



## COMMUNITY SAFETY & DEVELOPMENT

### MINUTES OF THE MEETING OF THE BOARD OF VARIANCE HELD IN THE BOARDROOM, 455 WALLACE STREET, NANAIMO, BC ON THURSDAY, 2013-JUN-20 COMMENCING AT 5:30 P.M.

---

**PRESENT:**   Members:   Mr. Tim Wait - Chair  
                                  Ms. Janet Cowling  
                                  Mr. Allan Dick  
                                  Mr. Mark Dobbs

                  Regrets:   Mr. Amarjit Minhas

                  Staff:       Mr. Dave Stewart, Planner, Planning & Design Section  
                                  Ms. Jill Collinson, Planning Assistant, Planning & Design Section  
                                  Ms. Penny Masse, Planning Clerk, Planning & Design Section

**1.    CALL THE MEETING TO ORDER:**

The regular meeting was called to order at 5:30 p.m.

**2.    ADOPTION OF MINUTES:**

It was moved and seconded that the Minutes of the meeting of the Board of Variance held on Thursday, 2013-MAY-16 be adopted. The motion carried unanimously.

**3.    APPLICATIONS:**

**APPEAL NO:**               **BOV622**

**Applicant:**               Ms. Jodi Klippenstine

**Civic Address:**         450 Machleary Street

**Legal Description:**     SECTION D, LOT 9, BLOCK W, SECTION 1, NANAIMO DISTRICT,  
PLAN 584

**Purpose:**                 The required side yard setback is 1.5m. The applicant is requesting to vary provisions of Zoning Bylaw 4500 in order to allow for the replacement of and addition to an existing non-conforming deck 0.95m from the side parcel line. This represents a variance request of 0.55m.

**Zoning Regulations:** Old City Duplex Residential – R13. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

*"Section 7.5.1 – Yard Requirements  
A side yard setback of 1.5m is required."*

**Local Government Act:** The property is considered legal non-conforming. Section 911 (9) and (10) of the *Local Government Act* states:

*"If the use and density of buildings and structures conform to a bylaw under this division...but the siting, size or dimensions of a building or structure constructed before the bylaw was adopted does not conform with the bylaw, ... the building or structure ... may be maintained, extended or altered ... only to the extent that the repair, extension or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time the repair, extension or alteration was started."*

**Discussion:** Ms. Jodi Klippenstine was in attendance for the appeal.

**Decision:** It was moved and seconded that the variance request be **approved**.  
The motion carried unanimously.

The variance request was deemed to be a hardship.

**APPEAL NO:** **BOV623**

**Applicant:** Mr. Richard Bland

**Civic Address:** 4920 Ney Drive

**Legal Description:** LOT 3, DISTRICT LOT 51, WELLINGTON DISTRICT, PLAN VIP75553

**Purpose:** The required side yard setback is 1.5m. The applicant is requesting to vary the provisions of Zoning Bylaw No. 4500 in order to permit the construction of an attached carport 0.27m from the side parcel line. This represents a side yard setback variance of 1.23m.

**Zoning Regulations:** Single Dwelling Residential – R1. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

*"Section 7.5.1 – Yard Requirements  
A side yard setback of 1.5m is required."*

**Local Government Act:** The property is considered legal-conforming and, as such; Local Government Act, Section 911 - Non-conforming Uses and Siting, does not apply.

**Discussion:** Mr. Richard Bland was in attendance for the appeal.

**Decision:** It was moved and seconded that the variance request be **denied**.  
The motion carried unanimously.

The variance request was not deemed to be a hardship.

**APPEAL NO:** **BOV624**

**Applicant:** Mr. Brad Richardson (Richardson Homes Ltd.) on behalf of Mr. Paul Heising and Ms. Judith McFatridge

**Civic Address:** 5030 Banning Court

**Legal Description:** STRATA LOT 22, DISTRICT LOT 51, WELLINGTON DISTRICT, STRATA PLAN VIS6310, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V

**Purpose:** The applicant is requesting to vary the provisions of Zoning Bylaw 4500 in order to permit the placement of a heat pump to the side of a single residential dwelling. Zoning Bylaw 4500 requires a heat pump be located to the rear of the dwelling and have a setback of 4.5m from the side parcel line. The proposed heat pump is 4.4m from the side yard and, as such, does not meet the required 4.5m setback for the side parcel line and is not located to the rear of the dwelling. Thus a variance is required to allow for the placement of a heat pump to the side of the dwelling and a side yard variance of 0.1m is required.

