

MINUTES  
**BOARD OF VARIANCE**  
COMMITTEE ROOM NO. 2, SAANICH MUNICIPAL HALL  
**AUGUST 13, 2014 AT 7:00 P.M.**

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Members: H. Charania, D. Gunn, R. Gupta, R. Kelley, R. Riddett  
Staff: K. Gill, Zoning Officer, T. Douglas, Senior Committee Clerk  
Minutes: Moved by D. Gunn and Seconded by R. Riddett: "That the minutes of the Board of Variance meeting held July 9, 2014 be adopted as circulated."  

CARRIED

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Wellsview Road Addition  
BOV #00408  
**Moved by R. Riddett and Seconded by R. Kelley: "That, at the request of the applicant, consideration of the variance application at 5691 Wellsview Road be given further and final time extension for up to a maximum of 12 months."**  

CARRIED

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Cordova Bay Road  
Detached deck replacement  
BOV #00416  
**Applicant: Mark and Bev Insley**  
**Property: 4909 Cordova Bay Road**  
**Variance: Relaxation of interior side yard lot line from 1.5 m to 0.20 m**  
**Moved by D. Gunn and Seconded by R. Kelley: "That the request for variance at 4909 Cordova Bay Road be lifted from the table."**  

CARRIED

The Notice of Meeting was read and the applicant's letter received. Letters of no objection received from R. Roskin, 4907 Cordova Bay Road and M. and M. Fitz, 4911 Cordova Bay Road.

Applicants Mark and Bev Insley, owners, were present in support of their application. In response to questions from the Board, they stated that:

- They have not made any further progress with the Environmental Services Department with regard to the issue of the Environmental Development Permit Area (EDPA).
- Their goal is to have safe access to and from the beach below.
- The upper and lower decks need to be connected. There is insufficient area to build elsewhere. Previously when the old house was there, they used a narrow path that snaked along beside the tree.
- Because of the steep bank and winter storms, all equipment is brought up and stored.
- They cannot use the lower patio to store their materials because it will block the access to the beach from the lower patio, and they cannot move boats or dingys that way. The upper patio has access to the street.
- Access around the retaining wall is needed; linking it is part of the repair of the old foundations and the steps.

The Board Chair emphasized that the variance is for the one post, the two beams and cross bracing that supports the deck, and wanted assurance from the applicants that the railing and horizontal part of the deck will be five feet away from the property line (the deck portion is on the north side of the tree).

The applicant stated that they will have to create a safety railing. The Board Chair stated that they would consider this to be a continuation of the fence, which runs across the top of the retaining wall.

In Favour Nil

In Opposition Nil

**MOTION:** **MOVED** by R. Riddett and **Seconded** by R. Gupta: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 295.4(a)(ii), further to the construction of a detached deck on Lot NW10, Section 28, Lake District, Plan 3155 (4909 Cordova Bay Road):

a) relaxation of interior side yard lot line from 1.5 m to 0.20 m

**And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 13, 2016, if not acted upon.”**

Board comments:

- The variance allows for the one post, the two horizontal beams and the cross-bracing.
- The Board does not guarantee an approval from the Environmental Services Department (ESD). The applicants need to obtain an independent approval from the ESD.

**The motion was then Put and CARRIED**

Wildflower Lane  
Fence height

**Applicant:** Keith Lee  
**Property:** 4377 Wildflower Lane  
**Variance:** Relaxation of height from 1.07 m to 1.52 m

BOV #00418

The Notice of Meeting was read and the applicant’s letter received. Letter of support received from G. Fisk, 4373 Wildflower Lane. Letter of objection received from K. Bellamano, 1076 Valewood Trail.

Applicants

Keith Lee and Margarita Lee, owners, and their daughter Evelyn Chow, were present in support of their application.

In Favour

Nil

In Opposition

Bob Isbister, representing Broadmead Area Residents Association (BARA):

- BARA did not receive a Notice of this application and would like time to gather evidence and background information about the project. Although they recognize this is a Zoning issue, there is an approval process on their end and they request that the Board table this application for one month in order to provide an opportunity for BARA to work with the applicant.

