

CITY OF NANAIMO

BOARD OF VARIANCE

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE
HELD ON THURSDAY, 2004-OCTOBER-21ST, IN THE BOARD ROOM,
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

PRESENT: Roger Richer, Chairperson
Patricia Portsmouth
Dan Hooper

STAFF: Jason Carvalho

1. CALL TO ORDER:

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

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.”

DISCUSSION

Mr. Andy Andraschek, Mrs. Luce Andraschek, Mr. Erwin Gerick, and Mrs. Marianne Gerick 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-January-21st).

CARRIED

3. 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 meters (24.60 feet) to 3.5 meters (11.48 feet), to construct a single family dwelling. This represents a variance of 4.0 metres (13.12 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”:

A rear yard of not less than 7.5 metres (24.60 feet) shall be provided for a principal building."

DISCUSSION

Ed Liepins (Georgia View Home Builders) appeared in support of this appeal. Mr. Jon Yun (Owner, 4012 Jingle Pot Rd.) and Mr. Brian Holcombe (Unit C-17 - 4012 Jingle Pot Rd.) appeared in opposition to this appeal. Mr. Jun Yun, Mr. Huw Jones (Unit C-14 - 4012 Jingle Pot Rd.), Mr. Brian Holcombe, Mr. Michael Crooks (Unit C-15 - 4012 Jingle Pot Rd.), and Mr. Bill Wilkens and Mrs. Ruth Wilkens (Unit C-28 - 4012 Jingle Pot Rd.) submitted letters in opposition to this appeal.

DECISION

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

CARRIED.

- 4. 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."

DISCUSSION

Mr. Ken Lemmon and Ms. Helen Lemmon appeared in support of this appeal. Ms. Bea Rowan (1968 Estevan Rd.) and Mr. Jai Brookes (1980 Estevan Rd.) submitted letters in opposition to this appeal.

DECISION

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

CARRIED.

5. **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."

DISCUSSION

_____ appeared in support of 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-January-21st).

CARRIED.

6. MINUTES

MOVED by Dan Hooper, SECONDED by Roger Richer, that the minutes of the meeting held 2004-August-19th be adopted as circulated.

CARRIED

7. ATTENDANCE

Jerome Howell will not be present for the next Board of Variance meeting to be held 2004-November-18th. It was determined that all remaining members of the Board will be present for the next meeting.

8. ADJOURNMENT

MOVED by Dan Hooper, SECONDED by Patricia Portsmouth, that the meeting be adjourned at 7:56 p.m.

CARRIED.

Roger Richer
Chairperson, Board of Variance

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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