

**MINUTES**  
**BOARD OF VARIANCE**  
Held electronically via MS Teams  
January 10, 2024 at 6:00 p.m.

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Members: A. Gill, C. Schlenker and J. Uliana

Staff: A. Whyte, Senior Planning Technician; C. Yancoff, Planning Technician and M. MacDonald, Senior Committee Clerk

Regrets: M. Cole and K. Zirul

Minutes: **MOVED by A. Gill and Seconded by J. Uliana: "That the Minutes of the Board of Variance meeting held December 13, 2023 be adopted as circulated."**

**CARRIED**

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Newton Street Addition  
BOV #01054

**Applicant: Studio Ink Design**  
**Property: 1970 Newton Street**  
**Variance: Relaxation of the maximum non-basement floor area from 80% (248.0 m<sup>2</sup>) to 81.35% (252.2 m<sup>2</sup>).**

The Notice of Meeting was read and the applicant's letter received.

Applicants: G. Streight, applicant was present in support of the application, the following was noted:

- The existing house is approximately half a metre below ground level, which means the whole house is considered non-basement.
- Any addition will also be non-basement unless excavation occurs.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The house was built in 1947 when the Zoning Bylaw was much different.
- The lower floor was built as a basement despite not meeting the depth requirements to be considered one today.
- Lowering the floor of the addition would mean stairs would be required from the existing area to the new basement space.
- Excavation is not necessary on the site unless the variance is denied.
- Lowering the floor to the designated basement depth would negatively impact the environment and hinder the view from the windows.

The following was noted during Board discussion:

- The request is for a relatively minor variance.
- Excavating an additional 3 feet would be a disservice to the environment, the noise would also negatively affect the neighbours.
- The scale of the building will be the same regardless of excavation.
- Consistency with the existing home floor levels, as well as the appearance of homes nearby is a reasonable request.
- Hardship would be caused by excavation when not necessary.

**MOTION:**            **MOVED by A. Gill and Seconded by C. Schlenker: “That the following request to vary from the requirements of Zoning Bylaw 2003, Sections 210.4 (c) further to the construction of an addition on Lot 2, Section 26, Victoria District, Plan 17748 (1970 Newton Street) be APPROVED:**

- **Relaxation of the maximum non-basement floor area from 80% (248.0 m<sup>2</sup>) to 81.35% (252.2 m<sup>2</sup>).**

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire.”**

**CARRIED**

Middleton Street    **Applicant:**    **Studio Ink Design**  
 Accessory            **Property:**    **773 Middleton Street**  
 Building              **Variance:**    **Relaxation of the minimum front lot line setback from 7.5 m (24.6 ft) to 1.37 m (4.49 ft).**

BOV #01058

The Notice of Meeting was read and the applicant’s letter received.

Applicants:            G. Streight, applicant and M. Bjornsen, owner, were present in support of the application, the following was noted:

- Most lots have space to attach a garage to the house or to build a drive lane to a structure in the rear yard. Unfortunately, that is not the case with this lot. The proposed location is the only buildable area.
- A rocky outcrop on the east side prevents building in the area.
- Replacing the existing driveway with a standalone garage will allow for current access to the lower floor to remain, as well as avoid conflict with a bedroom window on the north side of the house.

Public input:            Nil

Discussions:            The applicant stated the following in response to questions from members of the Board:

- When built, there was a driveway that sloped down into a garage in the lower level of the house. Previously, the driveway was leveled, and the garage enclosed, including installing an entry door and steps for access.
- This enclosed garage area is being converted into livable space, which is preferred over having the garage in this location.
- Given the rock outcrop, extensive excavation would be required to build a garage in the rear yard.
- Other homes in the area have built similar structures in the rear yard.
- An addition to the home is not an ideal solution due to interfering with the existing access to the lower floor and bedroom windows.
- The rocky outcrop and setback requirements cause hardship.
- Neighbours were supportive when the owner visited.
- A twin arbutus on the neighbour’s boulevard could be impacted, however it is thought that the retaining wall would save the roots.
- A flat roof design was used to minimize visual impact.

The following was noted during Board discussion:

- Using the existing driveway space would be a more favorable location.
- This is a significant variance request that does not suit the area.
- Using the garage that was built into the house would have been a more acceptable alternative that would comply with the bylaws.
- Building a structure as proposed would defeat the intent of the bylaw.
- A better solution which would fit the character of the neighbourhood and be more compliant with the bylaw should be explored.
- There is not an undue hardship which justifies the request.

