

MINUTES
BOARD OF VARIANCE MEETING
BOARDROOM, SERVICE AND RESOURCE CENTRE
411 DUNSMUIR STREET, NANAIMO, BC
THURSDAY, 2021-JAN-07 AT 4:00 P.M.

PRESENT: Members: Jessica Kaman, Chair, At Large Member
 Nelson Allen, At Large Member
 Allan Dick, At Large Member (joined electronically)
 Daryoush Firouzli, At Large Member (joined electronically)

 Absent: Kenneth Hample, At Large Member

 Staff: L. Stevenson, Planner
 K. Berke, Recording Secretary

1. CALL THE BOARD OF VARIANCE COMMITTEE MEETING TO ORDER:

The Open Board of Variance Meeting was called to order at 4:06 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Agenda Item 5(a) Board of Variance Application No. BOV744 – 5324 Kenwill Drive - Add an email from adjacent property owners who are in support of the variance.

- (b) Agenda Item 5(b) Board of Variance Application No. BOV745 – 2198 Departure Bay Road - Add an email from an adjacent property owner who is not in support of the variance.

3. ADOPTION OF AGENDA:

 It was moved and seconded that the Agenda be adopted as amended. The motion carried unanimously.

4. ADOPTION OF MINUTES:

 It was moved and seconded that the Minutes of the Board of Variance Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC on Thursday, 2020-DEC-17, at 4:00 p.m., be adopted as circulated. The motion carried unanimously.

5. PRESENTATIONS:

(a) Board of Variance No. BOV744 – 5324 Kenwill Drive

The Chair read the application requesting a variance to locate a heat pump between the front of the principal building and the nearest front lot line. Zoning Bylaw No. 4500 requires that a heat pump or central air conditioning unit be located to the rear or side of a principal building. The applicant requests a variance to “Section 6.5.2 of the City of Nanaimo Zoning Bylaw No. 4500”. Where the principal use of the property is a single residential dwelling or duplex, heat pumps and central air conditioning units shall not be located between the front face of a principal building and the nearest front lot line, and shall not be closer than 4.5m to side lot lines or closer than 3m to rear lot lines. Heat pumps and central air conditioning units shall be screened from view from streets.

Scott Parker, owner, spoke to the rationale and hardship of the application. He stated that when his house was developed in the early 1990’s, Georgiaview Crescent was designated as the front yard to the property due to the location of the house on the lot; however, the civic address of the property is actually 5324 Kenwill Drive. Therefore, any design of the property comes from the knowledge that Georgiaview is his front yard. He also stated that the location of the proposed heat pump would serve the best interest to surrounding neighbours and the elevations of his property are quite a bit higher from the nearest neighbour at 5311 Georgiaview Crescent. He believes that for how his family uses the property, Kenwill Drive is his front yard.

Discussion took place regarding:

- The proposed location being screened by a fence from the road
- The designation and definition of the front and side yard
- House meeting current setbacks
- Conflicts with putting heat pumps in the front yard
- Noise level to surrounding neighbours

It was moved and seconded that application BOV744 for 5324 Kenwill Drive to vary the provisions of “Section 6.5.2 of City of Nanaimo Zoning Bylaw No. 4500” to locate a heat pump between the front of the principal building and the nearest front lot line be approved. The motion carried unanimously.

(b) Board of Variance Application No. BOV745 – 2198 Departure Bay Road

The Chair read the application requesting a variance to allow a fence height of up to 2.0m within the front yard setback and within the required 7m setback for visibility at intersections. The applicant requests a variance to “Sections 6.9.1 and 6.10.2 of the City of Nanaimo Zoning Bylaw No. 4500”. Where two streets intersect, there shall be no obstruction to the line of vision between 1.2m and 3m within an area bounded by the centre line of intersecting lot lines and a line joining each of the lot lines 7m from their point of intersection. The maximum height of a fence within the front yard shall not exceed 1.2m in height in the R1 zone.

