



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 December 05** 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

STAFF: Ms. Sharon Knapp, Development Plan Technician
Ms. Eva Prior, Administrative Officer

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

The Chair, Mr. Stephen Nemeth recognized the ancestral and unceded homelands of the hən̓q̓əmin̓əm 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 November 07

MOVED BY MR. DHATT
SECONDED BY MS. FELKER

THAT the minutes of the Burnaby Board of Variance Hearing held on 2019 November 07 be adopted.

CARRIED UNANIMOUSLY

3. APPEAL APPLICATIONS

(a) APPEAL NUMBER: B.V. BOV 6387 6:00 p.m.

APPELLANT: Oscar Woodman

REGISTERED OWNER OF PROPERTY: Cheryl Hon and Rahul Soma

CIVIC ADDRESS OF PROPERTY: 7920 Hunter Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 270 DL: 58 Plan: NWP34056

APPEAL: An appeal for the relaxation of Section 101.7 (Depth of Principal Building) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family dwelling with secondary suite and attached garage at 7920 Hunter Street. This relaxation would allow a building depth of 25.25 metres (82.83 feet) where a maximum building depth of 18.3 metres (60 feet) is permitted. Zone R1

APPELLANT'S SUBMISSION:

Mr. Oscar Woodman, 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 attached garage at 7920 Hunter Street.

Ms. Hon and Mr. Soma, homeowners and Mr. Woodman, architect appeared before the members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R1 Residential District, is located in a single family neighbourhood in the Government Road area. The site is an irregular triangular form, and faces northeast onto a cul de sac bulb where Hunter Street and Hunter Court intersect.

The curving front property line is 12.63 metres (41.44 feet) wide. The northern side yard is 27.39 metres (89.86 feet) deep and the angled (eastern) side yard is 48.52 metres (159.18 feet) deep. A 3.04 metres (10.00 feet) wide sanitary sewer easement parallels this eastern property line. The L shaped rear property line is formed by two segments: the longest (western) boundary (53.03 metres/174.00 feet) long, faces the rear yards of residential properties fronting onto Piper Avenue. The southern rear property line (12.80 metres (42.05 feet)) long intersects it at a right angle and adjoins the back yard of a residential property fronting onto Government Road.

This interior lot is surrounded in all four directions by single family dwellings. A dedicated pedestrian walkway 3.04 metres (10.00 feet) wide connecting Hunter Street with Piper Avenue adjoins the northern side yard. The lot slopes down gradually from northwest to southeast approximately 2.13 metres (7.00 feet) over 53.03 metres (174.00 feet). There is no lane, so vehicular access will remain off Hunter Street.

A new single family dwelling with a secondary suite and attached three car garage is proposed.

The appeal would permit a principal building depth of 25.25 metres (82.84 feet) where 18.30 metres (60.00 feet) is permitted.

In cases where a lot has more than four sides, the building depth calculation is based on the building depth as projected onto the lot depth, which is the line joining the centre point of the front property line (Hunter Street) with the farthest point at which the two rear property lines intersect, which is the southwestern corner of the lot. Due to the site geometry, the depth of the house is measured on a diagonal. In this instance, the two points of measurement are taken from the northeast corner of the three car garage and the southwest corner of the breakfast room on the main floor. When measured on this diagonal, the building depth is 25.25 metres (82.84 feet).

The Bylaw's intent in limiting building depth is to prevent the creation of dwellings that present a long imposing wall, such that the massing of the building impacts neighbouring properties.

