



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 November 07** 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

ABSENT:

STAFF: Ms. Kate O'Connell, City Clerk
Ms. Margaret Malysz, Development Plan Approvals Supervisor
Ms. Sharon Knapp, Development Plan Technician
Mr. Maciek Wodzynski, Development Plan Technician
Ms. Eva Prior, Administrative Officer

The Chair called the meeting to order at 6:05 p.m.

The Chair, Mr. Stephen Nemeth recognized the ancestral and unceded homelands of the hən̓q̓əmiñəm and Skwxwú7mesh speaking peoples, and extended appreciation for the opportunity to hold a meeting on this shared territory.

2. MINUTES

(b) Minutes of the Board of Variance Hearing held on 2019 October 03

MOVED BY MR. DHATT
SECONDED BY MS. CHAN

THAT the minutes of the Burnaby Board of Variance Hearing held on 2019 October 03 be adopted.

CARRIED UNANIMOUSLY

3. **CORRESPONDENCE**

(a) **Memorandum from Administrative Officer**
Re: Board of Variance Member Resignation

A memorandum was received from the Administrative Officer advising that a letter of resignation was received from Mr. Wayne Peppard. The resignation is effective immediately.

4. **APPEAL APPLICATIONS**

(a) **APPEAL NUMBER:** B.V. 6383

6:00 p.m.

APPELLANT:

Joshua Williamson

REGISTERED OWNER OF PROPERTY:

Franco Michielli and Marta Pippo

CIVIC ADDRESS OF PROPERTY:

212 Stratford Avenue

LEGAL DESCRIPTION OF PROPERTY:

Lot: 24 DL: 205 Plan: NWP4180

APPEAL: An appeal for the relaxation of Sections 6.3.1 (Distances between buildings on the same lot) and 105.9 (Front Yard) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling (based on substantial reconstruction) with an existing garage at 212 Stratford Avenue. The following variances are requested:

- a) a minimum separation of 14.2 feet (4.32 metres) where a minimum separation of 14.8 feet (4.5 metres) is required; and
- b) a front yard depth of 19.46 feet (5.93 metres) where a minimum front yard depth of 24.8 feet (7.55 metres) (based on front yard averaging) is required. Zone R5

This appeal was **WITHDRAWN** prior to the Board of Variance Hearing.

(b) **APPEAL NUMBER:** B.V. 6384

6:00 p.m.

APPELLANT:

Hardyal Thind

REGISTERED OWNER OF PROPERTY:

Shaun Dhaliwal and
Andrea Simpson

CIVIC ADDRESS OF PROPERTY:

22 MacDonald Avenue

LEGAL DESCRIPTION OF PROPERTY:

Lot: A DL: 12 Plan: NWP1124

APPEAL: An appeal for the relaxation of Section 6.3.1 (Distance between buildings on the same lot) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with secondary suite and detached garage at 22 MacDonald Avenue. This relaxation would allow for a distance between buildings of 5.00 feet (1.52 metres) where a minimum distance of 14.80 feet (4.50 metres) is required. Zone R5

APPELLANT'S SUBMISSION:

Mr. Hardy Thind, on behalf of the property owner, submitted an application to allow for the construction of a new single family dwelling with a secondary suite and detached garage at 22 MacDonald Avenue.

Mr. Brar, designer, appeared before members of the Board of Variance on behalf of the homeowners.

Mr. Brar submitted a petition letter in support of the variance being requested. Signatures were received from the following residents/homeowners; 3996 and 4005 Dundas Street, and 95 MacDonald Avenue.

The petition read as follows:

We support the variance for 22 MacDonald Avenue Burnaby V5c 4M3 for the hearing on November 8th 2019.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R5, is located in the Burnaby Heights Neighbourhood, in which the age and conditions of single and two family dwellings vary. This is an interior lot, 18.59 metres wide x 30.48 metres (60.99 feet x 100.00 feet) deep, fronting onto MacDonald Avenue to the west. Vehicular access is proposed from the lane flanking the southern side yard. Single family dwellings surround the subject site in all four directions. The site exceeds the minimum R5 lot size requirements by 10.21 square metres (110 square feet), and is relatively flat, sloping approximately .34 metres (1.12 feet) from the front to the rear property line. There is a 3.04 metres (10.00 foot) wide sanitary sewer easement at the rear (eastern) property line.

The variance requested is to relax **Section 6.3.1 "Distance between buildings on the same lot"** of the Zoning Bylaw to allow a minimum distance of 1.52 metres (5.00 feet) where the Bylaw requires 4.50 metres (14.80 feet) between buildings.

