

MINUTES
BOARD OF VARIANCE
COMMITTEE ROOM NO. 2, SAANICH MUNICIPAL HALL
SEPTEMBER 14, 2016 AT 7:00 P.M.

Members: H. Charania, D. Gunn, R. Gupta, R. Kelley (Chair),
Regrets: R. Riddett
Staff: D. Blewett, Zoning Officer, T. Douglas, Senior Committee Clerk
Minutes: Moved by H. Charania and Seconded by R. Gupta: "That the minutes of the Board of Variance meeting held August 17, 2016 be adopted as amended."
CARRIED

****2 properties****

Prospect Lake Road
Deck addition

Applicant: Robert Bugslag
Property: 4891 Prospect Lake Road AND 4885 Prospect Lake Road
Variance: Relaxation of interior side lot line from 3.0 m to 0.0 m

BOV #00568

The Notice of Meeting was read and the applicant's letter received. As both properties are involved with the same variance request, the Board considered the variances for both properties together.

Applicants

Patricia Larsen, 4885 Prospect Lake Road, and Bob Bugslag, 4891 Prospect Lake Road were present in support of the application. Mr. Bugslag submitted a signature of support of the application and explained the reason for the easement created by their father across both properties. Ms. Larsen explained that their father was advised to create the easement back in 2012.

In response to questions from the Board Ms. Larsen and Mr. Bugslag stated:

- There is a house about 135 feet back from the water. The deck is about 90 feet away from Patricia's house.
- The house itself straddles the property line; it was built in 1949 and purchased by their father in 1963. The easement is very specific and detailed.
- A complaint was made when the deck was being constructed which triggered the variance request.

In Favour

Nil

In Opposition

Nil

Board discussion:

- This is a unique application with the legal easement and there is hardship.
- All requirements have been completed and there is no impact on the neighbours, except for the sister who is a co-applicant for this deck.
- The riparian zone is protected.

MOTION:
4891 Prospect Lake Road

MOVED by R. Gupta and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 125.6(a)(ii), further to the construction of a deck addition to the house on Lot 2, Section 134, Lake District, Plan 763 (4891 Prospect Lake Road):

- a) relaxation of interior side lot line from 3.0 m to 0.0 m**

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on September 14, 2018, if not acted upon."

The Motion was then Put and CARRIED

The Board noted that the property at 4885 Prospect Lake Road is facilitating the Variance request for 4891 Prospect Lake Road, and the comments as noted above apply.

**MOTION:
4885 Prospect
Lake Road**

MOVED by H. Charania and Seconded by R. Gupta: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 125.6(a)(ii), further to the construction of a deck addition to the house on Lot 3, Section 134, Lake District, Plan 763 (4885 Prospect Lake Road):

- a) relaxation of interior side lot line from 3.0 m to 0.0 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on September 14, 2018, if not acted upon.”

The Motion was then Put and CARRIED

Normandy Road
Addition

BOV #00570

**Applicant: Jeffrey Tonkin
Property: 552 Normandy 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. Signatures of no objection received from nine residences. Letter of objection received from one residence.

Applicants

Will Peereboom, Victoria Design, and Jeff and Esther Tonkin, owners and Ryan Tonkin and Amanda Bolz, family members, were present in support of the application. Mr. Peereboom stated:

- The 2-storey house was originally built as slab on grade.
- The proposed addition has the parents living downstairs and the children upstairs; the parents have mobility issues and need a level floor with no stairs.
- Digging a basement would create issues because of the nearby creek; they would have to have a pump system installed.
- The neighbour’s issue with the water is unfounded as it is directed to the creek; you just need to look at the land grades.
- The neighbour has an issue with tree removal; one tree will be removed and if they have to dig a basement this will definitely affect another tree’s roots and will have to be removed.
- The proposed addition does not affect the massing or the size of the house it just dictates having a basement.

A discussion occurred about the actual percentage variance the applicant is requesting. Mr. Peereboom stated the application will be vetted through Saanich and that the total house area does not exceed RS-8 Zoning. The following comments/responses to questions was noted:

- The master bedroom does not have a closet because an Ikea PAX system is going to be installed.
- The home meets the requirements for a legal secondary suite.
- There are no tenants in the home; the neighbour is misinformed.
- The home business is licenced and is more of a hobby.

In Favour

Nil

In Opposition

C. Goossen, Normandy Road:

- Sold the property to the applicant in 1987. At that time when subdivision occurred Saanich wanted a drainpipe to the creek. Water drains from her property and she feels a hydrologist report is necessary.

