

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

Members: M. Horner (Chair), W. Goldiet, J. Uliana, K. Weir, K. Zirul

Staff: K. Kaiser, Planning Technician, S. deMedeiros, Planning Technician, T. Douglas, Senior Committee Clerk

Minutes: Moved by K. Weir and Seconded by K. Zirul: "That the minutes of the Board of Variance meeting held February 10, 2021 be adopted as amended."
CARRIED

Seapearl Place Addition
BOV #00902

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

MOVED by K. Zirul and Seconded by K. Weir: "That the request for variance at 986 Seapearl Place be lifted from the table."
CARRIED

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 he noted that:

- This has been an arduous process on the family. The solarium was in place when they purchased the home more than eight years ago.
- This was to be a simple re-glaze/refurbishment project but they found rot in the rafters and the structure requires replacement.
- The request is 1.49 metres and they hope to continue with the project as it is ¾ built and has been sitting unfinished for months.
- Many homes in this area have solariums.
- A second survey was necessary due to discrepancies with an older survey.

Questions, responses to questions and comments were noted as follows:

- A Board member noted that the home was built in 1988 and questioned whether the Bylaw pertaining to single face height was adopted in 2003. The applicant replied that it was his understanding that the Bylaw came into effect in 2012.
- In response to a question whether the solarium would have conformed to the previous Bylaw, the Planning Technician noted the Bylaw date is irrelevant as the solarium was not there when the house was built, and it is now. The single face height requirement has been in place for the past couple of decades. She further noted that a 2019 GIS image shows no solarium in the location; there is just a deck showing on the image.
- Applicant noted the original survey they used was done by a company that is no longer in business. They ended up having to hire another company to do the height calculations and it was discovered then that a height variance was needed.
- The hardship is they were granted a building permit thinking all was well so they worked toward finishing the project. Also, the homeowners bought the house thinking all was okay. The owners are elderly people with extended family living with them; they need the space.
- Solariums are good for people living with seasonal affective disorders.

- The Planning Technician provided a timeline regarding the application. In April 2020 a Bylaw calls for service occurred, they applied for a building permit in June 2020 and after a number of revised plans were submitted, a building permit was issued in September 2020. The height showing on the plan was 6.43 m for the single face height procedure and that’s why they were approved for building permit. The survey usually occurs at framing stage but the sunroom was already constructed past the framing stage when the survey was done. This is when the stop work order was issued.
- The applicant again confirmed that the height noted on the approved plans was done by a licenced surveying company that is no longer in business (Island Land Surveyors).

Board discussion:

- Suggestion made that the owner may be able to sue the surveyor due to the incorrect survey done, as these businesses are regulated by industry and may have liability insurance.
- If looking at this project as a new build, there appears to be no impact to neighbours. The structure blends in with the development that is there.
- In terms of location and use it doesn’t seem to have any negative effects.
- A series of minor errors led to the problem.
- Owners have had use and enjoyment of a sunroom for years. Denying this replacement would deprive owners of the ability to continue use this space.
- Apart from single face height, the structure complies with the Bylaw.

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 250.4(b)(ii), further to the construction of a sunroom addition to the house on Lot 17, Section 27, Lake District, Plan 44061 (986 Seapearl Place):**

- a) Relaxation of single face height from 6.5 m to 7.99 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 With M. Horner and K. Zirul OPPOSED

Sunnymead Way Addition **Applicant: Northern Tropic Homes obo Bernard Spalteholz**
Property: 4727 Sunnymead Way
Variance: Relaxation of rear lot line setback from 10.5 m to 8.3 m

BOV #00910 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 noted:

- This family has an old aluminum system that was built with a building permit in 1993 and was also granted a variance at that time.
- They are looking to replace the structure on the exact same footprint. The proposal changes the traditional studio style to an A-frame cathedral. This change requires the same variance that was granted in 1993.
- The owners have lived in the home for many years. One family member relies on a wheelchair for mobility.

- They have a small rancher style home and very much need the sunroom space. The sunroom gives them about 180 square feet and extends the living room space.
- The wheelchair cannot presently get to the back yard and the plan is to install sloped walkways from the sunroom to the yard.
- The sunroom cannot be used in its current condition.

