



COMMUNITY SAFETY & DEVELOPMENT

MINUTES OF THE MEETING OF THE BOARD OF VARIANCE HELD IN THE BOARDROOM, 455 WALLACE STREET, NANAIMO, BC ON THURSDAY, 2012-OCT-18 COMMENCING AT 5:30 P.M.

PRESENT: Members: Mr. Tim Wait - Chair
Mr. Allan Dick
Mr. Mark Dobbs
Mr. Amarjit Minhas

Regrets: Ms. Janet Cowling

Staff: Mr. Dave Stewart, Planner, Planning & Design Section
Ms. Jill Collinson, Planning Assistant, Planning & Design Section
Ms. Lauren Wright, 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 special meeting of the Board of Variance held on Thursday, 2012-OCT-04 be adopted. The motion carried unanimously.

3. APPLICATIONS:

APPEAL NO.:

BOV608

Applicant: Mr. Siegfried Hildebrandt and Mrs. Karin Hildebrandt

Civic address: 5643 Big Whale Lookout

Legal Description: LOT 2, DISTRICT LOT 50, WELLINGTON DISTRICT, PLAN 46656

Purpose: The applicant is requesting to vary the provisions of Zoning Bylaw 4500 in order to allow for an open area and stairs to encroach into both side yard area(s). The required side yard setback is 1.5m. The proposed setback is 0.3m (southern property line) and 0.4m (northern property line). The applicant is requesting variances of 1.2m and 1.1m, respectively.

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. Hildebrandt was in attendance for his appeal.

Submissions were received for this application; they are attached as "Attachment A – Submissions received for Board of Variance Application No. BOV608".

Decision: It was moved and seconded that the request to vary the provisions of Zoning Bylaw 4500 in order to allow for an open area and stairs to encroach into both side yard area(s) by 0.3m (southern property line) and 0.4m (northern property line) be **denied**. The motion carried unanimously.

The variance requests were not deemed to be a hardship.

APPEAL NO.: **BOV607**

Applicant: Mr. Dale Lindsay and Mrs. Setia Lindsay

Civic address: 431 Larch Street

Legal Description: LOT 4, DISTRICT LOT 14, NEWCASTLE RESERVE, SECTION 1, NANAIMO DISTRICT, PLAN 10848

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. The required setback is 4.5m from the side parcel line. The proposed setback is 1.61m from the side parcel line. The applicant is requesting a variance of 2.89m.

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. and Mrs. Lindsay were in attendance for their appeal.

Submissions were received for this application; they are attached as "Attachment B – Submissions received for Board of Variance Application No. BOV607".

Decision:

It was moved and seconded that the request 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 1.61m from the side parcel line be **approved**. The motion carried unanimously.

The variance request was deemed to be a hardship.


4. OTHER BUSINESS:

It was moved and seconded that Staff amend the requirements of BOV applications to include elevations and / or a building sketch if the proposed variance requires structural alterations. The motion carried unanimously.

It was proposed that Board of Variance meetings commence at 5:30 p.m. as opposed to 7:00 p.m. It was decided further discussion regarding the proposed earlier start time of BOV meetings should occur when all Board members are present.

5. ADJOURNMENT:

It was moved and seconded at 6:17 p.m. that the meeting terminate. The motion carried unanimously.



CHAIR
CERTIFIED CORRECT

NOVEMBER 15, 2012.

DATE:

Attachment A

Submissions

For

**Board of Variance
Application No. BOV608**

(5643 Big Whale Lookout)

Carol Pearson
5637 Big Whale Lookout
Nanaimo, B.C. V9T 5G8
(250) 756-2674

October 15, 2012

City of Nanaimo
Community Safety and Development

To Whom It May Concern:

**Re: Board of Variance Notice of Meeting of Appeal No. BOV 608
Filed on Behalf of Siegfried and Karin Hildebrandt**

I received the above Notice in my mailbox last week. I live in the home at 5637 Big Whale Lookout on the west side of the Hildebrandt's house. The distance between my home and theirs is ten feet, with each of us having a five-foot setback area.

In July, 2011 Mr. Hildebrandt had a hot tub installed into the ground behind his house, and then had a huge deck built onto the full width of the back of the house – it is much wider than the previous deck and probably close to three times as long. The deck width extends to the edge of a ravine which is behind both houses. The previous deck had a set of stairs on the east side, which the new deck does as well. I was taken aback at the size of the deck and how close the west end came to my own deck thereby significantly decreasing the privacy I had. Then I realized that the carpenter was also building a set of stairs on the west end of the new deck. When I went out to talk to him about it he told me that the Hildebrandts had a couple of little dogs and wanted to bring them down these stairs (which are only 17 inches from my lot line) and which encroached significantly by 3.5 feet onto his setback area. I phoned the City and was told that the distance between my property line and the house next door was indeed required to be five feet but at that time I did not make a complaint as I was feeling quite unwell.

I wrote a letter to Mr. Hildebrandt on August 15th to explain the impact of his renovation on me by the significant loss of my privacy. I also requested that he remove the stairs in order to comply with the five-foot distance in the City by-law. I stated that if he did not remove the stairs I would have to contact the City to come and have a look at the stairs and decide what should be done. We exchanged a number of letters after this date, the last one being on September 2nd, in which letters I continued to request he remove the stairs, and he clearly stated he would not.

