# MINUTES BOARD OF VARIANCE COMMITTEE ROOM NO. 2, SAANICH MUNICIPAL HALL MARCH 13, 2019 AT 6:00 P.M.

Members: H. Charania, E. Dahli, D. Gunn, M. Horner, R. Riddett (Chair)

Staff: A. Bains, Legislative Manager; S. Froud, Deputy Legislative Manager;

S.Holmes-Saltzman, Manager of Current Planning; D. Blewett, Zoning Officer;

K. Kaiser, Zoning Officer; T. Douglas, Senior Committee Clerk

Minutes: Moved by H. Charania and Seconded by D. Gunn: "That the minutes of the

Board of Variance meeting held February 13, 2019 be adopted as circulated."

CARRIED

Braefoot Road

Addition

Applicant: Aiyang Ma

Property: 4050 Braefoot Road

Variance: Relaxation of height from 7.5 m to 8.19 m

BOV #00790 Relaxation of single face height from 7.5 m to 9.03 m

The Notice of Meeting was read and the applicant's letter received. Letter of no objection received from two residences. Mr. Charania and Mr. Gunn noted

that they met with the owner on their site visits.

Applicants: Aiyang Ma and Hui Chen, applicants/owners, were present in support of the

application and had nothing to add.

Public input: Resident, 4033 Braefoot Road:

Feels the house is too tall; looks like an apartment building.

 Renovated their own home and was able to abide by the Bylaw. Feels applicant should conform to the rules.

Resident, 4060 Braefoot Road:

 Was in support of the 2016 application and asked if this is the same plan that was approved in 2016.

Asked why the height was not checked along the way. Feels the owners should have been told they were over-height earlier.

Board members noted that this is a different applicant than presented in 2016 and the applicants are asking for a higher variance than previously approved.

The Zoning Officers noted that this application was treated as a new house rather than an addition as there was nothing left of the old house. Additionally, the height anomaly was not caught earlier because the applicant did not call for an inspection until January 2019, far past the appropriate time to call.

# Resident, 4033 Braefoot Road:

- During their own renovation they went through all the inspections before they were permitted to proceed. In this instance it appears that nothing was checked until it was far too late.
- Stated this is far greater than a 6" increase in variance from before.
- Feels the height is obnoxious and unpleasant.

The Zoning Officer stated that for whatever reason the process was not appropriately followed after the Building Permit was issued.

The applicants stated:

- They were approved for a variance in 2016 for an increase from 7.5 m to 8.06 m.
- They prepared for the construction over 1.5 years, made changes to the plans and submitted them to Saanich. They did not know they needed a new variance because the height in the new plans was not higher.
- They obtained their building permit and followed the permit plans. In January they had an inspection and were told they do not comply with the variance granted in 2016.
- They were not supposed to receive a permit but they were issued one.
- The builder was HRC Construction. The existing foundation was used.
- They did not intend to build incorrectly and did not know they needed another variance.

The Zoning Officers provided a history of the application and noted that the footprint of the new house is different. The applicant stated that the designer made a mistake and they did not add to or change the foundation and this is why they did not ask for a foundation inspection. Staff and the applicant reviewed the plans. A discussion occurred about whether to table this item.

**MOTION:** 

MOVED by D. Gunn and Seconded by E. Dahli: "That consideration of the request for variance from the requirements of Zoning Bylaw 2003, Section 101.5(b)(i) and (ii), further to the construction of an addition to the house on Lot 10, Section 32, Victoria District, Plan 4181 (4050 Braefoot Road) be TABLED."

The Motion was CARRIED With M. Horner and H. Charania OPPOSED

A discussion occurred about continuing the discussion this evening. Consensus was that staff and the applicants shall leave the room to discuss the application further and return to the Hearing later.

MOTION TO RESCIND:

MOVED by H. Charania and Seconded by M. Horner, "That the motion to table the request for variance from the requirements of Zoning Bylaw 2003, Section 101.5(b)(i) and (ii), further to the construction of an addition to the house on Lot 10, Section 32, Victoria District, Plan 4181 (4050 Braefoot Road) be RESCINDED."

