The Agenda was amended as follows:

It was Moved by S. Round
Seconded by K. Nice
That the Agenda be amended under Section
D. Other Competent Business to address an on-table correspondence item.
Carried

A. TABLED APPEALS

B. NEW APPEALS

1. Appeal No. 09-23 - Letroy

For permission to relax the rear yard setback requirement from 7.5 m to .17 m; and relax the east side yard setback requirement from 1.8 m to 0 m to allow the construction of balconies on the second, third floor and overhangs; and balcony and stairs on second floor of the existing dwelling at 1287 – 133A Street.

Mr. Rick Letroy was in attendance to discuss the appeal.

It was Moved by S. Round
Seconded by A. Pease
That the following correspondence:
1. On-table revised drawings, appended to the Agenda Package as Page 15A, be received.
Carried

It was Moved by K. Nice
Seconded by A. Pease
That the following correspondence:
1. Letter from the Appellant dated August 31, 2009, be received.
Carried
The Manager, Residential Section, confirmed the following information:

- The lot is located in the Duplex Residential Zone.
- It is the second time the property has been heard before the Board. The first Appeal was allowed at the July 28, 2009 Board of Variance meeting.
- The Site Plan provided on Page 10 does not provide the current distance from the rear property line.
- It is understood additional deck is required under the current application. However, the proposal is not clear. We understand that the applicant has obtained a new survey of the lot. And while this new survey is apparently the reason for the new application, the new lot survey has not been submitted as part of this application.
- A survey will be required at building permit stage to establish the required setbacks.
- The existing dwelling currently exceeds the maximum allowable Floor Area Ratio. Accordingly, no additional enclosed areas can be approved. There are Code requirements with respect to the proximity of the proposed construction to the property line. The submission provides little information concerning construction materials etc.
- There may also be concerns with respect to an existing, closed-in, cantilevered floor area and whether or not it was there at the time the strata areas were established.

The Appellant advised:

- Under the initial appeal, the drawing provided noted a rear yard setback of six feet.
- Since that time, he obtained a survey plan completed in 2008 which reflects a rear yard setback of 7 feet 1 inch.
- At the time of his prior application, the site plan did not show stairs exiting the second floor balcony. He was not aware these types of details were required to be shown on the plan.
- Initially, he was going to install a spiral set of stairs on the south elevation. However, these stairs were not approved by the Building Department.
- He is proposing stairs off the east elevation where he has existing stairs exiting to the backyard.
- The original approval was based on a four foot width of the second floor deck. Once stairs are added, the required posts would interfere with the walkway. It is more sensible to move the posts to the six foot edge of the walkway rather than having the posts in the middle of the lower walkway.
- The second floor deck is required to be 6 feet 6 inches to allow a 6 inch post to be placed on the edge of the walkway as to not interfere with the walkway at the bottom.
- The Strata and neighbor to the east are aware of the proposal. The neighbor’s concerns from the last hearing have been addressed and she is in favor of the plan.
- His request is to increase the second floor deck that was previously approved and allow a stairwell on the east elevation. The setback of zero meters on the east elevation is due to the location of a sump for the complex. As a result, the
posts must be placed on the property line with a beam to support the walkway stairs.

- The schematic drawing was submitted which details where the posts will be placed.

In response to questions from the Board, the Appellant advised:

- A new survey has not been prepared. He verified the measurements with the Surveyor of the plan provided.
- The original survey plan is with the Chair of the Strata as it was prepared for the Strata.

In response to questions from the Board, the Manager Residential Section provided the following comments:

- A building permit application has not been received to date.
- The survey available does not indicate the setbacks.
- The drawings have inconsistencies, some which have been corrected with the recent submission. For instance, there is an upper deck that is cantilevered and a lower deck on posts. These posts do not show up in all views.
- The City also has some question with respect to the enclosed deck the proposal abuts. The City is not certain of whether it was an original construction or enclosed with a permit. The enclosure does not show up on the current Strata Plan. This enclosure may be existing non-conforming and completed prior to the Appellant’s ownership.
- When a permit is issued, the City must ensure it is according to the Building Code etc.