Questions/responses continued and the following was noted:

- The pipe is three feet off the property line and 20 feet away from the addition, so a hydrologist report is not necessary.
- An addition was done to the front of the house 16 years ago to make space for their 4th child.
- The addition will still be within the allowable square footage in the Bylaw.
- The addition is for two families that want to live and work together. There is no hardship to anyone else. Stairs in the suite would be problematic with the mobility issues.
- A two-pipe system will be needed for drainage; previous Code allowed for drain tile but the new Code will mitigate and improve any groundwater issues.

In response to questions from the Board, Ms. Goosen stated:

- She has a half basement that drains with a perimeter drain.
- Some neighbours have basements; the land slopes towards the basements.
- Feels that the applicant could have a basement without risk of flooding because of the improved two-pipe system that would be used.

It was noted that the house was constructed before the Bylaw and is existing non-conforming.

Board comments:

- The hardship is clear with the family member mobility issue. Having high water table and easement evidence would have been useful.
- Recognize the high water table and family hardship, and having to create a basement would be a hardship. The building massing is a concern, and could be built in the same footprint, and it is recognized that this is similar to a duplex.
- It would be negative to the environment to dig for a basement.
- The square footage is significant. They are dealing with slab on grade.
- The addition will not affect the neighbouring properties.
- This is in the EDPA Zone and there is an easement which means the setbacks are affected.

MOTION:

MOVED by R. Gupta and Seconded by H. Charania: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 220.4(c), further to the construction of an addition to the house on Lot B, Section 108, Lake District, Plan 44795 (552 Normandy 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 September 14, 2018, if not acted upon."

The Motion was then Put and CARRIED

Charlton Road
New house
BOV #00571

Applicant: Dale Blais-Lummerding OBO Ralph and Queenie Price
Property: 1580 Charlton Road
Variance: Relaxation of height from 7.5 m to 8.12 m

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

Applicants

Linda Price, agent, and Barry Albrecht, builder were present in support of the application and had nothing to add.

In response to question from the Board, the agent and builder stated:

- They are here because of a poor designer and a problem with the survey. They are surprised that the mistake was not caught earlier on by inspectors.
- They could conform if the dormers were lower.
- Other elevations conform to the Bylaw.
- They built above grade. To save money on fill they have a large uneven crawlspace.
- The existing house on the lot used to be a shack. They have paid a demolition fee but may apply to have it converted to a chicken coop.
- They had to push the house over because of the driveway and this makes the grade lower.
- If rejected, they will have to reframe the dormer and build rafter support. Dormers have their own engineered trusses and therefore it would be very costly because you cannot cut anything that is engineered.
- The neighbour they spoke to have no objections.

In response to a question the Zoning Officer noted that there are no height limits on agricultural buildings in rural zones. He also noted that the survey requirement and a letter of assurance is on file.

In Favour

Nil

In Opposition

Nil

Board comments:

- This is a secluded rural zone. Fixing this would be very expensive.
- This is a measurement issue. The plans are reasonable and have no negative affect on neighbouring properties or the environment.

MOTION:

MOVED by H. Charania and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 101.5(b)(i), further to the construction of a new house on Lot 1, Section 1, Lake District, Plan 6802 (1580 Charlton Road):

- a) relaxation of height from 7.5 m to 8.12 m**

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on September 14, 2018, if not acted upon."

The Motion was then Put and CARRIED

Magdelin Street **Applicant: Garry Lum and Cynthia Moorhouse**
 Existing fence **Property: 4048 Magdelin Street**
Variance: Relaxation of height from 1.9 m to 3.3 m

BOV #00572

The Notice of Meeting was read and the applicant's letter received. One letter of objection received. Three letters of support received.

Applicants

Cynthia Moorehouse and Garry Lum, owners, were present in support of the application and made a suggestion that UV treated plexi-glass could be placed between the properties as a solution to the loss of sunlight next door from the existing fence.

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

- Their hardship is the noise that they experience by the renters next door. These particular people are very loud which is intrusive. This is the first time there has been a problem since 1984.
- They want privacy and a reasonable level of peace.
- There has been an amazing difference with the screening they have installed. They were not able to use their deck before the screen was installed, and regularly had to close their windows.
- They tried to connect with the neighbours and owner next door but communication was difficult.
- They thought a verbal agreement with Ms. Zimmerman would be enough approval.

In Favour

Nil

In Opposition

D. Zimmerman, neighbour:

- This is the first year she has rented the property. The property is managed by Cornerstone Properties.
- Is opposed to having a plexi-glass barrier installed between the units.
- The area is private and beautiful and the 11' partition will deflate the property value.
- The family occupying the unit presently is a multi-generational family with a visitor from Argentina.
- She has tried in the past to have a common fence built between the units and would prefer one common fence instead of the two existing fences.