Kathleen Bellamano, 1076 Valewood Trail:

- Is not opposed to the height, but is concerned about the final appearance of the project and the time in which it will be completed.

In response to a question from the Board, the Zoning Officer stated that variance is for the height of the proposed fence. The retaining wall has been inspected and approved.

In response to questions from the Board, Mr. Lee stated:

- He has been working on this project for over a year and has faced many delays. Jeff Miller of BARA was provided with information about the proposed fence in June 2013. Mr. Lee received a response to his letter in October 2013 and started wall construction at this time.

- With regards to aesthetics, he had informed BARA that the retaining wall would be exposed aggregate. The fence is to be black aluminum, similar to the fence that sits on the east side of the property. The west side of the property will be similarly fenced in the future.
- He obtained the necessary permits and approval for the trees that were removed.
- His hardship is that he would like to keep his grandchildren (ages 1-5) safe as they are prone to climb and it is a very large drop to the property below.
- A 42" fence is insufficient, he is asking for 60".
- He is here to ask for a height variance, not for aesthetic approval.

The Chair advised that legislation states that they must consider if a variance substantially affects the use and enjoyment of adjacent land.

**MOTION:** **MOVED by D. Gunn and Seconded by R. Riddett: "That the following variance from the requirements of Zoning Bylaw 2003, Section 6.2(e), to relax the height from 1.07 m to 1.52 m, further to the construction of a fence on Lot 11, Section 8, Lake District, Plan VIS2683 (4377 Wildflower Lane) be tabled for one month."**

Board comments:

- It is important to provide BARA the opportunity to liaise with the applicant.
- Back yards should be designed to be safe; 42" is the code, however sometimes that is insufficient height depending on the circumstances.

**The motion was then Put and CARRIED  
OPPOSED: R. Gupta and R. Kelley**

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<p>Cadboro Heights Lane Fence height  BOV #00419</p>	<p><b>Applicant:</b> Peter Wittstock, JE Anderson &amp; Assoc. obo Bruce McLay <b>Property:</b> 2486 Cadboro Heights Lane <b>Variance:</b> Relaxation of height from 1.5 m to 4.02 m Relaxation of height from 1.0 m to 4.21 m</p>
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The Notice of Meeting was read and the applicant's letter received. Signatures of objection received from three property owners on Cadboro Heights Lane. Signatures of support received by C. Seivewright, 2483 Cadboro Heights Lane, T. Jacobson, 2486 and 2492 Sinclair Road; J. MacIver and F. Ens, 2491 Cadboro Heights Lane; R. Jacobson, 2485 Cadboro Heights Lane.

**Applicants** Bruce McLay, owner and Penny Warholm were present in support of the application and had nothing further to add.

In response to questions from the Board, the owner stated:

- He feels the fence is a proper height; a small portion is high to make it level.
- With regard to hardship, he would like to keep his grandchildren safe on the patio.
- When he purchased the lot he had to put in a large foundation to hold all the fill.
- They had to dig down to be able to construct the main floor.

In response to a question the Zoning Officer stated height measurements are not required for foundations. The measurement for the fence was taken from original grade before fill was brought in.

- In Favour Robert Jacobson, 2486 Sinclair Road:
- Is one of the developers of the subdivision. The area used to be a gully; the grade goes from approximately 42 to 19 metres geodetic datum.
  - There was an older house below the area where the new house sits now.
  - When the road was brought in they had to go from about 20 metres to 29 metres grade. The person who bought the lot had to deal with natural grade issues.
  - The owner built a patio for privacy.

- In Opposition Shauna Fair, 2488 Cadboro Heights Lane:
- Is one of the three developers of the subdivision; stated Mr. Jacobson does not represent the opinion of all the developers of the subdivision.
  - Sees no hardship with the elevation of the main floor.
  - The owner chose to build the house the way he did and did have a choice; this is a self-inflicted hardship.

The owner responded by saying the main floor was built this way because of sewage flow.

