

MINUTES
BOARD OF VARIANCE
Via Microsoft Teams
April 13, 2022 at 6:01 p.m.

Members: M. Horner (Chair), K. Zirul, A. Gill, M. Cole

Regrets: J. Uliana

Staff: K. Kaiser, Planning Technician; J. McLaren, Planning Technician, and N. Chaggar, Senior Committee Clerk

Minutes: **MOVED by M. Cole and Seconded by K. Zirul: “That the minutes of the Board of Variance meeting held March 9, 2022 be adopted as circulated.”**

CARRIED

Merriman Drive
Fence height
BOV00966

Applicant: Matthew Barry
Property: 3851 Merriman Drive
Variance: Relaxation of the maximum height of a fence within the minimum setback distance of the principal building and abutting the street from 1.5 m (4.9 ft) to 1.96 m (6.42 ft) Relaxation of the maximum height of a fence at a street corner from 1.0 m (3.3 ft) to 1.96 m (6.42 ft)

The Notice of Meeting was read, and the applicant’s letter and one letter from a neighbour received.

Applicants: Matthew Barry, applicant/owner, was present in support of the application.

Public input: Nil

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

- The retaining wall was installed before the sewer main existed. It has been there for a while.
- The property used to be on a septic system. The District may have built the retaining wall when they added sewer.
- There is no documentation to support information about the retaining wall.
- Decreasing the fence height wouldn’t improve sightlines around the corner due to the slope in the road.

In response to questions from the Board, the Planning Technician stated:

- The bylaws do not apply to hedges or plants, only to trees.
- Fences do not require a survey; it is unsure whether the retaining wall is on the property or the boulevard.
- The bylaw speaks to non-conformity and whether something was built lawfully; there is no provision for “grand-fathering” illegally built structures/fencing.
- The fence bylaw has been in effect for a long time.
- A guard rail of up to 42 inches is permitted on top of a retaining wall for safety.

Board discussion:

- Decreasing the fence height wouldn’t make a difference in sightlines.
- The hedge was more of a sightline issue than the fence.
- The intention of the bylaw is to improve sightlines around corners.

- A smaller car coming around the corner may have some obstructed views because of the fence.
- By allowing this variance, the situation is worsened by the condition of the retaining wall.
- The rationale about hardships of the lot is unclear.
- The slope of the lot creates a need for the retaining wall to exist.
- The fence does not adversely affect the natural environment or enjoyment of adjacent land.
- There are no letters expressing opposition to the fence.
- The slope of the lot is challenging.

MOTION:

MOVED by A. Gill and Seconded by K. Zirul: “That the following request to relax the maximum height of a fence within the minimum setback distance of the principal building and abutting the street from 1.5 m (4.9 ft) to 1.96 m (6.42 ft), and to relax the maximum height of a fence at a street corner from 1.0 m (3.3 ft) to 1.96 m (6.42 ft) from the requirements of Zoning Bylaw 2003, Sections 6.2(f)(i) and 6.3(b) further to the retention of an existing fence on Lot 26, Section 32, Victoria District, Plan 9229 (3851 Merriman Drive) be APPROVED in accordance with the plans submitted to the Board, and these variances would apply in future should the applicant wish to replace the existing fence.”

CARRIED

Jasmine Avenue
Addition

BOV00967

Applicant: Gary Streight
Property: 810 Jasmine Avenue
Variance: Relaxation of the minimum interior sideyard setback from 1.5 m (4.9 ft) to 1.25 m (4.10 ft)
Relaxation of the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the lowest outermost wall from 7.5 m (24.6 ft) to 7.6 m (24.93 ft) for a sloped roof (Single Face)
Relaxation of the non-basement floor area from 80% (248 m²) to 90.32% (280 m²)

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

Applicants:
(via Telephone)

Gary Streight, applicant, and Shawn and Chelsea Vinesen, owners, were present by telephone in support of the application and noted the following:

- The applicant’s intention is to demolish the existing roof and maximize available floor space on the second floor.
- The building height is limited and does not provide for full 8 ft height ceilings.
- The variance for sideyard setback is due to the positioning of the house.
- The variance for single face height is due to the grade at the front of the house.

Public input:

Nil

Discussions:

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

- The key hardship is the height at which the basement floor was set. The lower floor is approximately 12-16 inches into the ground and, according to the bylaw, does not constitute it as a basement.
- If the lower floor slab was set further into the ground, the single face and non-basement floor area variances would not be required; however, a variance would still be required for sideyard setback.
- It is important for the applicants to maintain the character of the home and the shape of the roof.

- The applicants are within the maximum building height requirement.
- The applicants don't believe the house is over-sized considering the new home that has been built to the east of the lot.

In response to questions from the Board, the Planning Technician stated:

- Variances may still be required if the addition were built at the back of the house.

