CITY OF NANAIMO

BOARD OF VARIANCE

MINUTES OF THE MEETING OF THE BOARD OF VARIANCE HELD ON THURSDAY, 2005-OCTOBER-20th, IN THE BOARD ROOM, CITY HALL, 455 WALLACE STREET, NANAIMO, BC

PRESENT: Roger Richer, Chairperson

Joy Cameron Patricia Portsmouth

Dan Hooper Jerome Howell

STAFF: David Stewart

1. CALL TO ORDER:

The meeting was called to order at 7:01 p.m.

2. APPEAL: BOV00275

APPLICANT: Ivan John Plavetic and Craig Weme

LOCATION: Legal Description: LOT 7, BLOCK 10, SECTION 5,

WELLINGTON DISTRICT, PLAN 318

Civic Address: 4003/4005 Wellesley Avenue

PURPOSE: The applicant is requesting that the side yard setback be reduced from 4.10 metres (13.45 feet) to 1.5 metres (4.92 feet) in order to construct a duplex. This represents a variance of 2.6 metres (8.53 feet).

ZONING REGULATIONS:

This property is included in the Mixed Use Commercial Zone (C-4) and the appeal seeks to vary the following provisions of the "City of Nanaimo Zoning Bylaw 4000":

"Section 9.4.2.2- Conditions of Use

Where use of a lot is solely residential, the use shall be subject to the Conditions of Use, Density, Lot Area, Lot Coverage, Yard Requirements, Height of Buildings, Height of Fences, and Amenity Areas requirements of the RM-3 Low Density Multiple Family Residential Zone and to the Conditions of Use and Screening and Landscaping requirements of this zone"

"Section 7.3.6.3- Yard Requirements

Where RM-3 is being developed within the Mixed-Use Commercial Zone (C-4), a side yard shall be provided on each side yard of a building equal to 0.5 multiplied by the height of the building. In no case shall the width of each side yard be less than 3 metres (9.84 feet). In the case of a corner lot, the side adjoing the flanking street shall not be less than 4 metres (13.12 feet) in width"

DISCUSSION

Mr. Ivan Plavetic (2509 Blackcomb Place) appeared in support of the appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Jerome Howell, that the appeal be **granted**, subject to a building permit being issued within three months (2006-January-20th)

CARRIED

3. APPEAL: BOV00276

APPLICANT: Jaswinder Singh Hayer and Shivinder Kaur Hayer

LOCATION: Legal Description: LOT 23, SECTION 1,

NANAIMO DISTRICT, PLAN VIP77985 Civic Address: 754 Southland Way

PURPOSE: The applicant is requesting the maximum height of a principal dwelling be increased from 8.25 metres (27.06 feet) to 8.84 metres (29.00 feet) for a single family dwelling under construction. This represents a variance of 0.59 metres (1.94 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 principle 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 80% of all roof surfaces measured in plan view"

DISCUSSION

Mr. Tarn Kang appeared in support of this appeal.

DECISION

MOVED by Patricia Portsmouth, SECONDED by Jerome Howell, that the appeal be **granted**, subject to a building permit being issued within three months (2006-January-20th)

CARRIED

4. APPEAL: BOV00277

APPLICANT: Peter Donald Inches and John George Margetis

LOCATION: Legal Description: LOT 8, BLOCK 4, SECTION 1,

NANAIMO DISTRICT, PLAN 1145 Civic Address: 134 Howard Avenue

PURPOSE: The applicant is requesting the maximum height of a front yard fence be increased from 1.2 metres (3.94 feet) to 1.83 metres (6.0 feet) in order to permit a recently constructed fence. This represents a variance of 0.63 metres (2.06 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 6.1.9.1- Height of Fences

The height of a fence shall not exceed 1.2 metres (3.94 feet) in a front yard."

LOCATION: Legal Description: THE NORTHERLY 10 FEET OF LOT 7,

BLOCK 4, SECTION 1, NANAIMO DISTRICT, PLAN 1145

Civic Address: 134 Howard Avenue

PURPOSE: The applicant is requesting the maximum height of a front yard fence be increased from 1.2 metres (3.94 feet) to 1.83 metres (6.0 feet). This represents a variance of 0.63 metres (2.06 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 6.1.9.1- Height of Fences

The height of a fence shall not exceed 1.2 metres (3.94 feet) in a front yard."

DISCUSSION

Mr. Peter Inches (134 Howard Avenue) appeared in support of this appeal

DECISION

MOVED by Patricia Portsmouth, SECONDED by Dan Hooper, that the appeal be denied.

CARRIED

5. APPEAL: BOV00278

APPLICANT: K A F Contracting Ltd.

LOCATION: Legal Description: LOT 21, SECTION 20, RANGE

4, MOUNTAIN DISTRICT, PLAN VIP78456 Civic Address: 3359 Prince Edward Place

PURPOSE: The applicant is requesting the maximum projection of an open deck, landing and stairs into the rear yard setback be increased from 2 metres (6.56 feet) to 2.5 metres (8.20 feet) for a single family dwelling under construction. This represents a variance of 0.5 metres (1.64 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. Keith Feser (705 Pym Street, Parksvile) appeared in support of this appeal

DECISION

MOVED by Dan Hooper, SECONDED by Jerome Howell, that the appeal be **granted**, subject to a building permit being issued within three months (2006-January-20th)

CARRIED

6. APPEAL: BOV00279

APPLICANT: Dragica Miljatovic

LOCATION: Legal Description: LOT 25, SECTION 20, RANGE

5, MOUNTAIN DISTRICT, PLAN 24320

Civic Address: 2663 Beaver Creek Crescent

PURPOSE: The applicant is requesting the maximum size of an accessory building be increased from 70 square metres (753.5 square feet) to 123.9 square metres (1333.69 square feet), in order to permit a previously constructed accessory building. This represents a variance of 53.9 square metres (580.19 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":

"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 purposes of this subsection, the calculation of gross floor area shall include an accessory building (or portion thereof) used for parking purposes"

DISCUSSION

Mr. Roy Prazda (Coast Reality) appeared in support of this appeal

DECISION

MOVED by Patricia Portsmouth, SECONDED by Dan Hooper, that the appeal be granted.

