



## COMMUNITY SAFETY & DEVELOPMENT

### MINUTES OF THE MEETING OF THE BOARD OF VARIANCE HELD IN THE BOARDROOM, 455 WALLACE STREET, NANAIMO, BC ON THURSDAY, 2012-DEC-20 COMMENCING AT 5:30 P.M.

---

**PRESENT:** Members: Mr. Tim Wait - Chair  
Ms. Janet Cowling  
Mr. Mark Dobbs  
Mr. Amarjit Minhas

Regrets: Mr. Allan Dick

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

#### 1. CALL THE MEETING TO ORDER:

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

It was moved and seconded that the order of application procession on the agenda be rearranged. The motion carried unanimously.

#### 2. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the special meeting of the Board of Variance held on Thursday, 2012-NOV-15 be adopted. The motion carried unanimously.

#### 3. APPLICATIONS:

**APPEAL NO.:** BOV611

**Applicant:** Ms. Carole Ann Grayson on behalf of Ms. Betty Ann Pinnegar.

**Civic Address:** 4747 Lost Lake Road

**Legal Description:** LOT 20, DISTRICT LOT 55, WELLINGTON DISTRICT, PLAN 21742

**Purpose:** The applicant is requesting to vary the following provisions of Zoning Bylaw No. 4500:

- 1) The required side yard setback is 1.5m. The applicant is requesting to reduce the setback to 0.3m in order to permit an existing open deck; and
- 2) The required rear yard setback is 7.5m. The applicant is requesting to reduce the setback to 6.82m in order to legalize the siting of the existing single family residential dwelling; and
- 3) The maximum allowable projection for an open deck into the required 7.5m rear yard setback is 2m. The applicant is requesting to increase the allowable projection for an open deck into a rear yard setback from 2m to 3m in order to permit a proposed addition to an existing deck.

These variance requests represent a side yard setback variance of 1.2m; a rear yard setback variance of 0.68m; and a rear yard projection variance (for an open deck) of 1m.

**Zoning Regulations:**

Single Dwelling Residential - R1. The applicant requests variances 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.*  
*A rear yard setback of 7.5 m is required*

*Section 6.5 – Projections into Yards*  
*An open deck is permitted to project into a rear yard by 2m*

**Local Government Act:**

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 that that existing at the time of the repair, extension or alternation was started."

**Discussion:**

Ms. Grayson was in attendance for her appeal.

No submissions were received for this application

**Decision:**

It was moved and seconded that the variance request #2 (requires to reduce the setback to 6.82m in order to legalize the siting of the existing single family residential dwelling) be **approved**. The motion carried unanimously.

The variance request was deemed to be a hardship.

It was moved and seconded that the variance request #1 (request to reduce the setback to 0.3m in order to permit an existing open deck) and #3 (request to increase the allowable projection for an open deck into a rear yard setback from 2m to 3m in order to permit a

proposed addition to an existing deck) be **tabled** until the BOV meeting of **2013-JAN-17** as further information was requested. The motion carried unanimously.

**APPEAL NO.:** **BOV612**

**Applicant:** Mr. Charanjit S. Manhas

**Civic Address:** 5381 Jacobs Lane

**Legal Description:** LOT 6, DISTRICT LOT 49, WELLINGTON DISTRICT, PLAN 25430

**Purpose:** The permitted height of a perimeter wall is 9.14m. The applicant is requesting to vary the provisions of Zoning Bylaw No. 4500 in order to increase the height of a perimeter wall from 9.14m to 11.14m, which represents a variance request of 2m.

**Please Note:** A previous application (BOV578) was heard at the BOV meeting held 2012-FEB-16; the applicant requested to increase the maximum height of a retaining wall in a side yard from 2.4m to 6m in order to permit the construction of a retaining wall and single family dwelling. This represented a side yard fence height variance of 3.6m. It was determined by the Board that the interior of the two walls proposed were within the buildable portion of the lot and did not need to be included in the variance request. As such, a lesser variance of 0.6 metres was requested for the portion of retaining wall within the side yard. This lesser variance of 0.6m was approved

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

7.6.1 – The maximum allowable perimeter wall height in is 7.32m.  
7.6.6 – Not withstanding Subsection 7.6.1, the maximum perimeter wall height may be increased on rear and internal side yard elevations to a maximum of 9.14m, provided:

- (a) any rear wall face over 7.32m in height is a minimum of 10m from the rear property line; and
- (b) no wall face over 7.32m in height shall exceed 7.32m in width and must be offset by a minimum of 0.61m from any adjacent wall over 7.32m in height.

**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. Manhas was in attendance for his appeal.

Mr. John Hessels, AScT from Lewkowich Engineering Associates Ltd. was in attendance for the appeal.



Ms. Kathryn Galvin of 5355 Seascape Terrace was in attendance for the appeal.

Ms. Pat Brown of 5402 Jacobs Lane was in attendance for the appeal.

A submission was received for this application and is attached as "Attachment A – Submission for Board of Variance Application No. BOV612".