Gordon Fair, 2488 Cadboro Heights Lane:

- Pumping sewage would have been an option; he had to do this for his own house because of the existing natural grades.

Colin Gans, 2484 Cadboro Heights Lane:

- When he backs out of his driveway, the fence blocks the view of traffic coming up the hill.
- Noted that there is a glass railing on one side.
- Asked why the height is not consistent.

Board comments:

- Technically there can be no fence because it would be underground.
- Topography and grade are an issue.

The owner stated:

- He feels he should be allowed to have a fence around his property.
- He tried to enhance the look of the property with the fence.
- He would like to keep his personal property secure and his grandchildren safe.

**MOTION: MOVED by D. Gunn and Seconded by R. Riddett: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 6.2(f)(i) and 6.3(b), further to the retention of an existing fence on Lot 4, Section 44, Victoria District, Plan VIS7139 (2486 Cadboro Heights):**

**a) relaxation of height from 1.5 m to 4.02 m**

**b) relaxation of height from 1.0 m to 4.21 m**

**And further that the variances so permitted be in accordance with the plans submitted to the Board."**

Board comments:

- There is a hardship with the slope of the lot.
- Even though the bylaw definition is different, the grade is at the road.
- Definitions of the fence on retaining walls do not make sense.

- Objection about traffic view being impeded does not seem like a safety issue because it is a cul de sac.
- A fence or guard of 42” is allowed on top of a retaining wall.
- The patio is a private amenity that the applicant deliberately created for himself.

**The motion was then Put and CARRIED  
OPPOSED: H. Charania**

Locarno Lane  
New house  
  
BOV #00420

**Applicant: Dennis and Margaret Dale**  
**Property: 4034 Locarno Lane**  
**Variance: Relaxation of sloped building height from 7.5 m to 7.67 m**  
**Relaxation of flat building height from 6.5 m to 6.73 m**  
**Relaxation of single face flat building height from 6.5 m to 6.87 m**

The Notice of Meeting was read and the applicant’s letter received. Letter of no objection received from Mr. and Mrs. Del Volk, 4031 Hollydene Place.

Applicants

Dennis and Margaret Dale, owners and Peter Schionning, SOS Design were present in support of the application.

The designer asked a question about the single face height measurement; the Zoning Officer advised that the measurements being considered were taken by the Land Surveyor.

In response to a question, the owner advised that the height of the new house will be about the same as the old house. They are not aiming to get a view, they want to reach the sewer line and are only asking for a two inch variance.

In Favour

Nil

In Opposition

Nil

**MOTION:**

**MOVED by R. Gupta and Seconded by D. Gunn: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 250.4(b)(i) and (ii), further to the construction of a new house on Lot 3, Section 44, Victoria District, Plan 26635 (4034 Locarno Lane):**

- a) relaxation of sloped building height from 7.5 m to 7.67 m
- b) relaxation of flat building height from 6.5 m to 6.73 m
- c) relaxation of single face flat building height from 6.5 m to 6.87 m

**And further that the variances so permitted be in accordance with the plans submitted to the Board, and expire on August 13, 2016, if not acted upon.”**

Board comments:

- This is a minor variance request.
- There is need to reach the sewer line.
- The height of the new house is similar to that of the old house.

**The motion was then Put and CARRIED**

Harriet Road Addition  
 BOV #00422  
**Applicant: Ryan Scott**  
**Property: 3022 Harriet Road**  
**Variance: Relaxation of allowable floor space in non-basement areas from 80% to 100%**

The Notice of Meeting was read and the applicant's letter received.

Applicants Ryan Scott and Annie Lambert, owners, were present in support of the application and had nothing further to add. In response to Board questions, they stated:

- They purchased the property two years ago.
- They want to stay in the neighbourhood and start a family; they will need more space in the home.
- About ¾ of the attic floor had been finished (bracing and plywood) when they purchased the home.
- The attic addition will be about 688 square feet. The main and first floors of the home are each about 1,324 square feet.

The Zoning Officer clarified that this home has no basement as no part of the structure is five feet below grade.

