MINUTES
BOARD OF VARIANCE
COMMITTEE ROOM NO. 2, SAANICH MUNICIPAL HALL
JULY 11, 2018 AT 6:00 P.M.

Members:	H. Charania (Chair), D. Gunn, R. Gupta, M. Horner, R. Riddett
Staff:	D. Blewett, Zoning Officer, K. Kaiser, Zoning Officer, J. Keays, Committee Clerk
Minutes:	Moved by M. Horner and Seconded by R. Riddett: "That the minutes of the Board of Variance meeting held June 13, 2018 be adopted as amended." CARRIED

Lohr Road
New house

BOV #00727

Applicant: Terence Williams Architect OBO Debbie Haines & John Ellis
Property: 161 Lohr Road
Variance: Relaxation of height from 7.5m to 8.5m
Relaxation of flat roof height from 6.5m to 7.75 m
Relaxation of single face height from 6.5m to 8.7m for a flat roof
Relaxation of height of an accessory building from 3.75m to 5.0m

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

Applicants: Terence Williams of Terence Williams Architect, and Callum McClure were present in support of the application. The following is noted:

- 10.8 acre lot.
- Difficult topography and extensive tree coverage is the hardship.
- Most recent site plan suggests the house can be moved 6 m to the west to avoid unnecessary blasting.
- Passive house design will meet STEP Code 5/ Net Zero standard.
- Owners will undertake and 10 year restoration plan of the existing Garry oak and Arbutus natural area.

In reply to questions from the board the following is noted:

- Design has gone through numerous revisions, previous designs had greater impact on the natural environment.
- Siting of the house has been adjusted to minimize unnecessary blasting and clear cutting of existing trees.
- Existing house will become a non-conforming accessory use building when new house is constructed and existing kitchen decommissioned.
- Existing house would be demolished entirely (no re-use) and numerous trees removed if the variance is denied.
- 8' ceiling height was considered; however, there were functional design issues with regard to the accommodating the required ductwork of the building's heating/cooling system.
- Wall that faces neighbouring property is blank. The neighbouring property is approximately 124' away.
- Applicant supports a covenant on the accessory building to ensure it remains a non-commercial, office/study library.

Public input: Nil

MOTION: **MOVED by R. Gupta and Seconded by R. Riddett: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 110.5(b)(i) and (ii) and Section 110.7(b), further to the construction of a new house on Lot 20, Section 87, Lake District Plan 422 (161 Lohr Road):**

a) relaxation of height from 7.5m to 8.5m
b) relaxation of flat roof height from 6.5m to 7.75 m
c) relaxation of single face height from 6.5m to 8.7m for a flat roof
d) relaxation of height of an accessory building from 3.75m to 5.0m

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."

Board comments:
- Topography is the demonstrated hardship.
- Applicant has made efforts to site the house in a manner that will minimize tree removal and unnecessary blasting.
- Minimal impact to neighbours with regard to height.
- Restoration plan of the natural area is important.

The Motion was then Put and CARRIED

Mt. Baker View Road Addition

Applicant: **Mac Renovations OBO David & Kyra Fairbotham**
Property: **2905 Mt. Baker View Road**
Variance: **Relaxation of rear lot line setback from 11 m to 2.77 m**

BOV #00728 The Notice of Meeting was read and the applicant's letter received. Eight signatures of no objection received.

Applicants: Derek Breen, applicant, and David and Kyra Fairbotham, owners, were present in support of the application. The following was noted:
- Neighbours support the application
- Proposed construction would be to the edge of existing non-conforming deck.
- Lot was previously divided.
- House is not situated squarely in the setback envelope
- The house was built upon the original 1950's foundation, and is located to the rear of the lot. Siting may be a result of the lot's topography and past requirements for a septic field.

Public input: Eric Dahli, Mt. Baker View Road.
- Supports the application.
- Owners are making modifications now to support future aging in place.