The Motion was Put and CARRIED

\*\* The applicants and the Zoning Officer left the meeting at 6:22 pm and returned at 7:00 pm to continue discussion \*\*

MOTION TO CONTINUE HEARING

MOVED by H. Charania and Seconded by M. Horner, "That consideration of the application for variance at 4050 Braefoot Road be lifted from the table."

CARRIED

The Zoning Officer stated that there appears to be an inconsistency with the drawings submitted. The width of the house did not increase and the existing foundation was used. They noted that there is inconsistency with the submitted drawings because the elevations are different in each set that was submitted. The BC Land Survey for height is good.

#### Board comments:

- The plans have changed and about 8" height is added. The footprint is the same
- A discrepancy observed: at the site visit a door to the basement is evident, however this is not shown on the plans.

The Zoning Officer stated that in 2016 the upper floor plan was half the size it is now. The upper right hand of the building was not in those plans but this has been constructed.

In reply to Board questions, the applicants stated:

- The old house had a second floor cantilever. They have removed the wall and cantilever, and the replacement wall has removed a potential wall jog.
- They did not receive the approval letter that states they cannot change the plans; their designer received this letter.
- The inspector said the height is okay.
- They made changes after the variance was given. They did not tell the inspector that they made changes.

In reply to a procedural question, the Secretary stated that correspondence is sent to applicants after a hearing and is copied to the Inspection Services department.

Resident, 1415 Alison Road:

- The house that has been constructed is way too high and looks like a boarding house.
- The house affects their privacy.

The applicant stated that they are on a 2.38 acre parcel and the building is far away from neighbours. The difference between the first variance request and this one is a 13 cm height difference.

#### MOTION:

MOVED by H. Charania and Seconded by M. Horner: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Section 101.5(b)(i) and (ii), further to the construction of an addition to the house on Lot 10, Section 32, Victoria District, Plan 4181 (4050 Braefoot Road):

- a) relaxation of height from 7.5 m to 8.19 m
- b) relaxation of single face height from 7.5 m to 9.03 m

And further that construction is done in accordance with the plans submitted to the Board with no further changes."

Board comments:

- This is a minor increase from the last approval due to an unintentional error.
- There was unfortunate miscommunication and although the applicant should have told staff about the changes, to correct this problem would be very punitive financially.
- Saanich staff played a role in this error and the designer was not here to speak to the item.
- There is no negative environmental impact and this is a large acreage.

- The applicant had been issued their building permit and they are building the house on the existing foundation.
- The hardship was caused by an error with Saanich staff. The plan was accepted and it would be a financial hardship to correct this.
- The applicant made changes to the roof pitch and the massing, and this changes the form and character of the structure. The original ask was for a small area over the garage.
- The Bylaw is designed to protect from excessive massing and this application is contrary to this.
- There are inconsistencies with the plan and it seems like the applicants knew what they were doing.

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

\*\*The Deputy Legislative Manager and the Manager of Current Planning left the meeting at approximately 7:20 pm \*\*

Waring Place New house

BOV #00789

Applicant: Chris Foyd OBO Tom Wilson & Kari Ericksen

**Property: 3757 Waring Place** 

Variance: Relaxation of front lot line from 7.5 m to 3.05 m

Relaxation of rear lot line from 10.5 m to 1.5 m

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

\*\*Mr. Dahli stated a conflict of interest and left the meeting at 6:25 pm.\*\*

Applicants:

Chris Foyd, applicant, and Tom Wilson and Kari Ericksen, owners, were present in support of the application and had nothing to add.

In reply to questions, the applicant noted:

- They found they could not tie the new house into the existing foundation as the engineer has recommended that the foundation be replaced.
- It was also recommended that they extend the foundation walls to eliminate the cantilevered areas.
- The footprint is bigger than previously designed by about 100 square feet, but not in the areas of variance.
- The configuration of the lot was found to be the hardship at the last meeting.
- An archaeological survey was done on the property.

