

MINUTES
BOARD OF VARIANCE
Held electronically via MS Teams
October 9, 2024 at 6:00 p.m.

Members: J. Uliana (Chair), M. Cole, A. Gill, C. Schlenker and K. Zirul

Staff: A. Whyte and C. Yancoff, Senior Planning Technicians; Andrew Sykes, Planning Technician; and A. Hawkshaw, Committee Clerk

Minutes: **MOVED by A. Gill and Seconded by M. Cole: "That the Minutes of the Board of Variance meeting held September 11, 2024, be adopted as circulated."**

CARRIED

Cordova Bay Road Fence
Applicant: Lucas Gerry
Property: 744 Cordova Bay Road
Variance: Relaxation of the maximum fence height from 1.9m (6.2ft) to 2.07m (6.8ft)

BOV #01076

The Notice of Meeting was read, one letter of support and the applicant's letter were received.

Applicants: The applicant was not present.

Public input: Nil

Discussions: The following was noted during Board discussion:
- It is not favorable to make a decision without giving the applicant the opportunity to present information and answer questions.

MOTION: MOVED by C. Schlenker and Seconded by K. Zirul: "That the Board of Variance Application for Lot 2, Section 42, Lake District, Plan 19203 (744 Cordova Bay Road) be POSTPONED to a future meeting to allow the applicant to attend."

CARRIED

Hopesmore Drive Addition
Applicant: Troy Nelson (Northern Tropic Homes)
Property: 3995 Hopesmore Drive
Variance: Relaxation of the minimum required rear yard setback from 7.5 m (24.6 ft) to 4.19 m (13.75 ft)
BOV #01089 Relaxation of the minimum required combined front and rear setbacks from 15.0 m (49.2 ft) to 11.79 m (38.68 ft)

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

Applicants: T. Nelson, applicant, was present in support of the application, the following was noted:

- The proposal is to cover an existing small deck and part of an accessibility ramp, which has been in place for approximately a decade.
- Covering the patio will allow for safe and dry access to and from the home.
- Shrubs and trees shield the deck from the view of neighbours.

Public input: Nil

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

- The request for variance would allow the glass roof and overhang to be located slightly closer to the property line than the existing deck.

In response to questions, Planning Staff stated the following:

- A variance for the existing deck was approved in 2004.

The following was noted during Board discussion:

- The lot is quite small relative to the existing structure, making it difficult to abide by setbacks.
- Access to the home is primarily via the existing ramp. Having the deck area covered will allow for easier access in adverse weather conditions.
- The request would allow for approximately 45% of the setback allowance, which may not be minor to some.
- The previous variance for the deck was approved. The application is to build a cover for the existing deck with a slight overhang, which increases the variance slightly. This is the reason this application is being made.

MOTION: MOVED by A. Gill and Seconded by C. Schlenker: "That the following request to vary from the requirements of Zoning Bylaw 2003, Sections 210.4 (a) (i) further to the construction of an addition (roof over existing deck) on Lot 10, Section 56, Victoria District, Plan 40299 (3995 Hopesmore Drive) be APPROVED:

- Relaxation of the minimum required rear yard setback from 7.5 m (24.6 ft) to 4.19 m (13.75 ft).
- Relaxation of the minimum required combined front and rear setbacks from 15.0 m (49.2 ft) to 11.79 m (38.68 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
With K. Zirul OPPOSED**

Camas Court Addition
BOV #01078

Applicant: Tyko Design Ltd
Property: 1210 Camas Court
Variance: Relaxation of the minimum rear lot line setback from 7.5 m (24.61 ft) to 4.84 m (15.88 ft)
Relaxation of the minimum combined front and rear setbacks from 15.0 m (49.21 ft) to 12.42 m (40.75 ft)

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

Applicants: D. Ko, applicant, was present in support of the application, the following was noted:

- During repairs, it was noted that the existing deck was non-compliant.
- The owners purchased the home as is, the deck was shown on drawings for the building permit. It is possible the deck was constructed with the home in the 1980's, mapping data shows it in place in 1997.
- Neighbours are generally supportive, as shown by signatures submitted.
- Garden suites and other forms of housing can be built closer to the lot lines than the deck currently stands.

Public input: Nil

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

- The owner had begun repairs to the deck, work was stopped as a permit was deemed necessary. The intention is to repair the deck.
- The footprint of the deck changed slightly with the repairs, the distance to the lot line has increased from that of the previous deck.

In response to questions, Planning Staff stated the following:

- The deck was shown on some drawings when the original structure was built, and some plans have been stamped "approved", however there is some conflicting information including a framing certificate which does not include the deck or details, and a lack of information on the plans.
- Given the unclear information on file, it has been determined that the deck does not have legal non-conforming status.

The following was noted during Board discussion:

- The lot is very shallow, being only approximately 79 feet at one point.
- The original deck was a larger interference than the current request.
- This request has not adversely effected neighbours.
- Removing the deck would mean the door to the deck would need to be removed as well, which could create a safety hazard.