Although the subject site is 48% larger than the minimum required R1 lot, most of the site cannot be developed. This is due to the particular geometry of the lot and how the Bylaw designates rear yards on irregular sites. In this case, both the western and southern property lines must have rear yard setbacks 9.00 metres (29.50 feet) wide. The western rear yard 50.59 metres (166.00 feet) long by 9.00 metres (29.50 feet) wide in particular restricts the potential building envelope. The alternative design option would be to extend the dwelling southwards, where there is ample area to build outside the required rear yard setback. Here, the building envelope is limited by the maximum 18.30 metres (60.00 feet) building depth requirement. In addition, access to the site is also limited as it must be taken from the front yard because there is no lane. The eastern side property line is paralleled by a 3.04 metres (10.00 feet) wide sewer easement, which cannot be paved. This prevents creating a driveway in this location and placing a detached garage at the rear of the dwelling.

The resulting irregular building envelope has been drawn onto the overlay, showing the required setbacks, the 18.30 metres (60.00 feet) building depth measurement and the 25.25 metres (82.84 feet) proposed building depth.

The house and garage are a uniform two storey height and will exceed the maximum permitted building depth by 6.95 metres (22.83 feet). The longest (western) elevation, where the full 25.25 metres (82.84 feet) building depth would be visible, faces the rear yards of three residential properties fronting onto Piper Avenue. Here the 9.00 metres (29.50 feet) deep rear yard setback will provide a large degree of separation. The massing of the dwelling has been staggered back from their shared property line, so that they will not face an overly long plain wall.

The two closest properties, 7930 Hunter Street (east) and 3575 Hunter Court (north) face side elevations that are much shorter than the allowable 18.30 metres (60.00 feet) building depth. The façade facing the 7930 Hunter Street property has been stepped back from the shared property line, and overall, a 14.63 metres (48.00 feet) wide elevation will be visible. The elevation immediately adjacent to the 3575 Hunter Court property consists of a 7.31 metres (24.00 feet) long garage, and the overall building elevation that faces their shared property line will be 9.44 metres (31.00 feet) deep.

Here, the 2.43 metres (8.00 feet) wide side yard plus the 3.04 metres (10.00 feet) wide pedestrian walkway between their properties will provide additional separation. In conclusion, the proposed design would not create an overly long building wall that would adversely impact any of its neighbours.

While the site presents challenges, there are modifications possible that could result in compliance or a lesser variance. The excess building depth is created primarily by the three car garage attached at the northern end of the dwelling. A two car garage and a parking pad for the tenant would result in a lesser variance request of 19.50 metres (64.00 feet). In addition, there are locations in the 'breezeway' on both levels of the dwelling where the floor plans could be "tightened up" to reduce the over length.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MS. CHAN
SECONDED BY MR. DHATT

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

CARRIED
(*Opposed: Ms. Chan*)

BOARD MEMBER COMMENTS:

Ms. Chan found hardship was evident due to the physical site characteristics but voted to deny as this is not a minor variance.

Ms. Felker found that hardship was evident due to physical site characteristics of the property and voted to approve the variance.

Mr. Nemeth found that hardship was evident due to physical site characteristics of the property and voted to approve the variance. Mr. Nemeth also cited that there was no opposition from neighbouring homeowners.

Mr. Dhatt found that hardship was evident due to physical site characteristics of the property and voted to approve the variance.

(b) **APPEAL NUMBER:** B.V. BOV 6388 **6:00 p.m.**

APPELLANT: Sukhvinder Saroya

REGISTERED OWNER OF PROPERTY: Sukhvinder Saroya and Iqbal Manhas

CIVIC ADDRESS OF PROPERTY: 6830 Boundary Road

LEGAL DESCRIPTION OF PROPERTY: Lot: 19 DL: 150 Plan: NWP2256

APPEAL: An appeal for the relaxation of Section 110.8 (Front Yard) of the Burnaby Zoning Bylaw which, if permitted, would allow for a new single family dwelling with secondary suite and detached garage at 6830 Boundary Road. This relaxation would allow a front yard depth of 7.59 metres (24.9 feet) where a minimum front yard depth of 8.96 metres (29.41 feet) (based on front yard averaging) is required. Zone R10

APPELLANT'S SUBMISSION:

Mr. Saroya, home owner, submitted an application to allow for the construction of a new single family dwelling with a secondary suite and detached garage at 6830 Boundary Road.

