



## **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., and electronically on Thursday, **2020 July 09** 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. Gulam Firdos, Citizen Representative  
Ms. Margaret Malysz, Development Plan Approvals Supervisor  
STAFF: Mr. Maciek Wodzinski, Development Plan Technician  
Ms. Eva Prior, Administrative Officer  
Ms. Lauren Cichon, Council Support Assistant

#### **1. LAND ACKNOWLEDGEMENT**

The Chair called the meeting to order at 5:00 p.m.

The Chair, Mr. 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.

The Chair reviewed the purpose of the Board of Variance Hearing and provided instructions for any members of the public participating through teleconference.

#### **2. APPEAL APPLICATIONS**

##### **2.1 BOV #6403 - 4240 Gilpin Crescent**

APPELLANT: Michael Lu

REGISTERED OWNER OF PROPERTY: Michelle Wong and Henry Wong

CIVIC ADDRESS OF PROPERTY: 4240 Gilpin Crescent

LEGAL DESCRIPTION OF PROPERTY: LOT: 15 DL: 34 PLAN: 14146

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 home with a secondary suite and detached garage at 4240 Gilpin Crescent. This relaxation would allow for the minimum distance between buildings of 2.10 metres (6.89 feet) where a minimum distance of 4.5 metres (14.8 feet) is required. Zone R10

APPELLANT'S SUBMISSION:

Mr. Lu, architect, submitted an application on behalf of the homeowners for a new single family home and detached garage at 4240 Gilpin Crescent.

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

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R10 Residential District, is located in the Garden Village neighbourhood, characterized by low-scale single family dwellings, the majority of which were built in the mid-1950s. The R10 District in this area was established through an area rezoning process in 1996 at the request of residents to control the form and character of new development. This short interior lot, approximately 17.71 metres (58.12 feet) wide by 33.53 metres (110.00 feet) deep, fronts onto Gilpin Crescent to the northeast. To the southwest the site is flanked by a lane which provides vehicular access to the site. Along the southeast property line the subject site is restricted by a 3.05 metres (10.0 feet) wide statutory right-of-way for the utility purposes. Single family dwellings abut the subject site on all sides. The site observes a moderate downward slope of approximately 2.5 metres (8.2 feet) from west to east.

The subject site is proposed to be redeveloped with a new single family dwelling with a secondary suite and a detached carport, for which the following variance has been requested.

The appeal is to vary Section 6.3.1 - "Distance between Buildings on the same Lot" of the Zoning Bylaw requirement for the minimum distance from 4.5 metres (14.8 feet) to 2.1 metres (6.89 feet) to allow the construction of a new single family dwelling and a detached garage.

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

The siting of the new single family dwelling and the new detached garage would be consistent with the placement of the existing dwelling and the existing detached garage on the subject site. The new dwelling would observe a 9.41 metres (30.88 feet) front yard setback, which meets the front yard averaging requirement of 9.37 metres (30.73 feet). The new dwelling would observe a depth of 14.86 metres (48.75 feet), where a maximum building depth of 15.09 metres (49.5 feet) is permitted. The existing dwelling observes a depth of approximately 9.3 metres (30.5 feet).

The new two car detached garage is shown closely within the footprint of the existing detached garage in the southwest corner of the lot.

The 2.1 metres (6.87 feet) distance between two structures is measured from the interior (northeast) face of the new garage to the posts of the small covered deck at the western rear corner of the new dwelling. This deck projects 1.22 metres (4.00 feet) from the main body of the dwelling. There is also a second covered deck proposed at the opposite rear corner of the dwelling; the closest distance from the garage to the post of this deck would be 2.56 metres (8.41 feet). With the exception to these two covered decks, the distance between the new garage and the main body of the new dwelling would be 3.32 metres (10.89 feet) at the main floor level. The upper floor is generously set back from the rear façade of the main floor, by 2.82 metres (9.25 feet) at its eastern portion and by 5.72 metres (18.75 feet) at its western portion. This “stepped” design would help prevent overshadowing of the outdoor space in the area where the separation between two structures is reduced.

With respect to the impacts on the neighbouring properties, little impacts are expected, considering the mature hedges along both shared side property lines. Again, the proposed “stepped” design would help mitigate any sense of overcrowding on the neighbouring property to the northwest.

