



COMMUNITY SAFETY & DEVELOPMENT

MINUTES OF THE MEETING OF THE BOARD OF VARIANCE HELD IN THE BOARDROOM, 455 WALLACE STREET, NANAIMO, BC ON THURSDAY, 2012-NOV-15 COMMENCING AT 5:30 P.M.

PRESENT: Members: Mr. Tim Wait - Chair
Ms. Janet Cowling
Mr. Allan Dick
Mr. Amarjit Minhas

Regrets: Mr. Mark Dobbs

Staff: Mr. Dave Stewart, Planner, 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-OCT-04 be adopted. The motion carried unanimously.

3. APPLICATIONS:

APPEAL NO.: **BOV609**

Applicant: Mr. Ronald Ens

Civic address: 3384 Greyhawk Drive

Legal Description: LOT 13, SECTION 11, WELLINGTON DISTRICT, PLAN VIP82356

Purpose: The applicant is requesting to increase the maximum allowable height of a retaining wall in a front yard and a side yard from 1.2m to 2.6m (front yard) and 2.4m to 2.9m (side yard). This represents a variance of 1.4m (front yard) and 0.5m (side yard), respectively.

Zoning Regulations: Steep Slope Residential – R10. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

Section 6.10.2. – Fence Height Requirements
A maximum front yard fence height of 1.2m is permitted.
A maximum side yard fence height of 2.4m is permitted.

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. Ronald Ens was in attendance for his appeal.

Mr. Duncan McMillan of 3390 Greyhawk Drive was in attendance for the appeal.

A submission was received for this application and is attached as "Attachment A – Submission received for Board of Variance Application No. BOV609".

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

Opposed: Mr. Amarjit Minhas

The variance requests were not deemed to be a hardship.

APPEAL NO.: **BOV610**

Applicant: Ms. Katherine Waller

Civic address: 619 Fourth Street

Legal Description: LOT 1, SECTION 1, NANAIMO DISTRICT, PLAN 7554

Purpose: The applicant is requesting to increase the allowable projection of stairs, landings and a front porch into the front yard setback from 2m to 3.07m, as shown on the attached survey, in order to permit the replacement of stairs in the front yard setback area.

Please Note: The front yard setback requirement is 4.5m, plus an additional 2.5m (for a total 7m), as the property abuts a major road and dedication has not been taken; however, stairs and front porches are permitted a 2m projection within the front yard setback area. Thus, the variance request is 3.07m.

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 A front yard setback of 4.5m is required.

Section 7.5.4 Notwithstanding 7.5.1, where a property abuts a major road, an additional 2.5m front yard setback is required when the dedication to achieve the required right-of-way width has not occurred to facilitate the widening of the major road.

Section 6.5.1 Projections into Yards

Feature	Permitted Projection into Required Yard Setback			
	Front	Side	Flanking Side	Rear
Steps and Landings	2m	---	2m	2m
Front Porch	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 than that existing at the time the repair, extension or alteration was started."

Discussion: Ms. Katherine Waller was in attendance for her appeal.

Submissions were received for this application; they are attached as "Attachment B – Submissions received for Board of Variance Application No. BOV610".

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.

Mr. Alan Dick vacated the Board of Variance meeting at 6:08 p.m. due to a perceived conflict of interest in regard to application No. BOV600.

APPEAL NO.: **BOV 600**

Applicant: Mr. Maurice Shrubbs and Mrs. Fiona Shrubbs

Civic address: 465 Stewart Avenue

Legal Description: AMENDED LOT 5 (DD EB25925), BLOCK 1, NEWCASTLE TOWNSITE, SECTION 1, NANAIMO DISTRICT, PLAN 584

Purpose: The applicant is requesting to increase the maximum allowable height of a front yard fence from 1.2m to 2.13m in order to allow for an over-height fence along the front property line, as shown on the attached survey. This represents a variance of 0.93m.

Zoning Regulations: Medium Density Residential – R8. The applicant requests a variance to the City of Nanaimo "ZONING BYLAW 2011 NO. 4500":

Section 6.10.2. – Fence Height Requirements
A maximum front yard fence height of 1.2m is permitted.