Mr. Saroya, home owner and Mr. Palad, designer, appeared before the members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R10 Residential District, is located in the Suncrest neighbourhood, a mature R10 neighbourhood characterized by single family dwellings. The subject site is one of two lots in a block which fronts onto a road parallel to Boundary Road. This rectangular lot has a western frontage of 20.15 metres (66.11 feet) on Boundary Road and a northern side property line of 32.97 metres (106.29 feet) facing a lane. Across the lane to the north is a commercial Comprehensive Development (CD) site that fronts onto Imperial Avenue. Immediately south of the subject site is a single family dwelling (6840 Boundary Road) which was constructed in 1959, and to the east the rear yard of single a family dwelling that fronts onto Dubois Street.

The site is relatively flat, sloping upwards approximately 0.60 metres (2.00 feet) in an east-west direction from the rear property line to Boundary Road. A 3.35 metre (11.00 feet) wide sanitary sewer easement parallels the eastern (rear) property line. The site is 651.18 square metres (7,009.3 square feet), or 17.2% greater than the minimum R10 lot size. Vehicular access to the subject site is proposed to be from the lane at the north east corner of the property.

A new single family dwelling with a secondary suite and a detached two car garage are proposed for the subject site, for which the following variance is requested.

The appeal is to vary Section 104.9 – “Front Yard” of the Zoning Bylaw requirement from 8.96 metres (29.41 feet), based on front yard averaging, to the proposed 7.59 metres (24.90 feet). This variance request conflicts with the objective of front yard averaging and the intent of the R10 Residential District to ensure uniform front yards.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were built in the established neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including the requirement of a larger front yard where the average front yard depth of

the two dwellings on either side of the subject site exceeds the required front yard applicable to the zone. The larger front yard requirement should be calculated through "front yard averaging". The intent of the amendment was to improve the consistency and harmony of the new construction with the existing neighbourhood.

In addition, some residents in older neighbourhoods requested more controls over the form and character of new development. This site is located in one such area, which was rezoned to the R10 District through an area rezoning process in 1996. Pertinent to this appeal, the R10 District was designed to ensure that front yards were uniform along a block face, with an absence of fences and driveways located in front of the houses. These measures were to ensure a sense of openness in the streetscape.

The subject variance is measured from the Boundary Road property line to the foundation at the southwestern corner of the new single family dwelling. In this case, the front yard averaging calculation is based on the front yard setback of the adjacent dwelling at 6840 Boundary Road. This is measured from the point closest to the front property line, which is the 4.26 metres (14.00 feet) wide facade that projects from the south west corner of the adjacent dwelling. This projection is set 9.01 metres (29.57 feet) back from Boundary Road. However, the largest section of the façade (approximately 8.53 metres (28.00 feet) wide), which is closest to the new dwelling, is set 1.04 metres (3.43 feet) farther back at 10.05 metres (33.00 feet) from Boundary Road.

Front yard averaging was designed for cases such as this, to ease a new, larger dwelling into an existing neighbourhood. The proposed dwelling (369.93 square metres/3,982 square feet) is the maximum size possible under the R10 District, while the adjacent dwelling is approximately 241.54 square metres (2,600 square feet).

Placing the new dwelling at the front yard averaged setback of 9.01 metres (29.57 feet) would align it with the western "wing" of 6840 Boundary Road and place it 1.04 metres (3.43 feet) in front of the indented façade which is nearest to it. The result would be compatible with the siting of the adjacent dwelling and the neighbourhood context. If the new dwelling had the minimum front yard setback (7.58 metres/24.90 feet), this would place it 2.46 metres (8.10 feet) in front of the adjacent dwelling. This could create overshadowing and the blocking of views.