On September 2nd I wrote a letter to Mr. Hildebrandt and advised him that because of the intimidating and threatening tone and words in his letters to me that I would not speak to him face to face or by myself. I stated that for the third and last time I wanted to know what he planned to do regarding the stairs.

On September 6, 2011 I went to City Hall to lodge a complaint about the stairs and spoke with Mr. Mike Bates. We both learned at this meeting that Mr. Hildebrandt had not obtained any permits to build the deck, install an in-ground hot tub, and build a functional suite into the crawlspace of the home. Further, the land upon which he built the deck had a covenant in place restricting any building or construction on the land. Mr. Bates took copies of all the correspondence between myself and Mr. Hildebrandt.

On November 11th a city inspector by the name of Michael Mark came out to inspect the Hildebrandt property. He did not inform me of any changes that had to be made by Mr. Hildebrandt and stated only that Mr. Hildebrandt would receive a letter telling him what he had to do. So, I remained in the dark about the stairs.

On September 19, 2012, one year after my initial complaint, I sent an e-mail to Mike Bates and to Michael Mark to inquire as to what was happening as nothing at all appeared to have changed. Mr. Mark had left the City's employ and I spoke with Mr. Bates who said they still had an active file and that he would follow up. Then I received the notice of the hearing in my mail box.

I am contesting the Hildebrandt's application for a variance to encroach on their side area next to me for the following reasons:

- I have lost a significant amount of privacy because of the huge deck and even more with the addition of the stairs. When I retired in June, 2011, I had made the decision to remain in my house mainly because of the privacy and peacefulness which I no longer have.
- They have stairs on the other end of the deck they can use. These stairs do not appear to be a problem for the neighbors on that side given the amount of space between the houses.
- My understanding is that the Hildebrandts regard it as a hardship to get to the back of their property without having the stairs on the side of the deck next to me but this is not true – they could easily walk down the side of their house to the back. It is not a hardship if they do not have the stairs.
- They could easily get to the back of their property from the other set of stairs unless the illegal suite in the bottom of the house prevents this access somehow.
- I have sliding doors through which I can access my deck. When the blind is up anyone on the deck next door, which is higher than my deck, can look into my home. I find that I am now keeping the blind down most of the time to ensure my privacy and I should not have to do this. The same loss of privacy applies to my sitting out on my own deck.

I apologize for the length of this response but I felt people needed to know what has occurred.

Mr. Hildebrandt's letters were full of condescending remarks to me as well as intimidating and threatening remarks. I do not wish to have any contact at all with him or his wife.

I am stating in this letter, for everyone to know, that these people are not welcome to step onto any part of my property at any time for any reason.

Yours truly,



Carol Pearson

5643 BIG WHALE LOOKOUT

The above noted property is the subject of BOV00608. A variance is required in order to permit the existing stairs from a second storey sundeck to encroach into the required sideyard of the property. Both a portion of the rear deck (upper landing) and the stairs at each end of the rear deck have been constructed without a Building Permit. The Building Inspector has attended the property and notice a number of items concerning the construction that are not in compliance with the requirements of the Building Code.

Pertaining to the two flights of stairs and upper deck landing that are within the required sideyard, the difference in height (stair rise) is not equal throughout the flight of stairs; the stair handrail will need to be altered as it is not a graspable handrail; the stair treads do not have a slip resistant finish and guard railing that has been constructed with pipe spindles is considered to be climbable. It is unknown if these deficiencies can be repaired without deconstruction and reconstruction of the work within the sideyard.

If, in order to issue a Building Permit for this work, the stairs and upper landing need to be reconstructed in order to satisfy the Building Code requirements, there will be no need to approve a variance as the new work can be constructed in compliance with the required setbacks. The stairs and upper landing could be reconstructed within the required setback by reducing the length of the deck at each end and constructing the new stairs and landing within the area now occupied by deck.

Ralph Topliffe, Supervisor
Building Inspections

David Stewart

From: Dave Pady
Sent: Wednesday, May 16, 2012 4:12 PM
To: Lindsay Fitzgerald
Subject: FW: 5643 Big Whale Lookout

From: Andrew Tucker
Sent: Wednesday, May 16, 2012 4:00 PM
To: Dave Pady
Subject: 5643 Big Whale Lookout

Dave,
Based on the findings of Steve Toth's environmental assessment, the subject property is not adjacent to a fish bearing stream and is a "barely discernable trickle". No riparian DP is required. That said, the property owner is still required to hire a geotechnical engineer to ensure that the deck has been constructed in the appropriate manner and to obtain the required permits through our Building Inspection section.
Andrew

February 23, 2012

EDI Job Number: 11-N-0758

Siegfried Hildebrandt
5559 Leslie Crescent
Nanaimo, BC V9V 1G7

Re: Watercourse Assessment – 5643 Big Whale Lookout, Nanaimo.

