

**MINUTES
BOARD OF VARIANCE
HELD ELECTRONICALLY VIA MICROSOFT TEAMS
WEDNESDAY AUGUST 9, 2023 AT 6:00 P.M.**

Members: K. Zirul (Chair), J. Uliana and M. Cole

Regrets: A. Gill, and M. Horner

Staff: J. McLaren, Senior Planning Technician – Subdivision; C. Yancoff, Planning Technician and M. MacDonald, Senior Committee Clerk

Minutes: **Moved by J. Uliana and Seconded by M. Cole “That the minutes of the Board of Variance meetings held February 22, 2023 and July 12, 2023 be adopted as circulated.”**

CARRIED

Kenya Place **Applicant: Tyko Design Ltd.**
Non-basement **Property: 3207 Kenya Place**
BOV #01025 **Variance: Relaxation of the maximum non-basement floor area
from 80% (248m²) to 85.4% (264.77m²).**

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

Applicants: D. Ko, applicant, and E & J. Cai were present in support of the application, the following was noted:

- Intent of the application is to bring the lower floor of the house into compliance.
- This area was finished when the owner purchased the home, however permits were not obtained, and the space is not currently conforming.
- Approximately 1/3 of what was previously garage space is the amount that exceeds the non-basement floor area.
- The applicant is not creating a secondary suite, there will be boarders renting rooms along with family occupying the home.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- This application will not expand the current building envelope.
- Only approximately 1/3 of the size of the garage requires the variance.
- The lower floor was finished 10+ years ago by a previous owner.
- Saanich records currently consider the basement to be unfinished.
- There is a stop work order placed on the house, this was not for work being done currently, it was placed there when the unpermitted finished lower floor space was discovered.
- A family member lives in the home and looks after the boarders.

The following was noted during Board discussion:

- This request is like other non-basement requests, it is relatively minor. The building envelope will not increase.

- There is no increased adverse affect to neighbours as the request legalizes what is currently in place.
- The existing condition of the home is a hardship, the owners purchased the home with the assumption it was legal and permitted.
- If approval is not given, the proposed recreational area could be converted back to carport and the living space would be compliant.
- Bylaw and inspections will make sure work complies with current Building Code standards. There are steps to ensure the space is safe.

MOTION: MOVED by M. Cole and Seconded by J. Uliana: “That the following request to vary from the requirements of Zoning Bylaw 2003, Section 210.4 (c) further to the construction of an addition on Lot 10, Block 42, Plan 15189 (3207 Kenya Place) be APPROVED:

- **Relaxation of the maximum non-basement floor area from 80% (248m²) to 85.4% (264.77m²).**

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.”

CARRIED

Davida Avenue
Height and
Setbacks

Applicant: Lida Construction
Property: 389 Davida Avenue
Variance: Relaxation of the maximum height from 3.75 m (12.3 ft) to 4.03 m (13.2ft)

BOV #01039

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

Applicants:

M. Nishimura and J. Collins, agents, and E. Jones, owner, was present in support of the application, the following was noted:

- The owner is looking to improve the existing foundation of the small (820² ft house) and add space and a secondary suite.
- Currently the house has existing non-conforming status as it is within the front setback and over height.
- Raising the home will allow for seismic upgrades as well.

Public input:

Nil

Discussions:

The applicant stated the following in response to questions from members of the Board:

- The road allowances and setbacks were likely not in place when the house was built, the home is approximately 100 years old.
- Existing drop beams run from front to back between 6’ and 6’ 10” in the existing lower floor. In order to be legal for a suite and to allow for heating vents to top floor, there needs to be at least 9’. The finished ceiling height will be 8 feet to comply with Building Code requirements.
- There is not an alternate location for the steps proposed for the front without a significant reconfiguration of the existing top floor.
- Hardship of the lot is the existing non-conforming status. This site will require a variance due to the location of the home on the lot.

- Excavation under the home or moving the home were considered as options, however they were not feasible for multiple reasons.
- The following was noted during Board discussion:
- Variances could have been reduced by turning the stairwell to the left or right rather than straight out the front door.
 - Setbacks are established to ensure that the intent of the bylaw is respected, structures should not be right up against the road.
 - A solution could be to move the home farther back on the lot. As the house is being lifted and the foundation rebuilt this should be considered. This was not considered to be an option by the applicant.
 - Bylaws in place when the house was built were likely much different.
 - The variance could be minimized in several ways. The house is already being lifted, the cost implication of moving the house was not detailed and there is no way to know if it would be an undue hardship.

MOTION: MOVED by J. Uliana and Seconded by M. Cole: “That the following requests to vary from the requirements of Zoning Bylaw 2003, Sections 210.4 (a) (i) & (b) (ii) further to the construction of an addition on Lot 1, Block 6, Section 13, Victoria District, Plan 1070, that part of Lot 1, lying to the south east of a straight boundary joining the points of bisection of the north easterly and south westerly boundaries of said lot (389 Davida Avenue) be DENIED:

- Relaxation of the maximum front lot line setback from 6.0m (19.7ft) to 1.08m (3.54ft).
- Relaxation of the maximum vertical portion of a dwelling within a 5.0m (16.4ft) of a vertical plane extending from the outermost wall from 7.5m (24.6ft) to 7.65m (25.1ft) for a sloped roof. (Single Face).”

CARRIED

McKenzie Avenue Height	<p>Applicant: Whitey Mitchell</p> <p>Property: 1720 McKenzie Avenue</p> <p>Variance: Exemption to permit a structural alteration or addition while a non-conforming use continues.</p>
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BOV #01040

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

Applicants: W. Mitchell, applicant, was present in support of the application.

Public input: Nil

Discussions: The applicant stated the following in response to questions from members of the Board:

- More space is needed to securely store bikes and other items as this location on McKenzie Avenue has been subject to thefts in the past.
- Neighbours have similar installations of enclosed carports.
- The space will not be habitable, it is for storage only.
- Safety and security necessitate this request. The hardship is that the current legal non-conforming status restricts any alterations.
- If there was only two homes on this lot rather than four the owner would be able to enclose the carport as requested without issues.

The following was noted during Board discussion:

- Enclosing a carport does not affect siting or the natural environment and neighbours are supportive of this application.
- The space is required for the family, it is not secure. Moving would be the only option available to the family without the exemption.

MOTION: **MOVED by M. Cole and Seconded by J. Uliana: “That the following request for an exemption from the requirements of Section 531(1) of the *Local Government Act*, further to the construction of an addition on Lot 4, Section 57, Victoria District, Plan VIS579 Together With An Interest In The Common Property In Proportion To The Unit Entitlement Of The Strata Lot As Shown On Form 1 Or V, As Appropriate (1720 McKenzie Avenue) be APPROVED:**

- **Permission for a structural alteration while a non-conforming use continues.**

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.”

CARRIED

Roundtable discussion	Committee members requested information about the outcome of the previous recommendation to Council related to fence heights, as well as additional information on the best way to move forward with recommendations about the non-basement area. The clerk will follow up with the appropriate staff and provide information at the September meeting.
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Adjournment	On a motion from J. Uliana, the meeting was adjourned at 6:57 pm.
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K. Zirul, Chair

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

Recording Secretary