

CITY OF NANAIMO

BOARD OF VARIANCE

**MINUTES OF THE MEETING OF THE BOARD OF VARIANCE
HELD ON THURSDAY, 2004-MAY-20TH, IN THE BOARD ROOM,
CITY HALL, 455 WALLACE STREET, NANAIMO, BC**

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

STAFF: Jason Carvalho

1. CALL TO ORDER:

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

2. APPEAL: BOV00179

APPLICANT: Tia Marie Brown

LOCATION: **Legal Description:** LOT 39, BLOCK 1,
SECTION 17, RANGE 7, MOUNTAIN DISTRICT,
PLAN 526 EXCEPT PART IN PLAN VIP55211
FOR ROAD PURPOSES
Civic Address: 2111/2113 Bowen Road

Legal Description: LOT 40, BLOCK 1, SECTION
17, RANGE 7, MOUNTAIN DISTRICT, PLAN 526
EXCEPT PART IN PLAN VIP55211 FOR ROAD
PURPOSES
Civic Address: 2115/2117 Bowen Road

PURPOSE: The applicant is requesting that the maximum height of a fence along the front property lines 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:

These properties are included in the Residential Duplex Zone (RM-1) and the appeal seeks to vary the following provisions of "City of Nanaimo Zoning Bylaw 4000":

"Section 7.1.9.1 – 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. Mr. Hans Heringa submitted a letter in opposition to this appeal.

DECISION

MOVED by Patricia Portsmouth, SECONDED by Jerome Howell, that this appeal be **granted**,

CARRIED.

- 3. APPEAL: BOV00180**
- APPLICANT: Westmark Construction (VI) Ltd**
- LOCATION: Legal Description: LOT A, SECTION 10,
RANGE 7, MOUNTAIN DISTRICT, PLAN 43501
EXCEPT PLAN VIP76017
Civic Address: 2259 Arbot Road**

PURPOSE: The applicant is requesting that the height requirement be increased from 8.25 metres (27.06 feet) to 8.76 metres (28.74 feet) for a single family dwelling under construction. This represents a height variance of 0.51 metres (1.68 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 6.1.7.1. – 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. Chris Lundy (Westmark Construction (VI) Ltd.) and Mr. Eldon Burkett 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-August-20th).

CARRIED.

- 4. APPEAL: BOV00181**
- APPLICANT: Rega Properties Ltd**
- LOCATION: Legal Description: LOT 4 SECTION 20 RANGE
4 MOUNTAIN DISTRICT PLAN VIP76709
Civic Address: 3804 Avonlea Drive**

PURPOSE: The applicant is requesting that the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to 1.08 meters (3.54 feet) for a single family dwelling under construction. This represents a variance of .42 metres (1.38 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 6.1.6.2. – Yard Requirements

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

DISCUSSION

Mr. Hal Wonnacott appeared in support of this appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Patricia Portsmouth, that this appeal be **granted**, subject to a building permit being issued within three months (2004-August-20th).

CARRIED.

5. APPEAL: BOV00182

APPLICANT: Michael and Keisha Lebowitz

LOCATION: **Legal Description:** LOT 19, DISTRICT LOT 51,
WELLINGTON DISTRICT, PLAN 48484
Civic Address: 4917 Finnerty Crescent

PURPOSE: The applicant is requesting that the height requirement be increased from 6.71 metres (22.01 feet) to 7.49 metres (24.57 feet) in order to construct an addition to a single family dwelling, which is non-conforming as to height of building. This represents a height variance of 0.78 metres (2.56 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 6.1.7.1. – 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 flat roof (< than 4:12)</i>	<i>6.71 metres (22 feet)</i>

DISCUSSION

Mr. Ken Brault, representing the applicant, 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-August-20th).

CARRIED.

