



## 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, **2020 February 06** 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: Mr. Maciek Wodzinski, Development Plan Technician  
Ms. Eva Prior, Administrative Officer

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

#### 2. ELECTIONS

##### (a) Election of Chair

Nominations for Chair of the Burnaby Board of Variance were called for.

Mr. Rana Dhatt nominated Mr. Stephen Nemeth for the position of Chair of the Board of Variance from 2020 February 06 to 2020 December 31.

There were no further nominations received.

MOVED BY MS. FELKER

SECONDED BY MS. CHAN

THAT Mr. Stephen Nemeth be appointed as Chair of the Burnaby Board of Variance from 2020 February 06 to 2020 December 31.

CARRIED UNANIMOUSLY

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

3. **MINUTES**

(b) **Minutes of the Board of Variance Hearing held on 2020 January 09**

MOVED BY MS. FELKER  
SECONDED BY MR. DHATT

THAT the minutes of the Burnaby Board of Variance Hearing held on 2020 January 09 be adopted.

CARRIED UNANIMOUSLY

4. **APPEAL APPLICATIONS**

(a) **APPEAL NUMBER:** B.V. 6393

APPELLANT: Gurjot Punia

REGISTERED OWNER OF PROPERTY: Ginder and Harbans Kainth

CIVIC ADDRESS OF PROPERTY: 7775 14th Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot: 14 DL: 28 Plan: NWP627

APPEAL: An appeal for the relaxation of Section 105.8 (1) (Depth of Principal Building) 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 7775 14th Avenue. This relaxation would allow a building depth of 19.51 metres (64.00 feet) where a maximum building depth of 18.21 metres (59.74 feet) is permitted. Zone R5

**APPELLANT'S SUBMISSION:**

Gurjot Punia, 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 7775 14<sup>th</sup> Avenue.

Ranjit and Ginder Kainth, and Gurjot Punia appeared before the 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 Edmonds neighbourhood in which the age and condition of single and two-family dwellings vary. This rectangular, interior lot, fronting 14<sup>th</sup> Avenue, is approximately 15.24 metres (50.00 feet) wide and 36.42 metres (119.48 feet) deep. The subject site is surrounded by single family dwellings on all sides. Vehicular access to the attached garage is provided from 14<sup>th</sup> Avenue; no lane access is available.

The subject site is proposed to be improved with a new single family dwelling with secondary suite and attached garage.

The appeal requests a "Depth of Principal Building" of 19.51 metres (64.00 feet) where a maximum of 18.21 metres (59.74 feet) is required based on 50% depth of the lot.

The intent of the Bylaw is to prevent the creation of overlong houses which present a long "wall" to their neighbours.

In this case, the requested variance occurs at the northeast corner of the proposed dwelling where the 4.47 metres (14.66 feet) covered, partially recessed, deck projects 2.34 metres (7.66 feet) beyond the front face of the house. 1.2 metres (3.94 feet) of those 2.34 metres (7.66 feet) is an allowable projection. The remaining 1.14 metres (3.74 feet) is the encroachment and subject of this variance request.

The requested variance is the result of a design choice. The depth of the deck can be easily modified without the necessity of redesigning the proposed dwelling. The proposed excess length of the building faces a single storey addition on the neighbouring property (7783 14<sup>th</sup> Avenue). It is noted that the neighbour's addition was built without a building permit.

ADJACENT OWNER'S COMMENTS:

Correspondence was received from the owner/resident of 7759 14<sup>th</sup> Avenue in opposition to this appeal.

A form letter was received and signed by owners/residents of 7754, 7766, 7776, 7782, 7783 and 7790 14<sup>th</sup> Avenue and 7774 15<sup>th</sup> Avenue. The letter read as follows:

*I have read the variance application and reviewed the site plan for the new dwelling at 7775 14<sup>th</sup> Avenue Burnaby. I am supportive of the required variance as requested by the owner for BOV 6393.*

The owner/resident of 7782 14<sup>th</sup> Avenue appeared at the Board of Variance in support of the requested appeal.

