

**MINUTES
BOARD OF VARIANCE
COUNCIL CHAMBERS, SAANICH MUNICIPAL HALL
APRIL 14, 2021 AT 6:00 P.M.**

Members: M. Horner (Chair), W. Goldiet (6:09 pm), J. Uliana, K. Weir, K. Zirul

Staff: K. Kaiser, Planning Technician, S. deMedeiros, Planning Technician, T. Douglas, Senior Committee Clerk

Minutes: Moved by J. Uliana and Seconded by K. Weir: "That the minutes of the Board of Variance meeting held March 10, 2021 be adopted as amended."
CARRIED

Haultain Street Addition
BOV #00905

Applicant: Ryan Hoyt Designs obo Theresa and Ashley Bourque
Property: 1954 Haultain Street
Variance: Relaxation of side yard setback from 1.5 m to 1.46 m
Relaxation of allowable floor space in non-basement areas from 80% to 91.9%
Relaxation of height for a flat roof from 6.5 m to 7.08 m
Relaxation of single face height for a flat roof from 6.5 m to 7.18 m

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

MOVED by K. Zirul and Seconded by K. Weir, "That the request for variance at 1954 Haultain Street be lifted from the table."
CARRIED

Applicants: Ashley and Theresa Bourke owners, and Ryan Hoyt, designer, were present via telephone in support of the application. Mr. Hoyt noted that at the last meeting there was a general sense that the scope of work was supportable but there was concern with an existing non-conforming deck structure. They have re-submitted the application and removed the non-conforming deck to align with the house as the Board suggested.

Board discussion:

- A good discussion was held at the last meeting regarding this request, and the applicant has revised their request as per the previous conversation.
- This is a supportable application.

Public input: Nil

MOTION: MOVED by J. Uliana and Seconded by K. Weir: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(a)(ii), 2210.4(b)(i) and (ii), and 210.4(c), further to the construction of an addition to the house on Lot E9, Section 25, Victoria District, Plan 1142 (1954 Haultain Street):

- a) Relaxation of side yard setback from 1.5 m to 1.46 m
 - b) Relaxation of allowable floor space in non-basement areas from 80% to 91.9%
 - c) Relaxation of height for a flat roof from 6.5 m to 7.08 m
 - d) Relaxation of single face height for a flat roof from 6.5 m to 7.18 m
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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.”

The Motion was CARRIED

Cordova Bay
Road
Addition

BOV #00906

Applicant: Northern Tropic Homes OBO Ben and Sarah Gulbrandsen
Property: 5043 Cordova Bay Road
Variance: Relaxation of height for a structure within 7.5 m of the natural boundary of the ocean from 0.6 m to 8.78 m
Relaxation of height for a flat roof from 6.5 m to 7.60 m
Relaxation of single face height for a flat roof from 6.5 m to 8.77 m
Relaxation of rear lot line setback from 12.0 m to 6.25 m

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

Applicants:

Troy Nelson, applicant, was present via telephone in support of the application and noted:

- The existing sunroom was built with permit and granted a variance.
- The family has been using this room since they moved in and would like to continue to use the space.
- They have a very small house, and the sunroom needs to be rebuilt to a better standard.

The following responses to questions were noted:

- The hardship is that this is existing and needs to be rebuilt. This is a leaky sunroom and they are having structural difficulties with the attached home.
- The age of home means the sunroom was not properly installed and they now need to correct this.
- It would be a hardship to lose the space they’ve had for so many year as this is a main-use room.
- They are not aware of any modifications being done to the sunroom since it was built in 1996.
- The solid roof that slopes toward the house is a reverse pitch and has a hidden gutter system which helps eliminate leaking roof issues and gives a higher front wall providing better light inside. This will be a better and more water tight system and results in the need for single face height variance.
- The proposed solid roof has a good overhang in the front and side for water egress.

Board members discussed that the increased variance request compared to the request in 1996 may be due to changes in the Bylaw over time, or there could have been a change in the high water mark over the years.

In reply to questions the Planning Technician confirmed that the sunroom does count towards floor area if enclosed. They also noted that the high water mark changes over time and also the more recent survey could be different than the last one due to advances in equipment.

