

**MINUTES
BOARD OF VARIANCE
COMMITTEE ROOM NO. 2, SAANICH MUNICIPAL HALL
JANUARY 9, 2019 AT 6:00 P.M.**

Members: H. Charania (Chair), E. Dahli, D. Gunn, M. Horner, R. Riddett
Staff: S. Holmes-Saltzman, Manager of Current Planning, K. Kaiser, Zoning Officer,
T. Douglas, Senior Committee Clerk

Election of Chair: The Senior Committee Clerk called the meeting to order and asked for nominations for the Chair. H. Charania was nominated and accepted the nomination. The Secretary called twice more for nominations and as there were none it was announced that H. Charania is acclaimed to the position of Chair for 2019. Mr. Charania assumed the Chair.

Minutes: Moved by D. Gunn and Seconded by R. Riddett: "That the minutes of the Board of Variance meeting held December 12, 2018 be adopted as circulated."
CARRIED

Moved by D. Gunn and Seconded by M. Horner: "That the minutes of the Special Board of Variance meeting held December 28, 2018 be adopted as circulated."
CARRIED

Inlet Avenue Addition
BOV #00781

Applicant: Simon Towner
Property: 2817 Inlet Avenue
Variance: Relaxation of height for a small lot from 6.0 m to 8.85 m for a pitched roof
Relaxation of single face height for a small lot from 6.0 m to 9.28 m for a pitched roof
Relaxation of interior side lot line from 1.5 m to 0.82 m
Relaxation of combined sideyards from 4.5 m to 1.81 m

The Notice of Meeting was read and the applicant's letter received. Letter of support received from one residence.

Applicants: Simon and Erin Towner, applicant/owners, and Natalie Saunders and Kyle Leggett, Java Designs, were present in support of the application. In reply to questions from the Board, the applicant and designers stated:

- The growing family wishes to remain in the area; they have lived there for ten years and have good neighbours and nearby schools.
- The house was built in 1912 and currently encroaches at the side. They are reducing the encroachment by removing a set of stairs.
- They did explore other design options. Adding to the back would impact the neighbours, the environment (with an oak tree removal) and would also reduce the usable back yard space.
- Adding a storey on this bungalow is the best solution and will best keep the form and character of the home intact.
- No negative feedback has been received from the neighbours.
- Hardship is that Saanich considers this a small lot, so instead of the usual 7.5 metre height allowance, they are only permitted 6.0 metres.

Public input: Resident, 2819 Inlet Ave:

- Is in favour of the application.
- The addition will not negatively affect them.
- Commended the applicants for applying through the proper channels to do the work.

MOTION: **MOVED by D. Gunn and Seconded by E. Dahli: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 5.27(a) and 210.4(a)(ii), further to the construction of an addition to the house on Lot 23, Section 21, Victoria District, Plan 807A (2817 Inlet Avenue):**

- a) relaxation of height for a small lot from 6.0 m to 8.85 m for a pitched roof.
- b) relaxation of single face height for a small lot from 6.0 m to 9.28m for a pitched roof.
- c) relaxation of interior side lot line from 1.5 m to 0.82 m.
- d) relaxation of combined sideyards from 4.5 m to 1.81 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 variances so permitted by this Order will expire.”

Board comments:

- The lot size and the house placement are hardships, and in general renovating older homes can be a hardship.
- The need for more space for a growing family merits relief.
- The request does not go against the intent of the bylaw and the affected neighbour is not opposed.
- This appears to be a major ask on paper but this is due to the small lot zoning.
- The setbacks are already existing non-conforming.

The Motion was then Put and CARRIED

Bermuda Place Fence	Applicant: Cynthia Chelle Property: 2564 Bermuda Place Variance: Relaxation of height from 1.5 m to 1.93 m
BOV #00765	Relaxation of height on a corner lot from 1.0m to 1.93m

The Notice of Meeting was read and the applicant’s letter received. Petition with 16 signatures of no opposition received.

