

**BOARD OF VARIANCE MEETING
TO BE HELD IN THE BOARD ROOM OF CITY HALL,
THURSDAY, OCTOBER-21ST, 2004 AT 7:00 P.M.,
455 WALLACE STREET, NANAIMO, B.C.**

AGENDA

1. Adoption of Minutes of the Board of Variance Meeting held 2004-August-19th.

2. **APPEAL:** **BOV00212**

APPLICANT: **Andraschek Luce**

LOCATION: **Legal Description:** LOT 43, DISTRICT LOT 28,
WELLINGTON DISTRICT, PLAN 26689
Civic Address: **6640 Southampton Road**

PURPOSE: The applicant is requesting that:

1. The flanking side yard setback requirement be reduced from 10 metres (32.8 feet) to 4.5 meters (14.76 feet); and
2. The rear yard setback requirement be reduced from 1.5 metres (4.92 feet) to .55 meters (1.80 feet);

in order to permit a previously constructed addition to an accessory building that is non-conforming as to siting. This represents a flanking side yard setback variance of 5.5 metres (18.04 feet) and a rear yard setback variance of .95 metres (3.12 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 Siting of Buildings and Structures to Major Roads

Principal or accessory buildings or structures shall not be closer than 10 meters (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."

“Section 6.1.6.3. – Yard Requirements

A rear yard of not less than 1.5 metres (4.92 feet) shall be provided for an accessory building.”

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.”

- 3. 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 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).

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 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.”

4. **APPEAL:** **BOV00214**
- APPLICANT:** **Deyong Management Ltd.**
- LOCATION:** **Legal Description:** LOT 14, SECTION 20,
 RANGE 4, MOUNTAIN DISTRICT, PLAN VIP76709
 Civic Address: **3764 Avonlea Drive**
- PURPOSE:** The applicant is requesting that the rear yard setback requirement be reduced from 7.5 metres (24.60 feet) to 3.5 metres (11.48 feet), to construct a single family dwelling. This represents a variance of 4.0 metres (13.12 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 6.1.6.3. – Yard Requirements
A rear yard of not less than 7.5 metres (24.60 feet) shall be provided for a principal building.”*
5. **APPEAL:** **BOV00215**
- APPLICANT:** **Helen Lemmon**
- LOCATION:** **Legal Description:** LOT 4, SECTION 1,
 NANAIMO DISTRICT, PLAN 11315
 Civic Address: **1974 Estevan Road**
- 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 1.83 metres (6.0 feet), in order to permit a recently constructed fence. This represents a variance of .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.”*

6. **APPEAL:** **BOV00216**

APPLICANT: _____

LOCATION: **Legal Description:** LOT 26, BLOCK 1, SECTION
 1, NANAIMO DISTRICT, PLAN 1325

Civic Address: _____

PURPOSE: The applicant is requesting that the flanking side yard setback requirement be reduced from 10 metres (32.8 feet) to 1.70 metres (5.57 feet), in order to construct a porch and steps, and to permit the construction of a sloped roof on a building that is non-conforming as to siting. This represents a variance of 8.3 metres (27.23 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 5.2.1.1 – Location and Siting of Buildings and Structures to Major Roads

Principal or accessory buildings or structures shall not be closer than 10 meters (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.”

7. **APPEAL:** **BOV00217**

 APPLICANT: **David John Leahy**

LOCATION: **Legal Description:** LOT 1, SECTION 1,
 NANAIMO DISTRICT, PLAN 2285
 Civic Address: **10 Pine Street**

PURPOSE: The applicant is requesting that the maximum floor area ratio be increased from 0.40 to 0.51 in order to permit a recently enclosed deck addition to a dwelling that is non-conforming as to gross floor area. This represents a floor area ratio variance of .11 (421.36 square 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 6.1.2.4 – Condition of Use

...On those properties with a sub-designation 'a' the floor area ratio of the principle dwelling shall not exceed 0.4..."

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."

Note: The applicant previously applied to the Board on 2004-August-19th (BOV00205) to reduce the required rear yard setback from 7.5 meters (24.60 feet) to 5.4 meters (17.71 feet), in order to permit a recently enclosed deck. The appeal was granted.

Attachments to each appeal include:

- application form
- certificate of title
- letter from applicant
- detailed plans
- list of properties notified

pc 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
g/devplan/files/legis/3720/bovaOctober2004