Board Discussion:

- Under the first variance listed, the applicants are seeking conformance on an existing non-conforming issue.
- The basement isn't considered a basement under the bylaw because it's not deep enough into the ground; however, upon inspection of the site, it seems that it is quite deep into the ground. This creates additional hardship.
- The intention of the bylaw is defeated by allowing too much "house" to be built above ground.
- The sloping lot creates a hardship and makes the single face height go over the allowable amount.
- The slope is making the single face height go over the maximum.
- Applicants are trying to meet the intent of the bylaw but the lot and the way the home was built creates a challenge.
- The variances requested are reasonable.
- There are no letters in opposition of this application.

MOTION:

MOVED by A. Gill and Seconded by K. Zirul: "That the following request to relax the minimum interior sideyard setback from 1.5 m (4.9 ft) to 1.25 m (4.10 ft), to relax the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the lowest outermost wall from 7.5 m (24.6 ft) to 7.6 m (24.93 ft) for a sloped roof (Single Face), and to relax the non-basement floor area from 80% (248 m²) to 90.32% (280 m²) from the requirements of Zoning Bylaw 2003, Sections 210.4(a)(ii), 210.4(b)(ii), and 210.4(c) further to the construction of an addition on Lot 4, Block 7, Section 78, Victoria District, Plan 1171 (810 Jasmine 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."

CARRIED

Hollis Road
Fence height

BOV00969

Applicant: Chris Jensen
Property: 1190 Hollis Road
Variance: Relaxation of the maximum height of a fence located in a sideyard from 1.9 m (6.2 ft) to 3.7 m (12.14 ft)

The Notice of Meeting was read, and the applicant's letter and six letters from neighbours received.

Applicants:

Chris Jensen and Julie Shaver, applicant/owners, were present in support of the application and noted the following:

- This application is for a fence in equivalent height of the neighbor's fence, which was a variance previously granted by the Board.
- The applicant's relationship with the neighbour to the South has been distressing.

- The current exposure to the neighbour impacts their enjoyment and use of the property.
- The applicants require this fence as a deterrent to neighbour’s exposure.

Public input:

Kathreen Riel, Hollis Road:

- Inquired about the materials that will be used for the fence.

Discussions:

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

- The fence materials will be pressure treated wood posts and slotted cedar fill in between.
- The applicant has been in the engineering field for almost 20 years with experience designing in extreme wind environments. The plan to support the fence is to offset with 45 degree angle posts, 4x4 pressure treated as supplemental strength to the structure which will be anchored to the rock with ¾ inch dowelling.
- The relaxation of 3.7 m would be the highest point of the fence.

In response to questions from the Board, the Planning Technician stated:

- The bylaw doesn’t regulate what materials are used for fencing, only height.

Board Discussion:

- The Board doesn’t take precedent into account; every application is on its own standing. Any concerns regarding bylaw infringements or criminal activity should be reported to the appropriate authorities.
- Although the applicant didn’t state deer on their property as a hardship, it’s important to note that the high fence would affect the natural environment.
- The lot creates a challenge to build a fence and it’s understandable why a section of the fence could be so high.

MOTION:

MOVED by A. Gill and Seconded by M. Cole: “That the following request to relax the maximum height of a fence located in a sideyard from 1.9 m (6.2 ft) to 3.7 m (12.14 ft) from the requirements of Zoning Bylaw 2003, Section 6.2(f)(ii), further to the construction of a fence on Lot 9, Section 62, Victoria District, Plan 1194 (1190 Hollis 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.”

CARRIED

Darwin Avenue
Accessory
structure (pool)

Applicant: Monika Charlebois
Property: 924 Darwin Avenue
Variance: Relaxation of the front lot line setback from 7.5 m (24.6 ft) to 6.4 m (21.0 ft)

BOV00970

The Notice of Meeting was read, and the applicant’s letter and two letters from neighbours received.

Applicants:

Monika Charlebois, applicant/owner, was present in support of the application and the following was noted:

- This is a temporary structure and will only exist in summertime.
- The structure came at a time when community services were closed.
- Support from immediate neighbours was provided.
- A fruit tree on the property impedes the applicant from placing the structure in an alternate location.

Public input: Nil

Discussions: In response to questions from the Board, the applicant stated:

- The backyard is made up of bed rock and staggered stones; the work required to level out the yard would be extensive.
- There is a mature Garry Oak in the back yard; the applicant wanted to protect the tree canopies and root structure from the salt water. It's not a possibility to have structure in the back yard.
- If the pool had been turned in the opposite direction, a variance would not be required; however, the pool would be much closer to the neighbour.
- Consideration for the neighbour and not getting too close to their lot and Garry Oak tree is the main hardship.
- Noise may become an issue if the structure was moved to another location.
- The applicant and neighbour agreed for the structure to be located in this area.

