoor space.

In summary, although the overlapping walls are created by design choices, there are no impacts on the subject property and outdoor space of the subject site and neighbouring property to south-west.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MS. FELKER  
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

**(b) APPEAL NUMBER: B.V. 6369**

APPELLANT: Navid Fereidooni, Krahn Engineering Ltd.

REGISTERED OWNER OF PROPERTY: 3267 Norland Holdings Ltd.

CIVIC ADDRESS OF PROPERTY: 3267 Norland Avenue

LEGAL DESCRIPTION OF PROPERTY: DL: 75 Plan: NWP73092

APPEAL: An appeal for the relaxation of Section 6.6(3)(c) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new industrial building with an accessory structure at 3267 Norland Avenue, with a height of 21.98 feet (6.70 meters) (sloped roof), measured from the front existing average grade, where a maximum height of 12.13 feet (3.70 meters) is permitted. Zone M2.

APPELLANT'S SUBMISSION:

Mr. Navid Fereidooni, on behalf of the property owner, submitted an application to allow for the construction of a new industrial building with an accessory structure at 3267 Norland Avenue.

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

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned M2 General Industrial District, is located in the Ardingley-Sprott neighbourhood, where the majority of industrial and commercial buildings were built in the 1960s, 1970s and 1980s. This slightly irregular corner lot has a curved frontage of approximately 462.00 feet (141.00 meters) onto Norland Avenue to the east. The south property line is approximately 151.00 feet (46.00 meters) long and faces an undeveloped portion of Laurel Street. The rear of the property, to the west, is approximately 341.00 feet (104.00 meters) deep and is separated from the elevated Trans-Canada Highway by a BC Hydro property located along the highway. The property line to the north is 318.00 feet (97.00 meters) long and borders an industrial building on the neighbouring property. There are two vehicular accesses to the subject site proposed from Norland Avenue to the east.

The site observes a slight downward slope of approximately 13.00 feet (4.00 meters) from the rear to the front. The subject lot is proposed to be redeveloped with an industrial building, with a detached accessory building, for which the following variance has been requested.

The appeal is to vary Section 6.6(3c) – “Accessory Buildings and Uses” of the Zoning Bylaw which if permitted would allow for the construction of an accessory structure with a height of 21.98 feet (6.70 meters), measured from the front existing average grade, where a maximum height of 12.13 feet (3.70 meters) is permitted.

The intent of the height requirements of the Zoning Bylaw is to mitigate the massing impacts of new buildings and structures on neighbouring properties and to preserve the views.

In this case, the height calculation is based on the average existing grade of 62.16 feet (18.95 meters) at the front elevation. The accessory building, located in the north-west corner by the property lines, is 22.04 feet (6.72 meters) high at the peak of the wash bay and a lower section is 10.54 feet (3.21 meters) high at the garbage room/shed. The garbage room/shed is within the permitted height for an accessory building. The encroachment of the entire wash bay roof exceeds the permitted height by 1.90 feet (0.58 meters) at the lowest point of the roof and 9.91 feet (3.02 meters) at the top of the sloped roof peak.

The proposed accessory building at the rear of the property line, is set far away from the street, and faces a much higher windowless wall of the neighbouring building to the north. Therefore, there are no negative impacts on the neighbouring property. When viewed from the rear, from Trans-Canada Highway, the height of the roof will be barely noticeable as the top of the roof will be approximately at the same level as the highway surface.

The excess height of the proposed accessory structure is the result of design choices, particularly due the proposed location of the carwash use in an accessory building rather than as a part of the main building, where the required height would be easily accommodated.

It is worth noting that the proposed development occupies only 26% of the subject site where 60% lot coverage is permitted. Therefore, it appears that the accessory structure height relaxation request is not related to a hardship caused by the site, but is rather a design choice.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. DHATT  
SECONDED BY MR. PEPPARD

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

CARRIED UNANIMOUSLY

(c) **APPEAL NUMBER:** B.V. 6370

**APPELLANT:** Merry Gao

**REGISTERED OWNER OF PROPERTY:** Qiong Li and Shuang Wang

**CIVIC ADDRESS OF PROPERTY:** 7960 12th Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot: 11 DL: 28 Plan: NWP24032

APPEAL: An appeal for the relaxation of Section 105.10(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for interior and exterior alterations, rear addition and covered deck addition to an existing single family dwelling at 7960 12th Avenue, with a side yard width of 3.66 feet (1.12 meters), where a minimum width of 4.90 feet (1.50 meters) is required. Zone R5.

