



## COMMUNITY SAFETY & DEVELOPMENT

### MINUTES OF THE MEETING OF THE BOARD OF VARIANCE HELD IN THE BOARDROOM, 455 WALLACE STREET, NANAIMO, BC ON THURSDAY, 2013-JAN-17 COMMENCING AT 5:30 P.M.

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**PRESENT:**   Members:   Ms. Janet Cowling - Chair  
                              Mr. Allan Dick  
                              Mr. Mark Dobbs  
                              Mr. Amarjit Minhas

                  Regrets:   Mr. Tim Wait

                  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 5:29 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, 2012-DEC-20 be adopted. The motion carried unanimously.

**3.    APPLICATIONS:**

**APPEAL NO.:**

**BOV615**

**Applicant:**           Mr. Ian Niamath and Mr. Garry Bentham on behalf of Ms. Norma Lee Therres

**Civic address:**       1911 Wilfert Street

**Legal Description:**   LOT 1, SECTION 18, RANGE 8, MOUNTAIN DISTRICT, PLAN 45119

**Purpose:**             The applicant is requesting to vary provisions of Zoning Bylaw 4500 in order to allow for a structural addition to an existing legal non-conforming use.

**Zoning Regulations:** Highway Industrial - I1. The applicant requests Board of Variance approval for the continuation of a non-conforming use with the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

**Local Government Act:** The use of the property is considered legal non-conforming. *Local Government Act*, Section 911 – Non-conforming Uses and Siting [article 5] states:

*"A structural alteration or addition, except one that is required by an enactment or permitted by a board of variance under section 901 (2), must not be made in or to a building or other structure while the non-conforming use is continued in all or any part of it."*

**Discussion:** Mr. Garry Bentham was in attendance for his appeal.

There was one email submission received from a neighbouring property adjacent to the subject property, as well as a submission received from staff (application timeline) for this application; they are attached as "Attachment A – Submissions for Board of Variance Application No. BOV615".

**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.:** **BOV616**

**Applicant:** Mr. Dave Dinh on behalf of Hoan Phan, Kenneth Vissia and Duong Dinh

**Civic address:** 220 Bird Sanctuary Drive

**Legal Description:** LOT 4, SECTION 1, NANAIMO DISTRICT, PLAN VIP87165

**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 the single residential dwelling. The required setback is 4.5m from the side parcel line. The proposed setback is 3.5m from the side parcel line. The applicant is requesting a variance of 1m.

**Zoning Regulations:** Single Dwelling Residential - R1. 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. Dinh and Mr. Phan were in attendance for their appeal.

No submissions were received for this application.

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

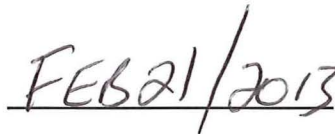
The variance request was deemed to be a hardship.

4. **ADJOURNMENT:**

It was moved and seconded at 6:26 p.m. that the meeting terminate. The motion carried unanimously.



CHAIR  
CERTIFIED CORRECT



DATE:

**Attachment A**

**Submissions**

**For**

**Board of Variance  
Application No. BOV615**

*(1911 Wilfert Street)*

## David Stewart

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**From:** David Stewart  
**Sent:** Monday, January 14, 2013 9:56 AM  
**To:** 'Dick, Al'  
**Cc:** Jill Collinson  
**Subject:** RE: Board of Variance, 1911 Wilfert Road

Hi Al

They definitely do not have enough parking spaces to meet the current bylaw requirements for either a gym or a commercial school. There are currently 10 parking spaces on site. Under the parking calculation for a gym they would require 63 parking spaces or if we went with the more liberal calculation for a commercial school 38 spaces. Either way the existing gymnastic school use dates back to 1997 and is non-conforming as to parking.

As in addition to adding the proposed 320 sq. ft. addition the applicant is removing the 500 sq. ft. mezzanine, the application will actually result in a reduction of floor area, which if calculated under the current parking standards will result in one less required parking space. As this is an overall reduction in gross floor area and not an addition no parking variance is necessary.