Board discussion:

- Other than needing to perform repairs, member is not clear on hardship.
- The previous variance was solely for the setback. Now they are asking for more likely due to Bylaw changes over time.

- Applicants are permitted to rebuild what was previously approved but this could leak on them again, making the conditions worse than before.
- Suggestion that the request from .6 metre to 8.78 metres is not minor.
- This is a relatively minor improvement, and not inappropriately developing the site or negatively affecting use and enjoyment of adjacent land.
- Compared to adjacent properties, this structure is fairly high but they are not moving any closer to the water. The repair is reasonable and makes sense.

Public input: Nil

MOTION: **MOVED by K. Zirul and Seconded by J. Uliana: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 5.16, 295.3(a)(ii) and 295.3(b)(i) and (ii), further to the construction of a sunroom addition to the house on Lot 5, Section 30, Lake District, Plan VIP4101 (5043 Cordova Bay Road):**

- a) Relaxation of height for a structure within 7.5 m of the natural boundary of the ocean from 0.6 m to 8.78 m
- b) Relaxation of height for a flat roof from 6.5 m to 7.60 m
- c) Relaxation of single face height for a flat roof from 6.5 m to 8.77 m
- d) Relaxation of rear lot line setback from 12.0 m to 6.25 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.”

The Motion was CARRIED

Emery Place
Addition

BOV #00911

Applicant: Andrew and Andrea Prizeman
Property: 1811 Emery Place
Variance: Relaxation of allowable floor space in non-basement areas from 80% to 82.36%

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

Applicants:

Andrew and Andrea Prizeman owners and applicants were present via telephone in support of the application and had nothing to add. In reply to questions from the Board, the applicants stated:

- The home previously belonged to their parent and they now all live together.
- They would like to update the main floor living area where they spend most of their time together.
- Enclosing the porch upstairs will give them an additional area off the kitchen. Enclosing the lower floor will help to support the upper floor structure and accommodate a new laundry room.
- One family member has lived in the home for a long time and it met their singular needs, but now they hope to update the space for all.
- The home has a 1950’s galley kitchen which doesn’t fit their needs.

In reply to questions the Planning Technician advised that under the current zoning, the maximum allowable size is 310 square metres including basement and non-basement areas. They also advised the intent of Bylaw is to keep massing down. Ideally you want 20% of the home in ground and 80% above ground.

Responses to questions continued:

- The home is built slab on grade there is no crawlspace. Digging down is not an option. Also, because of the home’s layout and use of the upper floor where they want more flow and efficiency, creating more space downstairs wouldn’t solve the issues on the upper living area.
- Closing off the lower area would allow better heating and insulation for the kitchen floor and the addition of a laundry downstairs.
- The proposed work is all located under the existing original roofline and so there’s no footprint change or massing change from street.

Board discussion:

- The plans seems to show a suite in the basement, which is allowed.
- The massing doesn’t change as the covered deck is already part of the massing. This does not violate the intent of the Bylaw if approved.
- This appears to be a minor variance request.
- This is not visible to other properties and greatly improves the living space and livability of the house.
- There is no effect to the natural environment, they have an unusual shaped lot and the placement of the house is atypical.

Public input: Nil

MOTION: MOVED by K. Weir and Seconded by W. Goldiet: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 215.4(c), further to the construction of an addition to the house on Lot 4, Section 40, Victoria District, Plan VIP85857 (1811 Emery Place):

- a) relaxation of allowable floor space in non-basement areas from 80% to 82.36%

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 CARRIED

Pearce Crescent Accessory building	Applicant: Deborah Curran Property: 1249 Pearce Crescent Variance: Relaxation of front lot line setback from 15.0 m to 0.75 m
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BOV #00912 The Notice of Meeting was read and the applicant’s letter received.

Applicants: Deborah Curran, applicant/owner, was present via telephone in support of the application and had nothing to add.

In reply to a question the applicant stated there was a carport structure in this space when they purchased the home. A large Arbutus tree crushed the carport in a storm and the carport was cleared away.

In reply to a question, the Planning Technician noted that a review of parking is not done with applications for accessory buildings, and in this case there would be no building permit required because the shed is small.