The Chair noted that the survey plan provided was not signed, and there were no measurements to accurately determine the distances.

There was a sidebar to review the survey plan with the Appellant.

The Manager Residential Section further advised the following in response to questions from the Board:

- The calculations provided by the Appellant could be accepted with the risk that if proved incorrect at the time of construction, any necessary adjustments would be required.
- For building permit application, the Building Department will require more detail in terms of the structure including the cantilever, posts, sizes and materials. Engineer approval would be required for the cantilever as it extends significantly into the existing structure.
- A number of conditions arise with a variance at the zero lot line. Depending on the materials used, there may be an issue of the use of non-combustible products. The City assesses what is proposed against the Building Code. It is up to the Designer to determine the requirements. In this case, the requirements may have a significant impact on the budget.
In response, the Appellant provided the following comments:

- If the variance were approved, he would then have a survey completed.
- He has a letter from Strata supporting the application.
- He would like to confirm that the prior appeal is still valid with respect to the overhangs.

Members of the Board provided the following comments:

- There is an obligation to the community to ensure what is proposed is what gets built. A certified surveyor's certificate indicating the setbacks and proposed addition should be provided. The plans provided do not provide clarity of what will be built.
- The structural alterations may cause a disparity. Clarity is required in order to make an appropriate decision.
- Consideration would be given on how the maintenance or construction of the addition will encroach on neighbors.

The Chair advised the Appellant that he could consider tabling his Appeal to allow time to consult with his Designer.

There were no neighbors present to speak to this appeal.

The Appellant requested to table his appeal accordingly.

It was Moved by S. Round
Seconded by K. Nice
That Appeal No. 09-23 be tabled.
Carried

Appeal 09-23 was tabled.

2. **Appeal No. 09-24 - Best**

Für permission to relax the rear yard setback requirement from 7.5 m to 5.1 m to allow the construction of a deck at #58, 6140 – 192 Street.

Ms Joan Best was in attendance to discuss the appeal.

It was Moved by S. Round
Seconded by K. Nice
That the following correspondence:

1. Letter of Authorization dated August 31, 2009; be received.
Carried

It was Moved by K. Nice
Seconded by A. Pease
That the following correspondence:

1. Letter from the Council of the Estates of Manor Ridge dated August 20, 2009;
2. Letter from the Appellant dated August 31, 2009;
3. Letter of support from Rose Hooper of #57, 6140 – 192 Street, dated August 24, 2009;
4. Letter of support from Joseph Brannigan of 6153 Greenside Drive West dated August 18, 2009;
5. Letter of support from Lenard and Dusty Holiski of #59, 6140 – 192 Street dated August 11, 2009;
6. Letter from Crystal von Hugo of 19234 Fairway Drive;
7. Letter of opposition from Janice Brown of 6059 Greenside W; and
8. Additional notification information from support staff, be received.

Carried

The Manager, Residential Section, confirmed the following information:

- The lot is located in the Multiple Residential 15 (RM-15) Zone.
- In the RM-15 Zone, buildings and structures are to be sited not less than 7.5 meters from all lot lines.
- There was no Development Permit issued at the time this development was constructed in January, 1989.

The Appellant advised:

- She purchased the property last year and had it inspected before she moved in. The inspector was unhappy with the deck.
- She approached the Strata Council and they advised the deck was in need of repair and it would be taken care of.
- After a month or two, she realized the deck at the existing size was of no apparent value to the establishment. If there are three people sitting on the deck, there is no access to the inside of the home.
- She wrote to the Strata Council requesting to extend the deck at the time it is rebuilt, to make it useable.
- The issue went to the Strata's General Meeting in June and the membership voted that she could increase the deck as long as she received the variance from the Board.
- She also received letters of support in approval of the deck extension.

