BOARD OF VARIANCE

Via MS Teams

April 13, 2022 at 6 p.m.

In light of the COVID-19 pandemic and to ensure social distancing, Saanich Municipal Hall is closed to the public for this meeting.

Enquiries/comments may be submitted by email to **BOV@saanich.ca** and must be received no later than 12:00 pm noon, Wednesday, April 13, 2022. Alternatively, you may register to speak by telephone or electronically at the Hearing by sending an email (by the above deadline) to BOV@saanich.ca and noting the agenda item you wish to speak to. Instructions on how to join the meeting will be emailed to you.

1	**3851 Merriman Drive Lot 26, Section 32, Victoria District, Plan 9229**	Fence height Relaxation of the maximum height of a fence within the minimum setback distance of the principal building and abutting the street from 1.5 m (4.9 ft) to 1.96 m (6.42 ft); Relaxation of the maximum height of a fence at a street corner from 1.0 m (3.3 ft) to 1.96 m (6.42 ft)
2	**810 Jasmine Avenue Lot 4, Block 7, Section 78, Victoria District, Plan 1171**	To construct an addition Relaxation of the minimum interior sideyard setback from 1.5 m (4.9 ft) to 1.25 m (4.10 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 7.5 m (24.6 ft) to 7.6 m (24.93 ft) for a sloped roof (Single Face); Relaxation of the non-basement floor area from 80% (248 m^2) to 90.32% (280 m^2)
3	**1190 Hollis Road Lot 9, Section 62, Victoria District, Plan 1194**	To construct a fence Relaxation of the maximum height of a fence located in a sideyard from 1.9 m (6.2 ft) to 3.7 m (12.14 ft)
4	**924 Darwin Avenue Lot 43, Block 1, Section 9, Victoria District, Plan 1707**	Accessory structure Relaxation of the front lot line setback from 7.5 m (24.6 ft) to 6.4 m (21.0 ft)
5	**5806 Oldfield Road Lot 3, Section 67, Lake District, Plan 5269**	New single family dwelling Relaxation of the maximum overall height of a sloped roof from 7.5 m (24.6 ft) to 8.38 m (27.49 ft); Relaxation of the maximum overall height of a sloped roof exceeding a 12:12 Pitch from 7.5 m (24.6 ft) to 9.31 m (30.54 ft)

MINUTES
BOARD OF VARIANCE
Council Chambers, Saanich Municipal Hall
Via Microsoft Teams
March 9, 2022 at 6:01 p.m.

Members:	J. Uliana (A/Chair), K. Zirul, A. Gill, M. Cole
Regrets:	M. Horner
Staff:	K. Kaiser, Planning Technician; N. Chaggar, Senior Committee Clerk
Minutes:	**MOVED by K. Zirul and Seconded by A. Gill: "That the minutes of the Board of Variance meeting held January 12, 2022 be adopted as amended."** **CARRIED** **MOVED by K. Zirul and Seconded by A. Gill: "That the minutes of the Board of Variance meeting held February 9, 2022 be adopted as circulated."** **CARRIED**
Chair's Remarks:	The A/Chair welcomed new member Marty Cole to the Board of Variance.
Judge Place Stairs and roof overhang	**Applicant: Anne-Louise and Christopher Brooks** **Property: 1252 Judge Place** **Variance: Relaxation of the maximum allowable projection into an interior side lot setback from 0.6 m (2.0 ft) to 1.35 m (4.43 ft)**
BOV #00960	The Notice of Meeting was read, and the applicant's letter and two letters from neighbours received.
Applicants:	Anne-Louise and Christopher Brooks, applicants/owners, were present in support of the application and noted the following: ▪ The property was purchased in 2016. ▪ The applicants were aware of flooding issues in the lower portion of the house; they were told that these issues were remediated. ▪ In 2019, there was a flood in the basement. The applicants went through a series of repairs to address the issues but were unable to get to the root cause. ▪ There was a collapsed drain in the front yard which was addressed. ▪ Another flood occurred under the stairs in question. The rotten stairs were removed and the applicants waited to ensure the issue was resolved before replacing the stairs. ▪ The applicants did not realize a permit was required to build new stairs. ▪ In winter 2021, another significant flood occurred. The applicants lived out of the garage while repairs were completed. ▪ The applicants placed tarps around the sides of the house to prevent further flooding. The tarps seemed to stop the water penetration. ▪ This led the applicants to believe the water was coming from above, and not from the piping under the stairs. They found a contractor to build a roof overhang to provide coverage and didn't think about permits amid the stress of the pandemic. ▪ The applicants spoke with the neighbor who had no concerns with the project.

