

**MINUTES
BOARD OF VARIANCE
HELD ELECTRONICALLY VIA MICROSOFT TEAMS
SAANICH MUNICIPAL HALL
AUGUST 11, 2021 AT 6:00 P.M.**

Members: M. Horner (Chair), J. Uliana, K. Weir, K. Zirul
Regrets: W. Goldiet
Staff: K. Kaiser, Planning Technician, S. de Medeiros, Planning Technician, T. Douglas, Senior Committee Clerk

Minutes: Moved by K. Zirul and Seconded by K. Weir: "That the minutes of the Board of Variance meeting held July 14, 2021 be adopted as circulated."

CARRIED

Vista Bay Road Addition
BOV #00932

Applicant: Lincoln Tubbs
Property: 2578 Vista Bay Road
Variance: Relaxation of height from 6.5 m to 7.05 m
Relaxation of front lot line setback from 7.5 m to 5.26 m

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

Applicants: Lincoln Tubbs, owner, and Ryan Wylie, designer, were present in support of the application. The designer noted that:

- The site conditions are a 32' of grade drop from front to the rear of the lot and the Saanich definition of height causes an issue.
- They are reframing and putting new roof on the garage.
- The flat roof will match the slope of major roof on existing house and will be lower than the height of the current roof.
- They are not proposing to encroach any further than what is there already.
- They wanted to ensure that the neighbour across street is comfortable with this, and they have support from this neighbour.

The owner confirmed that they had conversations with four other surrounding neighbours who are all supportive.

One Board member noted they were not able to view the site due to a dog in the yard.

In reply to questions from the Board the applicant stated:

- The request for the front lot line is for the existing front face. They would like to receive approval of the existing nonconforming home.
- All proposed work will be done on the existing foundation line.
- They are replacing an existing deck.
- Many things they are addressing are non-conforming parts of house that were done by past owners without permit.

Board discussion:

- The lot is challenging, this is a clean-up of previously unpermitted work.
- On the site plan there is a right-of-way pushing the house forward, and the slope is also a hardship.
- This will not affect the natural environment.
- They reached out to the neighbours for support.
- The relaxation of the front is regularizing an existing situation.
- The height request are a reasonable response to a difficult site.

- This is a minor request.

Public input: Nil

MOTION: **MOVED by K. Weir and Seconded by J. Uliana: “That the following request to relax the height from 6.5 metres to 7.05 metres, and relax the front lot line setback from 7.5 metres to 5.26 metres from the requirements of Zoning Bylaw 2003, Sections 230.4(a)(i) and 230.4(b)(i), further to the construction of an addition to the house on Lot 7, Section 44, Victoria District, Plan 10590 (2578 Vista Bay Road) be APPROVED,**

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

Blenkinsop Road
 Accessory buildings

Applicant: David Chambers
Property: 4317 Blenkinsop Road
Variance: Relaxation of interior side lot line from 3.0 m to 1.56 m
Relaxation of interior side lot line from 3.0 m to 2.51 m
Relaxation of interior side lot line from 3.0 m to 2.39 m

BOV #00933

The Notice of Meeting was read and the applicant’s letter received. Correspondence received not in support from twelve residences, letter with comments received from property owner.

Applicants:

David Chambers, owner, was present in support of the application and in reply to correspondence received he noted:

- The structures were constructed in late summer and over the course of winter.
- Only two properties who wrote letters are impacted by the buildings.
- There is a stop work order on the buildings. This is why they are not completed. The backside of the structures are not finished.
- He had discussed with one neighbour that he was applying for a variance.
- The development next door has caused negative environmental impacts for swallows, bees and other wildlife. His family has spent years protecting this site for the bees, frogs, birds, etc.
- They have the highest bird diversity in Victoria. With the development next door they moved quickly to mitigate the impacts on the environment.
- There is no water management plan for the property next door which greatly impacts the environment.
- Expressed concern about ground nesting bees that have laid eggs in the berm and the need to work with neighbours on saving native pollinators.
- The buildings were constructed to increase and attract native pollinators in the cracks of the buildings and to help with bird nesting, which is happening already. Bee and bird habitat is being lost and they are trying to rescue and remediate this.
- They are not the owners of the property and it is held by a land trust.
- He takes responsibility that the sheds are close to the lot line. He checked the bylaw for size and height but not for siting.
- Building 3 is key to nesting groves around the house. That one has the most relaxation and is critical. The placement of it allows access for firetrucks if necessary. The woodshed is also key to the fire hydrant location.
- The correspondence received was more of a personal nature.

