



BOARD OF VARIANCE

MINUTES

Thursday, January 7, 2021, 5:00 p.m.

**Council Chamber, City Hall
4949 Canada Way, Burnaby, BC**

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, **2021 January 07** at 5:00 p.m.

PRESENT: Mr. Rana Dhatt, Chair
Ms. Jacqueline Chan, Resident Representative
Ms. Brenda Felker, Resident Representative
Mr. Gulam Firdos, Resident Representative
Mr. Al Luongo, Resident Representative

STAFF: Ms. Margaret Malysz, Development Plan Approvals Supervisor
Ms. Blanka Zeinabova, City Clerk
Ms. Eva Prior, Acting Deputy City Clerk
Ms. Monica MacDonald, Administrative Officer
Ms. Samantha Thompson, Council Support Assistant

1. CALL TO ORDER

The Acting Deputy City Clerk called the meeting to order at 5:00 p.m. and conducted the roll call. Due to the COVID-10 pandemic, all members of the Board participated electronically.

For the benefit of the Board members that were participating electronically, the Acting Deputy City Clerk reviewed the staff members present at the meeting.

The Acting Deputy City Clerk recognized the ancestral and unceded homelands of the hən̓q̓əmi̓ñəm̓ and Skwxwú7mesh speaking peoples, and extended appreciation for the opportunity to hold a meeting on this territory.

2. ELECTION OF 2021 CHAIR

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

Ms. Brenda Felker nominated Mr. Rana Dhatt for the position of Chair for the 2021 Board of Variance.

There were no further nominations received.

MOVED BY MS. FELKER
SECONDED BY MS. CHAN

THAT Mr. Rana Dhatt be appointed as Chair of the Burnaby Board of Variance for 2021.

CARRIED UNANIMOUSLY

Mr. Dhatt assumed the role of Chair.

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

3. MINUTES

3.1 Minutes of the Board of Variance hearing held on 2020 November 05

MOVED BY MS. JACQUELINE CHAN
SECONDED BY MS. BRENDA FELKER

THAT the minutes of the Burnaby Board of Variance Hearing held on 2020 November 05 be adopted.

CARRIED UNANIMOUSLY

4. APPEAL APPLICATIONS

4.1 BOV #6417 - 5340 Spruce Street

APPELLANT: Mark Swartz

REGISTERED OWNER OF PROPERTY: Mark Swartz, Debra Swartz, Brian Swartz

CIVIC ADDRESS OF PROPERTY: 5340 Spruce Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 203 DL: 80 Plan: NWP36234

APPEAL:

An appeal for the relaxation of Section 102.8(1) (Front Yard) 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 5340 Spruce Street. This relaxation would allow for a front yard depth of 9.95 metres (32.64 feet) where a minimum depth of 12.71 metres (41.71 feet) is required based on front yard averaging.

APPELLANT'S SUBMISSION:

A letter was received from Mark Swartz, requesting a variance to reduce the minimum required front yard setback. Mr. Swartz advised that the proposed front yard setback is equal to the average of the existing homes located to the immediate east and west of the subject property. The current prescribed setback averaging is 41.71' due to the setback of the property located at 5366 Spruce Street being 70.99'. The applicant stated that the requested front yard average would result in a front yard setback greater than that of his home as it presently sits. Mr. Swartz advised that the relaxed front yard setback would be consistent with the neighbourhood and would not negatively impact the surrounding homes.

Mr. Swartz appeared before the Board of Variance via Zoom.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

BV #	6417	Address	5340 Spruce Street
X-Reference	BOV #20-00025	Hearing	2021 January 07

Project	New Single Family Dwelling, Secondary Suite and Detached Garage.
Zoning	R2 Residential District
Neighbourhood	Gilpin – single family neighbourhood

Appeal(s) to vary:	<p>Section 102.8(1) – “Front Yard” from 12.71 m (41.71 ft.), based on front yard averaging, to 9.95 m (32.64 ft.) to allow construction of a new single family dwelling encroaching into the required front yard.</p> <p>The allowable 1.2 m (3.94 ft.) projection of a porch and its supporting structure is permitted into the front yard setback.</p>
Zoning Bylaw intent:	Front yard setbacks help to provide light and privacy for adjacent dwellings and establish a consistent block frontage along the street.