MOTION: **MOVED by M. Cole and Seconded by A. Gill: "That the following request to vary from the requirements of Zoning Bylaw 2003, Section 210.4 (a) (i) further to the construction of an addition (deck) on Lot 1, Section 32, Victoria District, Plan 35187 (1210 Camas Court) be APPROVED:**

- Relaxation of the Relaxation of the minimum rear lot line setback from 7.5 m (24.61 ft) to 4.84 m (15.88 ft)
 - Relaxation of the minimum combined front and rear setbacks from 15.0 m (49.21 ft) to 12.42 m (40.75 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

<p>Albina Street Garden Suite BOV #01093</p>	<p>Applicant: Tyko Design Ltd Property: 3126 Albina Street Variance: Relaxation of the minimum rear lot line setback from 1.5 m (4.9 ft) to 1.35 m (4.43 ft) Relaxation of the minimum interior side (south) lot line setback from 1.5 m (4.9 ft) to 1.45 m (4.76 ft)</p>
---	--

The Notice of Meeting was read, one letter of support and the applicant's letter were received.

Applicants: D. Ko, applicant, was present in support of the application, the following was noted:

- The intention is to convert an existing accessory building to a rental garden suite. The existing structure has been in place for decades.
- Utilizing the existing structure will save construction time and cost, as well as be less disruptive to the neighbourhood.
- These factors make the project a more environmentally friendly option.
- A new parking stall on the existing paved concrete area in the rear yard will be dedicated for the exclusive use of the garden suite.
- The requested variances are quite small, only 0.05 meters on the side yard, and 0.15 meters on the rear yard setback.

Public input: Nil

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

- The hardship is created by the minimal variance needed to utilize the existing structure versus the financial and environmental impact of demolishing the structure and rebuilding it a few inches over.

In response to questions, Planning Staff stated the following:

- A garden suite is allowable on this lot, the variance would be required in this instance due to the setback requirements.

The following was noted during Board discussion:

- Reusing an existing building is supportable given this is a minor variance.

MOTION: **MOVED** by K. Zirul and **Seconded** by C. Schlenker: “That the following request to vary from the requirements of Zoning Bylaw 2003, Schedule H-3 (a) (ii) & (iii) further to the construction of a garden suite on Lot 17, Block A, Section 12, Victoria District, Plan 860 (3126 Albina Street) be **APPROVED:**

- Relaxation of the minimum rear lot line setback from 1.5 m (4.9 ft) to 1.35 m (4.43 ft).

- **Relaxation of the minimum interior side (south) lot line setback from 1.5 m (4.9 ft) to 1.45 m (4.76 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

Viewmont Avenue Addition BOV #01094	Applicant: Modern Home Design Property: 4367 Viewmont Avenue Variance: Relaxation of minimum rear lot line setback from 7.5 m (24.6 ft) to 6.28 m (20.60 ft) Relaxation of minimum combined front and rear setbacks from 15.0m (49.2 ft) to 14.72 m (48.29 ft)
--	--

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

Applicants: M. Thind, owner and S. Leo, agent, were present in support of the application, the following was noted:

- A similar variance request was approved in 2014, however the final inspection was missed and the permit was not issued at that time.
- The original files were hand drawn, however a recent survey determined that the measurements included on previous documents were incorrect.
- Due to the multiples factors mentioned above, it has been determined that the deck as built is not in compliance with current bylaws.

Public input: Nil

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

- The requirements for a survey plan have changed since the permit was requested in 2014, at that time a hand drawn plan was sufficient. The new survey plan shows there were inconsistencies between methods.
- Due to a language barrier, the necessity of the final inspection was not understood at the time of the original variance request.

The Senior Planning Technician stated the following:

- When a permit expires or a new permit is requested, all aspects of the lot must be brought into compliance prior to any permits being issued.

The following was noted during Board discussion:

- A previous approval was given, construction commenced and was completed at that time, but this approval has now expired due to a lack of permit and final inspection.
- If denied, the hardship of demolition costs and loss of the deck exist.
- An existing door which leads to the current deck would be rendered unusable. There could be safety issues associated with this loss.

MOTION: **MOVED by A. Gill and Seconded by K. Zirul: “That the following requests to vary from the requirements of Zoning Bylaw 2003, Section 220.4 (a) (i) further to the construction of an addition on Lot C, Section 8A, Lake District, Plan 46600 (4367 Viewmont Avenue) be APPROVED:**

- Relaxation of minimum rear lot line setback from 7.5 m (24.6 ft) to 6.28 m (20.60 ft)
- Relaxation of minimum combined front and rear setbacks from 15.0m (49.2 ft) to 14.72 m (48.29 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

MacDonald Drive East Addition	Applicant: Kelly Hall
	Property: 2661 MacDonald Drive East
BOV #01096	Variance: 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 7.61 m (24.97 ft) for a sloped roof

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

Applicants: K. Hall was present in support of the application, the following was noted:

- Part of the house was lost due to a structure fire in July 2023.
- Following the fire, the house was rebuilt the same as the original structure.
- During the final stages and survey, it was determined that the roof was slightly over height, and had been over height prior to the fire.
- Removing the roof to rebuild would be a significant hardship.

