



## BOARD OF VARIANCE PLANNING COMMENTS

<b>BV #</b>	6424	<b>Address</b>	5591 Oakland Street
<b>X-Reference</b>	BOV #21-00006	<b>Hearing</b>	2021 April 08

<b>Project</b>	The retention of an already constructed secondary suite, interior alterations and addition to an existing single family dwelling.
<b>Zoning</b>	R4 Residential District
<b>Neighbourhood</b>	Kisbey Park – Single Family and Two Family Neighbourhood

<b>Appeal(s) to vary:</b>	<b>Section 104.9 – “Front Yard”</b> of the Burnaby Zoning Bylaw which, if permitted would allow for the retention of an already constructed secondary suite, interior alterations and addition to an existing single family dwelling at 5591 Oakland Street. This relaxation would allow for a front yard depth of 4.76 m (15.63 ft.) where a minimum front yard depth of 7.50 m (24.6 ft.) is required.
<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>	A front yard depth of 2.74 m (8.97 ft.) is requested as measured from the southwest corner of the principal building. The southwestern portion of the dwelling (which is referred to as an already constructed secondary suite), approximately 7.44 m (24.4 ft.) wide, encroach into the front yard by up to 2.73 m (8.97 ft.).

### Subject Site Considerations

- The subject site, a large trapezoid shaped corner lot, is approximately 48.62 m (159.58 ft.) wide and 47.10 m (154.52 ft.) deep along the east (longer) side property line.
- The site fronts onto Oakland Street to the south and flanks Elgin Place to the west. To the north, the site is bordered by a 3.05 m (10.00 ft.) wide Statutory Right Of Way (SRW), which is undeveloped.
- The subject site is legal non-conforming with respect to the front yard setback requirements. The subject site originally observed a front yard setback of over 40.00 feet until the mid-1980's when improvements of Oakland Street took place. At that time a large portion of the front yard was acquired by the City of Burnaby to accommodate the widening and re-alignment of Oakland Street.

**Comments from the Planning Department**

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- The subject site is improved with a larger two storey single family dwelling with cellar and attached garage, and a separate one storey single family dwelling which is proposed to be connected via an addition to the principal building. The attachment of the separate single family dwelling to the principle building would consider this to become a secondary suite.
- Vehicular access is provided at the southeast tip of the lot, from the secondary Oakland Street connection, off Baffin Place further to the east.
- There is a significant grade difference, over 12.50 m (41.00 ft.), from the southwest (front) corner of the site to the northeast (rear) corner. However, the site has been flattened over the years with several terraced areas supported by retaining walls along the edges.

**Neighbourhood Context Considerations**

- The Subject site is located in the Windsor neighbourhood which has a mix of single and two family dwellings of varying ages and conditions. Single family dwellings surround the subject site on all sides.

**Specific Project Considerations**

- The subject site was before the Board on number of occasions. The last appeal BV6365 which was heard by the Board of Variance on 2019 September 05, contained three variances, two of which (respecting a distance between buildings on the same lot and a side yard) were granted and one (respecting a front yard) was denied. (*See Attachment 1- Planning Comments*). The current proposal is identical to the previous proposal and the requested variance is identical to the variance **b** (denied variance) requested by the last appeal.
- The front yard setback is measured to the southwest corner of the principal building, which is the closest point to the angled front property line. The front yard setback gradually increases to the east, up to approximately 9.45 m (31.00 ft.) at the southeast corner of the building.
- The western portion of the principal building, which is the closest to the front property line, is where the secondary suite is proposed. This is also, where the original second single family dwelling existed since approximately 1948. The proposed one storey massing of the addition would be consistent with the previous structure.
- Due to the dropping terrain, the proposed addition, which is at the lower level than the street level, would be almost entirely (except for the roof peak area) screened by a mature hedge along the front property line.
- Although the requested variance is a major variance, the characteristics listed above help to mitigate negative impacts and the variance would not create a significant change to the existing conditions.