6. **APPEAL:** **BOV00183**

APPLICANT: **David and Sharon Wright**

LOCATION: **Legal Description:** LOT E, DISTRICT LOT 47,
WELLINGTON DISTRICT, PLAN 50886
Civic Address: **5966 Icarus Drive**

PURPOSE: The applicant is requesting that the flanking side yard setback requirement be reduced from 4.0 metres (13.12 feet) to 1.5 meters (4.92 feet), in order to enclose a rear patio, which is non-conforming as to siting. This represents a variance of 2.5 metres (8.20 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 6.1.6.2. – Yard Requirements

Side yards of not less than 1.5 metres (4.92 feet) for each side yard shall be provided. In the case of a corner, the side yard adjoining the flanking street shall not be less than 4 metres (13.12 feet)."

Note: Please note that a Board of Variance appeal (BOV 90-98) was granted 1990-December-20th, to reduce the flanking side yard setback requirement from 4.0 metres (13.12 feet) to 1.5 meters (4.92 feet), in order to construct a single family dwelling.

DISCUSSION

Mr. Richard Nash, Mr. David Wright and Mrs. Sharon Wright 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 (2004-August-20th).

CARRIED.

7. **APPEAL:** **BOV00184**

APPLICANT: **8002 Yukon Ltd.**

LOCATION:

Legal Description: LOT 12, BLOCK 1,
SECTION 1, NANAIMO DISTRICT , PLAN 1476

Civic Address: 364 Bruce Avenue

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);
2. the side yard setback requirement be reduced from 1.5 metres (4.92 feet) to 1.1 metres (3.61 feet);
3. the rear yard setback requirement be reduced from 7.5 metres (24.6 feet) to 1.9 metres (6.23 feet);

in order to accommodate an addition to a single family dwelling, which is non-conforming as to siting. This represents side yard setback variances of .2 metres (.65 feet) and .4 metres (1.31 feet), and a rear yard setback variance of 5.6 metres (18.37 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."

DISCUSSION

Mr. Doren Anderson and Mr. Bill Washman appeared in support of this appeal. Mr. Gordon Hall, Mr. Richard Simpson, and Mrs. Brenda Simpson appeared for information purposes.

DECISION

MOVED by Dan Hooper, SECONDED by Jerome Howell, that this appeal be **granted**, subject to a building permit being issued within three months (2004-August-20th).

CARRIED.

8. APPEAL: BOV00185

APPLICANT: Ms. Carrie Blasutig and Mr. Ryan Dodds

**LOCATION: Legal Description: LOT 16, SECTION 2,
NANAIMO DISTRICT, PLAN 10500
Civic Address: 35 Roberta Road East**

PURPOSE: The applicant is requesting that the maximum size of an accessory building be increased from 70 square metres (753.5 square feet) to 89.18 square metres (960.0 square feet) in order to construct an accessory building. This represents a variance of 19.18 square metres (206.5 square 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 5.5.5 – Accessory Buildings and Structures

The sum total of all accessory buildings on a lot zoned single family residential shall not exceed a gross floor area of 70 square metres (753.5 square feet)."

DISCUSSION

Mr. Ryan Dodds 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 (2004-August-20th).

CARRIED.

9. APPEAL: BOV00186

APPLICANT: Renfrew Holdings Ltd.

**LOCATION: Legal Description: STRATA PLAN 1142
(00069.141 - 00069.200)
Civic Address: 305 Milton Street**

PURPOSE: The applicant is requesting an enactment to permit a structural addition to a building which is non-conforming as to use, in order to enclose an open deck at the south east corner of the building.

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 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. John Hofman appeared in support of this appeal.

DECISION

MOVED by Joy Cameron, SECONDED by Patricia Portsmouth, that this appeal be **granted**, subject to a building permit being issued within three months (2004-August-20th).

CARRIED.