In response to Board questions, the applicant stated:

- Hydro came to look at the poles and trim around the lines. The decking of shed #3 encroaches over the Hydro easement. Given where cabling and poles are, they do not affect Hydro as nothing is obstructed.
- The buildings were placed in this location due to light and noise pollution from the neighbours, and for privacy for both properties.
- They were not aware that a setback was being encroached. He read the Bylaw and wanted to make sure he was building it right. The existing fence is not on the lot line so the true lot line wasn't evident.
- In reply to a question about reconstructing the sheds on different location on property and about them being unsightly, the applicant stated: the sheds are anchored in and they withstood storms this winter (using ¾" ready rod in pilings and in beams). The buildings could be moved forward but this could jeopardize their stability. In terms of them being unsightly, the goal was to put art between them and the neighbour. If looking at the front it is an old west theme and the back end was supposed to be the same. The goal is to make both sides look nice.
- Regarding hardship, the applicant provided a history about the property and noted the hardships are: there is no control mechanism for private property and lighting issues; the owls and other birds need to have protection from night lighting. Their mission to protect ecological items [flora and fauna] of the land and the hardship is about protecting the things that live there. They cannot control the surrounding properties but they can create buffering walls. They have planted some trees but don't want to plant too many. The lack of a water management plan also affects their property. The development is putting a strain on the ditches and they are creating a hardship by blocking the ditches.
- They started to build the sheds in August 2020, it was a slow progression as they worked on them when they had time. The top additions were installed around November or December when privacy issues occurred next door with the house construction and lighting. A heavy storm event happened in December and top piece was solid. The structures are built well.
- The habitat hotel was built in December and the façade went on in January 2021. Hurricane hangars were installed and they have all gone thru heavy weather events.
- The Land Conservancy has indicated via correspondence that they signed the application and he has authority to apply. They have a 29 year lease on the property with control of all roads lands and buildings. They are in possession of the property.

In reply to a question about the intent of the bylaw and the height, the Planning Technician noted the intent is to provide separation between properties and that the height is not an issue as this is for agricultural purposes.

Board Discussion:

- Board member not convinced the structures cannot be placed elsewhere and comply with setbacks to achieve the intended purpose. Other issues such as the Hydro easement are not within Board purview.
- Member does not dispute the environmental factors but this is not the place for that to be considered.
- The letters received were against things that are not in the Boards' control.
- Board needs to consider whether the application substantially affects use and enjoyment of adjacent land.

- No one wants to see nature displaced but other measures could have been taken in the placement and design of the sheds.
- The Board usually is not concerned with what goes inside of buildings.
- The Board scope is limited.
- There are alternatives available which haven't been demonstrated. Member does not see a hardship with this application.

Public input: Nil

MOTION: **MOVED by J. Uliana and Seconded by K. Weir: "That the following request to relax the interior side lot line from 3.0 metres to 1.56 metres (shed 1), relax the interior side lot line from 3.0 metres to 2.51 metres (shed 2), and relax the interior side lot line from 3.0 metres to 2.39 metres (shed 3) from the requirements of Zoning Bylaw 2003, Section 101.4(a)(ii), further to the construction of three accessory buildings on Lot A, Section 51, Victoria District, Plan 7421 (4317 Blenkinsop Road) be DENIED."**

The Motion was then Put and CARRIED

Elnido Road Addition
BOV #00934

Applicant: Aspire Custom Designs OBO Kai Qing Gu & Cho Bun Ku
Property: 1490 Elnido Road
Variance: Relaxation of allowable floor space in non-basement areas from 80% to 93.63%

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

Applicants:

Lindsay Baker, designer, and Cristina and Kevin Ku owners, were present in support of the application. The designer stated that the request is fair and justified as there is a hardship. They did discuss the project with neighbours, who see the difficulty of the site and support this request.

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

- The hardship is that in the 1960's and 70's split level homes were popular and more space is needed for the family. They could take the basement and dig down, but this is not sustainable and is also costly.
- They still conform to total square footage allowed.
- They currently have a deck that is very visible to the street and neighbours, and this is usable floor area. Creating a kitchen and dining area for the family, rather than having a deck, is what is being proposed.

Board discussion:

- Board member has seen similar houses to this where the basement is not quite meeting the standards and the homeowners are just trying to improve their living space.
- They are trying to improve an existing house and make it more suitable to their needs as they grow. Suggestion that the 80% rule may be arbitrary.
- The intent of the Bylaw is to reduce massing. This came from the 1980s when there were many monster houses being built. They can still have the same amount of floor area, but it needs to be partially underground.
- This project increases the massing of house greatly from the street. Right now it is set back as a deck. To allow this is defeating the intent of the Bylaw.
- Questions raised whether the proposed is significant and does this defeat the Bylaw intent. They do have neighbours' support.

