

MINUTES  
**BOARD OF VARIANCE**  
COMMITTEE ROOM NO. 1, SAANICH MUNICIPAL HALL  
**OCTOBER 14, 2015 AT 5:00 P.M.**

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

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

Minutes: **Moved by R. Kelley and Seconded by D. Gunn: "That the minutes of the Board of Variance meeting held September 9, 2015 be adopted as amended."**

**CARRIED**

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Tudor Avenue Existing deck addition      **Applicant: Andrey Tiurpenko**  
**Property: 2769 Tudor Avenue**  
**Variance: Relaxation of rear lot line from 11.0 m to 2.79 m**

BOV #00510      The Notice of Meeting was read and the applicant's letter received. Signatures of no objection received from G. and M. Winn, 2775 Tudor Avenue; E. Thomson, 2767 Tudor Avenue; C. Simson, 2768 Seaview Road.

Applicants      Andrey Tiurpenko, applicant and Greg Phillips, Real Estate Agent, were present in support of the application and had nothing to add.

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

- They knew that the original deck was not in compliance.
- The new deck extends further than the original deck.
- The deck was given more support and was done properly by an engineer.
- The family lives in Vancouver; they had a manager (builder) construct the deck and it was found out after construction had started that the proper process was not followed.
- They purchased the house in 2013 and at that time did not know that it was non-conforming. They did not plan to renovate the deck but after doing so many house improvements, the original deck looked bad and needed improvements.
- They would like to bring the house into compliance to avoid any problems with selling in the future.
- They have never lived in the house.
- A description of the other renovations to the house was given. All permits were applied for at the same time in August 2015.
- The hardship is that the upstairs of the house is small and the main living space is the deck. The backyard has uneven terrain and the house benefits from the view. It will cost a lot of money to remove, there are no cost estimates but it may be about \$40,000 - \$50,000 to make it conform.

The Zoning Officer confirmed that construction had already started when the building permit application was received.

In Favour      Nil

In Opposition      Nil

**MOTION:      MOVED by R. Riddett: "That the following request for variance from the requirements of Zoning Bylaw 2003, Section 290.3(a)(ii), to relax the rear lot line from 11.0 metres to 2.79 metres further to the retention of an**

**existing deck to the house on Lot 4, Section 44, Victoria District, Plan 1403 (2769 Tudor Avenue) be approved.”**

**The Motion DIED due to lack of a Seconder**

**MOVED by D. Gunn and Seconded by R. Gupta: “That the following request for variance from the requirements of Zoning Bylaw 2003, Section 290.3(a)(ii), to relax the rear lot line from 11.0 metres to 2.79 metres further to the retention of an existing deck to the house on Lot 4, Section 44, Victoria District, Plan 1403 (2769 Tudor Avenue) be denied:**

Board comments:

- The deck does not currently interfere with adjacent homes but it could in the future.
- The request is against the intent of the Bylaw to create space between neighbours.
- The deck increases the massing as well as an existing non-conformity.
- There may be a hardship with the siting of the home.
- It may be costly to fix the problem but the applicant knowingly made the deck more non-compliant.
- Under different circumstances the siting may be a hardship, however the house is not occupied.
- The deck does not appear to impact neighbours; it is downhill and the house siting works against the applicant.
- The drawings are different than what is built; this is a major variance; not convinced of hardship as the house is not lived in.
- It is nice to have a deck with a view but it is not essential.

**The Motion was then Put and CARRIED  
R. Riddett OPPOSED**

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Echo Drive Accessory building	<b>Applicant: Aaron Mills OBO Dana Craft and Mike Grew</b> <b>Property: 5014 Echo Drive</b> <b>Variance: Relaxation of height from 3.75 metres to 5.4 metres</b>
BOV #00511	The Notice of Meeting was read and the applicant’s letter received. Signatures of no objection received from M. Mikelson, 5010 Echo Drive; H. Critchley and G. Lazarevich, 5007 Echo Drive; D. Carey, 5018 Echo Drive.
Applicants	Aaron Mills, applicant, was present in support of the application and stated the owners want to replace the structure as close to as before the fire.  The Zoning Officer stated that previously, the building had a kitchen and enough space for a single family dwelling.  In response to questions from the Board, the applicant stated: <ul style="list-style-type: none"> <li>▪ There will be no living area; the use will be different from before.</li> <li>▪ The owners will sign a declaration that there will be no suite and know it is a recognized address in this regard.</li> <li>▪ The shop downstairs will be the same, the wife would like a studio and living area upstairs.</li> <li>▪ This will not be a residence; it will be as the drawings show.</li> <li>▪ The height will be a little lower; the original building was non-conforming. This will make it a bit smaller and not as big a variance as from the original.</li> </ul>