Public input:

Nil

**MOTION:** 

MOVED by H. Charania and Seconded by M. Horner: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 255.4(a)(i) and (ii), further to the construction of a new house on Lot 3, Section 44, Victoria District, Plan VIP13254 (3757 Waring Place):

- a) relaxation of front lot line from 7.5 m to 3.05 m
- b) relaxation of rear lot line from 10.5 m to 1.5 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 changes from the last application are not significant.
- There is no opposition from neighbours and no environmental change.
- An archaeological survey was done for the property.
- The front and rear are really used as side yards.

# The Motion was then Put and CARRIED

\*\*Mr. Dahli returned to the meeting at 6:40 pm.\*\*

Sea View Road New house Applicant: Michael & Elizabeth Rogerson

Property: 2937 Sea View Road

Variance: Relaxation of height from 6.5 m to 7.25 m

BOV #00791

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

# Applicants:

Michael and Elizabeth Rogerson, applicants/owners, were present in support of the application. In reply to questions from the Board, they stated:

- They spent 11 months to change/review their plans. A 3D model of the house found the best site placement based on the topographical survey.
- If they move closer to the street they will be 7.5" higher.
- They have 10' and 11' ceilings because they felt they wanted higher ceilings.
- If they are not granted the variance they will lower their ceiling heights to meet the bylaw requirements.
- The hardship is the stress in constructing a home. They are concerned about rising sea levels and the possibility of water reaching their home. It is difficult to quantify the hardship of feeling stressed over rising water levels.
- They designed a modern style and a more little height makes a big difference. The property will not be worth as much if they have to reduce the height.
- They have consulted with their neighbours. Evidence of this was provided in their application package.
- They purchased the property in November 2018.

When asked to summarize their key hardship the applicants replied that it is the stress involved with the large financial investment of building a home that is only 1.3 metres above sea level. The sea comes to the edge of the property and the concern is that in 5-15 years the sea will rise and water will lap to the edge of the house.

# Public input:

Nil

# **MOTION:**

MOVED by D. Gunn and Seconded by E. Dahli: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 290.3(b)(i), further to the construction of a new house on Lot 3, Section 44, Victoria District, Plan VIP43146 (2937 Sea View Road):

a) relaxation of height from 6.5 m to 7.25 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:

- The lot slopes 5 metres from front to back.
- Some effort has been made to minimize the request.
- This is not a massive home, it sits in the land nicely.
- In this area a 10' ceiling is not unusual; this is a custom waterfront home.
- They can reduce their ceiling height. One member stated undue hardship is not shown and the Board's mandate is to preserve and protect the Bylaw.
- The applicants knew the Zoning and did their due diligence.

The Motion was then Put and CARRIED With H. Charania and M. Horner OPPOSED

\*\* The Legislative Manager left the meeting at 7:00 pm \*\*
Staff and the applicants for 4050 Braefoot Road returned to the meeting room to continue the discussion at 7:00 pm.

# Lochside Drive New house

Applicant: Ryan Hoyt Designs OBO David & Maeve Glen

**Property: 5050 Lochside Drive** 

Variance: Relaxation of height from 7.5 m to 8.10 m

Relaxation of single face height from 6.5 m to 6.83 m

BOV #00792

The Notice of Meeting was read and the applicant's letter received. Letter of no objection received from one residence.

# Applicants:

Ryan Hoyt, applicant and Dave McKenzie, builder, were present in support of the application and stated:

- There is a major challenge with the sloping lot and the average grade calculation.
- They would be under height if the existing house was not carved into the land.
- They do not want to disturb trees or disrupt the slope by moving the house.
- If this is not granted, they will have to move the house further back. It would be the same design.
- The small balcony triggers the single face height and is lower than the overall height.