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

In this case, the measurement is taken from the corner of the post supporting the southeast corner of the deck at its widest point to the northwest corner of the new garage. On the principal dwelling side, the height of the encroachment is 1.70 metres (5.59 feet). It is measured from the base of the post (elev. 310.47') to the top of the guard rail of the deck (elev. 316.06'). The corner of the garage wall is 3.00 metres (9.84 feet) tall with roof eaves which project .60 metres (2.00 feet) westwards and northwards towards the house. Although the eaves are an allowable encroachment, their presence decreases the separation overhead between the deck railings and the eaves to only .91 metres (2.00 feet).

The garage overlaps the house for a distance of 6.40 metres (21.00 feet). It is difficult to know the actual separation that is being proposed because the measurement on the site plan differs significantly with the deck shown on one of the sections. The site plan shows a lesser encroachment: the deck is 2.13 metres (7.00 feet) at its widest point. However, Section 1 on sheet A105 shows a 3.50 metres (11.50 foot) wide deck. The appeal is based on the narrower deck measurement as shown on the site plan. In this case, the distance between the deck and garage is reduced to 2.13 metres (7.00 feet) for a distance of 2.13 metres (7.00 feet). The .60 metres (2.0 foot) overhang of the garage eaves narrows the physical separation to 1.52 metres (5.00 feet) overhead. The remaining 4.26 metres (14.00 feet) of the garage is approximately 3.65 metres (12.00 feet) away from the rear wall of the house, with the garage eaves extending .60 metres (2.00 feet) overhead.

The proximity of the garage and deck creates a negative impact on the subject property. The floor level of the deck is 1.38 metres (4.53 feet) above the existing/proposed grade of the back yard (Section 2, Sheet A104), and it will significantly reduce the natural light in the rooms at the cellar level. The deck is 2.13 metres (7.00 feet) wide over the suite's main entry and kitchen window, and a 1.52 metres (5.00 feet) wide section of the deck overshadows a window in the recreation room. Considering that the bottom of the deck structure is only .50 metres (1.60 feet) above the top of the windows at the cellar level, there will be little natural light in either space. In addition, morning light into the suite will be further limited by the proximity of the garage.

A new house design should consider the dimensions and characteristics of the site. In this case, the lot width of 18.57 metres (60.94 feet) exceeds the minimum required R5 District width of 15 metres (49.2 feet) by 3.57 metres (11.71 feet). There is also a 3.04 metres (10.00 feet) wide sanitary sewer easement across the rear (rear) property line. These two features suggest that the design should take advantage of the increased lot width to reduce the depth of the house, which would create a larger rear yard.

The Building Analysis on the site plan indicates that the subject site is zoned R2, when the property is in the R5 zone. The side yard setbacks for the house follow R2 requirements; however, R2 regulations are intended for application onto much wider lots. In consequence, the southern (lane) side yard is 4.06 metres (13.34 feet) wide, when only 1.49 metres (4.90 feet) is required, which "frees up" an additional 2.58 metres (8.48 feet) to make the house wider. The applicant was notified of the lesser R5 zoning side yard requirements, but chose to proceed to the Board with these plans.

Siting the dwelling in this location creates a large side yard on the lane, and a smaller private back yard area.

In addition to the siting, it is the design which has created the request for a variance. The dwelling's greatest depth (11.43 metres /37.5 feet) is on the side closest to the garage, when it could be shifted to the northern side of the dwelling. There are many modifications which could bring this plan into compliance with the Bylaw. The main floor is a reversed "C" shape with a central forecourt that is 3.20 metres x 3.50 metres (10.50 feet x 11.50 feet). A floor plan without a central open area, or a substantially reduced one would create additional floor space in the middle of the house, which could pull the house back from the garage. Alternately, choosing a house design with an attached garage would also be suitable for this site, and would provide a larger usable outdoor space.

There are other design options that when used in combination would bring this property into conformance without altering the house. The deck could be removed and replaced by a single set of stairs. The garage, which is 9.14 metres (30.00 feet) deep, could become a 6.09 metres x 6.09 metres double garage (20.00 feet x 20.00 feet). The two car garage could be replaced by a single car garage and a parking pad for the tenant closest to the house.

In conclusion, on a large, flat site such as this, there are many opportunities for producing a design in accordance with the Bylaw.

