



BOARD OF VARIANCE M I N U T E S

**Thursday, September 02, 2021, 5:00 p.m.
Council Chamber, City Hall
4949 Canada Way, Burnaby, BC**

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
Mr. Rushi Gadoya, Development Plan Technician
Ms. Eva Prior, Acting Deputy City Clerk
Ms. Kathryn Matts, Administrative Officer 2

1. CALL TO ORDER

The Chair called the meeting to order at 5:00 p.m. and conducted the roll call.

The Chair recognized the ancestral and unceded homelands of the Hən̓q̓əmin̓əŋ̓ 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

2.1 Minutes of the Board of Variance hearing held on 2021 July 08

MOVED BY MS. FELKER

SECONDED BY MR. FIRDOS

THAT the minutes of the Board of Variance Meeting held on 2021 July 08 be now adopted.

CARRIED UNANIMOUSLY

3. **APPEAL APPLICATIONS**

3.1 **BOV #6436 – 4039 Rumble Street**

APPELLANT: Joseph Chu

REGISTERED OWNER OF PROPERTY: Joseph Chu

CIVIC ADDRESS OF PROPERTY: 4039 Rumble Street

LEGAL DESCRIPTION OF PROPERTY: LOT: 4 DL: 150 PLAN: NWP10119

APPEAL:

This is an appeal for the relaxation of Section 6.6(2)(d) (Accessory Buildings and Uses) of the Burnaby Zoning Bylaw which, if permitted, would allow for interior and exterior alterations and addition to the existing accessory building at 4039 Rumble Street. This relaxation would allow a side yard setback of 0.29 metres (0.98 feet), where a minimum setback of 1.20 metres (3.94 feet) is required.

APPELLANT'S SUBMISSION:

A letter was received from Joseph Chu requesting a variance to the side yard setback requirement for an existing storage shed which was built by the previous owner over 12 years ago. Mr. Chu states that the storage shed exceeds the rear requirement and is requesting that the setback to 0.98ft be permitted. The writer stated that demolishing the shed will create extra construction waste which would cause stress to the landfill and increase the carbon footprint, and the neighbours are not in opposition to maintain the shed.

Mr. Joseph Chu, homeowner, appeared via Zoom before the Board.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

Project	Interior and exterior alterations to the existing single family dwelling and an addition to the existing accessory building.
Zoning	R10 Residential District.
Neighbourhood	Suncrest – Single Family Neighbourhood.

Appeal(s) to vary:	Section 6.6(2)(d) – “Accessory Buildings, Structures, and Uses” of the Burnaby Zoning Bylaw requirement for a minimum side yard setback for the accessory building from 1.20 m (3.94 ft.) to 0.29 m (0.98 ft.).
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Zoning Bylaw intent:	Minimum setbacks from side property lines help to mitigate the massing impacts of new buildings or structures on neighbouring properties.
Variance Description:	<p>The proposal is to formalize the already constructed addition (shed) to the existing accessory building (detached garage) located at the north-west (rear) corner of the subject lot.</p> <p>The existing garage, approximately 5.63 m (18.50 ft.) wide and 5.79 m (19.00 ft.) deep, observes a distance of 0.29 m (0.98 ft.) from the west (side) property line and a distance of 0.59 m (1.93 ft.) from the lane (which is legal non-conforming according to Building records).</p> <p>The proposed addition, 3.52 m (11.58 ft.) wide and 3.62 m (11.91 ft.) deep, is attached to the south side of the garage (facing the existing dwelling to the south) and observes the same side yard setback.</p> <p>The Zoning Bylaw requires an accessory building to be set back at least 1.20 m (3.94 ft.), from the side property line, except where such accessory building is situated within the rear 9.00 m (29.53 ft.) of the lot and not less than 21.50 m (70.54 ft.) from the street, in which case the setback from the side lot line can be reduced to nil.</p> <p>The existing garage is located within these parameters and therefore, complies with the Burnaby Zoning Bylaw with respect to the nil side yard setback requirement.</p> <p>The proposed addition is outside of the rear 9.00 m (29.53 ft.) of the subject property by approximately 1.01 m (3.31 ft.), and therefore, cannot observe the nil side yard setback.</p> <p>The entire western portion of the addition encroaches the required side yard by 0.91 m (2.96 ft.), and therefore, is the subject of this appeal.</p>