Melvin and Constance Crum, owners, spoke to the rationale for the application. They stated that their house is located on Departure Bay Road, where there is constant traffic. The main entrance and main floor of their house is close to street level, where they find it very noisy. The noise and busyness of it make it truly difficult to enjoy being outside in their yard. They are proposing to build a 2m high fence inside their property line on Departure Bay Road to reduce the noise and give them some privacy from the large volume of traffic. They said they have done some research and found that a 2m high concrete fence is their best option to reduce the noise. A 1.2m high fence is not high enough to block out the noise & sight of the constant traffic. They said their proposed fence would meet the intent of the Visibility At Intersection bylaw (Section 6.9.1), to not obstruct the visibility of the road, as the road right of way is greater than 11 metres from Montrose Avenue to their lot. They also advised that many of their neighbours (both owners and tenants) have signed a letter in support of their application.

Discussion took place regarding:

- The hardship being the constant noise from traffic
- The intention with the existing trees along the Departure Bay Road lot line
- Safety of the visibility at the intersection
- Aesthetics with a 2 metre high concrete fence
- Whether there was discussion with the City before they bought the house of what their options were for noise mitigation
- Possibility for higher shrubs, hedge or vegetation, different fence material
- Permeability between the street and houses, create a connection between public and private
- Big blank wall attracts vandalism
- The fence height for all front yards in an R1 Zone have a maximum fence height of 1.2m
- Extenuating circumstances should allow for modifications to the bylaw, different avenues for the applicants to go such as development variance application etc.

It was moved and seconded that application BOV745 for 2198 Departure Bay Road to vary the provisions of “Sections 6.9.1 and 6.10.2 of City of Nanaimo Zoning Bylaw No. 4500” in order to permit a fence height of up to 2.0m within the front yard setback and within the required 7m setback for visibility at intersections be denied. The motion carried.

Opposed: *Nelson Allen*

(c) Board of Variance Application No. BOV746 – 30 Mt. Benson Street

The Chair read the application requesting a front yard setback of 5.05m and a north side yard setback of 2.14m in order to renovate an existing non-conforming building and increase its height by approximately 1m. This represents front and side yard setback variances of 0.95m and 0.86m respectively. Zoning Bylaw No. 4500 requires a minimum front yard setback of 6m and a minimum side yard setback of 3m in the R8 zone.

Don Saywell, on behalf of the owners, spoke to the rationale for the application. He stated that presuming that the building was built to the required setbacks at the time; they are looking to reconstruct the building to upgrade it to the British Columbia Building Code standards without having to demolish the existing foundation.

Discussion took place regarding:

- When the building was originally constructed
- The use of the building
- Through the building approval the front, the sides and the back of that building will be renovated including the roof
- The approved development permit
- Proposed changes to the existing building
- Whether raising the roof approximately 1.2m is within the allowable height
- The extent of the interior and exterior renovations

It was moved and seconded that application BOV746 for 30 Mt. Benson Street to vary the provisions of “Section 7.5.1 of City of Nanaimo Zoning Bylaw No. 4500” to allow a front yard setback of 5.05m and a north side yard setback of 2.14m in order to renovate an existing non-conforming building and increase its height by approximately 1m be approved. The motion carried unanimously.

6. OTHER BUSINESS:

(a) Late Item Submitted & BOV Notices

Board member discussion took place regarding the late item that was submitted for BOV745 from a neighbour who was not in support of the variance. The neighbour stated that he did not receive a notice within the 7 day bylaw requirement before the meeting. Staff advised of the requirements in the Local Government Act and the Board of Variance Bylaw, and said that the City is required to make its best efforts to mail or otherwise deliver notices not less than 7 days before the hearing. In this case, the notice was mailed by the City more than 14 days prior to the meeting, which is why staff did not remove the application from the agenda. However, if the board members felt that adequate notice was not provided, then they may make a motion to postpone an item.

7. ADJOURNMENT:

It was moved and seconded at 5:09 p.m. that the meeting adjourn. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

RECORDING SECRETARY