

CITY OF NANAIMO

BOARD OF VARIANCE

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE
HELD ON THURSDAY, 2006-JULY-20th, IN THE BOARD ROOM,
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

PRESENT: Roger Richer, Chairperson
Dan Hooper
Dorothy Rispin
Patricia Portsmouth

STAFF: David Stewart

1. **CALL TO ORDER:**
The meeting was called to order at 7:00 p.m.

2. **MINUTES**
MOVED by Dorothy Rispin SECONDED by Roger Richer, that the minutes of the meeting held 2006-June-15th be adopted

CARRIED

3. **APPEAL:** **BOV00331**

APPLICANT: **Robert William Borden**

LOCATION: **Legal Description:** LOT 10, SECTION 10, RANGE 8, MOUNTAIN DISTRICT, PLAN 10440
Civic Address: 2566 Holyrood 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 93.6 square metres (1007.17 square feet) in order to construct an accessory building. This represents a variance of 23.6 square metres (253.67 square feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential (Large Lot) Zone (RS-2) 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. Rob Borden (2566 Holyrood Drive) appeared in support of the appeal. Mr. John Cowling (2565 Lynburn Crescent) appeared after the board voted on the appeal. Mr. Cowling had some questions, regarding potential residency within the accessory building and the permitted length of the construction period, these questions were answered by staff.

DECISION

Ms. Dorothy Rispin excused herself from voting on the appeal due to a potential conflict.

MOVED by Dan Hooper SECONDED by Patricia Portsmouth that the appeal be **granted**. Approval is subject to a building permit being issued within 3 months (2006-October-20th)

CARRIED

4. **APPEAL:** **BOV00335**
- APPLICANT:** **Allan Paul Nickel and Dawn Grace Nickel**
- LOCATION:** **Legal Description:** STRATA LOT 56, DISTRICT LOT 24G, WELLINGTON DISTRICT, STRATA PLAN VIS3925, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM 1
 Civic Address: 5797 Quarry Road
- PURPOSE:** The applicant is requesting that the maximum height for a principal dwelling be increased from 8.25 metres (27.06 feet) to 9.42 metres (30.91 feet) in order to construct a single family dwelling. This represents a variance of 1.17 metres (3.85 feet).
- ZONING REGULATIONS:**
 This property is included in the Single Family Residential Small Lot Zone (RS-6) and the appeal seeks to vary the following provisions of the “City of Nanaimo Zoning Bylaw 4000”:

“Section 6.6.8.1- Height of Buildings

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

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

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

DISCUSSION

Mr. Allan Nickel (5797 Quarry Road) appeared in support of this appeal.

DECISION

MOVED by Dorothy Rispin SECONDED by Patricia Portsmouth that the appeal be **granted**. Approval is subject to a building permit being issued within 3 months (2006-October-20th)

CARRIED

5. APPEAL: BOV00336

APPLICANT: Shea Keegan Godberson

LOCATION: Legal Description: LOT 14, SECTION 20, RANGE 4, MOUNTIAN DISTRICT, PLAN VIP79868
Civic Address: 3615 Monterey Drive

PURPOSE: The applicant is requesting that the maximum height for a principal dwelling be increased from 8.25 metres (27.06 feet) to 8.63 metres (28.31 feet) for a single family dwelling under construction. This represents a variance of 0.38 metres (1.25 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 6.1.7.1- Height of Buildings

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

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

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

DISCUSSION

Mr. Shea Godberson (3615 Monterey Drive) and Mr. Ron Walton (builder) appeared in support of this appeal.

DECISION

MOVED by Patricia Portsmouth SECONDED by Dorothy Rispin that the appeal be **granted**.

CARRIED

6. **APPEAL:** **BOV00337**

APPLICANT: **Philip Neil Thornton and Jane Irene Thornton**

LOCATION: **Legal Description:** LOT 53, SECTION 8,
WELLINGTON DISTRICT, PLAN 24916
Civic Address: 6635 Green Acres Way

PURPOSE: The applicant is requesting that the maximum size of an accessory building be increased from 70 square metres (753.5 square feet) to 126.1 square metres (1357.4 square feet) in order to construct an accessory building. This represents a variance of 56.1 square metres (603.9 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. Philip Thornton (6635 Green Acres Way) appeared in support of this appeal.

DECISION

MOVED by Dan Hooper SECONDED by Patricia Portsmouth that the appeal be **granted** as described on the application reviewed by the Board on 2006-July-20th. Approval is subject to a building permit being issued within 3 months (2006-October-20th)

CARRIED

8. **APPEAL:** **BOV00340**

APPLICANT: **Douglas Edward Dean Reid**

LOCATION: **Legal Description:** LOT 86, DISTRICT LOT 41,
WELLINGTON DISTRICT, PLAN VIP58466
Civic Address: 4077 Eagle View Drive

PURPOSE: The applicant is requesting the side yard setback be reduced from 1.5 metres (4.92 feet) to 0.85 metres (2.79 feet) in order to permit a recently constructed open deck. This represents a variance of 0.65 metres (2.13 feet).

ZONING REGULATIONS:

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

"Section 6.2.6.2- Yard Requirements

Side yards of not less than 1.5 metres (4.92 feet) for each side yard shall be provided."

DISCUSSION

Mr. Douglas Reid (4077 Eagle View Drive) and Mr. Roger Landry (builder) appeared in support of this appeal. Ms. Glyneth Davis (4085 Eagle View Drive) appeared in opposition to this appeal.

DECISION

MOVED by Dan Hooper SECONDED by Dorothy Rispin that the appeal be denied.

