

MINUTES

BOARD OF VARIANCE

Held electronically via MS Teams

November 13, 2024 at 6:00 p.m.

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

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

Regrets: M. Cole

Minutes: **MOVED by C. Schlenker and Seconded by A. Gill: "That the Minutes of the Board of Variance meeting held October 9, 2024, be adopted as circulated."**

CARRIED

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

CARRIED

Murray Drive Accessory Building	Applicant: JC Scott Ecodesign Associates Inc. Property: 2763 Murray Drive Variance: Relaxation of the minimum required rear yard setback from 1.5 m (4.9 ft) to 0.23 m (0.75 ft).
BOV #01095	Relaxation of the maximum height of 3.75 m (12.3ft) to 4.69 m (15.4 ft).

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

Applicants: JC Scott, applicant, E. Sune and K. Haugen, owners, were present in support of the application, the following was noted:

- Requesting to build a detached garage with a car lift for vehicle storage.
- The lot is a uniquely shaped waterfront panhandle lot. Building this structure in a location which would conform to the Bylaw is not possible.
- Due to the slope of the lot, the panhandle shape and the location of the house, this is the only space available for parking on site.
- Installation of the four-post lift, and consideration of the height of a vehicle on it means that the roof will be slightly over the allowable height.
- The adjacent lot is a school field, the adjacent lot is approximately one metre higher than the location of the proposed garage.

Public input: Nil

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

- The slope of the roof has been designed to match the existing house.

The Senior Planning Technician stated the following:

- The small slope pitch of the roof means it is designated as a flat roof. If the pitch was slightly different, it would be considered a sloped roof and it would be nearly compliant with the Bylaw.

The following was noted during Board discussion:

- The unique lot shape conditions prevent building this accessory structure in a functional spot which complies with Bylaws, it is not possible.
- The slope of the lot reduces the impact of the height variance on the adjacent school yard as it is higher than the subject lot.
- Matching the slope and style of the existing house makes sense esthetically and was supported by the neighbour who wrote in.

MOTION: MOVED by C. Schlenker and Seconded by A. Gill: “That the following request to vary from the requirements of Zoning Bylaw 2003, Section 5.34 (a) (ii) & (b) further to the construction of an accessory building on Lot 2, Section 21, Victoria District, Plan 18274 (2763 Murray Drive) be APPROVED:

- Relaxation of the minimum required rear yard setback from 1.5 m (4.9 ft) to 0.23 m (0.75 ft)
- Relaxation of the maximum height of 3.75 m (12.3ft) to 4.69 m (15.4 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

Davida Avenue Garden Suite BOV #01100	Applicant: Martin Erlitz Property: 467 Davida Avenue Variance: Relaxation of the minimum rear lot line setback from 1.5 m (4.9 ft) to 1.37 m (4.49 ft) Relaxation of the minimum interior side lot line setback from 1.5 m (4.9 ft) to 1.47 m (4.82 ft)
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The Notice of Meeting was read, one letter of support and the applicant's letter were received.

Applicants: M. Erlitz, owner, was present in support of the application, the following was noted:

- The structure was designed to be compliant, as per the approved permit.
- Excavation near the adjacent protected tree was done under the supervision of an arborist to ensure that the root zone was not damaged.
- Screw piles were used for the foundation to minimize impacts on the tree.
- The surveyor provided location details for where the screw piles were to be located, they were installed at the locations provided, however prior to the slab being poured it was determined the location of the screw piles was not correct. Removing and reinstalling the screw piles could potentially damage the tree, as well as create significant costs.

Public input: K. Eden, Davida Avenue
- Neighbor of the applicant, supportive of the reasonable request.

Discussions: The applicant stated the following in response to questions from members of the Board:
- Removing the screw piles is a difficult process, moving them over slightly would further damage the ground and may impact the roots which were avoided during the first installation.
- Ensuring that the mature tree is not damaged is an ongoing priority.
- The setbacks and screw pile locations were marked by a BCLS surveyor prior to installation, this was human error. The intent was to be compliant.

The following was noted during Board discussion:
- Removing and reinstalling the screw piles is extremely difficult, especially given the small amount which they would need to be moved.
- This could have been avoided by allowing for additional space between the building and the setback area during the design phase.
- Unfortunately, human error happens. Screw piles are designed to be installed and stay there. Removal would be complicated and costly.