Permitting the minimum front yard setback would also frustrate the intent of the R10 zoning district to maintain an open, and unified streetscape. A review of the surrounding streets shows there are many older homes with established block frontages along Dubois Street and Boundary Road with front yard setbacks ranging from 9.14 metres (30.00 feet) to 12.19 metres (40.00 feet). The new dwelling with a reduced front yard setback would be out of character with neighbouring properties and perhaps set an undesirable precedent for new development.

The ability to design a new house on a large, regular, flat site in conformance with the Bylaw is feasible. The site does have a 3.35 metre (11.00 feet) wide easement at the rear (east) property line. However, the site is 93.18 square metres (1,033 square feet)

larger than the minimum required R10 District lot size, which compensates for the area covered by the easement (67.44 square metres/726 square feet). The current design could comply with the required front yard averaging requirement with a few minor modifications.

For example, the site plan shows a distance of 5.27 metres (17.31 feet) between the rear of the house and the two car garage where the Bylaw only requires 4.49 metres (14.76 feet). If the house was moved eastwards 0.78 metres (2.55 feet), the point-to-point measurement from the northwest corner of the garage to the southeast corner of the kitchen wall would maintain the required distance between buildings. In addition, the garage is offset by 0.38 metres (1.25 feet) from the sewer easement across the rear of the property. The garage, and therefore the dwelling, could be moved 0.30 metres (1.0 foot) eastwards closer to the easement. Other siting possibilities include shifting the garage northwards closer to the lane, which would move it away from the root zone of the southernmost fir tree and free up a large lawn area in the southern portion of the back yard.

In addition, the dwelling could be modified: the 160.53 square metres (1,728 square feet) main floor plan which consists of a living room, family room, dining area, kitchen and two bedrooms could be "tightened up" to absorb a little more than a metre of building depth if necessary. Partial interior modifications could be combined with siting adjustments to leave the plans largely as-is. For example, the rear wall of the kitchen (main floor) and suite (cellar) could be pulled back 0.34 metres (1.12 feet) or more, which would allow the dwelling to be shifted the same distance eastwards into the rear yard. The loss of gross floor area would be minimal, as only the kitchen and cellar would be affected.

In conclusion, both front yard averaging and the intent of the R10 District prescribe consistent and open front yards. The request for a variance is the result of design choices, and every effort should be made to work within the framework of the Bylaw.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the homeowner of 6910 Boundary Road expressing concerns regarding the lack of street parking in the 6800 block of Boundary Road. The writer requested assurances that the dwelling at 6830 Boundary Road provide sufficient parking for all residents and tenants.

No further correspondence was received regarding this appeal.

MOVED BY MS. FELKER
SECONDED BY MS. CHAN

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

FAILED
(Opposed: Ms. Felker, Mr. Nemeth, Ms. Chan)

BOARD MEMBER COMMENTS:

Mr. Dhatt found hardship due to physical site characteristics (easement on property) and voted to allow the requested variance.

Ms. Chan found hardship due to physical site characteristics (easement on property); however, advised that the variance defeated the intent of the bylaw.

Mr. Nemeth found that hardship was not evident.

Ms. Felker found that hardship was not evident.

(c) **APPEAL NUMBER:** B.V. BOV 6389 **6:15 p.m.**

APPELLANT:

Doris Poon

REGISTERED OWNER OF PROPERTY:

Mario Lam and Doris Poon

CIVIC ADDRESS OF PROPERTY:

5837 and 5839 Bryant Street

LEGAL DESCRIPTION OF PROPERTY:

Lot A DL: 93 Plan: NWP16731

APPEAL: An appeal for the relaxation of Section 104.7(2)(b) (Height of Principal Building, Two-family Dwellings) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new two family dwelling with detached garages at 5837 and 5839 Bryant Street. This relaxation would allow the building height of 8.65 metres (28.40 feet) where a maximum building height of 7.62 metres (25 feet) is permitted. Zone R4

APPELLANT'S SUBMISSION:

Ms. Doris Poon, property owner, submitted an application to allow for the construction of a new two family dwelling with detached garages at 5837 and 5839 Bryant Street.