	<p>The larger front yard requirement calculated through “front yard averaging” is to improve the “fit” of the new construction within the existing neighbourhood and not overshadow existing dwellings nor block views.</p>
<p>Variance Description:</p>	<p>The proposal is to build a new single family dwelling where 2.76 m (9.07 ft.) of depth for the entire two-storey front portion of the proposed dwelling encroaches into the required front yard setback.</p> <p>The new front porch projects 1.2 m (3.94 ft.) further into the front yard setback (as the allowable projection).</p>
<p>Subject Site Considerations:</p>	
<ul style="list-style-type: none"> ○ The site is a rectangular interior lot, approximately 17.78 m (58.32 ft.) wide and 45.72 m (150.00 ft.) deep, which is essentially flat. ○ The site fronts onto Spruce Street to the north; vehicular access is provided from the rear lane to the south. 	
<p>Neighbourhood Context Considerations:</p>	
<ul style="list-style-type: none"> ○ The subject site is surrounded by single family dwellings at various ages and conditions. ○ The front yard averaging calculations in this case are based on the front yard setbacks of the two neighbouring properties to the east, 5320 and 5332 Spruce Street, and the two neighbouring properties to the west, 5360 and 5366 Spruce Street. ○ These front yard setbacks are 9.34 m (30.6 ft.), 9.23 m (30.30 ft.), 10.65 m (34.95 ft.) and 21.86 m (71.75 ft.), respectively. ○ The resulting required front yard setback of 12.71 m (41.71 ft.) is affected by the siting of the existing older dwelling located on the second lot to the east (5366 Spruce Street). 	
<p>Specific Project Considerations</p>	
<ul style="list-style-type: none"> ○ The proposed front yard setback (9.95 m (32.64 ft.)) is an average of the two immediately adjacent front yards to the west (9.23 m (30.30 ft.)) and east (10.65 m (34.95 ft.)). ○ If sited according to the requested variance, the new dwelling would be placed slightly behind (0.71 m (2.34 ft.)) the neighbouring dwelling to the west and slightly ahead (0.70 m (2.31 ft.)) of the neighbouring dwelling to the east; such placement would provide for transitioning between two neighbouring dwellings. ○ If the front yard averaging requirement is followed, the new dwelling would be sited substantially behind both neighbouring buildings, 3.48 m (11.41 ft.) to the west and 2.06 m (6.76 ft.) to the east; such placement would not be a good “fit” into the existing streetscape. ○ The current dwelling on the subject site observes a front yard setback of approximately 7.62 m (25.00 ft.); this proposal would be an improvement with respect to the current conditions. 	

- It is noted that the property immediately to the east (5360 Spruce Street) was subject of a similar appeal (BV# 3989) in 1993; the Board of Variance granted a relaxation of the front yard averaging requirement from 12.77 m (41.90 ft.) to 10.66 m (35.00 ft.). In this case, the front yard averaging calculations were also affected by the location of the existing dwelling at the second lot to the east (5366 Spruce Street).
- With the exception to 5366 Spruce Street, the proposed dwelling would be approximately aligned with the neighbouring residences on at least six lots immediately to the east and west of the subject site; the proposed siting of the dwelling would not create negative impacts on the streetscape.
- Although, there is a room to move the proposed dwelling further to the rear (the proposed rear yard depth is over 16.76 m (55.00 ft.)), siting the dwelling in accordance to the proposed front yard would result in more harmonized streetscape, and therefore, the proposed variance would not defeat the intent of the Zoning Bylaw.

ADJACENT OWNERS' COMMENTS:

Correspondence was received from the owner/occupant of 5335 Moreland Drive in support of this appeal.