In response to questions from the Board, the Zoning Officer noted that the extra fencing is not attached to the deck, it is attached to the existing fence. Even if it was attached to the duplex itself, it would be considered a screen and be in contravention of the Bylaw. He also noted that there is no side setback in the middle of the common property and that fences must meet the bylaw requirement.

Board comments:

- The applicant has offered to change the top of the panel to plexi-glass. There are bad neighbour relations and it is felt there is a hardship.
- The issues with the neighbour is recognized but this isn't a solution. This is a complicated structure and the fence is unstable.
- This is not a stable fence, is not pleasing to look at and violates the intent of the bylaw. It encroaches on the neighbour's use and enjoyment of their property. The applicant could have a screen on their deck or install landscaping.
- There are similar issues in other areas, planting a high hedge is an option for a privacy screen.

MOTION: **MOVED by D. Gunn and Seconded by R. Gupta: “That the following variance to relax the height from 1.9 m to 3.3 m from the requirements of Zoning Bylaw 2003, Section 6.2(f)(ii), further to allowing an existing fence to remain as is on Lot A, Section 55, Victoria District, Plan VIS1652 (4048 Magdelin Street) be DENIED.**

**The Motion was then Put and CARRIED
With H. Charania OPPOSED**

Cordova Bay
Road
Addition

Applicant: Ryan Hoyt Designs OBO Ron and Annie Myers
Property: 5087 Cordova Bay Road
Variance: Relaxation of setback from the natural boundary of a watercourse from 7.5 m to 7.2 m
Relaxation of rear lot line setback from 12 m to 7.2 m
Relaxation of allowable floor space in non-basement areas from 80% to 89%

BOV #00573

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

Applicants

Ryan Hoyt, applicant, was present in support of the application. He clarified that there is no change in the footprint, there is a change in the plans.

In response to questions and comments from the Board, Mr. Hoyt noted:

- The soil conditions in the area are poor. The house needs support and they have to dig down fairly deep. Instead of burying usable space with fill, they would like to use it.
- They are seeking approval for a section that bridges a gap in between sections of the house. He showed an example of what is approved already and what is proposed.
- The plans previously had a crawlspace, and now they are wanting a basement. This is just a change in the foundation.
- If it is not approved, it does not have to be used as livable area, but it would complicate things and they do not want to fill it in. It would be more work than necessary and feels punitive.
- Their Engineer recommended to not have a post and pad.
- The house position has not moved.
- They are gaining a legal suite with this plan change.
- A geotechnical report was done; but is not here to provide as evidence.
- This is a classic non-basement area issue and the bylaw is punitive.
- They are willing to accept tabling to provide geotechnical information.

In response to a comment that five [total] variances requested for this property seems like a lot, the Zoning Officer noted that one of the variances requested was previously missed by staff. Mr. Hoyt stated that if it had been brought to their attention in the past, they would have addressed it.

In Favour

Nil

In Opposition

Nil

Board comments:

- Would like to see geotechnical evidence, is not opposed to filling in the basement space; this is an incremental variance request.
- The other lots in the area have already proven hardship with their geotechnical reports.

- Building a full foundation is reasonable and logical. There are no impacts to the neighbouring properties.
- The proposed is in form and character with the neighbourhood. Although incremental variances are frowned upon, this does not affect the neighbours or the massing.
- The applicant's letter states what has been completed and since the last variance was approved, deconstruction has shown problems with the soil.

The Zoning Officer clarified that this is a new application asking for approval for relaxation of new plans for a house on a floating foundation. It does not matter how many variances have been asked for, each application has to be looked at for its own merit.

MOTION: MOVED by H. Charania and Seconded by R. Gupta: "That the following variance request from the requirements of Zoning Bylaw 2003, Sections 5.19, 295.3(a)(ii) and 295.3(c), further to the construction of an addition to the house on Lot 18, Section 30, Lake District Plan 4101 (5087 Cordova Bay Road) be TABLED:

- a) relaxation of setback from the natural boundary of a watercourse from 7.5 m to 7.2 m
- b) relaxation of rear lot line setback from 12 m to 7.2 m
- c) relaxation of allowable floor space in non-basement areas from 80% to 89%

**The Motion was then Put and DEFEATED
With D. Gunn and R. Kelley OPPOSED**

MOTION: MOVED by R. Gupta and Seconded by H. Charania: "That the following variance request from the requirements of Zoning Bylaw 2003, Sections 5.19, 295.3(a)(ii) and 295.3(c), further to the construction of an addition to the house on Lot 18, Section 30, Lake District Plan 4101 (5087 Cordova Bay Road) be DENIED:

- a) relaxation of setback from the natural boundary of a watercourse from 7.5 m to 7.2 m
- b) relaxation of rear lot line setback from 12 m to 7.2 m
- c) relaxation of allowable floor space in non-basement areas from 80% to 89%"

**The Motion was then Put and DEFEATED
With D. Gunn and R. Kelley OPPOSED**

The application was automatically **TABLED** to a future meeting where a full Board is present. It was suggested that a geotechnical report would be helpful evidence for the next meeting.