CARRIED

7. APPEAL: BOV00280

APPLICANT: Clinton Edward Bryce

LOCATION: Legal Description: LOT 56, SECTION 4,

WELLINGTON DISTRICT, PLAN 35218
Civic Address: 316 Cobblestone Place

PURPOSE: The applicant is requesting that the front yard setback requirement (for a through lot) be reduced from 10 metres (32.8 feet) to 1.5 metres (4.92 feet) in order to construct an accessory building. This represents a variance of 8.5 metres (27.88 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 5.2.1.1- Location and Sitting of Buildings and Structures to Major Roads Notwithstanding the regulations for yards within all zones of this Bylaw, or any other regulations of the Highway Act, 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"

DISCUSSION

Mr. Clinton Bryce (316 Cobblestone Place) and Mrs. Denise Bryce (641 Hunter Street) appeared in support of this appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Dan Hooper, that the appeal be **granted**, subject to a building permit being issued within three months (2006-January-20th)

CARRIED

8. APPEAL: BOV00282

APPLICANT: DGC Holdings Corp., 428492

LOCATION: Legal Description: LOT 1, SECTION 12, RANGE 9,

OF SECTION 1, NANAIMO DISTRICT, PLAN 35382

Civic Address: 475 Eight Street

PURPOSE: The applicant is requesting:

- that the allowable height of an accessory building be increased from 4.5 metres (14.76 feet) to 6 metres (19.68 feet), for an accessory building under construction.
- 2) the maximum size of an accessory building be increased from 70 square metres (753.5 square feet) to 139.05 square metres (1496.77 square feet)

This represents a height variance of 1.5 metres (4.92 feet) and a gross floor area variance of 69.5 square metres (743.27 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 5.5.4- Accessory Buildings and Structures

The maximum height of an accessory building shall be 4.5 metres (14.76 feet) unless otherwise specified"

"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 purposes of this subsection, the calculation of gross floor area shall include an accessory building (or portion thereof) used for parking purposes"

Note: The applicant previously applied to the Board 2005-July-21st (BOV00257). The applicant, DGC Holdings Corp. (Blair Dueck) requested that the maximum size of an accessory building be increased from 70 square metres (753.5 square feet) to 100.33 square metres (1080 square feet). The appeal was granted.

DISCUSSION

Mr. Blair Dueck (DGC Holdings) and Mr. Brian Mollet (475 Eight Street) appeared in support of this appeal.

DECISION

MOVED by Dan Hooper, SECONDED by Jerome Howell, that the appeal be **granted**, subject to a building permit being issued within three months 2006-January-20th)

CARRIED

Patricia Portsmouth requested that her opposition to this motion be noted

9. APPEAL: BOV00283

APPLICANT: Janet May Rafter

LOCATION: Legal Description: PARCEL A (DD 387376I) OF

SECTION 14, RANGE 13, SECTION 1, NANAIMO

DISTRICT, PLAN 630

Civic Address: 836 Douglas Avenue

PURPOSE: The applicant is requesting:

- 1) An enactment to permit a structural addition to a building which is non-conforming as to use; and
- 2) That the required front yard setback be reduced from 6.0 metres (19.69 feet) to 2.26 metres (7.41 feet), in order to permit an addition to an existing single family dwelling which is non-conforming as to siting. This represents a setback variance of 3.74 metres (12.28 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":

Please note Section 911 (9) and (10) of the <u>Local Government Act</u>, which states: "If the use and density of buildings and structures conform to a bylaw under this division... but the sitting, 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."

Please note Section 911 (5) of the <u>Local Government Act</u>, which states: "a structural alteration or addition, except one that is required by an enactment of 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."

"Section 6.1.6.1- Yard Requirements
A front yard of not less than 6 months (19.69 feet) shall be provided"

DISCUSSION

Mrs. Janet Rafter and Mr. Ray Rafter (836 Douglas Avenue), Mr. Andrew Baron and Mrs. Wendy Baron (838 Douglas Avenue) and Mr. Gordon Bruce appeared in support of the appeal.

DECISION

MOVED by Jerome Howell, SECONDED by Patricia Portsmouth, that the appeal be **granted**, subject to a building permit being issued within three months (2006-January-20th)

CARRIED

10. MINUTES

MOVED by Patricia Portsmouth, SECONDED by Joy Cameron, that the minutes of the meeting held 2005-September-15th be adopted as amended.

CARRIED

11. ATTENDANCE

It was determined that Joy Cameron will be absent at the meeting to be held 2005-November-17th. All other members present will be attendance

12. ADJOURNMENT

MOVED by Jerome Howell, SECONDED by Dan Hooper, that the meeting be adjourned at 8:08 p.m.

CARRIED.

Roger Richer	Dave Stewart
Chairperson, Board of Variance	Secretary, Board of Variance

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