- The applicants are asking for permission to leave the roof overhang as is.
- The applicants maintain that the stairs and overhang were a less invasive option than digging up the driveway to resolve the issue.
- The new stairs are approximately the same size as the old stairs, but they face the opposite direction.

Public input: Barb and Deveilyau Tymusko, Judge Place:

- Expressed concerns about liability and access to their property given the fact that the applicants used their driveway for the work.
- The neighbours are opposed to the variance requested because the structure can't be maintained without someone infringing on their property, given the close proximity of the structure.
- Expressed concerns about the ability to enjoy the outdoor living space in their driveway because the stairs and access into the home at 1252 Judge is directly in front of them.

Discussions: In response to questions from the Board, the applicants stated:

- The applicants currently reside in Calgary and rent out the house at 1252 Judge Place.
- At the time that this structure was built, the same neighbors who provided input at this meeting were supportive of the project proposed.
- Prior to the reconstruction of the stairs, the stairs ran towards the backyard. They now face the opposite way.
- The applicants had all pipes scoped as part of their investigation into the flooding issues.
- The applicants believe there may be foundational issues.
- The door where the structure in question is located is original to the home.
- Should this variance be denied, the hardship to the applicants would be having to undertake significant excavation around the home. This will also impact the neighbours.

In response to questions from the Board, the Planning Technician stated:

- It is unknown whether the stairs were part of the original building permit for the home.
- If the stairs were original and lawfully built, the applicants would have the right to maintain them as is. The newly built overhang is the main concern.

Board discussion:

- The re-orientation of the stairs affects the neighboring property.
- Standard maintenance of a home includes updates to perimeter drains.
- The overhang is large and in very close proximity to the neighboring property.
- Protecting one side of the property may not mitigate the problem at large. The proper solution would be to excavate, waterproof and install drain tile.
- Concerns about fire spreading to the neighboring property were expressed.

MOTION: **MOVED by K. Zirul and Seconded by M. Cole: "That the following request to relax the maximum allowable projection into an interior side lot setback from 0.6 m (2.0 ft) to 1.35 m (4.43 ft) from the requirements of Zoning Bylaw 2003, Section 5.8(c), further to the construction of stairs and a roof overhang on Lot 1, Section 32, Victoria District, Plan 51047 (1252 Judge Place) be DENIED."**

CARRIED

Wicklow Street Stairs and Landing	**Applicant:**	**Derrick and Caitlin Siska**
	Property:	**3245 Wicklow Street**
	Variance:	**Relaxation of the minimum combined sideyard setback from 4.5 m (14.8 ft) to 3.59 m (11.78 ft)**

BOV #00961 The Notice of Meeting was read, and the applicant's letter and five letters from neighbours received.

Applicants: Derrick and Caitlin Siska, applicants/owners, were present in support of the application and noted the following:

- The applicant wishes to open a massage therapy home business which requires stairs and access into the home for clients.

Discussions: In response to questions from the Board, the applicants stated:

- The proposed stairs face the back of the yard for increased privacy.
- Stairs are required for access to the home office because the grade cannot be changed.
- If this variance is denied, the applicants would not be able to run a home business.

In response to questions from the Board, the Planning Technician stated:

- The variance granted for this property in May 2021 was for a different side of the home.
- Application for a variance was required because the proposed stairs are considered a structure as they are over 1 ft in height.

Board Discussion:

- The applicants received five letters of support from neighbors, and none opposed.
- To build up the grade on the property would be difficult and creates significant hardship.
- This is a minor variance.
- The applicants may consider other options to avoid requiring this variance.
- The lot is skinny and adds to the applicants' hardship.
- This application does not impact the natural environment.

Public input: Nil

MOTION: **MOVED by A. Gill and Seconded by K. Zirul: "That the following request to relax the minimum combined sideyard setback from 4.5 m (14.8 ft) to 3.59 m (11.78 ft) from the requirements of Zoning Bylaw 2003, Section 210.4(ii), further to the construction of stairs and landing on Lot E, Section 62, Victoria District, Plan 2426 (3245 Wicklow Street) be APPROVED.**

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

Penrhyn Street Addition	**Applicant:**	**Daniel McLaughlin**
	Property:	**2550 Penrhyn Street**
	Variance:	**Relaxation of the maximum non-basement floor area from 226 m^2 (80%) to 280.41 m^2 (99.26%)**