- The existing slab was for a fire barrier; it extends past the building and then forms part of the driveway.
- The peak roof is not necessary but it matches the rest of the building. A variance would also be needed for a flat roof.
- The property is just under an acre in size and the owners have lived there for a number of years.
- This replacement is part of an insurance claim.
- A description was given of the surrounding buildings and the vehicles on/near the property.
- The owners live on the other side of the lake. They want the new proposed space for their personal use.
- The owner’s hardship is that they want to replace what was there.

In Favour Nil

In Opposition Nil

**MOTION:** **MOVED by D. Gunn and Seconded by R. Gupta: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 125.8(b), further to the construction of an accessory building on Lot 14, Section 89, Lake District, Plan 2091 (5014 Echo Drive):**

- a) relaxation of height from 3.75 metres to 5.4 metres

**And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on October 14, 2015, if not acted upon.”**

Board comments:

- This will not impact the neighbours and replaces what was there.
- The Board has received assurance regarding the use. The Bylaws will enforce the usage and the owners will be asked to submit a letter to Inspection Services in this regard.
- The hardship is not fully evident.
- This is a minor variance for an A-4 zone.
- They are continuing with non-compliance; the applicant does not live on the site; there is rental accommodation there.

**The Motion was then Put and CARRIED  
H. Charania OPPOSED**

Claremont Avenue  
New house  
  
BOV #00512

**Applicant: Bhupinder Dhillon**  
**Property: 952 Claremont Avenue**  
**Variance: Relaxation of height from 7.5 m to 13.9 m**  
**Relaxation of single face height from 7.5 m to 16.1 m**

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

Applicants

Bhupinder Dhillon, applicant, was present in support of his application and had nothing further to add.

Public comments

- Mr. and Mrs. Heyer, 958 Claremont Avenue:
- Were present to observe and to clarify that the applicant is proposing to build a two-storey building.
  - Noted that the house is very large, with having six bedrooms.

The Zoning Officer clarified the single face height location and explained the average natural grade measurement. He noted that the neighbours would see a two-storey building if approved.

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

- He did not speak with his neighbours about the application.
- The land has a 45 degree slope. They will have to bring in fill because the slope is so steep and will likely have a set of terraced retaining walls.
- The land was purchased two months ago; he spoke with a designer and engineer to discuss fill and knew he would have to come to the Board.
- The lot is about 18,000 square feet and the proposed home is about 5,500 square feet plus a garage. It is zoned RS-18.
- He will need an arborist report regarding the trees on the property and will speak to Saanich about this.
- The hardship is that because of the slope, there is not much he can do.
- He bought the lot because of the area, possible views, and proximity to schools.

The Zoning Officer noted that there are no restrictions on the height of retaining walls if they are used to retain soil.

**MOTION:**

**MOVED by R. Kelley and Seconded by R. Riddett: "That consideration of the following request for variances from the requirements of Zoning Bylaw 2003, Sections 295.3(b)(i) and (ii), further to the construction of a new house on Lot 24, Section 30, Lake District, Plan 7575 (952 Claremont Avenue) be TABLED:**

- a) relaxation of height from 7.5 metres to 13.9 metres**
- b) relaxation of single face height from 7.5 metres to 16.1 metres."**

Board comments:

- There is hardship with the slope, but it is difficult to make a decision without seeing the final product. Having a cross-section down the slope showing the existing grade, proposed grade, and proposed building would help in making the decision.
- Maybe this request should be made to Council via a Development Variance Permit (DVP) application.
- Other houses on the street with similar challenges appear less massive than the one proposed.
- This is a unique application, the Board has not received objections from neighbours and the ones who were present for the Hearing seemed satisfied.

The Zoning Officer noted that there is a survey on the file which measures from natural grade. He further added that Council can request a cross section and a landscape plan for a DVP, but the applicant is not obligated to provide this information to the Board of Variance.

