

**MINUTES  
BOARD OF VARIANCE  
COUNCIL CHAMBERS, SAANICH MUNICIPAL HALL  
FEBRUARY 10, 2021 AT 6:00 P.M.**

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Members: M. Horner (Chair), J. Uliana, K. Weir, K. Zirul  
Absent: W. Goldiet  
Staff: S. deMedeiros, Planning Technician, K. Kaiser, Planning Technician, T. Douglas, Senior Committee Clerk

Minutes: Moved by K. Zirul and Seconded by J. Uliana: "That the minutes of the Board of Variance meeting held January 13, 2021 be adopted as circulated."  
CARRIED

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Holland Avenue **Applicant: Paul Hicke**  
New house **Property: 4154 Holland Avenue**  
BOV #00895 **Variance: Relaxation of height from 7.5 m to 8.2 m**  
**Relaxation of single face height from 7.5 m to 8.3 m**  
**Relaxation of interior side lot line setback from 3.0 m to 1.5 m**  
**Relaxation of exterior side lot line setback from 3.5 m to 1.54 m**

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

Applicants: Paul and Trish Hicke, applicant/owners, were present via telephone in support of the application and had nothing to add.

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

- The way the land perks affected the design of the septic field and system.
- They need to install a treatment plant, and large sand mounds are required for this system. A three bedroom home is the maximum size they can build.
- The existing house on the property is to be demolished.
- The home to the south was built in about 2019.
- In terms of height, this proposed home is lower than the house to the south.

Board discussion:

- There are no concerns from the neighbours.
- The house and design seems to align with the new homes on the neighbourhood.

In reply to a question as to whether a variance was given for the house next door, the Planning Technician advised that this is not relevant as each application is based on its own merits. Replying to a question about splitting the variances, the Clerk advised that the requests should be considered together as they are tied to the plans before the Board. If the Board would like the applicant to consider modifying the design in a specific way then this item could be postponed for future consideration.

Discussion continued:

- This request is compatible with the neighbourhood.
- The requested height and distance from the property lines are consistent with the other houses in the area.
- This does not negatively affect the environment or the use and enjoyment of adjacent land.
- This is a rural zone but it feels urban; homes are closer to the property lines.
- The request is minor.

In reply to a question, the Planning Technician noted that the properties in the area were subdivided in the early 1900's.

Public input: Nil

**MOTION:** **MOVED by J. Uliana and Seconded by K. Weir: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 101.5(a)(ii) and (iii) and 101.5(b)(i) and (ii), further to the construction of a new house on Lot 10, Section 1, Lake District, Plan 1719 (4154 Holland Avenue):**

- a) Relaxation of height from 7.5 m to 8.2 m
- b) Relaxation of single face height from 7.5 m to 8.3 m
- c) Relaxation of interior side lot line setback from 3.0 m to 1.5 m
- d) Relaxation of exterior side lot line setback from 3.5 m to 1.54 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:

- This is an existing lot of record and a single family home is permitted.
- The proposed structure is appropriate for the site.

**The Motion was then Put and CARRIED**

Lidgate Court Addition

**Applicant: Kathy and Crawford Orr**  
**Property: 1266 Lidgate Court**  
**Variance: Relaxation of rear lot line setback from 7.5 m to 4.08 m**  
**Relaxation of combined front and rear setbacks from 15 m to 11.80 m**

BOV #00898

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

Applicants:

Kathy Orr, applicant and owner, was present via telephone in support of the application and had nothing to add. In reply to questions from the Board the applicant stated:

- They did canvas the area and spoke with six neighbours who provided positive feedback and expressed no objection. They received the one letter of objection addressed to the Board from the strata behind.
- The rear yard faces the strata. It is an irregular lot and it is difficult to determine lot lines. Their side yard runs along Helmcken Road and the front of their house faces the side yard.
- The main hardship is they have no garage. The owner is a carpenter and requires space for tool storage. They have two sheds on the property that are full.
- The covenanted area is to be kept clear in case Saanich would like to build a roadway. The proposed addition will not affect the covenanted area.

In reply to questions the Planning Technician advised that this is a panhandle lot and the existing structure is legally non-conforming. Residents can repair or maintain but cannot extend a non-conforming structure without a variance.

Board discussion:

- This is an existing non-conforming building and to approve will extend the non-conformity.
- Legal non-conforming structures are common and it is not unusual to build additions to older homes.
- Board needs to consider if there is an undue hardship and if the request is minor.
- Looking at the site plan Board member is not sure how else this could be designed.
- This is a challenging lot.
- This addition is not over-height; the applicant could tear down the existing structure and could build something that could more drastically affect the rear neighbours.