ADJACENT OWNER'S COMMENTS:

Correspondence was received in opposition to the appeal. The writer requested that their name and address be redacted from the correspondence. The writer expressed concern that the garage would be too close to the property line.

MOVED BY MS. FELKER
SECONDED BY MR. DHATT

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

OPPOSED: Ms. Felker, Mr. Dhatt
Mr. Nemeth, Ms. Chan
DENIED

BOARD MEMBER COMMENTS:

The Board unanimously found that no hardship was demonstrated and that the variance was based on a design choice.

(c) APPEAL NUMBER: B.V. 6385 6:15 p.m.

APPELLANT: William Steemson

REGISTERED OWNER OF PROPERTY: William Steemson

CIVIC ADDRESS OF PROPERTY: 205 Hythe Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot B: DL: 127 Plan: NWP21395

APPEAL: An appeal for the relaxation of Section 102.10 (Rear yard) of the Burnaby Zoning Bylaw which, if permitted, would allow for a rear addition and a new accessory building to an existing single family dwelling at 205 Hythe Avenue. This relaxation would allow for a rear yard depth of 26.5 feet (8.07 metres) where a minimum rear yard depth of 29.5 feet (9.0 metres) is required. Zone R2.

A previous application (BOV 6341 - 2018 November 01) for relaxation of the Zoning Bylaw to allow for a rear yard depth of 23.6 feet was denied.

APPELLANT'S SUBMISSION:

Mr. William Steemson, property owner, submitted an application to allow a rear addition and a new accessory building to an existing single family dwelling at 205 Hythe Avenue.

Mr. Steemson, home owner, and Mr. Antonio Simoes, Legal Council, appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

This property was the subject of an appeal before the Board on 2018 November 01. A variance was sought to allow for a rear addition and a new accessory building to an existing single family dwelling, with a rear yard depth of 7.2 metres (23.6 feet), where a minimum depth of 9.0 metres (29.5 feet) is required. The Board denied the appeal.

This appeal proposes to vary Section 102.10 – “Rear Yard” of the Zoning Bylaw from 9.0 metres (29.5 feet) to 8.1 metres (26.5 feet).

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.

This appeal proposes to increase the provided rear yard by 0.9 metres (2.9 feet) as compared to the original proposal; the drawings indicate that the increase in the depth of the rear yard is achieved by moving the west addition's wall by 0.9 metres (2.9 feet) (from 7.2 metres (23.6 feet) to 8.1 metres (26.5 feet) away from the rear property line). The proposed encroachment by the addition is now 0.9 metres (3.0 feet).

Considering the proposed modifications to the original appeal, this Department's comments remain similar to the comments on the 2018 November 01 appeal.

The subject site was originally improved with a single family dwelling and a carport/sundeck, built in 1960. Over the years, the site was further improved with an

accessory building and a rear addition to the principal building created by enclosing the attached carport. The origins of these improvements are not known. The City's aerials from 2016 & 2017 indicate further changes to the sundeck over the original carport area, which currently appears on the photographs as a slightly larger flat roof than before.

In September of 2018, the City received a building permit application (BLD 18-00904) for a rear addition (enclosed carport) to the existing single family dwelling, interior and exterior alterations to accommodate a new secondary suite and for a new accessory building. Through the review process City staff determined that various alterations, including the enclosure of the existing carport, had been constructed without the benefit of a building permit. As a result, the applicant is again requesting a variance in an attempt to legalize the unauthorized construction of the rear addition.

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.

According to the City's records the original principal building observed a 7.0 meter (23.0 feet) rear yard setback, as measured to the original carport/sundeck, which was legal non-conforming with respect to the current Zoning Bylaw requirements. The revised rear addition, approximately 3.5 metres (11.5 feet) wide and 5.8 metres (19.0 feet) deep, encroaches 0.9 metres (3.0 feet) into the required rear yard setback. It appears that the proposed rear addition remains within the footprint of the original carport/sundeck, which was attached to the rear south-west corner of the dwelling. Therefore, it appears that the rear yard depth is not decreased; in fact, an increase of 1.1 metres (3.5 feet) is now indicated.

The addition is approximately 4.0 metres (13.0 feet) in height as measured to the top of the flat roof or 5.0 metres (16.5 feet) as measured to the top of the sundeck guard. It is not clear if the flat roof over the rear addition (already constructed) is higher than the elevation of the original sundeck floor. The proposed new sundeck on top of the flat roof is not yet constructed. The rear addition will contain storage space on two levels; the lower level is sunken into the ground approximately 1.2 metres (4.0 feet).