With respect to outdoor space, sufficient recreational area will be provided by the more than 92.9 square metres (1,000 square feet) of green space available in the rear yard, and the generous southeast side yard of at least 3.81 metres (12.5 feet).

In summary, the proposed relaxation would not create negative massing impacts on the neighbouring properties and the subject site. The proposal successfully balances the development needs with the site restrictions.

**ADJACENT OWNERS' COMMENTS:**

No submissions were received regarding this appeal.

MOVED BY MR. DHATT  
SECONDED BY MS. CHAN

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

DENIED

Opposed: Ms. Chan, Ms. Felker and Mr. Firdos

BOARD MEMBER COMMENTS:

**Mr. Nemeth** found that hardship was evident due to physical site characteristics and voted to approve the variance. The required front yard set-back is significant.

**Ms. Chan** found that hardship was evident due to the right-of-way on the site; however, it is not a minor variance and voted against allowing the variance.

**Mr. Dhatt** found that hardship was evident due to physical site characteristics and voted to approve the variance. The required front yard set-back is significant.

**Ms. Felker** found that no hardship was evident, and that the variance was based on a design choice. Ms. Felker voted against allowing the variance.

**Mr. Firdos** found that no hardship was evident and this was a major variance. Mr. Firdos voted against allowing the variance.

**2.2 BOV #6404 - 7181 Golden Street**

APPELLANT: Maksim Mihic

REGISTERED OWNER OF PROPERTY: Maksim Mihic

CIVIC ADDRESS OF PROPERTY: 7181 Golden Street

LEGAL DESCRIPTION OF PROPERTY: LOT: 168 DL: 136 PLAN: 40376

APPEAL:

An appeal for the relaxation of Section 102.7 (Depth of Principal Building) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with a secondary suite and detached garage at 7181 Golden Street. This relaxation would allow for a building depth of 20.43 metres (67.03 feet) where a maximum building depth of 18.3 metres (60 feet) is permitted. Zone R2

**APPELLANT'S SUBMISSION:**

Mr. and Ms. Mihic submitted an application for a new single family home and detached garage at 7181 Golden Street.

Mr. and Ms. Mihic appeared before the members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

The subject site, zoned R2 Residential District, is located in the Sperling-Broadway area where the majority of single family dwellings were built in the late 1960s and the early 1970s. This site is a trapezoidal shaped interior lot located to the east of the Golden Street and Gerald Avenue intersection. The two streets meet at the intersection but do not continue further to the east and north, respectively; the intersection is a partial cul-de-sac along its north-eastern boundaries. The subject lot has an curving frontage of 15.27 metres (50.09 feet) along the cul-de-sac property line to the west and is 42.65 metres (139.94 feet) deep along the south (side) property line. Single family dwellings surround the subject site in all directions, except the lot immediately to the northwest (7171 Golden Street). The existing dwelling on this lot has been recently demolished and the site is now in early stages of the construction for a new single family dwelling with a secondary suite and a detached garage in accordance with BLD19-00748 issued in 2019. The subject lot observes a gentle upward slope of approximately 1.95 metres (6.4 feet) in the west (front) - east (rear) direction. Vehicular access to the site is provided from the rear lane to the west.

The subject property is proposed to be redeveloped with a new single family dwelling with a secondary suite and a detached garage, for which the following variance has been requested.

The appeal is to vary Section 102.7 – “Depth of Principal Building” of the Zoning Bylaw requirement for the maximum building depth from 18.3 metres (60.0 feet) to 20.43 metres (67.03 feet) to allow for the construction of a new single family dwelling.

The intent of the principal building depth requirement of the Zoning Bylaw is to prevent the construction of dwellings that present long, imposing walls, such that the massing of the building impacts the neighbouring properties.

The requested variance is strongly related to the site geometry which affects the building depth calculation. In this case, the calculation is based on the building depth as projected onto the lot depth, which is the line joining the center points of the front (curved) and rear property lines. The projection is measured from the closet points of the building face to the front (curved) and the rear property lines.

Due to the trapezoidal shape of the lot, this line is angled in relation to the front and side property lines. The siting of the proposed dwelling is also rotated in relation to the lot depth line; the proposed dwelling would be generally oriented to the Golden Street (front) property line, with a “parallel” footprint along the south (side) property line and with a “staggered” footprint along the angled northwest (side) property lines.

