

CITY OF NANAIMO

BOARD OF VARIANCE

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE
HELD ON THURSDAY, 2008-FEBRUARY-21st, IN THE BOARD ROOM,
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

PRESENT: Jerome Howell, Acting Chair
Dorothy Rispin
Jim Galloway
Dan Hooper

STAFF: David Pady
Kris Sillem

1. **CALL TO ORDER:**
The meeting was called to order at 7:02 p.m.

2. **MINUTES**
MOVED by Jim Galloway SECONDED by Dorothy Rispin, that the minutes of the meeting held 2007-December-20th be adopted as amended.

CARRIED

3. **APPEAL:** **BOV00432**

APPLICANT: Sharon Kofoed

LOCATION: **Legal Description:** LOT 50, SECTION 11, RANGE 6,
MOUNTAIN DISTRICT, PLAN 27954
Civic address: 2322 Panorama View Drive

PURPOSE: The applicant is requesting the front yard setback be reduced from 6 metres (19.69 feet) to 5.67 metres (18.60 feet) in order to permit an addition to an existing single family dwelling. This represents a variance of .33 metres (1.09 feet).

ZONING REGULATIONS:

This property is included in the Single Family Mobile Home Residential Zone (RS-3) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

*"Section 6.3.5.1 – Yard Requirements
A front yard of not less than 6 metres (19.69 feet) shall be provided."*

DISCUSSION

Ms. Sharon Kofoed (2322 Panorama View Drive) appeared in support of the appeal.

DECISION

MOVED by Dan Hooper, SECONDED by Dorothy Rispin that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

4. **APPEAL:** **BOV00420**

APPLICANT: **Wilfred Leach**

LOCATION: **Legal Description:** LOT 1, BLOCK 1, SECTION 15,
WELLINGTON DISTRICT, PLAN 419
Civic address: 2900 Robson Street

PURPOSE: The applicant is requesting that the maximum height of a single family dwelling be increased from 8.25 metres (27.06 feet) to 8.64 metres (28.34 feet) for a single family dwelling under construction. This represents a variance of 0.39 metres (1.28 feet).

Please note that this is an amended application brought forward by the applicant to replace the original application heard at the regular Board of Variance meeting held 2007-December-20th. The amendment represents a height variance of 0.39 metres (1.28 feet) as opposed to the original application which sought a height variance of 0.75 metres (2.46 feet) this represents an overall height difference of 0.36 metres (1.18 feet) from the original height variance applied for.

ZONING REGULATIONS:

This property is included in the Single Family Residential Zone (RS-1) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 6.1.71 - Height of Buildings

The height of a principal building shall not exceed the maximum height shown in the following table:

Roof Pitch	Maximum Height
A flat roof (< than 4:12)	6.71 metres (22 feet)
A sloped roof (≥ 4:12)*	8.25 metres (27.06 feet)

** for an area of at least 80% of all roof surfaces measured in plan view.*

DISCUSSION

Mr. Wilfred Leach and Mrs. Gloria Leach (135 Townsite Road), appeared in support of the appeal.

Ms. Taryn Langford (2920 Haliday Crescent), Ms. Joyce Hardcastle (2900 James Street) and Mr. Clint L'Heureux (2910 James Street) appeared in opposition to the appeal.

DECISION

MOVED by Jim Galloway, SECONDED by Dorothy Rispin that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

5. **APPEAL:** **BOV00425**

APPLICANT: **Sandra Lee Tranfield**

LOCATION: **Legal Description:** LOT 64, DOUGLAS ISLAND (ALSO
KNOWN AS PROTECTION ISLAND), NANAIMO DISTRICT, PLAN
1411
Civic address: 67 Pirates Lane

PURPOSE: The applicant is requesting that the rear yard setback be reduced from 7.5 metres (24.6 feet) to 3.9 metres (12.8 feet) in order to permit an addition to a single family dwelling which is non conforming as to siting. This represents a variance of 3.6 metres (11.8 feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential Island Zone (RS-4) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 6.4.6.3. – Yard Requirements

A rear yard of not less than 7.5 metres (24.60 feet) shall be provided for a principal building. A rear yard of not less than 1.5 metres (4.92 feet) shall be provided for an accessory building."

Please note Section 911 (9) and (10) of the Local Government Act, which 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. Sandra Lee Tranfield (67 Pirates Lane), appeared in support of the appeal.

