

**MINUTES
BOARD OF VARIANCE
COUNCIL CHAMBERS, SAANICH MUNICIPAL HALL
NOVEMBER 18, 2020 AT 6:00 P.M.**

Members: H. Charania (Chair), E. Dahli, D. Gunn, R. Riddett
Regrets: M. Horner
Staff: K. Kaiser, Planning Technician, T. Douglas, Senior Committee Clerk

Minutes: Moved by D. Gunn and Seconded by E. Dahli: "That the minutes of the Board of Variance meeting held October 14, 2020 be adopted as amended."
CARRIED

Benson Road Addition
BOV #00885
Applicant: Kors Development Services Inc. OBO Jane & David Brooks
Property: 3908 Benson Road
Variance: Relaxation of rear lot line setback from 11.0 m to 8.94 m

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

Applicants: Jane Brooks, owner, was present via telephone in support of the application.

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

- They do have a basement suite.
- The ramp at the front is for a disabled person.
- They do not know if the deck was built with a permit; it will be removed.

Board discussion:

- The hardship is that the lot is mis-zoned. The lot is 20 metres wide and would fall into an RS-11 sized zone.
- If appropriately zoned, they would not have needed a variance.

Public input: Nil

MOTION: MOVED by D. Gunn and Seconded by R. Riddett: "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 7, Section 44, Victoria District, Plan 9358 (3908 Benson Road):

a) relaxation of rear lot line setback from 11.0 m to 8.94 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:

- This is a zoning anomaly.
- There is no negative impact to the environment or the neighbours.

The Motion was then Put and CARRIED

Broadway Street Addition
BOV #00887
Applicant: Selina Zhang OBO Fangzhou Li
Property: 626 Broadway Street
Variance: Relaxation of allowable floor space in non-basement areas from 80% to 98.32%

The Notice of Meeting was read and the applicant's letter received. Signatures of no objection received from 11 residences.

Applicants:

Selina Zhang, applicant, Fangzhou Li, owner and Grace Bergen, project manager were present in support of the application and had nothing to add.

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

- There is a basement suite that they rent out which was existing when they purchased the house in 2016.
- The deck was there when they purchased the house. There is a hot tub in the deck.
- They do not have a backup plan if this is not approved.
- The hardship is they need the space for when family visits. Other houses on the market are too expensive to buy.
- The basement is not an ideal area to gather as is it crowded.
- The existing living room shown on the plans is used for worship. There is no gathering place on that floor other than the kitchen.
- The addition proposes to build a living room which will be a gathering place.

The Clerk confirmed that there were 11 signatures of no objection included in the application package.

Board discussion:

- When you look at this from the street it looks like a basement but it is not deep enough to be considered a basement.
- The basement ceiling is very low and not habitable.

In reply to a question about using the basement suite for themselves, the applicant noted that the tenants do not wish to move.

Board discussion continued:

- This is a basement regardless of what the bylaw says and if treated as such they do have the floor area. This is hardship caused by the interpretation of the bylaw.
- The area of the basement suite is 94.88 square metres.
- This age of house often has low ceilings and the basement and main floor above get caught up in the definition of basement. If the house was two feet lower in the ground a variance wouldn't be necessary.
- The intent of the Bylaw is to restrict massing and the proposed addition does not increase massing from the street or from the back.

In reply to a question about the size of the living room, the project manager stated they are not increasing the footprint further and the deck is the outline of the proposed sunroom/living room.

A Board member pointed out that the original deck was maybe 2/3 the size of the existing deck and then an addition was made to the deck for the hot tub.

Public input:

Nil

MOTION:

MOVED by R. Riddett and Seconded by E. Dahli: "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 13, Section 82, Victoria District, Plan 1713 (626 Broadway Street):

a) relaxation of allowable floor space in non-basement areas from 80% to 98.32%

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:

- Given the location of the addition, and the support letters this is supportable.
- Need for a variance is caused by the basement definition.
- They are not increasing the footprint and the neighbours are in support.
- The history of basement/non-basement areas was to stop the building of ‘monster houses’ in the 1990’s.
- The design choices give some cause for concern, but there is hardship in trying to bring a vintage house to modern standards.