Applicants: Cynthia Chelle and Robert Chelle, applicant/owners, were present in support of the application. In reply to questions from the Board the following was noted:

- The applicant no longer has permission from the municipality to have their fence on the boulevard. They wish to maintain the height and style of the fence but will move it back onto their property line.
- The material used in the front is deer netting; the poles are about a half inch diameter and coloured green, and the netting is a nylon material.
- They have lived there for 30 years and the garden surrounds the house.
- The deer eat all the food and plants that the yard produces.
- The property is on a slope, making some portions of the fence higher.

Some Board members expressed concern that if this variance is granted a future owner may try to build fencing with solid materials. After a discussion most Board members agreed that the application, if approved, would be as per the photographs submitted which shows netting along the front and wire fencing along the driveway.

Public input: Nil

MOTION: **MOVED by R. Riddett and Seconded by M. Horner: “That the following variances be granted from the requirements of Zoning Bylaw 2003, Sections 6.2(f)(i) and 6.3(b), further to the fence height at Lot 2, Section 44, Victoria District, Plan 9870 (2564 Bermuda Place):**

- a) relaxation of height from 1.5 m to 1.93 m
- b) relaxation of height on a corner lot from 1.0m to 1.93m

And further that the materials match the plans/photographs submitted to the Board. In this case, the portion of the fence being moved from the municipal boulevard to the property line is to remain as deer netting, and the existing fence along the driveway is to remain the wire material.”

Board comments:

- The deer are a hardship; they have a beautiful garden.
- The intent of the bylaw is to protect views and for safety. In this case due to the materials, the fence does not affect views even though it is over height.
- There is support received from 16 people.
- The photographs form a part of the record and will ensure that the materials will remain the same.
- There is a lack of deer control throughout the region.
- One member is of the opinion that deer are not a hardship, the height is major, and expressed concern that this variance could be misused in the future.

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

Firbank Close
Accessory
building

Applicant: John Chow
Property: 1191 Firbank Close
Variance: Relaxation of rear lot line from 1.5 m to 0.93 m

BOV #00779

The Notice of Meeting was read and the applicant’s letter received. Letter of no objection received from one residence. Mr. Charania stated that he spoke with the applicant during the site visit.

Applicants:

John Chow, applicant/owner, and Joseph DiOliviera, were present in support of the application. In reply to questions from the Board, they stated:

- The old shed was metal with a wood frame foundation.
- There will be no plumbing or lighting in this shed; it will be used for storage.
- The hedges were existing and were pruned. No trees were removed.
- The area of the shed is about 16’ x 14’.
- They did not apply for a building permit.
- There is a group home on the property behind the shed.

Public input: Nil

MOTION: **MOVED** by R. Riddett and **Seconded** by E. Dahli: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 250.5(a)(ii), further to the construction of an accessory building on Lot 4, Section 24 & 25, Lake District, Plan VIP58681 (1191 Firbank Close):

a) relaxation of rear lot line from 1.5 m to 0.93 m.”

Board comments:

- This is a minor variance and does not impact the neighbours. The cost to fix this is not justified.
- The applicant built this in good faith and this was an unintentional mistake.
- This is not offensive and there is no negative impact to neighbours or the environment.
- This meets the intent of the Bylaw.
- One member is of the opinion that although there is no impact, there is no hardship and this could easily be brought into compliance. Also this was done without a permit.

**The Motion was then Put and CARRIED
With D. Gunn OPPOSED**

Parker Avenue
Fence

BOV #00776

Applicant: Victoria Starr McMichael
Property: 5519 Parker Avenue
Variance: Relaxation of height from 1.5 m to 2.41 m (front yard)
Relaxation of height from 1.9 m to 2.10 m

The Notice of Meeting was read and the applicant’s letter received. Mr. Charania stated that he spoke with the applicant during the site visit. Letters not in support received from two residences. Letters of no objection received from two residences.

Applicants:

Victoria Starr McMichael and Gerald Callaghan Smith, applicant/owners were present in support of the application and stated:

- The existing front fence was constructed in 2012 and the cost was shared with the previous owners of 5513 Parker Avenue.
- The new owners at 5513 Parker Avenue were approached about cost sharing of the proposed new fence but they are not willing to do so.
- They had hoped to purchase the seating area at 5513 Parker Avenue but it was evident that the cost would be prohibitive.
- The rationale for building is privacy and safety. The wind speeds/velocity result in debris coming up from the beach, and tree damage to the home is an issue as well. They are looking to deflect the winds with the fencing as weather events are getting worse.
- Their windows in the home require replacement and require proper engineering to do so (eg. steel braces to be installed).