Correspondence was received from the owners/occupants of 5332 Spruce Street in support of this appeal.

No further correspondence was received.

No in-person or telephone participants provided comments regarding this appeal.

MOVED BY MR. GULUM FIRDOS
SECONDED BY MS. JACQUELINE CHAN

THAT based on the plans submitted this appeal be allowed.

CARRIED UNANIMOUSLY

BOARD MEMBER COMMENTS:

Mr. Dhatt found that hardship was evident due to physical site characteristics of a neighbouring property which has a very deep front yard setback. The proposed setback would be in line with properties immediately to east and west of the subject site.

Ms. Chan found that hardship was evident due to physical site characteristics.

Ms. Felker found that hardship was evident due to physical site characteristics of a neighbouring property and the requested variance aligns with the streetscape of the neighbourhood.

Mr. Firdos found that hardship was evident due to physical site characteristics.

Mr. Luongo found that hardship was evident due to physical site characteristics of a neighbouring property and the requested variance aligns with the existing streetscape.

4.2 BOV #6418 - 4909 Portland Street (5:15 p.m.)

APPELLANT: Major Singh Gadey

REGISTERED OWNER OF PROPERTY: Major Singh Gadey, Monika Gadey

CIVIC ADDRESS OF PROPERTY: 4909 Portland Street

LEGAL DESCRIPTION OF PROPERTY: Lot: 10 DL: 158 Plan: NWP2077

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 secondary suite and detached garage at 4909 Portland Street. This relaxation would allow for a front yard depth of 7.65 metres (25.11 feet) where a minimum depth of 10.74 metres (35.22 feet) is required based on front yard averaging.

APPELLANT'S SUBMISSION:

A letter was received from Major Singh Gadey requesting a variance to construct a new single family dwelling with secondary suite and two car garage. Mr. Gadey advised that the subject property is a corner lot and the front yard setback of the neighboring properties at 4917 Portland Street and 4925 Portland Street are 26.70' and 39.59' respectively. In order to build the detached garage in compliance with the minimum setback between the main dwelling and accessory building, front yard setback is required.

Mr. Gadey and Mr. Snadhu appeared before the Board of Variance via Zoom.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

BV #	6418	Address	4909 Portland Street
X-Reference	BOV #20-00026	Hearing	2021 January 07

Project	New Single Family Dwelling, Secondary Suite and Detached Garage
Zoning	R5 Residential District
Neighbourhood	South Slope - single and two family neighbourhood

<p>Appeal(s) to vary:</p>	<p>Section 105.9 – “Front Yard” from 10.74 m (35.22 ft.), based on front yard averaging, to 7.65 m (25.11 ft.) to allow construction of a new single family dwelling encroaching into the required front yard.</p> <p>The allowable 1.2 m (3.94 ft.) projection of a porch and its supporting structure is permitted into the front yard setback.</p>
<p>Zoning Bylaw intent:</p>	<p>Front yard setbacks help to provide light and privacy for adjacent dwellings and establish a consistent block frontage along the street.</p> <p>The larger front yard requirement calculated through “front yard averaging” is to improve the “fit” of the new construction within the existing neighbourhood and not overshadow existing dwellings nor block views.</p>
<p>Variance Description:</p>	<p>The proposal is to build a new single family dwelling where 3.08 m (10.11 ft.) of depth for the two-storey front portion of the dwelling encroaches into the required front yard setback.</p> <p>The front portion of the dwelling observes various setbacks; the measurement is taken to the outermost face of the eastern portion of the second floor which projects 1.58 m (5.18 ft.) over the main floor/veranda below. On the west side, the second floor is substantially set back from the eastern portion; 2.67 m (8.75 ft.) as measured to the covered deck and further 2.90 m (9.5 ft.) as measured to the solid wall behind.</p> <p>On the main floor, a 1.35 m (4.42 ft.) – 1.58 m (5.18 ft.) deep veranda/porch spans across entire width of the proposed dwelling, a small portion of which projects 1.2 m (3.94 ft.) further into the front yard setback (as the allowable projection).</p>
<p>Subject Site Considerations:</p>	
<ul style="list-style-type: none"> ○ The site is a rectangular corner lot, approximately 11.44 m (37.54 ft.) wide and 35.66 m (116.99 ft.) deep, with a moderate upward slope of approximately 2.69 m (8.81 ft.) from the front to the rear. ○ The site fronts onto Portland Street to the south and Nelson Avenue flanks the site on the west; vehicular access is provided from the rear lane to the north. 	
<p>Neighbourhood Context Considerations:</p>	
<ul style="list-style-type: none"> ○ The subject site is surrounded by single family dwellings at various ages and conditions. ○ The front yard averaging calculations in this case are based on the front yard setbacks of the two neighbouring properties to the east, 4917 and 4925 Portland 	