Ms. Poon and Mr. Lam, home owners, 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 Windsor neighbourhood, in which the age and condition of single and two family dwellings varies. This corner lot has a southern frontage of approximately 27.43 metres (89.99 feet) facing Bryant Street and is 39.13 metres (128.41 feet) deep along its western (side) property line on Kisbey Avenue. The site is bordered by a lane along the northern (rear) property line. The subject site is surrounded by single family residential lots on all four sides. Currently the site is developed with an older two family dwelling with detached garages. The site observes a downward slope of approximately 3.82 metres (12.54 feet) from the front to the rear property line. Vehicular access to the subject site is proposed to be from the rear lane.

The appeal proposes that the subject site be developed with a new two family dwelling

with detached garages. The requested variance is for the over height portions of the roof up to 8.65 metres (28.40 feet) where a maximum building height of 7.62 metres (25.00 feet) is permitted.

The height calculation for dwellings is measured from the lower of the front average existing elevation or the rear average existing elevation to the highest point of the structure. In this case, the variance request is measured from the rear average existing elevation (Elev. 384.725 ft.) to the highest point of the roof (Elev. 413.12 ft.). When viewed from the rear, the proposed height is 8.65 metres (28.40 feet), with the 1.03 metres (3.40 feet) of excess height encroachment occurring across the upper roofs of both dwelling units. The area of encroachment is 1.03 metres (3.40 feet) high by 19.50 metres (64.00 feet) wide, with a 1.03 metres (3.40 feet) by 3.65 metres (12.00 feet) wide gap in the center of the structure. The front elevation measures 7.84 metres (25.57 feet) in height, which slightly exceeds the permitted height of 7.62 metres (25.00 feet).

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 views.

The excess height of 1.03 metres (3.40 feet) is the result of design choices: the proposal berms up the ground to create two terraces in the rear yard and elevates the main floor for a total increase in height of 1.03 metres (3.40 feet) from the existing grades. Thus raised, when approaching the front doors from the Bryant Street frontage (average Elev. 392.45 ft.), it requires six steps downwards to reach the main floor level of both units. From there, fourteen more steps in the rear yard lead down to the garages at the lane (existing average Elev. 379.91 ft.).

As this is a prominent corner site, the increased building height will be visible to anyone travelling up Kisbey Avenue. This over height condition will also overshadow the existing dwelling to the east at 5857 Bryant Street. This older two storey dwelling's ground floor is at approximately Elev. 385.29 ft., which is 1.31 metres (4.30 feet) lower than the main floor of the subject dwelling.

It is possible to design a two family dwelling on this site that would comply with the Zoning Bylaw. One example is the two family dwelling at 5891/5893 Bryant Street, which is the second lot to the east. Both of these semi-detached dwellings have been designed to have the maximum allowable gross floor area. Their forms are comparable: slab on grade construction, two storeys, shallow roof profiles, and identical interior ceiling heights.

However, the design of 5891/5893 Bryant Street works with the existing slope: it distributes the grade difference fairly evenly between the front and rear property lines by slightly lowering the level of the main floor into the slope. As a result, the main floor (Elev. 386.79 ft.) is 1.48 metres (5.21 feet) lower than the Bryant Street property line elevation and 1.88 metres (6.19 feet) higher than at the lane. The conforming design also requires fewer stairs: eight steps and a sloping sidewalk lead down from Bryant

Street to the front doors, and six steps and a sloping sidewalk lead down from the back doors to the garages at the lane.

