

**MINUTES
BOARD OF VARIANCE
COMMITTEE ROOM NO. 2, SAANICH MUNICIPAL HALL
APRIL 8, 2015 AT 6:30 P.M.**

Members: H. Charania, D. Gunn, R. Gupta, R. Kelley, R. Riddett

Staff: K. Gill, Zoning Officer, T. Douglas, Senior Committee Clerk

Minutes: Moved by R. Gupta and Seconded by D. Gunn: "That the minutes of the Board of Variance meeting held March 11, 2015 be adopted as amended.

CARRIED

McKenzie Avenue Existing deck addition

Applicant: Jag Phagura obo 654108 BC Ltd
Property: 911 McKenzie Avenue
Variance: Relaxation of combined interior side lot line setback from 4.5 m to 4.32 m

BOV #00480

The Notice of Meeting was read and the applicant's letter received. Letter of no objection received from G. Bowen, 3981 Nelthorpe Street.

Applicants

Jag Phagura, applicant was present in support of the application and had nothing to add other than he replaced an existing deck that had rotted. In response to questions from the Board, the applicant stated:

- The house is likely existing non-conforming.
- The footings are new; he is not sure if they are in the same place as the old footings.
- An inspection has not yet been done as he needs a decision from the Board first.
- The deck is needed for safety egress.

The Zoning Officer noted that it is up to the Building Inspector to request a survey. In response to concerns about measurements, he noted that measurements should be taken from the property line, not a fence line.

In Favour

Nil

In Opposition

Nil

MOTION:

MOVED by D. Gunn and Seconded by R. Kelley: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 230.4(a)(ii), further to the retention of an existing deck to the house on Lot 7, Section 64, Victoria District, Plan 7602 (911 McKenzie Avenue):

- a) relaxation of combined interior side lot line setback from 4.5 m to 4.32 m

And further that the variance so permitted be in accordance with the plans submitted to the Board."

Board comments:

- This is a minor reasonable variance.
- The home is existing non-conforming.
- The applicant replaced an existing deck in the same location.
- It would be a hardship to have to knock down a deck for the sake of 18 cm.

The Motion was then Put and CARRIED

Tudor Avenue Addition
 BOV #00481
Applicant: Richard Hinchcliff obo Richard Boss
Property: 2905 Tudor Avenue
Variance: Relaxation of front lot line setback from 15.0 m to 13.45 m

The Notice of Meeting was read and the applicant’s letter received. Signatures of no objection received from R. Sargent, 3874 Amroth Place; M. and D. Penaluna, 2906 Tudor Avenue; D. and J. Cook, 2901 Tudor Avenue; W. and J. Lewis, 2900 Tudor Avenue.

Applicants
 Richard Boss, owner, was present in support of the application. He noted that:

- The location of the house is more toward one side of the property because of a septic field that was there when they built 40 years ago.
- There is room for a garage on the other side of the property but it would be in the wrong spot for good use.
- He feels this design is not intrusive.
- He struggled with coming up with a design that would look right so he hired a designer who came up with this option.

In Favour Nil

In Opposition Nil

MOTION: MOVED by D. Gunn and Seconded by R. Kelley: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 290.3(a)(i), further to the construction of a garage addition to the house on Lot B, Section 44, Victoria District, Plan 25718 (2905 Tudor Avenue):

a) relaxation of front lot line setback from 15.0 m to 13.45 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on April 8, 2017, if not acted upon.”

Board comments:

- The garage location is reasonable.
- It does not encroach on the streetscape; it’s a considerable distance from the road.
- The siting of the house on the lot is a hardship.
- The design enhances visual appeal.
- It is impractical to move, and would become a side setback issue.
- This is an appropriate, reasonable design that suits the character and location.
- It was recognized that the applicant made an effort to modify the design at the rear southwest corner of the garage to avoid seeking an additional side setback variance.

