

MINUTES  
**BOARD OF VARIANCE**  
COMMITTEE ROOM NO. 2, SAANICH MUNICIPAL HALL  
**NOVEMBER 8, 2017, AT 7:00 P.M.**

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Members: H. Charania, D. Gunn, R. Gupta, R. Kelley (Chair), R. Riddett

Staff: D. Blewett, Zoning Officer, T. Douglas, Senior Committee Clerk

Minutes: Moved by H. Charania and Seconded by R. Riddett: "That the minutes of the Board of Variance meeting held September 13, 2017 be adopted as amended."  
CARRIED

Moved by R. Gupta and Seconded by R. Riddett: "That the minutes of the Board of Variance meeting held September 21, 2017 be adopted as circulated."  
CARRIED

Moved by H. Charania and Seconded by D. Gunn: "That the minutes of the Board of Variance meeting held October 11, 2017 be adopted as amended."  
CARRIED

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**\*PREVIOUSLY TABLED\***  
Blackberry Lane Accessory building

**Applicant: Yvonne Park**  
**Property: 4049 Blackberry Lane**  
**Variance: Relaxation of interior side lot line from 1.5 m to 0.00 m**

Moved by H. Charania and Seconded by R. Gupta, "That the application for variance at 4049 Blackberry Lane be lifted from the table."

BOV #00658 The Notice of Meeting was read and the applicant's letter received. Signatures of no objection received from eight residents.

Applicants Yvonne and Simon Park, applicants/owners, were present in support of the application and noted:

- They have a small, narrow yard and want to place a shed against the retaining wall.
- The separation of 0.50 metres suggested at the last meeting will not work because they will not have enough space to open the shed door. They will not be able to manoeuvre the lawnmower into the shed, or be able to easily walk through the yard.
- The maintenance of the fence is their responsibility and is not a reasonable justification for the 0.50 metre separation distance suggested.
- They do not believe the height of the shed will disturb the neighbour. They have not spoken to this neighbour because they have been away.
- The Strata and other neighbours have no objections and everyone else has a shed; it is unfair to not be permitted to have a shed.
- The hardship is the size of the yard. If they could put a shed elsewhere they would, but established trees and fencing prohibits this.

The Zoning Officer answered questions about the placement of the fence and whether is it common property. He advised that if the fence is on the lot line it would be a shared responsibility but not common property. It was noted that it appears that the fence is on the applicant's property and not on the lot line.

In Favour Nil  
In Opposition Nil

**MOTION:** **MOVED** by H. Charania and **Seconded** by R. Riddett: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 1310.5(a)(ii), to permit the construction of a shed on Lot 14, Section 49, Victoria District, Plan VIS4158 (4049 Blackberry Lane):

- a) relaxation of interior side lot line from 1.5 m to 0.00 m

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire.”**

Board comments:

- There is hardship in that the applicants need a shed. If placed in another area there will not be enough space between the shed and the house.
- The applicants have not spoken with the directly affected neighbour, and this may affect their light as well as enjoyment of their patio.
- Other orientations, such as turning the shed 90 degrees and taking up part of the sidewalk could work; a shed with a sliding door could be an option.
- The hardship is questionable.
- The fence already causes light loss.

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

**MOVED** by D. Gunn and **Seconded** by R. Gupta: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 1310.5(a)(ii), to permit the construction of a shed on Lot 14, Section 49, Victoria District, Plan VIS4158 (4049 Blackberry Lane):

- a) relaxation of interior side lot line from 1.5 m to 0.50 m

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire.”**

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

Ascot Drive  
Addition  
  
BOV #00656

**Applicant: Barrie and Kathryn Loydall**  
**Property: 3850 Ascot Drive**  
**Variance: Relaxation of interior side lot line from 1.5 m to 1.35 m**

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

Applicants

Gary Streight, designer, and Kathryn and Barrie Loydall, applicants/owners, were present in support of the application. It was noted that:

- They are looking to convert the existing garage to a family room.
- They plan to rebuild the second storey and garage area.
- The renovation will allow them to make the main floor the same level as the garage.
- The attic area will be for storage.
- They wish to construct on the existing foundation in order to reduce the amount of demolition and to save tree roots that are common to both properties.