For: E.W. Kozak, Director  
PLANNING AND BUILDING

JA:ll



***An appeal for the relaxation of Sections 6.3(1)(b), 104.9 and 104.10(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for interior alterations, new secondary suite and new addition to an existing single family dwelling at 5591 Oakland Street. The following variances are requested:***

- a) a distance between overlapping exterior walls of the same building on the same lot of 12.5 feet, where a minimum distance of 14.76 feet is required;***
- b) a front yard depth of 15.63 feet, where a minimum front yard depth of 24.6 feet is required; and,***
- c) a side yard setback of 10.11 feet adjoining the flanking street, where a minimum side yard setback of 11.5 feet is required.***

The subject site, zoned R4 Residential District, is located in the Windsor neighbourhood. Residences in this area include a mix of single and two family dwellings, of varying ages and conditions. This large corner lot, trapezoid shaped, is approximately 159.58 feet wide and 154.52 feet deep along the east (longer) side property line. The site fronts onto Oakland Street to the south and flanks Elgin Place to the west. To the north, the site is bordered by a 10.0 foot wide lane right-of-way, which is undeveloped. Single family dwellings surround the subject site on all sides. Vehicular access is provided at the southeast tip of the lot, from the secondary Oakland Street connection, off Baffin<sup>1</sup> Place further to the east. There is a significant grade difference (over 41.0 feet) from the southwest (front) corner of the site to the northeast (rear) corner, but the site has been flattened over the years with several terraced areas supported by retaining walls along the edges.

The subject site is improved with a larger two storey single family dwelling with cellar and attached garage and a second smaller one storey single family dwelling, the origins of which go back to 1950s, prior to the enactment of the Zoning Bylaw in 1965. Over time, the site and both dwellings have undergone various renovations, including an addition to the rear of the smaller secondary dwelling (around 1984), reconstruction of sundeck to the rear of the larger dwelling (around 1986), an addition to the larger dwelling (around 1997), all of which were subject of successful appeals to the Board of Variance: BV 2858, BV 3128, BV 4485 respectively. All appeals were related to the fact that the site contains two single family dwellings. Around 2005, the site was further improved with a swimming pool and a related accessory (mechanical) space, which were approved under BLD04-01337.

The BC Local Government Act regulates that no addition or structural alteration can be made in a building while the non-confirming use is continued in all or any part of it, except one permitted by a Board of Variance. Until recently, the subject site enjoyed the status of legal non-confirming with respect to use: the site contains two single family dwellings where the R4 District does not permit two single family dwellings on the same lot.

Around 2017, the smaller dwelling on the property was largely demolished, with the intent to rebuild, all of which was carried out without the benefit of a building permit. However, the BC

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<sup>1</sup> Corrected from "Banff"

Local Government Act regulates that if a building or structure, the use of which does not conform to the provisions of a bylaw, is damaged or destroyed to the extent of 75% or more of its value above its foundations, such a structure must not be repaired or reconstructed except for a conforming use in accordance with the bylaw. In this case, the second single family dwelling could not be reconstructed with another single family dwelling existing on the subject lot. The smaller dwelling is currently the subject of an active Bylaw Code Case.

In attempt to resolve the unauthorized construction of the second single family dwelling on the subject site, the applicant is proposing various additions and exterior/interior alterations, including the addition of a secondary suite and conversion of an accessory mechanical building into a (mechanical) crawl space. As a result, three variances are requested in order for the currently pending building permit application BLD18-00260 to move forward.

**The first appeal a)** is to vary Section 6.3(1)(b) - "Distance between Buildings on the same Lot" of the Zoning Bylaw requirement for the minimum distance between overlapping exterior walls of the same building from 14.76 feet to 12.5 feet to allow the new additions and exterior/interior alterations to the existing single family dwelling.

The Bylaw requires a separation between overlapping exterior walls of the same building or of any two buildings in a group on the same lot to ensure that the overall massing of the building(s) does not have a negative impact on the subject property, as well as to provide for sufficient outdoor space.

**The second appeal b)** is to vary Section 104.9 – "Front Yard" of the Zoning Bylaw for the minimum front yard depth from 24.6 feet to 15.63 feet to allow the new additions to the existing single family dwelling.

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.

**The third appeal c)** is to vary Section 104.10(2) – "Side Yards" of the Zoning Bylaw requirement for the minimum side yard width from 11.5 feet to 10.11 feet to allow the new additions to the existing single family dwelling.