# Board comments:

- This is a reasonable request and not out of character to the neighbourhood.
- These are minor variances given the slope of the lot, which is the hardship.
- Appreciation was expressed that the house is terraced into the slope.
- Pushing the house back is not justified.
- It is appreciated that they want to preserve trees and they did explore other options.

# Public input:

Nil

### MOTION:

MOVED by D. Gunn and Seconded by E. Dahli: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 295.3(b)(i) and (ii), further to the construction of a new house on Lot 17, Section 30, Lake District, Plan 7575 (5050 Lochside Drive):

- a) relaxation of height from 7.5 m to 8.10 m
- b) relaxation of single face height from 6.5 m to 6.83 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."

# The Motion was then Put and CARRIED

Sea View Road New house Applicant: Property:

Variance:

Michael Moody Architect OBO Xinwen Liu & YuFu Huang

2701 Sea View Road

BOV #00794

Relaxation of front lot line from 15.0 m to 8.0 m

Relaxation of height for a flat roof from 6.5 m to 8.44 m Relaxation of single face height from 6.5 m to 8.89 m

The Notice of Meeting was read and the applicant's letter received. Letter with comments received from one residence.

Applicants:

Michael Moody, applicant, was present in support of the application. He noted a neighbour expressed concerns about privacy and cutting trees, so they have minimized windows facing Sea View and placed only one window on the south side of the home. They used the existing footprint to minimize disturbance and only two small trees are to be removed.

Public input:

Residents, 2710 Sea View Road:

- Submitted a picture of the ribbons the applicant used to mark the height to provide an illustration of the potential roofline the house would have if approved.
- All other houses on the street are the same height. If this is approved it will look bad from the street and from the water side. Are concerned others will apply to build higher houses.
- This will block the views of all the neighbours. Everyone else built down and not up, this is not a minimal ask.

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

- The current house is non-conforming. They propose to have the main floor on the same footprint.
- Ceiling heights are 9' which are normal in this market.
- If this was a flat site they would not need a variance.
- The owners need a three storey house.
- From the road it is not a high house. Across Sea View Road the houses are nine metres above this site.
- If not approved they will have to blast and sink the house down.
- There is already an issue with existing services due to the slope. They have looked at many options and are on a site with dramatic drops. There is already a sump pump installed.
- They cannot move the house to the west because it is steeper.

In reply to a question from Board members, the residents at 2710 Sea View Road stated:

- The owners of 2701 Sea View Road purchased the house less than a year ago and do not have children so they do not understand why so much space is needed.
- They had also considered adding to their own home but were not able to comply with the bylaw so they did not proceed.

#### Board comments:

There are both old and newer homes in the area; some one level, some two level. The neighbours all have the same drainage challenges. All chose to build down and not up.

- There are different hardships; there is a cliff so setbacks are a challenge and the heights are affected by average grade.
- The site steepness is difficult to work within. Suggestion that the applicant modify their plans and come back for the siting variance, but to dig down or lower the request for height.
- Blasting could cause issues with the surrounding trees.
- The extent of the height variances creates undue massing of the building.
- This is a design choice. The site is difficult but there are other design options.
- This is an inappropriate development with the site due to design choices.

# **MOTION:**

MOVED by D. Gunn and Seconded by E. Dahli: "That the following requests for variance from the requirements of Zoning Bylaw 2003, Sections 290.3(a)(i) and 290.3(b)(i) and (ii), further to the construction of a new house on Lot 4, Section 44, Victoria District, Plan VIP6795 (2701 Sea View Road) be DENIED:

- a) relaxation of front lot line from 15.0 m to 8.0 m
- b) relaxation of height for a flat roof from 6.5 m to 8.44 m
- c) relaxation of single face height from 6.5 m to 8.89 m."

### Board comments:

- This is a major request.
- The design could be changed to bring the house into compliance.
- Blasting is not ideal but they may have to do this.
- The slope triggers the need for variance.
- They won't obstruct the views of the neighbour to the north but this home may be incompatible with the neighbourhood.