The Motion was then Put and CARRIED

Whiteside Street
New house

BOV #00888

Applicant: Jason Meng OBO Meng Zhang
Property: 560 Whiteside Street
Variance: Relaxation of height for a flat roof from 6.5 m to 6.77 m
Relaxation of single face height from 6.5 m to 7.15 m

The Notice of Meeting was read and the applicant’s letter received. Letter not in support received from one residence.

Applicants:

Jason Meng, applicant, was present in support of the application and had nothing to add.

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

- They demolished the old structure which had a half basement. After digging it out they brought in fill to prepare the bearing/bearable grade.
- During this excavation they noticed the storm/sewer pipes were almost on the surface and they learned the connections are shallow, about 1.2m – 1.4m from the surface. They were worried about going deeper.
- The depth of the bearing grade determined how high the footings are.
- To reduce height, they lowered the second floor to be an 8’ ceiling. The upper floor has a 9’ ceiling.
- The sewer connection is at the south of the building on Whiteside Street which is downhill from the house.
- The original main floor sat much higher than the current floor because there was a half basement in the original house.
- They are not sure if other houses on the street have flooding issues. This house was raised due to the footings which are higher due to the fill that was brought in.
- The entrance would have been lower than the driveway if they had offset the main floor. The front entrance is above the driveway by about one foot.

The applicant stated:

- At the beginning they were prepared to place the house lower in the ground. They did not carelessly build this over height.
- This was an honest mistake. They tried to build within the Bylaw also by having an 8’ ceiling on the main floor.

- They spoke to the neighbours on the left and right, not the front and back.
- In reply to a letter from a neighbour’s concerns:
 - There is already a huge tree that shadows the property. The building does not cause shadowing.
 - Privacy should not be affected with the addition of height.
 - This is not a monster home and the concern about this is not relevant.
- They did pay attention when building and built a good quality structure.

Board comments:

- Can sympathize with applicant but having trouble finding a hardship that is not self-imposed. They brought in fill and the building is raised up by a foot, and there are design considerations and errors that have led to the problem.
- The sewer comes off at the lowest corner of the lot and the house is at least one metre above that. The house doesn’t need to be raised the way it is.
- This is an unintentional error.
- The overall height is minor but the single face height is not.
- The slope of the land and the sewer is a hardship that was found during construction.
- This is a minor variance with only one foot of absolute height.
- Only one of eight properties objected and they are to the south and will not be affected by shade.
- Would be an enormous cost to fix a 25 cm and 65 cm overage and it would not be easy to correct.

Public input: Nil

MOTION: **MOVED by R. Riddett and Seconded by E. Dahli: “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 a new house on Lot 15, Section 50, Victoria District, Plan 1331 (560 Whiteside Street):**

- a) relaxation of height for a flat roof from 6.5 m to 6.77 m
- b) relaxation of single face height from 6.5 m to 7.15 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
With D. Gunn OPPOSED**

Wolsey Place Addition

**Applicant: Michael Hambly
Property: 3972 Wolsey Place
Variance: Relaxation of rear lot line setback from 11.0 m to 8.68 m**

BOV #00889

The Notice of Meeting was read and the applicant’s letter received. Letters not in support received from two residences.

Applicants:

Michael Hambly, applicant/owner, was present in support of the application and noted there is an old sunroom that needs to be replaced. The strange layout, the zoning of the property, and the designation of the front lot line causes problems. They want to replace and extend by two metres on either side.

Mr. Gunn reported he met with Mr. Hambly on the site and advised him that they could not discuss the application during the site visit.

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

- They have owned the house since February 2016.
- House was built in 1991 with a building permit. The whole house is non-conforming now so the assumption is that the zoning has changed since it was built.
- Three properties share a driveway which affects the front lot line definition.
- Regarding a neighbour’s concern about an eagle’s nest, the eagles left in May 2016. He had received a letter from Saanich Environmental Services saying his property was removed from the Environmental Development Permit Area.
- About 1/3 of the property is undeveloped and they intend to leave it this way.
- The existing sunroom sits on a concrete pad and is not being built further toward the park.