Subject Site Considerations
<ul style="list-style-type: none">○ This interior rectangular lot, approximately 15.24 m (50.00 ft.) wide and 35.85 m (117.61 ft.) deep, fronts Rumble Street to the south. A vehicular access is provided from the rear lane to the north.○ The site is improved with a single family dwelling, including detached garage, originally built in late 1960's. The date when the shed addition was built is unknown.
Neighbourhood Context Considerations
<ul style="list-style-type: none">○ The subject property is surrounded by single family dwellings of various ages and conditions.○ Reduced side yard setbacks for accessory buildings located in the rear yard are common in the subject block and the block directly across the lane to the north.
Specific Project Considerations
<ul style="list-style-type: none">○ Given the location of the proposed shed addition along the west side property line, only the neighbouring property to the west (4025 Rumble Street) could be affected by this variance. However, there is a significant vegetation cover between the two properties which entirely screens the 10.16 ft. high shed from the neighbouring property's view. (see attachment 1).○ The proposed addition does not feature windows facing the neighboring property to the west, thus avoiding any privacy concerns.○ In summary, although the proposed shed addition is a design choice, the requested variances is minor and does not create negative impacts on the neighbouring properties.

ADJACENT OWNERS' COMMENTS:

Correspondence was received from the owner/occupant 4045 Rumble Street in support of this appeal.

Correspondence was received from the owner/occupant 4054 Rumble Street in support of this appeal.

Correspondence was received from the owner/occupant 4032 Rumble Street in support of this appeal.

No further correspondence was received regarding this appeal.

No speakers connected through the online webinar in response to the proposed appeal.

MOVED BY MR. FIRDOS
SECONDED BY MR. LUONGO

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

CARRIED UNANIMOUSLY

BOARD MEMBER COMMENTS:

Ms. Chan found hardship due to physical site characteristics, also advising that the variance was minor, and voted to approve the variance.

Mr. Dhatt found hardship due to physical site characteristics, also advising that the variance was minor, and voted to approve the variance.

Ms. Felker found hardship due to physical site characteristics, also advising that the variance was minor, and voted to approve the variance

Mr. Firdos found hardship due to physical site characteristics, also advising that the variance was minor, and voted to approve the variance

Mr. Luongo found hardship due to physical site characteristics, also advising that the variance was minor, and voted to approve the variance.

3.2 BOV #6437 – 6702 Osprey Place

APPELLANT: Balbinder and Manjinder Bains

REGISTERED OWNER OF PROPERTY: Balbinder and Manjinder Bains

CIVIC ADDRESS OF PROPERTY: 6702 Osprey Place

LEGAL DESCRIPTION OF PROPERTY: LOT: 3 DL: 85 PLAN: EPP90192

APPEAL:

This is an appeal for the relaxation of Sections 101.6(1)(a) (Height of Principal Building) and 6.3(1)(b) (Distance Between Buildings on the Same Lot) of the Burnaby Zoning Bylaw which, if permitted, would allow for a new single family dwelling with secondary suite and attached garage at 6702 Osprey Place. The following variances are being requested:

(a) the building height, measured from the front average grade, would be 9.52 metres (31.23 feet) where a maximum height of 9 metres (29.50 feet) is permitted. The principal building height measured from the rear average grade will be 7.86 metres (25.79 feet); and

(b) the distance between buildings on the same lot would be 2.13 metres (7 feet) where the minimum distance 4.50 metres (14.76 feet) is required.

APPELLANT'S SUBMISSION:

A letter was received from Manjinder and Balbinder Mains requesting two variances, one for their accessory building in the rear yard and the other for a height relaxation. Mr. and Mrs. Bains stated that their lot is 115 feet in depth, with a grade change measuring 40 feet in height from the front to the rear property line. The back wall will allow the dirt to be retained at an existing grade. The other is for a height relaxation at the top of the ridge, which will prevent a flat roof at the top peak.

Bryan Bains, 7038 Churchill Street, Vancouver, appeared via Zoom on behalf of the homeowners.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

Project	New single family dwelling with secondary suite and detached garage.
Zoning	R1 Residential District.
Neighbourhood	Buckingham Heights – Single Family Neighbourhood.