In response to questions from the Board, the Planning Technician stated:

- The pool/structure may be able to be re-installed year after year under this variance.
- A different structure would have to match the plans if the variance is granted.
- There's no difference for temporary or permanent structures; they're all subject to bylaw and building code.

Board Discussion:

- If the pool was turned in the other direction, a variance would not be required nor would it affect the fruit tree.
- There is an alternate solution that is relatively easy that would not require a variance.
- The Board appreciates the applicant's efforts to honour the neighbour's wishes but may not meet criteria for hardship.

MOTION: MOVED by K. Zirul and Seconded by A. Gill: "That the following request to relax the front lot line setback from 7.5 m (24.6 ft) to 6.4 m (21.0 ft) from the requirements of Zoning Bylaw 2003, Sections 5.34(a) (i), (ii), and (iii), further to the installation of an accessory structure (pool) on Lot 43, Block 1, Section 9, Victoria District, Plan 1707 (924 Darwin Avenue) be DENIED."

CARRIED

<p>Oldfield Road New Construction BOV00971</p>	<p>Applicant: Ian Laing Property: 5806 Oldfield Road Variance: Relaxation of the maximum overall height of a sloped roof from 7.5 m (24.6 ft) to 8.38 m (27.49 ft) Relaxation of the maximum overall height of a sloped roof exceeding a 12:12 Pitch from 7.5 m (24.6 ft) to 9.31 m (30.54 ft)</p>
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The Notice of Meeting was read, and the applicant's letter and three letters from neighbours received.

Applicants: Ian Laing and Trisha Julseth, applicant/owners, were present in support of the application and the following was noted:

- The applicants propose to have their parents live in the new home.
- They have lived in the neighborhood for approximately 10 years.

- All the neighbours were consulted and expressed support for the project; the applicants were unable to connect with one of the neighbours.
- The front elevation of the property became a 12:14 pitch, which is purely for décor and curb appeal, sits below the peak of house, and doesn't affect the overall height of the house.
- The applicant was not aware of the roof pitch bylaw.
- The home is a standard two storey house with 10 ft ceilings on the main floor, and 9 ft ceilings on the second floor. Based on the bylaw, this puts the home 2 ft 11 inches over height.
- The neighbours are far away with lots of trees on the property.
- The applicants maintain that it was not their intention to be over height.

Public input: Nil

Discussions: In response to questions from the Board, the applicant stated:

- The applicants considered options for lower ceiling heights; however this would negatively affect the curb appeal and overall look and feel of the home. They would have to go back to the drawing board and start from scratch.
- The applicants bought this plan specifically for its curb appeal and didn't realize they were over in height until the plans were submitted.
- In order to comply, the changes to the plans would not be minor ones.
- An alternate option would be to dig down to make the height work. This would require significant excavation and removal of materials.
- There's also a stream at the back of the property which floods occasionally and would risk flooding the lower floor of the home.
- There is a 30 m setback in the rear because of the stream which reduces the front yard setback.
- The variance for overall height results from a design decision rather than the land itself. Changing the height would mean re-designing the entire house.
- The architect for this project is based out of Abbotsford.

In response to questions from the Board, the Planning Technician stated:

- If the house did not have this pitch, there would still be the requirement of the overall height variance for 8.38 m.

Board Discussions:

- This is a rural area with large lots and is less likely to affect neighbouring properties.
- The applicant could dig down and make the house lower but this would disturb the environment.
- There are many ways to design beautiful houses within bylaw requirements.
- The designers may not be familiar with all bylaws for all jurisdictions.
- The variances requested are the minimum required to build the home, but it is undetermined whether there is enough hardship.

MOTION: **MOVED by A. Gill and Seconded by K. Zirul: "That the following request to relax the maximum overall height of a sloped roof from 7.5 m (24.6 ft) to 8.38 m (27.49 ft), and to relax the maximum overall height of a sloped roof exceeding a 12:12 Pitch from 7.5 m (24.6 ft) to 9.31 m (30.54 ft) from the requirements of Zoning Bylaw 2003, Section 101.5(b)(i) further to the construction of a single family dwelling on Lot 3, Section 67, Lake District, Plan 5269 (5806 Oldfield 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.”

**CARRIED
With M. Horner OPPOSED**

Discussions ensued between Board Members and staff relating to requests for refresher/training for new and existing members specific to:

- Legal training, similar to what was previously offered (one/two years ago).
- Meeting procedures sessions that were offered earlier this year, of which the second session was postponed.
- Advice/guidance on Zoning bylaw and hardship (eg. basement area, single face height). What are the rules that Board members are trying to enforce?
- Board members are volunteer citizens, and staff resources are limited.
- Follow-up regarding Memo sent to Council about variances for fence height to keep deer out.

Adjournment The meeting was adjourned at 7:44 pm.

Melissa Horner, Chair

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

Recording Secretary