

CITY OF NANAIMO

BOARD OF VARIANCE

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE
HELD ON THURSDAY, 2007-NOVEMBER-15th, IN THE BOARD ROOM,
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

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

STAFF: David Pady

1. CALL TO ORDER:

The meeting was called to order at 7:00 p.m.

2. MINUTES

It was determined by the Board that the minutes of the meeting held 2007-October-29th be amended and deferred until the next meeting to be held 2007-December-20th.

DEFERRED

3. APPEAL: **BOV00408**

APPLICANT: **Greg Hogan**

LOCATION: **Legal Description:** LOT 6, SECTION 10 RANGE 7 MOUNTAIN
DISTRICT PLAN VIP80643
Civic address: 224 Shiloh Drive

PURPOSE: The applicant is requesting that the maximum height of a front yard fence be increased from 1.2 metres (3.94 feet) to 1.92 metres (6.30 feet) in order to construct a fence. This represents a variance of 0.72 metres (2.36 feet).

ZONING REGULATIONS:

This property is included in the Steep Slope Suburban Residential Zone (RS-8) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 6.8.10.1 - Height of Fences

The height of a fence shall not exceed 1.2 metres (3.9 feet) in any side or rear yard".

DISCUSSION

Mr. Charles Barnes and Mr. Bob Freeman (220 Shiloh Drive) appeared in opposition to the appeal.

DECISION

MOVED by Dorothy Rispin, SECONDED by Jerome Howell that the appeal be **denied**.

CARRIED

4. **APPEAL:** **BOV00413**

APPLICANT: **Dean Muir**

LOCATION: **Legal Description:** LOT 1 SECTION 9 RANGE 8 MOUNTAIN
DISTRICT PLAN VIP80283
Civic address: 1301 Thalia Place

PURPOSE: The applicant is requesting that:

1. the maximum height of a flanking side yard fence be increased from 1.8 metres (5.9 feet) to 3.84 metres (12.60 feet) as indicated on Section G of the attached survey and;
 2. the maximum height of a rear yard fence be increased from 2.4 metres (7.87 feet) to 4.04 metres (13.25 feet) as indicated on Section D on the attached survey
- in order to permit a recently constructed retaining wall and fence. This represents a flanking side fence height variance of 2.04 metres (6.69 feet) and a rear yard fence height variance of 1.67 metres (5.38 feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential Zone (large lot) (RS-2) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 6.2.9.2 - Height of Fences

The height of a fence shall not exceed 2.4 metres (7.87 feet) in any side or rear yard".

"Section 6.2.9.3 – Height of Fences

In the case of a corner lot, the height of a fence shall not exceed 1.8 metres (5.9 feet) when sited in a flanking side yard."

DISCUSSION

Mrs. Heather Wong (5368 Vincent Place) appeared in support of the appeal.

DECISION

MOVED by Jim Galloway, SECONDED by Jerome Howell that the appeal be **denied**.

CARRIED

5. **APPEAL:** **BOV00414**

APPLICANT: **Paulus Bunadhie**

LOCATION: **Legal Description:** LOT 21, BLOCK JACKSON, SECTION 1,
NANAIMO DISTRICT, PLAN 584, EXCEPT THAT PART LYING
TO THE EAST OF A BOUNDARY PARALELL TO AND
PERPENDICULARLY DISTANT 52 FEET FROM THE WESTERLY
BOUNDARY, EXCEPT THAT PART IN PLAN VIP55962
Civic address: 705 Milton Street

PURPOSE: The applicant is requesting that;

1. the front yard setback be reduced from 7.5 metres (24.60 feet) to 2.73 metres (8.96 feet) and
2. the flanking side yard setback be reduced from 7.5 metres (24.60 feet) to 6.09 metres (19.98 feet)

in order to permit a structural alteration to an existing single family dwelling which is non-conforming as to siting. This represents a front yard variance of 4.77 metres (15.64 feet) and a flanking side yard variance of 1.41 metres (4.62 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....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.

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. Paulus Bunadhie and Ms. Stephanie Lachance (705 Milton Street) appeared in support of the appeal.

DECISION

MOVED by Jerome Howell, SECONDED by Dorothy Rispin that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-May-15th).

CARRIED

5. **APPEAL:** **BOV00415**

APPLICANT: **John Graham Calder**

LOCATION: **Legal Description:** LOT 7, BLOCK 4, NEWCASTLE
RESERVE, SECTION 1, NANAIMO DISTRICT, PLAN 5753
Civic address: 1361 Discovery Avenue

PURPOSE: The applicant is requesting the side yard setback be reduced from 1.5 metres (4.92 feet) to 1.29 metres (4.23 feet) in order permit the a structural alteration to a single family dwelling which is non-conforming as to siting. This represents a variance of 0.21 metres (0.69 feet).