In reply to questions from the board the following is noted:
- Alternate location for the addition would obscure the neighbour's view.
- Variances were granted in 1994 for relaxation of the rear lot line setback, and 2009 for height (determined that it was non-conforming, despite benefit of permits, after significant envelope remediation work).
- Current house is 2200 sq.ft.
- Proposed addition is 207 sq.ft.
- Hardship is the existing siting of the house.

- Deck was in place in 2009. It is unclear when it was built, and if it was legal.
- Building on the front of the house would be too difficult due to the steep grade and rock.

MOTION: **MOVED by D. Gunn and Seconded by M. Horner: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 290.3(a)(ii), further to the construction of an addition to the house on Lot 4, Section 44, Victoria District, Plan 9438 (2905 Mt. Baker View Road):**

a) relaxation of rear lot line setback from 11 m to 2.77 m

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 variance so permitted by this Order will expire."

Board comments:

- Variance is large; however, it includes the existing non-conforming deck.
- Deck appears to have been recognized as it was used to calculate average grade in 2009, where the 2.77 meter setback is acknowledged.
- Applicants request for relief is reasonable as the neighbouring lot is nearly six meters higher than the subject lot.
- Hardship is the shallow, skewed lot and difficult building conditions in the front of the property.
- Option 1 has no impact on neighbours, whereas Option 2 would interfere with the sightlines of property at 2904 Phylis and impact the privacy of 2911 Mt. Bakerview Rd. due to the proximity to the house.
- Granting the variance would legalize the deck.
- 3 variances appear to be incremental.
- There are numerous, significantly larger home, in the immediate neighbourhood.
- Massing of house will remain below the maximum size allowable under the R16 zoning (2500 sq.ft.).
- Not convinced of hardship.

The Motion was then Put and CARRIED
With R. Gupta and H. Charania OPPOSED

Elwood Avenue
Accessory building

Applicant: **Russell Abbott**
Property: **4120 Elwood Avenue**
Variance: **Relaxation of height from 3.75m to 3.93m**

BOV #00730

The Notice of Meeting was read and the applicant's letter received. Two signatures of no objection were received. Comments received from one residence. H. Charania, D. Gunn and R. Gupta met with the applicants on-site.

Applicants:

Russell Abbott and Shannon Lucas, applicant/owners, were present in support of the application. The following is noted:

- Builder error resulted in the non-conforming height.
- The builder did not compensate for the height of the footings that resulted in the 7" (0.18m) overage.
- Structure was built with the benefit of a permit.
- A post construction height and location survey identified the violation.

- Garage will be used for vehicle parking and to provide additional recreation/gym space for the family.

Public input: Nil

MOTION: **MOVED by R. Gupta and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 101.7(b), further to allowing an existing accessory building to remain as is on Lot A, Section 13, Lake District, Plan 1752 (4120 Elwood Avenue):**

a) relaxation of height from 3.75m to 3.93m."

Board comments:
- Variance is minor.
- The accessory building is sited lower than the main building.
- No objections from neighbours, no impact on environment.

The Motion was then Put and CARRIED

D'Arcy Lane Addition

BOV #00731

Applicant: Randall Recinos OBO Charlie Stuff
Property: 1104 D'Arcy Lane
Variance: Relaxation of height from 6.5 m to 7.41 m

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

Applicants: Randall Recinos, applicant and Charlie Stuff, owner, were present in support of the application. The following is noted:
- Partially enclosed stairway to the roof was built with benefit of a permit.
- Failure to submit the rooftop deck area and glass railings as part of the permit application was inadvertent.
- Railings were installed to provide safety for the family's 4 young children.

Public input: Alex Bergtold and Sherry Lee, D'Arcy Lane.
- Ongoing civil disputes with applicant regarding site cleanliness throughout construction.
- Deck built without approvals or permits.
- Concerned property owner will cut down trees on property, which would impact the soft transitions from the natural to developed areas.
- Removal of trees could also have an impact on their privacy.
- Concerned that entire roof may be used for a deck.

