

CITY OF NANAIMO

BOARD OF VARIANCE

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE
HELD ON THURSDAY, 2004-JULY-15TH, IN THE BOARD ROOM,
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

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

STAFF: Jason Carvalho

1. CALL TO ORDER:

The meeting was called to order at 7:00 p.m.

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 meters (.82 feet); and
 2. the minimum setback requirement from a principal building be reduced from 1.2 metres (3.94 feet) to .99 meters (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.”

DISCUSSION

Mr. Donald Davidson and Mrs. Eleanor Davidson appeared in support of this appeal. Mrs. Linda Higman (2210 Highland Blvd.) and Mrs. Maxine Zubrigg (2810 Cosgrove Cres.) appeared in opposition to this appeal. Mrs. Mary Robinson (2190 Highland Blvd.) appeared for information purposes.

DECISION

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

This motion FAILED.

MOVED by Joy Cameron, SECONDED by Jerome Howell, that this appeal be **granted**, subject to a building permit being issued within three months (2004-October-15th).

CARRIED

3. APPEAL: BOV00196

APPLICANT: Sharon Joyce Smith

LOCATION: Legal Description: SECTION B, LOT 8, BLOCK 24, SECTION 1, NANAIMO DISTRICT, PLAN 584
Civic Address: 428 Milton Street

PURPOSE: The applicant is requesting that the front yard setback requirement be reduced from 10 metres (32.8 feet) to 4.6 metres (15.09 feet), in order to replace, and construct an addition to an open deck, which is non-conforming as to siting. This represents a variance of 5.4 metres (17.71 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 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

Ms. Sharon Smith 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-October-15th).

CARRIED.

- 4. APPEAL:** **BOV00197**
- APPLICANT:** **Albert and Sandra Verhaeghe**
- LOCATION:** **Legal Description:** LOT 11, SECTION 1, NANAIMO DISTRICT, PLAN VIP58686
Civic Address: **1037 Bramblewood Lane**
- PURPOSE:** The applicant is requesting that:
1. the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to .2 meters (.66 feet); and
 2. the minimum setback requirement from a principal building be reduced from 1.2 metres (3.94 feet) to .1 meters (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).

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”:

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

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."

Mr. Albert Verhaeghe, Mrs. Sandra Verhaeghe, Mrs. Wanda Murray (1072 Beachwood Dr.), and Mr. Lorne McLaughlin (350 Georgia Ave.) appeared in support of this appeal.

MOVED by Jerome Howell, SECONDED by Dan Hooper, that this appeal be **granted**,

5. APPEAL: BOV00198

APPLICANT: James and Michelle Leach

LOCATION:

Legal Description: LOT A, DISTRICT LOT 19,
WELLINGTON DISTRICT, PLAN VIP63926

Civic Address: 5809 Ralston Drive

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 meters 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"

DISCUSSION

Mr. Jaime Leach and Mrs. Michelle Leach appeared in support of this appeal.

DECISION

MOVED by Dan Hooper, SECONDED by Jerome Howell, that this appeal be granted,

CARRIED.

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."

DISCUSSION

Mr. Mark Darragh 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-October-15th).

CARRIED.

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."

DISCUSSION

Mr. Ed Liepen (Georgia View Home Builders Ltd.) 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-October-15th).

CARRIED.

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

“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.”

DISCUSSION

Mr. David Dauphney and Mrs. Eleanor Houlton appeared in support of this appeal.

DECISION

MOVED by Patricia Portsmouth, SECONDED by Jerome Howell, that this appeal be **granted**, subject to a building permit being issued within three months (2004-October-15th).

CARRIED.

10. MINUTES

MOVED by Jerome Howell, SECONDED by Patricia Portsmouth, that the minutes of the meeting held 2004-June-17th be adopted as circulated.

CARRIED

11. ATTENDANCE

Patricia Portsmouth will not be present for the next Board of Variance meeting to be held 2004-August-19th. It was determined that all remaining members of the Board will be present for the next meeting.

12. ADJOURNMENT

MOVED by Patricia Portsmouth, SECONDED by Dan Hooper, that the meeting be adjourned at 7:54 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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