**MOTION: MOVED by A. Gill and Seconded by C. Schlenker: “That the following request to vary from the requirement of Zoning Bylaw 2003, Section 5.34 (a) (i) further to the construction of an accessory building on Lot 2, Section 21, Victoria District, Plan 4974 (773 Middleton Street) be DENIED:**

- **Relaxation of the minimum front lot line setback from 7.5 m (24.6 ft) to 1.37 m (4.49 ft).”**

**CARRIED**

Canterbury  
Road  
Single Family  
Dwelling

BOV #01055

**Applicant: Sawyer Construction (Sean Curran)**  
**Property: 665 Canterbury Road**  
**Variance: Relaxation of the maximum height from 6.5 m (21.3 ft) to 7.37 m (24.18 ft).**  
**Relaxation of the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the lowest outermost wall from 6.5 m (21.3 ft) to 7.82 m (25.65 ft) for a sloped roof (Single Face).**

The Notice of Meeting was read and the applicant’s letter received.

**Applicants:** S. Curran and K. Sawyer, applicants, were present in support of the application, the following was noted:

- The midpoint of the roof would be above the allowable height, this sloped lot is part of a subdivision.
- As designed, the other three sides of the house are compliant.
- Lowering the house to comply with the bylaw could cause issues with the water table and potential flooding in future.

**Public input:** Nil

**Discussions:** The applicant stated the following in response to questions from members of the Board:

- Lowering the house would mean it would be below the water table, which could lead to flooding in the event of a sump pump failure.
- There was a house on the lot that was demolished two years ago.
- A stormwater management plan is required for the development.
- An additional metre of excavation would be required to reduce the height to be compliant. Neighbours are supportive of the variance.
- The application has taken a significant amount of time, having to redesign at this point would create a significant hardship.

- When Council considered the rezoning and subdivision application, they only were provided with a building scheme as per standard procedure. This unexpected situation arose after approval of the rezoning and subdivision by Council. If detailed plans had been submitted this issue may have been realized sooner.

The Planning Technician stated the following in response to questions from the board:

- This lot is zoned RS-2, which is the only residential zone with a 6.5 metre maximum sloped roof height, all others are 7.5 or more.

The following was noted during Board discussion:

- Council approved the building scheme during rezoning and subdivision. This height issue was not realized at that time; however, it is possible that it would have been approved then too if it was.
- The request is still within the intent of the bylaw. The slope of the property means that the average grade calculations are not as they would be for a flat lot. This makes it harder to comply with the height.
- The lot being a RS-2 zone means the allowable height is less than other RS zones. This would be allowable under most other zones.
- Concerns about the slope and water table do constitute hardship.
- Council consideration is a lengthy process. This is an appropriate development which was already approved in principle by Council. For the applicant to start over would be an undue hardship.
- This does not negatively affect neighbours or adjacent lands.

**MOTION:**

**MOVED by C. Schlenker and Seconded by A. Gill: "That the following requests to vary from the requirements of Zoning Bylaw 2003, Sections 201.3 (b) (i) & (ii) further to the construction of a single family dwelling with a secondary suite on Lot A, Section 49, Victoria District, Plan EPP118118 (665 Canterbury Road) be APPROVED:**

- Relaxation of the maximum height from 6.5 m (21.3 ft) to 7.37 m (24.18 ft).
- Relaxation of the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the lowest outermost wall from 6.5 m (21.3 ft) to 7.82 m (25.65 ft) for a sloped roof (Single Face).

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire."**

**CARRIED**

Holland Avenue  
Accessory  
Structure

**Applicant: Ingrid Sorensen and Patrick McFadden**  
**Property: 4061 Holland Avenue**  
**Variance: Relaxation of the interior side lot line from 3.0m (9.8ft) to 2.88m (9.45ft).**

BOV #01056

The Notice of Meeting was read and the applicant's letter received.

Applicants: I. Sorensen, owner, was present in support of the application, the following was noted:

- The property was purchased with a carport already built. During the process to obtain approval to enclose the structure to store farm equipment it was realised that the building is not compliant with the minimum setback requirements.
- Moving the building is not an option, and alterations to make the structure compliant would be a significant financial burden.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The setbacks for lots zoned as agricultural, such as this lot, are more significant than those for residential lots.
- This structure was built by previous owners, it appears that attempts were made to ensure the structure was compliant.
- The variance request is for less than six inches, which is quite minor.
- Significant alterations would be required to make the building compliant with the bylaw. The change would cause an undue hardship due to the cost. There would also be a negative environmental impact to dispose of what is currently a useable structure and rebuild something nearly the same slightly further from the property line.

The following was noted during Board discussion:

- There is hardship due to this existing structure being built slightly too close to the property line. This could have been a miscalculation of where the property line was when building the structure.
- The variance request is quite minor, neighbours are supportive.
- It would be a disservice to the environment to demolish and rebuild for a minimal variance request.
- Agricultural zoning on this lot requires more significant setbacks than what would be imposed on a residential lot. If the lot was zoned as a residential lot, it would have significantly less setback requirements.