Responses to questions continued:

- The path on the property is used to get the bikes up to the back area after they arrive home. They use bicycles to commute rather than cars.
- The canoe is located in an area with rock and the angle of the property goes straight up, and they wouldn't be able to get their bikes up the steep slope.
- In 2019 the Arbutus tree fell and in 2020 they had a tree assessment done of the whole property. The arborist recommended that many arbutus come down but they did retain two large trees despite the recommendation, as they will not jeopardize any housing.
- The carport was built on the road right-of-way illegally so they were not wanting to rebuild the carport because of this.

The applicant asked the Planning Technician if the property did not have two off street parking spots when constructed in 1955 are there non-conforming rights.

The Planning Technician stated that there may be no parking requirements. Single family dwellings today do require two parking spaces however it is possible that the applicant may have non-conforming rights with regards to parking. Staff will research what was approved at the time of construction.

The Planning Technician also advised the Board is just considering a variance for the proposed shed and the owner could expand their parking area anywhere. The shed and the parking spaces are separate issues and the non-conforming rights are unknown and needs researching. If the variance is granted and an issue surrounding parking is created, the applicant will have to address this.

Responses to questions continued:

- They do not want to place a shed in the back yard at top of slope with walkway as there is an existing shed there already that they walk their bikes up to. They are ageing and finding it difficult to get up the slope and would like bicycle parking at road level. The shape and slope of the property is a problem.
- The area with the canoe would have enough space to park one vehicle in front of the other.

Discussion:

- The path currently used does not seem too onerous and the applicant could cycle up this. There are other locations a shed could go without negative impacts or hardships for the applicant.
- This is an unusual site, having a number of protected trees and steep slopes and it makes sense to locate parking on a level part of the property.
- This is a challenging lot and board member appreciates applicant keeping environment intact. Proposed shed doesn't affect the environment or the use and enjoyment of adjacent land.
- If applicant has two cars then they would move out onto the street.
- It would have been good to know if the property had legal non-conforming status.

Public input:

Nil

MOTION: **MOVED by K. Zirul: “That the following variance to relax the front lot line setback from 15.0 m to 0.75 m from the requirements of Zoning Bylaw 2003, Section 295.3(a)(i), further to the construction of an accessory building on Lot 16, Section 7, Lake District, Plan 12595 (1249 Pearce Crescent) be DENIED.”**

The Motion died due to lack of a Seconder

MOVED by W. Goldiet and Seconded by J. Uliana: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 295.3(a)(i), further to the construction of an accessory building on Lot 16, Section 7, Lake District, Plan 12595 (1249 Pearce Crescent):

- a) relaxation of front lot line setback from 15.0 m to 0.75 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 CARRIED
With K. Zirul OPPOSED**

Livingstone Avenue South Addition	Applicant: Impact Home Design OBO Havind Sehmi Property: 3983 Livingston Avenue South Variance: Relaxation of rear lot line setback from 7.5 m to 3.10 m
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BOV #00913 The Notice of Meeting was read and the applicant’s letter received. One letter of objection and one letter with comments was received.

Applicants: Taylor Simpson Bisson, applicant, was present via telephone in support of the application. He noted that the lot is unique and when built, the setbacks were different. The house already projects into the area and this request is an extension upwards on the existing setback. All setbacks will remain the same.

In reply to questions from the Board the applicant stated:

- This is a single family dwelling with no suite.
- The lower floor plan has had a kitchen and bathroom since it was constructed. The new set of plans are converting the kitchen and area for a family member.
- Impacted vegetation includes removing cedar trees along the back lot and interior lot line for the construction period. After renovation is completed they will plant bamboo or some other kind of landscape screen that will look roughly the same as prior to construction. They do want screening for both the neighbour and themselves.
- They did not discuss equalizing the distance of the expansion on both sides of the house. The grade of property is challenging on the deck side of the property and they did not consider doing the addition there.
- They did not consider reducing the addition to maintain the rear yard space. They feel this is the only area they could build out to. Adding on anywhere else affects the driveway and the retaining wall.
- In order to achieve the same level of privacy, they will plant large and fast growing plants such as cypress or bamboo.
- They did not discuss other areas for the addition. The existing residence is located near the rear lot line and is also almost in the centre of the property.

