



## **BOARD OF VARIANCE M I N U T E S**

**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. Joy Adam, Development Plan Technician  
Ms. Eva Prior, Acting Deputy City Clerk  
Ms. Georgette Cabrilo, Council Support Assistant

### **1. CALL TO ORDER**

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

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

**2. MINUTES**

**3.1 Minutes of the Board of Variance hearing held on 2021 January 07**

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

THAT the minutes of the Burnaby Board of Variance Hearing held on 2021 January 07 be adopted.

CARRIED UNANIMOUSLY

**3. APPEAL APPLICATIONS**

**3.1 BOV #6419 - 6550 Parkdale Drive (5:00 p.m.)**

APPELLANT: Angelo Marrocco

REGISTERED OWNER OF PROPERTY: Paolo and Rosa Scarcelli

CIVIC ADDRESS OF PROPERTY: 6550 Parkdale Drive

LEGAL DESCRIPTION OF PROPERTY: LOT: 125 DL: 131 PLAN: NWP26894

APPEAL:

An appeal for the relaxation of Section 102.8(1) (Front Yard) of the Burnaby Zoning Bylaw which, if permitted, would allow for an addition, conversion of an attached carport to living space, and a new deck to an existing single family home at 6550 Parkdale Drive. This relaxation would allow for a front yard depth of 10.42 metres (34.2 feet) where a minimum front yard depth of 11.73 metres (38.48 feet) is required based on front yard averaging.

APPELLANT'S SUBMISSION:

A letter was received from Paolo and Rosa Scarcelli requesting a relaxation to retain the construction of an addition and new deck as well as the conversion of attached carport to living space. The homeowners' advised that the construction was completed to improve the daily life of a family member with mobility concerns who lives in the home. If the Board were to deny the relaxation, it would adversely affect the family members' ability to access all areas of the home freely and enjoy fresh air on rainy days.

Ms. Maria Scarcelli and Mr. Luigi Scarcelli, children of the homeowners, appeared on behalf of their parents via Zoom.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

<b>BV #</b>	6419	<b>Address</b>	6550 Parkdale Drive
<b>X-Reference</b>	BOV #21-00001	<b>Hearing</b>	2021 February 04

<b>Project</b>	Addition to convert an attached carport to living space and a new deck to an existing single family dwelling
<b>Zoning</b>	R2 Residential District
<b>Neighbourhood</b>	Sperling – Single family neighbourhood

<b>Appeal(s) to vary:</b>	<b>Section 102.8(1) – “Front Yard”</b> of the Burnaby Zoning Bylaw which, if permitted, would allow for an addition, conversion of an attached carport to living space, and a new deck to an existing single family home at 6550 Parkdale Drive. This relaxation would allow for a front yard depth of 10.42 m (34.2 ft.) where a minimum front yard depth of 11.73 m (38.48 ft.) is required based on front yard averaging.
<b>Zoning Bylaw intent:</b>	Front yard setbacks help to harmonize the siting of new dwellings within the existing building setbacks on the block and to minimize massing impacts.
<b>Variance Description:</b>	The proposed variance is to permit the enclosure of an existing carport to create storage and games rooms on the ground level and an enclosed sundeck on the upper level. This enclosure would extend into the required front yard by 1.86 m (6.1 ft.).

**Subject Site Considerations:**

- This typical interior lot is 44.20 m (145.01 ft.) deep and has a width of 19.20 m (62.99 ft.) fronting onto Parkdale Drive to the east.
- Front yard averaging calculations are based on two adjacent properties to the south and two adjacent properties to the north, with front yards setbacks of 10.61 m (34.8 ft.), 11.4 m (37.4 ft.), 12.31 m (40.4 ft.) and 12.59 m (41.3 ft.) respectively.
- The existing dwelling observes a front yard setback of 12.28 m (40.3 ft.) measured to the front façade of the dwelling. This existing setback will remain along 5.30 m (17.4 ft.) of the untouched portion of the front façade.
- The subject site will retain vehicle access from the fronting street, Parkdale Drive, as well as from the lane to the rear.