In contrast, the main floor on the subject property has been built up to be 0.85 metres (2.79 feet) below the average elevation at Bryant Street and 2.94 metres (9.67 feet) higher than the average elevation at the rear lane. While this reduces the number of stairs required to reach the front door from Bryant Street (six steps), the elevated main floor significantly increases the number of steps (fourteen) required to access the dwelling units from the garages at the lane. In conclusion, the request for the variance is due to design choices, which work against the natural slope, and increase the grade differential between the dwellings and the lane.

When designing a dwelling on a sloping site, working with the slope, which includes lowering the dwelling slightly into the ground, should be considered; this would help to distribute the grade difference more evenly throughout the site. Permitting this variance would create an undesirable precedent for hillside development in this neighbourhood, as sites which are built up often have a negative impact on adjacent properties in terms of limiting views and overshadowing.

ADJACENT OWNER'S COMMENTS:

An item of correspondence was received from the homeowners of 5892 Bryant Street in opposition to the requested variance.

A second item of correspondence was received from the homeowners of 5921 Bryant Street in opposition to the requested variance.

A third item of correspondence was received from the homeowners of 5893 and 5891 Bryant Street in opposition to the requested variance.

Mr. Cashman, 5921 Bryant Street appeared in opposition to the appeal.

Mr. Milkovic, 5842 Bryant Street appeared in opposition to the appeal.

Ms. Jiasi Yao, 5893 Bryant Street appeared in opposition to the appeal.

MOVED BY MR. DHATT
SECONDED BY MS. CHAN

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

FAILED

(Opposed: Mr. Dhatt, Ms. Felker, Mr. Nemeth, Ms. Chan)

BOARD MEMBER COMMENTS:

The Board unanimously found that no hardship was demonstrated and that the requested variance was caused by a design choice.

(d) **APPEAL NUMBER:** B.V. BOV 6390 **6:15 p.m.**

APPELLANT: Anna Prints for Permit Masters

REGISTERED OWNER OF PROPERTY: Mark Matsuno and Noriko Otaki

CIVIC ADDRESS OF PROPERTY: 7918 Nelson Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot: A DL: 158 Plan: NWP18634

APPEAL: An appeal for the relaxation of Section 102.9(1) (Side Yards) of the Burnaby Zoning Bylaw which, if permitted, would allow for interior and exterior alterations to an existing single family dwelling at 7918 Nelson Avenue. The following variances are being requested:

a) a side yard width of 0.52 metres (1.7 feet) where a minimum side yard of 1.5 metres (4.9 feet) is required: and

b) a sum of both side yards of 2.98 metres (9.77 feet) where a minimum sum of both side yards 3.5 metres (11.5 feet) is required. Zone R2

APPELLANT'S SUBMISSION:

Ms. Erin Meyers, on behalf of the homeowners, submitted an application to allow interior and exterior alterations to an existing family home at 7918 Nelson Avenue.

Mr. Matsuno and Ms. Otaki, homeowners, and Ms. Ana Prints, designer appeared before the 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 Sussex-Nelson neighbourhood, in which the age and condition of single family dwellings vary. This corner lot, approximately 17.98 metres (59.00 feet) wide by 36.57 metres (120.00 feet) fronts onto the east side of Nelson Avenue and the flanking side yard faces north onto Portland Street. Older single family dwellings surround the subject site, except for across Nelson Avenue to the west, where a new dwelling is under construction. The subject site, slopes downwards 1.28 metres (4.20 feet) from north to south over 17.98 metres (59.00 feet). At the interior (south) side property line where the carport is located, the site slopes 0.64 metres (2.10 feet) upwards from west to east. Vehicular access is taken from a driveway off Nelson Avenue located next to the interior (south) side property line.

The appeal proposes a side yard setback of 0.518 metres (1.70 feet), where a minimum side yard setback of 1.49 metres (4.90 feet) is required, and a total of 2.98

metres (9.77 feet) where the Bylaw requires a total of 3.50 metres (11.50 feet).