**MOTION: MOVED by C. Schlenker and Seconded by A. Gill: "That the following request to vary from the requirements of the Zoning Bylaw 2003, Section 101.4 (a) (ii) further to the enclosure of an existing accessory structure and construction of a new addition to the existing accessory structure on Lot 1, Section 13, Lake District, Plan 26503 (4061 Holland Avenue) be APPROVED:**

- **Relaxation of the interior side lot line from 3.0m (9.8ft) to 2.88m (9.45ft).**

**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire."**

**CARRIED**

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Carey Road Addition  
BOV #01057

**Applicant:** Villamar Design  
**Property:** 4002 Carey Road  
**Variance:** Relaxation of the maximum non-basement floor area from 80% (222.8 m<sup>2</sup>) to 97.95% (272.8 m<sup>2</sup>)

The Notice of Meeting was read and the applicant's letter received.

Applicants: D. Ensing, applicant, was present in support of the application, the following was noted:

- The lower level of the house is not considered to be a basement.
- This modest addition would add much needed housing to the supply.
- To bring the addition into compliance, excavation would be necessary.
- Converting the garage to a suite was considered, however that space is needed for parking. Neighbours do not want parking issues created.
- Lowering the addition was considered however there would be potential for significant impact to the tree in the back yard.
- Building the addition at grade will have minimal impacts to the tree, as well as allowing for a patio and amenity area.
- Neighbours will only see a 14-foot extension of the existing home.
- The highest point of the addition will be lower than the existing home.
- Trees create a buffer between the nearest neighbours.
- The proposed addition is compliant with setback requirements. It will not be noticeable from the street.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The existing home does not have any basement area, it is a slab at grade. Currently the non-basement floor area is allowable, the proposal would exceed the bylaw maximum.
- There is a Garry Oak in the back yard that would be affected if the addition was dug lower to be considered a basement.

The following was noted during Board discussion:

- There is not a hardship, this is simply asking for a bigger house on the lot than what is allowable.
- The existing house is on grade, keeping with the character of the current home by building at grade is a design choice, not a hardship.

**MOTION:** **MOVED by A. Gill and Seconded by C. Schlenker: "That the following request to vary from the requirements of the *Zoning Bylaw 2003, Section 210.4 (c)* further to the construction of an addition on Lot 22, Section 50, Victoria District, Plan 336 (4002 Carey Road) be DENIED:**

- Relaxation of the maximum non-basement floor area from 80% (222.8 m<sup>2</sup>) to 97.95% (272.8 m<sup>2</sup>)."

**CARRIED**

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Hira Place Addition  
BOV #01062

**Applicant:** Gurjinder Mehmi  
**Property:** 4012 Hira Place  
**Variance:** Relaxation of the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the outermost wall for a sloped roof (single face) from 7.5 m (24.6 ft) to 8.20 m (26.9 ft).

The Notice of Meeting was read and the applicant's letter received.

Applicants: D. Strongitharm, designer and G. Mehmi, owner, and were present in support of the application, the following was noted:

- A similar application at this address was considered by the Board of Variance in December 2022. The application was approved, the house was built as per the plans and is now substantially completed.
- A final survey was required to obtain an occupancy permit. During the survey, it was realized that the building was taller than approved.
- It was then realized that a mathematical error led to the surveyor's certificate of height being incorrect, and the variance granted only allowed up to 8.06 m for the vertical portion.
- There were no changes to the house or plans, it was built as intended.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- The mathematical error between the plans and the height certificate was not noticed by many people involved during the building process.
- There is approximately a six-inch difference between what was approved and what is currently built.
- A variance for up to 8.06 metres was previously approved, however the amount that should have been requested as per the plans was 8.26m. Once built, the final survey determined it is 8.20 m high.
- Unfortunately, the mathematical error on the height survey certificate was not realized until the house was built and ready for occupancy.

The following was noted during Board discussion:

- The request is relatively minor. The house plans were approved by the Board of Variance in December 2022, the house was built as per the plans, this variance is only a mathematical error from the approval.
- This was an unintended oversight due to a mistake on the survey.
- Tearing down the current built house would be a significant hardship.

**MOTION:** **MOVED by C. Schlenker and Seconded by A. Gill:** "That the following request to vary from the requirements of the *Zoning Bylaw 2003*, Sections 210.4 (b) (ii) further to the construction of a single-family dwelling on Strata Lot B Section 9 Esquimalt District Strata Plan EPS7580 Together With An Interest In The Common Property In Proportion To The Unit Entitlement Of The Strata Lot As Shown On Form V (4012 Hira Place) be APPROVED:

- Relaxation of the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the outermost wall for a sloped roof (single face) from 7.5 m (24.6 ft) to 8.20 m (26.9 ft).
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**And further that if construction in accordance with the plans submitted to the Board in the application is not substantially started within two years from the date of this Order, the variances so permitted by this Order will expire.”**

**CARRIED**

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Adjournment      On a motion from A. Gill, the meeting was adjourned at 7:47 pm.

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J. Uliana, Chair

I hereby certify that these Minutes are a true and accurate recording of the proceedings.

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Recording Secretary