A Board member noted that the existing garage is already non-conforming.

In Favour Nil

In Opposition Nil

**MOTION:** **MOVED by R. Gupta and Seconded by H. Charania: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 210.4(a)(ii), further to the construction of an addition to the house on Lot 3, Section 32, Victoria District, Plan 6603 (3850 Ascot Drive):**

**a) relaxation of interior side lot line from 1.5 m to 1.35 m**

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire.”**

Board comments:

- This is a minor variance given the extent of the renovations being done.
- Part of the house is already non-conforming, and this is a hardship.
- The applicants are trying to keep their foundation and avoid disturbance.
- They need to add to the house for family use.
- The other setbacks are generous and there is no impact to the neighbours.
- They are not increasing the existing encroachment.

**The Motion was then Put and CARRIED**

Owlwood Place  
Fence

**Applicant: Grant and Danielle Ackerman**  
**Property: 973 Owlwood Place**  
**Variance: Relaxation of height from 1.5 m to 2.44 m**

BOV #00660

**\*\* R. Kelley cited a personal conflict and left the meeting at 7:30 pm. \*\***

The Notice of Meeting was read and the applicant’s letter received. Signatures of no objections received from five residences.

Applicants

Danielle and Grant Ackerman, applicants/owners, were present in support of the application. They circulated various photos of the area before, during and after construction and noted:

- They have lived at the property for two years.
- Their back yard backs onto Rithet’s Bog, so the area is dark, unusable and full of mosquitoes.
- They use their front yard as their primary deck and sitting area and have made it nice by installing a privacy fence and synthetic grass.
- In October 2016 the neighbour at 982 Owlwood Place cut down trees in their front yard and this resulted a loss of privacy. Renovations to that home resulted in unsightly debris in the yard. Their fence helped hide this.
- They would have preferred to plant hedging between the properties but this is not possible due to the rocky land.
- They opted to build a lattice fence and pergola and plan to use vines that bloom at various times of the year to help screen the area, and make it appear more natural.
- They did read the online regulations on the Saanich website and felt that they would be permitted to build a pergola.

- They do understand the fence is against the bylaw, but feel it does not affect the natural environment or the views or enjoyment of 982 Owlwood Place.
- Comments from neighbours:
- J. Weide, 982 Owlwood Place:
- The trees were removed from his front yard at the recommendation of an arborist; this work was done with proper permits. The arborist informed him that the trees were a hybrid that would end up choking the yard, so they were removed for the long-term health of the property.
  - Feels the fence erected by the applicant is a wall as it sits on top of rock that is about 8 feet above the road. The structure looms over the neighbourhood.
  - Noted the regulations are for a 4'9" fence and that the neighbourhood was not consulted. Suggested other neighbours were also agitated by the fence.
  - Described the shape of the cul-de-sac and properties. Noted the sightlines from his house are now of the fence, and suggested that the fence does not really provide privacy for the neighbour.
- G. and L. Church, 992 Owlwood:
- Were originally upset at the fence because this is now the view from their living room. Stated that they are used to it now.
  - The fence is visibly big; they can see the points of both the applicant and the adjacent neighbour.
  - Confirmed that a person who previously lived in the neighbourhood planted about 200 trees which are not native.