**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.:** **BOV613**

**Applicant:** Mr. Tony Arruda and Mrs. Wilma Arruda

**Civic address:** 413 Belmonte Place

**Legal Description:** LOT 54, DISTRICT LOT 29, WELLINGTON DISTRICT, PLAN 36479

**Purpose:** The required setback from the side parcel line is 4.5m. The applicant is requesting to vary the provisions of Zoning Bylaw No. 4500 in order to permit the placement of a heat pump to the side of the single residential dwelling. The proposed setback is approximately 2m from the side parcel line, which represents a variance of 2.5m.

**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. Tony Arruda and Mrs. Wilma Arruda were in attendance for their appeal.

Submissions were received for this application; they are attached as "Attachment B – Submissions for Board of Variance Application No. BOV613".

**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.:** BOV614

**Applicant:** Mr. Bert K. Nielsen

**Civic address:** 1295 Waddington Road

**Legal Description:** LOT 6, BLOCK 14, DISTRICT LOT 97G, NEWCASTLE RESERVE,  
SECTION 1, NANAIMO DISTRICT, PLAN1712

**Purpose:** The required flanking side yard setback is 4m. The applicant is requesting to vary the provisions of Zoning Bylaw No. 4500 in order to permit the siting of an accessory building (garage) 1.82m from the flanking side parcel line, which represents a variance of 2.18m.

**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 flanking side yard setback of 4m 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. Bert Nielsen and Mrs. Sherry Nielsen were in attendance for their appeal.

A submission was received for this application; it is attached as "Attachment C – Submission for Board of Variance Application No. BOV614".

**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 6:30 p.m. that the meeting terminate. The motion carried unanimously.



CHAIR  
CERTIFIED CORRECT

DATE:

2013.JAN.17

**Attachment A**

**Submission**

**For**

**Board of Variance  
Application No. BOV612**

*(5381 Jacobs Lane)*

## Penny Masse

---

**Subject:** Variance Committee Meeting Dec 20 2012

---

**From:** David Stewart  
**Sent:** Tuesday, December 18, 2012 12:26 PM  
**To:** 'Kathryn Galvin'  
**Cc:** Penny Masse  
**Subject:** RE: Variance Committee Meeting Dec 20 2012

Ms. Galvin

I will request the chair move the application for the variance for the property at 5381 Jacobs Lane to the beginning of the meeting, which should give you plenty of time to attend. Please let me know if you require anything further from Staff prior to the meeting.

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

---

**From:** Kathryn Galvin [<mailto:kegalvin@shaw.ca>]  
**Sent:** Monday, December 17, 2012 12:40 PM  
**To:** David Stewart  
**Subject:** Variance Committee Meeting Dec 20 2012

Dear Mr Stewart. I own the property at 5355 Seascaple Terrace. I am significantly affected by any changes to the property known as Lot 6, District Lot 49, Wellington District, Plan 25430 . This property is directly in line of all my main windows. I do plan to attend the meeting on December 20. Currently I am providing full time palliative care in my home (5355 Seascaple Terrace). Given the advanced state of her illness, my sister cannot be left alone. I have spoken with the Home Care nurse this morning and have been granted a respite worker who can be with my sister from 5:00 - 7:00 pm to allow me to attend the meeting. I am hoping that with this advance notice, you could schedule this specific application for 5:30 which would give me ample time to drive to and from the meeting. I look forward to your response and appreciate any consideration you can give to these extenuating circumstances.

Sincerely  
Kathryn Galvin  
250 585 8400

**Attachment B**

**Submissions**

**For**

**Board of Variance  
Application No. BOV613**

***(413 Belmont Place)***







Job Name: \_\_\_\_\_

Location: \_\_\_\_\_

Purchaser: \_\_\_\_\_

Engineer: \_\_\_\_\_

Submitted To: \_\_\_\_\_

For: ☐ Reference ☐ Approval ☐ Construction

Submitted By: \_\_\_\_\_

Date: \_\_\_\_\_

Unit Designation: \_\_\_\_\_

**Capacities:**

Heating Capacity	54,600 Btu/h
Heating Input Power	3.97 kW
Cooling Capacity	60,600 Btu/h
Cooling Input Power	6.94 kW
COP	4.0
EER	8.7

Measuring conditions: Heating Ta DB/WB 44.6°F/42.8°F(7/6°C); LWC 95°F (35°C); (DT=9°F(5°C)  
Cooling Ta 95°F(35°C); LWE 64.4°F (18°C); (DT=9°F(5°C))

**Operating Range:**

Cooling Temp. (Min/Max)	50/114.8°F (10/46°C)
Heating Temp. (Min/Max)	-4/95°F (-20/35°C)
Domestic Hot Water Temp. (Min/Max)	*-4/109.4°F (-20/43°C)

\*Booster heater operation from 95°F (35°C) onwards

**Sound Pressure Level:**

Heating	53 (dBA)
Cooling	54 (dBA)