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

Salsbury Way Addition

BOV #00795

Applicant: Blufox Form & Frame OBO Paul & Cecilia Dishaw

Property: 3363 Salsbury Way

Variance: Relaxation of single face height from 7.5 m to 8.1 m

Relaxation of allowable floor space in non-basement areas

from 80% to 90.87%

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

# Applicants:

Dwaine Assenheimer and Kyle Porter, Blufox Form and Frame, and Ilene Gray, relative of the owner, were present in support of the application. The following was noted:

- This is an older existing non-conforming home.
- The intention is to provide an accessible living space for a family member.
- They cannot dig down to create a basement as this is contrary to accessibility, the ground is already wet and there is concern about drainage.
- The existing storm sewer is at the right level and it is not a good idea to dig lower.
- There is only one neighbour (to the north) that had questions about the dormer and after explaining the dimensions to them they were okay with it.

D. Gunn noted for the record that he spoke with the aforementioned neighbour on his site visit.

The applicants continued to respond to questions as noted:

- Additional parking will be provided as per the Bylaw.
- Nobody else will be living in the home. It is meant for the owners and their mother.
- They have a permit to remove a tree as its roots were growing under the foundation and were getting into the drain tiles.
- The addition is planned for the right side of the house at the back. The left side has a patio and planter so is not appropriate for an addition.
- They are within the maximum allowable lot coverage.
- They have explored other options but building a basement is not logical and bringing fill in to bury part of the house to conform is unreasonable.
- The height is not changing, they are just legalizing an older structure.

# Board comments:

- This is not against the intent of the Bylaw.
- The height is triggered by the dormer; the overall height of the building is not changing.
- They are asking for a minor variance given the hardship of renovating an older house.

# Public input:

Nil

# **MOTION:**

MOVED by D. Gunn and Seconded by M. Horner: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(b)(ii) and 210.4(c), further to the construction of an addition to the house on Lot 2, Section 62, Victoria District, Plan 1264 (3363 Salsbury Way):

- a) relaxation of single face height from 7.5 m to 8.1 m
- b) relaxation of allowable floor space in non-basement areas from 80% to 90.87%

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:

- This is a minor variance.
- They are keeping the character of the house.
- This does not go against the intent of the Bylaw.

# The Motion was then Put and CARRIED

Mayfair Drive Addition BOV #00796 Applicant: Property:

Domingo Martinez OBO Jonathan Hickle & Chantal Brunette

roperty: 3500 Mayfair Drive

Variance:

Relaxation of combined side yard setbacks from 4.5 m to

3.20 m

Relaxation of height from 6.5 m to 7.55 m

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

# Applicants:

Tim Rodier, designer, and Chantal Brunette, owner, were present in support of the application. In reply to questions from the Board, they stated:

They were not aware that the site was not marked for the Board's visit because they live in Vancouver.

- They bought the house in November 2017.
- The proposed garage will be taller than the carport due to the entry point and will be built within the existing footprint with a new foundation.
- It is currently a garage but because Saanich records show it as a carport so they are using this reference. At some point a previous owner converted the carport into a garage.
- They are renovating the entire house. It is a nice house from the 1970's but it has been chopped up into a variety of units.
- They wish to bring the house back to a single family dwelling, close to the original style but more modern.
- They did speak to the affected neighbour. There is park land on the other side of the property.
- The lot shape and the two easements on the property are the hardship.

# Public input:

Nil

# **MOTION:**

MOVED by H. Charania and Seconded by D. Gunn: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 265.4(a)(iii) and 265.4(b)(i), further to the construction of an addition to the house on Lot A, Section 37, Victoria District, Plan 29512 (3500 Mayfair Drive):

- a) relaxation of combined side yard setbacks from 4.5 m to 3.20 m
- b) relaxation of height from 6.5 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 variances so permitted by this Order will expire."