In response to the neighbours comments and questions from the Board, the applicants stated:

- There are not many options for front privacy. Blasting rock is not feasible.
- They sent an email to the Broadmead Area Residents' Association and did not receive a negative reply.
- Most people have flat lots and can abide by the 4'9" regulations. The Bylaw is not fair because they are forced to use the front yard instead of the back.
- The fence is 8' tall and 26' long, and is lattice so is not a wall. They wanted to create a green space. It was the best they could do within their budget.
- They could put up 6' of deer wire and put plants along it.
- They did make an effort to talk to the neighbours about options. They are trying to be good neighbours and are open to options.
- Saanich Bylaw first told them that the fence is a landscape structure, so they thought they were building within the Bylaw requirements. A second Bylaw Officer suggested they ask Zoning if this is deemed a fence.
- The fishbowl effect is there now because trees and a fence with ivy have all been removed.
- The exact cost to remove or lower the fence is not known at this time. Labour costs would not be high but there will be a loss of good wood. A 4'9" fence would serve no purpose.
- They can build a legally conforming fence along the property line; this would be jagged, and at the highest point would be the same height as the pergola. It would also be more intrusive, unsightly, and would appear to have a dramatic elevation from the street to the platform.

The Zoning Officer provided the definition of a fence and noted there is no definition for a landscape structure. He confirmed that fences are subject to height regulations, and noted that no matter where a fence is located on a property, it is considered to be a fence and not a landscape feature.

**MOTION:**                **MOVED** by H. Charania and **Seconded** by D. Gunn: “That the following variance from the requirements of Zoning Bylaw 2003, Section 6.2(f)(i), further to the allowing an existing fence to remain as is on Lot 9, Section 8, Lake District, Plan 38338 (973 Owlwood Place) be denied:

a) relaxation of height from 1.5 m to 2.44 m.”

Board comments:

- This is about privacy, which is not a hardship.
- The variance request is large. Would vote in favour if not so large.
- This goes against the intent of the bylaw, which prohibits a large structure in front yards.
- The neighbour’s enjoyment is negatively impacted.
- The measurements from the grade are not shown.
- There is a privacy concern and they could build a legal fence that would affect the neighbour even more.
- The request is pushing the limits but it feels justified.

**The Motion was then Put and DEFEATED  
With R. Riddett and R. Gupta OPPOSED**

This item was **TABLED** to the next meeting where a full Board is present.

**\*\* R. Kelley returned to the meeting at 8:25 pm. \*\***

Cordova Bay  
Road  
Sea wall

**Applicant:** Ian and Doreen Appleton  
**Property:** 4975 Cordova Bay Road  
**Variance:** Relaxation of height from 0.6 m to 2.35 m

BOV #00661  
Applicants

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

Ian and Doreen Appleton, applicants/owners, were present in support of the application. D. Gunn disclosed that he met with the applicants on the site visit. H. Charania noted he was unable to get down to the site due to high tide.

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

- The wall has been there since 1990. When it was first built, it was six feet above grade. There has been a large amount of erosion, which is explained in the Engineers report.
- They will need to replace rocks if more storms occur. If the wall is not repaired, both his and his neighbours wall will be breached and there are PVC sewer lines that could be compromised.
- The PVC sewer line broke a number of years ago on the Saanich side and it was a mess.
- They do not want to build a concrete wall, they want to continue to use large rocks to repair the wall.
- The repairs will be continuous and as per the Engineer’s recommendation.

The Zoning Officer confirmed that the photos and the application letter indicate that the applicant intends to use loose rocks to repair the wall.

In Favour                Nil

In Opposition        Nil

**MOTION:**                **MOVED** by R. Gupta and **Seconded** by D. Gunn: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 5.16(b), further to the construction of a sea wall on Lot A, Section 29, Lake District, Plan VIP43800 (4975 Cordova Bay Road):

- a) relaxation of height from 0.6 m to 2.35 m

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire.”**

Board comments:

- This is an existing wall that needs repair.
- The proposal is to continue to use rocks to repair the wall.
- They are repairing an existing non-conforming wall.
- There is undue hardship with the storms. A two foot wall is useless and will not protect their property.

