

MINUTES
BOARD OF VARIANCE
COMMITTEE ROOM NO. 1, SAANICH MUNICIPAL HALL
JULY 13, 2016 at 5:00 pm

Members: H. Charania, D. Gunn, R. Gupta, R. Riddett
Absent: R. Kelley
Staff: D. Blewett, Zoning Officer, T. Douglas, Senior Committee Clerk

Minutes: Moved by D. Gunn and Seconded by R. Gupta: "That the minutes of the Board of Variance meeting held June 8, 2016 be adopted as amended.

CARRIED

Oakview Place
Existing
accessory
building

BOV #00557

Applicant: Jagmohan Bains
Property: 4236 Oakview Place
Variance: Relaxation of distance between the wall of an accessory building and the principal building from 1.2 m to 1.09 m
Relaxation of distance between the roof overhang of an accessory building and the roof overhang of the principal building from 60 cm to 0.33 m
Relaxation of north interior side lot line from 1.5m to 0.22m

The Notice of Meeting was read and the applicant's letter received. Signature of support received from D. Virk, Oakview Place and letter of no objection received from H. and S. Auchoybur. Two letters not in support received from area residents.

Applicants

Jag Bains, owner, and Josh Zaph, were present in support of the application.

Mr. Bains stated the shed was placed in its current spot because the back yard has a shady area which is good to play in; this is important because his children have a skin condition that is set off with exposure to the sun. He created space in the garage for the children to play in, and dangerous items such as rakes and tools are kept in the shed.

Mr. Zaph noted that there is a covenant on the property which prohibits buildings in the back yard, and the shed is hidden by a hedge.

In response to questions from the Board Mr. Bains and Mr. Zaph stated:

- If the request is denied, this will cause a strain on the family as there is no suitable place for the shed other than the front yard, and moving the structure would be costly and time consuming.
- The structure sits on cinder blocks and does not have a foundation.
- The shed is approximately 80 square feet and no permit is needed for an accessory building this size.
- They are aware of the covenant that runs to the back portion of the property but are not sure which area is considered covenant area "C".
- The garage is a playroom, storage for safe items, ping pong table, television, computer, etc. It has an epoxy floor and is basically another family room.

In response to questions from the Board, the Zoning Officer noted that the covenant covers multiple properties, and that area "C" would allow for an accessory building.

The Chair noted that at his site visit he saw the children, and he also saw the stored items in the shed. He assessed that there is about four feet of space between the accessory building and the house.

In Favour Nil

In Opposition Nil

MOTION: MOVED by R. Gupta and Seconded by R. Riddett: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Section 5.29(i) and (ii), and Section 210.5(a)(ii), to allow an existing accessory building to remain as is on Lot 25, Section 53, Victoria District, Plan VIP72096 (4236 Oakview Place):

- a) relaxation of distance between the wall of an accessory building and the principal building from 1.2 m to 1.09 m
- b) relaxation of distance between the roof overhang of an accessory building and the roof overhang of the principal building from 60 cm to 0.33 m
- c) relaxation of north interior side lot line from 1.5 m to 0.22 m

And further that the variances so permitted be in accordance with the plans submitted to the Board, and expire on July 13, 2018.”

Board comments:

- The shed is nicely hidden and the most impacted neighbour is in support.
- It is not clear if or how the covenant impacts the applicant, but the feeling is that they do not want a shed in the back anyway.
- The objections received were not in the jurisdiction of the Board as they were about land use and not siting.
- There is a clear hardship with the family’s skin condition, the location is most practical and the aesthetic is not offensive. Placing the shed in front would ruin the streetscape.
- The Bylaw intent is that separation is needed for fire safety, and flammable items were noticed inside the shed. There is a definite hardship, and it would be desirable to know more about the covenant.

The Motion was then Put and CARRIED with D. Gunn OPPOSED

Blenkinsop Road
Existing fence

Applicant: Steven Taylor
Property: 4313 Blenkinsop Road
Variance: Relaxation of height from 1.5 m to 2.38 m

BOV #00558

The Notice of Meeting was read and the applicant’s letter received. Signatures of support received from M. Lesperance, 4265 Blenkinsop Road; T. Rusnak, 4351 Blenkinsop Road; E. and C. Koettl, 4251 Blenkinsop Road. Letters not in support received from N. and D. Chambers, 4317 Blenkinsop Road; and A. Barclay, 4335 Blenkinsop Road.