In Favour Nil

In Opposition Nil

**MOTION: MOVED by R. Riddett and Seconded by R. Gupta: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 210.4(c), further to the construction of an addition to the house at Lot 16, Section 11, Victoria District, Plan 1112 (3022 Harriet Road):**

- a) relaxation of allowable floor space in non-basement areas from 80% to 100%

**And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 13, 2016, if not acted upon."**

Board comments:

- The attic needs to be finished.
- Satisfied with the hardship of a growing family.
- The house sits on a large lot and there is no massing change with the addition.

**The motion was then Put and CARRIED**

Tulip Avenue Addition  
 BOV #00423  
**Applicant: Dave Larose obo Anne Wetherill**  
**Property: 901 Tulip Avenue**  
**Variance: Relaxation of overall height from 7.5 m to 7.70 m**  
**Relaxation of single face height from 7.5 m to 8.20 m**  
**Relaxation of allowable floor space in non-basement areas from 80% to 100%**

The Notice of Meeting was read and the applicant's letter received. Letters of support received from: D. Cozens, 910 Tulip Avenue; C. Kelly and O. Drew, 900 Tulip Avenue; D. Scott, 890 Tulip Avenue; D. Irwin, 921 Tulip Avenue; L. Shaw and T. Witwicki, 911 Tulip Avenue; K. and J. Morran, 891 Tulip Avenue; C.

Rose, 910 Jasmine Avenue; T. and J. Gudavicius, 900 Jasmine Avenue; M. Ackroyd, 890 Jasmine Avenue.

Applicants Dave Larose and Anne Weatherill, owners, were present in support of the application and had nothing further to add. In response to Board questions, they stated:

- They do not have a basement, the house was built before the non-basement area rule. The ceilings on the bottom floor are low.
- They discovered the non-attic space issue after they were fairly far into the project financially.
- The original house was built in 1930; the second portion was hand-built in about 1974.

A discussion occurred regarding the total square footage of the home; the applicant confirmed that the design was modified to not go over 100% gross floor area, a room was cut back to compensate for this.

The Zoning Officer confirmed that the addition is within the maximum gross floor area. He explained how the measurements are taken in the attic.

In Favour Nil

In Opposition Nil

**MOTION:** **MOVED by D. Gunn and Seconded by R. Gupta: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(b)(i) and (ii) and 210.4(c), further to the construction of an addition to the house at Lot 13, Section 79, Victoria District, Plan 1328 (901 Tulip Avenue):**

- a) relaxation of overall height from 7.5 m to 7.70 m
- b) relaxation of single face height from 7.5 m to 8.20 m
- c) relaxation of allowable floor space in non-basement areas from 80% to 100%

**And further that the variances so permitted be in accordance with the plans submitted to the Board, and expire on August 13, 2016, if not acted upon.”**

Board comments:

- The variances are minor.
- There is definite need to finish the attic space.

**The motion was then Put and CARRIED**

St. Peters Road Addition  
BOV #00424

**Applicant: David Potvin**  
**Property: 3930 St. Peters Road**  
**Variance: Relaxation of rear yard setback from 7.5 m to 3.75 m**  
**Relaxation of combined front and rear yard setback from 15 m to 12.75 m**  
**Relaxation of allowable floor space in non-basement areas from 80% to 90%**

The Notice of Meeting was read and the applicant’s letter received. Letters of no objection received from D. Campbell, 1150 St. Peter’s Close; R. Malcolm, 3926 St. Peter’s Road; C. and B. Scotney, 3934 St. Peter’s Road; K. Magnus

and M. Marsden, St. Peter’s Road; and St. Peter’s Anglican Church, 3939 St. Peter’s Road.

Applicants

David and Louise Potvin, owners, were present in support of their application. In response to questions from the Board, the applicants stated:

- They have lived in the house for 18 years would like to stay in the neighbourhood.
- The addition is for their vehicles and create more living space. The existing house is two bedroom, one bathroom.
- The garage is existing non-conforming.
- Due to a recent medical issue, a second bathroom is desirable.
- Presently, the roof attaches the garage to the house. The existing garage will be demolished.
- The basement is not useable for living space with the low ceiling.