**Fan:**

Fan Type x Quantity	Propeller Fan x 2
Drive	Brushless DC motor
Output	70 W

**Power Supply:**

V/PH/Hz	208-230/1/60
Minimum Circuit Amps (MCA)	26.5 Amps
Maximum Overcurrent Protection (MOP)	30 Amps

**Refrigerant & Piping:**

Refrigerant Type/Charge	R-410A/8.15 lbs
Liquid Piping (OD)	3/8" (Flare)
Suction Gas Piping (OD)	5/8" (Flare)
Max Pipe Length (total)	246 ft
Chargeless	98.4 ft
Vertical limit	98.4 ft

**Additional charging of refrigerant**

98.4 ~ 131.2 ft (1.10 lbs)	131.23~164.04 ft (2.20 lbs)
164.04~196.85 ft (3.31 lbs)	196.85~246.06 ft (4.41 lbs)

**Unit Data:**

Dimensions (HxWxD)	46-1/16 x 35-7/16 x 12-5/8
Weight	227 lbs

**Standard Features:**

Compressor warranty from date of installation	7 years
Parts warranty	5 years
Limited labor warranty	1 year

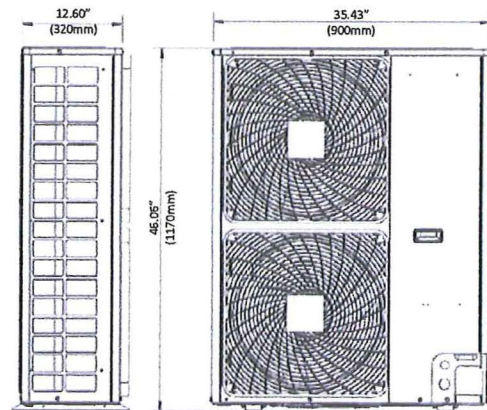
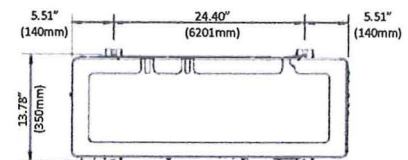
< 49 decibels



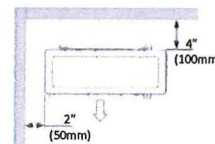
**R-410A**



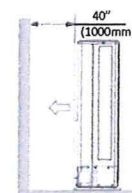
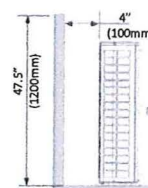
ERLQ054BAVJU  
split  
block  
system  
for hydron  
systems



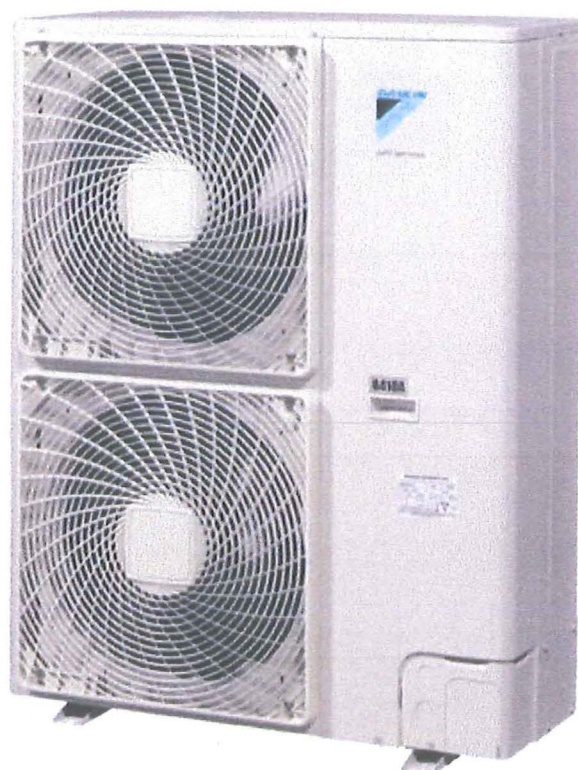
For further information about the installation, please refer to the Installation and Engineering Guides



**Installation Servicing Space  
and clearance**



3



46" x 36" x 13"

4

GARAGE

Note: This is the short, efficient route for Refrigerant Line to Mechanical Room. Unit must be protected from strong winds.

INDOOR MECHANICAL ROOM

1.78 m

1.6 m

3.4 m total

SIDE LOT LINE

#412 → NEIGHBOUR

DAIKIN AIR-TO-WATER OUTDOOR UNIT



1 metre

Require Setback to be Approx 2.0-2.5 metres

STAIRS









**Attachment C**

**Submission**

**For**

**Board of Variance  
Application No. BOV614**

*(1295 Waddington Road)*

**Penny Masse**

---

**Subject:** FW: APPEAL#BOV614

---

**From:** William Cosgrave [<mailto:cosgravew@ymail.com>]

**Sent:** Wednesday, December 12, 2012 1:24 PM

**To:** David Stewart

**Subject:** APPEAL#BOV614

As the adjacent neighbor to the south, we have no complaints whatsoever with the future garage construction.