**Please note:** previous variances were requested on the subject property (BOV562) to increase the maximum height of a single family dwelling from 8.25m to 9.87m and to increase the maximum width of a wall face from 7.32m to 13.67m. The variances were not deemed to be a hardship and were therefore denied.

**Zoning Regulations:** Townhouse Residential – R6. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

*"6. 5. 2 - Heat pumps and central air condition units must be located to the rear of a principal building and shall not be closer than 4.5m from the side lot lines or closer than 3m from the rear property line."*

**Local Government Act:** The property is considered legal-conforming and, as such; Local Government Act, Section 911 - Non-conforming Uses and Siting, does not apply.

**Discussion:** Mr. Brad Richardson was in attendance for the appeal.



There were two submissions received in regard to this application. One submission from Mr. Adam Broomfield of Blue Flame Ventures and additional site photos from the applicant; they are attached as "Attachment A – Submissions for Board of Variance Application No. BOV624".

**Decision:** It was moved and seconded that the variance request be **approved**. The vote was a 2-2 tie. The motion is defeated.

The variance request is **denied**.

The variance request was not deemed to be a hardship.

For your information, as per "Board of Variance Bylaw 1998 No. 3152" Section 8 (2), *"In all cases where votes of the members of the Board then present, including the vote of the Chairman or other person presiding, are equal for and against a question, the question shall be defeated and it shall be the duty of the member presiding to so declare"*.

**APPEAL NO:** **BOV625**

**Applicant:** Ms. Margaret James

**Civic Address:** 3976 Apsley Avenue

**Legal Description:** LOT 3, BLOCK 14, SECTION 5, WELLINGTON DISTRICT, PLAN 318

**Purpose:** The required front yard setback is 4.5m. The applicant is requesting to vary provisions of Zoning Bylaw 4500 in order to permit the construction of an addition to the existing single family dwelling 1.90m from the front yard lot line. As this is considered to be a through lot, Zoning Bylaw 4500 requires a 4.5m setback from the front yard (Lake Road). This represents a variance request of 2.6m.

**Zoning Regulations:** Single Family Residential – R1. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

*"Section 7.5.1. - Yard Requirements  
A front yard setback of 4.5m is required."*

**Local Government Act:** The property is considered legal-conforming and, as such; Local Government Act, Section 911 - Non-conforming Uses and Siting, does not apply.

**Discussion:** Ms. Margaret James and Ms. Darlene Martin of 3986 Apsley Avenue were in attendance for the appeal.

**Decision:** It was moved and seconded that the variance request be **approved**. The motion carried unanimously.

The variance request was deemed to be a hardship.

**APPEAL NO:** BOV626

**Applicant:** Mr. Roger Welliver on behalf of Mr. Donald Esau

**Civic Address:** 101 McKinnon Place

**Legal Description:** LOT 18, DISTRICT LOT 29, SECTION 11, WELLINGTON DISTRICT, PLAN23739

**Purpose:** The applicant is requesting to vary the provisions of Zoning Bylaw No. 4500 in order to permit a recently constructed covered and open deck within the side yard setback area. The side yard setback is 1.5m, the deck is 0.45m from the side yard, as such a variance of 1.05m is required.

**Please note:** The site survey shows a wheelchair ramp within the side yard setback area. Zoning Bylaw No. 4500 permits wheelchair ramps to encroach into all setback areas.

**Zoning Regulations:** Single Family Residential – R1. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

*"Section 7.5.1 – Yard Requirements  
A side yard setback of 1.5m is required."*

**Local Government Act:** The property is considered legal-conforming and, as such; Local Government Act, Section 911 - Non-conforming Uses and Siting, does not apply.

**Discussion:** Mr. Roger Welliver, Mr. Donald Esau and Ms. Darlene King were in attendance for the appeal.

There was one submission received in regard to this application which included additional site photos from the applicant; they are attached as "Attachment B – Submissions for Board of Variance Application No. BOV626".

**Decision:** It was moved and seconded that the variance request be **denied**. The motion carried unanimously.

The variance request was not deemed to be a hardship.

#### **4. OTHER BUSINESS:**

The Board gave approval to the heat pump brochure and the heat pump installer letter but added they would prefer that any heat pump mechanical hardship applicants are notified at the application stage that the Board of Variance prefers a confirmation letter from a Mechanical Engineer. Staff confirmed the request will be made but the cost of the Mechanical Engineer report would be optional to the applicant with the knowledge that the Board prefers it as part of the application. Staff notified that the fee for a BOV application may increase from \$100 to \$250.

5. **ADJOURNMENT:**

It was moved and seconded at 7:18 p.m. that the meeting terminate. The motion carried unanimously.



