

**CITY OF NANAIMO**

**BOARD OF VARIANCE**

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE  
HELD ON THURSDAY, 2004-NOVEMBER-18<sup>TH</sup>, IN THE BOARD ROOM,  
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

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**PRESENT:** Roger Richer, Chairperson  
Patricia Portsmouth  
Dan Hooper  
Jerome Howell

**STAFF:** Jason Carvalho

**1. CALL TO ORDER:**

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

**2. APPEAL: BOV00213**

**APPLICANT: Baldev Singh & Manmohan Kaur Manhas**

**LOCATION:      Legal Description:      LOT 21, SECTION 1,  
NANAIMO DISTRICT, PLAN 31157  
Civic Address:      **234 Emery Way****

**PURPOSE:** The applicant is requesting that:

1. The maximum height of a fence be determined vertically from average finished grade level, which is higher than average natural grade level, within 1 metre (3.28 feet) of both sides of the fence to the highest part of the fence;
2. The maximum height of a fence in the front yard of a through lot be increased from 1.2 metres (3.94 feet) to 2.13 metres (7.0 feet), in order to permit a recently constructed fence. This represents a variance of .93 metres (3.06 feet) from average finished grade.

**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 5.9.1 – Fence Height*

*Fence height shall be determined measuring vertically from the average natural grade level within 1 metre (3.28 feet) of both sides of the fence to the highest part of the fence.”*

*“Section 4.1. – Definitions*

*Lot, Through – means a lot abutting 2 parallel or approximately parallel highways;*

*Lot Line, Front – means the lot line abutting the highway, and*

*(3) in the case of a through lot, the lines abutting the highway shall be considered front lot lines.”*

*“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. Baldev Manhas appeared in support of this appeal. Mr. Fred Taylor and Mr. Robert D. McBride appeared in opposition to this appeal.

**DECISION**

MOVED by Dan Hooper, SECONDED by Patricia Portsmouth, that this appeal be **granted**,

CARRIED

**3. APPEAL: BOV00218**

**APPLICANT: Ronald and Janet Whitelaw**

**LOCATION: Legal Description: LOT 31, DISTRICT LOT 14,  
WELLINGTON DISTRICT, PLAN VIP56051  
Civic Address: 5839 Ralston Drive**

**PURPOSE:** The applicant is requesting that the maximum height of a fence in the front yard be increased from 1.2 metres (3.94 feet) to 2.28 metres (7.48 feet), in order to permit a recently constructed fence. This represents a variance of 1.08 metres (3.54 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 6.1.9.1 – Height of Fences*

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

**DISCUSSION**

Mr. Ronald Whitelaw, Mrs. Janet Whitelaw, Mr. Robert Hastings, Mrs. Francis Hastings, Mr. Martin Carlson, Mrs. Adeline Banks, Ms. Judy Lee, Mr. Bill Gregory, Mrs. Diane Gregory, Ms. Helen Lee, Mr. Donald Thompson, Mr. Tim Martins and Mrs. Margo Martins appeared in support of this appeal. Mr. Darrell Bellart and Mrs. Deirdre Bellart submitted a letter in opposition to this appeal.

**DECISION**

MOVED by Patricia Portsmouth, SECONDED by Jerome Howell, that this appeal be **granted**,

CARRIED.

**4. APPEAL: BOV00219**

**APPLICANT: Blue-Chip Homes Ltd.**

**LOCATION: Legal Description:** LOT 3, DISTRICT LOT 53,  
WELLINGTON DISTRICT, PLAN VIP76095  
**Civic Address: 6491 Ptarmigan Way**

**PURPOSE:** The applicant is requesting that the front yard setback requirement be reduced from 6 metres (19.69 feet) to 5.67 metres (18.60 feet), for a single family dwelling under construction. This represents a variance of .33 metres (1.08 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 6.1.6.1 – Yard Requirements*

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

**DISCUSSION**

Mr. Oscar Walter, representing Blue-Chip Homes Ltd, appeared in support of this appeal.

## DECISION

MOVED by Jerome Howell, SECONDED by Patricia Portsmouth, that this appeal be **granted**, subject to a building permit being issued within three months (2005-February-18<sup>th</sup>).

CARRIED.

5. **APPEAL:** **BOV00220**

**APPLICANT:** **William and Claudia Dean**

**LOCATION:** **Legal Description:** LOT B, DISTRICT LOT 55,  
WELLINGTON DISTRICT, PLAN 44343  
**Civic Address:** **4684 Lost Lake Road**

**PURPOSE:** The applicant is requesting that the front yard setback requirement be reduced from 7.5 metres (24.61 feet) to 6.0 metres (19.69 feet), in order to construct a covered porch addition to a single family dwelling that is non-conforming as to siting. This represents a variance of 1.5 metres (4.92 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 5.2.1.2. – Location and Siting of Buildings and Structures to Major Roads*

*Principal or accessory buildings or structures shall not be closer than 7.5 meters (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. William Dean, Mrs. Claudia Dean and Mrs. Jennifer Vater appeared in support of this appeal.