The applicant responded to questions as follows:

- The hardships are: this is an existing structure which needs replacing. They rely on the space for the wheelchair, and the proposed ramp system will help the owner reach the back yard and use their courtyard. They have previously received a variance for this structure and it was built with permit.
- The applicant confirmed that the height of the roof will be below the highest point of house roof and people will not see the sunroom roof from the street.
- They are asking for a little more than the previous variance to make sure there are no problems. Applicant had another project that ended up being $\frac{3}{4}$ " out from the variance they had received, and they had to come back to the Board to remedy this.
- The roof needs changing because the old traditional style will darken the living room. When you have an A-frame style, larger front glass windows will allow more light into the living room.

The Planning Technician advised that he made the 0.2 metre change because the first survey came in at 8.5 m but a newer survey showed 8.3 m. The older survey was likely less accurate compared to surveys done today.

Discussion:

- It is noted that this variance was previously approved but there is no mention of what the hardship was.
- The proposal does not affect the natural environment, and there is no opposition from neighbours.
- The owners are wanting to rebuild an existing structure. The new design will avoid having the issues that made the existing structure fail. They are building it the way it should have been built originally.

Public input: Nil

MOTION: **MOVED by W. Goldiet and Seconded by K. Zirul: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 250.4(a)(ii), further to the construction of a sunroom addition on Lot 31, Section 35, Lake District, Plan 46704 (4727 Sunnymead Way):**

- a) Relaxation of rear lot line setback from 10.5 m to 8.3 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

Dean Avenue
Addition
BOV #00909

Applicant: Chad and Erica Holtum
Property: 2780 Dean Avenue
Variance: Relaxation of allowable floor space in non-basement areas from 70% to 99.81%

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

Applicants:

Erica and Chad Holtum, applicants/owners were present via telephone in support of the application and stated:

- They are proposing to change the inside of the existing structure enclosing the garage.
- Adding a bathroom downstairs will help make life easier.
- This proposal does not negatively impact anyone as everything is happening inside the structure.
- They realize the need for an additional parking space and discussions have occurred with engineering staff. They are looking at an additional parking space on the westerly corner of the property with the Carnarvan Street frontage and have discussed this with neighbours adjacent to this area. The neighbours are in agreement with this proposal.
- They will continue to use the home in its current capacity as a two-family dwelling.
- The hardships are:
 - A second bathroom makes a family home more functional. He is teacher and she is a health care worker and a second bathroom is important.
 - The size of the lot is similar to the size of a single family dwelling and this is a duplex. This makes it challenging to achieve the required percentage of floor area.

In reply to questions, the owners stated:

- This is a true duplex; one wall separates two single family dwelling units.
- They will continue to use the driveway but requirements are for two parking spots per unit. They can use the existing driveway but when they enclose the garage they will lose one spot and need to construct another parking spot to abide by Bylaw.
- In reply to a comment that there is no garage door at present and that they do not currently comply with parking requirements, the owner stated there is presently a stop work order on the project and they are lacking one parking spot but nobody resides there.
- They want to do some improvements before moving in as the unit is in poor shape.
- They took possession of the duplex a few months ago.
- The stop work order came when they received a call from the Bylaw office saying a complaint was received when the garage door was replaced with French doors.
- They are using a contractor to do the work.
- They didn't realize that installing a different door required a permit so once they were informed of this they called Saanich to understand what they needed to do the work.
- They are waiting to apply for a building permit until they receive a variance.
- They own both sides of the duplex and plan to rent out 2790 Dean Avenue.
- They have no intention of doing similar work to 2790 Dean Avenue.

In reply to a question the Planning Technician noted the non-basement area for duplex zone is meant for massing of the house. He noted modern duplexes

are a lot bigger now; this building is small for a duplex and was built years ago likely before the Bylaw pertaining to non-basement areas came in.