The owner/resident of 7759 14<sup>th</sup> Avenue appeared at the Board of Variance, advising that they are now in favour of the appeal.

MOVED BY MR. DHATT  
SECONDED BY MS. CHAN

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

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

BOARD MEMBER COMMENTS:

Mr. Nemeth found that no hardship had been identified.

**Ms. Chan** found that no hardship had been identified.

**Mr. Dhatt** found that hardship was evident due to personal characteristics of the applicant and voted to approve the variance. Mr. Dhatt found that the applicant had made an effort to minimize the effect on neighbouring properties.

**Ms. Felker** found that hardship was evident due to physical site characteristics and voted to approve the variance. Ms. Felker found that the applicant had made an effort to minimize the effect on neighbouring properties.

**(b) APPEAL NUMBER: B.V. 6394**

**APPELLANT:** Dan Perreault

**REGISTERED OWNER OF PROPERTY:** Rino Cioffi

**CIVIC ADDRESS OF PROPERTY:** 5360 Venables Street

**LEGAL DESCRIPTION OF PROPERTY:** Lot: D DL: 127 Plan: 23241

**APPEAL:** An appeal for the relaxation of Section 6.6(1)(c) (Accessory Building and Uses) 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 5360 Venables Street. This relaxation would allow a minimum rear yard depth for an accessory building to the lane of 0.67 metres (2.23 feet) where a minimum depth of 1.20 metres (3.94 feet) is required. Zone R4

**APPELLANT'S SUBMISSION:**

Dan Perreault, 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 5360 Venables Street.

Dan Perreault, Rino Cioffi, and Kristy Bombini-Cioffi appeared before the members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

The subject site is zoned R4 Residential District and is located in the Parkcrest-Aubrey neighbourhood where the age and condition of the existing single and two family dwellings varies. This interior lot is approximately 20.12 meters (66.00 feet) wide and 37.19 metres (122.00 feet) deep and fronts Venables Street to the north. The subject site abuts a single family lot to the west and a two family lot to the east. Vehicular access to the subject site is provided from Venables Street to the north. The site is sloped approximately 3.08 metres (10.10 feet) from the north-east to the south-west.

The construction of a two storey, single family dwelling with a secondary suite, basement recreational area, attached double car garage and accessory pool bar is under way under

Building Permit BLD18-00562. The extension of the pool bar to accommodate an enclosed bathroom is the subject of this appeal.

The appeal proposes a rear yard setback of 0.67 metres (2.23 feet) from the south property line to the accessory building, with no further roof overhangs, where a minimum rear yard setback for accessory building of 1.20 metres (3.94 feet) is required.

The intent of the bylaw is to mitigate the impacts of building massing on neighbouring properties.

In this case, the approved building permit drawings include a 5.89 metres (19.33 feet) wide by 2.74 metres (9.00 feet) deep Pool Bar in the south-east corner of the site, approximately 1.22 metres (4.00 feet) from the rear, south, property line. The structure is open to the north, facing the main dwelling and to the west, facing a future pool. There is an exterior shower area, on the south pool bar wall facing the lane, flanked by a 1.01 metres (3.33 feet) wall on the east side and wall with a door protruding the same distance on the west side of the shower area. There is an additional 0.61 metres (2.00 feet) roof overhang permitted encroachment into the 1.20 metres (3.94 feet) required setback.

The proposal is to create a bathroom in place of the outdoor shower area by extending the area 0.61 metres (2.00 feet) further to the south and enclosing the area with walls under the already built, permitted roof overhang. It was noted that there is a foundation in place for the enclosed proposed bathroom which is the subject of this variance.

Near the proposed addition in the south-east corner of the subject site, in the south-west corner of the adjacent property to the east (5386 Venables Street), there is a wooden structure, overgrown with vines, also built close to the rear property line. Although the structure will cover the view of the proposed addition from the east neighbor, such a structure could be removed in the future, increasing the impact of the proposed variance.