Public input: Nil

MOTION: **MOVED by D. Gunn and Seconded by R. Riddett: “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 A, Section 44, Victoria District, Plan 26771 (3972 Wolsey Place):**

- a) relaxation of rear lot line setback from 11.0 m to 8.68 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:

- There is no further encroachment towards the rear lot line.
- The hardship is that the definition of the front and rear lot lines are not appropriate.
- There are no environmental concerns and no stream seen on the lot.
- The property was removed from the Environmental Development Permit Area.

The Motion was then Put and CARRIED

<p>Winchester Road Addition BOV #00890</p>	<p>Applicant: Sean Dance, D3 Studio OBO Adam & Veronica Verigin Property: 1540 Winchester Road Variance: Relaxation of rear lot line setback from 7.5 m to 4.80 m Relaxation of combined front and rear lot line setback from 15.0 m to 14.20 m Relaxation of allowable floor space in non-basement areas from 80% to 84.31%</p>
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The Notice of Meeting was read and the applicant’s letter received. Letters not in support received from two residences.

Applicants: Sean Dance, applicant, Adam & Veronica Verigin, owners, and Aaron Yager, contractor, were present in support of the application. The owner stated their family is growing and they would like to stay in their home, and this site is the only spot they can add on to.

Public input (via telephone): B. Monkhouse, Winchester Road:

- The original house was overbuilt by about 144 square feet; feels the Board are being asked to vary an existing variance.
- Concerned that the windows in the proposed structure will overlook his private deck and into the neighbour's bedroom. Considers this to be a privacy breach.
- Concerned the structure could overshadow his deck and reduce the natural light.

W. Parker, Winchester Road:

- Concerned about the height of the proposed structure and the positioning of the windows.
- The proposed addition will bring the homes closer together and this will impact their use and enjoyment of their property.
- The applicant already has a decent sized house; it is likely big enough for their family as it is.

In reply to a question from the Board, the Planning Technician advised that the current house is under the maximum floor area; the maximum allowed is 310 square metres and they are proposing 261 square metres.

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

- The proposed addition has a bedroom, bathroom and a closet. The windows in the bathroom will be frosted or tinted. The bedroom windows could be tinted or transom at the top of the wall. Privacy will not be an issue.
- Natural light loss should not occur with the way house is situated (east-west), and the open tree pattern in the area.
- When they build, they try to bring in tasteful units that add value to the neighbourhood.
- The owners have been in the house for eight years and want to stay there.

The owner replied to questions as noted:

- The garage was already converted to living space prior to them purchasing the home in 2011.
- The only new storage needed is closet space.

In reply to a question from the Board, the Planning Technician confirmed the garage area is included in the gross floor area.

The Chair advised that when he visited the site, neighbours at 1536 and 1532 Winchester Road were working outside, and they expressed no objection as they are not impacted.

Mr. Gunn advised that when he visited the site, he met Mr. Parker, and informed him that he was not able to discuss the application at that time.

W. Parker, Winchester Road:

- The elevation of their property is two feet lower than the applicants and that the proposed roofline is higher than the existing roofline.
- The elevation plans do not show piano windows.

- The side windows facing the deck and the bedrooms are the ones of concern.

The Chair advised they are not ruling on the height. The Planning Technician confirmed that the proposal is nearly three feet under the permitted height.

The contractor stated:

- Regarding the windows facing the neighbours deck, they are prepared to install a window that they cannot see through such as a transom window, which could have something like stained glass to block views.
- The owners have a huge infrastructure of friends and family and are in a good neighbourhood. The house lends itself to a renovation.
- It would be a hardship to uproot and move the family as they have equity in the property and wish to stay.

The applicant stated:

- This is a three bedroom home for a family of five.
- Adding on to the existing footprint is the most logical way to give the family the space it needs.
- They are adding a garage space, similar to the other houses on the street, in order to teach their children to work with their hands. Not having a garage is difficult.