EDI Environmental Dynamics Inc. (EDI) was retained to conduct an assessment at 5643 Big Whale Lookout, Nanaimo. The assessment was needed because a deck was constructed without municipal approvals and within a development permit area of a mapped watercourse. The purpose of the assessment was to determine the aquatic habitat characteristics of the watercourse, review the recent construction and to determine if the watercourse is applicable under the Riparian Areas Regulation (RAR). I met with you on site to discuss the matter on December 19, 2011 and I conducted a detailed site visit on February 22, 2012. Results of my assessment are summarized below.

Results

The small, unnamed stream flows along the western edge of the subject property within a ravine (Figure 1). The entire back yard is within the riparian area of the stream. The new deck construction is as close as approximately 6.7 m from the high water mark of the stream. It appears that no riparian vegetation was damaged or removed to accommodate deck construction.

The stream originates from a grassy swale at the top end of the ravine (just north of Porpoise Place). Adjacent to the subject property, the stream path is well defined within the top of the ravine but the channel is not distinct: there are few alluvial substrates, vegetation and organic debris covers the drainage path and there is little or no scour. At the time of survey, surface flow within the drainage was limited to a slight, barely discernible trickle. The lack of a well-defined channel adjacent to the subject property is evidence that the drainage rarely receives any substantial amount of flow.

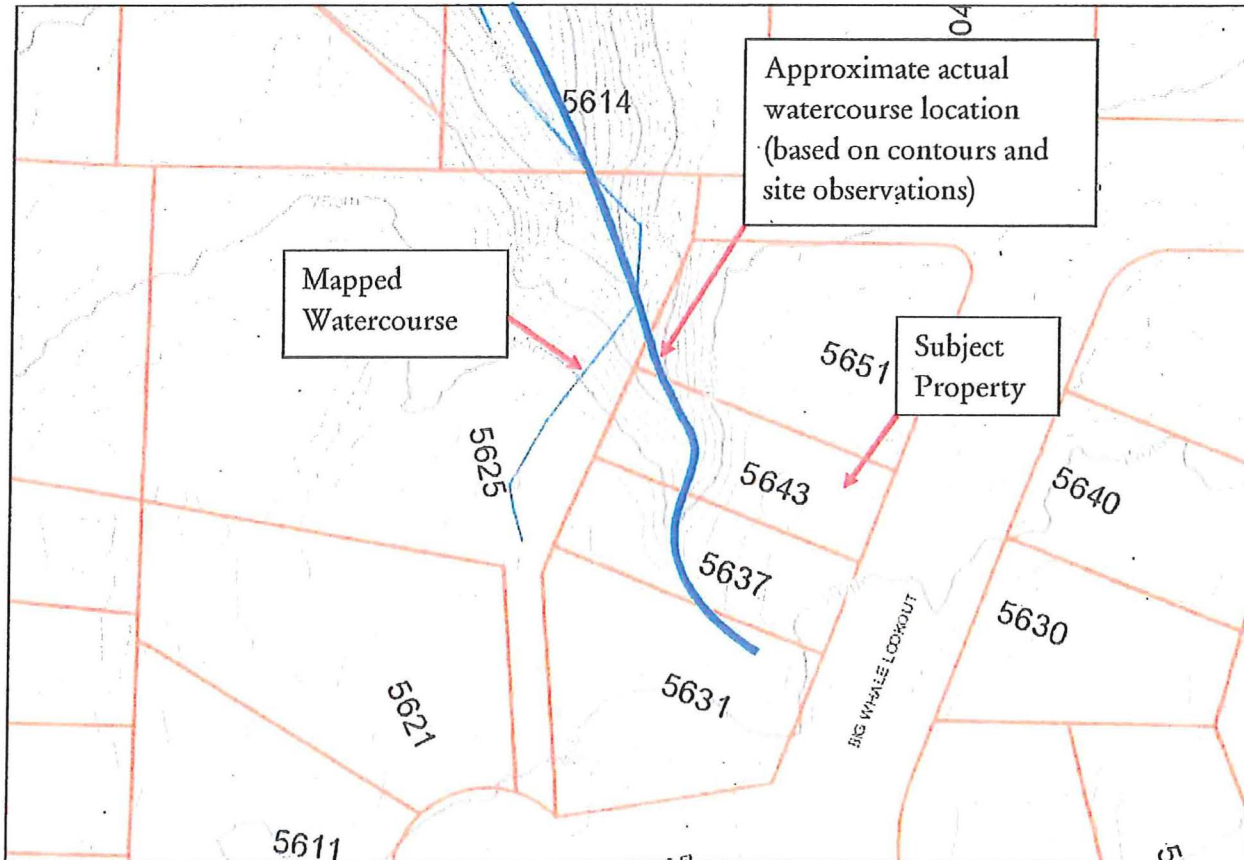


Figure 1. Diagram showing watercourse within subject property (markups added to screen clip from NanaimoMap).

Downstream of the subject property, the channel becomes more distinct as the ravine banks become higher and steeper and as the stream receives additional stormwater and groundwater inputs. A short distance downstream of the subject property, the stream has a continuous, well defined channel. Approximately 220 m downstream of the subject property, the stream flows into a 525 mm diameter culvert, part of the municipal stormwater infrastructure. Water remains within the piped stormwater system until the system discharges into the sea approximately 1.8 km north of the culvert inlet (Figure 2). The discharge into the sea is via an 1800 mm diameter culvert that discharges directly onto the beach.