Board discussion and comments:

- The owners received a stop work order for replacing the doors. The contractor should have been telling them that permits are needed; they have received poor service for standard practices.
- In reply to a question whether they have approval for a parking space, the Planning Technician noted that parking permits are done through a different process/department and the status of this not known. It may already be approved.
- The Clerk advised that applicants can apply for a building permit prior to receiving Board approval or they could choose to obtain Board approval first. As far as they are aware the order that applicants apply for approvals does not matter.
- In reply to a suggestion that the Board could approve this with the condition of having the driveway approved, the Clerk advised that the Board cannot place such conditions on variances.
- The home was built with a garage and a parking spot. Approving this feels like it could be against the intent of the Bylaw because as it is written, the Bylaw intent is to ensure dwellings have a garage for parking.
- The Board can also look at the size of lot and the duplex on it. Is there reasonable space to put an addition on elsewhere or is the lot size a hardship?
- This is far from being a monster home. Based on the site visit, there appears to be ample room to provide parking at the side or possibly build a garage at that side with a permit.
- Concern was expressed that parking approvals are not obtained yet and the question was raised if the variance is approved, will this encourage the parking to be approved.
- Question could be asked if this is a minor request.
- What is the hardship other than wanting to use this area as living space?
- The intent of the Bylaw is to reduce massing. The massing of the structure will be the same.
- Everyone is constrained by the Bylaw. Are the applicants constrained as much as everyone else, or do they need special relief.
- Discussion occurred whether the proposed affects the natural environment and the suggestion was made that having to construct additional parking elsewhere does affect the environment.
- Is the hardship undue because this is a duplex and not a single family dwelling.
- The Planning Technician advised that if this were re-zoned today it would not be permitted to be a duplex because the lot is too small. The first criteria for a duplex today is that the lot needs to be 1.3 times larger. In reply to a question he noted that no secondary suites are permitted in duplexes; there can only be one kitchen per unit.
- This property is in an urban area where lots of people cycle. Having the extra parking requirement may be an undue hardship to some degree.
- There are other locations a washroom can be put. Removing an interior parking space and constructing a replacement parking space on the lot impacts the environment.
- The proposed would also be a change in terms of the structure's appearance and how it presents itself on the street.

Public input: Nil

MOTION: **MOVED** by K. Zirul and **Seconded** by J. Uliana: “That the following variance request to relax the allowable floor space in non-basement areas from 70% to 99.81% from the requirements of Zoning Bylaw 2003, Section 301.4(c), further to the construction of an addition to the house on Lot 8, Section 26, Victoria District, Plan 1107 (2780 Dean Avenue) be **DENIED.**”

**The Motion was then Put and CARRIED
With K. Weir OPPOSED**

Haultain Street
Addition

BOV #00905

Applicant: Ryan Hoyt Designs obo Theresa and Ashley Bourque
Property: 1954 Haultain Street
Variance: Relaxation of side yard setback from 1.5 m to 0.29 m
 Relaxation of combined side yard setback from 4.5 m to 3.75 m
 Relaxation of allowable floor space in non-basement areas from 80% to 91.9%
 Relaxation of height for a flat roof from 6.5 m to 7.09 m
 Relaxation of single face height for a flat roof from 6.5 m to 7.18 m

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

Applicants:

Ryan Hoyt, applicant, was present in support of the application and provided a summary of the application as follows: 7:20pm

- This is a classic bungalow that was constructed with an unfinished lower floor that looks like a basement; it is below grade and has lower than 7’ ceilings, but it is constructed too high to meet basement requirements.
- All of the house is considered to be non-basement area.
- The owners would like to have a master suite on the upper floor so they can remain in the house long-term.
- They want to work within the existing structure instead of demolishing it.
- If the home was dug lower into the ground by one metre then they would be well within the Bylaw limits at 71% of non-basement area.
- The setbacks are existing construction and not to be touched. The house sits too close to the side property line on the left side and is greater than what is required on the other side.
- The deck was constructed by the previous owners and they would like to leave this as is.
- Regarding height request; when adding space on the upper level, this pushes an existing dormer all the way out in line of back wall of house. Ideally they would like a sloped roof but it would be too high and higher than the existing peak of roof. Impact and visual look not ideal.
- The dormer triggers the need for a variance.
- The lower floor functions as existing space.

Replies to questions from the Board are noted as follows:

- They do not intend to modify the deck. It has been there over 20 years and legalizing the deck is more of housekeeping item.
- The deck is not an issue with the neighbours.
- The homeowners have good relationships with neighbours and no feedback has been received from anyone.
- They are staying within the existing footprint and not extending the home, apart from the height.

In reply to a question about the basement being too high relative to grade, the Planning Technician stated that this is correct, the house does not meet the requirements for basement area. Many homes of this era were constructed this way and as a result they do not meet the current Bylaw requirements.

Board member commented that approving this project means approving the deck, which is constructed very close to the property line. Question was raised if the Board should consider tabling the application in order to give the applicant an opportunity to consider revising their application to remove the deck.