ZONING REGULATIONS:

This property is included in the Residential Single Family 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."

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. John Calder and Mrs. Vicky Calder (1361 Discovery Avenue) appeared in support of the appeal.

DECISION

MOVED by Dorothy Rispin, SECONDED by Jim Galloway that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-May-15th).

CARRIED

6. **APPEAL:** **BOV00416**

APPLICANT: **Paige Foster**

LOCATION: **Legal Description:** LOT 3 DISTRICT LOT 40 WELLINGTON
DISTRICT PLAN VIP76305
Civic address: **5676 Muggies Way**

PURPOSE: The applicant is requesting that the maximum height of an accessory building be increased from 4.5 metres (14.76 feet) to 5.31 metres (17.42 feet) in order to construct an accessory building. This represents a variance of 0.81 metres (2.66 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 6.1.7.4. – Height of Buildings

The height of an accessory building shall not exceed 4.5 metres (14.76 feet)."

DISCUSSION

Mr. John Foster and Mrs. Paige Foster (5676 Muggies Way), and Mr. Don Huberts (3348 Greyhawk Drive) appeared in support of the appeal.

Mr. Mark Rogers and Ms. Nolla Taylor (5628 Muggies Way), Mr. Terrance Bayliss and Ms. Helia Sillem (5680 Muggies Way) appeared in opposition to the appeal.

DECISION

MOVED by Dan Hooper, SECONDED by Jerome Howell that the appeal be **deferred** until the next meeting to be held 2007-December-20th.

CARRIED

7. **APPEAL:** **BOV00417**

APPLICANT: **Lanny Smith**

LOCATION: **Legal Description:** LOT 1, BLOCK 3, SECTION 37,
RANGE 7, SECTION 1, NANAIMO DISTRICT, PLAN 1145
Civic address: 151 Craig Street

PURPOSE: The applicant is requesting that:

1. the front yard setback be reduced from 6 metres (19.69 feet) to 3.74 metres (12.27 feet)
 2. the flanking side yard be reduced from 10 metres (32.8 feet) to 3.85 metres (12.63 feet)
- in order to permit a structural alteration to an existing single family dwelling which is non-conforming as to siting. This represents a front yard variance of 2.26 metres (7.41 feet) and a flanking side yard variance of 6.15 metres (20.17 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":

"6.1.6.1 – Yard Requirements

A front yard of not less than 6 metres (19.69 feet) shall be provided."

"Section 5.2.1.1 – 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 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

Ms. Melanie Brouard (151 Craig), and Mr. Robin Smith (137 Swanson Road) appeared in support of the appeal.

DECISION

MOVED by Dorothy Rispin, SECONDED by Jim Galloway that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-May-15th).

CARRIED

7. **APPEAL:** **BOV00418**

APPLICANT: **Robert Johnson**

LOCATION: **Legal Description:** LOT 5, SECTION 13, RANGE 8,
MOUNTAIN DISTRICT, PLAN 9942
Civic address: 123 Pryde Avenue

PURPOSE: The applicant is requesting the front yard setback be reduced from 6 metres (19.69 feet) to 5.86 metres (19.23 feet) in order to permit a recent structural alteration to an existing single family dwelling. This represents a variance of 0.14 metres (0.46 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":

"6.1.6.1 – Yard Requirements

A front yard of not less than 6 metres (19.69 feet) shall be provided."

DISCUSSION

Mr. Robert Johnson (123 Pryde Avenue) appeared in support of the appeal.

DECISION

MOVED by Dorothy Rispin, SECONDED by Jim Galloway that the appeal be **granted**. Approval is subject to a building permit being issued within 6 months (2008-May-15th).

CARRIED

5. ATTENDANCE

It was determined that Patricia Portsmouth, Dorothy Rispin, Jerome Howell, and Jim Galloway will be in attendance for the meeting to be held 2007-November-15th.

Patricia Portsmouth expressed regret for not being able to attend the meeting held 2007-November-15th.

Dan Hooper expressed regret for not being able to attend the meeting to be held 2007-December-20th.

6. ADJOURNMENT

MOVED by Jerome Howell, SECONDED by Dorothy Rispin that the meeting be adjourned at 8:41 p.m.

CARRIED

Dan Hooper
Acting Chairperson, Board of Variance

Dave Pady
Secretary, Board of Variance

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