

CITY OF NANAIMO

BOARD OF VARIANCE

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE
HELD ON THURSDAY, 2004-AUGUST-19TH, IN THE BOARD ROOM,
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

PRESENT: Roger Richer, Chairperson
Joy Cameron
Jerome Howell
Dan Hooper

STAFF: Jason Carvalho

1. CALL TO ORDER:

The meeting was called to order at 7:04 p.m.

2. APPEAL: BOV00203

APPLICANT: Wai and Lucy Wong

LOCATION: **Legal Description:** LOT A, SECTION 18, RANGE
8, MOUNTAIN DISTRICT, PLAN 28031
Civic Address: **1602 Northfield Road**

PURPOSE: The applicant is requesting an enactment to permit a structural addition to a building which is non-conforming as to use, for the addition of exterior façade elements and a beam between the office and showroom.

ZONING REGULATIONS:

This property is included in the Transition Industrial Zone (I-1) and the appeal seeks to vary the following provisions of the Local Government Act:

"Section 9.11.1 - Non-conforming Uses and Siting

(5) 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."

DISCUSSION

Mr. Greg Constable and Mr. Will Melville, representing Mr. Wai Wong and Mrs. Lucy Wong, appeared in support of this appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Jerome Howell, that this appeal be **granted**, subject to a building permit being issued within three months (2004-November-19th).

CARRIED

3. **APPEAL:** **BOV00204**
- APPLICANT:** **Kulbern Singh Parhar**
- LOCATION:** **Legal Description:** LOT 4, BLOCK 87,
NEWCASTLE TOWNSITE, SECTION 1, NANAIMO
DISTRICT, PLAN 366
Civic Address: **333 St George Street**

PURPOSE: The applicant is requesting that the maximum height requirement be increased from 5 metres (16.40 feet) to 7.31 metres (23.98 feet), in order to construct a single family dwelling. This represents a height variance of 2.31 metres (7.58 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 "City of Nanaimo Zoning Bylaw 4000":

"Section 6.1.7.3. – Height of Buildings

On lots less than 1,666.66 square metres (17,940.36 square feet) the height of a principal dwelling may also be measured from curb level of the highest street abutting the property as outlined in the following table:

<i>Roof Pitch</i>	<i>Maximum Height</i>
<i>A sloped roof (> than 4:12)*</i>	<i>5 metres (16.4 feet)</i>

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

DISCUSSION

Mr. Kulbern Singh Parhar appeared in support of this appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Dan Hooper, that this appeal be **granted**, subject to a building permit being issued within three months (2004-

November-19th).

CARRIED.

4. **APPEAL:** **BOV00205**

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 rear yard setback requirement be reduced from 7.5 meters (24.60 feet) to 5.4 meters (17.71 feet), in order to permit a recently enclosed deck. This represents a variance of 2.1 metres (6.89 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 "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."

DISCUSSION

Mr. David John Leahy and Ms. Wanda Johnson appeared in support of this appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Jerome Howell, that this appeal be **granted**, subject to a building permit being issued within three months (2004-November-19th).

CARRIED.

5. **APPEAL:** **BOV00206**

APPLICANT: **Valerie Downing**

LOCATION: **Legal Description:** NORTHERLY 1/2 OF LOT A-13, BLOCK H, SECTION 1, NANAIMO DISTRICT, PLAN 584

Civic Address: 481 Milton Street

PURPOSE: The applicant is requesting that the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to .12 metres (.39 feet), in order to permit a recently constructed carport and deck. This represents a variance of 1.38 metres (4.53 feet).

ZONING REGULATIONS:

This property is included in the Old City Low Density (Fourplex) Residential Zone (RM-9) and the appeal seeks to vary the following provisions of "City of Nanaimo Zoning Bylaw 4000":

"Section 7.9.6. – Yard Requirements

Side yards of not less than 1.5 metres (4.92 feet) for each side yard shall be provided."

DISCUSSION

Mrs. Lynn Simpson (121 Anton Road), representing Ms. Valerie Downing, appeared in support of this appeal. Mrs. Allison Millward (454 Kennedy Street) and Mr. Paul Rideout (462 Kennedy Street) appeared in opposition to this appeal. Ms. Jennifer Atlee (487 Milton Street) and Ms. Diane Denton (736 Albert Street) submitted letters in opposition to this appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Dan Hooper, that this appeal be **denied,**

CARRIED.

6. APPEAL: BOV00207

APPLICANT: James and Florence Mashford

LOCATION: Legal Description: LOT 1, SECTION 12, RANGE 7, MOUNTAIN DISTRICT, PLAN 23137

Civic Address: 2235 Jingle Pot Road

PURPOSE: The applicant is requesting that the maximum height of a fence along the front property line for a through lot be increased from 1.2 metres (3.94 feet) to 2.52 metres (8.27 feet). This represents a variance of 1.32 metres (4.33 feet).

ZONING REGULATIONS:

This property is included in the Single Family Mobile Home Residential Zone (RS-3) and the appeal seeks to vary the following provisions of “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 6.3.7.1. – Height of Fences

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

DISCUSSION

Mr. James Mashford appeared in support of this appeal.