#### Board comments:

- The house is already existing non-conforming in terms of the setback.
- The height is needed because of the grade and the addition.
- The neighbours have been informed and there is no negative impact to the environment.
- This will be an improvement to what is there.
- Moving the home would impact the environment and affect the Garry oak on site.

# The Motion was then Put and CARRIED

South Valley Drive Addition Applicant:

**Bradley Magnes** 

Property:

3956 South Valley Drive

Variance:

Relaxation of allowable floor space in non-basement areas

from 80% to 92.13%

BOV #00797

The Notice of Meeting was read and the applicant's letter received. Signatures of no objection from four residences. H. Charania, E. Dahli and D. Gunn noted that they met with the applicant on their site visits.

# Applicants:

Will Peereboom, Designer, and Brad Magnes, applicant/owner, were present in support of the application and noted the following:

- The applicant's family members are moving into the house and they need a two bedroom suite.
- The family members have mobility issues so it is better to not have a basement.

- They have tried to keep the overall footprint the same and are filling in a space under a cantilevered deck.
- The covenant is not affected by this addition, it is for flooding.

A Board member commented that they are relying upon Saanich staff to ensure that the covenant is not affected by this addition.

#### Board comments:

- The statutory right-of-way is clear and it appears that there are no building restrictions with the design.
- This is a straightforward application.
- The neighbours have indicated support.
- There is minimal change in the massing.
- Having a basement would be a hardship for the people moving in.

# Public input:

Nil

#### **MOTION:**

MOVED by M. Horner and Seconded by E. Dahli: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 205.4(c), further to the construction of an addition to the house on Lot 5, Section 16, Victoria District, Plan VIP80161 (3956 South Valley Drive):

a) relaxation of allowable floor space in non-basement areas from 80% to 92.13%

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."

# The Motion was then Put and CARRIED

Viewmont Avenue Deck addition **Applicant: Lovedip Dodd** 

**Property: 4584 Viewmont Avenue** 

Variance: Relaxation of rear lot line from 7.5 m to 3.80 m

Relaxation of combined front and rear setbacks from

BOV #00798 **15.0 m to 11.40 m** 

The Notice of Meeting was read and the applicant's letter received. Signatures of no objection received from six residences.

# Applicants:

Navdeep and Lovedip Dodd, applicant/owners, and Komal Dodd, developer, were present in support of the application and noted:

- The house sits on a flat, panhandle lot. This was supposed to be a two storey home with a kitchen walkout to the back yard.
- When they started building the house the services were too high and this resulted in the house being lifted 3' off the ground. This made the walkout to the back yard up in the air rather than ground level.
- There was a covenant to protect the trees in the yard and because of this, they were not able to place anything off the back of the house.
- The owner was not aware of the technicalities of the covenant and had a deck built off the kitchen. They were advised to construct a floating deck to protect the trees but found out later at inspection that this is not permitted.
- Since this time the trees have fallen/been removed due to storms and the covenant has been altered so they can have a deck in the area.

- Even after the covenant was altered, it was found that the deck encroaches the setbacks so that is why they have applied for a variance.
- The deck is about 33" high.

Public input:

Nil

MOTION:

MOVED by H. Charania and Seconded by E. Dahli: "That the following variances 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 B, Section 9, Lake District, Plan EPP43460 (4584 Viewmont Avenue):

- a) relaxation of rear lot line from 7.5 m to 3.80 m
- b) relaxation of combined front and rear setbacks from 15.0 m to 11.40 m

And further that construction is done in accordance with the plans submitted to the Board and shall not be altered from what is currently built."

#### Board comments:

- This is a straightforward application.
- The deck is needed for safety; it is unfortunate the house had to be raised.
- This is basically a patio.
- The applicants were trying to follow due process with the covenant and then did not realize there was a setback issue.

The Motion was then Put and CARRIED

Adjournment	On a motion from E. Dahli, the meeting was adjourned at 9:25 pm.
	Robert Riddett, Chair
	I hereby certify that these Minutes are a true and accurate recording of the proceedings.
	Recording Secretary