In reply to questions from the board the following is noted:
- Variance would be for the plans as submitted only.
- No additional work would be permitted, the deck cannot be made larger.
- Railing materials could be changed under the authority of the Director of Planning.
- Exterior staircase built with benefit of a permit.
- Mr. Recinos advised that he was not the designer and cannot speak to the plans.
- Zoning Bylaw does not restrict a stairway to the roof; however, a guardrail should have been required under the Building Code.
- It is possible this requirement was missed by the inspector at the time.

- Removing the railing would achieve compliance with Bylaw; however, the deck use would not be permitted without the required railing.
- The intent was always to use it as a roof deck, that is why the stairway was built.
- No tress were removed without prior authorization and permits.
- Prepared to remove the railings and close access from the doorway.
- Relationship with neighbour has been tenuous.

MOTION: **MOVED by R. Gupta and Seconded by R. Riddett: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 220.4(b)(i), further to the construction of a rooftop deck and railing on Lot 17, Section 28, Lake District, Plan 3155 (1104 D'Arcy Lane):**

a) relaxation of height from 6.5 m to 7.41 m

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 variance so permitted by this Order will expire."

Board comments:

- Request is major, although not invasive due to materials used.
- Transparency of the glass is key.
- The motion is supportable, but only if transparent glass materials will be used.
- Applicant has acknowledged the mistake; however, there appears to have been a staff oversight, the onus for compliance is in not entirely theirs.
- Demonstrated hardships are safety, and waste of materials.
- No additional construction, no additional tree removal is be supportable.
- Setback is important.
- Transparency of the design in good.
- Not going to support the motion, as the railings appear to be an afterthought.
- Riser height from landing to the roof deck is atypical and higher than normal.
- Height of structure could have an impact on the privacy of the neighbours.
- Application would likely be rejected if it was brought forward prior to construction.
- This is a self-constructed hardship.
- Stairway access to the roof is reasonable for maintenance purposes. It is evident a railing for the upper landing would have been required.
- The notion that this was inadvertent is concerning. What was original intent of stairway?
- It would be beneficial to see the original plans.
- Appears deck was an afterthought.
- Adversarial relationship with neighbours is of concern.

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After the request from the Board D. Blewett and K. Kaiser left the meeting to retrieve the plans for the subject property. Board discussion continued.

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- Decking could remain in place if variance is rejected, but railings would come down.

- This is a matter of need versus necessity, as there are already two existing decks.
- Should the item be tabled until all members can visit the site?
- Need to see the plans, if they do include the stairway and door than the onus cannot reasonably be placed entirely on the applicant. This could potentially indicate that there was staff error.
- The subject deck is actually quite small, larger deck is on the lower floor.
- Railing is only around the deck area, no other portion of the flat-roof has a railing.
- Impact would be only to the neighbours on the west side of the house.

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D. Blewlett and K. Kaiser returned to meeting with the Plans. The Board members reviewed the plans. Board discussion continued.

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- Stairway does exist on the original plan.
- Doorway is not clear.
- Elevations do not clearly show the stairs as they are enclosed within the exterior wall.
- Based on the review of the original plans it is evident that the building inspector would most likely have required the installation of a railing.

The Motion was then Put and CARRIED
With Don Gunn OPPOSED

Viaduct Ave. E.
Accessory building

Applicant: Andrew Kulas
Property: 777 Viaduct Avenue East
Variance: Relaxation of front lot line setback from 7.5m to 4.51 m

BOV #00732

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

Applicants:

Andrew Kulas and A. Kulas, ower/applicant, and Mike Giordano, Developer, were present in support of the application. The following is noted:

- Siting the proposed accessory building within the conforming setbacks will impede their enjoyment of the front yard.