BOV #00962	The Notice of Meeting was read, and the applicant's letter and four letters from neighbours received.
Applicants:	Daniel McLaughlin, applicant/owner, and Nathalie Thiffault, designer, were present in support of the application and noted the following: ▪ The applicant purchased the property in 2013 and has since outgrown the home. ▪ The most appropriate design was to add a storey to the top of the house.
Discussions:	In response to questions from the Board, the applicant stated: ▪ The existing "basement" of the home is counted as part of the total non-basement area because it is not technically deep enough to be considered a basement according to Saanich bylaws. ▪ The basement would have to be dug over 2 ft deeper in order for it to be considered a basement. This option was considered but the cost and impact to the natural environment are significant. In response to questions from the Board, the Planning Technician stated: ▪ The total non-basement floor area permitted for this zone is 3745 ft^2. Board Discussion: ▪ Neighbours are supportive of the addition; none were opposed. ▪ There is no impact to the environment. ▪ Undue hardship is justified based on the fact that the current "basement" is included in the total non-basement floor area of the home.
Public input:	Nil
MOTION:	**MOVED by K. Zirul and Seconded by A. Gill: "That the following request to relax the maximum non-basement floor area from 226 m^2 (80%) to 280.4 m^2 (99.26%) from the requirements of Zoning Bylaw 2003, Section 230.4(c), further to the construction of an addition on Lot 2, Block B, Section 44, Victoria District, Plan 1483 (2550 Penrhyn Street) be APPROVED.** **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**

Cordova Bay Road Stairs and landing	**Applicant:**	**Dan Potvin**
	Property:	**4899-C Cordova Bay Road**
	Variance:	**Relaxation to allow a structure to be constructed or located upon or over the land lying below the natural boundary of the ocean;** **Relaxation of the maximum height for a structure within 7.5 m (24.6 ft) of the natural boundary of the ocean from 0.6 m (1.96 ft) to 3.44 m (11.28 ft) located above the natural boundary of the ocean.**
BOV #00963	The Notice of Meeting was read, and the applicant's letter and one letter from a neighbour received.	
Applicants:	Justin Yin, representative, and Zhiguang Hu, owner, were present in support of the application and noted the following:	

- The applicants wanted to live closer to the water and bought their dream home in 2018.
- The wooden stairs, which provided access to the water, were rotten and slippery when wet. It was determined that aluminum would be a good option for the new stairs, and that a permit would not be required.
- The applicants replaced two of the concrete landings to level them out and fix cracks. As preparations for the new stair installation began, they were informed that a permit was required.
- The applicants' main concern is safety.

Discussions: In response to questions from the Board, the applicant stated:

- Parts of the old wooden stairs were steeper than others.
- The hand rail is what will cause the structure to be over height.
- The wooden stairs have already been removed so the current situation is hazardous.
- The hardship to the applicants is the safety component of not having stairs to access the water abutting the property.

In response to questions from the Board, the Planning Technician stated:

- It is likely that the original stairs were built without permits, as many were during this time period.
- In order for the stairs to comply, the applicants would have to rip everything out and start from scratch, and ensure the height of the stairs doesn't exceed 2 ft.

Board Discussion:

- The hardship is the slope that the stairs are being built on.
- It is unlikely that the applicants can build stairs in this location without a variance.
- The applicants wish to make the stairs safer without changing dimensions.
- One letter submitted by a neighbour expressed concerns about water view obstructions; however, the proposed stair replacement would not contribute to any view obstructions.

Public input: Nil

MOTION: **MOVED by M. Cole and Seconded by K. Zirul: "That the following request to allow a structure to be constructed or located upon or over the land lying below the natural boundary of the ocean, and to relax the maximum height for a structure within 7.5 m (24.6 ft) of the natural boundary of the ocean from 0.6 m (1.96 ft) to 3.44 m (11.28 ft) located above the natural boundary of the ocean from the requirements of Zoning Bylaw 2003, Sections 5.16(a) and (b), further to the construction of stairs and landing on Lot 3, Section 28, Lake District, Plan 10472 (4899C Cordova Bay Road) be APPROVED.**

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

Royal Oak Avenue New Construction

Applicant: **Austin Andrews**
Property: **860 Royal Oak Avenue**
Variance: **Relaxation of the maximum height of a sloped roof from 7.5 m (24.6 ft) to 8.0 m (26.25 ft)**

BOV #00964 The Notice of Meeting was read, and the applicant's letter and two letters from neighbours received.

Applicants: Austin Andrews, applicant/owner, was present in support of the application and the following was noted:

- This application is regarding a sloping roof over the entry way dormer window. The issue came up unexpectedly when height and site surveys were completed. It is unknown exactly what factors led to this issue.
- Removing the dormer would be costly and wouldn't lower the overall height of the house.