- This proposal isn't outside the norm of the neighbourhood and the applicant does have support.
- They are building on an existing component of the house.

Public input: Nil

MOTION: MOVED by J. Uliana and Seconded by K. Weir: "That the following request to relax the allowable floor space in non-basement areas from 80% to 93.63% from the requirements of Zoning Bylaw 2003, Section 210.4(c), further to the construction of an addition to the house on Lot 12, Section 90, Victoria District, Plan 27317 (1490 Elnido Road) be APPROVED,

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
With K. Zirul OPPOSED**

Gladiola Avenue
Addition

BOV #00935

Applicant: Aitken Design OBO Christopher Chong
Property: 729 Gladiola Avenue
Variance: Relaxation of allowable floor space in non-basement areas from 80% to 97.40%

The Notice of Meeting was read and the applicant's letter received. Correspondence not in support received from one residence.

Applicants: Jonathan Aitken, applicant, and Anne Chong, owner, were present in support of the application. The owner stated they wish to live in the same home as their son. They moved here from the Interior and co-owns the property with their son.

The applicant stated:

- They were not able to contact one neighbour, who has expressed concern about privacy.
- They designed the renovation to limit privacy issues by minimizing windows on the west side and designing higher windowsills.
- The neighbour expressed concern about losing sunset views. In winter the tree growth limits sunset views.
- They kept the proposed roof pitches lower. Three generations would like to live in the house and the older residents want to live on the main level to age in place.
- There is an existing bedroom on the lower floor. They left some room for an east facing window for both egress and light for this bedroom.

Public input:

Aaron Lockwood, Gladiola Avenue:

- Has lived here for 20 years, and is concerned that they were not involved in the process until very late.
- The proposed amounts to an 800-900 square foot mass being built against his own back deck and property. Privacy is an issue.
- Asked why they cannot slide the addition up to the paved area further towards the front.
- Understands family wanting to live together, but why take up more green space than necessary.

- It is not just the sunset views of concern, it is also their living space; they spend a lot of time on their deck. They had proposed options to the applicant and the designer said that there was no time to redraft the plans before the meeting.
- They have been neighbours with the applicant for 14 years and they get along, but this is an issue.

The Planning Technician confirmed that the variance has nothing to do with siting, only massing. She also confirmed that the outbuildings are completely separate from the main dwelling in terms of floor space ratio.

The applicant stated the neighbour's suggestion to move the addition forward on the site is a problem because of the need for the turnaround space on the paved area. They have a steep driveway from the road and they need a paved turnaround area. Additionally the intention is to allow an accessible ramp if one is needed in future. There were efforts made to contact the neighbour about the project.

In reply to questions from the Board the applicant stated:

- Regarding design options to lessen impact to neighbours; the nature of the variance is for a walkout basement. Only a fraction of the lower floor counts as basement. There is an existing secondary suite to maintain and they are trying to maintain as much of the existing house as possible.
- There are three separate spaces: the parent suite/ son suite/ grandparent space.
- They have extended back because they only have a 10' side yard setback.
- They are trying to make a discreet single floor addition on a lower floor.
- They could cut 2 feet off the back of the addition but this may not satisfy the neighbour.
- They confirmed the non-basement area is only about 50 square feet.
- Most of the basement area is above five feet.
- Because of the grade it drops 6' from the road to the driveway and then it continues to drop another full floor.
- It is a steep grade and there is not a lot of room to add in front.
- The undue hardships as related to this lot are: the existing steep slope on site on the approach from the driveway and how it continues. Desire to maintain a rental unit. Desire to age in place by maintain living on a level floor rather than have to move out if accessibility needs change.
- Additional massing would be about 1,100 square feet total. Visible massing would be about 800 square feet. The house would be 3,306 square feet total after the project.

The owner stated she hears the concerns about how it is important to consider the impact of views from the street and that the bylaw is to stop monster houses. If you look at elevation they have tried to keep in sync with other houses in the area. The slope makes it so a large portion of the house is out back rather than in front.

Board discussion:

- Board member struggling with this because it seems to be more massing is taking place which could defeat the intent of the Bylaw.
- If they meet all other Bylaw provisions, whatever massing there is seems acceptable. The question is of how this is placed on site. Looking at the elevation differences this seems to be reasonable.