CHAIR  
CERTIFIED CORRECT

DATE:

July 18 / 2013

**Attachment A**

**Submissions**

**For**

**Board of Variance  
Application No. BOV624**

*(5030 Banning Court)*

**Plumb  
Right** *Service*  
250-729-9435

www.blueflameventures.com

1806 NORTHFIELD RD.  
NANAIMO, B.C. V9S 3B3  
FAX: 250-758-8478

 **BLUE  
FLAME**  
250-758-8770

**YOUR LOCAL GAS HEATING & PLUMBING EXPERTS**

RE: 5030 Banning Court

To clarify the manufacturers specs previously sent regarding line set charging procedures, ARI testing procedures are done with 15' line sets for testing to determine the advertised efficiency ratings of heat pump and air conditioning combinations. With line sets outside of the manufacturer's guidelines the efficiency will drop from heat loss on the line set and additional power required to pump extra refrigerant through the system. With a typical unit set at 10 degrees sub cooling each degree lost from the line set will lose 10% of the products capacity. Therefore it is nobody's best interest to have excessive line sets with possibilities of flash gas and poor efficiency causing noisier outdoor units. Any further questions feel free to contact myself via email at [Bluef@telus.net](mailto:Bluef@telus.net).

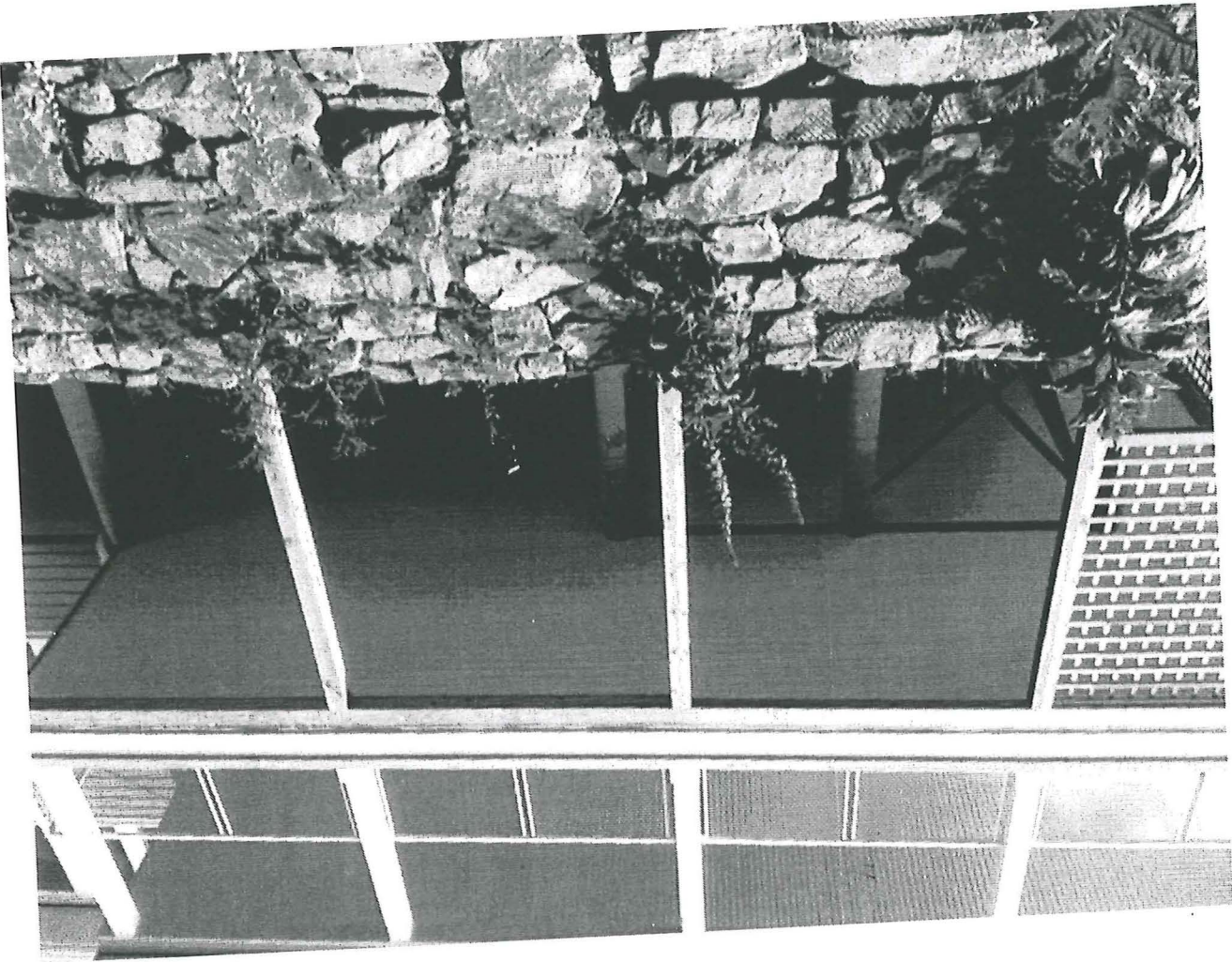
Thanks, Adam Broomfield

*Adam Broomfield*

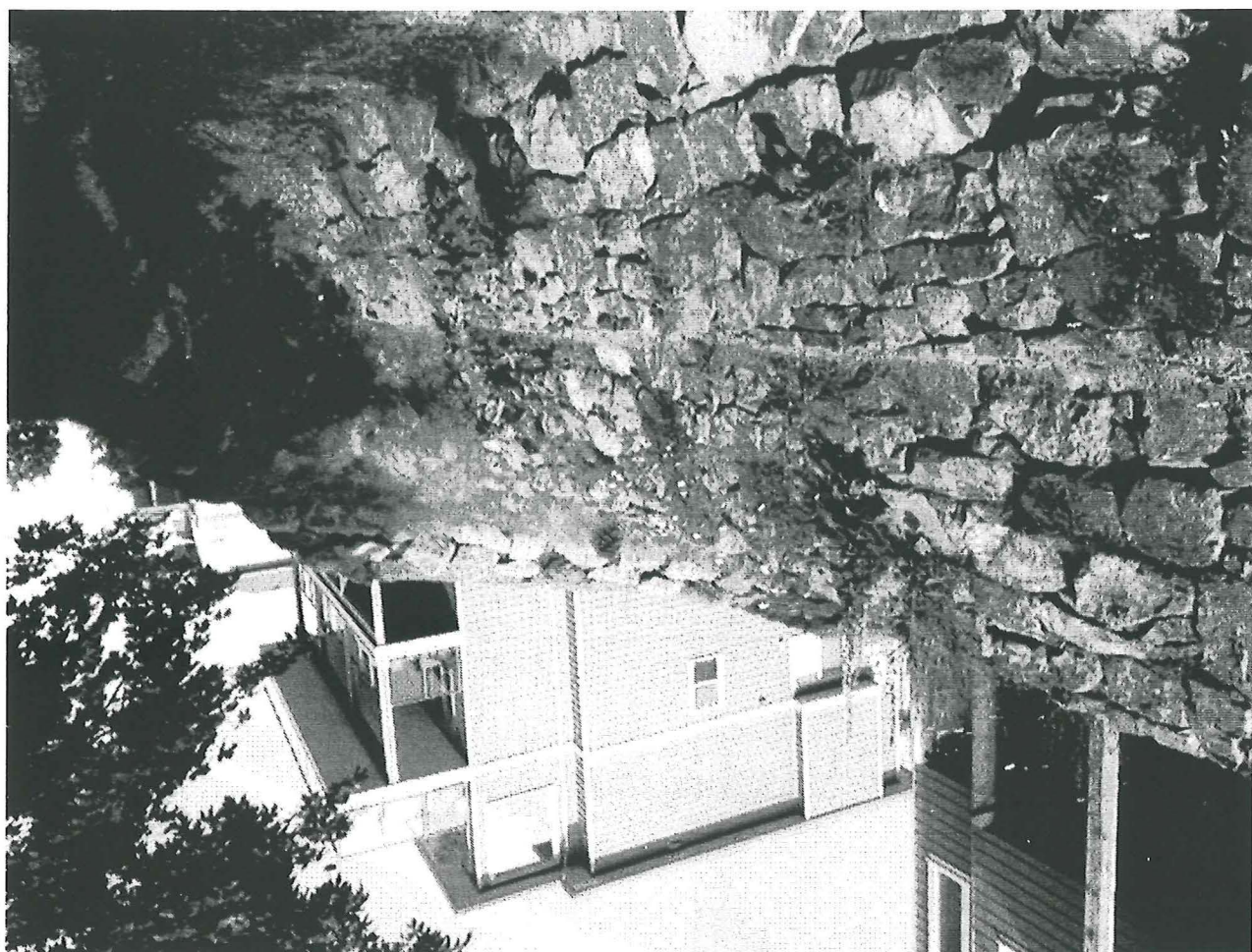




photo.JPG - Gmail







**Attachment B**

**Submissions**

**For**

**Board of Variance  
Application No. BOV626**

*(101 McKinnon Place)*









2013/05/21