In reply to a question, the Planning Technician stated that there was no variance request for the deck originally but staff could not find any permits for the deck and the owners should legalize this.

In reply to questions, the applicant stated:

- They are not planning to make any changes to the deck.
- If the Board approves the variance for the scope of work they are requesting, they would still be hung up at building permit stage with the non-conforming deck.
- It is common to ask the Board to legalize existing non-conforming portions of dwellings to bring them into compliance.
- Asking the owner to remove a portion of home that has existed for so long would be a hardship.
- The deck being so close to the property line is unfortunate but it has been in place for years and is not an issue with the neighbours. Nobody has written in stating opposition to the request.
- The request asks the Board to acknowledge the non-conforming existing deck, and would permit work pertaining to the new construction to proceed.
- They would have to come back to the Board for the non-conforming deck if the other work is approved but the deck is not approved.

The Planning Technician confirmed that what is there now was built without permit. This is quite common; something so old gets added to a variance request to make it legal. Applicant needs a variance to make the deck setback legal. He also confirmed that if the deck burned down today, it could not be rebuilt the same; they would have to meet today's Bylaw. If the variance was granted and the deck burned down, then they could rebuild it exactly as it stands.

It was re-stated that if the variances are granted, with the exception of the part that pertains to the deck, the applicant could not proceed with the project as they will need a variance granted for the existing non-conforming deck portion.

Board members expressed general support of the project, however has concerns about the deck. They asked the applicant if they would consider modifying their request to bring the deck in line with the home. The suggested variance request would be for the 1.3 of the home not the .29 metres for the deck.

In response to concerns from the applicant about the entire house being non-compliant, it was noted that the deck was not built with permit, but the house was built with a permit.

In reply to a question, the Clerk noted that the previous Board has granted variances for homes that were not having any construction done, but wanted to legalize the portion of the home that was non-compliant with the current Bylaw. The Planning Technician referred to a recent application with a similar situation where the Board approved a relaxation for an existing staircase and landing that was built without a permit.

The applicant stated that if the Board approves the variances, they will be part of the building permit process. Anything that exists on the home that is not part of the original building permit will be encompassed in the new building permit. The deck will come under the scrutiny of the Inspections department and construction and safety will be reviewed. If there are any concerns, then this will be brought up at the building permit stage.

Comment made that the Board should consider the deck not as existing, but as a new deck.

Board discussion:

- In reply to a question if the Board could propose that this application come back with modifications, the Clerk confirmed yes this could be done.
- A suggestion was made to get a written legal opinion on whether the applicant could obtain a building permit for the proposed work while leaving the deck as non-conforming. The Clerk advised that staff will inquire about inspections process and requirements.
- An option may be to reconfigure the deck so they meet the Bylaw.
- As applied for, Board member would deny the application. They would be happy to table this item to ask the applicant to review the deck.
- This is not the most minor variance the applicant could request.

Public input:

Nil

MOTION:

MOVED by J. Uliana and Seconded by K. Zirul: “That the request for variance from the requirements of Zoning Bylaw 2003, Sections 210.4(a)(ii), 210.4(b)(i) and (ii), and 210.4(c), further to the construction of an addition to the house on Lot E9, Section 25, Victoria District, Plan 1142 (1954 Haultain Street) be POSTPONED for discussion at a future meeting, and that the applicant be asked to resubmit a modified proposal that reduces the side lot line request for the deck to align with the house.”

The Motion was then Put and CARRIED

Staff were asked to provide the Board with information on the question of whether a building permit can be obtained by the applicant if the Board were to approve the proposed new construction, while denying the existing non-confirming deck.

Cedar Hill Cross Road Addition

Applicant: Kristina Andersen and Chris Taylor
Property: 4081 Cedar Hill Cross Road
Variance: Relaxation of combined front & rear setbacks from 15.0 m to 11.42 m
Relaxation of exterior side lot line setback from 3.5 m to 3.15 m
Relaxation of allowable floor space in non-basement areas from 80% to 84.26%

BOV #00907

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

Applicants: Chris Taylor and Kristina Anderson, applicant and owners was present in support of the application and had nothing to add.