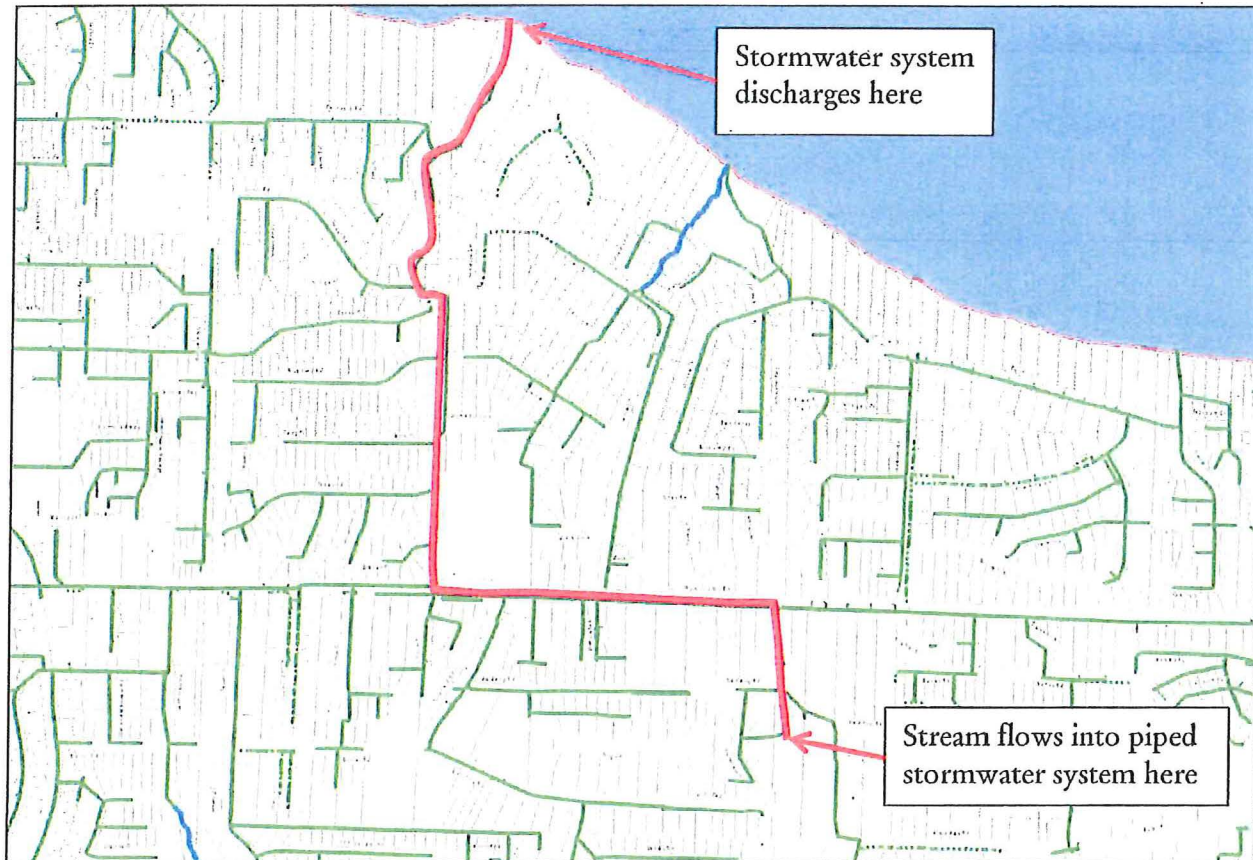


Figure 2. Diagram showing municipal storm sewer infrastructure north of subject property (markups added to screen clip from NanaimoMap).

Online mapping applications do not indicate whether or not the stream is known to contain fish. The entire length of the stream channel was walked and it has been concluded that the stream obviously does not contain habitat suitable for fish: the channel is narrow and very shallow, there are no deep pools and the stream is likely devoid of surface flow much of the year. Given that the stream does not flow from a significant waterbody (lake, pond or wetland) and that it is not possible for fish to access the stream from the ocean, the stream is definitely non-fish bearing. Fish sampling to prove fish absence is not necessary given the stream's isolation from other watercourses and the lack of potential habitat in the channel.

Discussion

As the stream is non-fish bearing and is not connected by surface flow to freshwater fish habitat, it is not applicable under the RAR. The stream, therefore, does not require a riparian setback under provincial or federal regulation.

Siegfried Hildebrandt

Re: Watercourse Assessment - 5643 Big Whale Lookout, Nanaimo

February 23, 2012



Given its limited width, depth and length, the stream has marginal aquatic habitat values. As the water eventually discharges into a marine receiving environment, water quality is a primary consideration. Aquatic considerations with respect to development adjacent to the stream should be to prevent slope instability, erosion and the introduction of sediment (and other deleterious substances) into the stream.

It should be noted that the ravine and watercourse provide many wildlife habitat attributes but the purpose of this assessment was not to evaluate wildlife or terrestrial habitat values.