Discussions: In response to questions from the Board, the applicant stated:

- The ridge of the roof on the main house is compliant.
- The small dormer/decorative roof is too high at the mid-point.
- Blasting and excavation should have happened according to plan but may not have. This is likely what attributed to the height difference in question.
- If this variance is denied, the applicants would face significant financial hardship, and the project would be delayed due to re-design and re-construction.

In response to questions from the Board, the Planning Technician stated:

- The bylaw states that height measurements are made from the original/natural grade.

Board Discussions:

- The Board received one letter in favour, and one in opposition of this application.
- The upper portion of the roof is in compliance and this is where neighbors would be most affected.
- This is a minor variance.
- The board must consider the application as if it were a new construction that has not yet been built and approve on the merits of what it is, not based on financial hardship.
- The intent of the bylaw is to not allow a dormer that is too high.
- The plans were designed to be in compliance with the bylaws.
- There is a 10 m grade difference from the road to the main floor of the house. The applicants couldn't get by without putting fill in. To change the dormer at this point to make it taller in order to comply seems counter-intuitive.

Public input: Nil

MOTION: **MOVED by A. Gill and Seconded by M. Cole: "That the following request to relax the maximum height of a sloped roof from 7.5 m (24.6 ft) to 8.0 m (26.25 ft) from the requirements of Zoning Bylaw 2003, Section 230.4(b)(i) further to the construction of a single family dwelling on Lot 10, Section 8 & 8A, Lake District, Plan 8449 (860 Royal Oak Avenue) be APPROVED.**

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
With K. Zirul OPPOSED

Timber Place New Construction	**Applicant:**	**Chris Foyd and Paul Cosgrave**
	Property:	**4767 Timber Place**
	Variance:	**Relaxation of the maximum overall height for a flat roof from 6.5 m (21.3 ft) to 6.75 m (22.15 ft);** **Relaxation of the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the outermost wall for a flat roof (single face) from 6.5 m (21.3 ft) to 7.88 m (25.85 ft)**

BOV #00965 The Notice of Meeting was read, and the applicant's letter and two letters from neighbours received.

Applicants: Chris Foyd, Designer; Greg and Katie Wallis, owners; and Paul Cosgrove, builder, were present in support of the application and the following was noted:

- The applicants were not able to get the site properly marked.
- The two variances are related to one another.
- It's a heavily forested site and the applicants are trying to maintain the footprint of the original structure and avoid cutting trees down.

Discussions: In response to questions from the Board, the applicants stated:

- The single face height would not impact neighbors because it faces the ocean. The small increase in overall height may impact neighbors.
- The intent of the bylaw is to ensure a single face wall is not too tall.
- The floor to ceiling height on the main floor level is 9 ft, and 8 ft 6 inches on the upper level.
- The applicants have prepared an alternate design which would bring the construction in compliance for the single face variance. The applicants would increase the depth of the house into the ground by 10 inches to comply with the overall height of the structure.
- The applicants would prefer to not blast any deeper in hopes to save the large trees in the vicinity.
- The neighbors to the south are 50 ft above the main level of the proposed house.
- If the request for variance of overall height is denied, there will be an impact on the trees.
- If the request for single face variance is denied, this will have the impact on design and water views from the home.

Board Discussion:

- The Board received two letters in opposition of this application.
- The neighbor to the north is far away and the site is heavily treed. It is unlikely that this project will impact the view.
- The zoning bylaws surrounding these matters is clear and it is risky to design a home that does not comply.
- The applicants have demonstrated how the house can be re-designed in order to comply.
- The request for variance on single face doesn't affect neighbors. In order to comply, it would require the applicants to add unnecessary square footage which, as a result, impacts the land.
- The overall height variance is minor.
- The proposed project doesn't impact neighbors.

Public input: Nil

MOTION: **MOVED by A. Gill and Seconded by K. Zirul: "That the following request to relax the maximum overall height for a flat roof from 6.5 m (21.3 ft) to 6.75 m (22.15 ft), and to relax the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the outermost wall for a flat roof (single face) from 6.5 m (21.3 ft) to 7.88 m (25.85 ft) from the requirements of Zoning Bylaw 2003, Sections 295.3(b)(i) and (ii), further to the construction of a new dwelling on Lot B, Section 121, Lake District, Plan 47149 (4767 Timber Place) be APPROVED.**

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

Adjournment On a motion from A. Gill, the meeting was adjourned at 8:15 pm.

John Uliana, A/Chair

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

Recording Secretary