N. Parker, Winchester Road:

- Asked for confirmation that the drawings of the east elevation as submitted to the Board are full windows, as the Board approves the drawings as submitted.

The contractor noted the concerns came in at 3:30 pm today and he has not had time to amend the drawings, but agreed to change them. The Clerk advised that the applicant can amend the plans now as per the Board's request to change the windows. The contractor amended the drawings to show that the windows on the east elevation are to be either transom, frosted or translucent.

Board discussion:

- Having a five sided lot is a hardship.
- The neighbours are all constrained by a high rear setback requirement; the properties at 1550, 1540, 1544 Winchester all have rear yards less than the Bylaw requires.
- The hardship in the area is due to the definition of rear yard.
- The combined and basement area requests are minor.
- On paper this looks minor but the vertical component needs to be considered. The impact is not minor; the additional floor area added over and above the footprint constitutes a major variance.
- The intent of the Bylaw is to prevent massing.
- The effect of the proposed variances creates major impacts to the privacy and use and enjoyment of the neighbours' properties.

MOTION:

MOVED by R. Riddett and Seconded by E. Dahli: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(a)(i) and 210.4 (c), subject to the applicant modifying the eastern windows as discussed, further to the construction of an addition to the house on Lot 4, Section 54, Victoria District, Plan 30245 (1540 Winchester Road):

- a) relaxation of rear lot line setback from 7.5 m to 4.80 m
- b) relaxation of combined front and rear lot line setback from 15.0 m to 14.20 m
- c) relaxation of allowable floor space in non-basement areas from 80% to 84.31%

And further that if construction in accordance with the amended plans submitted to the Board 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
With D. Gunn OPPOSED**

Cordova Bay Road Sea wall BOV #00886	Applicant: Andrew and Emma Hone Property: 4979 Cordova Bay Road Variance: Relaxation to allow a structure to be constructed or located upon or over the land lying below the natural boundary of the ocean. Relaxation of the maximum height for a structure within 7.5 m of the natural boundary of the ocean from 0.6 m to 3.03 m located below the natural boundary of the ocean (Provincial land).
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The Notice of Meeting was read and the applicant’s letter received.

Applicants: Andrew and Emma Hone, applicant/owners, were present via telephone in support of the application. They noted that the requirements from the province for applying for Crown Land tenure has been completed.

In reply to questions, the applicant stated:

- The high tide is about nine feet or 2.8 metres, and low tide is at zero.
- The photo of the patio show with Geotechnical information from when they purchased the property in 2019. This has been rebuilt. This report also notes the erosion. A subsequent geotechnical report was done in March 2020 for this specific application.
- The toe of the existing sea wall at the north end is not changing but they wish to put additional boulders at the top.
- The south wall has collapsed and this is where they wish to rebuild and add about 18 inches. They will leave the wall alone where it is in good shape.
- There is pedestrian traffic on the beach during lower tides in the summer. If standing on the beach you would see a rubble boulder wall between 2.5 metres to 3 metres tall.
- The wall will be similar in height to the adjacent properties walls.
- There are three neighbours to the north that have vertical concrete walls, the majority of southern neighbours have riprap seawalls.

Public input: Nil

MOTION: **MOVED by D. Gunn and Seconded by R. Riddett: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 5.16(a) and (b), further to the repair and construction of a sea wall on Lot 1, Section 29, Lake District, Plan VIP69297 (4979 Cordova Bay Road):**

- a) relaxation to allow a structure to be constructed or located upon or over the land lying below the natural boundary of the ocean
- b) relaxation of the maximum height for a structure within 7.5 m of the natural boundary of the ocean from 0.6 m to 3.03 m located below the natural boundary of the ocean (Provincial land)

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:

- Board member witnessed waves breaking over the wall during the site visit and saw the erosion.
- The collapse of wall is evident looking at the 2019 air photo. This needs to be remedied.
- There is a severe hardship and this is in line with the other properties along the beach.
- Storms will become more severe with climate change.

The Motion was then Put and CARRIED

Adjournment On a motion from E. Dahli, the meeting was adjourned at 8:12 pm.

Haji Charania, Chair

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

Recording Secretary