It is noted that the proposed extension is a design choice rather than a hardship.

ADJACENT OWNER'S COMMENTS:

No comments were received regarding this appeal.

MOVED BY MS. CHAN

SECONDED BY MR. DHATT

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

CARRIED

*(Opposed: Mr. Nemeth)*

BOARD MEMBER COMMENTS:

**Mr. Nemeth** found that no hardship had been identified.

**Ms. Chan** found that hardship was evident due to physical site characteristics and voted to approve the variance.

**Mr. Dhatt** found that hardship was evident and voted to approve the variance.

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

**(c) APPEAL NUMBER: B.V. 6395**

APPELLANT: Vikram Tiku

REGISTERED OWNER OF PROPERTY: Paramjit Virk

CIVIC ADDRESS OF PROPERTY: 8602 Armstrong Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot:1 DL: 13 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 dwelling with a secondary suite and detached garage at 8602 Armstrong Avenue. This relaxation would allow a front yard depth of 10.67 metres (35.00 feet) where a minimum front yard depth of 12.09 metres (39.68 feet) is required based on front yard averaging. Zone R3

**APPELLANT'S SUBMISSION:**

Vikram Tiku, on behalf on the homeowners, submitted an application to allow for the construction of a new single family dwelling with a secondary suite and detached garage at 8602 Armstrong Avenue.

Vikram Tiku appeared before the members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

An application to the Board of Variance for the subject site was made in November for the December hearing proposing a variance to the front yard setback. However, prior to the hearing date the application was withdrawn. The current, revised, application reduces the front yard setback encroachment from 2.95 metres (9.68 feet) to 1.48 metres (4.68 feet). The written response to the December variance request is *attached* for reference.

The appeal is to vary Section 103.8 – “Front Yard” of the Zoning Bylaw from 12.09 metres (39.68 feet) to 10.67 metres (35.00 feet) to allow the construction of a new single family dwelling and secondary suite.

The lot is rectangle in shape, relatively flat. There are no environmental, topographic or legal constraints. The lot is wider by 3.88 metres (12.73 feet) than the smallest lot on the block (8660 Armstrong Avenue). Neighbouring lots having similar flanking street conditions are narrower by 1.68 metres (5.51 feet) (8596 Armstrong Avenue across Coquitlam Street) and 2.44 metres (8.01 feet) (8603 12<sup>th</sup> Avenue across the lane). The subject lot is also deeper by 7.15 metres (23.46 feet) than the 8596 Armstrong Avenue, corner lot across Coquitlam Street.

It is also worth noting that there is an 8.31 metre (27.25 feet) wide garage and paved parking area in the rear of the property, providing room for 6 cars. The 9.72 metres (31.92 feet) by full width of the rear of the property, which is devoted to the cars storage, takes much more potential outdoor space than the 1.48 metres (4.68 feet) front yard encroachment would create.

The siting of the subject dwelling is clearly a design choice, and can be easily adjusted to conform to the requirements of the zoning bylaw, therefore past Planning Department comments remain unchanged.

ADJACENT OWNER'S COMMENTS:

No comments were received regarding this appeal.

MOVED BY MS. FELKER  
SECONDED BY MS. CHAN

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

CARRIED  
(Opposed: Ms. Chan)

BOARD MEMBER COMMENTS:

Mr. Nemeth found that hardship was evident due to physical site characteristics (existing utility pole) and voted to approve the variance.

Ms. Chan found that no hardship had been identified.