Public input:

Resident, 5513 Parker Avenue:

- The front fence was pre-existing when they purchased the property and they have no issue with this fence. It is the newer fence they are against.
- The previous fence only went about three metres past the home. The new fence goes about ten meters past and they do not understand the need for the length of the fence.
- Suggested that the fence may have been erected on their own property.
- This fence impedes their views and feels it is not fair that engineering issues of the other home affects them in this manner.

- Suggested options for a less intrusive looking fence (eg. vertical slats instead of a solid panel).

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

- They did not know the fence was overheight because they had asked the builder to keep the fence at 6'2".
- The hardship is safety; the wind loads are very heavy and have resulted in broken windows. The fence will protect the house.
- The windows are from 1961 and cannot take the weight of the required double/triple panes as they are cantilevered. They installed support/slats 18 months ago and will need to have further engineered work done.
- In the front the hardship is privacy as the road is a little higher than their property. This fence was constructed in 2012.
- Another issue is that the wind blows through downstairs under the cantilevered area.

Board members discussed the fence measurements and the Bylaw Officer confirmed that the measurement is from the bottom of the fence against the ground to the top (including posts and headers, whichever is higher). It was noted that the panels are all approximately 6'3 and it was suggested that if the headers were removed the fence could be reduced to 2.10 metres.

In reply to questions from the Board, the resident at 5513 Parker Avenue stated:

- They do not see how reducing the variance request from 2.40 m to 2.10 m serves them in any way.
- The applicant should address their window issue.
- They would like the new portion of the fence to be reduced to 1.9 metres.
- They are opposed to the whole new fence. They were not asked about it, and they do not like that it was built and that they were put in the position where they had to report it.
- The fence affects their property value.

The applicant stated that they would reduce the fence from 2.4 m to 2.1 metres if asked by the Board.

MOTION:

MOVED by R. Riddett and Seconded by M. Horner: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 6.2(f)(i), further to allowing the existing front yard fence to remain as is on Lot 20, Section 35, Lake District, Plan 8328 (5519 Parker Avenue):

- a) relaxation of height from 1.5 m to 2.41 m (front yard)."**

Board comments:

- Lack of privacy is the hardship.
- These are large lots and the houses are a fair distance apart.
- The two owners agreed on this fence six years ago.
- The neighbour is not opposed to this portion of the fence.
- One member is of the opinion this is a major variance.

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

MOVED by D. Gunn and Seconded by E. Dahli: “That the following variance be granted from the requirements of Zoning Bylaw 2003, Sections 6.2(f)(ii), further to the construction of a fence on Lot 20, Section 35, Lake District, Plan 8328 (5519 Parker Avenue):

- a) relaxation of height from 1.9 m to 2.10 m.”**

Board comments:

- It would be a hardship to change the height of the whole fence.
- This is a minor ask of 8” (20 cm) compared to the original request.
- A member is of the opinion there are other ways to achieve wind abatement.
- A member is of the opinion that the wind load is not a hardship and the applicant should address this issue. Also the neighbour’s use and enjoyment of their property has been affected.

**The Motion was then Put and CARRIED
With H. Charania and R. Riddett OPPOSED**

Holland Avenue
Accessory
building

Applicant: Aspire Custom Design OBO Ben Acton
Property: 3877 Holland Avenue
Variance: Relaxation of height from 3.75 m to 4.58 m

BOV #00784

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

Applicants:

Lindsay Baker, Aspire Custom Design, applicant, and Ben and Kendra Acton, owners, were present in support of the application.

The applicant noted that this is Agricultural Zoned property and they could build a barn with no variance but would prefer to have a smaller accessory building as they do not need the loft space to be engineered for hay storage.

Board members commented that the site was not marked and they were unable to determine the footprint and height of the proposed building.