<ul style="list-style-type: none"><li>○ A previous Board of Variance (BV 5772) was applied for and granted on February 4<sup>th</sup>, 2010 permitting the construction of a detached garage observing a gross floor area of 816 sq. ft., where a maximum gross floor area of 602.8 sq. ft. was permitted for accessory buildings on this site at that time.</li></ul>
<b>Neighbourhood Context Considerations:</b>
<ul style="list-style-type: none"><li>○ The subject site is surrounded by single family dwellings of similar age and condition.</li><li>○ The development pattern of the block has typical established front yard setbacks with minimal exclusions both on the west and east side of Parkdale Drive near the subject site.</li></ul>
<b>Specific Project Considerations</b>
<ul style="list-style-type: none"><li>○ The proposed variance would reduce the existing front yard setback of the single family dwelling from the southeastern corner of the front façade for a distance of 8.71 m (28.6 ft.) extending 1.86 m (6.1ft.) beyond the existing front yard setback. The remaining 5.30 m (17.4 ft.) of the front façade will observe the existing 12.28 m (40.3 ft.) setback.</li><li>○ It is of note that the carport with the sundeck above existed prior to the proposed enclosure.</li><li>○ The proposed variance will be observed on two levels with a minimal roof slope joining the existing dwelling sloped roof.</li><li>○ The neighbouring site to the north, observing a front yard setback of 12.31 m (40.4 ft.) will remain unaffected by the proposed variance.</li><li>○ The neighbouring dwelling to the south, observing a front yard setback of 10.61 m (34.8 ft.), will be 0.19 m (0.6 ft.) beyond the proposed enclosed carport, subject of this variance. Due to the small difference in setbacks, minimal impacts would be observed by this neighbouring site to the south as a result of the proposed variance.</li></ul>

**ADJACENT OWNERS' COMMENTS:**

No correspondence was received regarding this appeal.

No 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 personal characteristics of the applicants.

**Ms. Chan** found that hardship was evident due to personal characteristics of the applicant.

**Ms. Felker** found that hardship was evident due to personal characteristics of the applicant.

**Mr. Firdos** found that hardship was evident due to personal characteristics of the applicant.

**Mr. Luongo** found that hardship was evident due to personal characteristics of the applicant.

### **3.2 BOV #6420 - 3814 Oxford Street (5:15 p.m.)**

**APPELLANT:** Carolyn Cameron

**REGISTERED OWNER OF PROPERTY:** Carolyn Cameron

**CIVIC ADDRESS OF PROPERTY:** 3814 Oxford Street

**LEGAL DESCRIPTION OF PROPERTY:** DL: 186 PLAN: BCP38191

#### **APPEAL:**

An appeal for the relaxation of Sections 6.13.1(b) (Vision Clearance at Intersections) and 6.14.2(1)(b) (Fences) of the Burnaby Zoning Bylaw which, if permitted, would allow for a fence and retaining wall enclosure for a swimming pool to an existing single family home at 3814 Oxford Street. The following variances are being requested:

(a) height of the constructed retaining wall or fence located in the required vision clearance would be a maximum of 2.15 metres (7.04 feet) where a maximum height of 1.07 metres (3.51 feet) is permitted; and

(b) height of the constructed fence of up to 2.07 metres (6.79 feet) to the rear of a required front yard where no fence greater than 1.80 metres (5.91 feet) in height is permitted.

#### **APPELLANT'S SUBMISSION:**

A letter was received from Carolyn Cameron requesting the variances in an effort to retain the existing 111 year old laurel hedge. The current dwelling holds a heritage designation and the homeowner has invested a considerable amount of money and time to restore the home. The laurel hedge is connected to a six foot tall fence which lines the southwest corner of the property; further, the fence was a replacement for a 25 year old fence of the same height. The homeowner stated that if they were required to remove the historical hedge and fence, they would

lose safety, security, and peace of mind. The homeowner noted that to their knowledge, there haven't been any issues or incidents regarding the 'obstructed vision clearance' caused by the hedge or fence. A majority of the block has signed a petition stating they would like the hedge and fence to remain.

Ms. Carolyn Cameron appeared before the Board of Variance via Zoom.

**BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:**

<b>BV #</b>	6420	<b>Address</b>	3814 Oxford Street
<b>X-Reference</b>	BOV #21-00002	<b>Hearing</b>	2021 February 04

<b>Project</b>	Fence and retaining wall enclosure for swimming pool addition to an existing Single Family Dwelling
<b>Zoning</b>	R5 Residential District
<b>Neighbourhood</b>	Burnaby Heights – Single and Two Family Neighbourhood

<b>Appeal(s) to vary:</b>	<p><b>1) Sections 6.13.1(b) – “Vision Clearance at Intersections”</b> of the Burnaby Zoning Bylaw which, if permitted, would allow the height of the constructed retaining wall or fence located in the required vision clearance would be a maximum of 2.15 m (7.04 ft.) where a maximum height of 1.07 m (3.51 ft.) is permitted; and</p> <p><b>2) Sections 6.14.1(2)(1)(b) – “Fences”</b> of the Burnaby Zoning Bylaw which, if permitted, would allow the height of the constructed fence of up to 2.07 m (6.79 ft.) to the rear of a required front yard where no fence greater than 1.80 m (5.91 ft.) in height is permitted.</p>
<b>Zoning Bylaw intent:</b>	<p><b>1)</b> The intent of the Zoning Bylaw in requiring the vision clearance is to facilitate vehicular, pedestrian and cyclist safety at street and lane intersections. The vision clearance area is a triangular area formed by the property lines and a line adjoining two points along the property lines. In this case, the joining line must be 6.0 m (19.6 ft.) from the intersection of the property lines.</p> <p><b>2)</b> The intent of the Zoning Bylaw in limiting fence heights is to mitigate the massing impacts of new fences, walls and other structures on neighbouring properties.</p>
<b>Variance Description:</b>	<p><b>1)</b> A 2.15 m (7.04 ft.) fence has been constructed within the vision clearance where a maximum height of 1.07 m (3.51 ft.) is permitted for any structure other than a principal building. For the</p>

	<p>building permit to be approved a variance has been requested to vary the Zoning Bylaw requirement of 1.07 m (3.51 ft.).</p> <p>2) A 2.06 m (6.79 ft.) high fence has been constructed along the rear property line where a maximum height of 1.80 m (5.91 ft.) is permitted. The fence height is determined by measurement from the surface of the grade level. In this case the portion of the retaining wall above the surface of the grade level is included in the calculation. For the building permit to be approved a variance has been requested.</p>
<p><b>Subject Site Considerations</b></p>	
<ul style="list-style-type: none"> <li>○ The subject site is a large sized lot with a width of 30.48 m (100.00 ft.) and a depth of 37.17 m (121.99 ft.). This is approximately double the width of typical lots in this neighbourhood.</li> <li>○ The site is relatively flat observing a minimal slope to the south.</li> <li>○ The subject site observes frontages along Oxford Street to the north and Esmond Avenue to the west and abuts a lane to the rear.</li> <li>○ An existing 4.37 m (14.33 ft.) City owned boulevard separates the site from the neighbouring street (Esmond Avenue) to the west. Large existing hedges are located along the west property line which extend into the Esmond Avenue boulevard. It should be noted that the Zoning Bylaw requires no hedge, shrub, tree or other growth be maintained or allowed to grow so as to obstruct vision clearance within private property.</li> <li>○ The existing dwelling on the subject site is registered and protected as a heritage building.</li> <li>○ There is an in ground pool (subject of the recent Building Permit BLD 20-00222) and an existing garage off the lane to the rear of the property.</li> </ul>	
<p><b>Neighbourhood Context Considerations</b></p>	
<ul style="list-style-type: none"> <li>○ The subject site is located in a well maintained neighbourhood with a mix of homes of varying ages.</li> <li>○ Single family dwellings neighbour the site to the east, across Oxford Street to the north, across Esmond Avenue to the west and across the lane to the south.</li> <li>○ The neighbour directly across the lane to the south has a large cedar fence along the property line limiting views of the proposed variances.</li> </ul>	
<p><b>Specific Project Considerations</b></p>	
<p>1. A Building Permit (BLD 20-00222) for an in ground swimming pool and fence enclosure was issued; however, the subject fence has been constructed exceeding the maximum height requirements of the Bylaw for vision clearance and fences to the rear of a front yard.</p> <ul style="list-style-type: none"> <li>○ The subject fence is setback 0.610 m (2.0 ft.) from the western property line and 0.203 m (0.66 ft.) from the south (rear) property line. The non-compliant fence extends along 5.39 m (17.69 ft.) of the required 6.0 m (19.69 ft.) vision</li> </ul>	

clearance on the lane side where it exceeds the Bylaw height requirement by 1.08 m (3.53 ft.).