In Favour

Nil

In Opposition

Nil

**MOTION:**

**MOVED by D. Gunn and Seconded by R. Riddett: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(a)(i) and 210(c), further to the construction of an addition to the house on Lot 2, Section 32, Victoria District, Plan 9350 (3930 St. Peters Road):**

- a) relaxation of rear yard setback from 7.5 m to 3.75 m
- b) relaxation of combined front and rear yard setback from 15 m to 12.75 m
- c) relaxation of allowable floor space in non-basement areas from 80% to 90%

**And further that the variances so permitted be in accordance with the plans submitted to the Board, and expire on August 13, 2016, if not acted upon.”**

Board comments:

- There is a need for a second bathroom with the spouse’s health issue.
- The home is existing non-conforming.
- The setback requirements on the corner lot are a hardship; this would have been considered a side yard.
- There are no objections from the neighbours.

**The motion was then Put and CARRIED**

Zinnia Road  
Fence height

**Applicant: Brent Walker and Marlene Johnson**  
**Property: 4019 Zinnia Road**  
**Variance: Relaxation of fence/guard height from 1.07 m to 2.43 m**  
**Relaxation of fence height from 1.5 m to 1.9 m**

BOV #00425

The Notice of Meeting was read and the applicant’s letter received. Signatures of support received from. D. Murray, 4021A Zinnia Road; F. Raines, 4025 Zinnia Road; B. Walker, 4024 Zinnia Road; K. and M. Skillings, 4028 Zinnia Road; J. Raymond, 4027 Zinnia Road; B. and J. Beadall; V. Bird, 4004 Zinnia Road; L. Middleton, 4008 Zinnia Road; K. and D. Crothers, 4015 Zinnia Road; G. McKimmle, 4011 Zinnia Road; G. Bettridge, 1070 Violet Avenue; W. Crothers, 4017 Zinnia Road.



Applicants Brent Walker and Marlene Johnson, owners, were present in support of their application and stated:

- The adjacent property to the south is at a higher level; their fence prevented the elderly neighbour from driving over the steep embankment between the properties.
- They feel the fence could prevent future accidents.
- The fence on the north side sits about 12' 2" inside the property line.

The Zoning Officer clarified what is a permitted structure and stated that regardless of where a fence is situated on the property, it is required to meet the height bylaw.

In response to questions from the Board, the applicant's stated:

- The south fence sits just inside the property line in the ground.
- They felt the fence would be allowed because it is not located on the lot line.
- The north fence sits on top of a retaining wall.
- The fence has been in place for four years, they have lived there for five years.

Board members requested clarification as to the height of the fence because the photos appear to have different measurements than the application. It was noted that this is a fairly large variance request.

In Favour Nil

In Opposition Nil

**MOTION:** **MOVED by D. Gunn and Seconded by R. Kelley: "That the following variance request from the requirements of Zoning Bylaw 2003, Sections 6.2(e) and (f), to relax the fence/guard height from 1.07 m to 2.43 m, and to relax the fence height from 1.5 m to 1.9 m further to the retention of an existing fence on Lot 1, Section 79, Victoria District, Plan 50256 (4019 Zinnia Road) be denied."**

Board comments:

- The request violates the intent of the bylaw; the fence is fortress-type and changes the neighbourhood.
- The variance request doesn't seem minor for a guard.
- The fence could be lowered.
- There is question as to the need for the height.
- The applicants thought it was not a fence because it sits inside the property line; it was an innocent mistake of misinterpreting what a fence is.