Public input:

Nil

MOTION:

MOVED by D. Gunn and Seconded by E. Dahli: “That the following request for variance to relax the height from 3.75 m to 4.58 m from the requirements of Zoning Bylaw 2003, Section 101.7(b), further to the construction of an accessory building on Lot 9, Section 9, Esquimalt District, Plan 361 (3877 Holland Avenue) be TABLED and the applicant be requested to mark the site to show the siting and the height of the proposed building and to also provide information about the average grade calculation.”

The Motion was then Put and CARRIED

Admirals Road
Addition

Applicant: Curtis Erickson
Property: 2934 Admirals Road
Variance: Relaxation of height from 6.5 m to 6.80 m

BOV #00785

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

Applicants:

Curtis Erickson, applicant/owner, was present in support of the application. He noted the hardship is the irregular lot shape and the slope towards Glenwood Avenue. In reply to questions from the Board he stated:

- He spoke with the neighbours at 2886 Glenwood Avenue and 2887 Glenwood Avenue and received no objection.

- If the roof was sloping a variance wouldn't be required.
- He has applied for a building permit.
- The building facing Admirals will be removed. It is existing non-conforming.
- The new house will face Glenwood Avenue but the access will be from Admirals Road.

Public input: Nil

MOTION: **MOVED** by R. Riddett and **Seconded** by E. Dahli: "That the following variance be granted from the requirements of Zoning Bylaw 2003, Section 250.4(b)(i), further to the construction of an addition to the house on Lot 8, Section 21, Victoria District, Plan 807A (2934 Admirals Road):

- a) relaxation of height from 6.5 m to 6.8 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 variances so permitted by this Order will expire."

Board comments:

- This is a minor variance.
- The existing garage which previously complied is now too high because of the new average grade calculation with the addition.
- There is no impact to the neighbours or the environment.

The Motion was then Put and CARRIED

Claremont Avenue Fence	Applicant: Amargeet Gill Property: 985 Claremont Avenue Variance: Relaxation of height from 1.9 m to 2.13 m
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BOV #00783 The Notice of Meeting was read and the applicant's letter received.

Applicants: Amargeet Gill, applicant/owner and Peter Papadogeorgos, contractor, were present in support of the application. The following was noted:

- When the applicants were away an excavator removed five trees from what turned out to be the neighbour's property. The applicant, upon their return, went over to apologize and they replaced the trees.
- The replacement trees were 6' trees; they were unable to plant the equivalent size trees as the rest of the hedge is quite mature.
- They installed a fence thinking it would please the neighbours and help with the deer issues.

Public input: Residents, 5025 Lochside Drive:

- The height of the fence is of concern. They used to look at a beautiful 35 year old hedge that the neighbour cut down.
- The fence looks quite high because it sits on top of the retaining wall. They measure 93" at the highest point.

The contractor stated:

- There was an error in the survey and he failed to direct the excavator properly about the trees. It was a careless and regrettable mistake.
- He met with the owners of 5025 Lochside Drive and promised to rectify this mistake. He noted these types of cedars are difficult to grow.

- The retaining wall is there because of the slope and the fence was built to this height because of the deer.

MOTION:

MOVED by M. Horner: “That consideration of the request for variance to relax the height from 1.9 m to 2.13 m from the requirements of Zoning Bylaw 2003, Section 6.2(f)(ii), further to the construction of a fence on Lot 10, Section 30, Lake District, Plan 7575 (985 Claremont Avenue) be TABLED.”

The Motion DIED due to the lack of a Seconder

MOVED by D. Gunn and Seconded by E. Dahli: “That the request for variance to relax the height from 1.9 m to 2.13 m from the requirements of Zoning Bylaw 2003, Section 6.2(f)(ii), further to the construction of a fence on Lot 10, Section 30, Lake District, Plan 7575 (985 Claremont Avenue) be DENIED.”

Board comments:

- There are a number of complex issues that need answers.
- Not all panels were measured. The applicant can revise their application and return if they wish.
- The fence in this case does not meet the intent of the Bylaw and the height is excessive.
- This is a major variance request and they have not demonstrated hardship.

The Motion was then Put and CARRIED

Adjournment

On a motion from R. Riddett, the meeting was adjourned at 9:25 pm.

Haji Charania, Chair

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

Recording Secretary