In reply to questions from the board the following is noted:

- The frontage is not traditional, driveway access/egress is from the Viaduct Avenue East.
- 4' is the minimum separation distance between an accessory building and a main building.
- In order to mitigate the hardship the siting of the accessory building could be closer to the main building; however, this would result in the loss of enjoyment of the yard area.
- The footprint of the proposed structure was not marked.
- The purpose of the building is for office storage, a garden suite is not being considered
- Viaduct Avenue East is the exterior side lot and Casa Linda Drive is the front lot line.
- Attaching the accessory building is not being considered as the main house could be torn down and rebuilt in future.
- If the variance is not granted they would build within the conforming setbacks.
- There is no issue with siting the building within the conforming setbacks, only impact would be to the main house.

Public input: Nil

MOTION: **MOVED by D. Gunn and Seconded by R. Riddett: "That the request for a variance to relax the front lot line setback from 7.5m to 4.51m from the requirements of Zoning Bylaw 2003, Section 220.5(a)(i), further to the construction of an accessory building on Lot 2, Section 97, Lake District, Plan 50473 (777 Viaduct Avenue East) be DENIED."**

Board comments:

- No demonstrated hardship.
- With regard to aesthetics, locating the structure within the conforming setbacks does not constitute a hardship.
- No intent to mitigate hardship, or the impact on streetscape.
- Intent of the Bylaw is to preserve the streetscape.
- Storage in the front lot of the house is alarming, and would have an impact on the streetscape.

The Motion was then Put and CARRIED

Quayle Road
New house

BOV #00733

Applicant: Mavericks Solutions OBO Alison Tedder
Property: 397 Quayle Road
Variance: Relaxation of single face height from 7.5 m to 7.55 m

The Notice of Meeting was read and the applicant's letter received. H. Chanaria and M. Horner stated that they met the applicant on-site.

Applicants: Darren Sopher, Mavericks Solutions, applicant and Allison Tedder, owner, attended in support of the application. The following was noted:

- Variance requested is approximately 2" (0.18cm)
- No impact to neighbours
- Conforming to existing Bylaw would result in significant design changes.
- Property is being used for small scale farming.

In reply to questions from the board the following is noted:

- Existing barn structure will be demolished (permit obtained)
- Existing dwelling under a delayed demo permit. The kitchen will be demolished upon completion of the new building.
- The building's future use is a farm office.
- Building was marked out with orange stakes 3 months ago; however, this was not apparent to a member during their site visit.
- A building permit is required for the proposed conversion of existing dwelling to farm office.
- Any other future use, other than the proposed farm office, may require a variance.

Public input: Nil

MOTION: **MOVED by M. Horner and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 101.5(b)(ii), further to the construction of a new house on Lot 3, Section 103, Lake District, Plan 1176 (397 Quayle Road):**

a) relaxation of single face height from 7.5 m to 7.55 m

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 variance so permitted by this Order will expire."

Board comments:

- Secluded, well treed lot, no impact to neighbours.
- The request is very minor in nature.
- Environment is being respected and maintained.

The Motion was then Put and CARRIED

Pullet Place
New house

BOV #00734

Applicant: **Karn Dodd OBO KSD Holdings**
Property: **4257 Pullet Place**
Variance: **Relaxation of allowable floor space in non-basement areas from 80% to 83.19%**

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

Applicants: Karn Dodd and Komal Dodd, applicants/owners, and Wil Peereboom, Designer, were present in support of the application. In light of new information the Designer requested that the committee table the item to allow the design team complete additional revisions.

Public input: Nil

MOTION: **MOVED by M. Horner and Seconded by D. Gunn: "That the request for variance from requirements of Zoning Bylaw 2003, Section 210.4(c), further to the construction of new house on Lot 8, Section 11, Lake District, Plan EPS4249 (4257 Pullet Place) be TABLED until such a time that the applicant can make revisions to the design.**

CARRIED

Pullet Place
New house

BOV #00687

Applicant: **Karn Dodd OBO KSD Holdings**
Property: **4245 Pullet Place**
Variance: **Relaxation of height from 7.5 m to 7.78 m**
Relaxation of single face height from 7.5 m to 8.06 m for a pitched roof
Relaxation of accessory building height from 3.75m to 4.04m

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

MOVED by R. Gupta and Seconded by M. Horner: "That the application for variance at 4245 Pullet Place be lifted from the table."