DECISION

MOVED by Dorothy Rispin, SECONDED by Dan Hooper, that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

6. **APPEAL:** **BOV00426**

APPLICANT: **Marko Vinco Bajan**

LOCATION: **Legal Description:** PARCEL B (DD 7531-N), OF LOT 6, BLOCK 18, SECTION 1, NANAIMO DISTRICT, PLAN 584
Civic address: 132 Victoria Road

PURPOSE: The applicant is requesting that the side yard setback be reduced from 1.5 metres (4.92 feet) to 0.35 metres (1.14 feet) in order to permit an addition to a single family dwelling which is non-conforming as to siting. This represents a variance of 1.15 metres (3.78 feet).

ZONING REGULATIONS:

This property is included in the Old City Medium Density Multiple Family Residential Zone – (RM-10) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000"

"Section 7.10.6.2. -Yard Requirements

Side yards of not less than 1.5 metres (4.92 feet) for each side yard shall be provided. In the case of a corner lot, the side yard adjoining the flanking street shall not be less than 2.5 metres (8.20 feet) in depth."

Please note Section 911 (9) and (10) of the Local Government Act, which 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

Mr. Marco Vinco Bajan (621 Prideaux Street) appeared in support of the appeal.

DECISION

MOVED by Jim Galloway, SECONDED by Dorothy Rispin that the appeal be **approved**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

7. **APPEAL:** **BOV00427**

APPLICANT: **Terry Kephart**

LOCATION: **Legal Description:** LOT 3, SECTION 1, NANAIMO DISTRICT,
PLAN 10360
Civic address: 801 Short Avenue

PURPOSE: The applicant is requesting the front yard setback be reduced from 10 metres (32.8 feet) to 7.60 metres (24.8 feet) in order to permit a structural alteration to an existing single family dwelling which is non-conforming as to siting. This represents a variance of 2.4 metres (7.8 feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential Zone (RS-1a) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 5.2.1 – Location and Siting of Buildings and Structures to Major Roads

Principal or accessory buildings or structures shall not be closer than....10 metres (32.8 feet) from a property line that abuts established urban arterials, urban collector roads and provincial highways as designated by the City of Nanaimo Official Community Plan, when the required dedication to achieve the required right-of-way width has not occurred to facilitate the widening of the major road.

Please note Section 911 (9) and (10) of the Local Government Act, which 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

Mr. Terry Kephart (801 Short Avenue) appeared in support of the appeal.

Mr. John and Mrs. Marilyn Garrow (805 Short Avenue) and registered owners of (327 Seventh Street) submitted a letter to the Board in opposition to the appeal.

DECISION

MOVED by Jim Galloway, SECONDED by Dan Hooper that the appeal be **approved**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

8. **APPEAL:** **BOV00428**

APPLICANT: **Richard Platt**

LOCATION: **Legal Description:** LOT 2, DISTRICT LOT 30, WELLINGTON DISTRICT, PLAN 26355, NORTHWEST PARK MANOR MOBILE HOME, MHR EX20006
Civic address: 6060 Pine Park Place

PURPOSE: The applicant is requesting that the Board of Variance permit a structural alteration to a mobile home which is non-conforming as to use.

ZONING REGULATIONS:

This property is included in the Single Family Residential Zone (RS-1) and the appeal seeks to vary the following provisions of the Local Government Act:

Section 9.11.1 - Non-conforming Uses and Siting

(5) 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 structure while the non-conforming use is continued in all or any part of it.

DISCUSSION

Mr. Richard Platt (6060 Pine Park Place) appeared in support of the appeal.

DECISION

MOVED by Dan Hooper, SECONDED by Dorothy Rispin that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

9. **APPEAL:** **BOV00429**

APPLICANT: **Alexander Calvin Paley**

LOCATION: **Legal Description:** LOT 12, SECTION 2, WELLINGTON DISTRICT, PLAN 23306
Civic address: 1589 Sherwood Drive

PURPOSE: The applicant is requesting that the side yard setback be reduced from 1.5 metres (4.92 feet) to 0.27 metres (.88 feet) in order to permit for a previously constructed deck which is non-conforming as to siting. This represents a variance of 1.23 metres (4.04 feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential Zone (RS-1) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 6.1.6.2 -Yard Requirements

Side yards of not less than 1.5 metres (4.92 feet) for each side yard shall be provided. In the case of a corner lot, the side yard adjoining the flanking street shall not be less than 4 metres (13.12 feet) in depth."

Please note Section 911 (9) and (10) of the Local Government Act, which 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

Mr Calvin Paley and Mrs Louise Paley (1131 College Drive) appeared in support of the appeal.