The intent of the Bylaw to require a side yard is to mitigate the impacts of building massing on neighbouring properties.

All three requests are related to the proposed addition of a secondary suite, which would replace the original second single family dwelling to the west<sup>2</sup> of the main single family dwelling. The secondary suite is proposed to be connected to the principal dwelling by a small corridor link at its west elevation, where the master bedroom exists. By linking the two structures the proposed secondary suite would become fully contained within the single family dwelling and therefore, remove the non-conformity situation of two single family dwellings on a single lot.

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<sup>2</sup> Corrected from "east"

With regard to the **first variance a)**, the overlapping walls do not contain habitable rooms; only one small window on the interior east elevation (for the secondary suite bathroom) and two clerestory windows 8.0 feet above floor level, on the interior west elevation (for the master bedroom ensuite bathroom). These windows would not overlap directly; so the user's privacy would not be impacted. Also, approximately 78.0 square feet of the proposed corridor would have a little effect on the plentiful outdoor space existing on the subject site.

In view of the above and considering the relatively small scale of this request to reduce the required wall separation of 14.76 feet by 2.26 feet, this Department **does not object** to the granting of this **first variance a)**.

With regard to the **second variance b)**, the requested 8.97 feet front yard encroachment is a major variance. However, there are several mitigating factors. The front yard setback is measured to the southwest corner of the principal building, which is the closest point to the angled front property line. The front yard setback gradually increases to the east, up to approximately 31.0 feet at the southeast corner of the building.

The western<sup>3</sup> portion of the principal building, which is the closest to the front property line, is where the secondary suite is proposed. This is also, where the original second single family dwelling existed since approximately 1948. The proposed one storey massing of the addition would be consistent with the previous structure. Therefore, this variance would not create a significant change to the existing conditions.

It should be noted that the subject site originally observed a much more generous front yard setback, of over 40.0 feet, until the mid-1980's when improvements of Oakland Street took place. At that time a large portion of the front yard was acquired by the City of Burnaby to accommodate the widening and re-alignment of Oakland Street (from the west-east direction to the angled west-southeast direction). Vehicular access to the site was also relocated from the Oakland Street frontage along the south property line (as per the original alignment), to the east side, at the southeast corner of the lot. As such, the subject site became legal non-conforming with respect to the front yard setback requirements. Since the proposed secondary suite would be essentially within the footprint of the original second dwelling on the subject site, this variance, if granted, would not increase this non-conformity.

With regard to the broader neighbourhood context, due to the dropping terrain, the proposed addition, which is at the lower level than the street level, would be almost entirely (except for the roof peak area) screened by a mature hedge along the front property line. As such, the siting of the proposed addition would have a minimal impact on the existing streetscape.

For all of the reasons stated above, this Department **does not object** to the granting of this **second variance b)**.

With regards to the **third variance c)**, again, the siting and massing of the proposed addition would be essentially consistent with the original second single family dwelling on the subject

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<sup>3</sup> Corrected from "eastern"

**Comments from the Planning Department**

**BV #6365: 5591 Oakland Street**

**x-reference: BOV#19-00017**


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site. As such, there would be no significant change to the existing massing relationship between the proposed addition and the neighbouring residence to the west.

It is difficult to assess if the original second dwelling observed the same non-conforming side yard setback that has been requested for this addition. According to some City records, the original second dwelling observed a side yard setback of 15.71 feet on Elgin Street. However, City aerials do not support these records; it appears that the location of the addition (which has already commenced construction) is consistent with the original second dwelling which was set back at approximately 10.0 - 11.0 feet.

Only the relatively small triangular area at the upper portion of the roof gable would be visible as viewed from Elgin Place (west); the remainder of the addition would be screened by a mature hedge along the east side property line. As a result, little impact is expected to result from the proposed side yard setback variance.

Considering all of the above and the relatively small scale of the requested 1.39 foot side yard encroachment, this Department **does not object** to the granting of this **third c) variance**.



Edward Kozak, Director  
PLANNING AND BUILDING

MEM:ll





BV 6424

5591 OAKLAND STREET

2021 APR 08

March 16, 2021