**The Motion was then Put and CARRIED**

Braefoot Road  
Accessory  
building

**Applicant: Kory Kowalyk**  
**Property: 4079 Braefoot Road**  
**Variance: Relaxation of front lot line from 7.5 m to 1.52 m**

BOV #00662

The Notice of Meeting was read and the applicant’s letter received. One letter not in support received.

Applicants

Kory Kowalyk, owner/applicant and Sam Kowalyk were present in support of the application and they noted that the neighbours from 4071 Braefoot Road had been present to speak in support of the application, but they left due to the late hour. In response to questions from the Board, the following was noted:

- The proposed garage is to be used as a workshop and for storage.
- The property has two front setbacks.
- The property was not marked because they did not know how to do this.

**\* WITHDRAWN \***

**MOVED** by D. Gunn and **Seconded** by R. Riddett: “That the application for variance at 4079 Braefoot Road be **TABLED** until such time that the applicant can properly mark the property for the Board.”

The majority of Board members noted that they feel they can make a decision on the application without having to return to the property to see markings.

**The Motion to Table was WITHDRAWN**

Questions and responses continued as noted:

- The property was purchased in September 2017; it was a quick sale with no conditions, and nothing was disclosed to them about the setbacks.
- They hope to break ground in February 2018.
- They do not have a secondary plan and are not sure what they will do if rejected. The house and accessory structure is designed as they want it.

In response to a comment about the Developer’s letter not in support, the Zoning Officer advised that the Developer does not seem to fully understand the application and he did not come into the office to discuss or view the drawings. He noted the applicant has full legal access to the area of concern that was raised by the Developer. He also confirmed that the street is legal.

In Favour Nil

In Opposition Nil

**MOTION: MOVED by R. Gupta and Seconded by H. Charania: “That the following variance from the requirements of Zoning Bylaw 2003, Section 255.5(a)(i), further to the construction of an accessory building on Lot 1, Section 32, Victoria District, Plan EPP70464 (4079 Braefoot Road) be denied:**

**a) relaxation of front lot line from 7.5 m to 1.52 m.”**

Board comments:

- The site was not marked for the Board.
- Cannot see the hardship as the house already has a garage.
- The Bylaw was clear before the applicant purchased the lot.
- They are unable to visualize the impact on the neighbour.
- There is a hardship with the two frontages and the applicant was misled by the Developer so there is also a financial hardship.
- The common parking versus public parking is the only difference.
- There is a covenant on the front so the proposed area is the only place to put an accessory building.

**The Motion was then Put and CARRIED With R. Kelley and R. Riddett OPPOSED**

Cedarglen Road Addition

**Applicant: Kory Kowalyk  
Property: 1524 Cedarglen Road  
Variance: Relaxation of combined side yard setback from 4.5 m to 3.86 m**

BOV #00663

The Notice of Meeting was read and the applicant’s letter received. Signatures of no objection received from two residences. R. Gunn and R. Gupta both disclosed that they met with the applicant on their site visit.

Applicants

Kory Kowalyk, applicant/owner and Sam Kowalyk, were present in support of the application. They stated that their plans were approved by Saanich and they started building. When the survey was done it was found that the deck encroached a little bit. The neighbours on both sides have no objection to the deck.

In response to a question about the stair’s location, the applicant noted that there were two sets of plans (both had a different location for the stairs) and the error occurred because of this. The builder did the work based on the structural drawings instead of the foundation plans. It was an unintentional error.

The applicant confirmed that there is one suite above the garage and stated that there is not a suite on the lower floor.

In Favour Nil

In Opposition Nil

**MOTION:**                **MOVED** by R. Gupta and **Seconded** by R. Riddett: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 230.4(a)(ii), further to the construction of an addition to the house on Lot C, Section 54, Victoria District, Plan 13749 (1524 Cedarglen Road):

- a) relaxation of combined side yard setback from 4.5 m to 3.86 m

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire.”**

Board comments:

- This is a minor request and is due to an unintentional error.
- The neighbours are not affected and they have not objections.

