

MINUTES
BOARD OF VARIANCE
COMMITTEE ROOM NO. 2, SAANICH MUNICIPAL HALL
AUGUST 17, 2016 AT 7:00 P.M.

Members: H. Charania, D. Gunn, R. Gupta, R. Riddett
Absent: R. Kelley
Staff: K. Gill, 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 July 13, 2016 be adopted as amended.

CARRIED

Parker Avenue **Applicant: Derek Iles and Candis Miller**
Seawall **Property: 5261 Parker Avenue**
 Variance: Relaxation of height from 0.60 m to 2.5 m

BOV #00561

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

Applicants

Derek Iles and Candis Miller, applicants, were present in support of the application and had nothing further to add. In response a question about the sequence of events the Mr. Iles stated that in December, high winds and tides resulted in the loosening of the seawall boulders. They were advised that this could be repaired in the spring by Don Mann and that a surveyor was needed. The surveyor's work was done in June but by July the stability of the bank became a greater concern. Department of Fisheries and Oceans were okay with repairs being done; the beach landscape had changed and so the boulders were replaced with concrete.

When asked if the application needed to be updated, the Zoning Officer stated that the applicant had informed the municipality that the wall had been built, and that the information submitted in the application for height is what was built.

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

- The bank was repaired in July due to safety concerns. The bank was loose and any rain or tremor could have loosened it more. They felt it was a time sensitive issue.
- This was a repair not a rebuild.
- It would have been very difficult to get the heavy machinery and equipment necessary to do the repair work.
- The work was certified and inspected.

In Favour Nil

In Opposition Nil

MOTION:

WITHDRAWN

MOVED by R. Riddett and Seconded by R. Gupta: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 5.16(b), further to the construction of a seawall on Lot 4, Section 32, Lake District, Plan 1196 (5261 Parker Avenue):

- a) relaxation of height from 0.60 m to 2.5 m**

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 17, 2018."

Board comments:

- Most of the work is already done.
- The application process was in place and the work could have waited.
- It looks like a concrete dam, the feeling is that the Bylaw was put in place to avoid people constructing structures like this.

Considering the above concerns, the **Motion to approve was WITHDRAWN.**

The Board discussion continued and the following comments were noted:

- This was not done as per the Geotechnical report and was done in haste. The professional opinion was ignored, as was the process.
- The applicant could possibly jackhammer the concrete to expose the rock underneath to soften the appearance. The existing wall is not compatible with the adjacent surroundings.
- It may be a hardship to remove the structure and it does not affect anyone.
- The Environmental Services department was not contacted and proper plans were not submitted; the finished work does not match the sketches in the Geotechnical report by C.N. Ryzuk and Associates.
- The construction is an inappropriate development of the site and does adversely affect the natural environment, in contravention of the bylaw.
- The application could be tabled to inquire why the applicant deviated from the recommendation of C.N. Ryzuk, and ask how they will address the last paragraph of the report [about the Geotechnical firm attending the site].
- They should consider making an Environmental Development Permit Application.
- They did have trouble getting material across the sandbar so they had the concrete pumped down. C.N. Ryzuk said it could be done by barge.
- The applicant was concerned about this being a safety issue for their children.
- There were no proper plans submitted for this application.

MOTION

THEN MOVED by D. Gunn and Seconded by R. Gupta: “That the following request for relaxation of height from 0.60 metres to 2.5 metres from the requirements of Zoning Bylaw 2003, Section 5.16(b), further to the construction of a seawall on Lot 4, Section 32, Lake District, Plan 1196 (5261 Parker Avenue) be DENIED.”

Final Board comments:

- The applicant abused/ignored the process.
- Proper drawings were not submitted with the application.
- The finished product is not a minor deviation from the Geotechnical report.
- There is a lack of evidence about why the job was done in haste.
- This does not fit in with the adjacent surroundings.

The Motion to Deny was then Put and CARRIED

Crestmont Close
Existing deck &
staircase

Applicant: Adam Kidd, Gamow Contracting OBO Nancy Wong
Property: 1550 Crestmont Close
Variance: Relaxation of rear lot line from 7.5 m to 5.83 m
Relaxation of exterior side lot line from 3.5 m to 1.95 m

BOV #00562

The Notice of Meeting was read and the applicant’s letter received. Letters of no objection received from two neighbours.

