

MINUTES
BOARD OF VARIANCE
Held electronically via MS Teams
February 14, 2024 at 6:00 p.m.

Members: J. Uliana (Chair), C. Schlenker and K. Zirul

Staff: A. Whyte, Senior Planning Technician; and M. MacDonald, Senior Committee Clerk

Regrets: A. Gill and M. Cole

Minutes: **MOVED by C. Schlenker and Seconded by K. Zirul: "That the Minutes of the Board of Variance meeting held January 10, 2024, be adopted as circulated."**

CARRIED

MOVED by K. Zirul and Seconded by J. Uliana: "That the In Camera Minutes of the Board of Variance meeting held February 22, 2023, be adopted as circulated."

CARRIED

Hollyridge Terrace Addition	Applicant: Alan Lowe Architect Inc. Property: 1501 Hollyridge Terrace Variance: Relaxation of the minimum combined front and rear setbacks from 15.0 m (49.2 ft) to 13.81 m (45.31 ft). Relaxation of the maximum non-basement floor area from 80% (274.56 m ²) to 95.08% (326.3 m ²).
BOV #01064	

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

Applicants: A. Lowe, applicant, and T. Thomas, owner, were present in support of the application, the following was noted:

- The application is within the allowable floor space.
- Moving the garage will allow for more livable space for the owners.
- The definition of depth for a basement is not met with the renovation, this is primarily due to the slope of the lot. The front portion of the lower level is basement, however at the rear it is not deep enough.
- The proposed setback for the stairs will be less than the current deck.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The footprint has increased, but is still within the allowable maximum.
- The slope of the lot creates a hardship as the ground level in the rear of the house is much lower than the front.
- The stairs and landing location was chosen to minimize the impact on the setbacks, removing the stairs would reduce accessibility and egress.
- The proposed deck will be smaller than the existing deck.

The planner stated the following:

- A small portion of the proposed deck will also be within the setbacks.
- Existing setback for the deck was 7.2 m. The existing deck and building a new one will require a new variance to be approved prior to construction.

The following was noted during Board discussion:

- Increase of non-basement means the home will no longer be compliant.
- The slope of the lot is a justifiable hardship. The increase to the lower level is intended as basement area, however it would require significant excavation to meet the bylaw required depth for basement area.
- Setbacks on the proposed deck are better than what they are currently.
- This application is nearly the same as the existing setbacks.
- The setback variance seems minor as it is primarily the stairs which are within the setback area.
- Correspondence received from the neighbour was supportive.

MOTION: **MOVED by K. Zirul and Seconded by C. Schlenker: "That the following request to vary from the requirements of Zoning Bylaw 2003, Sections 220.4 (a)(i) & (c) further to the construction of an addition on Lot 14, Section 55, Victoria District, Plan 40400 (1501 Hollyridge Terrace) be APPROVED:**

- Relaxation of the minimum combined front and rear setbacks from 15.0 m (49.2 ft) to 13.81 m (45.31 ft).
- Relaxation of the maximum non-basement floor area from 80% (274.56 m²) to 95.08% (326.3 m²).

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

Tudor Avenue
Single family
Dwelling

Applicant: York Brooks Design
Property: 2955 Tudor Avenue
Variance: Relaxation of the maximum height from 6.5 m (21.3 ft) to 9.40 m (30.84 ft).

BOV #01065

The Notice of Meeting was read and the applicant's letter received. Twelve emails in opposition were received.

Applicants:

K. Somogyi of York Brooks Design, applicant and K. Foster, owner, were present in support of the application, the following was noted:

- Variance requested for the deck and sunshades. The variance being requested for these items will not change the roof height of the house.
- The flat portion is the issue. The height of the house is allowable.
- Sunshades are intended for energy savings, to keep the sun from heating the home. Solar panels will also be installed on the shades.
- This design improves the esthetics from the street and ocean.
- Overall height will not change with or without the proposed sunshades.
- These items should be excluded from the bylaw definition of roof height.

- Public input:
- B. Neal, Sea View Road
 - This application should be denied and sent back to the drawing board.
 - Sufficient information was not given to the neighbours. The Board of Variance provides variances for hardship, not for design choice.
 - The hardship has not been presented aside from the potential financial issues of redesigning the house to be compliant.

 - L. Pechersky, Tudor Avenue
 - The house has three floors, which is more than others in the area.
 - This additional floor causes a privacy concern as higher windows may require additional privacy measures for neighbours.
 - This house will not fit in the neighbourhood of two-story homes.

