

**MINUTES
BOARD OF VARIANCE
HELD ELECTRONICALLY VIA MICROSOFT TEAMS
WEDNESDAY APRIL 12, 2023 AT 6:02 P.M.**

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

Regrets: M. Horner

Staff: A. Whyte, Planning Technician, M. MacDonald, Senior Committee Clerk

Minutes: Moved by A. Gill and Seconded by J. Uliana: "That the minutes of the Board of Variance meeting held March 8, 2023 be adopted as circulated."

CARRIED

2997 Sea View Road Height
BOV #01010

Applicant: KB Design Inc. (Keith Baker)
Property: 2997 Sea View Road
Variance: Relaxation of the maximum height of the Single Family Dwelling from 6.5 m to 7.42 m
Relaxation of the maximum height of the Accessory Building (Garage) from 3.75 m to 4.45 m
Relaxation of the maximum height of the Accessory Building (Cabana) from 3.75 m to 4.7 m

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

Applicants: K. Baker, applicant was present and provided the following information:

- The height variance is requested due to the archaeologic report and proposed excavation material, which complicate the process.
- Multiple letters of opposition were received from neighbours.
- A discussion took place with the owners on the best way to move forward in a way that honors the comments and concerns from the neighbors. The owners plan to be full time residents and wish for a good respectful relationship with the neighbours.
- It was determined that the best course of action is to withdraw the application and find a more favorable design for the site.

The application was withdrawn.

Public input: T. Calveley, Sea View Road
- There has been a camaraderie and good relationship between neighbours in this area for quite some time, withdrawing the application is appreciated.

Arbutus Road Height
BOV #01012

Applicant: Tarndeeep Chahal
Property: 2271 Arbutus Road
Variance: Relaxation of the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the lowest outermost wall from 7.5 m to 7.7 m for a sloped roof (Single Face)

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

Applicants: Tardeep Chahal, owner/applicant, was present in support of the application; he stated the following:

- The driveway was previously below grade with a retaining wall along the side. The retaining wall was removed, the driveway was built up.
- Finished grade calculation is different/lower than expected. If the calculation was as predicted the house would be compliant.
- An issue with the truss design was identified after construction started.
- The truss redesign changed the midpoint calculation, this along with the finished grade calculation has led to the variance request.
- To bring the house within bylaw requirement they would have to remove/rebuild the roof. This would be a significant additional cost.

Public input: Nil

Discussions: The Board did not have any questions, it was noted that the presentation by the applicant was very thorough and clearly demonstrated the reason that the variance is being requested.

During Board discussion, the following was noted:

- The elevation of the as built design is different than expected.
- Changes to the grade were not fully realized until construction was nearly finished, and the survey took place. Change to the building now would be a significant hardship.
- The variance is minor as it is approximately 8", necessitated by the truss roof redesign and the changed grade.

MOTION: **MOVED by A. Gill and Seconded by M. Cole: "That the following request to relax the maximum vertical portion of a dwelling within 5.0 m of a vertical plane extending from the lowest outermost wall from 7.5 m to 7.7 m for a sloped roof (Single Face) from the requirements of Zoning Bylaw 2003, Sections 250.4, further to the construction of a single family dwelling on Lot 4, Section 45, Victoria District, Plan 21836 (2271 Arbutus Road) be APPROVED.**

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

Salsbury Way
Fence

BOV #01009

Applicant: Kewan Aboulhosn
Property: 3549 Salsbury Way
Variance: Relaxation of the maximum height of a fence within the minimum setback distance of the principal building and abutting the street from 1.5m (4.9 ft) to 2.13 m (7.0 ft). Relaxation of the maximum fence height from 1.9 m (6.2 ft) to 2.13 m (7.0 ft). Relaxation of the maximum height of a fence at a street corner from 1.0 m (3.3 ft) to 2.13 m (7.0 ft).

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

- Applicants: Kewan Aboulhosen and Laura Robin (owners) were present in support of the application. The following was noted:
- The letter and plans detail the request. The fence will be an open lattice which will allow light through, not solid wood.
 - People tend to turn quickly, the fence was designed to balance safety and privacy, which complimenting the house and neighbourhood.
 - Although the variance is for 7', the majority of the fence will only be 6' tall; the posts will be 7'. This allows for lighting and decorations.
 - The proposed location is between the driveway and the grass. This will not impact the neighbour.
- Public input: Nil
- Discussions: The applicant stated the following in response to questions from members of the Board:
- An easement is in place for the driveway of the neighbouring house on Tattersall. The fence would not obstruct their driveway access.
 - There are several large rhododendrons on Tattersall, the fence will not obstruct these as it will be placed inside of the hedges.
 - The pictures included in the application package were two different pictures of the same spot from the proposed gate to the grass.
 - The fence will be approximately 30' off Tattersall Drive. It is proposed to run along the inside edge of the driveway with a cedar gate enclosing the current lawn space.
 - The height variance is requested to dissuade children from climbing the fence and potentially escaping from the enclosed yard.
 - The corner has limited vision as it is, there is a large Garry Oak, a laurel and then a large rhododendron. The fence will not worsen this.
 - Lattice was chosen as a more cosmetically appealing option than solid wood panels. This will also allow for growing vines in future.
 - The property is on a busy street and at a lower grade. There is currently no privacy, the higher fence somewhat compensates for the road being at a higher level. The posts could be shortened.

In response to questions from the Board the following was stated by staff:

- Three different variances are being requested as this is a uniquely shaped corner lot.
- Engineering did a site visit and confirmed that the fence would not affect sight lines in this location.