Public input: Nil

**MOTION:** **MOVED by K. Zirul and Seconded by J. Uliana: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 220.4(a)(i), further to the construction of an addition to the house on Lot 2, Section 5, Lake District, Plan 47248 (1266 Lidgate Court):**

- a) Relaxation of rear lot line setback from 7.5 m to 4.08 m
- b) Relaxation of combined front and rear setbacks from 15 m to 11.80 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**

Canterbury Road Addition

**Applicant: Flintstone Masonry OBO Martin Cherneff & Jean Blaney**  
**Property: 741 Canterbury Road**  
**Variance: Relaxation of height from 7.5 m to 7.63 m**  
**Relaxation of single face height from 7.5 m to 8.45 m**

BOV #00899

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

Applicants:

Martin Cherneff, applicant/owner, and Ryan Wylie, designer, were present via telephone in support of the application. The designer stated:

- A recent medical diagnosis has resulted in the need for the owner to look at the layout of their house in terms of future mobility needs and accessibility. The house is approximately 100 years old.
- They have redesigned the main floor to be accessible and have an elevator access. They have created a back parking area to access the main floor.
- The lower floor is limited in height with 6’ head height. The flex laundry, kennel area is designed to accessible standards and improve flow.
- The master bedroom and bathroom have added space to accommodate a wheelchair.
- They spoke with the neighbours and have kept most windows on the east and west side of the house as transom and/or glazed windows to maintain privacy. They have the support of all direct neighbours.
- The hardship is the need for an elevator, and also the ramp that leads to the basement affects the height calculations.

- This is a tasteful addition that maintains the character of the home.

In reply to questions from the Board the designer stated:

- They need just over 8’ height for the bottom floor for the elevator. They also need room below the main floor for mechanical and clearances. The elevator is the reason they needed to add the basement.
- There is egress in the elevator in case escape is necessary.
- They will have to dig down to make room for the elevator shaft and the ramp. This impacts the height calculations.
- A clearer description was given regarding the massing. The new addition is built off the back of the house and replaces an existing deck.

The Planning Technician explained the measurements taken from grade and confirmed that the single face height rule is to prevent massing of houses on sloped lots.

Board discussion:

- The hardship is clear. The applicant has made a good effort to conform to the architectural style of the home.
- The request for overall height is minimal and reasonable.
- The single face height request is fairly large as it is on the lowest point of the property.
- From the road this will look like a two-storey house.

Public input: Nil

**MOTION:** **MOVED by K. Zirul and Seconded by K. Weir: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Section 301.4(b)(i) and (ii), further to the construction of an addition to the house on Lot 5, Section 49, Victoria District, Plan 1178 (741 Canterbury Road):**

- a) Relaxation of height from 7.5 m to 7.63 m
- b) Relaxation of single face height from 7.5 m to 8.45 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 M. Horner OPPOSED**

West Saanich  
Road  
Addition

**Applicant: Gordon Cooney and Natalie Foofat**  
**Property: 4811 West Saanich Road**  
**Variance: Relaxation of interior side lot line setback from 3.0 m to 1.52 m**

BOV #00901

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

Applicants:

Gordon Cooney and Natalie Foofat, applicant/owners were present via telephone in support of the application and had nothing to add. In reply to questions from the Board, they stated:

- They confirmed they are tearing down a carport and a shed and propose to use the footprint of the carport to build a garage with living space above.

- The dwelling has one unit and is their principle dwelling.
- Bushes along the north boundary are on the lot line and there is a fragmented fence within the bushes.
- No trees are being affected with the application. They have an arborist report that outlines all the tree protection zones.
- The neighbours to the north have signed a support letter.
- The septic information was not included on the site plan. The system is new and takes up a lot of space and reduces the building of any more structures in the front.

Board discussion:

- The hardship of the septic field location in front of the home restricts the available building area. The back area has trees that would need removal if they built there.
- The proposal to reuse the existing slab is environmentally responsible.
- The use of transom windows to reduce the sightlines is appreciated.
- They consulted with and have the support of the neighbours.
- Using the existing footprint makes the request seem more minor.

Public input: Nil

**MOTION:** **MOVED by J. Uliana and Seconded by K. Weir: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 101.5(ii), further to the construction of an addition to the house on Lot 1, Section 106, Lake District, Plan 10252 (4811 West Saanich Road):**

- a) relaxation of interior side lot line setback from 3.0 m to 1.52 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.”**

**The Motion was then Put and CARRIED**

Seapearl Place  
Addition

**Applicant: Northern Tropic Homes OBO Amy Liu**  
**Property: 986 Seapearl Place**  
**Variance: Relaxation of single face height from 6.5 m to 7.99 m**

BOV #00902

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

Applicants:

Troy Nelson, applicant, was present via telephone in support of the application and stated this is a sunroom refurbish. The existing structure is not to code and they found rot in the roof trusses and the deck. This is a non-conforming legal structure that they have a permit to re-build, but they need a variance to proceed.