Applicants

Steve Taylor, owner, was present in support of his application. He submitted letters of support and stated:

- The reason he needs a height variance is for privacy, and for the safety of his dogs and children.
- He expressed concern about a neighbour photographing his children on the property and shouting at his children.

- The fence is behind a hedge and the Bylaw Officer had stated it is an attractive fence.
- The Pound Officer had made a comment to him that he lives in a fishbowl, and the neighbours' letters state that they cannot look into his property, which is proof that he needs to protect his privacy.

In Favour

Ann Tolmie, 4299 Blenkinsop Road:

- The fence is good for privacy, it is good looking and unobtrusive behind the hedge.
- Lots of animals are killed on the road and more signs are needed and cars need to slow down.

In Opposition

David Chambers, 4317 Blenkinsop Road:

- Is against the application and is concerned about setting a precedent.
- The property is being used for industrial purposes, and the fence limits visibility and could affect the safety of drivers.
- The deer are important and very active at night, and they require a corridor to travel between this area and Mount Douglas Park.

Natalie Chambers, 4317 Blenkinsop Road:

- Is against the application and feels it is huge as it sits on a berm.
- Expressed concern about non-permitted use on the property according to the Zoning Bylaw.
- Noted that in 1978 Council removed the area from the Urban Containment Boundary in order to protect the Blenkinsop Valley, and that this is one of the last remaining food security areas.

Barry Loukes, Blenkinsop Valley Community Association:

- Referred to a fence at 4540 Blenkinsop in 2008 that was not supported and suggested a hedge be planted.
- Stated the Community Association is not in support of the fence.

Kelly Carson, BC Deer Protection Society:

- Approving the fence will block a known deer corridor, resulting in more human/deer conflict.
- There is high deer movement between Mount Douglas Park and Blenkinsop Lake.

Jennifer Whitfield, 3900 Blenkinsop Road:

- Does not want to see tall fences in the neighbourhood and is worried about a precedent being set.
- Abides by the bylaws and feels others should too; you need a good reason to contravene a bylaw.
- They have a dog too and keep it in the back yard away from the road. Small children can be kept safe with a shorter fence.

Larry Wartells, Victoria resident:

- Spoke about organic food and cooperation between urban and semi-urban areas.
- Noted that deer habitat is very important.

In response to questions from the Board Mr. Taylor stated:

- The gate posts are the highest point of the fence and he would be willing to reduce the posts to meet the height of the rest of the fence.

- He was not aware of the bylaw; this issue arose after neighbours complained.
- The fence was placed behind a hedge and was installed by a contractor. The Leyland cypress hedge is on the property line; the fence is on the property.
- The fence was installed for privacy and the safety of dogs and children on the property.
- Dogs will chase the deer if they come into the property. The gates are closed when the dogs are out and the children are playing.
- He thinks that most of the fence is about six inches higher than allowable.
- The fence in the front is complete. The fence on the south was a pre-existing wire fence.

In response to a question about crops and deer problems, Mr. Chambers advised that the deer have learned that the corridor is a safe area with water access and they just chase them out of their operation when necessary. He noted that deer will go under fencing as well as over.

In response to further questions from the Board, Mr. Taylor stated:

- The fence runs between two driveways and is about 100 feet in length. The other area is covered with wild roses so you cannot get through.
- He did not bring in six feet of fill. Mulch was added to a low point but fill was not added to the slope.
- He has lived on the property for about one and a half years. The fence was built within the last year.
- He has a licenced home-based business.

The Zoning Officer clarified the fence requirements per the Zoning Bylaw.

Mr. Chambers suggested that the applicant is not in compliance with section 5.5 of the Zoning Bylaw pertaining to home use occupation. Mr. Taylor responded by saying the issue in front of the Board is the fence height variance request and stated that claim is unfounded. He noted that he spoke with the Land Conservancy, which has no issue with his request. He lives next door to a very busy business and needs privacy. He could build a higher fence in the back yard if he wanted to.