**Dave Stewart, MURP, MCIP**  
**Planner, Planning and Design Section**  
**Community Safety and Development**  
**City of Nanaimo**  
**phone: 250-755-4460 ext. 4332**

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**From:** Dick, Al [<mailto:ADick@rdn.bc.ca>]  
**Sent:** Monday, January 14, 2013 9:04 AM  
**To:** David Stewart  
**Subject:** RE: Board of Variance, 1911 Wilfert Road

Hi Dave....Do they currently have enough parking spots for the use.....Al

Allan Dick, Supervisor

Building Inspection Department  
Regional District of Nanaimo  
6300 Hammond Bay Road  
Nanaimo, BC V9T 6N2  
(250) 390-6562

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**From:** David Stewart [<mailto:David.Stewart@nanaimo.ca>]

**Sent:** Monday, January 14, 2013 8:40 AM

**To:** 'tim@timwait.com'; 'janetcowling@shaw.ca'; Dick, Al; Dobbs, Mark; 'amarjitsminhas@gmail.com'

**Cc:** 'Village Design & Drafting'; 'Ian Niamath'; Penny Masse; Jill Collinson

**Subject:** FW: Board of Variance, 1911 Wilfert Road

Good morning Board Members

Please see correspondence regarding BOV application BOV615 below. Please note, the proposed variance will not result in the loss of any existing parking spaces.

**Dave Stewart, MURP, MCIP**

Planner, Planning and Design Section

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**From:** Jill Collinson

**Sent:** Monday, January 14, 2013 7:59 AM

**To:** David Stewart

**Subject:** Board of Variance, 1911 Wilfert Road

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**From:** Gail Revesz [<mailto:hock@island.net>]

**Sent:** Saturday, January 12, 2013 1:59 PM

**To:** Jill Collinson

**Subject:** Board of Variance, 1911 Wilfert Road

Regarding Appeal No. BOV 615:

As owners of the building adjacent to this property, 1941-1961 Wilfert Road we have no objections to the planned additions to 1911 Wilferf Road UNLESS the number of parking spaces allowed for that building is decreased in any way. For years we have had problems with the clients of this business parking on our property when there is not enough room in front of their address. We have put up "No Parking" signs, have gone to see management to ask them to have their clients not park on our tenants areas to no avail. They seem to think that just because there is no vehicle there at that time it is their right to park on our property. I have even had them park in the lane way that leads to our back yard and have been unable to get to the rear of my own property. One client swore at me when I asked her to move her vehicle. We cannot be checking the property every minute so unless they have the same amount of parking spaces or more we are very much against these additions.

Thank you.

Gail and Garry Revesz  
432841 BC Ltd,  
Nanaimo, BC  
250-616-8068

1911 Wilfert Road  
BOV application timeline.

1997-JUL-17

Business License for Harbour City Gymnastics Centre transferred from 187 Bay Street to 1911 Wilfert Road.

2011-MAY-03

Flipside Gymnastics applied for a business license at 1911 Wilfert Road (took over ownership in February of 2011).

2011-AUG-8

Zoning Bylaw 4500 adopted. Change from I2 to I1 zone. Changed resulted removal of *Commercial School* as a permitted use. Use considered to be non-conforming from this date forward.

2012-SEP-27

Special Inspection conducted at request of G.Bentham (Applicants designer). Noted that Planning Approval required for zoning and setback requirements (BP117918).

2012-OCT-04

Inquiry at front counter with G.Bentham regarding the gymnastics gym. Applicant was advised that a variance is required to address the non-conforming use. Applicants expressed a preference to apply for a DVP rather than a BOV, but were advised a BOV is the preferable route. Later in the day the applicant was advised that a BOV application is necessary as the addition cannot be approved through a DVP. The *Local Government Act* requires all applications for an addition or structural alteration to a non-conforming use to be reviewed by the Board of Variance.

2012-OCT-05

Email sent from D. Stewart (Planner) to G. Bentham with link to BOV application forms. G. Bentham responded regarding his intent to submit an application.

2012-DEC-06

Building Permit application (BP118102) received for addition to the front of the building.

2012-DEC-11

Referral from Building to Planning regarding proposed expansion. File note created.

2012-DEC-12

Email from R.Topliffe (Building Supervisor) to Ian Niamith (Applicant's architect) regarding need for BOV

2012-DEC-17

Meeting organized by R.Topliffe (Building Department) at request of G.Bentham to discuss the requirement of a BOV issuance prior approval of a building permit. Note added to Planning File.