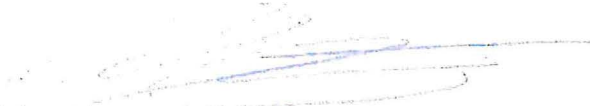
Recommendations

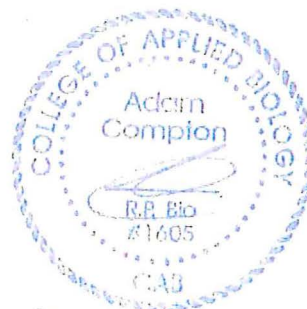
Given that the RAR does not apply, a riparian setback is not required by provincial regulation. As the entire back yard is within the 15 m from top of bank setback required by the City of Nanaimo's Zoning Bylaw, any proposed development on the west side of the house would require a variance. The new deck construction does not appear to have resulted in removal of streamside vegetation nor has any erosion or sediment control issues resulted. It is my professional opinion that the development that has occurred within the riparian area of the small stream is appropriate and that no mitigation or remedial measures are necessary.

Please let me know if you have any questions regarding this assessment.

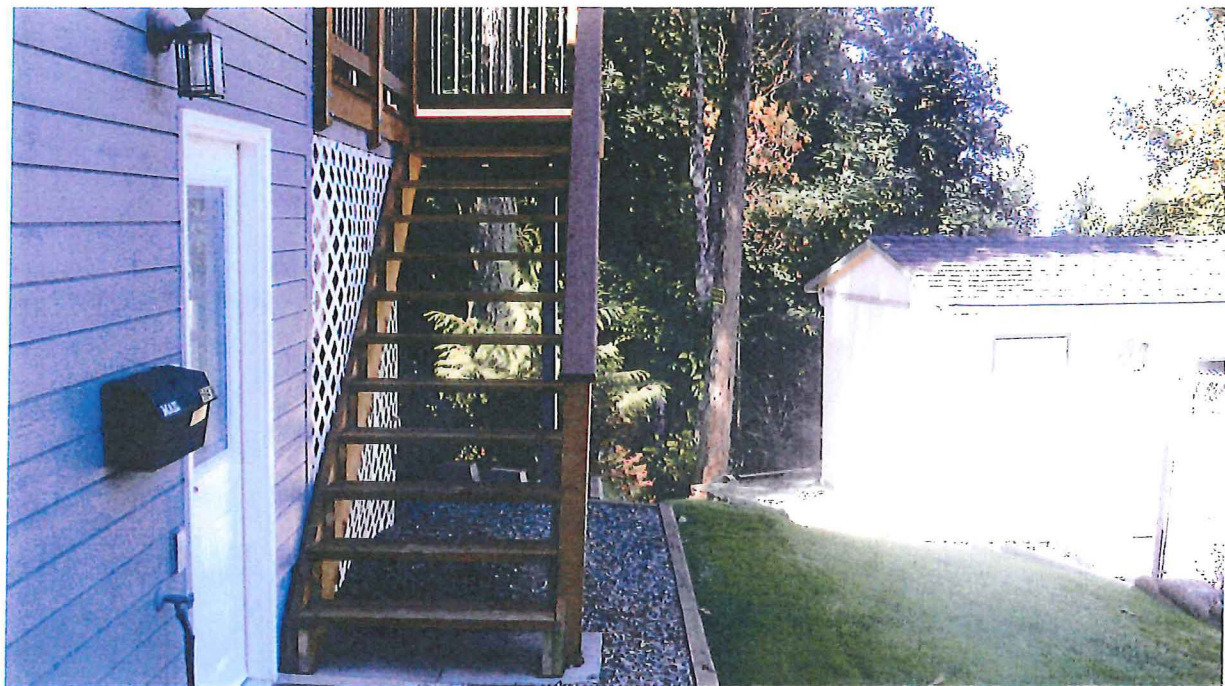
Yours truly,

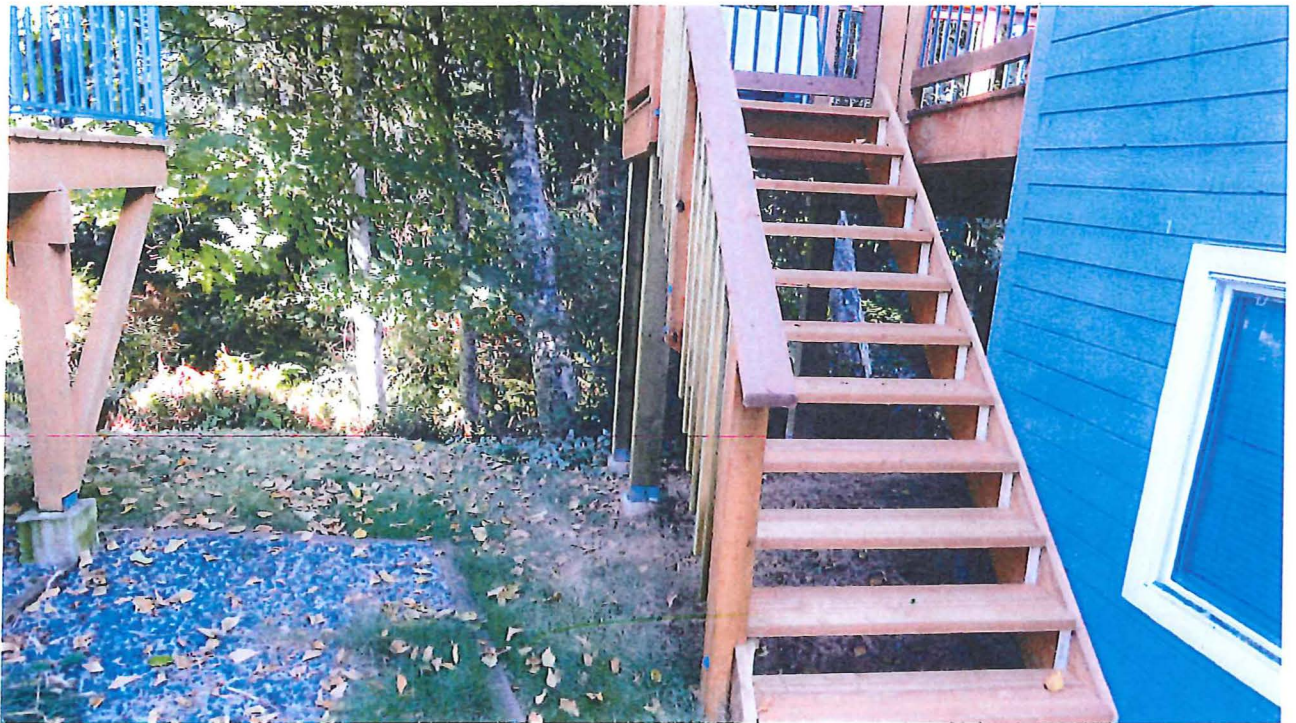
EDI ENVIRONMENTAL DYNAMICS INC.


Adam Compton, R.P. Bio.
Project Manager/Senior Biologist



*Original signed &
mailed Feb 27/12*



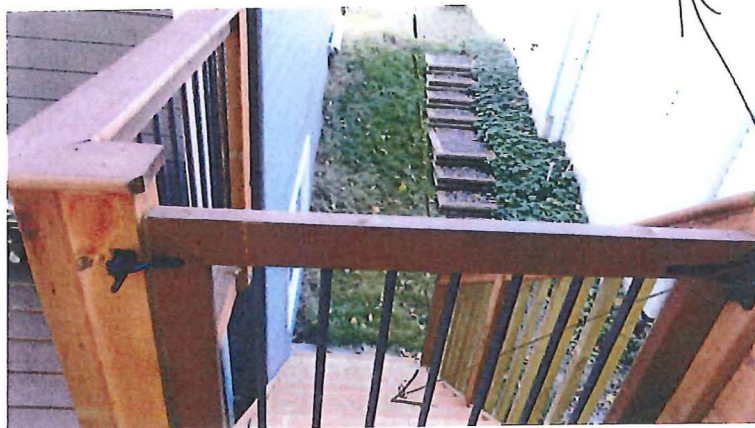




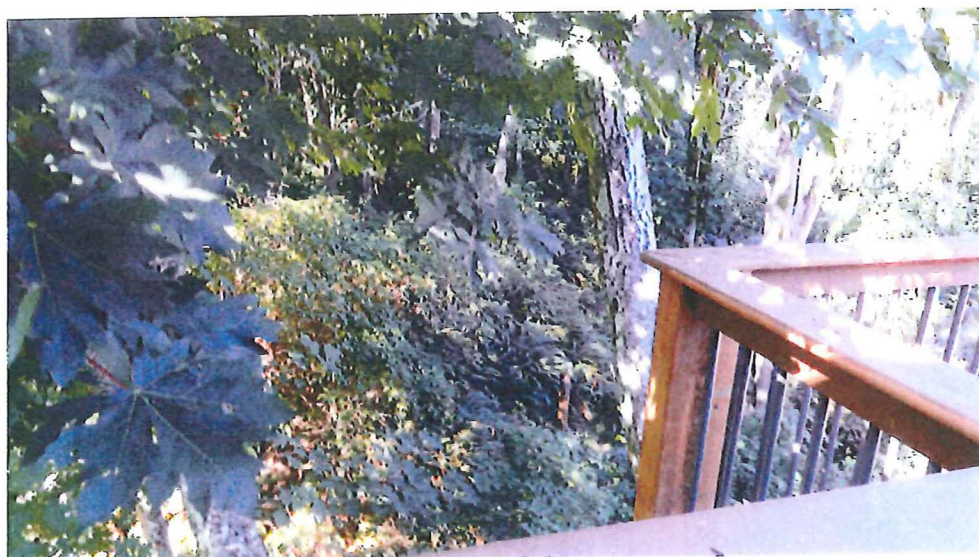








Fire escape stairs





Garage window

Bathroom window





Carol Pearson
5637 Big Whale Lookout
Nanaimo, B.C.
V9T 5G8
(250) 756-2674

August 15, 2011

Mr. Ziggy Hildebrandt
c/o Ziggy's Driving Academy
5559 Leslie Crescent
Nanaimo, B.C. V9V 1G7