Public input: Nil

Discussions: The following was noted during Board discussion:

- The minor variance is supportable given the circumstances.

MOTION: **MOVED by C. Schlenker and Seconded by M. Cole: “That the following request to vary from the requirements of Zoning Bylaw 2003, Section 275.3 (b) (ii) further to the construction of an addition on Lot 13, Section 44, Victoria District, Plan 5905 (2661 MacDonald Drive East) be APPROVED:**

- 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 7.61 m (24.97 ft) for a sloped roof

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

Kentwood Terrace Addition	Applicant: Zebra Design Group Property: 965 Kentwood Terrace Variance: Relaxation of the minimum required front setback from 7.5 m (24.61 ft) to 6.60 m (21.65 ft) Relaxation of the minimum required rear setback from 7.5 m (24.61 ft) to 6.75 m (22.15 ft)
BOV #01097	

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

Applicants: K. Koshman, applicant, and I. Aaron, owner were present in support of the application, the following was noted:

- Renovation to connect an existing garage to the house by building a mudroom in the middle. The existing garage is set slightly within the front setback. A small portion of the rear deck overhangs into the rear setback.
- Connecting the two existing structures requires a new variance.
- Neighbours signatures of approval were provided with the application.

Public input: Nil

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

- The variance for the deck at the rear lot line needs to be reconfirmed with the addition of the mudroom, as the two structures are being connected.

The following was noted during Board discussion:

- The request is relatively minor, the neighbours are in agreement.
- Shaving the deck and reducing the size of the garage would be a hardship. These are existing structures, with one small addition.
- Connecting the house and garage is an understandable request.

MOTION: MOVED by M. Cole and Seconded by C. Schlenker: "That the following request to vary from the requirements of Zoning Bylaw 2003, Section 230.4 (a) further to the construction of an addition on Lot 28, Section 8, Lake District, Plan 20632 (965 Kentwood Terrace) be APPROVED:

- Relaxation of the minimum required front setback from 7.5 m (24.61 ft) to 6.60 m (21.65 ft)
- Relaxation of the minimum required rear setback from 7.5 m (24.61 ft) to 6.75 m (22.15 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

Cordova Bay Road Seawall BOV #01098	Applicant: Mike Giordano Property: 5031 Cordova Bay Road Variance: Relaxation of the maximum height for a structure within 7.5m of the natural boundary of the ocean from 0.6m (1.97ft) to 3.87m (12.7ft).
--	---

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

Applicants: M. Giordano, applicant/owner, was present in support of the application, the following was noted:

- An existing seawall in place is failing and encroaching on the beach.
- Currently there is not access to the beach from the house. Stairs to the beach would be ideal.
- A functional seawall is necessary for safety of children, pets, as well as the structural integrity of the home.
- The height of the wall will allow for a yard at grade, which is usable.
- A guard rail on top of the seawall will ensure safety from the yard.

Public input: Nil

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

- The proposed seawall will be in nearly the same area, slightly closer to the home to ensure that it is fully on the property.
- The new seawall will be higher than the existing seawall.
- The grade difference between the proposed wall and the neighbouring lot will not be noticeable as the stairs to the beach will be between them.
- There is no safe access to the beach, safety and erosion are an issue.
- The height being requested for the wall will ensure safety in the event of a storm, as well as level access from the home to a flat back yard.
- Removing the retaining wall has not been considered, it is necessary.

The Senior Planning Technician stated the following:

- Department of Fisheries is not involved as the application is only on the applicant's property, a foreshore lease is not required either.
- The existing seawall is not on the owner's property and is not legal, removal of the existing wall is the only option available for compliance.
- The variance being requested is for the seawall, as well as a fence on top of the seawall for safety.

The following was noted during Board discussion:

- The existing wall is failing, portions of it are falling apart. There is no disputing that the existing wall needs to be replaced.
- Ensuring that the height is sufficient now and in future is necessary.
- This is not a replacement of the existing wall; the height is increased.
- The condition of the wall from the beach is a concern. Having a large wall with a fence on top is quite imposing. This height is not ideal.
- Each application is to be considered for its own merit, what the neighbours have done is not relevant to this application.
- Building the wall lower would change the access from the house. The slope that would be necessary is not ideal.
- An engineering report which outlines the safety issues and height requirements to accompany this request would have been ideal.

MOTION: **MOVED by A. Gill and Seconded by C. Schlenker: “That the following request to vary from the requirements of Zoning Bylaw 2003, Section 5.16 (b) further to the construction of a seawall on Lot 2, Section 30, Lake District, Plan VIP4101 (5031 Cordova Bay Road) be APPROVED:**

- **Relaxation of the maximum height for a structure within 7.5m of the natural boundary of the ocean from 0.6m (1.97ft) to 3.87m (12.7ft).**

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. Cole and J. Uliana OPPOSED**

Adjournment On a motion from C. Schlenker, the meeting was adjourned at 8:14 pm.

J. Uliana, Chair

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

Recording Secretary