- Applicants Adam Kidd, applicant, was present in support of the application and had nothing further to add. In response to questions from the Board, Mr. Kidd stated:
- He was retained by the owners after they were approached by Saanich staff about a building permit for the structure.
 - The owner did not think a building permit was required as he thought the work would be considered a repair.
 - Mr. Kidd spoke with staff, hired a surveyor, and submitted an application on behalf of the owner.
 - The stairs were placed in the same area as they were previously located.
 - The old stairs were very narrow and the new stairs were built to code which makes them wider.
 - Other than the extra cost that would be incurred, he cannot speak for the owner in terms of the hardship if the stairs are not approved or have to be moved to the other side of the house. However, the disability of a family member has been hard on the family and they are going through a difficult time. The function of the deck is not impeded either way in terms of the stair location.
 - The drawings are not approved yet as they were advised to have other issues dealt with prior to applying for a permit.

Board members briefly discussed the location of the stairs attached to the deck; it was noted that the applicant would have to return to the Board if the stairs were moved to the other side.

In Favour Nil

In Opposition Nil

MOTION: MOVED by R. Gupta and Seconded by D. Gunn: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 210.4(a)(i) and (iii), to allow an existing deck and staircase remain as is at Lot 1, Section 17, Victoria District, Plan 29642 (1550 Crestmont Close):

- a) relaxation of rear lot line from 7.5 m to 5.83 m
- b) relaxation of exterior side lot line from 3.5 m to 1.95 m

And further that the variances so permitted be in accordance with the plans submitted to the Board, and expire on August 17, 2018.”

Board comments:

- There has been significant personal hardships within the family recently.
- The siting of the house is a hardship due to the irregular lot.
- The owner is encouraged to soften the area with landscaping.
- It is noted that the new deck is larger than the previous deck.

The Motion was then Put and CARRIED

Cordova Bay Road Seawall	Applicant: William and Donna Johnson Property: 4915 Cordova Bay Road Variance: Relaxation of height from 0.60 m to 2.0 m
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BOV #00563 The Notice of Meeting was read and the applicant’s letter received. Letters of support received from two neighbours.

Applicants Bill and Donna Johnson, owners, were present in support of their application and had nothing further to add. In response to questions from the Board, they stated:

- If this is not approved they will wait another winter and hope that the trees do not fall down. The stacking of the rocks will not suffice.
- There has been some movement of the land over the last two years, they think it is gradual creep.

The Chair noted that this is a well-documented application; there is evidence of erosion, and the applicants have covered their obligations with the Environmental Services department, the Department of Fisheries and Oceans and the structural report.

In Favour Nil

In Opposition Nil

MOTION: MOVED by R. Gupta and Seconded by D. Gunn: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 5.16(b), further to the construction of a seawall on Lot 2, Section 28, Lake District, Plan 21914 (4915 Cordova Bay Road):

a) relaxation of height from 0.60 m to 2.0 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 17, 2018, if not acted upon.”

Board comments:

- There is a need to stabilize the soil. There is evidence of erosion and loose trees.
- There could be potential structural damage if the bank is not stabilized.
- The application was complete and included plans.

The Motion was then Put and CARRIED

Cordova Bay Rd **Applicant: Harminder and Morgan Dhanowa**
 Existing **Property: 4660 Cordova Bay Road**
 accessory **Variance: Relaxation of height from 3.75 m to 5.46 m**
 building

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

BOV #00564

Applicants Harminder and Morgan Dhanowa were present in support of the application and had nothing further to add. In response to questions from the Board, they stated:

- They do not have another plan in place. They will build a new residence at the back of the property and knock this building down if they have to.
- It would be hardship to knock the building down as they would like to use it as an office and it would be very wasteful environmentally. The building is needed for Mrs. Dhanowa who is a hypno-therapist; she needs a separate private building for her practice and it would be very expensive to tear down the house and build a new space.
- The property is very big and the reason for the variance is due to the A-frame roof.
- The garage located closest to the road will be used for storage.

- The new house is to be built at the far back yard; this is a two-acre property and with plenty of space.
- Regarding concerns about the building becoming a secondary suite, they noted that they will remove the kitchen and will meet all the municipal requirements and conditions. They have no intention to use the building for other than stated.
- They are aware that the house is a little too big for home occupation.
- They are connected to the sewer system.

The Zoning Officer noted that only 538 square feet is allowed for home occupation use, and that there are decommission agreements between owners and the municipality.

In Favour Nil

In Opposition Nil

Board comments:

- This application has no impact on the neighbours.
- This is a well-constructed and well-maintained building.
- This does not meet the requirements for land use however the Board is only concerned with the variance request for height.
- This is not a minor variance but is well back from the road in a treed area.
- The applicant’s hardship is the need for a home based office.

MOTION: MOVED by D. Gunn and Seconded by R. Gupta: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 295.4(b), further to allowing an existing building to remain as is on Lot 9, Section 24, Lake District, Plan 5597 (4660 Cordova Bay Road):

- a) relaxation of height from 3.75 m to 5.46 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 17, 2016.”