MOTION:

WITHDRAWN

MOVED by R. Riddett and Seconded by D. Gunn: "That the following request for variance from the requirements of Zoning Bylaw 2003, Section 6.2(f)(i), to allow an existing fence to remain as is on Lot parcel Pt SE, Section 51, Victoria District (4313 Blenkinsop Road) be DENIED:

a) relaxation of height from 1.5 m to 1.7 m

It was noted that the land use issues are outside of the Board's jurisdiction and the conflict with the neighbours is irrelevant. There is need for a privacy fence but it could be reduced. An amendment was proposed to approve the fence with a reduced height rather than reject it altogether.

the Motion was WITHDRAWN

THEN MOVED by D. Gunn and Seconded by R. Gupta: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 6.2(f)(i), to allow an existing fence to remain on Lot parcel Pt SE, Section 51, Victoria District (4313 Blenkinsop Road) with a relaxation of height from 1.5 metres to 1.7 metres, and further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on July 13, 2018.”

The Chair expressed concern that the motion changed the original variance request and may not be procedurally correct.

Staff members suggested that the item be tabled for further discussion, as it is not known if the applicant would be in agreement with the change from 2.38 metres to 1.7 metres, the 1.7 metres may or may not be the height of the existing fence, and changing the variance without input from public or the applicant may not be procedurally correct.

Board comments:

- There is agreement that a fence is needed but it does not need to be so high.
- The gates contribute to the feeling of an enclosure but the landscaping softens the fence.
- The applicant did agree in the open portion of the meeting to lower the gated part of the fence to the same height of the existing fence.
- The existing fence is approximately 1.6 metres, so the 1.7 metres should be high enough.
- The neighbour’s enjoyment must be considered and there is no hardship. Past Council had removed the Blenkinsop Valley from the Urban Containment Boundary and this decision should be respected.

**The Motion was then Put and CARRIED
with H. Charania OPPOSED**

The Chair requested staff to investigate the legality of the motion and report back to the Board in this regard.

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| Queenswood Drive Existing fence | Applicant: Peter Gosniak Property: 2700 Queenswood Drive Variance: Relaxation of height from 1.9 m to 2.76 m |
| BOV #00559 | The Notice of Meeting was read and the applicant’s letter received. Letter of objection received from R. and M. Bianco, 2690 Queenswood Drive. |
| Applicants | Peter Gosniak and Helen Lamla-Gosniak, owners, were present in support of the application. They provided photos of the property and stated: <ul style="list-style-type: none"> ▪ They instructed their builder to confirm with Saanich about the allowable height (applicant provided a copy of email as proof). ▪ Regardless of the height of the fence it will still be visible to the neighbours. ▪ The neighbours object to the aesthetic. They are not sure what the neighbours screening plans are. They could plant trees or shrubs, as a line of sight barrier from each other would be of mutual benefit. ▪ The fence and retaining wall cost approximately \$60,000; if there was another feasible option they would have done it differently. |

- The hardships include noise from a permanent water feature next door, the need for privacy screening, a barrier from the view of 8 years of construction next door and strained neighbour relations.
- The fence is not inappropriate to the site and the foreshore is rebounding ecologically because the deer are not able to get through.

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

- Three surveys were done to ensure that the work was done properly.
- There was a slope that sent up to the neighbouring property; the neighbour brought in boulders and soil which was encroaching, so they built a retaining wall as this did not work with the aesthetic on their own property.
- They need more screening and planted some deer-resistant plants but the deer still ate it. There is not enough soil depth to plant a big tree.
- The neighbour's pond makes a gushing sound which is of huge concern.
- The fence they built will weather and turn grey; they tried to blend in.
- They acquired the lot in 2010 and moved there in 2015. The construction next door was happening back when they acquired the property.
- They do respect the bylaw but feel that there is room for misinterpretation; staff advice was that it was okay to build the fence and the builder was relied upon, and they read the bylaw. They did not do this on purpose.
- Part of the fence is on the retaining wall and part is not. They continued with the height throughout the fence.
- A greenhouse provides some visual privacy.
- Neighbour relations are strained; they thought the neighbours would be happy with the fence but they appear to be opposed to fencing in general so lowering the fence would not likely make them happy.
- They have not considered what the cost to comply would be but suspect it would be costly.