- The slope of the lot is challenging.
- This one does have a hardship in terms of being able to get a basement level with the grade in front only giving them 50 square feet as basement. This does have less massing on the street even with the addition. The intent of the Bylaw is to lower homes from all sides and not just the front. This rule is applicable to all.
- They have asked for the maximum amount they could ask for. If they had requested a lower amount, member would consider approval. This is not the least amount they could ask.
- The designer did say that regardless of any addition, they'd need a variance. The question is, is this least amount needed.
- This is not unique, the Board has seen many examples of sloped properties. There are design challenges and it is not easy to design around their requirements.
- The request to extend to the maximum is a stretch, Board member is not necessarily in favour.
- What they are asking for is appropriate

The Planning Technician clarified the meaning of the 80% non-basement rule.

MOTION: **MOVED by K. Zirul: “That the following request to relax the allowable floor space in non-basement areas from 80% to 97.40% from the requirements of Zoning Bylaw 2003, Section 210.4(c), further to the construction of an addition to the house on Lot 17, Section 78, Victoria District, Plan 1171 (729 Gladiola Avenue) be DENIED.”**

The motion DIED due to lack of a Seconder

MOTION: **MOVED by J Uliana and Seconded by Weir: “That the following request to relax the allowable floor space in non-basement areas from 80% to 97.40% from the requirements of Zoning Bylaw 2003, Section 210.4(c), further to the construction of an addition to the house on Lot 17, Section 78, Victoria District, Plan 1171 (729 Gladiola Avenue) be APPROVED,**

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
With K. Zirul OPPOSED**

Kenneth Street
Deck addition

BOV #00936

Applicant: Premium Urban Design OBO David and Amanda Vinnels
Property: 1018 Kenneth Street
Variance: Relaxation of maximum lot coverage from 30% to 30.90%
Relaxation of rear lot line setback from 10.50 m to 6.29 m

The Notice of Meeting was read and the applicant's letter received. Signature of no objection received from one residence.

Applicants:

Michael Schell, applicant, and David Vinnels, owner were present in support of the application. The applicant stated:

- They will have to reduce the existing deck to conform to the requested relaxation.

- He has one permit in progress for the interior renovations. There will be a secondary permit for the deck alteration.
- The angle of the back property was noticed by planning. Their site survey had a slight angle that affects the 10' they were asking for in the original application.
- The hardship is they need to add secondary egress from the upper floor down to grade level.

In reply to questions from the Board, the Planning Technician noted if the Board moves forward with plans as presented tonight, the only person able to approve a minor change is the Director of Planning.

The applicant stated:

- The current two decks are not safe and they want to have a safer deck.
- In reply to a question about the hardship of the actual lot and whether they could instead have a landing and stairs, the applicant noted this is about having access to the back yard.
- There is access to lower level but it is not easy to get to. Having to go to the front entrance and then down some stairs is a very cumbersome way to access the back yard.
- It is common to have a rear deck from a back kitchen area to have BBQs. Ultimately this will be safer for family members.
- They did consider creating a smaller patio area but there are oak trees with larger root systems and Saanich Parks suggested to not do more than what is there with the existing concrete pad.
- The existing decks are located in front of a bedroom and a bathroom. Considering this is a duplex this ask is moderate in size.
- They are installing providing aluminum railings and frosted glass for privacy.

The Planning Technician noted that most duplexes have a Development Permit associated with them that oversee form and character. In this case there is none and they just have to comply with zoning and code requirements.

Board member questioned whether having these stairs is a Code requirement or a design choice. Is there something about this lot forcing them to make this design.

The applicant noted that the distance is a factor. From the main floor there is quite a distance to travel and in case of fire this option would be safer. There were talks of having a patio at back but Saanich Parks said that is not a good idea with the tree root system. They will require signoff from an arborist to allow for the footings. Saanich Parks has asked for an arborist report. They did try to have a report available for the Board but the Arborist was not able to submit one in time for meeting.

Board member commented there is no evidence to support a hardship. The applicant replied that the idea is to add a common and family area they can have family barbecues, and they are also hoping to put in a larger sliding door from the kitchen to access the rear yard without having to travel through the home. The owner noted that a deck access to the kitchen makes more sense than decks off bedrooms. The current deck is not useful.

Board Discussion:

- This is a design choice, member not seeing hardship on this lot.

- It is not a Code requirement to have the access they want.
- They could ask for much less via installation of a landing and stairs, and could barbecue on the grassy area. Trees do not stop you from enjoying the grassy area.
- The existing home is already within setback they would still need a variance for a landing and stairs.
- This is beyond the requirements of the homeowner and there are design concerns that need to be addressed.
- Designs today are different than 20-30 years ago. Member can see wanting a deck off the kitchen.