CARRIED

Applicants: Karn Dodd and Komal Dodd, applicants/owners, and Wil Peereboom, Designer, were present in support of the application. The following was noted:

- Committee Secretary confirmed that the request before them was for the reliefs noted in the applicant's letter dated, July 9, 2018.
- The hardship is the large depression in the middle of lot 8 which results in the average grade of the lot being approximately 1.5m below road/finish grade.

- There has been extensive consultation with the neighbours.
- In order to compensate for the depression, and accommodate the Building Code requirements for both the footings and the connection to the bioswale, the lot has to be built up.
- The bioswale is located in the Hydro right-of-way.
- Taken from finish grade, the house is under-height.
- The design of the roof pitch has been revised since the June 13, 2018 Board of Variance meeting.

Public input: Nil

In reply to questions from the board the following is noted:

- Code requirements are impacting footings.
- Main level, floor to ceiling height is 9'; second level is 8'.
- The pitch of the revised roof is 7:12.
- The minimum pitch permitted under the existing design scheme is 6:12; flat roofs are not permitted.
- The marked post indicates main floor's elevation.
- Footings will be built on an engineered substrate.
- The demonstrated hardship is that the house will have to be built in the swale/depression.
- The building site is minimal due to the hydro corridor, resulting in a narrow house design.
- Finish height is measured from the average grade, not the finish grade.
- If the site utilized a storm drain there would be no requirement for the variance.
- Pooling water presents a potential hardship, as it will be hard on the foundation.
- Pooling water will be mitigated by the engineered substrate.
- Bioswale was inherited.
- The details of the bioswales were not clear at the time of purchase.
- Only after final engineering report was submitted was the requirement to connect the perimeter drain to the bioswale identified.
- A pitch of 6:12 would result in a nominal decrease of 5-6" but would have design implications.

MOTION: **MOVED by R. Riddett and Seconded by R. Gupta: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 205.4(b)(i) and (ii) and 205.5(b), further to the construction of a new hosue on Lot 8, Section 11, Lake District, Plan EPS4249 (4245 Pullet Place):**

a) relaxation of height from 7.5 m to 7.78 m
b) relaxation of single face height from 7.5 m to 8.06 m for a pitched roof
c) relaxation of accessory building height from 3.75m to 4.04 m

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."

Board comments:

- The depression on the site is a clear hardship.
- Variances are minor.
- New numbers are more supportable than those presented at the last meeting.
- Hydro corrido is an issue.
- Onus remains on the purchaser/developer to recognize/identify any site related issues.
- Applicant has made significant effort to mitigate impacts and reduce variance requirements.
- No trees will be removed.

The Motion was then Put and CARRIED

Pullet Place
New house

BOV #00726

Applicant: Karn Dodd OBO KSD Holdings
Property: 4259 Pullet Place
Variance: Relaxation of single face height from 7.5 m to 8.20 m for a pitched roof

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

MOVED by R. Gupta and Seconded by M. Horner: "That the application for variance at 4259 Pullet Place be lifted from the table."

CARRIED

Applicants: Karn Dodd and Komal Dodd, applicants/owners, and Wil Peereboom, Designer, were present in support of the application. The following was noted:

- The hardship is the grade of the lot, the uphill slope to the street, and connections to the bioswale.
- Building complies with overall height; however, there remains an issue with the lowest single face setback.
- The bioswale is located at 21.54 metres, the lower floor is at 21.75m leaving only 20 cm in elevation to achieve gravity fall.

Public input: Nil

In reply to questions from the board the following is noted:

- If variances are not granted the 688sq.ft basement will be removed and the house will be set deeper into the ground.
- The floor to ceiling heights are as follows: main floor 9'; upper floor 8' and basement 8'.
- The Zoning Officer stated that most applications for new homes are being submitted with 8' ceilings; however, there has been an noticeable increase in applications with 9' ceiling in RS12 and RS16 Zones.
- Mitigation efforts made, overall height is compliant.
- Gross floor area of the building is 272.21m^2.

