



COMMUNITY SAFETY & DEVELOPMENT

MINUTES OF THE MEETING OF THE BOARD OF VARIANCE HELD IN THE BOARDROOM, 455 WALLACE STREET, NANAIMO, BC ON THURSDAY, 2012-SEP-20 COMMENCING AT 7:00 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 6:58 p.m.

2. **ADOPTION OF MINUTES:**

It was moved and seconded that the Minutes of the meeting of the Board of Variance held in the Boardroom, 455 Wallace Street, Nanaimo, BC on Thursday, 2012-JUL-19 be adopted as amended. The motion carried unanimously.

3. **APPLICATIONS:**

APPEAL NO.: **BOV604**

Applicant: Mr. Jason Clayton (Modern Aluminum & Vinyl Products Ltd.) on behalf of Ms. Fran Dowson.

Civic address: 6486 Peregrine Road

Legal Description: LOT 4, DISTRICT LOT 53, WELLINGTON DISTRICT, PLAN VIP76367

Purpose: The applicant is requesting the required rear yard setback be reduced from 7.5m to 3m and the required side yard setback be reduced from 1.5m to 0.65m in order to permit a structural addition (pool enclosure) to a single residential dwelling. This represents a rear yard variance of 4.5m and a side yard variance of 0.85m.

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 rear yard setback of 7.5m 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. Fran Dowson was in attendance for her appeal. Mr. Jason Clayton (Modern Aluminum & Vinyl Products Ltd.) was in attendance and presented to the Board regarding the appeal.

Decision: It was moved and seconded that the request to reduce the required rear yard setback from 7.5m to 3m and the required side yard setback be reduced from 1.5m to 0.65m in order to permit a structural addition (pool enclosure) to a single residential dwelling be tabled until an elevation of the proposed pool enclosure be provided to the Board. The motion carried unanimously.

It was further decided that a Special Board of Variance meeting will be scheduled prior to the regularly scheduled Board of Variance meeting of 2012-OCT-18 once the Board has received the requested elevation drawing.

APPEAL NO.: **BOV606**

Applicant: Ms. Stella Botto

Civic address: 501 Woodhaven Drive

Legal Description: STRATA LOT 173, SECTION 5, WELLINGTON DISTRICT, STRATA PLAN 830 (PHASE 3), TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM 1.

Purpose: The applicant is requesting the required side yard setbacks be reduced from 1.5m to 0.7m (east side of deck) and 1.5m to 1.2m (west side of deck), respectively, in order to permit two recently constructed open decks. This represents side yard variance requests of 0.8m (east side of deck), and 0.3m (west side of deck), 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: Ms. Stella Botto was in attendance for her appeal.

A submission was received for this application from Mr. Luis Porretta, it is attached as "Schedule A – Submission received for Board of Variance Application No. BOV606".

Decision: It was moved and seconded that the request to reduce the required side yard setbacks from 1.5m to 0.7m (east side of deck) and 1.5m to 1.2m (west side of deck), respectively, in order to permit two recently constructed open decks be approved. The motion carried.

Opposed: Mr. Wait

The variance requests were deemed to be a hardship.

APPEAL NO.: **BOV603**

Applicant: Ms. Kim Yon and Mr. Gary Yon

Civic address: 136 Yon Place

Legal Description: LOT 14, SECTION 4, WELLINGTON DISTRICT, PLAN EPP11448

Purpose: The applicant is requesting 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. This represents a side yard variance request of 0.9m.

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. Gary Yon were in attendance for his appeal. Ms. Andrea Oud of 130 Yon Place was in attendance for the appeal.

Decision: 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.

APPEAL NO.: **BOV602**

Applicant: Ms. Lori Doumont and Mr. Glenn Doumont

Civic address: 2242 Neil Drive

Legal Description: LOT 47, SECTION 11, RANGE 7, MOUNTAIN DISTRICT, PLAN 25146

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 Regulations: Single Dwelling Residential - R1a. 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.

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".

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 be denied. The motion carried.

Opposed: Mr. Wait

The variance request was not deemed to be a hardship.

4. **OTHER BUSINESS:**

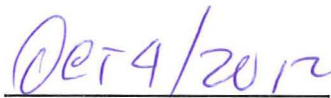
It was moved and seconded that Staff amend the requirements of BOV applications to include elevations for the proposed variance. The motion carried unanimously.

5. **ADJOURNMENT:**

It was moved and seconded at 8:55 p.m. that the meeting terminate. The motion carried unanimously.



CHAIR
CERTIFIED CORRECT



DATE:

Attachment A

Submission

For

**Board of Variance
Application No. BOV606**

(501 Woodhaven Drive)

Penny Masse

From: David Stewart
Sent: Thursday, September 20, 2012 4:02 PM
To: Penny Masse
Subject: FW: APPEAL NO: BOV606
Attachments: IMG_0112_edited-1yuuy.jpg

From: David Stewart
Sent: Thursday, September 20, 2012 3:33 PM
To: Jill Collinson; Sheila Herrera
Subject: FW: APPEAL NO: BOV606

From: Luis Porretta [<mailto:lporetta@shaw.ca>]
Sent: Wednesday, September 19, 2012 7:12 PM
To: David Stewart
Subject: APPEAL NO: BOV606

Hello David,

Further to our telephone conversation today I attach a photograph of two sapling fir trees on our property (Strata 762) that are close to the property of Ms. Stella Botto at 501 Woodhaven but are on Strat 762 land.

Under no circumstances will we allow any interference with the trees whatsoever. If there is encroachment on land owned by Strata 762 of any sort by the Variance being sought by Ms. Botto we are opposed to this Variance. If no land is encroached on by this variance, we have no issue against the Variance.

Given that Ms. Botto verbally led us and our neighbours to believe that her home was to be built at a much lower level than it actually was, and then when complaint was made as to the destruction of our views and the compromise of our privacy, blamed her architects for building the house higher than she wished, we feel it incumbent on us to ensure the safety of the boundaries of Strata 762 land.

Many thanks,

Luis Porretta

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www.luisporrettafinearts.com



Attachment B

Submissions

For

**Board of Variance
Application No. BOV602**

(2242 Neil Drive)

Sept 19, 2012

To: Members of the Board of Variance,

We appreciate where the Duments have located their heat pump. If they had located it behind their home, it would be much more likely that we would be bothered by it. We have two bedrooms near their back yard, with only low shrubbery between the houses.

Sincerely

Ruth Lewis

R. M. Lewis

2238 Neil Drive.

#1



#2





#3



#4



#5



#6