

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 adjoining 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:

<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 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

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, Parksville) 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 |

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

DECISION

CARRIED

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

- 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)

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 Local Government Act, 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 Local Government Act, 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
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
BOVMINOCT2005.doc