With respect to the massing impacts, it appears that the neighbouring properties would not be meaningfully affected by the proposed rear yard encroachment. The rear addition observes a north side yard setback of 7.60 metres (24.90 feet). Such a generous setback effectively mitigates any impacts on the neighbouring residence to the north. This residence features a similar sundeck component in its rear yard; the subject rear addition appears to be in line with it.

With respect to the neighbouring property to the south, the subject rear addition overlaps the detached garage which is located close to their shared south side property line; although the garage is at a lower level in relation to the subject addition, any direct views onto the neighbouring rear yard are essentially screened by the garage roof.

With respect to the neighbouring property across the lane to the west, considering that the views are predominantly oriented to the west, as well as the fact that this variance involves a relatively small massing increase, as compared to the existing conditions (the enclosure of the existing carport), the impacts on this residence are not immediately noticeable.

With respect to outdoor living space, the proposed rear addition does not affect the existing rear yard area, as it remains within the original carport footprint.

The requested variance, although revised, continues to be a result of design choice.

ADJACENT OWNER'S COMMENTS:

A petition letter, dated 2019 May 22, was submitted by the applicant, Mr. Steemson, in support of the variance being requested. Signatures were received from the following residents/homeowners;

104, 106, 138, 228, 311 and 330 Hythe Avenue; and 101, 125, 126, 132, 133, 142, 145, 155, 215, 225, 251 and 270 Delta Avenue

The petition read as follows:

- 1. I am applying to the Burnaby Board of Variance for a relaxation of the rear yard setback requirement by 4 feet (from 29.5 feet to 25.5 feet) because I am trying to make renovations to my existing sundeck.*
- 2. I have attached a picture and diagram of my property. As you can see, the front of my property is set farther back from Hythe Avenue compared to the adjacent properties. As a result, I have a reduced amount of space which makes it difficult for me to make renovations to my sundeck. I am simply seeking permission from the Board to relax the setback to the alleyway by 4 feet so that my sundeck can continue to comply with the City's Bylaws.*
- 3. My sundeck had existed since before my parents bought the property in 1978. The property was originally built in the 1960s. In my proposed renovations, I am not increasing the height of my sundeck to block any of my neighbours' views, nor am I extending my sundeck into the driveway or onto any of my neighbour's properties. I am actually reducing the length of my sundeck by about 2 feet, but because the sundeck will still exceed the required setback by 4 feet, I am applying to the Board to request a variance.*
- 4. Previously, I had applied to the Board for a relaxation of 5.9 feet. The Burnaby Planning and Building Department produced a report stating that they did not oppose my application because it would not have any negative effects on my neighbours. I have attached a copy of their report.*
- 5. However my next door neighbor, Ms. Thorn opposed my application. My application was denied by the Board as a result.*
- 6. I don't believe that Ms. Thorn is negatively impacted by the relaxation as she*

has alleged. The City's report made it clear that they do not believe that there would be any negative impacts to my surrounding neighbours.

- 7. I have come to explain the nature of my application to the Board in good faith, and I hope that you can provide me with your support by signing my petition.*

An item of correspondence was received from the homeowner of 4950 Pandora Street in opposition to the variance. A petition in opposition to the variance was received as part of the correspondence. Signatures were received from the following residents/homeowners;

135, 231, 295, 321, 333 and 353 Hythe Avenue; 128, 202, 204, and 210 Delta Avenue; 4949 and 4950 Pandora Street; and 4990 Empire.

The petition read as follows:

We the undersigned, as a community of concerned homeowners on Capitol Hill, wish to reaffirm our objection to the application of 205 Hythe Avenue to relax the rear yard setback.

We are aware that this is the second application made by the homeowner and related to the same unpermitted structure, all in an effort for the homeowner to keep this recent addition to the home and its related modifications to the house.

We are also aware that the homeowner has made amendments since the application heard on November 1, 2018. We understand he has put forth a reduced variance, asking for a 3 foot relaxation, as opposed to a 6 foot relaxation.

Knowing all of the above, we reiterate our astute objections to this relaxation in keeping with our shared concerns regarding the loss of view and commitment to maintaining the views of our neighbours. Maintaining each homeowners access to the breathtaking views is directly tied to each home's value. As a community, we respect our neighbours and would not make such an imposition upon one another.

Tenants/residents of 210 Delta and 204 Hythe signed both petitions.

Ms. Jana Thorne, 4950 Pandora Street appeared before the Board in opposition to the requested appeal.