DECISION

MOVED by Dan Hooper, SECONDED by Jim Galloway that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

10. APPEAL: BOV00430

APPLICANT: Edward J Jackson

LOCATION: Legal Description: LOT 5, SECTION 1, NANAIMO DISTRICT,
PLAN 6234
Civic address: 17 Albion Street

PURPOSE: The applicant is requesting that the side yard setback be reduced from 4.0 metres (13.12 feet) to 3.7 metres (12.13 feet) in order to permit a structural alteration to a single family dwelling which is non-conforming as to siting. This represents a variance of .3 metres (.99 feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential Zone (RS-1a) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 6.1.6.2 -Yard Requirements

Side yards of not less than 1.5 metres (4.92 feet) for each side yard shall be provided. In the case of a corner lot, the side yard adjoining the flanking street shall not be less than 4 metres (13.12 feet) in depth."

Please note Section 911 (9) and (10) of the Local Government Act, which 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

Mr. Doug Campbell (531 Charfinch Drive) acting agent for Mr. Edward J Jackson (17 Albion Street) appeared in support of the appeal.

DECISION

MOVED by Dan Hooper, SECONDED by Jim Halloway that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

11. **APPEAL:** **BOV00431**

APPLICANT: **Sea To Sky Construction**

LOCATION: **Legal Description:** STRATA LOT 189, SECTION 5, WELLINGTON DISTRICT, STRATA PLAN 830. TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM 1 (USER RATE BILLING FOLIO 07827.549)
Civic address: 370 Woodhaven Drive

PURPOSE: The applicant is requesting the front yard setback be reduced from 3 metres (9.84 feet) to 1.58 metres (5.18 feet) in order to permit an addition to an existing single family dwelling. This represents a variance of 1.42 metres (4.66 feet).

ZONING REGULATIONS:

This property is included in the Single Family Bare Land Strata Zone (RS-5) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 6.5.7.1 – Yard Requirements

A front yard shall be provided of not less than 3 metres (9.84 feet)."

DISCUSSION

Mr. Peter Fulton (541 Kennedy Street) appeared in support of the appeal.

DECISION

MOVED by Jim Halloway, SECONDED by Dan Hooper that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

12. **APPEAL:** **BOV00433**

APPLICANT: **John Tait**

LOCATION: **Legal Description:** LOT 37, SECTION 11, RANGE 6, MOUNTAIN DISTRICT, PLAN 27954
Civic address: 98 Timberview Drive

PURPOSE: The applicant is requesting that the maximum size of an accessory building be increased from 70 square metres (753.5 square feet) to 79.43 square metres (855 square feet) in order to permit an addition to an accessory building. This represents a variance of 9.43 square metres (101.5 square feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential Zone (RS-1) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 5.5.5- Accessory Buildings and Structures

The sum total of all accessory buildings on a lot zoned single family residential, RM-1, RM-2, RM-9, or RM-11 shall not exceed a gross floor area of 70 square metres (753.5 square feet). For the purpose of this subsection, the calculation of gross floor area shall include an accessory building (or portion thereof) used for parking purposes."

DISCUSSION

Mr. John Tait and Mrs. Vicky Tait (98 Timberview Drive) appeared in support of the appeal.

DECISION

MOVED by Jim Galloway, SECONDED by Dan Hooper that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

13. **APPEAL:** **BOV00434**

APPLICANT: **Mark Dobbs**

LOCATION: **Legal Description:** LOT I, SECTION 18, RANGE 7,
MOUNTAIN DISTRICT, PLAN 22081
Civic address: 2321 Bowen Road

PURPOSE: The applicant is requesting the front yard setback be reduced from 7.5 metres (24.6 feet) to 7.13 metres (23.4 feet) in order to permit an addition to an existing single family dwelling which is non-conforming as to siting. This represents a variance of .37 metres (1.2 feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential Zone (RS-1) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 5.2.1 – Location and Siting of Buildings and Structures to Major Roads

Principal or accessory buildings or structures shall not be closer than....7.5 metres (24.6 feet) from a property line that abuts established urban arterials, urban collector roads and provincial highways as designated by the City of Nanaimo Official Community Plan, when dedication has occurred to achieve the required right-of-way width.

Please note Section 911 (9) and (10) of the Local Government Act, which 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

Mr. Mark and Mrs. Mary Dobbs (2321 Bowen Road) appeared in support of the appeal.

DECISION

MOVED by Dorothy Rispin, SECONDED by Dan Hooper that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-August-21st).

CARRIED

14. ATTENDANCE

Lars Apland expressed regret for not being able to attend the meeting held 2008-February-21st.

It was determined that all Board Members will be in attendance for the meeting to be held 2008-March-20th.

15. ADJOURNMENT

MOVED by Jerome Howell, SECONDED by Dorothy Rispin that the meeting be adjourned at 8:30 p.m.

CARRIED

Jerome Howell
Acting Chairperson, Board of Variance

Kris Sillem
Secretary, Board of Variance

ec Planning and Development Department
Building Inspection Department
Bylaw Services Department
Cam Scott, Communications Officer
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