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

- The new plans are professionally engineered by Skyline Engineering and include seismic upgrades.
- The deck has supporting posts that go to the ground.
- The top of the sunroom will remain the same with a small slope under 3:12 pitch. It is considered to be a flat roof.
- They do have a building permit and they received a stop work order when they were at the re-glazing stage. They were in the midst of doing the sunroom replacement when the stop work order was issued.

The Planning Technician informed Board members that this is an active bylaw case and the original sunroom structure was built without a permit. This application needs to be treated as new construction as the previous sunroom was not approved. A deck was approved for this space on the original plans.

Responses from the applicant continued:

- This is a 1988 house and there was no single face height bylaw in effect at that time. The height procedure was introduced in 2012 and the new sunroom needs a variance because of this procedure.
- This is a small variance request.
- The homeowners have been in the house for 8 years and the sunroom they are replacing was built before they purchased their home.

The Planning Technician provided information about the height procedures in the Zoning Bylaw. She noted that this application is complicated by the fact that the roof of the sunroom is less than 3:12 and therefore has lower height requirements.

Reponses from the applicant continued:

- If the sunroom was built with a sloped roof, the room would have only a 5' clearance at the edges, and people would not be able to walk inside.
- The hardship is that all homes on the street are legal non-conforming and nobody could do any additions without getting a variance.
- For this specific lot the hardship is the homeowners were using this room for the last 8 years and they need to replace a rotting structure. The single face height requirement is a hardship.
- The deck could not be stepped down to meet the Bylaw requirements as it would affect the deck below.

Board discussion:

- The applicant is looking for forgiveness after re-building a structure that was originally built without a permit. Board needs to consider if enclosing this deck acceptable. If not they will have to go back to having a deck.
- The house appears to be one level at the front and three levels at the back and this is quite a difference in height over a short distance.
- The owners are faced with an existing situation. It is a technicality but not necessarily a hardship.
- Board member sees this as new construction and questioned what the undue hardship is.
- While the applicant stated other homes in the area would face this same issue, this is the only application before the Board.
- Question raised whether not having a sunroom is a hardship.
- There is no impact to the environment and no letters from the neighbours.
- Question raised if this is an inappropriate development of the site.
- The sunroom does not affect the use and enjoyment of adjacent properties.
- There is an unusual slope in the Cordova Bay area, all homes are affected.
- The owners have inherited this situation but this is not uncommon.
- There is no hardship except is that it is existing, but this reasoning is not applicable.

Public input: Nil

**MOTION:** **MOVED** by K. Zirul and **Seconded** by K. Weir: “That the request to relax the single face height from 6.5 m to 7.99 m from the requirements of Zoning Bylaw 2003, Section 250.4(b)(ii), further to the construction of an addition to the house on Lot 17, Section 27, Lake District, Plan 44061 (986 Seapearl Place) be **DENIED.**”

Board comments:

- This is an inherited situation and does not affect neighbourhood negatively.
- The hardship is the owners are trying to repair and preserve an existing structure. There have been changes in the Bylaw over the years and this unfairly impacts the situation.
- Is this the least possible amount requested to resolve the hardship, if hardship can be defined.
- Hardship is loss of enjoyment of the property as it has been used over the years.

**The Motion was then Put and DEFEATED (Tie Vote)  
With J. Uliana and K. Weir OPPOSED**

**As this was a tie vote, the application was automatically postponed to be considered when a full Board is present.**

Feltham Road  
New house  
  
BOV #00903

**Applicant:** Amrita and Hardeep Rai  
**Property:** 1810 Feltham Road  
**Variance:** Relaxation of height from 7.5 m to 7.77 m  
Relaxation of single face height from 7.5 m to 8.19 m

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

Applicants:

Amrita and Hardeep Rai applicants/owners, and Nathalie Saunders, designer, were present via telephone in support of the application and they noted:

- They took the feedback received from the Board last December and have re-designed the roofline to reduce the variance request.
- The hardship is being able to create accessibility for elderly residents who will reside on the main floor. The accessible design includes wider hallways and larger doorways with barrier-free accessible bathrooms.
- Although subtle, the lot slopes both front to back and left to right.
- They are not looking for a positive slope, just a level driveway position so there is no downslope into the garage.