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

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

(d) APPEAL NUMBER: B.V. 6396

APPELLANT: Kapil Nanalal

REGISTERED OWNER OF PROPERTY: Sipra Gohel and Kapil Nanalal

CIVIC ADDRESS OF PROPERTY: 7775 Kentwood Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 9 DL: 42 Plan: NWP23102

APPEAL: An appeal for the relaxation of Section 101.8 (Front Yard) 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 7775 Kentwood Street. This relaxation would allow a front yard depth of

6.08 metres (19.94 feet) where a minimum front yard depth of 9.0 metres (29.50 feet) is required based on front yard averaging. Zone R1

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

(e) **APPEAL NUMBER:** B.V. 6397

APPELLANT: Bhupinder Singh

REGISTERED OWNER OF PROPERTY: Mei-Ying Liu

CIVIC ADDRESS OF PROPERTY: 6929 Marlborough Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot: 93 DL: 98 Plan:44478

APPEAL: An appeal for the relaxation of Section 105.9 (Front Yard) 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 6929 Marlborough Avenue. This relaxation would allow a front yard depth of 11.05 metres (36.24 feet) where 14.19 metres (46.57 feet) is required based on front yard averaging. Zone R5

APPELLANT'S SUBMISSION:

Bhupinder Singh, submitted an application to allow for the construction of a new single family dwelling with a secondary suite and detached garage at 6929 Marlborough Avenue.

Jose Chu and Mei Ying Liu appeared before the 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 Sussex-Nelson neighbourhood, in which the age and condition of single family dwellings vary. The site is a rectangular shaped interior lot which fronts onto Marlborough Avenue to the east and abuts a lane to the west. This rectangular, relatively flat lot is 46.47 metres (152.46 feet) deep and has a frontage of 15.24 metres (50.01 feet). To the north, south and west across the lane and across Marlborough Avenue to the east are single family dwellings. Vehicular access to the subject site is proposed to remain via the lane to the rear (west).

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

The appeal is to vary Section 105.9 – “Front Yard” of the Zoning Bylaw requirement from 14.19 metres (46.57 feet), based on front yard averaging, to the proposed 11.05 metres (36.24 feet).

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 this case, the front yard averaging calculations are based on the front yard setbacks of the two neighbouring properties to the south: 6949 and 6957 Marlborough Avenue and the neighbouring property directly to the north (6909 Marlborough Avenue). These front yard setbacks are 10.98 metres (36.04 feet), 11.14 metres (36.56 feet), and 20.46 metres (67.11 feet), respectively. The two neighbouring properties to the south are aligned with the rest of the properties on this side of Marlborough Avenue. The proposed front yard setback of the subject dwelling at 11.05 metres (36.24 feet) is in between the two southern properties' setbacks and therefore aligned with the rest of the block. However, the property to the north is pie shaped with a narrower 16.66 metres (54.66 feet) frontage and a much wider 29.07 metres (95.37 feet) rear property line. To fit a large dwelling within this irregular property, the dwelling was located at the wider rear portion of the lot, 20.46 metres (67.11 feet) from the front property line, which directly contributes to the average front yard setback calculations.

However, in this case, following the front yard averaging requirement would contradict the intent of this Zoning Bylaw regulations, which is to create a consistent and the harmonious streetscape rather than adding to the aberration of the one extreme setback on the block. This extreme setback is a response to the irregular pie-shaped dimensions of the neighbouring property, which thus causes the distortion of the front yard average calculations that govern the subject site.

In view of neighbouring properties, there is an established block frontage along the west side of Marlborough Avenue. The proposed variance is in line with the neighbouring dwellings to the south and would therefore have no negative impacts on the streetscape.

ADJACENT OWNER'S COMMENTS:

Form letters in support of the requested variance were received from owners/residents of 6909, 6949, 6957, and 6959 Marlborough Avenue.

No further 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 UNANIMOUSLY

BOARD MEMBER COMMENTS:

Mr. Nemeth found that hardship was evident due to the physical site characteristics of an abutting site and voted to approve the variance.

**Ms. Chan** found that hardship was evident due to the physical site characteristics and voted to approve the variance.

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

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

5. **NEW BUSINESS**

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

6. **ADJOURNMENT**

MOVED BY MR. DHATT  
SECONDED BY MS. FELKER

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 7:10 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. E. Prior  
ADMINISTRATIVE OFFICER

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Ms. B. Felker