The following was noted during Board discussion:

- The fence is quite set back, Tattersall Drive is at a higher elevation. Given these two considerations, the first two variances seem minor.
- The location and driveway between the fence and corner would be minimally visible, however the design choice could be improved.
- There is not hardship for having the posts a foot higher than allowed.
- Saanich Bylaws impose hardship on everyone. The increase is much greater than the allowable for the street corner, not a minor variance.
- Lot specific hardship has not been demonstrated; the applicant did not demonstrate undue hardship as safety concerns affect all residents.
- The owners could rethink or redesign and come back with reduced variances or eliminate the need for variances.
- Design choices do not demonstrate a reasonable or supportable reason to allow these variances.

MOTION: **MOVED by A. Gill and Seconded by M. Cole: “That the following requests to vary from the requirements of Zoning Bylaw 2003, Sections 6.2 (f) (i), (ii) and 6.3 (b), further to the construction of a fence on Lot 2, Section 62, Victoria District, Plan VIP73947 (3549 Salsbury Way) be DENIED:**

1. Relaxation of the maximum height of a fence within the minimum setback distance of the principal building and abutting the street from 1.5m (4.9 ft) to 2.13 m (7.0 ft).
2. Relaxation of the maximum fence height from 1.9 m (6.2 ft) to 2.13 m (7.0 ft).
3. Relaxation of the maximum height of a fence at a street corner from 1.0 m (3.3 ft) to 2.13 m (7.0 ft).”

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

Mt. Baker View Road
Non-basement

Applicant: Knot In A Box Design Inc.
Property: 2924 Mt. Baker View Road
Variance: Relaxation of the maximum non-basement floor area from 75% to 93.27%

BOV #01011

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

Applicants:

Todd Martin (applicant) was present in support of the application, the following was noted:

- 2924 Mt. Baker View Road is an interestingly zoned RS-16 site, as it is approximately half the size of other lots of this type. Many allowances are different than they would be under the appropriate zone for a site this size, which complicates the options for building.
- The road is tight and narrow, building a garage at the front of the house is not ideal due to the steep grade and limited design choices.
- Currently the house is non-conforming, the steep rocky terrain did not allow for a basement, so all space is considered non-basement.
- The deck space would sit at approximately the same height as the existing grade, the garage would be recessed into the rocky terrain.

Public input:

T. Cohen, Mt. Baker View Road

- This variance would have a significant impact on the immediate neighbours.
- Major concerns include the size of the modification and proximity to lot line.
- Construction could impact the mature trees on neighbouring property.
- Blasting, digging and loss of privacy are also concerns.

E. Dahli, Mt. Baker View Road

- Anyone who visits the site will notice it is a very narrow road with no street lights or sidewalks. An increase in deliveries has exasperated concerns.
- This variance is supportable to reduce the collective hardship of limited street space as will reduce the number of vehicles on the road.
- The proposed location is more suitable than a separate garage located on the front of the property.

Discussions:

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

- You cannot see into the neighboring property as there is a hedge. The design would not be significantly higher than the grade now.

- This design would likely have less impact to the neighbours than a separate structure and a garage in the front yard on top of the hill.
- The issue of the non-basement area did not exist when the home was built, so the house is already existing non-conforming.
- The grade difference from the top of the road to the back of the house is approximately 6m, the topology makes building difficult.
- The existing windows will be replaced by the garage and deck, you will only see the top of the deck at grade.
- The proposed structure meets the height and setback criteria.
- The steep terrain and zoning not being aligned with the size of the lot both create a hardship for building on this lot. The zoning reduces the allowable square footage and allowable non-basement. If the lot was zoned to current standards this request would be quite minor.

In response to questions from the Board the following was stated by staff:

- If this lot was created today, the zoning would be much different than it currently is due to the size of the lot. The appropriate zone for this sized lot would be RS-13, which would allow for a bigger house.

The following was noted during Board discussion:

- Upon visiting this location, the hardship is quite clear. The narrow street and rocky terrain make building in this location difficult.
- This is already non-conforming. The grade of the deck would not overlook the neighbouring property, and protection and retention of the trees would be considered during the building permit stage.
- The non-basement area is challenging as the slope and rocky terrain.
- This variance may defeat some of the intent of the Bylaw; as it was written to ensure that there is not monster homes above ground. The home is already non-compliant and allowing a variance to allow more space beyond the bylaw permitted amounts may not be supportable.
- Additional level grade parking could be obtained without the garage and deck. A separate car port or uncovered parking would be allowed.
- If the garage was built as an accessory building that was disconnected from the house, it could be bigger and taller. The impact on the street scape and neighbour is likely minimized with this request.

MOTION:

MOVED by A. Gill and Seconded by J. Uliana: "That the following request to relax the maximum non-basement floor area from 75% to 93.27% from the requirements of Zoning Bylaw 2003, Sections 290.3 (c), further to the construction of an addition on Lot 5, Section 44, Victoria District, Plan VIP8533 (2924 Mt. Baker View Road) be APPROVED.

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 DEFEATED
With K. Zuril and M. Cole OPPOSED**

As per the Saanich *Board of Variance Bylaw, 2004, No. 8599* section 14 (b), the decision to approve was not granted. This application will be tabled and will be reconsidered by the Board at a future meeting.

Adjournment

On a motion from J. Uliana, the meeting was adjourned at 8:13 pm.

K. Zirul, Chair

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

Recording Secretary