Measured along this line, the proposed projected building depth is 20.43 metres (67.03 feet), which exceeds the maximum permitted building depth by 2.14 metres (7.03 feet).

With the same design on a rectangular lot, the proposed building length would be approximately 17.65 metres (57.92 feet), as measured from the outermost front face (west) to the outermost rear face (east), and would not require a variance. However, the proposed building width of 22.99 metres (75.42 feet), as measured between the outermost side (south and north) faces, could not be accommodated on a rectangular lot of the same area.

With respect to the massing impacts on the neighbouring lots, the proposal would not create a long “wall” effect as viewed from the neighbouring property to the south. The outermost face of the dwelling, parallel to the shared south (side) property line, would be approximately 13.56 metres (44.5 feet) long, which is substantially less than the permitted building depth. The generous distance of more than 13.72 metres (45.0 feet), between the portion of the building, where the excess depth occurs, and the shared south (side) property line, would mitigate any massing impacts on the neighbouring property to the south.

The proposed “staggered” footprint of the principal building along the angled northwest (side) property line is strongly related to the trapezoid shape of the site. As a result, the proposed dwelling would observe northwest (side) yard setbacks varying from 2.04 metres (6.7 feet) at the outermost point of the “jagged” northwest elevation, to approximately 5.79 metres (19.0 feet) at the innermost point at the northwest corner of the dwelling. The overall length of the northwest elevation, if measured between the outermost points, would be only approximately 13.41 metres (44.0 feet). Further, the substantial distance of more than 17.32 metres (56.8 feet), between the one-storey high portion of the building, where the excess depth occurs, and the shared northwest (side) property line, would mitigate any massing impacts on the neighbouring property to the northwest.

Given this design and the rotated orientation of the subject dwelling with respect to the northwest (side) property line, the proposal would not create a long “wall” effect as viewed from the immediately adjacent property to the northwest. The

“staggered” massing of the dwelling would help to mitigate the massing impacts of the excess building depth along the northwest (side) property line.

However, the requested variance is not solely the result of the restrictive geometry of the site. The proposed main floor area is approximately 244.61 square metres (2,633.0 square feet) and the proposed second floor area is approximately 79.25 square metres (853 square feet), which is less than one third of the main floor area. Therefore, design choices have been made to provide a larger building footprint, which affects the building depth. Perhaps, by re-distributing some area from the lower to the upper floor, the request for this variance could be eliminated.

Further, with large lots, such as the subject lot, of more than 1,021.93 square metres (11,000.0 square feet) in area, it should be possible to provide a design in compliance with the Bylaw. The neighbouring property to the northwest (under construction) could serve as an example, where, despite a similar challenging lot geometry, the building permit was issued for a proposal in full compliance with the Zoning Bylaw.

In summary, the requested variance is partly related to the geometry of the subject site and partly related to the design choices. There are no apparent negative impacts of the proposal on the neighbouring properties.

**ADJACENT OWNERS' COMMENTS:**

Correspondence was received from the owner/occupant of 2141 Gerald Avenue in support of the appeal.

Correspondence was received from the owner/occupant of 2100 Gerald Avenue in support of this appeal.

Correspondence was received from the owner/occupant of 7141 Golden Street in support of this appeal.

Correspondence was received from the owner/occupant of 7161 Golden Street in support of this appeal.

One item of correspondence was received in opposition to this appeal. The writer requested anonymity.

No further 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: Ms. Chan, and Mr. Firdos

BOARD MEMBER COMMENTS:

**Mr. Nemeth** found that hardship was evident due to physical site characteristics and voted to approve the variance. The required front yard set-back is significant.

**Ms. Chan** found that hardship was evident on the site; however, advised it was a design choice and the variance could not be considered minor. Ms. Chan voted against allowing the variance.

**Mr. Dhatt** found that hardship was evident due to physical site characteristics and voted to approve the variance. The variance would not impact the neighbours.

**Ms. Felker** found that hardship was evident due to physical site and personal characteristics and that the owners had mitigated the impact on the neighbours. Ms. Felker voted to allow the variance.

**Mr. Firdos** found that no hardship was evident and that permitting this appeal would defeat the intent of the bylaw. Mr. Firdos voted against allowing the variance.