The Motion was then Put and CARRIED

Arrow Road
Existing
accessory
building, existing
fence

Applicant: James and Raeleen Brown
Property: 1538 Arrow Road
Variance: Relaxation of height from 1.9 m to 3.05 m
Relaxation of rear lot line from 1.5 m to 0.61 m

BOV #00565

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

Applicants

Jim and Raeleen Brown, owners, were present in support of the application. They stated they were not trying to sidestep any bylaws, they wanted a safe place for their kids to play, making sure no damage happened to surrounding homes. The person who installed the court fencing said there would be no issue, but then Bylaw Enforcement came by to say that the fence height was an issue and the shed was an issue. The court itself is not an issue.

In Favour Nil

In Opposition

Mr. Price, Arrow Road:

- He was not made aware of the applicant's intention to build a sport court; he thought their kids would continue to play hockey and basketball in his driveway.
- The applicant's shed is against his 15' hedge.
- Is concerned that if the applicant sells his home in the future, a new owner could potentially use the court all day, weekends, and evenings, which would be very noisy.
- He is concerned about his property value; nobody wants to hear this much noise. Mr. Price played a recording as evidence of the noise that occurs next door when they play basketball on the court.
- Since the installation of the court, there has been runoff come into his yard from next door. An open drainage pipe from next door is problematic.
- He has reduced use and enjoyment of his property and had to stop holding barbecue dinners due to the noise next door.
- A lower fence height may result in the kids playing less enthusiastically.

In response to the neighbour's comments and questions from the Board, Mr. and Mrs. Brown stated:

- There are ongoing issues with the neighbour which have resulted in Police involvement. The neighbour cannot see into their yard, it is the noise that bothers him.
- A sprinkler failure was the cause of runoff into the neighbour's yard in June. There was an accidental flood and the problem has been resolved. There is a drainage pipe that they are willing to cap.
- The wooden fence that runs along the panhandle lot is permitted according to the Bylaw Enforcement Officer.
- The storage shed is used for tools and they are not planning to move.
- They installed insulation on the backboard, and put tiles down on the court to help reduce the noise.
- If they are made to reduce the fence, it will cost thousands of dollars and the kids will still play in the backyard. The result would be that more balls go into the neighbour's yard. This is a good spot for them to safely play.
- They feel their property improves their neighbour's property value.
- They have agreed to not use the sports court after 8:30 pm and they do not plan to install lighting.
- There was cooperation with the neighbour in the beginning and the children played in his driveway.
- They could move the shed if necessary but it is bolted with anchor bolts.

The Zoning Officer provided the Board with information about the height calculation for fencing and the different fence heights depending upon the zoning, and he confirmed that the sports court pad is considered landscaping. He confirmed that a portable/removable netting could be used as screening and would not be a bylaw issue.

The Chair suggested that the issue be tabled to give the people present an opportunity to try to resolve their differences. The applicant stated they have been dealing with Police since April and do not see a resolution with the neighbour.

Board comments about fence height:

- The issue that the Board is considering is about height, not noise. The Bylaw was brought in to avoid over-height walls, not structures like this.

- Other options could be done, but this is an elegant solution to contain sports equipment.
- A reduced fence will not reduce the noise. It is a good height because it contains the balls and pucks. Also, the neighbour cannot see the court.
- It is hoped that there can be an agreement for the hours of play as the noise obviously bothers the neighbour.
- The court is a reasonable distance away from the lot line.
- The applicant should be more considerate to the neighbour's concerns.
- The Board would like the applicant to cap off the drainage pipe.

MOTION: **MOVED by D. Gunn and Seconded by R. Riddett: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 6.2(f)(ii), to allow fence remain as is on Lot 1, Section 56, Victoria District, Plan 29883 (1538 Arrow Road):**

- a) relaxation of height from 1.9 m to 3.05 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 17, 2018."

The Motion was then Put and CARRIED

Board comments about the accessory building:

- The reason for the shed setback is mostly visual but there is a visual barrier there with a nice hedge. Do not see advantage of moving the shed.
- Is the shrubbery dying? The land is better used with the shed in this place.
- They have a small back yard.
- The shed doesn't affect the neighbour's enjoyment of their property.
- It is on a pad and would be a hardship to move.

MOTION: **MOVED by R. Gupta and Seconded by R. Riddett: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 230.5(a)(ii), to allow an existing accessory building remain as is on Lot 1, Section 56, Victoria District, Plan 29883 (1538 Arrow Road):**

- a) relaxation of rear lot line from 1.5 m to 0.61 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 17, 2018."