The Motion was then Put and CARRIED

Cordova Bay Road Existing addition
 BOV #00482
Applicant: Rick Roskin
Property: 4907 Cordova Bay Road
Variance: Relaxation of building size
Relaxation of combined interior side lot line setback from 4.5 m to 3.82 m

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

Applicants
 Rick Roskin, owner/applicant was present in support of the application and had nothing to add.

The Zoning Officer noted that an increase in gross floor area has occurred, and he provided information regarding the variance request for the size of the building. He noted that density equals the number of dwellings and the square footage of the buildings on properties.

The applicant responded to Board questions:

- He had added small storage rooms and a bedroom without permit. He was under the impression that anything under 107 square feet required no permit so he did the renovations bit by bit.
- Bylaw Enforcement Officers informed him that the additions require a permit.
- He would like to build a 3'4" x 4'4" storage area to the cottage.
- Having to remove the existing additions would be hardship.
- He has not ever developed in Saanich.
- He lives at the property about four months of the year.

Public comments

Dan Hamill, 4905B Cordova Bay Road and Brian Hume, 4905A Cordova Bay Road, were present out of interest and commented that they would like to make sure that additions do not keep occurring without permit.

MOTION:

MOVED by R. Riddett and Seconded by D. Gunn: "That the following requests for variance from the requirements of Zoning Bylaw 2003, Sections 3.5 and 295.3(a)(iii), further to the retention of an existing addition to the house on Lot SE 10, Section 28, Lake District , Plan 3155 (4907 Cordova Bay Road) be DENIED:

- a) relaxation of combined interior side lot line setback from 4.5 m to 3.82 m
- b) relaxation of building size"

Board comments:

- The intent of the Bylaw is to control the growth of second dwellings on parcels.
- The Bylaw is clear that second dwellings may not increase in size.
- The applicant should consider asking Council for a Development Variance Permit. The Board does not have authority to approve this due to the intent of the Bylaw.

**The Motion was then Put and CARRIED
R. Gupta abstained from voting as he could not view the cottage**

Kings Road
Tree Removal

BOV #00483

Applicant: Rob Vanzella OBO Deanna Pfeifer
Property: 1870 Kings Road
Variance: Relaxation of Tree Protection Bylaw to remove a Douglas fir tree

The Notice of Meeting was read and the applicant's letter received. Signatures of support received from C. Longpre and K. Boehnert, 1880 Kings Road; C. Moore, 1846 Kings Road; H. deGoene, 1840 Kings Road; G. Boyer, 1860 Kings Road. Letter not in support received from L. Weiss, 2718 Dean Avenue.

Applicants

Rob Vanzella, applicant, and Deanna Pfeifer, owner, were present in support of the application and stated:

- They initially contacted Saanich Parks about tree removal and were told they could remove the trees on their property. They then hired a designer based on this information. They received a permit to remove the tree in question and took their time in planning their yard.
- They were not notified of the change in the Tree Protection Bylaw. The Bylaw halved the size from 60cm DBH to 30cm DBH, now making tree #73 a protected tree.
- They gave a courtesy call to Saanich to let them know the tree was coming down and were thanked by Parks staff. Almost immediately following, they were called back by Parks staff and were told that the tree in question is now protected under the bylaw. This news from Parks affects their plans for a garage and a garden.
- They are willing to plant replacement fir trees in the back.
- They plan to retire in this home. The garage is for his use and the garden is for her.

In response to questions from the Board, the applicant/owner stated:

- They had to build a protective fence around the tree for when large equipment is in the yard.
- They have a building permit for the garage.
- Fir trees grow to be very tall, it is currently about 100' high at this time.
- Hardships include:
 - Not being able to put in a garden with the tree there because no organic materials can be placed on the root system and nothing will grow under the tree with the needle droppings. They would like to be self-sustaining.
 - The tree is in the way when backing out of the garage; they cannot drive over the protected area.
 - They had planned their yard based upon the previous approval by Saanich of certain trees in the yard.
 - There is a danger with how close the tree is to the house and foundation.
- They face difficulty in installing the driveway with the protected tree.
- Trying to move the garage over now would be awkward.
- The garden they planned is in the sunniest part of the yard.
- They live in the downstairs of the house and have owned it for five years.