MOTION: **MOVED by R. Gupta and Seconded by R. Riddett: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(b)(ii), further to the construction of # on Lot 1, Section 8 & 11, Lake District Plan EPS4249 (4259 Pullet Place):**

a) relaxation of single face height from 7.5 m to 8.20 m for a pitched roof

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 variance so permitted by this Order will expire."

Board comments:

- Variance request is quite large.
- Is this matter at hand a hardship, or a design factor?
- Slope on site impacts elevations.
- The proposed building is no higher than the neighbouring properties.
- Bylaw can be relaxed in this instance.
- The bioswale connection is clearly an issue.
- Basement could be eliminated.
- The intent of the Bylaw is not at issue here; however, facilitating the connections to perimeter drains and bioswale is a hardship.
- 8' ceilings are adequate.

The Motion was then Put and CARRIED
With D. Gunn OPPOSED

Scolton Road
Accessory building

BOV #00724

Applicant: **Tom McFeely**
Property: **3935 Scolton Road**
Variance: **Relaxation of the rear lot line from 1.5m to 0.66m**
Relaxation of the exterior side lot line from 3.5m to 0.65m

The Notice of Meeting was read and the applicant's letter received. D. Gunn met with the applicant on-site.

Applicants: Tom McFeely, applicant/owner, was present in support of the application. The following was noted:

- Error made in good faith. Wouldn't have proceeded with the construction without first applying for variance.
- Mr. McFeely's contractor advised him that there was no issue as long as the building didn't exceed height and total area.
- Feels that the circulated correspondence is directed at them personally, not the application in hand.
- Does not feel the harm that objector is claiming is relevant to the proposal. No new structures are planned, nor is the line of site being compromised.

Public input: Cheri Reimer, 2575 Arbutus Road.

- Has lived in the neighbourhood for 14 years.
- Objector has filed numerous Bylaw complaints against a number of their neighbours.
- Many have been vexatious.
- Supports application.

Stacey Baker, 3931 Scolton Road
- Has lived at abutting property for 6 years.
- Has experienced issues with the neighbour as well.
- They have no concern with the shed.
- Supports application.

In reply to questions from the board the following is noted:
- If variance was denied the structure would be demolished or relocated (off-site).
- A relocation cannot be accommodated on-site due to setbacks; accordingly, the structure could not be re-situated without a variance.
- The Zoning Officer confirmed that Scolton is the front yard, and Arbutus is the exterior side yard.
- The hardship is substantial, as the house is currently for sale. Removal could impact the value.
- Impact on streetscape is minimal, as cedar hedge obscures the structure from the roadway; further, there was no attempt to build higher than the hedge.

MOTION: **MOVED by R. Riddett and Seconded by M. Horner: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 230.5(a)(ii) and (iii), further to the construction of an accessory building on Lot B, Section 44, Victoria PL VIP72108 (3935 Scolton Road):**

a) relaxation of the rear lot line from 1.5 m to 0.66 m
b) relaxation of the exterior side lot line from 3.5 m to 0.65 m

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."

Board comments:
- Hardship is significant.
- No impact on neighbouring properties.
- It appears the objecting neighbour's shed is also in violation of the side yard setback requirement.
- Approval is tied to submitted plans; any future build would be required to repair and rebuild to the existing plans.
- The hedge could be removed in the future, exposing the shed and impacting the streetscape.
- The Zoning Officer commented that there was confusion in the past with regard to the construction of sheds; instructions on the construction, and permitting requirements, of sheds are now much clearer on the District's website, and within the hardcopy pamphlet.
- It appears as though the shed at 2571 Arbutus is also in contravention of the Bylaw.
- Not convinced of hardship.
- House has no basement; accordingly, the shed is being used for additional storage and a small workshop area.

The Motion was then Put and CARRIED
With R. Gupta and H. Charnaria OPPOSED

Adjournment **On a motion from R. Riddett, the meeting was adjourned at 9:57 pm.**

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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