Ms. Tracey Noga, 205 Hythe Avenue, spoke in support of the appeal.

MOVED BY MS. CHAN
SECONDED BY MR. DHATT

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

FOR: Ms. Felker
OPPOSED: Mr. Dhatt, Ms. Chan,
Mr. Nemeth
DENIED

BOARD MEMBER COMMENTS:

Ms. Felker found hardship due to physical site characteristics (the home is set further back than neighbouring properties) and voted to allow the appeal.

Mr. Nemeth found that hardship was not evident.

Ms. Chan found that hardship was not evident.

Mr. Dhatt found that hardship was not evident.

(d) **APPEAL NUMBER:** B.V. 6386 **6:15 p.m.**

APPELLANT: Laeli Salimi-Anbi

REGISTERED OWNER OF PROPERTY: Laeli Salimi-Anbi

CIVIC ADDRESS OF PROPERTY: 5835 Gilpin Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 84 DL: 83 Plan: 25854

APPEAL: An appeal for the relaxation of Sections 102.9(1) (Side yards) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with secondary suite and detached garage at 5835 Gilpin Street. The following variances are requested:

- a) a side yard width of 4 feet (1.20 metres) where a minimum side yard depth of 4.9 feet (1.50 metres) is required; and
- b) a minimum sum of both side yards of 9.99 feet (3.04 metres) where a sum of 11.5 feet (3.50 metres) is required. Zone R2

APPELLANT'S SUBMISSION:

Ms. Laeli Salimi-Anbi, property owner, submitted an application to allow for the construction of a new single family home with secondary suite and detached garage at 5835 Gilpin Street.

Ms. And Mr. Slimi-Anbi, home owners, appeared before members of the Board of Variance.

Ms. Salimi-Anbi provided the Board with photographs of the interior and exterior portion of the home in reference to the appeal.

The homeowner also provided the Board with seven petition letters in support of the appeal. The letters were signed by the homeowners/residents of 5707, 5715, 5737, 5747, 5787, and 5815 Gilpin Street; and 5830 Eglinton Street.

The petition letter read as follows:

I, the neighbour to 5835 Gilpin Street, have been approached by Laeli Salimi Anbi, the owner of the property, to discuss the configuration of their new family home on this lot.

After careful review and thought, I would support and encourage Burnaby's Board of Variance to approve the request to maintain current wall heights on the east side of the house which affect the setback on the side yard by 1 foot and 6 inches.

We understand that although the City passed the framing and engineering inspections, the Planner drawings for the seat boxes to be installed were misleading for the framer as well as the City Plan Checkers and Inspectors as thus they missed these in their review of the plans and home inspections. The issue with the bylaw was not noticed by the City until after the electrical wiring and gas pipes were fitted through the wall with interior and exterior work completed interior and exterior finishing was completed. The option of resolving to meet the bylaw requires extensive rebuilding, which is not financially feasible.

Please feel free to contact me with questions.

Thank you.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R2 Residential District, is located in the Douglas-Gilpin neighbourhood, in which the age and condition of single family dwellings vary. This interior lot, approximately 17.07 metres (56.00 feet) wide by 60.97 metres (200.00 feet) deep, fronts onto the north side of Gilpin Street. Abutting the subject site to the east and west are older single family dwellings and directly across Gilpin Street to the south are newer single family dwellings. Vehicular access is provided from the lane to the north. The topography is such that the subject site and the two adjacent sites, 5815 Gilpin (east) and 5845 Gilpin (west), slope downwards from the lane to the front property line, with level central areas where the dwellings have been constructed.

The dwelling is under construction, and in order for the building permit to proceed, two variances have been requested. Both appeals relate to an encroachment on the east side of the dwelling and will be discussed together. In reference to both **a)** and **b) appeals**, the intent of the Bylaw in regulating side yards is to mitigate the massing impacts of new buildings and structures on neighbouring properties.

The R2 zone creates lots that are at least 20% wider and larger than most other single family zones. For example, the minimum R2 lot must be 18.26 metres (60.00 feet) wide with an overall area of 668.88 square metres (7,200 square feet). The R2 zone also permits houses that are 20% larger than other single family zones. To ensure that these dwellings are suitably separated, in addition to the minimum 1.50 metres (4.90 foot) side yard setback, the sum of both side yards must total 3.5 metres (11.50 feet). This provides flexibility in siting a new dwelling and ensures that dwellings are sufficiently separated.