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. Maurice Shrubbs and Mrs. Fiona Shrubbs were in attendance for their appeal.

Mr. Glenn Hallett of 455 Stewart Avenue was in attendance for the appeal.

Submissions were received for this application; they are attached as "Attachment C – Submissions received for Board of Variance Application No. BOV600".

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:**

5. **ADJOURNMENT:**

It was moved and seconded at 6:50 p.m. that the meeting terminate. The motion carried unanimously.



CHAIR
CERTIFIED CORRECT

12/20/2012

DATE:

Attachment A

Submission

For

**Board of Variance
Application No. BOV609**

(3384 Greyhawk Drive)

Penny Masse

Subject: FW: 3384 Greyhawk Drive

From: Tom Weinreich
Sent: Thursday, November 01, 2012 9:57 AM
To: Jill Collinson
Subject: 3384 Greyhawk Drive

Jill:

The building permit (BP116469) for 3384 Greyhawk Drive was issued on August 31st 2011. At the perimeter draitile inspection dated February 28th, 2012, it was noted that a retaining wall had been constructed. One of the deficiencies on the inspection report stated "Retaining wall permit with geotechnical and BOV required."

An initial framing inspection took place on July 6th of 2012 and the item was still outstanding. There have been two follow-up inspections since that date (October 4th and October 23rd). The Building Inspector (Colin Bollinger) has suspended inspections on the project until the retaining wall issue has been resolved. They can still work on the project but cannot proceed to the insulation stage.

Tom Weinreich, R.B.O.
Supervisor of Building Inspections
Building Inspections
COMMUNITY SAFETY & DEVELOPMENT