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

- The slope goes right to left when facing the site.
- There are no building schemes attached to this subdivision. The developer has provided his support for this variance and they have worked on an adjacent lot behind this property who received a height variance that is larger than this one, although they had a different hardship.
- Other design considerations to not have a variance would be to reduce the ceiling heights to 8’ ceilings but in today’s market, 8’ ceilings are not feasible or marketable for resale.
- All flat rooflines were eliminated and they kept the roofline to be the absolute minimum while keeping a 3:12 pitch.
- Height will not affect the mobility issues but if the house were to be sold in the future then it would become an issue with re-saleability.

- The raised ceiling in the living room causes the bedroom above to be stepped up but they have reduced the ceiling height in that bedroom to 9’.
- The height peak is on the largest centre roofline that vaults from centre and butterflies out the back.

Board discussion:

- There is another new build nearby that has 9’ ceilings on the main floor and 8’ on the upper floor; the argument made that ceiling heights need to be 9’ is not substantiated. It is not a Building Code requirement.
- The main reason for the request is for the negative driveway slope. The street access seems to be fairly level and a simple trench drain should be able to handle rain on the driveway.
- Many homes in Saanich have negative slopes on their driveways.
- Board appreciates that applicant tried to minimize variances requested since last coming to the Board.
- The request is minor but Board does not see a hardship.

Public input: Nil

**MOTION:** **MOVED by K. Zirul and Seconded by K. Weir: “That the following request to relax the height from 7.5 m to 7.77 m and relax the single face height from 7.5 m to 8.19 m from the requirements of Zoning Bylaw 2003, Sections 230.4(b)(i) and (ii), further to the construction of a new house on Lot 9, Section 58, Victoria District, Plan EPP98286 (1810 Feltham Road) be DENIED.”**

**The Motion was then Put and CARRIED**

Durrance Road Addition	<b>Applicant:</b> Reuben Mills
	<b>Property:</b> 52 Durrance Road
BOV #00904	<b>Variance:</b> Relaxation of exterior side lot line setback from 3.5 m to 1.51 m

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

Applicants: Reuben Mills, applicant and owner, was present via telephone in support of the application. In reply to questions from the Board, Mr. Mills stated:

- The septic field is located at the northwest corner of the property.
- They design vehicles that are wider than normal and having larger garage doors will be helpful with backing vehicles into the garage.
- This is probably the most difficult and most expensive spot to construct an addition but it is the best place to put it.
- It would be a very odd and difficult design to adhere to the property setback.
- The arborist report that there are no concerns pertaining to trees. There is an unhealthy tree close to the addition but it is not at risk to fall.
- The space is needed for growing a business. Commercial space is costly and they would like the ability to work from home. This will add value to the house.
- They are trying to keep away from the riparian zone on the property.

Board discussion:

- The environmental area and creek impacts where they can build.
- This is a challenging lot with its location and slope.
- The environment was taken into consideration and they did consider other locations



- No neighbours expressed concern with the application.

Public input: Nil

**MOTION:** **MOVED** by J. Uliana and **Seconded** by K. Zirul: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 140.4(a)(iii), further to the construction of an addition to the house on Lot A, Section 123, Lake District, Plan 46266 (52 Durrance Road):

- a) relaxation of exterior side lot line setback from 3.5 m to 1.51 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.”

**The Motion was then Put and CARRIED**

Harriet Road Addition

**Applicant:** Ryan Scott  
**Property:** 3022 Harriet Road  
**Variance:** Relaxation of allowable floor space in non-basement areas from 80% to 99.94%

BOV #00900

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

Applicants:

Ryan Scott, applicant and owner, was present via telephone and responded to questions from the Board as noted:

- They are proposing to expand the attic and because their basement is enough above ground it is considered to be the first floor, and the first floor is considered to be the second floor.
- Adding to the attic results in going over the allowable square footage.

The Planning Technician provided information about the allowable total gross floor area for this zone, and explained the Bylaw regarding non-basement areas. This Bylaw was put in place decades ago when Council wanted to reduce the massing of houses, essentially driving houses in-ground to reduce massing.

Board discussion:

- This was granted previously and has expired and there appear to be no design changes made.
- The intent of the bylaw is to prevent massing and the massing is not changing.
- Having an unfinished dwelling could be considered a hardship.
- The limitations of the Bylaw creates a hardship.
- They are trying to make more effective use of their existing space.

Public input: Nil

**MOTION:** **MOVED** by K. Weir and **Seconded** by J. Uliana: “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 16, Section 11, Victoria District, Plan 1112 Exc A, Except Parcel A (DD 88110I), Parcel Exc A, Lot 15, Plan 1112, Section 11, Victoria District, Except Parcel A (DD 88110I) (3022 Harriet Road):

- a) relaxation of allowable floor space in non-basement areas from 80% to 99.94%

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**

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Adjournment      On a motion from K. Weir, the meeting was adjourned at 8:35 pm.

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Melissa Horner, Chair

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

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Recording Secretary