DECISION

MOVED by Dan Hooper, SECONDED by Jerome Howell, that an appeal be **granted** to increase the maximum height of a fence along the front property line for a through lot from 1.2 metres (3.94 feet) to 1.98 metres (6.50 feet). This represents a variance of .78 metres (2.56 feet).

CARRIED.

7.

APPEAL:

BOV00208

APPLICANT:

Nanaimo Lakeside Estates Inc.

LOCATION:

Legal Description: STRATA LOT 125 DISTRICT LOT 24G (FORMERLY DISTRICT LOT 24)
WELLINGTON DISTRICT STRATA PLAN VIS3925
TOGETHER WITH AN INTEREST IN THE COMMON
PROPERTY IN PROPORTION TO THE UNIT
ENTITLEMENT OF THE STRATA LOT AS SHOWN
ON FORM V

Civic Address: 6215 Garside Road

PURPOSE:

The applicant is requesting that the maximum height requirement be increased from 8.25 metres (27.06 feet) to 8.32 metres (27.29 feet), for a single family dwelling under construction. This represents a height variance of .07 metres (.23 feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential Small Lot Zone (RS-6), and the appeal seeks to vary the following provisions of "City of Nanaimo Zoning Bylaw 4000":

"Section 6.6.8.1. – 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 (> 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. Brian Henning, representing Nanaimo Lakeside Estates Inc., appeared in support of this appeal.

DECISION

MOVED by Jerome Howell, SECONDED by Dan Hooper, that this appeal be **granted**, subject to a building permit being issued within three months (2004-November-19th).

CARRIED.

9. APPEAL: BOV00210

APPLICANT: Gary and Brenda Wall

LOCATION: Legal Description: LOT 10 DISTRICT LOT 19
WELLINGTON DISTRICT PLAN VIP65754
Civic Address: 4843 Fairbrook Crescent

PURPOSE: The applicant is requesting that the maximum height requirement be increased from 5 metres (16.40 feet) to 5.28 metres (17.32 feet), for a single family dwelling under construction. This represents a height variance of .28 metres (.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 "City of Nanaimo Zoning Bylaw 4000":

"Section 6.1.7.3. – Height of Buildings

On lots less than 1,666.66 square metres (17,940.36 square feet) the height of a principal dwelling may also be measured from curb level of the highest street abutting the property as outlined in the following table:

<i>Roof Pitch</i>	<i>Maximum Height</i>
<i>A sloped roof (> than 4:12)*</i>	<i>5 metres (16.4 feet)</i>

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

DISCUSSION

Mr. Ivan Plavetic (5640 Hammond Bay Road), representing Mr. Gary Wall and Mrs. Brenda Wall, appeared in support of this appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Jerome Howell, that this appeal be **granted**, subject to a building permit being issued within three months (2004-November-19th).

CARRIED.

10. APPEAL: BOV00211

APPLICANT: John Farrell and Jacqueline Sumner

LOCATION: Legal Description: LOT 1, SECTION 15, RANGE 7 OF SECTION 1, NANAIMO DISTRICT, PLAN 25728
Civic Address: 824 Howard Avenue

PURPOSE: The applicant is requesting that the maximum height requirement be increased from 5 metres (16.40 feet) to 7.07 metres (23.19 feet), in order to add a concrete perimeter foundation to an existing single family dwelling, which is non-conforming as to height. This represents a height variance of 2.07 metres (6.79 feet).

ZONING REGULATIONS:

This property is included in the Single Family Residential (Large Lot) Zone (RS-2A) and the appeal seeks to vary the following provisions of "City of Nanaimo Zoning Bylaw 4000":

"Section 6.2.7.3. – Height of Buildings

On lots less than 1,666.66 square metres (17,940.36 square feet) the height of a principal dwelling may also be measured from curb level of the highest street abutting the property as outlined in the following table:

<i>Roof Pitch</i>	<i>Maximum Height</i>
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<i>A sloped roof (> than 4:12)*</i>	<i>5 metres (16.4 feet)</i>
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*for an area of at least 80% of all roof surfaces measured in plan view."

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. John Farrell and Ms. Jacqueline Sumner appeared in support of this appeal.

DECISION

MOVED by Jerome Howell, SECONDED by Dan Hooper, that this appeal be **granted**, subject to a building permit being issued within three months (2004-November-19th).

CARRIED.

11. MINUTES

MOVED by Dan Hooper, SECONDED by Jerome Howell, that the minutes of the meeting held 2004-July-15th be adopted as circulated.

CARRIED

12. ATTENDANCE

Patricia Portsmouth will not be present for the next Board of Variance meeting to be held 2004-September-16th. It was determined that all remaining members of the Board will be present for the next meeting.

13. ADJOURNMENT

MOVED by Dan Hooper, SECONDED by Jerome Howell, that the meeting be adjourned at 7:51 p.m.

CARRIED.

Roger Richer
Chairperson, Board of Variance

Jason Carvalho
Secretary, Board of Variance

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
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