**The Motion was then Put and CARRIED**

Orillia Street  
Accessory  
building

**Applicant:**    **Elexa Styan and Tyler McMahon**  
**Property:**    **3061 Orillia Street**  
**Variance:**    **Relaxation of height from 3.75 m to 3.94 m**

BOV #00664

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

Applicants

Elexa Styan and Tyler McMahon, owners/applicants, were present in support of the application. The following was noted:

- They are here due to a mistake they made when they came up with the height calculation, which was taken with an incorrect average grade.
- They thought they had some wiggle room when it came to the roof pitch and the roof is now a 7/12 slope instead of 6/12.
- The surveyor pointed out their error and they have applied for a variance.
- The building is to be used as a studio/accessory building. It will not be for accommodation.

In response to a question, the Zoning Officer noted that Saanich does not require an average grade calculation prior to construction.

In Favour

Nil

In Opposition

Nil

**MOTION:**                **MOVED** by H. Charania and **Seconded** by D. Gunn: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 210.5(b), further to the construction of an accessory building on Lot 29, Section 12, Victoria District, Plan 860 (3061 Orillia Street):

- a) relaxation of height from 3.75 m to 3.94 m

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire.”**

Board comments:

- This is an unintentional error, and is a minor variance that would be expensive to rectify. It would be punitive to reject this.



- The survey is not asked for at the approval stage.
- The other setbacks on the property are generous and they reduced the visual impact that could affect the neighbours.

**The Motion was then Put and CARRIED**

Wesley Road  
Addition

BOV#00666

**Applicant: Kevin and Zoe Light**  
**Property: 5020 Wesley Road**  
**Variance: Relaxation of rear lot line from 10.5 m to 3.08 m**  
**Relaxation of height from 5.0 m to 5.28 m**  
**Relaxation of single face height from 5.0 m to 5.73 m**

The Notice of Meeting was read and the applicant's letter received. Signatures of no objection received from two residences.

Applicants

Kevin Light, owner/applicant, was present in support of the application. In response to questions from the Board, he stated:

- They have lived in their home for over five years and it is time to fix the deck as it is falling apart and dangerous.
- They would like to remove the existing damaged carport and deck and replace it with a new deck, a garage, and a family room below.
- The deck is already non-conforming. If they replaced it to the same standard they would still need a height variance.
- The rear setback is very small and the proposed plan is similar to neighbouring setbacks.
- The hardship is the need for extra space in the house for a growing family.

In favour

Nil

In opposition

Nil

**MOTION:**

**MOVED by R. Riddett and Seconded by R. Gunn: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 255.4(a)(ii) and 255.4(b)(i), further to the construction of an addition to the house on Lot B, Section 30, Lake District, Plan 50632 (5020 Wesley Road):**

- a) relaxation of rear lot line from 10.5 m to 3.08 m
- b) relaxation of height from 5.0 m to 5.28 m
- c) relaxation of single face height from 5.0 m to 5.73 m

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire."**

Board comments:

- The height variance is minor and is not larger than what is existing.
- This should be treated as a side yard because it is functionally a side yard.
- The siting of the existing house is a hardship.
- The house sits about a metre below the road grade and does not negatively affect the neighbours.
- The Bylaw has changed over time.

**The Motion was then Put and CARRIED**

Prospect Lake  
Road  
New house

**Applicant:** Nigel Banks OBO Barry Scroggs and Carol Weismiller  
**Property:** 4991 Prospect Lake Road  
**Variance:** Relaxation of interior side lot line from 3.0 m to 1.50 m  
Relaxation of single face height from 7.5 m to 9.14 m

BOV#00667

The Notice of Meeting was read and the applicant's letter received. Letters not in support received from two residences.