In response to questions from the Board, the Appellant advised the following:

- All the decks in the Strata are the original size.
- She had walked around the entire exterior of the complex to measure the units to see how far they were from the outside border. She came across some structures that are only eleven feet from the rear property line. These units have received approval from the Board of Variance for patio covers attached to the house as a permanent fixture. If these structures can be 11 feet from the exterior, she felt she had due cause in asking for the deck extension.
- The property owner of a house adjacent her rear yard advised he had no problem with the variance as long as the fence was not moved.
In response to questions from the Board, the Planner advised the following:

- Under the Official Community Plan (OCP) in effect at the time of this subdivision, the Plan did not specifically designate this area as a development permit area.
- Under the current OCP, all multiple residential properties are designated Development Permit Areas.

Christina Atkinson of Unit 38, 6140 – 192 Street was in attendance and provided the following comments:

- She is the Appellant's neighbor and on the Strata Building Committee.
- The Appellant's unit is the only unit that has a three foot deck. Visitors have to file in and out when on the Appellant's deck.
- All other decks are of regular size and this is why Strata allowed the improvement.

It was Moved by S. Round
Seconded by K. Nice
That Appeal No. 09-24 be allowed based on a finding of hardship due to the absence of regulations to guide the occupants of this development, and subsequent regulations that have continued to cause hardship in this particular development.

Carried

It was the decision of the Board of Variance that the Appeal 09-24 be allowed.

3 Appeal No. 09-25 - Joy

For permission to relax the height requirement of an accessory building from 4.0 m to 4.97 m to allow the construction of a detached garage at 1170 – 160 Street.

Ms. Carmel Joy was in attendance to discuss the appeal.

It was Moved by K. Nice
Seconded by A. Pease
That the following correspondence:

1. Letter from the Appellant dated August 24, 2009;
2. Letter of support from Dave Depencier of 1158 – 160 Street;
3. Letter of support from Darryl and Melissa Hawkes of 1165-160A Street; and
4. Letter of support from Dimas Cabral of 1173 – 160A Street, be received.

Carried

The Manager, Residential Section, confirmed the following information:

- The lot is located within the Single Family Residential (RF) Zone
- Accessory building height is limited to a maximum of 4 meters unless the construction materials and roof slope of the accessory building match that of the principal building on the lot – in which case the maximum building height is increased to 5 meters. The Zoning By-law definition of building height has recently changed. It is reproduced below for your convenience.

**Building Height**

*Amendments: B/L 12/01, 07/11/94, 16/97, 06/29/2009*

means the vertical distance measured from the average finished grade level at all building faces surrounding a building to:

(a) the highest point on a flat roof, or

(b) the average level between the eaves and ridge of a gable, hipped or gambrel roofed building; or

(c) the greater of the two measurements referred to in (a) and (b) above in the case of a building with more than one type of roof.

Elevator service rooms, air conditioners and similar equipment, and dormers and other similar roof elements shall not be included in the measurement of building height provided that the dormers and other similar roof elements, in aggregate, do not exceed 25% of the area of the roof in which they are located.

- Building Division staff questioned the applicant with respect to the ceiling height above the landing at the top of the stairs (may not meet Code for minimum headroom).

The Appellant advised:

- They would like to build a detached garage in the rear yard of their home. The design requires that the building materials used must be the same as the home.
- They are trying to update the home which is 35 years old. They would like to build the garage with the newer lines and materials and then move on to upgrade the existing home with those same features.
- Depending on their finances, they will either renovate or rebuild the home.
- They are a large family with seven children and they would like to stay in the area.

In response to questions from the Board, the Manager, Residential Section advised that at the time the house was built, the height requirement would have been 4 meters. The requirement of regulating the height of an accessory building based on the exterior finishes came into effect with amendments to the Zoning by-law.