The Motion was then Put and CARRIED

Waring Place
Addition

Applicant: Matthew Jardine OBO Carl Foght and Joanne Penn
Property: 3764 Waring Place
Variance: Relaxation of front lot line from 7.5 m to 6.8 m

BOV #00566

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

Applicants

Ryan Hoyt, Designer, was present in support of the application and he noted that the Planning department has asked for information showing the riparian implications. They will need to go through the Streamside Development Permit application process.

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

- The hardship is the siting of the existing house, as the front actually faces the side yard. Ninety-five percent of the addition conforms to the Bylaw.
- The proposed addition is well removed from any area of the site with riparian implications.
- If not approved they would reduce the size of the garage, but this would affect the roofline.

In response to a comment, the Zoning Officer stated that the existing sheds do not need to be addressed as they are historical non-conformities. He also noted that the applicant is aware that if any further changes are made after this approval they will have to come back to the Board.

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 255.4(a)(i), further to the construction of an addition to the house on Lot 10, Section 44, Victoria District, Plan VIP8088 (3764 Waring Place):

- a) relaxation of front lot line from 7.5 m to 6.8 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 17, 2018, if not acted upon.”

Board comments:

- This is a minor variance that has no impact on neighbours and cannot be done in another location.
- The Environmentally protected area causes a hardship, as does the siting of the house.
- The setbacks are generous.
- The house is existing non-conforming.

The Motion was then Put and CARRIED

Palo Alto Street Addition	Applicant: Nigel Banks, Banks Design OBO Samantha Lawrence and Josh Dubee
BOV #00567	Property: 3850 Palo Alto Street Variance: Relaxation of front lot line from 6.0 m to 4.88 m

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

Applicants Nigel Banks, applicant, Samantha Lawrence and Josh Dubee, owners, were present in support of the application. Mr. Banks stated that there was a previously approved addition to the house and they want to match the building lines up with the new proposed addition.

Mr. Dubee stated that he discussed the addition with neighbours and all seem supportive. Only the neighbour across the street will be able to see the addition.

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

- The site was staked to show the proposed addition.

- The proposed design creates a rational flow inside. There is a lot of room, however the original house dictates the need for variance.
- Other designs were considered but they would be more expensive and make less sense to the usefulness of the home, and would affect roof drainage.
- The addition is approximately 420 square feet.

In Favour Nil

In Opposition Nil

Board comments:

- The applicant considered other options and found the best use and flow for the property.
- This is not minor, but is not huge either.

MOTION: MOVED by R. Gupta and Seconded by D. Gunn: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 210.4(a)(i), further to the construction of an addition to the house on Lot 8, Section 40, Victoria District, Plan 402F (3850 Palo Alto Street):

a) relaxation of front lot line from 6.0 m to 4.88 m

And further that the variance so permitted be in accordance with the plans submitted to the Board, and expire on August 17, 2018, if not acted upon.”

The Motion was then Put and CARRIED

Other business:

Board of Variance meeting hours:

The Zoning Officer requested that meeting times be set for 5:00 pm as the standard because this would work better for staff, and the Board could be provided with dinner. The majority of Board members were not opposed to the 5:00 pm time however the Chair expressed concern about the public being able to make the meeting time, and he noted Council meetings are held later for this reason. It was noted that other municipal Boards of Variance meet during regular business hours, and that the attendance at Council meetings is different than Board meetings.

ACTION: The Secretary was asked to informally poll future applicants about their preference of a 5pm meeting versus a 7pm meeting.

4313 Blenkinsop Road (from July 13, 2016 meeting):

The Board reviewed advice received, and the majority felt that issuing less of a variance during deliberations was acceptable in this case because in the open meeting no objections were made during the discussion about lowering the gate to the surrounding fence height. Opportunity was given at the hearing for people to oppose this suggestion.

MOTION: MOVED by D. Gunn and Seconded by R. Riddett: “That the decision to approve the variance request for an existing fence at 4313 Blenkinsop Road, made at the July 13, 2016 Board of Variance meeting, stand.”

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

Other business continued

Deliberation before/after making a motion / Staff input:

Board members briefly discussed whether deliberation should occur before or after a motion is made. It depends upon the application and how simple or challenging the application is. No firm decision made.

It was also noted that it is best to ask staff questions and receive information during the open meetings and not prior to start of the meeting.

Minute format:

Secretary provided some information about wording of motions and removing specific movers/seconders from the minutes as per the minute guidebook.

ACTION: Secretary to review the City of Victoria Board of Variance minutes.

Adjournment

On a motion from D. Gunn, the meeting was adjourned at 10:10 pm

Haji Charania, Chair

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

Recording Secretary