APPELLANT'S SUBMISSION:

Ms. Merry Gao, on behalf of the property owners, submitted an application to allow for the interior and exterior alterations, rear addition and covered deck addition to an existing single family dwelling at 7960 12th Avenue.

No representation appeared 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 Second Street neighbourhood, in which the age and condition of single family, social housing and senior housing dwellings vary. This interior lot, approximately 49.80 feet (15.18 meters) wide and 143.28 feet (43.68 meters) long, fronts onto Twelfth Avenue to the north-west. The subject site abuts single family lots on both sides and across the lane to the south-east, and there is a senior's housing complex located across the Twelfth Avenue. Vehicular access to the subject site is provided from the front property line on Twelfth Avenue (a concrete parking pad) and from the lane; there is no garage on the property. The site has a downward slope of approximately 13.31 feet (4.06 meters) from the front to the rear.

The subject lot is improved with a single family dwelling, originally built in 1932. The applicant proposes to construct an attached storage addition to the south back of the existing dwelling for which the following variance is requested.

The appeal requests a side yard setback of 3.66 feet (1.12 meters) where a minimum of 4.90 feet (1.5 meters) is required. The intent of the Bylaw is to mitigate the impact of building massing on neighbouring properties. In this case, the proposed 3.66 feet (1.12 meters) side yard setback is measured from the side property line to the proposed wall of the addition. It is worth noting that the south-west side yard setback of existing building is 1.58 feet (0.48 meters). Since the existing dwelling was constructed prior to the enactment of the Zoning Bylaw in 1965, the side yard setback of 1.58 feet (0.48 meters) of the existing building is considered legal-non conforming. The 50.50 square foot (4.69 square meters) proposed addition is positioned 2.08 feet (0.63 meters) farther from the side property line than the existing non-conforming residence.

The proposed addition is approximately 7.75 feet (2.36 meters) in height as measured at the eaves of the shed roof and approximately 9.75 feet (2.97 meters) at the highest point of the roof. Although it will be visible to adjacent properties above the 6.00 foot (1.83 meters) fence that surrounds the back yard, the 50.50 square foot storage room is a very minor addition.

Given the small size, the proposed side yard relaxation would not create any negative massing impacts on the neighbouring properties.

ADJACENT OWNER'S COMMENTS:

The homeowners of 7966 12<sup>th</sup> Avenue appeared before the Board seeking clarification on the variance being requested, and if the variance would have any potential impact to their property.

MOVED BY MR. PEPPARD  
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

(d) APPEAL NUMBER: B.V. 6371

APPELLANT: Zia Mawji

REGISTERED OWNER OF PROPERTY: Nasim Mawji

CIVIC ADDRESS OF PROPERTY: 3760 Norfolk Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 2 Block:44 DL: 69  
Plan: NWP1321

APPEAL: An appeal for the relaxation of Sections 6.12(3)(a), 105.8(1) and 105.9 of the Burnaby Zoning Bylaw which, if permitted, would allow for interior and exterior alterations and enclosure of a carport into a garage for an existing single family dwelling at 3760 Norfolk Street. The following variances are requested:

a) a side yard width of 3.13 feet (0.95 meters), where a minimum side yard width of 3.30 feet (1.01 meters) is required;

b) a building depth of 56.66 feet (17.27 meters), where the maximum building depth of 50.00 feet (15.24 meters) is permitted; and,

c) a front yard depth of 15.65 feet (4.77 meters), where a minimum front yard depth of 19.70 feet (6.00 meters) is required. Zone R5.

The Administrative Officer advised the building depth should be 17.27 meters, not 185.89 meters.

APPELLANT'S SUBMISSION:

Mr. Zia Mawji, on behalf of the property owner, submitted an application to allow for the interior and exterior alterations and enclosure of a carport into a garage for an existing single family dwelling at 3760 Norfolk Street.

Mr. Mawji 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 Cascades-Schou area, in a mixed-use commercial/multi-family residential neighbourhood in which the age and conditions of the buildings vary. The majority of buildings in the neighbourhood are multi-family dwellings.