When the plans of BLD 16-0179 were approved in May 2017, the 1.82 metres (6.00 feet) wide east side yard met all of the side yard requirements. The original building permit drawings showed a fireplace/chimney and two bay windows in the family room in this location. Both of these structures are permitted side yard encroachments. The bay windows flanking the fireplace were raised the necessary .45 metres (1.50 feet) above the adjacent floor structure and they projected .60 metres (2.00 feet) beyond the exterior wall. Now, in the same location, the floor structure is cantilevered 1.21 metres (4.00 feet) beyond the foundation wall. The projection is 5.79 metres (19.00 feet) wide and 3.50 metres tall (11.50 feet). (The first .60 metres (2.00 feet) that are cantilevered out from the foundation wall are allowable because the floor area is still outside of the required side yard setback. The entire addition is supported by three pairs of 6" x 6" posts resting on individual concrete footings and a foundation wall extending from the main foundation.

To consider this encroachment comparable to a bay window would defeat the intent of the Bylaw. Under Section 3 Definitions, bay windows are permitted to encroach because they are raised above the floor structure, and therefore do not contribute to the gross floor area. In addition, the elevation of a bay window must be 50% glazed. In this instance, the projection is an extension of the floor structure, and the encroaching portion (.60 metres (2.00 feet) wide by 5.79 metres (19.00 feet) long adds 3.53 square metres (38 square feet) of gross floor area. Only 7% of the elevation is glazed. (Though it should be noted that the Building Code does not allow glazing on walls which are 1.21 metres (4.00 feet) from the property line, so unless an Alternative Solution is found, they will need to be removed.)

When BLD 16-0179 was approved in May 2017, the site plan showed the required 1.82 metres (6.00 foot) setback in this location. Subsequently, three sets of revisions to the approved design drawings were submitted, but the site plan was never revised to reflect the changes. This constitutes an incomplete submission. Had a revised site plan been submitted, it would have triggered the plan checker to advise that the eastern side yard was no longer in conformance. For example, an updated site plan would record the new building width at this location (14.00 metres/46.00 feet) rather than at the narrower section of the dwelling (13.41 metres/44.00 feet), and it would show the new side yard dimensions for the northern section.

Further design revisions occurred after a building inspector advised that the chimney in the cantilevered structure was insufficiently supported. Five more posts under the cantilevered addition were added, but the site plan was not revised. The current site plan in the Board of Variance package still shows a single post supporting the addition.

The intent of the Bylaw in regulating side yards is to mitigate the massing effects of large R2 dwellings on neighbouring properties and to ensure that there is adequate separation. In this case, the encroachment has the potential to impact the property immediately to the east. 5845 Gilpin Street is improved with a modest dwelling which was constructed in 1970, and the property is likely to redevelop. While the present dwelling has no windows facing onto this projection, any future dwelling will have views from the main floor level onto a blank wall which is .46 metres (1.51 feet) closer than

the Bylaw allows. As a result, new house designs for 5845 Gilpin will have to address the proximity of this wall. Rather than having the flexibility to place the minimum R2 setback at the shared side yard with 5835 Gilpin Street, they may feel obliged to place the largest side yard here to ensure sufficient spatial separation and lighting.

ADJACENT OWNER'S COMMENTS:

Mr. Ivor Palmer, 5812 Eglinton Street appeared in support of the appeal.

MOVED BY MR. DHATT
SECONDED BY MS. CHAN

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

CARRIED UNANIMOUSLY

MOVED BY MR. DHATT
SECONDED BY MS. CHAN

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

CARRIED UNANIMOUSLY

BOARD MEMBER COMMENTS:

Mr. Nemeth found hardship due to the personal characteristics of the applicant, and advised that the appeal requested is minor. Mr. Nemeth stated that due to confusion regarding setbacks; provisions for the supporting structures; the relatively short section of the home that the, and no neighbourhood opposition he granted the appeal.

Mr. Dhatt found hardship due to physical site characteristics and personal characteristics of the applicant. Mr. Dhatt voted in favor of the appeal based on the same reasons as Mr. Nemeth.

Ms. Chan found hardship due to personal characteristics of the applicant

Ms. Felker found hardship due to personal characteristics of the applicant.

5. NEW BUSINESS

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

6. ADJOURNMENT

MOVED BY MR. DHATT
SECONDED BY MS. CHAN

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 7:33 p.m.

Mr. S. Nemeth, CHAIR

Ms. J. Chan

Mr. R. Dhatt

Ms. B. Felker

Ms. E. Prior
ADMINISTRATIVE OFFICER

DRAFT