- 10. APPEAL: BOV00187**
- APPLICANT: David and Sherry Dulmage**
- LOCATION: Legal Description: LOT 5, SECTION 2,
WELLINGTON DISTRICT, PLAN 27549
Civic Address: 3153 Marion Way**

PURPOSE: The applicant is requesting that:

1. The side yard setback requirement be reduced from 1.5 metres (4.92 feet) to .48 meters (1.57 feet) in order to upgrade, and construct an addition to an open (upper) deck, which is non-conforming as to siting;
2. The side yard setback requirement be reduced from 1.5 metres (4.92 feet) to .40 meters (1.31 feet) in order to upgrade, and construct an addition to an open (lower) deck, which is non-conforming as to siting.

This represents side yard setback variances of 1.02 metres (3.35 feet) [upper deck], and 1.1 metres (3.61 feet) [lower deck].

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 6.1.6.2. – Yard Requirements

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

DISCUSSION

Mr. David Dulmage appeared in support of this appeal. Mr. Terry Austin appeared for information purposes.

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-August-20th).

CARRIED.

11. APPEAL: BOV00188

APPLICANT: Donna Buckner and Robert Halliday

LOCATION: Legal Description: NORTHERLY 1/2 OF LOT B-14, BLOCK H, SECTION 1, NANAIMO DISTRICT, PLAN 584

Civic Address: 453 Milton Street

PURPOSE: The applicant is requesting that:

1. The side yard setback requirement be reduced from 1.5 metres (4.92 feet) to 0 meters (0 feet);
 2. the front yard setback requirement be reduced from 10 metres (32.8 feet) to 1.8 metres (5.90 feet);
 3. the maximum height of a fence along the front property line be increased from 1.2 metres (3.94 feet) to 1.93 metres (6.33 feet);
- in order to permit an existing fence and covered deck addition to a single family dwelling, which is non-conforming as to siting. This represents a side yard setback variance of 1.5 metres (4.92 feet), a front yard setback

variance of 8.2 metres (26.90 feet), and a height of fence variance of .73 metres (2.39 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 5.2.1.2 – 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 7.9.6.2 – Yard Requirements

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

"Section 7.9.8.1. – Height of Fences

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

Note: Please note that a Board of Variance appeal (BOV 97-07) was granted 1997-February-20th, to reduce the side yard setback requirements to 1.12 meters (3.67 feet) and .76 metres (2.49 feet), and reduce the front yard setback requirement to 7.07 metres (23.20 feet) in order to construct a single family dwelling.

DISCUSSION

Mr. Robert Halliday appeared in support of this appeal. Mr. Ed Heese submitted a letter in opposition to this appeal.

DECISION

MOVED by Patricia Portsmouth, SECONDED by Joy Cameron, that an appeal be **denied** to reduce the side yard setback from 1.5 metres (4.92 feet) to 0 metres (0 feet).

CARRIED.

MOVED by Dan Hooper, SECONDED by Joy Cameron, that an appeal be **granted** to reduce the side yard setback from 1.5 metres (4.92 feet) to 1.1 metres (3.61 feet). This represents a variance of .4 metres (1.31 feet). This appeal is subject to a building permit being issued within three months (2004-August-20th).

CARRIED.

MOVED by Patricia Portsmouth, SECONDED by Roger Richer, that an appeal be **granted** to reduce the front yard setback requirement from 10 metres (32.8 feet) to 1.8 metres (5.90 feet), subject to a building permit being issued within three months (2004-August-20th).

CARRIED.

MOVED by Joy Cameron, SECONDED by Patricia Portsmouth, that an appeal be **granted** to increase the maximum height of a fence along the front property line from 1.2 metres (3.94 feet) to 1.93 metres (6.33 feet)

CARRIED.

12. **MINUTES**

MOVED by Joy Cameron, SECONDED by Patricia Portsmouth, that the minutes of the meeting held 2004-April-15th be adopted as circulated.

CARRIED

13. **ATTENDANCE**

Dan Hooper will not be present for the next Board of Variance meeting to be held 2004-June-17th. It was determined that all remaining members of the Board will be present for the next meeting.

14. **ADJOURNMENT**

MOVED by Joy Cameron, SECONDED by Jerome Howell, that the meeting be adjourned at 7.59 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
g/devplan/files/legis/3720/bovmMay2004