Dear Mr. Hildebrandt:

I am your neighbour to the left of the house that you own at 5643 Big Whale Lookout. I have lived here for over 15 years. You recently installed a hot tub and then completely rebuilt the deck at the back of your house. My concerns are the following:

- I was given no prior notification that the entire deck would be replaced at the back of the above house; that it would take the better part of a month to complete all the work.
- The construction noise, ongoing for four weeks, disrupted my life in my own house at a most inconvenient time immediately following the death of my mother and my retirement. In any case, I would have appreciated knowing ahead of time what to expect.
- Moreover, I realize that I have lost a considerable amount of privacy given the greatly increased size of the new deck and its much closer proximity to my home.
- The stairs that were built at the end of the deck next to my home are extremely close to my property line. In fact the bottom of the stairs is seventeen inches from my property line. I phoned the City of Nanaimo to check on the rules for building structures next to a property line and was told that structures are not to be built any closer than five feet from the property line. It seems to me that you or your carpenter should have known this information. If you did know, neither you nor your carpenter let me know or even asked if building that close would be all right with me. It is not.

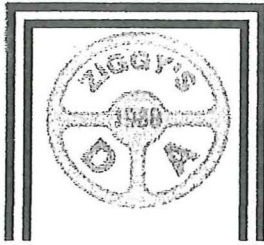
I am requesting that you remove the stairs from the end of the deck next to my property in order to adhere to the five foot rule. If you decide not to do this, then my next step will be to provide a copy of this letter to the City of Nanaimo and have someone from the City come and look at it and decide what should be done.

I would appreciate a response within a week of your receipt of this letter.

Yours truly,

Carol Pearson

Carol Pearson



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5559 Leslie Cres. Nanaimo BC V9V 1G7
Tel. (250) 758 2250 Fax (250) 758 3996
1-800 9ZIGGYS

August 25/11

C. Pearson
5637 Big Whale Lookout
Nanaimo, BC
V9T 5G8

Dear Mrs. Pearson,

Thank you for your letter and voicing your concerns about your privacy. I have talked to you twice in regards to this matter and had a privacy wall installed on the side facing your property.

We were advised that the old deck was unsafe and therefore had to be rebuilt according to building code requirements. If you find it necessary to bring an Inspector out to inspect the new deck we have no problem with that. But, if that is the case then we will request your deck be inspected as well, as our carpenter felt that your deck was also looking unsafe and would not pass a building code inspection.

We have consulted our company's lawyer and found it is our legal right to install a hot tub on or below our deck without the approval of our neighbors. We apologize for the construction noise that may have inconvenienced you during the two (not four) weeks of renovations. We did try to be respectful though and asked your permission before we trespassed onto your property and all the construction was done during the daylight hours.

When we choose to live in a subdivision there is always a chance that someone may build a house, install a new driveway or cut some trees etc. which could cause an inconvenience to neighbors as well as some noise.

We have been planning on moving into our Big Whale house for our retirement as we thought it was a peaceful, friendly neighborhood. In the past we have always gotten along with our neighbors and we were looking forward to getting to know you as well as Ray and Dianne. If you want to create a problem between us we may reconsider and just continue to rent the property. As we all know renters are not necessarily connected to the property and could end up being much less considerate and definitely noisier than we would be.

We would like to keep the peace between you as well as the other neighbors but if you choose to make our lives difficult the situation could get quite ugly.

Yours Truly

Carol Pearson
5637 Big Whale Lookout
Nanaimo, B.C. V9T 5G8
(250) 756-2674

August 29, 2011

Mr. Ziggy Hildebrandt
c/o Ziggy's Driving Academy
5559 Leslie Crescent
Nanaimo, B.C. V9V 1G7

Dear Mr. Hildebrandt:

Thank you for your response dated August 25, 2011, which was delivered to my house on August 26th.

I certainly do understand that it is your right to make improvements and changes to your home and your property. I know that it is your legal right to install a hot tub and rebuild the deck without the approval of your neighbours; **at no time did I say that it was not.**

Also in my letter to you I requested that you comply with the building code regarding the location of the stairs next to my home. According to a City planner that I spoke with, construction must be a five foot distance from the property line. I advised in my letter to you that in the event you refuse to comply (by removing the stairs as there doesn't appear to be any other way to comply with the regulation), I would contact the City to determine what should be done. You did not address this concern/request in any way in your response to me. **At no time** did I suggest that I wanted the City to come and inspect your deck, **only the stairs** with respect to the City regulations.

Again, I would ask that you please let me know as soon as possible what you plan to do regarding the stairs.

Yours truly,



Carol Pearson

September 02, 2011

Dear Ms. Pearson,

it looks like you have a nice project going to spend some time by keeping up writing letters. Well, when we are retired, time is which we have plenty of.

Unfortunately I am still working and are quite busy.

You have mentioned to my builders that **you know me as this type of biker...!**

(What ever you mean by that!). I am a teacher and instruct people to ride

Motorcycles and drive cars safely and defensively. I am also quite a bit older than you and have long have passed the so called wild years (but that never was my style anyway).