- The BC Building Code requires a 1.57 m (5.0 ft.) high enclosure around all swimming pools. The subject fence is proposed to meet this requirement; however, there are other design options for siting of the fence and pool which could comply with the Building Code and limit the encroachment into the vision clearance.

2. With respect to the second appeal the fence height is determined by measuring from the ground level at the surface of the grade to the top of the fence. In this case, the portion of the retaining wall above the surface of the grade level is included in the calculation. Measuring from the grade, 0.55 m (1.79 ft.) of retaining wall are added to the fence height of 1.57 m (5.0 ft.) to equal a total fence height of 2.07 m (6.79 ft.). The over height portion of the fence is 0.27 m (0.88 ft.).

- The over height fence, subject of this second appeal, extends from the edge of the vision clearance parallel to the rear property line for a distance of approximately 9.65 m (31.66 ft.) where it turns to meet the existing garage. The fence is offset from the rear property line by 0.203 m (0.66 ft.).
- Although the purpose of the proposed fence is to provide an enclosure for the swimming pool, the requested height variance exceeds the minimum Building Code requirement for pool enclosures of 1.52 m (5.0 ft.) as well as the Zoning Bylaw maximum fence height requirement of 1.80m (5.91 ft.). Other design options could be explored that would meet both these requirements.

#### ADJACENT OWNERS' COMMENTS:

A petition in support of the requested variances was received, signed by the following home owners and/or occupants: 27, and 77 Ingleton North, 3869, 3851, 3847, 3845, 3831, 3825, 3865, and 3815 Dundas Street, 3824, 3840, 3844, 3856, and 3878 Oxford Street

The petition read as follows:

*'We the undersigned are all in agreement that the existing hedge and fence at the corner of Esmond Avenue and the land behind 3814 Oxford Street should remain as is. The hedge needs to be protected as it is an important historical feature of the neighbourhood. The fence is a replacement of what was previously existing. Neither impede the vision clearance.*

*We understand that this is not in accordance to the below:*

*Currently, the City of Burnaby's zoning bylaw (Number 4742 – 6.13) states:*

*(b) in the case of a lane corner, 6.0 metres (19.69 feet) from their point of intersection, no fence, wall or structure other than a permitted street canopy in a C2, C3, or C4 District or a permitted principal building shall be erected to a greater height than 1 metre (3.28 feet) and no hedge, shrub, tree or other growth shall be maintained or allowed to grow so as to obstruct vision clearance.'*



No further correspondence was received.

No telephone participants provided comments regarding this appeal.

The Board of Variance members queried if the laurel hedge was included in the heritage designation.

Staff advised that the laurel hedge was not included in the Heritage Designation.

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

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

DEFEATED  
(Opposed: Mr. Dhatt, Ms. Felker, Mr. Luongo)

BOARD MEMBER COMMENTS:

**Mr. Dhatt** found that hardship had not been identified, and that the variance requested was significant.

**Ms. Chan** found that hardship was evident due to physical characteristics of the Heritage Designated home, and voted in favour of Part A.

**Ms. Felker** found that hardship was not identified, and voted to deny Part A of the variance.

**Mr. Firdos** found hardship did exist; however, the variance defeated the intent of the Bylaw and voted to deny Part A.

**Mr. Luongo** found that hardship had not been identified and voted to deny Part A of the variance.

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

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

CARRIED  
(Opposed: Ms. Felker)

BOARD MEMBER COMMENTS:

**Mr. Dhatt** found hardship due to personal characteristics of the applicant, and that the variance requested was minimal.

**Ms. Chan** found that hardship was evident due to physical characteristics of the Heritage Designated home, and voted in favour of Part B.

**Ms. Felker** found that hardship was not identified, and voted to deny Part B of the variance.

**Mr. Firdos** found hardship did exist, and voted in favour of Part B of the variance due to compassionate grounds.

**Mr. Luongo** voted to approve based on compassionate grounds.

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 6:22 p.m.

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Mr. R. Dhatt, Chair

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Ms. J. Chan

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Ms. B. Felker

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Mr. G. Firdos

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Mr. A. Luongo

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Ms. E. Prior, Acting Deputy City Clerk