The subject lot measures approximately 33.00 feet (10.06 meters) in width and 100.00 feet (30.48 meters) in depth. The vehicular access is from the front property line on Norfolk Street to the north. The site is bordered by an empty lot (3754 Norfolk Street) owned by the City on the west. Farther to the west, there is a decommissioned portion of Esmond Avenue and another City owned lot at 3748 Norfolk Street.

There is a current rezoning application (REZ16-17) for a multi-family development which would encompass the unused portion of Esmond Avenue between Norfolk Street and Canada Way and the two lots to the west of Norfolk Street, 3748 Norfolk Street and 3737 Canada Way. There are two single family dwellings to the east, a 3 storey multi-family strata building across Norfolk Street to the north and commercial lots to the south. The site observes a gentle downward slope of approximately 3.00 feet (0.91 meters) in a south-north direction.

The existing building was originally built in 1971, but the lot was established before the 1965 Zoning Bylaw, and therefore the lot is legally nonconforming with regards to the R5 required lot size, and width.

The subject property is improved with a two storey single family residential dwelling, including an attached garage, which was previously an attached carport. The garage is already constructed without the benefit of a building permit. This unauthorized garage construction is the subject of the three appeals.



The first appeal a) is to vary Section 6.12(3)(a) – “Exceptions to Side Yard Requirements” of the Zoning Bylaw for the minimum side yard width from 3.30 feet (1.01 meters) to 3.13 feet (0.95 meters) where 3.30 feet (1.01 meters) is 10% of the 33.00 foot (10.05 meters) lot.

The intent of the Bylaw is to mitigate the impact of building massing on neighbouring properties. In this case, the garage follows the outline of existing carport to the east and is aligned with a 2.92 foot (0.89 meters) second floor overhang to the east. The garage wall is facing a ground floor wall of the neighbouring property to the east; therefore the proposed encroachment of approximately 2 inches (0.05 meters) has a negligible impact on the neighbouring property.

The second appeal b) is to vary Section 105.8(1) – “Depth of Principal Building” of the Zoning Bylaw requirement for the maximum building depth from 50.00 feet (15.24 meters) to 56.66 feet (185.89 meters).

The intent of the principal building depth requirement 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 depth of the building includes a 3.87 foot (1.18 meters) portion of the enclosed carport under second floor balcony to the north, plus the body of main building and the second floor terrace to the south. The terrace’s 3.94 feet (1.20 meters) permitted projection has been deducted from total depth of the building.

It is worth noting that perception of the overall depth of the building will be substantially reduced by the proposed demolition of the office structure, which was built without a permit over the southern deck. The removal of the second floor office will also improve the evening light conditions in the back yard of the property to the east.

The third appeal c) is to vary Section 105.9 – “Front Yard” of the Zoning Bylaw requirement for the minimum front yard depth from 19.70 feet (6.00 meters) to 15.65 feet (4.77 meters).

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

This appeal proposes to legitimize the carport enclosure, a portion of which is located under northern deck, and to expand the garage into the required front yard by 4.05 feet (1.23 meters). The two storey massing of the existing dwelling will not be affected by this variance, as the subject variance is only requested for the garage expansion at the lower level. The remainder of the existing dwelling is set back by approximately 19.52 feet (5.95 meters) from the front property line, almost exactly at the 19.70 foot (6.00 meters) line of required front yard setback. The total 22.54 feet (6.87 meters) length of the garage consists of an 18.64 feet (5.68 meters) long interior vehicle space and a

2.90 feet (0.88 meters) deep laundry closet/ mechanical heating equipment space in the back of the garage. The garage is approximately 4.00 feet (1.20 meters) in front of neighbouring building to the east, which is positioned 20.00 feet (6.09 meters) from the front property line. The impact on the neighbouring property is reduced due to the lack of windows in the portion of the garage encroaching required front yard, so there is no overlook onto the neighbouring property.

All three appeals are related to the location of the garage and partially to the restrictions caused by the legal non-conforming small lot size area and lot width. However, enclosing the carport is a design decision.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

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

MOVED BY MS. FELKER  
SECONDED BY MR. PEPPARD

THAT based on the plans submitted, part (c) 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. PEPPARD  
SECONDED BY MS. FELKER

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:27 p.m.

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Mr. S. Nemeth, CHAIR

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Ms. J. Chan

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Mr. R. Dhatt

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Ms. B. Felker

\_\_\_\_\_  
Ms. L. Cichon  
ADMINISTRATIVE OFFICER

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Mr. W. Peppard