In reply to questions from the Board the following was noted:

- A tree may be removed for the driveway but they are open to leaving it as is. The driveway is just a single entrance and they could widen the driveway past the tree. Two of the Garry oak trees have been cut down due to fungus and the tree in question may not be in good health.
- The Garry oak is on municipal property. The trees that were already removed on the site were removed by Saanich.
- The right-of-way is for a sewer main.
- The house will go from one unit to two units, as the proposal is to add a suite on top of garage.
- What is unique about their situation is that they have an irregular sized lot and the house is set back very far, and also it is lined with Garry oak trees. This doesn't allow them to build much on the lot. They are trying to add secondary living space to the property while respecting the trees.
- They would like to use the lot as best as they can. There have been no updates done to house at all over the years.
- They had considered making the addition smaller to try to avoid the need for a variance, but this design allows the stairs to suite to be inside which is preferable, and it also provides enough living space in the unit.
- Their own renovations will involve remediation in the upstairs bedrooms as they have mold damage in the plaster, doors and windows. They will have to gut the whole area to see what they are dealing with. They also need to install insulation in the walls.
- They know that the mold is located in the upper level of the home as the downstairs was tested and is ok.
- They would like to be able to add an affordable place for someone to live.

Discussion:

- In terms of hardship this is an irregular sized lot.
- A different design could have resulted in a lesser variance request.
- The siting of house is also a hardship.

Public input: Nil

MOTION: **MOVED by J Uliana and Seconded by J. Weir: "That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(a)(i) and (iii), and 210.4(c), further to the construction of an addition to the house on Lot 24, Section 32, Victoria District, Plan 9745 (4081 Cedar Hill Cross Road):**

- a) Relaxation of combined front and rear setbacks from 15.0 m to 11.42 m
- b) Relaxation of exterior side lot line setback from 3.5 m to 3.15 m
- c) Relaxation of allowable floor space in non-basement areas from 80% to 84.26%

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

<p>Polyanthus Crescent Addition</p> <p>BOV #00908</p>	<p>Applicant: Sunita Dugg Property: 659 Polyanthus Crescent Variance: Relaxation of rear yard setback from 7.5 m to 6.41 m Relaxation of combined front and rear yard setback from 15.0 m to 14.77 m</p>
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The Notice of Meeting was read and the applicant's letter received. Signatures of no objection received from 11 residences.

Applicants: Sunita Dugg, applicant/owner, and Surinder Leel, were present via telephone in support of the application and had nothing to add.

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

- The owner was not aware of the need for permits. They are first time home buyers and are not using a contractor.
- They are wanting to enclose the sundeck. There is only one bathroom upstairs and they would also like to install a second one in the home.
- When they bought the house everything was existing; there was a covered sundeck at the back of house.
- A framer and plumber were hired for the job but they did not apply for permits. Some of the work was done by the owner.
- The hardship is that the deck was there already, and the same setback is being requested. The neighbours have no issue with the project.
- This is an open sundeck being converted to a closed room and is located at the back side of the house.
- They are new to this and did not know about the permits needed. In the future they will apply for permits first.

Discussion:

- Member appreciates letters of no objection received from the neighbours.
- Concern was expressed about the structural integrity of the deck and adding mass and weight to the house with no engineering done.
- This has already been built but the Board should view this as new construction.
- This is somewhat of a minor ask with no environmental impact.
- This will affect neighbouring properties as it is built closer than legally permitted.
- No undue hardship is evident.
- It may be a financial hardship to remove the addition.
- They are enclosing the bottom of the existing deck and then adding a piece to the south side in both the lower and upper areas. It is unclear what is planned for the other side. There are some vertical boards there with a rough entrance and it is unclear how this will be finished.

In reply to questions, the Planning Technician noted that this addition will go through the inspection process and they will ensure the structure is built to Code. He is not sure what was in place there before.

Public input: Nil

MOTION: **MOVED** by K. Zirul and **Seconded** by K. Weir: “That the following request for variance to relax the rear yard setback from 7.5 m to 6.41 m and relax the combined front and rear yard setback from 15.0 m to 14.77 m, from the requirements of Zoning Bylaw 2003, Section 210.4(a)(i), further to the construction of an addition to the house on Lot 7, Section 82, Victoria District, Plan 25243 (659 Polyanthus Crescent) be **DENIED.**”

**The Motion was then Put and CARRIED
With J. Uliana OPPOSED**

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

Melissa Horner, Chair

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

Recording Secretary