I have tried to talk to you about your issue with my project and knocked at your door twice. Unfortunately you did not answer the door. You have mentioned that you are quite ill and you also told me you have just lost you Mother. I am sorry for your loss. Remember when we are getting older we sometimes need our neighbor more than any relatives or friends because **the neighbors are right there to help when you need them.** It is not smart to pick a fight with them.

Let's talk about the stairs:

According to the building inspector The five foot rule for the distance between a structure and the lot line applies only to permanent affixed to the ground structures with foundations. **Our stairs are not permanently affixed** to the ground and rest on movable slabs and function as means to serve a purpose.

I really don't understand why the stairs bother you thso much. As a solution I am thinking to erect a legal wooden five foot fence plus a legal one foot lattice on top of it to bring it up to a legal six foot hight. This will give you back your privacy cover the view of the stairs you are so concerned about. Unfortunately this will cause you to also loose some of your view. But one can only have one or the other.

Have a nice day, and get well,
Siegfried Hildebrandt.

Carol Pearson
5637 Big Whale Lookout
Nanaimo, B.C. V9T 5G8
(250) 756-2674

September 3, 2011

Mr. Ziggy Hildebrandt
c/o Ziggy's Driving Academy
5559 Leslie Crescent
Nanaimo, B.C. V9V 1G7

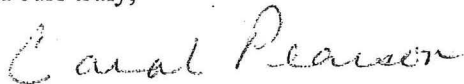
Dear Mr. Hildebrandt:

I understand that you came to my home on September 1st and 2nd but I was not available.

This letter is to let you know that since I received your letter dated August 25th, with its intimidating and threatening tone and words, I will not speak with you face to face or by myself. Please contact me in writing.

I request that you please let me know what you plan to do regarding the stairs. This is my third and last request.

Yours truly,

A handwritten signature in cursive script that reads "Carol Pearson".

Carol Pearson

Attachment B

Submissions

For

**Board of Variance
Application No. BOV607**

(431 Larch Street)

Ken & Mary Singer
411 Larch Street
Nanaimo B.C V9S 2E9

Oct 13, 2012

Mr. David Stewart,
Planner, Planning & Design Section
Community Safety & Development Division 238
Franklyn Street
Nanaimo B.C V9R 5J6

We are the people most affected by the proposed heat pump. We live at civic address 411 Larch Street Lot 5 plan 10848 by your Map; we have no objections at all to the variance. I believe the impact will be minimal if any.

Yours truly
Kenneth Singer Kenneth Singer

Mary Singer Mary E Singer





Penny Masse

Subject: BOV DECISIONS

From: Fred Taylor [<mailto:fhjtaylor@telus.net>]
Sent: October 15, 2012 11:30 AM
To: tim@timwait.com; janetcowling@shaw.ca
Cc: mayor&council@nanaimo.ca
Subject: BOV DECISIONS

appeal.

MINUTES- BOARD OF VARIANCE

2012-SEP-20

PAGE4

Decision:

APPEAL NO.:

Applicant:

Civic address:

Legal Description:

Purpose:

Zoning Regulations:

It was moved and seconded that the request to vary the provisions of Zoning Bylaw 4500 to reduce the required 4.5m side yard setback for a heat pump in order to permit the placement of a heat pump 3.6m from the side yard property line be approved. The motion carried unanimously.

The variance request was deemed to be a hardship.

BOV602

Ms. Lori Doumont and Mr. Glenn Doumont

2242 Neil Drive

LOT 47, SECTION 11, RANGE 7, MOUNTAIN DISTRICT, PLAN 25146

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.

Single Dwelling Residential - R 1 a. 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. and Mrs. Doumont were in attendance for their appeal.

Decision:

A submission was received for this application from Mr and Mrs. Lewis as well as photos submitted by the applicant. They are attached as "Schedule B - Submissions received for Board of Variance Application No. BOV602".

It was moved and seconded that the request 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 be denied. The motion carried.

Opposed: Mr. Wait

The variance request was not deemed to be a hardship.

Penny Masse

Subject: FW: BOV 607, Oct 18, 2012

From: Fred Taylor [<mailto:fhjtaylor@telus.net>]

Sent: October 15, 2012 10:28 AM

To: tim@timwait.com; janetcowling@shaw.ca

Cc: mayor&council@nanaimo.ca

Subject: BOV 607, Oct 18, 2012

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. The required setback is 4.5m from the side parcel line. The proposed setback is 1.61m from the side parcel line. The applicant is requesting a variance of 3.19m

contact with 'Staff' representative agrees there are 2 variances requested in this application

1. location of heat pump from rear of a principle building to the side of a principle building
2. distance setback to the side lot line (understood from the side of the principle building)

Single Dwelling Residential - R1. 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.

Although I do not support 'rear location' to a principle building as upgrading of heating of a principle building with a heat pump usually involves connection to the heating system of the building which may be located in the front part of the building with interior finished,

I believe the BOV has no authority to change the 'intent' of the bylaw (from rear of a principle building to side of the principle building)

a development variance question for the Council (as others)