Applicants

Nigel Banks, Banks Design, applicant and Barry Scroggs and Carol Weismiller, owners, were present in support of the application. Mr. Banks stated:

- This is an A-4 Zoned property on a 42 foot wide lot, with ten foot setbacks on each side. The A-4 Zoning is not correct for the lot size.
- They would like to get the garage back, as this will provide better sun exposure and more space to the house on the south.
- The lowest elevation is about a 20 foot drop and this affects the overall height measurement.
- They are struggling to put distance between the adjacent buildings as well as the environmental areas.
- They have spoken with both neighbours and suggest that they may not fully understand the application.

Mr. Scroggs stated:

- They approached their direct neighbours, provided them with information and answered questions. They were surprised about the letters that were received not in support. Concern was expressed about the deck but they can install privacy screening. They want to look at the lake, not the neighbours.
- The neighbouring house on the south is only two feet from the property line and the existing sundecks on the house already peer over.
- They have been in contact with a variety of people about environmental considerations. They were told that if they move the house over it will be better for the tree root systems.
- The idea behind the shift is to move the house away from the neighbour that is so close to the property line.
- They do not see how they impact the north neighbour because their house will be adjacent to the neighbour's rental suite parking area.
- The existing non-conforming garage is dangerous and will be removed.
- They project has been designed to have a treatment plant.
- The original house was built in 1930 and then there have been additions but the only permits on file was for 1993 when the house was renovated after a fire.

Mr. Banks was asked to further describe the footprint of the proposed dwelling and further explain the design. Further responses from the applicant and owner were noted as follows:

- The house was purchased in June. Mr. Banks designed an addition for one of the neighbours in 1992 and there was no Environmental Development Permit Area at that time. They are asking for the same treatment as the other properties in the area.
- The neighbour has had a bigger environmental impact with his house.
- They would like to have an accessible area and have an opportunity to create a gentle way to the back yard.

- They did not have the house inspected prior to purchase as they didn't need to, as it was evident that there were cracks in the foundation. They did speak to Planning and Environmental Services regarding extending the house into the EDPA and doing the changes.
- They would like to be further away from the house on the south side; they are not sure if the distance between houses is a fire hazard, but are concerned about the proximity.
- If not approved they may have to come up with a different design. They are not able to alter the grade.

The Zoning Officer confirmed that there was no single-face height restriction in 1993 and the neighbour had different regulations when their renovation was done. He also provided information about single face height requirements.

In favour Nil

In opposition Nil

**MOTION: MOVED by R. Gupta and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 125.6(a)(ii), further to the construction of a new house on Lot 24, Section 89, Lake District, Plan 427 Parcel A (4991 Prospect Lake Road):**

- a) relaxation of interior side lot line from 3.0 m to 1.50 m

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire."**

Board comments:

- This is a narrow lot; the existing house needs major repairs; they will use part of the existing foundation.
- The lot is rocky in nature and there is no access to the lake. They need a change in the setback.
- They will remove a non-conforming garage and integrate it into the new building.
- This lot is zoned inappropriately.
- The neighbours in objection will not be affected and the neighbours to the south will benefit.

**The Motion was then Put and CARRIED**

**MOVED by D. Gunn and Seconded by H. Charania: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 125.6(b)(ii), further to the construction of a new house on Lot 24, Section 89, Lake District, Plan 427 Parcel A (4991 Prospect Lake Road):**

- a) relaxation of single face height from 7.5 m to 9.14 m

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variance so permitted by this Order will expire."**

## Board comments:

- The lot slope is rocky in nature and causes a hardship.
- The siting and the massing will not impact the neighbours.
- There is an eight metre slope on the lot and being downhill from the road it will not look big from the road.
- The massing is no bigger than other homes on the lake and it is set back further from the lake even more.
- There was no attempt made to mitigate the height.

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

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Adjournment      On a motion from R. Riddett, the meeting was adjourned at 10:50 p.m.

\_\_\_\_\_  
Robin Kelley, Chair

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

\_\_\_\_\_  
Recording Secretary