Epsom Drive Addition
BOV #00574

Applicant: Christopher Evans OBO Gemma Noble
Property: 3850 Epsom Drive
Variance: Relaxation of allowable floor space in non-basement areas from 80% to 99%

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

Applicants Chris Evans, applicant, was present in support of the application and had nothing further to add.

In response to Board questions, Mr. Evans stated:

- They tried to design the addition to make the living area usable and functional and they could not think of anything else but to bump out the side.
- The measurements will go from 13' x 12' to 13' x 15'.
- His mother-in-law lives downstairs and she takes care of their child.
- The unfinished basement is about 650 square feet and varies in slope from 6'6" to 7'. They would like to make the height 7'6" all throughout the area.
- The area is presently not safe for his little one and is usable for storage only.
- He does not know the renovation history of the house.
- Mr. Evans and his family, along with a couple who are tenants, live upstairs.
- The house came with three suites. They plan to make the lower area a single suite and the upper area a single suite; removing the third unit.
- If approved the tenants will be given two months' notice and they will move their mother-in-law upstairs during the renovation.

It was noted that the house already does not conform as it was built in 1925 before the current bylaws.

In Favour Nil

In Opposition Nil

Board comments:

- The house age and existing non-conformity is a hardship.
- This is only a 45 square foot addition.
- This will not negatively affect neighbours or the environment and is an appropriate use.

MOTION: MOVED by H. Charania 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 on Lot 1, Section 32, Victoria District, Plan 34868 (3850 Epsom Drive):

- a) relaxation of allowable floor space in non-basement areas from 80% to 99%**

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on September 14, 2018, if not acted upon."

The Motion was then Put and CARRIED

Valewood Trail
Deck addition
BOV #00575

Applicant: Richard and Kathleen Bellamano
Property: 1076 Valewood Trail
Variance: Relaxation of single face height from 6.5 m to 7.55 m

The Notice of Meeting was read and the applicant's letter received. Four letters of support received from neighbours; one letter of support received from the Broadmead Area Residents' Association.

Applicants Richard and Kathleen Bellamano, owners, were present in support of the application and had nothing to add and the Board had no questions.

In Favour Nil

In Opposition Nil

Board comments:

- There was lots of consultation done in the neighbourhood and there are similar houses in the area.
- There is no back yard which is a hardship.
- There is a very steep slope on the property and this is basically approval for a railing.

MOTION: MOVED by H. Charania and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 245.4(b)(i) and (ii), further to the construction of a deck addition to the house on Lot 7, Section 8, Lake District, Plan VIP54798 (1076 Valewood Trail):

a) relaxation of single face height from 6.5 m to 7.55 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on September 14, 2018, if not acted upon."

The Motion was then Put and CARRIED

Broadway Street
New house
BOV #00576

Applicant: Nigel Banks, Banks Design OBO William Callsen
Property: 505 Broadway Street
Variance: Relaxation of rear lot line setback from 7.5 m to 6.9 m

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

Applicants Nigel Banks, applicant and Bill Callsen, owner, were present in support of the application. Mr. Banks and Mr. Callsen stated:

- There are four issues combined that make a variance request necessary: trying to keep a fair distance from the trees; being as far south as possible to maximize southern exposure for solar collection; using the existing footprint as much as possible for a geothermal heat pump; using the existing basement to run geothermal lines is ideal.
- The neighbours are fine with the deck extension.
- A ten foot deck is a better size than an eight foot deck.
- The owner wants to keep the trees and the critical root zones are hard to work with. This plan has the least amount of tree disturbance.

Board members expressed appreciation for the markings on site and saw that the foundation was cracked from tree roots, and one Board member reported that during the site visit a neighbour confirmed they are okay with the application. It was noted that this is an oddly shaped corner lot.

In Favour Nil

In Opposition Nil

Board comments:

- This is a minor variance and hardship has been shown.
- They are making an effort to save trees.
- This does not impact the neighbouring properties.
- All other setbacks are generous.

MOTION: MOVED by H. Charania and Seconded by R. Gupta: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 210.4(a)(i), further to the construction of a new house on Lot 15, Section 50, Victoria District, Plan 1893 (505 Broadway Street):

a) relaxation of rear lot line setback from 7.5 m to 6.9 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on September 14, 2018, if not acted upon.”

The Motion was then Put and CARRIED

Adjournment On a motion from R. Gupta, the meeting was adjourned at 10:30 p.m.

R. Kelley, Chair

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

Recording Secretary