Appeal(s) to vary:	<p>1) Section 101.6(1)(a) – “Height of Principal Building” of Burnaby Zoning Bylaw requirement for a maximum principal building height for a sloping roof measured from the front average grade, from 9.0 m (29.50 ft.) to 9.52 m (31.23 ft.). The principal building height measured from the rear average grade will be 7.86 m (25.79 ft.).</p> <p>2) Section 6.3.1 – “Distances Between Buildings on the Same Lot” of the Burnaby Zoning Bylaw requirement for a minimum distance between the principal building and the accessory building from 4.50 m (14.76 ft.) to 2.13 m (7.0 ft.).</p>
Zoning Bylaw intent:	<p>1) 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.</p>

	<p>2) A minimum separation between buildings is required to ensure that the overall massing of the buildings does not have a negative impact on the subject property and neighbouring properties, as well as to provide for sufficient outdoor space.</p>
Variance Description:	<p>1) The proposed dwelling features a hip roof with the highest point over the eastern portion of the dwelling. This highest portion of the roof, approximately 3.35 m (11.00 ft.) by 2.74 m (9.00 ft.) in area, exceeds the permitted maximum height by 0.52 m (1.73 ft.) when viewed from the front, and is the subject of this variance.</p> <p>2) The principal and accessory building overlap by 20.78 m (68.18 ft.) which is almost the entire length of the accessory building. However, there are two overlap areas, approximately 4.27 m (14.00 ft.) and 5.22 m (17.18 ft.) long, where the distance between two buildings is proposed to be reduced to 3.05 m (10.00 ft.) and 2.13 m (7.00 ft.) respectively. The proposed variance is measured in the narrower area (2.13 m (7.00 ft.) wide), between the south-west corner of the proposed dwelling and the north-west corner of the proposed accessory building. The required minimum distance between buildings is proposed to be reduced there by 2.37 m (7.76 ft.). The two narrow overlap areas are the subject of this variance.</p> <p>This distance in the remaining overlap area varies from 4.57 m (15.0 ft.) to 6.71 m (22.0 ft.) which meets the Zoning Bylaw requirement.</p>
Subject Site Considerations	
<ul style="list-style-type: none"> ○ The subject property is a trapezoid shaped corner lot, approximately 34.46 m (113.07 ft.) wide (along the north front property line) and 35.10 m (115.15 ft.) deep, fronting Osprey Place to the north and flanking Sperling Avenue to the west. ○ The subject property is a steep lot with a significant downward slope of approximately 13.34 m (43.76 ft.) from the rear to the front (see attachment 1). 	

- Vehicular access to site is granted from Osprey Place to the north (cul-de-sac), which was constructed as a part of subdivision to serve the subject property and the three lots immediately to the east, which are currently not developed.
- The section of the Sperling Avenue right-of-way adjacent (west) to the subject property is primarily developed with a pedestrian pathway/stair access to Deer Lake Park (no traffic access). Directly to the north-west, across Sperling Avenue and Osprey Place intersection, the subject property is bordered by Deer Lake Park.
- To the south and partly to the west across Sperling Avenue, the subject property abuts single family lots. Across Osprey Place to the north is a larger strata complex consisting of single family dwellings, which are at a lower level than the subject lot.

Neighbourhood Context Considerations

- The subject property was created through Subdivision (SUB 17-21) in 2017 to create a six lot subdivision, with four lots (including the subject lot) accessed from Osprey Place to the south and two lots accessed from Hazzard Street to the north. The subject property appears to be the first lot to be developed.
- Generally, the subject property is surrounded by single family residential lots with similar steep sloped conditions.

Specific Project Considerations

1)

- In this case, only the front elevation exceeds the allowed maximum building height. The proposed dwelling does not appear over-height when viewed from the sides and from the rear. In fact, the proposed dwelling is 1.14 m (3.71 ft.) less in height than the allowed maximum height, when viewed from the rear.
- Considering the small scale and distant location of the height encroachment, at least 12.19 m (40.00 ft.) away from the front property line, the over height portion of the roof would not be noticeable from the Osprey Place streetscape.
- The only property that is impacted by the proposed over-height dwelling is the vacant lot immediately to the east (6710 Osprey Place). However, the height encroachment occurs at least 4.27 m (14.00 ft.) away from the edges of the roof, which in combination with the proposed roof slope of 4 in 12 (not steep), would help mitigate massing impacts on this property in the future.
- In summary, the substantial grade difference between the front and the rear of the subject property largely contributes to the requested variance, which appears to be minor and not detrimental to the neighbourhood.