**2.3 BOV #6405 - 7775 Kentwood Street**

APPELLANT: Kapil Nanalal

REGISTERED OWNER OF PROPERTY: Sipra Gohel and Kapil Nanalal

CIVIC ADDRESS OF PROPERTY: 7775 Kentwood Street

LEGAL DESCRIPTION OF PROPERTY: LOT: 98 DL: 42 PLAN: NWP23102

APPEAL:

An appeal for the relaxation of Sections 101.6(1)(a) and 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. The following variances are being requested:

a) Height of the principal building of 9.30 metres (30.52 feet), measured from the rear average grade for a proposed single family dwelling with a sloped roof, where a maximum height of 9.00 metres (29.50 feet) is permitted. The principal



building height measured from the front average grade will be 9.21 metres (30.22 feet); and

b) A front yard depth of 7.50 metres (24.59 feet) where a minimum front yard depth of 9.00 metres (29.50 feet) is required based on front yard averaging. Zone R1

**APPEAL:**

An appeal for the relaxation of Sections 101.6(1)(a) and 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. The following variances are being requested:

a) Height of the principal building of 9.30 metres (30.52 feet), measured from the rear average grade for a proposed single family dwelling with a sloped roof, where a maximum height of 9.00 metres (29.50 feet) is permitted. The principal building height measured from the front average grade will be 9.21 metres (30.22 feet); and

b) A front yard depth of 7.50 metres (24.59 feet) where a minimum front yard depth of 9.00 metres (29.50 feet) is required based on front yard averaging. Zone R1

**APPELLANT'S SUBMISSION:**

Dr. Gohel and Mr. Nanalal submitted an application for a new single family home at 7775 Kentwood Street.

Mr. Nanalal, and Mr. Chen, designer, appeared before the members of the Board of Variance.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

This property was the subject of an appeal to the Board on 2020 February 06. A single variance was sought to allow for the construction of a new single family dwelling with an attached garage and secondary suite, observing a front yard depth of 6.08 metres (19.94 feet) where a minimum 9.00 metres (29.53 feet) front yard depth is required. The appeal was withdrawn before the hearing.

The subject site, which is zoned R1 Residential District, is located in the Government Road neighbourhood in which the age and condition of single family dwellings vary. This regular interior lot is approximately 36.01 metres (118.17 feet) deep and has a frontage of 22.49 metres (73.79 feet) onto the north side of Kentwood Street. The site is bordered by single family dwellings on all sides. In the north-west corner, the property is restricted by a 0.61 metres (20.00 feet) wide by 3.66 metres (12 feet) deep statutory right-of-way for BC Hydro access.

Additionally, the natural condition of the property constrains the siting of the proposed residence. Eagle Creek is located in the north-east portion of the property and the Streamside Protection and Enhancement Area (SPEA) is 10.00 metres (32.81 feet) from the top of bank in the north (rear) portion of the property. As per the Environmental Review Committee Decision from May 30, 2012, no buildings or structures are allowed within the SPEA, leaving almost half of the property in the rear undevelopable.

Vehicular access to the subject site is proposed to be retained from the Kentwood Street (southern) frontage; there is no lane access. The site observes an approximately 3.04 metres (10.00 feet) drop in grade in the north-east portion of the property, near Eagle Creek.

**The first a) appeal** is to vary Section 101.6(1)(a) – “Height of Principal Building” of the Zoning Bylaw requirement for the maximum building height from 9.00 metres (29.53 feet) to 9.30 metres (30.52 feet) measured from the rear average grade for a proposed single family dwelling with a sloping roof. The principal building height measured from the front average grade will be 9.21 metres (30.22 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 the views.

It appears that the building height relaxation request is related to the design choices. In this case, the height calculation is based on the proposed average grade at the rear elevation. The 0.30 metres (0.98 feet) height encroachment is the effect of the chosen floor to ceiling height in the rooms below encroaching portion of the roof. Floor, above ground floor Family, Dining and Living Rooms, is raised by three steps to provide the 3.58 metres (11.75 feet) floor to ceiling height. Three bedrooms located above observe a 2.74 metres (9.00 feet) floor to ceiling height. There is no substantial grade difference between the front and the rear of the dwelling that would affect the vertical building envelope where construction is permitted. It is noted that the proposed dwelling would observe a height of 9.21 metres (30.22 feet) when viewed from the front property line, which also exceeds the maximum height allowed by the Zoning Bylaw by 0.21 metres (0.67 feet).