Building Department records indicate that a dwelling with an attached carport was constructed here in 1958 before there were siting regulations. City records are not complete, but it appears that there has always been an attached carport with a deck and a staircase in this location, which makes the house and carport legal non-conforming in terms of their siting. At some point, the carport was enclosed without the benefit of a building permit. Now, the applicants are proposing, as part of building permit BLD 19-00397 to get approval for the vertical wooden cladding enclosing the former carport. No changes to the existing deck or railings will be undertaken under this permit.

The requested variance is measured from the southwest corner of the carport/garage to the southern interior side property line. The requested variance for the sum of the two side yards is measured from the closest point of the north façade of the dwelling to the Portland Street property line, which is 2.45 metres (8.07 feet), and from the southwest corner of the carport to the interior (south) side yard property line which is 0.518 metres (1.70 feet).

The intent of the Bylaw in regulating side yards is to mitigate the impact of building massing on neighbouring properties. To ensure that dwellings are suitably separated, in addition to the minimum required 1.50 metres (4.90 feet) side yard setback, the sum of both side yards must total 3.50 metres (11.50 feet). This provides flexibility in siting a new development and ensures that there is sufficient separation.

In this case, the existing house is a modest bungalow with an attached carport that is legally non-conforming with regards to the side yard setbacks. The northern (Portland Street) side yard is 2.45 metres (8.07 feet) wide at the midpoint of the dwelling, and this contributes to the overall reduction of the side yards. However, no adjacent properties are impacted by this reduction, as the subject dwelling is situated on a corner.

At the southern side yard, the wall of the carport/garage is 0.518 metres (1.70 feet) from the shared property line with 7928 Nelson Avenue. The side of the carport facing the southern side yard is 5.82 metres (19.10 feet) long by 3.50 metres (11.50 feet) wide. It is 2.43 metres (8.00 feet) in height, with a 1.06 metres (3.50 feet) solid wooden railing on top of the deck, making the total height 3.30 metres (11.50 feet).

City records indicate that a carport with a deck and stairway have always existed in this location. Section 529 of the Local Government act states that if the siting of a building or structure that was constructed before a Zoning Bylaw was adopted does not conform with Bylaw, the building or structure may be maintained or altered only to the extent that the repair or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time the repair or alteration was started. In this case, the wooden cladding will be within the outline of the existing structure, so it will not further contravene the non conformity of the southern side yard.

The adjacent dwelling at 7928 Nelson Avenue is an older one and a half story dwelling. It is sited so that the rear facade of the house is 0.45 metres (1.50 feet) beyond the eastern edge of the carport/deck structure. There are no windows on the north elevation facing towards the carport/deck, and the enclosed structure will have no openings on the façade facing the neighbouring property. While the reduction in the southern side yard is not insignificant, the siting of the house and the attached carport are legal non-conforming. As such, they may be maintained or altered as long as the work does not further contravene the non conformity of the southern side yard.

ADJACENT OWNER'S COMMENTS:

An item of correspondence was received from the homeowners of 7928 Nelson Avenue advising that they are not opposed to the requested variance.

No further items of correspondence were received regarding this appeal.

MOVED BY MS. CHAN
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

MOVED BY MS. CHAN
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

BOARD MEMBER COMMENTS:

The Board unanimously found hardship due to the physical site characteristics and voted to allow both variances.

(e) APPEAL NUMBER: B.V. BOV 6391 6:30 p.m.

APPELLANT: Vikram Tiku

REGISTERED OWNER OF PROPERTY: Paramjit Virk

CIVIC ADDRESS OF PROPERTY: 8602 Armstrong Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot: 1 DL: 13 Plan: NWP3046

APPEAL: An appeal for the relaxation of Section 103.8 (Front Yard) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home and secondary suite with a detached garage at 8602 Armstrong Avenue. This relaxation would allow for a front yard depth of 9.14 metres (30.0 feet) where a minimum

depth of 12.09 metres (39.68 feet) (based on front yard averaging) is required. Zone R3

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

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