 - T. Calveley, Sea View Road
 - The hardship for the variance for the sunshades is not justifiable as a different design would be compliant.
 - Design choices have been made which should be denied.
 - Neighbours have submitted letters in opposition, the neighbourhood would be negatively affected by this proposal.

 - N. Rogers, Tudor Avenue
 - Sufficient information was not provided to the neighbours.
 - The expectation was the proposal would be similar height to the existing house. Additional height may cause a financial loss to neighbours as the ocean view of surrounding lots would be reduced.
 - This application should be denied.

The owner stated the following in response to comments from neighbours:

- The height of the house sloped roof is below the maximum allowable height, the roof height will not change with or without the sunshades.
- A two-story house with flat roof would be over the allowable height. This sloped roof design was created to be compliant with the bylaw.

- Discussions:
- The owner and applicant stated the following in response to questions from members of the Board:
- The sunshades will help reduce cooling costs, as well as allow for installation of solar panels.
 - The house could be built without the deck and sunshades.
 - A stairwell or elevator projection is excluded from the height, it is reasonable to think that the sunshade should be excluded too.
 - A significant amount of money has already gone into the design and redesign of this building.
 - The overall roof height will not change even if the sunshades are removed.
 - Increased cooling will be required and less solar energy will be captured if the sunshades are not allowed.

Planner stated the following:

- The midpoint height of sloped roof is within the allowable height.
- Sunshades, the deck and handrails require the variances.

The following was noted during Board discussion:

- The roof over the corridor to the garage is included in the height calculation. The height of the building without the corridor would be over.
- The design meets the requirements of the bylaw aside from the sunshades and the deck and handrails.
- There are other design choices that would be compliant with the bylaw.
- The creative design maximises usable space, but redesign of the sunshades and deck is not an undue hardship.

MOTION: MOVED by C. Schlenker and Seconded by K. Zirul: “That the following request to vary from the requirement of Zoning Bylaw 2003, Section 290.3 (b)(i) further to the construction of a single family dwelling on Amended Lot 1 (DD 112969I), Section 44, Victoria District, Plan 1557 (2955 Tudor Avenue) be DENIED:

- **Relaxation of the maximum height from 6.5 m (21.3 ft) to 9.40 m (30.84 ft).”**

CARRIED

Scarborough Road Accessory Building	Applicant: Sarah Voldeng Property: 4579 Scarborough Road Variance: Relaxation of the maximum height from 3.75 m (12.3 ft) to 4.14 m (13.58 ft).
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BOV #01059 The Notice of Meeting was read and the applicant’s letter received.

Applicants: Sarah Voldeng, owner, was present in support of the application, the following was noted:

- The garage as built is not compliant, the roof is approximately one foot higher than the allowable height. This was only realized recently.
- The house was purchased knowing there were a number of outstanding items which needed to be addressed and brought into compliance.
- If a variance cannot be granted, this existing structure will need to be torn down, creating a hardship and unnecessary environmental impact.
- Neighbors have indicated that they do not want more construction.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The previous owners built multiple items without permits. An unpermitted breeze way was constructed between the garage and house.
- A garage which is built connected to the house has different height limits than stand alone accessory buildings. The breezeway connection meant the garage was attached and not considered to be over height.
- Due to this breezeway structure not being permitted or well built, it was torn down. Removal of the breezeway meant that the attached garage was now considered to be a stand-alone accessory building, with a lower allowable height, which meant a variance was then necessary.

The following was noted during Board discussion:

- This is an existing building, bringing it into compliance rather than tearing it down is more favorable to neighbours.
- There would be unnecessary environmental impacts if the construction materials are sent to landfill rather than being used as intended.
- The structure was allowable as a garage. There would be hardship in changing the height as it is already built and was allowable as a garage.
- There are no additional impacts to neighbours by leaving the structure.

MOTION: MOVED by K. Zirul and Seconded by C. Schlenker: “That the following request to vary from the requirements of Zoning Bylaw 2003, Section 101.7 (b) further to the construction of an accessory building on Lot 9, Section 16, Lake District, Plan 7780 (4579 Scarborough Road) be APPROVED:

- **Relaxation of the maximum height from 3.75 m (12.3 ft) to 4.14 m (13.58 ft).**

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

Adjournment On a motion from C. Schlenker, the meeting was adjourned at 7:43 pm.

J. Uliana, Chair

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

Recording Secretary