<p>Street. These front yard setbacks are 9.40 m (30.85 ft.) and 12.06 m (39.59 ft.), respectively.</p> <ul style="list-style-type: none">○ The front yard average calculation is affected by the older dwelling located on the second lot to the east (4925 Portland Street). This dwelling observes the largest front yard setback in the entire subject block (consisting of 8 lots in total).○ If the front yard averaging requirement is followed, the new dwelling would be sited 1.33 m (4.37 ft.) behind the neighbouring residence to the east; such “recessed” placement, which would be further emphasized by a large balcony projecting from this residence’s front façade, would not be a good “fit” into the existing streetscape.○ The proposed front yard setback would place the second floor of the new dwelling 1.75 m (5.74 ft.) in front of the neighbouring residence to the east, and slightly in front of their balcony.○ Generally, the subject block features properties with greater front yard setbacks in the western section (in a range of approximately 9.1 m (30.0 ft.)) and those with lesser setbacks in the eastern section (in a range of approximately 6.1 m (20.0 ft.)).
<p>Specific Project Considerations</p> <ul style="list-style-type: none">○ The current dwelling observes a shortest front yard setback (approximately 5 m (16.0 ft.)) in the entire subject block. In view of this, the proposed setback would be an improvement to the existing conditions.○ The proposed design appears to be a reasonable compromise between the needs of the development and the setback requirements in the context of the entire block.○ A corner lot occupies a prominent position, and the new two-storey dwelling (8.93 m (29.33 ft.) in height) will “anchor” the street.○ Design modifications could be explored with a request to slightly vary the distance between the house and garage (currently 4.57 m (15.0 ft.) is proposed where the required minimum is 4.5 m (14.8 ft.)), which would provide for a greater front yard setback.

No correspondence was received regarding this appeal.

No in-person or telephone participants provided comments regarding this appeal.

MOVED BY MS. BRENDA FELKER
SECONDED BY MS. JACQUELINE CHAN

THAT based on the plans submitted this appeal be allowed.

CARRIED UNANIMOUSLY

BOARD MEMBER COMMENTS:

Mr. Dhatt found that hardship was evident due to physical site characteristics of a neighbouring property which has a very deep front yard setback.

Ms. Chan found that hardship was evident due to physical site characteristics.

Ms. Felker found that hardship was evident due to physical site characteristics of a neighbouring property and the requested variance aligns with the streetscape of the neighbourhood.

Mr. Firdos found that hardship was evident due to physical site characteristics.

Mr. Luongo found that hardship was evident due to physical site characteristics of a neighbouring property.

5. **NEW BUSINESS**

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

6. **ADJOURNMENT**

MOVED BY MS. BRENDA FELKER
SECONDED BY MS. JACQUELINE CHAN

THAT the Hearing be adjourned.

CARRIED UNANIMOUSLY

The Hearing adjourned at 5:40 p.m.

Mr. R. Dhatt, Chair

Ms. J. Chan

Ms. B. Felker

Mr. G. Firdos

Mr. A. Luongo

Ms. E. Prior, Acting Deputy City Clerk