Although there is consideration to be a lack of hardship related to the height, and that the requested variance is a design choice with the existence of other options, the encroaching peak of the roof is insignificant when viewed from the street as it is obscured completely from properties to the rear by the extensive foliage cover near the creek.

**The second b) appeal** is to vary Section 101.8 – “Front Yard” of the Zoning Bylaw requirement for the minimum front yard depth from 9.00 metres (29.53

feet) based on the minimum required front yard depth to 7.50 metres (24.59 feet) to allow the construction of the new single family dwelling. The proposed depth has been reduced by 1.42 metres (4.66 feet) from the original appeal made in February.

The intent of the Bylaw is to mitigate the massing impacts of new buildings and structures on neighbouring properties and to preserve a unified streetscape.

This variance is directly related to the placement of a dwelling of this size on a site with a limited building envelope. Due to the constraints of the Eagle Creek SPEA, the allowable depth for the new dwelling varies from approximately 10.5 metres (34.45 feet) to the 9.50 metres (31.17 feet) in the most restricted area. The proposed depth of the dwelling is 11.63 metres (38.17 feet) and the requested encroachment into the required front yard is 1.5 metres (4.92 feet).

It is noted that the neighbouring dwellings observe deeper setbacks than are required by the Bylaw, but not sufficiently deeper (greater than 1.50 metres (4.90 feet)) to trigger front yard averaging requirements. Therefore, the proposed dwelling, with the requested front yard of 7.50 metres (24.59 feet), will be 3.72 metres (12.20 feet) in front of the neighbour to the west and 2.29 metres (7.51 feet) in front of the neighbour to the east. Therefore, the desired unified streetscape will not be preserved. However, it should be noted that the massing impact on the neighbouring properties was reduced by 1.42 metres (4.66 feet), from the original application made in February, and the subject site presents significant natural hardship in the form of the creek and its preservation area in the rear yard of the property.

It is also worth noting that the similar conditions were observed on the property to the south west at 7842 Kerrywood Crescent which was considered by the board on June 04, 2015 and the variance of front yard relaxation was allowed.

#### ADJACENT OWNERS' COMMENTS:

An undated petition was submitted by the homeowners. The petition read as follows:

*'I understand that Board of Variance will be hearing an appeal for 7775 Kentwood Street for the relaxation of the front yard from 29.50 feet to 19.94 feet pursuant to Section 101.8 of the Burnaby Zoning Bylaw. After reviewing the information provided by the Owner, I am in support of the Appeal.'*

The petition was signed by owners/occupants of 7617, 7730, 7781, 7789 Kentwood Street and 3221 Ingleside Court.

Correspondence was received from owners/occupants of 7735 Kentwood Street in opposition to this appeal.

Correspondence was received from owners/occupants of 7738 Kentwood Street in opposition to this appeal.

Correspondence was received from owners/occupants of 7745 Kentwood Street expressing concern for the salmon that inhabit the stream which borders the property.

The owner/occupant of 7765 Kentwood Street appeared before the members of the Board of Variance in opposition to the appeal.

MOVED BY MS. FELKER  
SECONDED BY MR. DHATT

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

CARRIED UNANIMOUSLY

BOARD MEMBER COMMENTS:

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

**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 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.

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

MOVED BY MS. FELKER  
SECONDED BY MS. CHAN

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

CARRIED  
Opposed: Mr. Nemeth

BOARD MEMBER COMMENTS:

**Mr. Nemeth** found that hardship was evident due to physical site characteristics; however, indicated that other design choices were available. Mr. Nemeth voted against approval of this variance.

**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 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.

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

3. **NEW BUSINESS**

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

4. **ADJOURNMENT**

**MOVED BY MS. FELKER**  
**SECONDED BY MS. CHAN**

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 6:30 p.m.

---

Mr. S. Nemeth, CHAIR

---

Ms. J. Chan

---

Mr. R. Dhatt

---

Ms. B. Felker

---

Ms. E. Prior  
ADMINISTRATIVE OFFICER

---

Mr. G. Firdos