In Favour

Gary Boyer, 1860 Kings Road:

- Lives next door. The tree is about 4' from his property line.
- The previous neighbour planted the trees in the 1980's.
- The tree causes hardship to him as branches get in the way when he manoeuvres his motorhome and drops needles on the vehicle as well.
- It is not a beautiful tree.

In Opposition

Nil

MOTION:

MOVED by R. Riddett and Seconded by R. Gupta: "That the following variance request from the requirements of the Tree Protection Bylaw 2014, No. 9272 further to the removal of a Douglas Fir Tree at Lot 4, Section 25, Victoria District, Plan 14795 (1870 Kings Road) be approved, and that the applicant contact the Parks Department to ensure that a replacement tree is planted as per the requirements of the above-noted Bylaw."

Board comments:

- The applicant was badly misled by Saanich; they had a letter dated March 4, 2015 stating that the tree could be removed.
- Backing out of the driveway would result in driving over the protected area.

- The tree causes shade on the only area suitable for a garden.
- A 100' tree that close to the house is potentially dangerous.
- Removal goes against the intent of the Bylaw.
- The garage is a significant size; they could consider re-configuring its design.
- The hardship is the misinformation/miscommunication by Saanich which created a problem. They had recent permission from Saanich and the letter contained no expiry.

**The Motion was then Put and CARRIED
with R. Kelley and D. Gunn OPPOSED**

Baxter Avenue
Addition

BOV #00484

Applicant: Sheryl and Andrew Carr
Property: 590 Baxter Avenue
Variance: Relaxation of allowable floor space in non-basement areas from 80% to 92%

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

Applicants

Sheryl Carr, owner, was present in support of the application and had nothing to add. In response to a question she noted that the deck at the back is to be removed. They are asking for underneath basement space. She clarified that the basement is 7' and not 7" as per the application letter.

In Favour

Nil

In Opposition

Nil

MOTION:

MOVED by R. Gupta and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 210.4(c), further to the construction of an addition to the house on Lot 19, Section 82, Victoria District, Plan 9766 (590 Baxter Avenue):

- a) relaxation of allowable floor space in non-basement areas from 80% to 92%**

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on April 8, 2017, if not acted upon."

Board comments:

- This is a typical small 50's raised bungalow and the family has a history of previous hardship.
- The request is not against the intent of the bylaw; the house is not too large and is appropriate to the lot.
- The applicant has shown a clear hardship with the needs of a growing family.

The Motion was then Put and CARRIED

Lexington
Avenue
Deck addition

BOV #00485

Applicant: Kenneth and Gina Carradine
Property: 3925 Lexington Avenue
Variance: Relaxation of rear lot line setback from 7.5 m to 6.0 m

The Notice of Meeting was read and the applicant's letter received. Letters of support received from A. Girvan and R. Randall, 3920 Lexington Avenue; E. and J. Coey, 3921 Lexington Avenue.

Applicants Ken and Gina Carradine, applicants/owners, were present in support of the application. They provided additional documentation relating to the height, the measurements regarding the proposed run of the stairs, and a medical condition of a family member. They added that the addition would also provide egress from the second floor.

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

- They did not consider a different design, as the motivation is the run of the stairs, not the extension of the deck.
- They will not be adding the pergola on top of the deck.
- They require egress from the second floor.
- They have lived at the house since 2005 and the deck was existing when they moved in.

