

**CITY OF NANAIMO**

**BOARD OF VARIANCE**

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE  
HELD ON THURSDAY, 2004-JUNE-17<sup>TH</sup>, IN THE BOARD ROOM,  
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

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

**STAFF:** Jason Carvalho

**1. CALL TO ORDER:**

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

**2. APPEAL: BOV00189**

**APPLICANT: Tia Marie Moshuk**

**LOCATION:** **Legal Description:** LOT 41, BLOCK 1,  
SECTION 17, RANGE 7, MOUNTAIN DISTRICT,  
PLAN 526, EXCEPT PART IN PLAN VIP54412  
**Civic Address: 2119 Bowen Road**

**PURPOSE:** The applicant is requesting that the maximum height of a fence along the front property line be increased from 1.2 metres (3.94 feet) to 1.83 metres (6.0 feet). This represents a variance of .63 metres (2.06 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 "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. Jay Moshuk and Mrs. Tia Marie Brown (Moshuk) appeared in support of this appeal.

### **DECISION**

MOVED by Joy Cameron, SECONDED by Jerome Howell, that this appeal be **granted**,

CARRIED.

**3. APPEAL: BOV00190**

**APPLICANT: Peter Hyldtoft & Elizabeth Giebelhaus**

**LOCATION: Legal Description:** LOT 3, DISTRICT LOT 32,  
WELLINGTON DISTRICT, PLAN VIP75629  
**Civic Address: 5385 Rutherford Road**

**PURPOSE:** The applicant is requesting that the side yard setback requirement be reduced from 7.5 metres (24.6 feet) to 7.10 metres (23.29 feet), in order to construct a single family dwelling. This represents a variance of .4 metres (1.31 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 5.2.1.1 – Location and Siting of Buildings and Structures to Major Roads*

*Principal or accessory buildings or structures shall not be closer than 7.5 meters (24.6 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 dedication has occurred to achieve the required right-of-way width."*

### **DISCUSSION**

Mr. Peter Hyldtoft and Ms. Elizabeth Giebelhaus 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-September-17<sup>th</sup>).

CARRIED.

### 4. APPEAL: BOV00191

**APPLICANT:** J & F Morris Holdings Ltd.  
**RESIDENT:** Valerie Robinson

**LOCATION:** **Legal Description:** LOT 1, SECTION 1, NANAIMO DISTRICT, PLAN VIP60009  
**Civic Address:** 295 Ninth Street  
**Mobile Address:** #30 – 318 Myrtle Crescent

**PURPOSE:** The applicant is requesting that:

1. The maximum lot coverage be increased from 35% to 46%;
2. The front yard setback requirement be reduced from 4.5 metres (14.76 feet) to 3.66 metres (12.0 feet) for a single family dwelling
3. The rear yard setback requirement be reduced from 3 metres (9.84 feet) to .30 metres (.98 feet),

in order to construct roof coverings over existing wheelchair ramps, and to construct a carport. This represents a lot coverage variance of 11%, a front yard setback variance of .84 metres (2.76 feet), and rear yard setback variance of 2.7 metres (8.86 feet).

### ZONING REGULATIONS:

This property is included in the Mobile Home Park Subdivision Zone (RM-8), and the appeal seeks to vary the following provisions of "City of Nanaimo Zoning Bylaw 4000":

*"Section 7.8.5. – Lot and Site Coverage*

*7.8.5.2. The maximum lot coverage shall not exceed 35%."*

*"Section 7.8.6. – Yard Requirements*

*7.8.6.2. A front yard of not less than 4.5 metres (14.76 feet) shall be provided.*

*7.8.6.4. A rear yard of not less than 3 metres (9.84 feet) shall be provided."*

## DISCUSSION

Judy Morris (J & F Morris Holdings Ltd.) and Carol Wagner (303 Myrtle Crescent) appeared in support of this appeal.

## DECISION

MOVED by Patricia Portsmouth, SECONDED by Joy Cameron, that this appeal be **granted**, subject to a building permit being issued within three months (2004-September-17<sup>th</sup>).

CARRIED.

5. **APPEAL:** **BOV00192**

**APPLICANT:** **Michael Mark**

**LOCATION:** **Legal Description:** LOT 20, BLOCK 1,  
SECTION 1, NANAIMO DISTRICT, PLAN 1462  
**Civic Address:** **18 Albion Street**

**PURPOSE:** The applicant is requesting that the maximum height requirement be increased from 8.25 metres (27.06 feet) to 8.48 metres (27.81 feet), in order to construct an addition to a single family dwelling. This represents a height variance of 0.23 metres (.75 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 6.1.7.1. – 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 (&gt; 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. Michael Mark and Mrs. Joyce Murdoch 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-September-17<sup>th</sup>).

CARRIED.

6. **APPEAL:** **BOV00193**

**APPLICANT:** **Daria Antoinette Holmboe**

**LOCATION:** **Legal Description:** LOT 22, SECTION 1,  
NANAIMO DISTRICT, PLAN 8632  
**Civic Address:** **1790 Hallen Avenue**

**PURPOSE:** The applicant is requesting that:

1. 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 1.80 metres (5.91 feet). This represents a variance of .60 metres (1.97 feet);
2. and that the maximum height of a fence in the front yard be increased from 1.2 metres (3.94 feet) to 2.47 metres (8.10 feet). This represents a variance of 1.27 metres (4.16 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 5.8.1 – Visibility at Intersections*

*Where two highways intersect, there shall be no obstruction to the line of vision between 1.2 meters (3.94 feet) and 3 meters (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 6.1.9.1 – Height of Fences*

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

## DISCUSSION

Ms. Daria Holmboe appeared in support of this appeal. Ms. Raffle (1717 Hallen Avenue) submitted a letter in opposition to this appeal.

## DECISION

MOVED by Patricia Portsmouth, SECONDED by Joy Cameron, that this appeal be **denied**.

CARRIED.

7. **APPEAL:** **BOV00194**

**APPLICANT:** **Jacqueline M Britten**

**LOCATION:** **Legal Description:** LOT 16, BLOCK 3,  
SECTION 1, NANAIMO DISTRICT, PLAN 1462  
**Civic Address:** **485 Park Avenue**

**PURPOSE:** The applicant is requesting that:

1. The side yard setback requirement be reduced from 1.5 metres (4.92 feet) to 1.2 metres (3.94 feet);
2. the rear yard setback requirement be reduced from 7.5 metres (24.6 feet) to 4.1 metres (13.45 feet);

in order to accommodate an addition to a single family dwelling, which is non-conforming as to siting. This represents a side yard setback variances of .3 metres (.98 feet) and a rear yard setback variance of 3.4 metres (11.15 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 7.5 metres (24.6 feet) shall be provided for a principal 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**

Ms. Jacqueline Britten appeared in support of this appeal. Mr. Harold Bjarnason and Mr. Sean Bjarnason (489 Park Avenue) appeared in opposition to 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-September-17<sup>th</sup>).

CARRIED.

### **8. MINUTES**

MOVED by Patricia Portsmouth, SECONDED by Jerome Howell, that the minutes of the meeting held 2004-May-20<sup>th</sup> be adopted as circulated.

CARRIED

### **9. ATTENDANCE**

It was determined that all members of the Board will be present for the next meeting.

### **10. ADJOURNMENT**

MOVED by Joy Cameron, SECONDED by Patricia Portsmouth, that the meeting be adjourned at 7:49 p.m.

CARRIED.

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Roger Richer  
Chairperson, Board of Variance

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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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