**The motion was then Put and CARRIED  
OPPOSED: H. Charania**

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<p>Burnley Place Existing accessory building</p> <p>BOV #00426</p>	<p><b>Applicant:</b> Nancy Hintz and Lawrence Young</p> <p><b>Property:</b> 1569 Burnley Place</p> <p><b>Variance:</b> Relaxation of distance between gutter and eave from .61 m to 27.94 cm Relaxation of interior side lot line from 1.5 m to 15.24 cm</p>
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The Notice of Meeting was read and the applicant's letter received. Signatures of support received from G. Chan, 1570 Burnley Place; R. Brunwald, 4130 Burnley Close; N. and N. Lupkoski, 4131 Burnley Close; L. Yun, 1567 Burnley

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	Place. Letter of objection received from J. and C. Large, 4145 Cedar Hill Road.
Applicants	Nancy Hintz and Lawrence Young were present in support of their application and had nothing further to add.
In Favour	Nil
In Opposition	John Large, 4145 Cedar Hill Road, stated he stands behind the letter of objection he previously submitted to the Board.

There was a discussion about the building side as it is irregular shaped; it was determined to be approximately 114 square feet. The Zoning Officer stated that regardless of the structure's size, they still need to abide by the setbacks.

In response to questions from the Board the applicants stated:

- There is a rental suite in the house.
- Their daughter does not play in the shed, it is for tools and bicycles.
- The existing small shed is starting to rot and will be removed from the property.
- With regards to an alternative location, there is limited area on the property, the area chosen is close to the driveway. The other available area is up on the hill.
- They were not aware of the regulations. The neighbours are happy with how they have cleaned up the side of the house.

The Zoning Officer advised that if the building is approved by the Board, they will need a building permit as it is over 107 square feet. Additionally, Building Inspectors may require alterations to be done should it not be up to Code.

**MOTION: MOVED by R. Gupta and Seconded by R. Kelley: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 5.29(ii) and 210.5(a)(ii), further to the retention of an existing accessory building on Lot 25, Section 54, Victoria District, Plan 28508 (1569 Burnley Place):**

- a) relaxation of distance between gutter and eave from .61 m to 27.94 cm
- b) relaxation of interior side lot line from 1.5 m to 15.24 cm

**And further that the variances so permitted be in accordance with the plans submitted to the Board, and expire on August 13, 2016, if not acted upon."**

Board comments:

- The neighbours are not affected by the structure.
- The applicants made a genuine innocent mistake; can sympathize with the shed location as it has convenient access to the driveway.
- There is a hardship with the sloping lot and rock structure underneath.
- There is concern about fire safety and being used for the purposes claimed.
- The structure is not permanent.

**The motion was then Put and CARRIED**

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Pear Street  
Fence height  
BOV #00427

**Applicant: Thomas and Darlene Lanigan**  
**Property: 1557 Pear Street**  
**Variance: Relaxation of height from 1.5 m to 2.43 m**

The Notice of Meeting was read and the applicant's letter received.

Applicants

Darlene and Tom Lanigan, owners, were present in support of their application and added that the fence is to keep people from coming onto their property.

In response to questions from the Board, the applicants stated:

- The tenants on the other side of the fence have no desire to keep the blackberries trimmed; they keep growing over the fence.
- The existing fence is in disrepair and needs replacing.
- No neighbours are opposed to the proposed fence.

In response to questions from the Board, the Zoning Officer stated:

- Fences are supposed to follow natural grade.
- Clarified that the drawing shows eight feet to the top of the fence; no lattice is permitted on top of the fence above this.
- Clarified the regulations with regard to the fence height from the front of the property line.

Concern was expressed by Board members about the canyon effect the property will have if there are eight foot fences on both sides.

In Favour Nil

In Opposition Nil

**MOTION: MOVED by D. Gunn and Seconded by R. Kelley: "That the following variance request from the requirements of Zoning Bylaw 2003, Section 6.2(f)(i), to relax the height from 1.5 m to 2.43 m further to the construction of a fence on Lot 7, Section 38, Victoria District, Plan 1376 (1557 Pear Street) be denied."**

Board comments:

There is difficulty in finding a hardship.

This is a significant variance that would affect the look of the neighbourhood.

**The motion was then Put and CARRIED**

Adjournment On a motion from R. Riddett, the meeting was adjourned at 9:52 p.m.

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Haji Charania, Chair

I hereby certify that these Minutes are a true and accurate recording of the proceedings.

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Recording Secretary