In Favour Nil

In Opposition Nil

MOTION: MOVED by R. Riddett and Seconded by D. Gunn: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 6.2(f)(ii), to allow an existing fence to remain as is on Lot 2, Section 44, Victoria District, Plan 3669 (2700 Queenswood Drive):

a) relaxation of height from 1.9 m to 2.76 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on July 13, 2018."

Board comments:

- The construction was done in good faith and has no negative visual effect for the neighbour who sits higher.
- It would be a significant hardship to remove and would result in loss of privacy.
- This is not intrusive due to the vegetation, land slope and soil placed there.
- The yard next door is full of construction materials; mapping photos show this has been ongoing since 2009. It was noted the noisy pond in question was not working.
- It is appropriate to have a fence with the landscaping and land use.
- The applicant did their due diligence with the builder. There was a miscommunication about the retaining wall. The wall and fence are nice looking.

- To remove or reduce the fence would cause an unnecessary financial hardship.

The Motion was then Put and CARRIED

Tudor Avenue
Addition

BOV #00560

Applicant: Morten and Serena Andersen
Property: 2841 Tudor Avenue
Variance: Relaxation of height from 7.5 m to 7.6 m
Relaxation of single face height from 7.5 m to 8.16 m
Accessory building relaxation of height from 3.75 m to 5.89 m

The Notice of Meeting was read and the applicant’s letter received. Letters of no objection received from M. and D. Vogel, 3904 Bedford Road; W. Jackson, 2831 Tudor Avenue; K. Allan, 2840 Seaview Road; B. and R. Rasmussen, 2844 Tudor Avenue; P. Galley, 2850 Seaview Road; J. Jushner, R. McGinnis, 2851 Tudor Avenue.

Applicants

Morten Andersen, owner, and Lindsay Baker, Aspire Custom Designs, were present in support of the application. Mr. Andersen stated that they love the house and want to keep its character. Mr. Baker stated a hardship that there are no flat areas, it is very steep and this was the only location that could be used without blasting. They did try to keep the roof down as best they could.

In response to questions from the Board, the owner and designer stated:

- The house is designed for one child and they need space for another bedroom with ensuite. It is a small addition that will need a dormer.
- The existing roof is non-confirming and the new design is creating a lower roof than the existing.
- This is a 1967 house. They are looking to add a garage & workshop that best uses the lay of the land.
- The garage height is to keep in character of the peaked house. They did discuss having a flat roof but it does not tie in with the house.
- They could have attached a garage to the house but the house roof height was too high as the average grade measurement would be worse.

The designer described the grade and slope issues in detail. In response to a comment about the application not including information about grades, the Zoning Officer advised that the application forms do not state this is a requirement and noted the plans do show the grades.

In Favour

Nil

In Opposition

Nil

MOTION:

MOVED by D. Gunn and Seconded by R. Gupta: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 290.3(b)(i) and (ii) and 290.4(b), further to the construction of an addition to the house and a new accessory building on Lot B, Section 44, Victoria District, Plan 16822 (2841 Tudor Avenue):

- a) relaxation of height from 7.5 m to 7.6 m
- b) relaxation of single face height from 7.5 m to 8.16 m
- c) accessory building relaxation of height from 3.75 m to 5.89 m

And further that the variances so permitted be in accordance with the plans submitted to the Board, and expire on July 13, 2018, if not acted upon.”

Board comments:

- This will increase the usability of the house, and there is no impact on the neighbours.
- There is nowhere else for a garage and the increase in height is because of the grade of the land.
- The house is already non-conforming and this is a minor request.
- The family has a need for more space.
- The house is impractical, and the dormer will increase the usability.

The Motion was then Put and CARRIED

Other business A brief discussion occurred about defining ‘substantially started’. The Zoning Officer advised that with Development Variance Permits substantially started applies as long as the building permit has been applied for and approved, and the foundation forms (cribbing is done).

Secretary to inquire with Legal about the Board creating a new motion within the measurements of what was requested by the applicant.

Adjournment On a motion from R. Gupta, the meeting was adjourned at 7:58 p.m.

Haji Charania, Chair

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

Recording Secretary