

**BOARD OF VARIANCE MEETING
TO BE HELD IN THE BOARD ROOM OF CITY HALL,
THURSDAY, JULY-15TH, 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-June-17th

2. **APPEAL:** **BOV00195**

APPLICANT: **Donald and Eleanor Davidson**

LOCATION: **Legal Description:** LOT 68, SECTION 20,
RANGE 8, MOUNTAIN DISTRICT, PLAN 9500
Civic Address: **1455 Montrose Avenue**

PURPOSE: The applicant is requesting that:

1. the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to .25 metres (.82 feet); and
 2. The minimum setback requirement from a principal building be reduced from 1.2 metres (3.94 feet) to .99 metres (3.25 feet);
- for a recently constructed accessory building. This represents a side yard setback variance of 1.25 metres (4.10 feet) and a principal building setback variance of .21 metres (.69 feet).

ZONING REGULATIONS:

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

"Section 6.2.6.2. – Yard Requirements

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

"Section 5.5.4. – Accessory Buildings and Structures

Accessory buildings shall not be closer than 1.2 metres (3.94 feet) to a residential use building as measured between the foundation of each."

Legal Description: LOT 11, SECTION 1, NANAIMO DISTRICT, PLAN VIP58686

1. the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to .2 metres (.66 feet); and
2. the minimum setback requirement from a principal building be reduced from 1.2 metres (3.94 feet) to .1 metres (3.61 feet);

for a recently constructed accessory building. This represents a side yard setback variance of 1.3 metres (4.26 feet) and a principal building setback variance of 1.1 metres (3.61 feet).

Accessory buildings shall not be closer than 1.2 metres (3.94 feet) to a residential use building as measured between the foundation of each."

1. the maximum height of a fence in the front yard for a through lot be increased from 1.2 metres (3.94 feet) to 2.36 metres (7.74 feet). This represents a variance of 1.16 metres (3.80 feet);
2. the height of a fence along the side yard adjoining the flanking street, for a distance of 7 metres from the point of intersection, be increased from 1.2 metres (3.94 feet) to 2.27 metres (7.45 feet). This represents a variance of 1.07 metres (3.51 feet); and

3. the height of a fence along the side yard adjoining the flanking street be increased from 1.8 metres (5.9 feet) to 2.29 metres (7.51 feet). This represents a variance of .49 metres (1.61 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 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 in the case of a through lot, the lines abutting the highway shall be considered front lot lines."

"Section 5.8.1 – Visibility at Intersections

Where two highways intersect, there shall be no obstruction to the line of vision between 1.2 metres (3.94 feet) and 3 metres (9.84 feet) within an area bounded by the center line of intersecting lot lines, and a line joining each of the lot lines 7 metres from the point of intersection.

"Section 6.1.9. – Height of Fences

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

6.1.9.3. In the case of a corner lot, the height of a fence shall not exceed 1.8 metres (5.9 feet) along the side adjoining the flanking street"

- 6. APPEAL: BOV00199**
- APPLICANT: Mark and Glenda Darragh**
- LOCATION: Legal Description: LOT 2, BLOCK 19, DISTRICT LOT 96G, NANAIMO DISTRICT, PLAN 2039**
Civic Address: 681 Hunter Street
- PURPOSE:** The applicant is requesting that:
1. the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to 1.3 metres (4.27 feet); and
 2. the rear yard setback requirement be reduced from 1.5 metres (4.92 feet) to 1.2 metres (3.94 feet);

in order to permit an addition to an accessory building, which is non-conforming as to siting. This represents a side yard setback variance of .2 metres (.65 feet) and a rear yard setback variance of .3 metres (.98 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. – Yard Requirements

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

6.1.6.3. *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."

7. APPEAL: BOV00200

APPLICANT: Georgia View Home Builders Ltd.

LOCATION: Legal Description: LOT 7 DISTRICT LOT 53
WELLINGTON DISTRICT PLAN VIP76210
Civic Address: 6521 Gerke Place

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 2.21 metres (7.25 feet); and
2. the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to 1.42 metres (4.66 feet),

in order to permit a recently constructed open deck. This represents a maximum projection variance of .21 metres (.69 feet) and a side yard setback variance of .08 metres (.26 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 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 . . ."

"Section 6.1.6. – Yard Requirements

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

8. APPEAL: BOV00201

APPLICANT: Eagle Ridge Project Inc

LOCATION: Legal Description: LOT 20, DISTRICT LOT 53,
WELLINGTON DISTRICT, PLAN VIP76733
Civic Address: 6544 Harrier Road

PURPOSE: The applicant is requesting that the maximum projection of an open deck into the rear yard be increased from 2 metres (6.56 feet) to 2.31 metres (7.58 feet) in order to permit a recently constructed open deck. This represents a maximum projection variance of .31 metres (1.02 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 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 . . ."

9. APPEAL: BOV00202

APPLICANT: David Dauphney and Eleanor Houlton

LOCATION: Legal Description: LOT 6, SECTION 1, PLAN
1624, SECTION 36, RANGE 7, NANAIMO DISTRICT
Civic Address: 212 Howard Avenue

PURPOSE: The applicant is requesting that the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to .79 meters (2.59 feet), in order to accommodate an addition to a single family dwelling, which is non-conforming as to siting. This represents a variance of .71 metres (2.33 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 6.1.6.2. – Yard Requirements

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

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."

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/bovaJuly2004