**The Motion was the Put and CARRIED  
R. Charania and R. Gupta OPPOSED**

Walter Avenue  
Existing shed  
Existing fence  
BOV #00513

**Applicant: Andrew Peters**  
**Property: 320 Walter Avenue**  
**Variance: Relaxation of fence height from 1.9 m to 2.28 m**  
**Relaxation of rear lot line from 1.5 m to 0.79 m**  
**Relaxation of interior side lot line from 1.5 m to 0.61 m**

The Notice of Meeting was read and the applicant's letter received. Signature of no objection received from J. Bone, 326 Walter Avenue. Signature of objection received from P. Higgins, 312 Walter Avenue.

The Chair asked that the applicant and interested parties stick to the facts of the variance as it is not the Board's prevue to hear personal disputes.

Applicants

Andrew Peters, applicant, and Corey Wright resident, were present in support of the application and had nothing further to add.

In response to questions from the Board, Mr. Peters and Ms. Wright stated:

- When constructing the new shed, there was no way to conform to the bylaw without cutting down a tree.
- They thought the shed location would be fine because it is moveable. The location uses the space effectively and allowed them to keep the greenery.
- The shed is used for bicycles and outdoor furniture.
- They also re-did the perimeter drains on the property.
- They thought fences were permitted to be six feet high, regardless of whether they are on a retaining wall or not.
- The shed is about 10' x 12'.
- The other neighbour has no issue with their fence; they tried to be consistent with the fencing in the area.
- The hardship is that they would have to move the shed, and with a lower fence they experience constant harassment from the neighbour. They have not had any problems since erecting the fence and need it to protect their family. This is a personal issue.

The Zoning Officer noted that if an accessory building is 107 square feet or less, then a permit is not required, however it still needs to be sited as per the Zoning Bylaw requirements.

In Favour

Nil

In Opposition

Patrick Higgins, 312 Walter Avenue:

- Has lived in his home on Walter Avenue for 41 years.
- Requested clarification on the address of J. Bone, who sent in a signature of support for the applicant.
- Described the size and location of the previous shed on the applicant's property, and stated that he withdraws his complaint of the existing shed in its current location.
- Objects to the applicant's fence as it stands.

In response to questions from the Board, Mr. Higgins stated:

- He built the original fence which sits behind the applicant's fence. It is six feet high and keeps his dogs on his property.
- A survey was done by the previous owner in 1942; there were pegs in the ground; the wall is located on the property line.
- Other neighbours in the back filled in the corner and changed the grade of the ground.

- His only complaint with the fence is that if he has to repair his own fence he will not be able to do so because they are so close together.

The Zoning Officer advised that he has made the applicant aware that a survey may be required as part of the building permit process.

**MOTION:**

**MOVED by D. Gunn and Seconded by R. Kelley: “That the request for variance from the requirements of Zoning Bylaw 2003, Section 6.2, to relax the height from 1.9 metres to 2.28 metres further to the retention of an existing fence on Lot W10, Section 13, Victoria District, Plan 1070 (320 Walter Avenue) be denied.”**

Board comments:

- The fence contravenes the intent of the Bylaw. This is a wall, not a fence.
- There is no hardship; landscaping could remedy the issue.
- There is sympathy with the civil issue but this goes against the Bylaw.
- There is concern about the fence location
- The hardship is personal; dispute resolution is suggested.

**The Motion was then Put and CARRIED**

**MOVED by R. Gupta and Seconded by R. Riddett: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.5(a)(ii), to allow an accessory building remain as is on Lot W10, Section 13, Victoria District, Plan 1070 (320 Walter Avenue):**

- a) relaxation of rear lot line from 1.5 metres to 0.79 metres**
- b) relaxation of interior side lot line from 1.5 metres to 0.61 metres**

**And further that the variances so permitted be in accordance with the plans submitted to the Board.”**

Board comments:

- This is a minor variance request.
- The structure could be moved if necessary and is well done.
- They need the building for storage of bikes and furniture.
- The neighbour has withdrawn his objection to the shed.
- There is hardship with the location of the tree and the cost involved in moving the structure.

**The Motion was then Put and CARRIED**

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Adjournment

On a motion from R. Kelley, the meeting was adjourned at 7:30 p.m.

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Haji Charania, Chair

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

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Recording Secretary