### DECISION

MOVED by Dan Hooper, SECONDED by Jerome Howell, that this appeal be **granted**, subject to a building permit being issued within three months (2005-February-18<sup>th</sup>).

CARRIED.

6. **APPEAL:** **BOV00221**

**APPLICANT:** **Babu and Lalita Lal**

**LOCATION:** **Legal Description:** LOT 55, SECTION 1,  
NANAIMO DISTRICT, PLAN 18900  
**Civic Address:** **2406 Departure Bay Road**

**PURPOSE:** The applicant is requesting that the the maximum height requirement be increased from 8.25 metres (27.06 feet) to 9.38 metres (30.77 feet), in order to construct a single family dwelling. This represents a height variance of 1.13 metres (3.71 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 sloped roof (&gt; than 4:12)*</i> | <i>8.25 metres (27.06 feet)</i> |

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

### DISCUSSION

Mr. Babu Lal, Mrs. Lalita Lal, Mr. Umesh Lal and Mr. Brad Wood (Ocean Edge Contracting Ltd), appeared in support of this appeal. Mr. Douglas Campbell submitted a letter in opposition to this appeal.

## DECISION

MOVED by Patricia Portsmouth, SECONDED by Dan Hooper, that this appeal be **granted**, subject to a building permit being issued within three months (2005-February-18<sup>th</sup>).

CARRIED.

7.     **APPEAL:**                    **BOV00222**
- APPLICANT:**           **Parmajit Dhut and Harjeet Parmar**
- LOCATION:**            **Legal Description:**    LOT 49 SECTION 10  
  WELLINGTON DISTRICT PLAN VIP64046  
  **Civic Address:**        **6623 Jenkins Road**

**PURPOSE:**   The applicant is requesting that:

1.       The maximum projection of an open deck into the rear yard be increased from 2 metres (6.56 feet) to 2.09 metres (6.86 feet); and
  2.       The rear yard setback requirement be reduced from 7.5 metres (24.6 feet) to 7.49 metres (24.57 feet);
- for a single family dwelling under construction. This represents a maximum projection variance of .09 metres (.30 feet) and a rear yard setback variance of .01 metres (.03 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 into Yards*

*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 . . ."*

*"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"*

## DISCUSSION

Mr. Harminder Dhut and Mrs. Parmajit Dhut appeared in support of this appeal.

### **DECISION**

MOVED by Jerome Howell, SECONDED by Patricia Portsmouth, that this appeal be **granted**, subject to a building permit being issued within three months (2005-February-18<sup>th</sup>).

CARRIED.

**8. APPEAL: BOV00223**

**APPLICANT: Sheldon and Susan Saywell**

**LOCATION: Legal Description:** LOT 3, DISTRICT LOT 50,  
WELLINGTON DISTRICT, PLAN VIP77213  
**Civic Address: 5507 Cliffside Road**

**PURPOSE:** The applicant is requesting that the front yard setback requirement be reduced from 6.0 metres (19.69 feet) to 4.05 metres (13.29 feet), in order to construct a single family dwelling. This represents a variance of 1.95 metres (6.40 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 6.1.6.1. – Yard Requirements*

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

### **DISCUSSION**

Mr. Sheldon Saywell appeared in support of this appeal.

### **DECISION**

MOVED by Dan Hooper, SECONDED by Patricia Portsmouth, that this appeal be **granted**, subject to a building permit being issued within three months (2005-February-18<sup>th</sup>).

CARRIED.

**9. MINUTES**

MOVED by Dan Hooper, SECONDED by Patricia Portsmouth, that the minutes of the meeting held 2004-October-21<sup>st</sup> be adopted as circulated.

CARRIED

**10. ATTENDANCE**

It was determined that all members of the Board will be present for the next meeting to be held 2004-December-16<sup>th</sup>.

**11. ADJOURNMENT**

MOVED by Patricia Portsmouth, SECONDED by Jerome Howell, that the meeting be adjourned at 7:47 p.m.

CARRIED.

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Roger Richer  
Chairperson, Board of Variance

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Jason Carvalho  
Secretary, Board of Variance

ec B.N. Mehaffey, General Manager, Development Services Department  
D. Lindsay, Manager, Planning Division, DSD  
M. Pilcher Subdivision/Planning Technician, DSD  
P. Murphy, Manager, Property Services Manager, DSD  
R. Topliffe, Supervisor, Building Inspection Division, DSD  
G. Trimmer, Engineering Liaison/Support Technician, Engineering & Environmental Division, DSD  
J. Holm, Planner, DSD  
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