Public input: Nil

MOTION: **MOVED by K. Zirul and Seconded by K. Weir: “That the following request to relax the maximum lot coverage from 30% to 30.90% and relax the rear lot line setback from 10.50 metres to 6.29 metres from the requirements of Zoning Bylaw 2003, Sections 301.3 and 301.4(a)(ii), further to the construction of a deck addition to the house on Lot B, Section 64, Victoria District, Plan 21671 (1018 Kenneth Street) be DENIED.”**

**The Motion was then Put and CARRIED
With J. Uliana OPPOSED**

Killarney Road
New house

Applicant: Zhen Li
Property: 2556 Killarney Road
Variance: Relaxation of allowable floor space in non-basement areas from 80% to 99.67%
Relaxation of height from 7.5 m to 8.42 m

BOV #00937

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

Applicants: David Li owner was present in support of the application and had nothing to add. He noted he did consult with neighbours and did contact the Parks department who are in support of the application.

In reply to questions from the Board:

- He does own the subject property and sister property, and is wanting to build a mirror image of the sister dwelling.
- He bought the property in 2018, and did the subdivision plan. Under a request from Parks, he put the driveway in the middle and did all that Parks asked.
- Because of impact to tree roots, Parks asked if they would build on the existing grade. This is challenging as they need to go down 2-3 feet for foundation and footings. If they lift the house then they won’t affect tree roots.
- They spoke with neighbours to see if this would impact them. Neighbours are in support and most were happy to save the trees.
- The tree is on the significant tree list.
- The other house did not need a variance.
- Because the lot is sloped about 2.5 metres, it affects the non-basement area.
- Both the slope of lot and the tree roots are the hardship.

- It is a very big tree and some roots are exposed. If they dig down it would be bad for the tree. Also the slope of the lot makes the middle point trigger non-basement area no matter the amount they lift the house.
- If tree roots were not an issue they wouldn't have a problem.

The Planning Technician confirmed that the original design met all Zoning Bylaw requirements but it came back from Parks and has to be higher because of the tree roots.

Board discussion:

- Member struggles with this because they see the slope and tree issue but also see the design factor as well.
- This is a new build so there are a lot more design choices. The whole basement suite could be removed and they would be closer to complying.
- Most homes do have suites. This one would be fine if not for the tree roots.
- There are certain efficiencies to use a mirror plan. They have support from the neighbourhood.
- This is an overall improvement to the area.
- Given the hardship this is reasonable.

Public input: Nil

MOTION: **MOVED by K. Zirul and Seconded by K. Weir: "That the following request to relax the allowable floor space in non-basement areas from 80% to 99.67% and relax the height from 7.5 metres to 8.42 metres from the requirements of Zoning Bylaw 2003, Sections 210.4(b) and (c), further to the construction of a new house on Lot 1, Section 44, Victoria District, Plan EPP77976 (2556 Killarney Road) be APPROVED,**

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
With M. Horner OPPOSED**

Edgelow Road Deck addition
BOV #00938
Applicant: Lida Homes Inc obo Rudhakar Rao and Durga Prabhakar
Property: 2280 Edgelow Road
Variance: Relaxation of rear lot line setback from 7.5 m to 7.3 m

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

Applicants: Sean Love, Lida Homes, applicant, and Sudhakar Rao, owner were present in support of the application. The applicant noted that:

- This started out as a deck resurfacing, the client asked for stairs and they applied for a permit for this. A permit was released, and they built the deck according to the plans, and the final survey indicated they were in the setback even though the original drawings were approved.
- They do not know if the original deck was built with a permit as the homeowner bought the house with the deck.

The Planning Technician was not able to advise whether the original deck was built with a permit.

The applicant noted the new deck doesn't encroach any further than the old one. They just cut the joists and did not install new posts. They cut the deck back about 4-5 feet. It would cost a lot of money to fix 7". Their company has a good reputation and wanted to do this properly. They thought they were, but the survey indicates otherwise.

Discussion:

- The posts did appear to be existing so this deck in terms of encroachment is likely similar to the previous deck.
- The stairs are an add-on but this is minor.
- There is no impact on neighbours.
- It feels like this is just approving an existing non-conforming deck.
- They proceeded on good faith. This is minor.

Public input: Nil

MOTION: MOVED by K. Weir and Seconded by J Uliana: "That the following request to relax the rear lot line setback from 7.5 metres to 7.3 metres from the requirements of Zoning Bylaw 2003, Section 210.4(a)(i), further to the construction of a deck addition to the house on Lot 4, Section 45, Victoria District, Plan 29090 (2280 Edgelow Road) be APPROVED,

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

Adjournment On a motion from K. Zirul, the meeting was adjourned at 8:53 pm.

Melissa Horner, Chair

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

Senior Committee Clerk