2)

- Both buildings feature elongated shape and are oriented parallel to the front property line, in response to the almost square geometry and steep topography of the lot. The proposed location of the accessory building (which consists of two enclosed areas connected through a green wall component) appears to be related to help retain the dirt around the rear patio and the dwelling.
- Although there is a room in the rear yard to place the accessory building at a further distance from the principal dwelling, this would require a significant cut and fill due to the rapidly raising terrain towards the south. Further, an increased accessory building wall height (to retain more dirt) could open a need for other variances (such as for retaining wall height).
- From the site users perspective, although, the windows of the kitchen and den on the main floor face the overlapping portions of the accessory building where the separation is reduced, it appears that the overall design of the accessory building, related to the outdoor activities, would not conflict with the enjoyment of the rear patio area by the occupants.
- The generous distance from the overlap area (with the reduced separation occurs) to the side property lines, particularly to the west, essentially eliminates any impacts on the neighbouring properties.
- In summary, the topographical characteristics of the subject site restrict design options with respect to the required separation between buildings on the same lot. The requested variances do not negatively impact the subject property and the neighbouring lots.

ADJACENT OWNERS' COMMENTS:

No correspondence was received regarding this appeal.

Mr. Martin, 6705 Eagles Drive connected through the online webinar in response to the proposed appeal. Mr. Martin requested clarification regarding the proposed set-backs.

No further speakers connected to the meeting.

MOVED BY MR. LUONGO

SECONDED BY MS. FELKER

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

CARRIED UNANIMOUSLY

PART A BOARD MEMBER COMMENTS:

Ms. Chan found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Dhatt found hardship due to physical site characteristics, and voted to approve the variance.

Ms. Felker found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Firdos found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Luongo found hardship due to physical site characteristics, and voted to approve the variance.

MOVED BY MR. LUONGO
SECONDED BY MS. FELKER

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

CARRIED UNANIMOUSLY

PART B BOARD MEMBER COMMENTS:

Ms. Chan found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Dhatt found hardship due to physical site characteristics, and voted to approve the variance.

Ms. Felker found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Firdos found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Luongo found hardship due to physical site characteristics, and voted to approve the variance.

3.3 BOV #6438 – 4638 Burke Street

APPELLANT: He Wang

REGISTERED OWNER OF PROPERTY: He Wang and Zhangyun Ni

CIVIC ADDRESS OF PROPERTY: 4638 Burke Street

LEGAL DESCRIPTION OF PROPERTY: LOT: 47 DL: 33 PLAN: NWP15590

APPEAL:

This is 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 dwelling with secondary suite and detached garage at 4638 Burke Street. This relaxation would allow a minimum distance between the principal building and the detached garage of 1.59 metres (5.21 feet), where a minimum distance of 4.5 metres (14.8 feet) is required.

APPELLANT'S SUBMISSION:

A letter was received from He Wang requesting a variance for the setback between his home and the detached garage. Mr. Wang advised that due to the front yard setbacks on Burke Street, which are 40 feet, he is unable to build a detached garage without a variance.

He Wang, homeowner, appeared via Zoom before the Board.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

Project	New single family dwelling with secondary suite and detached garage.
Zoning	R4 Residential District.
Neighbourhood	Forest Glen – Single and Two Family Neighbourhood.

Appeal(s) to vary:	Section 6.3.1 – “Distances Between Buildings on the same Lot” of the Burnaby Zoning Bylaw requirement for a minimum distance between the principal building and the detached accessory garage from 4.50 m (14.8 ft.) to 1.59 m (5.21 ft.).
Zoning Bylaw intent:	A minimum separation between buildings is to ensure that the overall massing of the buildings does not have a negative impact on the subject property and neighbouring properties, as well as to provide for sufficient outdoor space.
Variance Description:	The south-east corner of the subject lot is proposed to be occupied by the detached two car garage, 6.70 m (22.00 ft.) wide and 6.24 m (20.50 ft.) deep in size. Almost the entire width of the garage overlaps the principal building. This overlap area, approximately 6.01 m (19.72 ft.) long, where a distance between the buildings is proposed to be reduced, is the subject variance area.