- They cannot built out to the west with the chimney and retaining wall, this is the only spot they can build and achieve what client wants.
- The hardship is that the existing residence is already projecting into the setback. No matter what they do in terms of scope, they will need a variance because of the legal non-conforming projection.

The Planning Technician noted that if they want to extend the non-conforming area then they need a variance. If the addition met the setbacks and didn't follow the non-conforming line, then no variance would be required. They clarified for the applicant that the owners have the right to maintain the overhang that they already have, and that the owners are making choice to extend into the rear setback.

When asked if it is possible to do the addition to meet the Bylaw the applicant stated they did explore this but with what the client wants in terms of space, reducing the addition would result in a minimal increase in space and they would lose parking. It wouldn't be enough of an addition.

In reply to questions the Planning Technician:

- Confirmed only two parking spaces are needed as rooms for family members are not same as secondary suites. The owners will sign a declaration for rooms for family at the building permit stage.
- The Zoning Bylaw permits two kitchens and there must be free and easy access between units along with other requirements.
- There are multiple Code differences and more parking requirements for secondary suites.
- In terms of guidelines around how big additions can be, the Zoning Bylaw covers gross floor area, setbacks, heights, and basements. The only other thing that could affect an addition is a restrictive design covenant.

Responses to Board questions continued:

- The house is at 30% lot coverage so it could be built bigger.
- They did not consider limiting the deck size. They do not have deck space at the rear because the building is so close to the rear lot line.
- They cannot retain the existing trees and proceed with construction. They would be destroyed with all the machinery working in the area.
- If they have the addition elsewhere and within the realm of the envelope it would destroy the existing layout of house and they would lose one bedroom.
- An addition elsewhere would be challenging with the existing layout inside, the siting on the property and the lack of space in general.

The Planning Technician clarified that the cedar hedge is not protected and the homeowner could remove the hedge at any time if they wanted.

Board discussion:

- Two pieces of correspondence were received and one residence did say they do not want the applicant's home sited closer to their property line.
- The lot is unique and the long rear area acts as the side yard. This affects the way the home sits on the property.
- They are proposing the maximum gross square footage inside the home.
- This possibly creates an issue with the intent of the Bylaw with having front yard and rear yard setbacks.

- Something to consider; is it undue hardship that the house was already sited in a poor location. Is this the same for all neighbours or is this a unique hardship.
- This is an unusual lot compared to others however concern expressed this is the maximum proposal in terms of square footage, and they are also proposing an additional deck.
- What they are proposing for size is permitted under bylaw density. Size isn't the issue but placement is.
- Would it be a hardship to move the proposed addition to other areas of the home and also what is the minimum variance needed. Perhaps they could modify the application.
- Question raised if this would substantially affect the use and enjoyment of the adjacent property.

Public input: Nil

MOTION: **MOVED by K. Zirul and Seconded by J. Uliana: “That the following request for variance to relax the rear lot setback from 7.5 m to 3.10 m from the requirements of Zoning Bylaw 2003, Sections 230.4(a)(i), further to the construction of an addition to the house on Lot A, Section 56, Victoria District, Plan 20208 (3983 Livingstone Avenue South) be DENIED.”**

The Motion was then Put and CARRIED

Ascot Drive
Addition

Applicant: Jonathan Aitken OBO Nicholas Pynch
Property: 3913 Ascot Drive
Variance: Relaxation of allowable floor space in non-basement areas from 80% to 99.77%

BOV #00914

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

Applicants: Jonathan Aitken, applicant, was present via telephone in support of the application and he added that the homeowners are elderly and they need to have two bathrooms on the same floor.

In reply to questions from the Board, the applicant stated:

- With regard to removing the stairs from the building, they reviewed the zoning and discussed this with inspectors. They do comply with the building Code.
- There is a walkout basement. This is an unusual design but the homeowners have no desire to use stairs. They want an elevator to move between floors.
- This is an age in place scenario and a future owner could reverse the design and re-install stairs if they want.
- The elevator is equipped with an emergency call button and likely has egress. The designer did not investigate the elevator features but it will have to meet Code.
- They are asking for their living space to be 100% on the top floor.
- The only thing not included in the floor area is the deck and new garage space.
- They do not have any geotechnical information and found no record of what was there before the driveway work was done.
- The existing enclosed porch and space under is part of the floor area but is not habitable space. This is why the calculation makes it almost 100%.