In Favour Nil

In Opposition Nil

MOTION: MOVED by R. Riddett and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 210.4(a)(i), further to the construction of a deck addition to the house on Lot 14, Section 45, Victoria District, Plan 29338 (3925 Lexington Avenue):

- a) relaxation of rear lot line setback from 7.5 m to 6.0 m**

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on April 8, 2017, if not acted upon."

Board comments:

- The lot is shallow with a small back yard; the neighbour's house is even closer to the lot line.
- There is a school behind the applicant's house and no objection was given by neighbours.
- The deck could be reconfigured but the applicant's need is recognized.
- It is a fairly large deck; it is recognized and good that the applicants committed to not include a pergola on top.
- Hardship was proven, and the siting of the house is why the back yard is so close.

The Motion was then Put and CARRIED

Hampton Road Addition BOV #00486	Applicant: Marly Elarid Property: 11 Hampton Road Variance: Relaxation of height from 6.5 m to 7.2 m Relaxation of single face height from 6.5 m to 7.2 m
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The Notice of Meeting was read and the applicant's letter received. Signatures of support received from J. Medlyn, 3261 Harriet Road; L. Maulsby, 30 Hampton Road; Mariam, 25 Hampton Road; Sandy J., 21 Hampton Road; M. MacDonald, 18 Hampton Road; L. Glover, 24 Hampton Road, M. Hyland, 3296 Harriet Road, B. Schutte, 3300 Harriet Road. Letter of objection received from J. McIntyre, 19 Hampton Road.

Applicants Marly Elarid, owner/applicant and John Kornelson were present in support of the application and had nothing to add. In response to questions from the Board, the owner and Mr. Kornelson stated:

- The south wall in the back yard is the area where the variance is needed as far as he knows.
- The heights were on the plans when they were approved.
- The survey noted water metre and ground elevations and a mistake was made as they thought the water meter measurement was ground elevation and they measured from there.

In Favour

Melissa Hyland, 3296 Harriet Road:

- Feels the family did their due diligence with the process.
- Noted errors and lack of communication do happen; this was a mistake.
- They need the room for their family, the daughter has had spinal surgery and they wanted the renovation done before the recovery process started.

In Opposition

Nil

MOTION:

MOVED by R. Riddett and Seconded by R. Kelley: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(b)(i) and (ii), further to the construction of an addition to the house on Lot 1, Section 81, Victoria District, Plan 1006 (11 Hampton Road):

- a) relaxation of height from 6.5 m to 7.2 m
- b) relaxation of single face height from 6.5 m to 7.2 m

And further that the variances so permitted be in accordance with the plans submitted to the Board, and expire on April 8, 2015, if not acted upon."

Board comments:

- An honest mistake was made and it would be at a huge cost to rectify this.
- The house, when completed, will suit the neighbourhood.
- It is a reasonable variance, given the error.
- They have shown a clear hardship, there is no neighbourhood impact, and most neighbours are supportive.

CARRIED

Other business

Board members discussed various issues relating to Variance applications, and the following was noted:

Hardship relating to expansions/additions:

- Financial hardship for home businesses or the need to install suites for rental income is less compelling than hardships for ailing parents, physical issues, growing families.

Existing non-confirming structures:

- Debate occurred regarding when variance requests are required for existing non-confirming structures. Board requested a legal opinion regarding additions/structural alterations to existing non-confirming structures. Specifically section 911 (4) and (5) of the Local Government Act.

Fences:

- The Board will continue to adjudicate requests for fence height variances based on hardship. The belief is that Council could better address the deer issue, as deer are everywhere and are not a hardship.

Weighing community input:

- The Board is obligated to hear all points of view and will continue to weigh the use and enjoyment of adjacent land, ensure that they speak only to the variance request, and not engage in other factors raised by community members.
- A reminder was made that the Board is not a design panel and it is best not to ask questions about colour, cost, choice of materials etc.

Adjournment On a motion from R. Gupta, the meeting was adjourned at 10:15 p.m.

Haji Charania, Chair

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

Recording Secretary