	<p>The overlap area where the distance between the buildings is the shortest (1.59 m (5.21 ft.)) is only 0.91 m (3.00 ft.) long. The south-east corner of the proposed dwelling is set back 1.37 m (4.50 ft.) further away from the detached garage. The distance between the buildings within this remaining overlap area is approximately 2.96 m (9.71 ft.).</p>
<p>Subject Site Considerations</p>	
<ul style="list-style-type: none"> ○ The subject property is a rectangular interior lot, approximately 17.52 m (57.49 ft.) wide and 32.77 m (107.50 ft.) deep, with a moderate downward slope of approximately 2.27 m (7.45 ft.) from the south-west (rear) corner to the north-east (front) corner. ○ The subject property fronts Burke Street to the north and abuts a lane to the south. A vehicular access is proposed to remain from the rear lane. 	
<p>Neighbourhood Context Considerations</p>	
<ul style="list-style-type: none"> ○ With the exception of the neighbouring property across Burke Street which contains a two family dwelling, the subject property is surrounded by single family dwellings, majority of which were built in mid 1950's. ○ The neighbouring property to the west (4630 Burke Street) was recently granted by the Board a similar variance (BV#6428), to reduce a distance between the garage and principal building to 2.13 m (7.00 ft.). This property is currently in the last stages of construction. ○ Most of the existing houses on the south side of Burke Street (the subject block) have shorter lot depths due to the configuration of the block. This, combined with their consistently generous front yard setbacks, which are almost twice as deep as the standard R4 Zoning front yard setback, means that the other houses also observe a similar pattern of reduced distance between principal buildings and detached garages. 	
<p>Specific Project Considerations</p>	
<ul style="list-style-type: none"> ○ The subject property is currently developed with a single family dwelling and detached single car garage in a roughly similar location, and is legal non-conforming with respect to the distance between two buildings on the same lot (see attachment 1). ○ The proposed dwelling just meets the front and rear yard setback requirements and is only 11.43 m (37.50 ft.) deep, whereas 16.38 m (53.75 ft.) is permitted based on 50 percent of the lot depth. ○ The proposed front yard setback is 12.27 m (40.28 ft.), as based on front yard averaging, which is significantly more than the standard R4 Zoning front yard setback (7.50 m (24.60 ft.)). The proposed siting of the dwelling fits into the established streetscape by meeting the front yard averaging requirement. 	

- The proposal rear yard setback is 9.06 m (29.71 ft.), where 9.00 m (29.5 ft.) is required. There is no room to increase the distance between the proposed dwelling and the detached garage without creating a need for another variance.
- The distance from the overlap area to the eastern property line is 2.05 m (6.72 ft.), which is larger than the side yard setback requirement of 1.22 m (4.0 ft.). This mitigates any impacts on the neighbouring property to the east. No other properties are affected by this variance.
- The detached garage does not contain windows on the south side (facing the dwelling), which helps to improve the occupants privacy.
- An outdoor living space is available west of the garage in the rear yard and in the generous front yard.
- In summary, the site design restricts the development potential on the subject property. The proposed design is a reasonable attempt to meet the Zoning Bylaw intent without compromising the development needs, and fits well within the existing neighbourhood context.

ADJACENT OWNERS' COMMENTS:

Correspondence was received from the own/occupant 4630 Burke Street in support of this appeal.

Correspondence was received from the own/occupant 4675 Burke Street in support of this appeal.

No further correspondence was received regarding this appeal.

MOVED BY MS. FELKER
SECONDED BY MS. CHAN

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

CARRIED UNANIMOUSLY

BOARD MEMBER COMMENTS:

Ms. Chan found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Dhatt found hardship due to physical site characteristics, and voted to approve the variance.

Ms. Felker found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Firdos found hardship due to physical site characteristics, and voted to approve the variance.

Mr. Luongo found hardship due to physical site characteristics, and voted to approve the variance.

4. **NEW BUSINESS**

There were no items of new business brought forward at this time.

5. **ADJOURNMENT**

MOVED BY MR. LUONGO
SECONDED BY MS. FELKER

THAT the Hearing adjourn at 5:45 p.m.

CARRIED UNANIMOUSLY

Mr. R. Dhatt, Chair

Mr. G. Firdos

Ms. J. Chan

Mr. A. Luongo

Ms. B. Felker

Ms. E. Prior
Acting Deputy City Clerk