MOTION: MOVED by K. Zirul and Seconded by C. Schlenker: “That the following requests 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 PT5, Section 15, Victoria District, Plan 1070 Lying to the north west of a straight boundary joining the points of bisection of the north easterly and south westerly boundaries of said lot (467 Davida Avenue) be APPROVED:

- Relaxation of the minimum rear lot line setback from 1.5 m (4.9 ft) to 1.37 m (4.49 ft)
- Relaxation of the minimum interior side lot line setback from 1.5 m (4.9 ft) to 1.47 m (4.82 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 Fence	Applicant: Knott in a Box (Todd Martin) Property: 744 Cordova Bay Road Variance: Relaxation of the maximum fence height from 1.9m (6.2ft) to 2.07m (6.8ft)
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BOV #01076

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

- Applicants: T. Martin, applicant, L. Gerry, agent, were present in support of the application, the following was noted:
- The owner has lived at this property for decades, recently he began renovations of the back yard due to the fence aging and falling apart.
 - Fill was used in some areas to reduce the slope, fill around the trees was approved by an arborist. The hope is to create a garden in the back yard.
 - The new fence was crafted with high quality wood, close to the bylaw allowable height. It would be wasteful to remove the fence now.
 - The lot is a panhandle with a park to the east. The fence provides some privacy for the owner and adjacent lots.
 - The new fence was installed in the same location as the old one, posts were set in the same place as previous posts.
 - An arborist reviewed the fill deposit around the trees. Saanich Parks have also reviewed and approved of the work around the trees.

- Public input: K. Chu, Santa Clara Avenue
- Supportive of the request. This area is sloped, the fence does not appear to be over height, some yards have benefited from fill to level them.
 - Having a fence that was higher than the existing would allow more privacy.

- N. Templeton, Santa Clara Avenue
- The fence appears to be nearly nine feet tall from an adjacent yard.
 - Potential impacts to adjacent mature trees should be considered.
 - Fill was put in up against an existing fence.

The owner stated the following in response to public input:

- An arborist and Saanich Parks have approved of the completed work.

- Discussions: The applicant stated the following in response to questions from members of the Board:
- Landscaping fabric was used around the base of the trees, along with appropriate drainage and fill. This was inspected and approved by Parks
 - The Slope of the lot makes building difficult, space for a garden was not an option until the fill was brought in to level the yard.
 - Removing the fence and reinstalling at a compliant height would be a significant financial hardship. The fence would not be high enough to deter deer from jumping the fence and eating any fruit or vegetables.
 - The fence was measured from grade, the measurements are correct.

The Senior Planning Technician Stated the following:

- The variance for the height of the fence is based on calculations from grade to the top of each post. The variance is given to the highest point.
- Zoning Bylaw definitions mean that measuring the fence height from inside the yard, versus measuring the fence from an adjacent lot could result in a different number. The definition is the height from inside the lot.

The Clerk stated the following:

- Referrals are sent to each department, Parks has given approval for the work related to the trees and fill. There are no concerns at this point.

The following was noted during Board discussion:

- Due to the slope and fill, the fence appears higher from the adjacent lots.
- Financial implications related to the cost of installing the non-compliant fence are not a hardship the Board should consider. The Bylaws should have been considered prior to installing the fence.
- Deer are common in Saanich, protecting a food growing garden requires a taller fence as they can jump quite high.
- Installation of the fill is problematic to some neighbours.
- Environmental impacts of removing the fence and reinstalling it at a compliant height would mean a lot of the wood would be wasted.

MOTION: MOVED by A. Gill and Seconded K. Zirul: “That the following request to vary from the requirements of Zoning Bylaw 2003, Section 6.2 (f) (ii) further to the construction of a fence on Lot 2, Section 42, Lake District, Plan 19203 (744 Cordova Bay Road) be APPROVED:

- **Relaxation of the maximum fence height from 1.9m (6.2ft) to 2.07m (6.8ft)**

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.”

**DEFEATED
With C. Schlenker and K. Zirul OPPOSED**

Note: This was a tie vote (2 in support and 2 opposed). As per the Board of Variance Bylaw, the motion is considered to be defeated, and the application is denied.

Adjournment On a motion from C. Schlenker, the meeting was adjourned at 7:00 pm.

J. Uliana, Chair

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

Recording Secretary