Board discussion:

- This is an age in place application.
- The stair removal has nothing to do with the Board. The request is for the non-basement area.
- This does not negatively affect the environment or the neighbours.
- This increases massing in the back yard but not the front yard.
- This meets all other setback requirements, and they were challenged with the non-basement rule.
- This feels supportable.

Public input: Nil

MOTION: **MOVED by K. Weir and Seconded by J. Uliana: “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 3, Section 32, Victoria District, Plan 5559 (3913 Ascot Drive):**

- a) relaxation of allowable floor space in non-basement areas from 80% to 99.77%

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

Tudor Avenue Addition	Applicant: Aspire Custom Designs OBO Christopher Ramsay
	Property: 2954 Tudor Avenue
BOV #00915	Variance: Relaxation of front lot line setback from 7.5 m to 5.9 m Relaxation of single face height from 7.5 m to 7.6 m

The Notice of Meeting was read and the applicant’s letter received. Letters of no objection received from three residences.

Applicants: Lindsay Baker, applicant and Chris Ramsay, owner were present via telephone in support of the application. The applicant noted:

- Because this is a tricky corner lot with difficult tree and driveway locations, this addition was difficult to design.
- The owner didn’t want to build out and preferred to use the existing footprint and the same ridgeline.
- A minor variance is needed on the roof height to get bedroom built.

In reply to questions from the Board the applicant stated:

- They are not proposing to build closer than what is existing.
- The corner of the master bedroom ceiling is where the variance is located.

The owner stated:

- They purchased the house a year ago. It was built in the late 1940s and requires renovations.
- They have young children and want all bedrooms to be upstairs. This is the basis of the request.
- They are taking an old house and trying to improve it.
- They are not increasing the square footage.

Discussion:

- The single-face height is needed for the master bedroom. Suggestion that if the applicant removes the ensuite then they would not need a variance. They don't exactly need this bathroom.
- This is not an inappropriate development of the site, does not affect the environment or adjacent properties.
- Question raised if it would be undue hardship to have applicant comply with the Bylaw.
- This provides a reasonable improvement and enhancement to the home and is a minor variance.
- This is an insignificant ask for height and is supportable.

Public input: Nil

MOTION: **MOVED by W. Goldiet and Seconded by K. Zirul: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 290.4(a)(i) and 290.4(b)(ii), further to the construction of an addition to the house on Lot 5, Section 44, Victoria District, Plan 9645 (2954 Tudor Avenue):**

- a) Relaxation of front lot line setback from 7.5 m to 5.9 m
- b) Relaxation of single face height from 7.5 m to 7.6 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."

The Motion was then Put and CARRIED

Memo to Council re fence heights Board members discussed a draft memo to Council regarding fence heights in the Zoning Bylaw. The memo would go to Council and then if they wish this to be reviewed they would refer the item to staff for a report. There could be a Bylaw amendment or staff could be requested to research wider and look at all fencing (eg. agricultural fencing, deer, walls, etc.)

It was suggested that if there is no intention from Council to change the Bylaw then the Board would continue to base their decisions on the way it is written.

MOTION: **MOVED by J. Uliana and Seconded by K. Weir, "That the memo dated April 14, 2021, regarding "Fence Heights – Zoning Bylaw Section 6.2" be forwarded to Council for consideration."**

CARRIED

High volume of BOV applications A brief discussion occurred regarding months where many applications for variance are received. Board members discussed options of either splitting applications into two meetings or having a longer meeting that starts earlier.

Due to work conflicts, some members are not able to attend an earlier meeting, however if a quorum can be met to consider applications at an earlier time, then three members could deliberate applications until such time a full Board is present.

Consensus was that one meeting per month is preferable to two meetings.

Adjournment On a motion from K. Weir, the meeting was adjourned at 8:51 pm.

Melissa Horner, Chair

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

Recording Secretary