CARRIED

9. **APPEAL:** **BOV00341**

APPLICANT: **Bradley David Maguire**

LOCATION: **Legal Description:** LOT 7, SECTION 1, NANAIMO
DISTRICT, PLAN VIP77985
Civic Address: 852 Whistler Place

PURPOSE: The applicant is requesting that the maximum projection of an open deck into the required rear yard setback be increased from 2 metres (6.56 feet) to 4.1 metres (13.45 feet) in order to construct an open deck. This represents a maximum projection variance of 2.1 metres (6.89 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 5.4.2- Projections

The maximum projection into the required front and rear yard shall be 2 metres (6.56 feet) or half the distance of the required yard whichever is less"

DISCUSSION

Mr. Brad Maguire (852 Whistler Place) appeared in support of this appeal.

DECISION

MOVED by Patricia Portsmouth SECONDED by Dorothy Rispin that the appeal be **granted**. Approval is subject to a building permit being issued within 3 months (2006-October-20th)

CARRIED

10. APPEAL: BOV00342

APPLICANT: Craig David Jones and Angeline Marie Jones

**LOCATION: Legal Description: LOT 1 & 4, SECTION 1,
NANAIMO DISTRICT, PLAN 18915
Civic Address: 624 Shepherd Avenue**

PURPOSE: The applicant is requesting that the maximum size of an accessory building be increased from 70 square metres (753.5 square feet) to 94.8 square metres (1020.45 square feet) in order to construct an accessory building. This represents a variance of 24.8 square metres (266.95 square feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential (Large Lot) Zone (RS-2a) 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."

Mr. Craig Jones (624 Shepherd Avenue) appeared in support of this appeal.

MOVED by Dorothy Rispin SECONDED by Dan Hooper that the appeal be **granted**. Approval is subject to a building permit being issued within 3 months (2006-October-20th)

11.	APPEAL:	BOV00343
	APPLICANT:	Diane Denton and Anne Stella Olenik
	LOCATION:	Legal Description: SECTION B, OF LOT 6, BLOCK H, SECTION 1, NANAIMO DISTRICT, PLAN 584 Civic Address: 736 Albert Street

- 1) The side yard setback be reduced from 1.5 metres (4.92 feet) to 0.80 metres (2.62 feet); and
- 2) The front yard setback be reduced from 10 metres (32.8 feet) to 2.2 metres (7.22 feet)

ZONING REGULATIONS:

“Section 7.9.6.2- Yard Requirements

“Section 5.2.1- Location and Sitting of Buildings and Structures- To Major Roads. Principal or accessory buildings or structures shall not be closed 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

Ms. Diane Denton (736 Albert Street) and Mr. Ron Wilson (1950 Vancouver Avenue) appeared in support of this 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 3 months (2006-October-20th)

12. **APPEAL:** **BOV00345**
- APPLICANT:** **Terry Alan Fiddick**
- LOCATION:** **Legal Description:** LOT 1, NEWCASTLE
 RESERVE, SECTION 1, NANAIMO DISTRICT, PLAN
 48118
 Civic Address: 1321 Stewart Avenue

PURPOSE: The applicant is requesting the side yard setback be reduced from 1.5 metres (4.92 feet) to 0.3 metres (0.98 feet) in order to permit a structural alteration to an existing single family dwelling which is non-conforming as to siting. This represents a variance of 1.2 metres (3.94 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."

DISCUSSION

Mr. Greg Wooster (1671 Stewart Avenue) appeared in support of this appeal.

DECISION

MOVED by Dan Hooper SECONDED by Roger Richer that the appeal be **granted**.

MOTION FAILED

MOVED by Patricia Portsmouth SECONDED by Dorothy Rispin that the appeal be **deferred** to the next Board of Variance meeting to be held on 2006-August-17th

MOTION FAILED

MOVED by Dan Hooper SECONDED by Dorothy Rispin that the appeal be **granted**. Approval is subject to a building permit being issued within 3 months (2006-October-20th)

CARRIED

Patricia Portsmouth requested her opposition to the appeal be noted

13. APPEAL: BOV00346

APPLICANT: Gilmour B. Luckham & J.E. Irving

LOCATION: Legal Description: LOT 5, BLOCK 5, SECTION 1,
NANAIMO DISTRICT, PLAN 1465
Civic Address: 609 First Street

PURPOSE: The applicant is requesting that:

- 1) the rear yard setback be reduced from 7.5 metres (24.6 feet) to 1.37 metres (4.49 feet); and
- 2) the side yard setback be reduced from 1.5 metres (4.92 feet) to 0.28 metres (0.92 feet)

in order to permit a structural alteration to an existing single family dwelling which is non-conforming as to siting. This represents a rear yard setback variance of 6.13 metres (20.11 feet) and a side yard setback variance of 1.22 metres (4 feet).

Note: On December 20th, 1984 a variance to reduce the side yard setback from 1.5 metres (4.92 feet) to 0.30 metres (1 foot) to allow for a proposed addition was granted (Appeal #84-38).

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 6.1.6.3- Yard Requirements

A rear yard of not less than 7.5 metres (24.6 feet) shall be provided for a principal building"

"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. Gilmour Luckham (609 First Street) appeared in support of this appeal.

DECISION

MOVED by Patricia Portsmouth SECONDED by Dan Hooper that the appeal be **granted**. Approval is subject to a building permit being issued within 3 months (2006-October-20th)

14. ATTENDANCE

It was determined Patricia Portsmouth, Dan Hooper, and Dorothy Rispin t will be in attendance at the meeting to be held 2006-August-17th. Roger Richer will be absent.

15. ADJOURNMENT

MOVED by Dan Hooper, SECONDED by Dorothy Rispin, that the meeting be adjourned at 8:15 p.m.

CARRIED.

Roger Richer
Chairperson, Board of Variance

Dave Stewart
Secretary, Board of Variance

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