238 Frankyn Street, Nanaimo BC V9R 2X4 | ph: 250-755-4460, local 4396 | fx: 250-755-4439 | tom.weinreich@nanaimo.ca

Attachment B

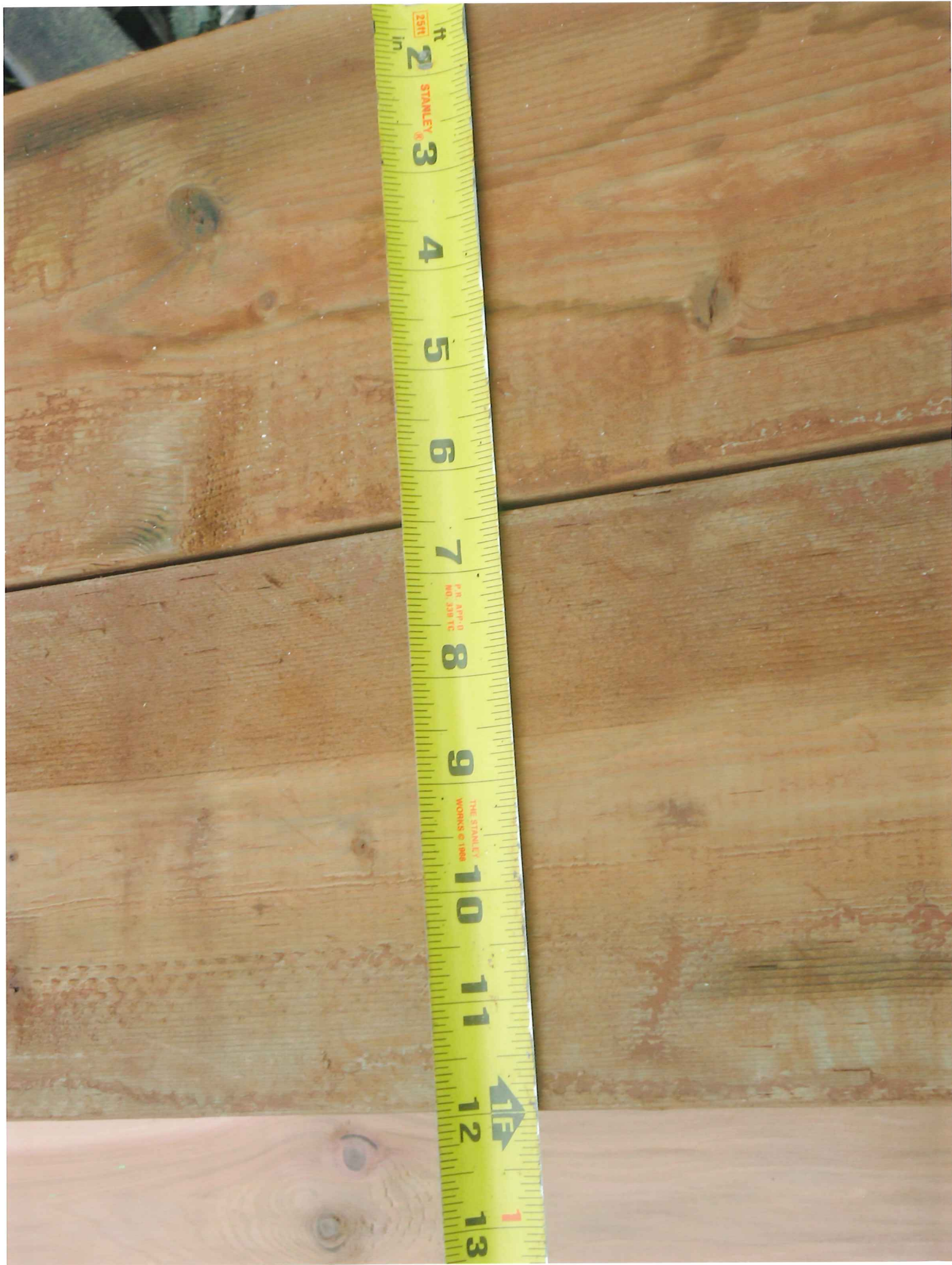
Submissions

For

**Board of Variance
Application No. BOV610**

(619 Fourth Street)





25ft

ft

2

in

STANLEY

3

4

5

6

7

8

9

10

11

12

13

1

2

3

4

5

6

7

8

9

10

11

12

13

1

2

3

4

5

6

7

8

9

10

11

12

13

1

2

3

4

5

6

7









Attachment C

Submissions

For

**Board of Variance
Application No. BOV600**

(465 Stewart Avenue)

November 15, 2012

RE: Board of Variance Meeting
Appeal # BOV 600
Applicant: Maurice and Fiona Shrubbs
465 Stewart Ave, Nanaimo BC

To Whom It May Concern:

My name is Glenn Hallett, I and my family reside at 455 Stewart Ave, Nanaimo BC, and my property borders the fence that is the subject of this variance.

I would like to state on record that I feel this fence is clearly in violation of the city bylaw, and that I deem it to be a safety hazard, not only to people who reside on my property, but also to the citizens of Nanaimo who use the sidewalk outside of these two properties.

The side fence which borders my property is close to if not 7' in height, as is their entire fence, though some portions such as their arbor and a portion of the fence bordering the property on the other side, is I believe, close to 10 feet. This allows for absolutely no visibility while exiting our driveway or visibility for the people exiting 465 Stewart Ave. The owners of 465 Stewart Ave. operate a bed and breakfast with guests coming in and out of the driveway at all hours of the day and night. To this date there have been almost two collisions that I know of with Mr. Shrubbs backing out of his driveway. One occurred when my wife was attempting to access our driveway southbound, the other incident occurred with myself trying to exit my driveway out onto Stewart Ave. My stepdaughter and 1 1/2 year old stepgrandson were also almost hit when she was exiting the driveway with the stroller northbound, basically crossing at the bottom of our driveway to access the sidewalk on the other side of the fence. In essence we are unable to safely see around their fence when we are trying to access or exit our driveway, and so is anyone attempting to access or exit the driveway of 465 Stewart Ave due to the fence height on either side of their driveway.

Also, I would like to point out that if the city decides to follow through with its plans to widen Stewart Ave, there will be zero visibility coming out of both driveways and we will be exiting directly onto city property without being able to see what is on the other side of this fence. Anyone then and even now can step out from either side of it and be struck by an exiting vehicle.

Thank you

Glenn Hallett
455 Stewart Ave. Nanaimo BC