In response to questions from the Board, the Planner advised there was no development permit regulating single family homes that applied at the time.

There were no neighbors present to speak to this appeal.

It was Moved by S. Round
Seconded by A. Pease
That Appeal No. 09-25 be allowed based on hardship caused by changes in regulations since the residence was constructed with respect to the height and character of accessory buildings.

Carried

It was the decision of the Board of Variance that the Appeal 09-25 be allowed.

4. Appeal No. 09-26 - Christie

*For permission to relax the front yard setback requirement from 7.5 m to 5.5 m to allow the construction of a second floor deck and subsequent supporting columns on the ground level of the existing single family dwelling at 1468 – 133A Street.*

Ms. Denise Liu, Agent for the Appellants was in attendance to discuss the appeal.

Board Member K. Nice stated that he visited the property and had met the Appellants. He advised the Appellant of his reasons for attending the site, and the Appeal was not discussed.

It was

Moved by K. Nice
Seconded by S. Round
That the following correspondence:

1. Letter of Authorization dated August 28, 2009, be received.

Carried

It was

Moved by S. Round
Seconded by K. Nice
That the following correspondence:

1. Letter from the Appellants; and
2. Letter from Lynn Dallas of 13330-14A Avenue dated September 17, 2009, be received.

Carried

The Manager, Residential Section, confirmed the following information:

- The lot is located in the Single Family Residential (RF) Zone.
- The Yards and Setbacks section in the RF-Zone include the following statement:
  
  The front yard setback may be relaxed at a lower floor level only to 5.5 meters for a maximum of 50% of the length of the front of the dwelling for all portions of the dwelling excluding the garage.

  This is a relaxation based on the condition that the “encroachment” to 5.5 meters extend for not more than 50% of the front of the dwelling. In this case the length of the “encroachment” exceeds 50% of the front of the dwelling.
- Accordingly, the relevant setback then reverts back to the general requirement – a minimum setback of 7.5 meters for the entire front. It is for this reason that the appellant is requesting a relaxation in the general requirement for the minimum front yard setback from 7.5 meters to 5.5 meters.
The Agent for the Appellants advised:

- The current lot and property lines are curved along 14 Avenue.
- The proposed design follows the existing house’s foundation. This foundation sits very close to the front yard setback line at the south-east corner because of its curvilinear nature.
- The proposed design calls for a shallow deck (4’-0”) immediately above the existing frontage.
- As a result, the proposed deck protrudes into the front yard setback line by 0.9m, only at the southeast corner.
- In addition a further relaxation is required for the posts.
- The hardship is that the project has a limited budget. The owners have lived at the home for 10 years. They intend to improve this building for their enjoyment. They wish the deck and eaves line to be straight as opposed to curved.
- Relocating the existing foundation would be very costly and wasteful in the context of this renovation.

It was moved by S. Round
Seconded by A. Pease
That the Secretary forward a letter to the owners of 13330-14A Avenue in response to their correspondence, advising that each application to the Board of Variance is considered on its own merits and the decisions are not based on precedent.

Carried

There were no neighbors present to speak to this appeal.

It was moved by K. Nice
Seconded by A. Pease
That Appeal No. 09-26 be allowed based on hardship caused by the current frontage street.

Carried

It was the decision of the Board of Variance that the Appeal 09-26 be allowed.

5. Appeal No. 09-27 - Singh

For permission to relax the rear yard setback requirement from 15.0 m to 3.05 m and relax the north side yard setback requirement from 15.0 m to 3.05 m to allow the construction of three greenhouses at 8977 – 168 Street.

Mr. and Mrs. Makhan and Sandeep Singh were in attendance to discuss the appeal.

The Manager, Residential Section, confirmed the following information:

- The lot is located within the General Agriculture (A-1) Zone.
• It is understood that the appeal relates to a proposal for three greenhouses. The minimum required rear yard setback for a greenhouse is 15 meters. The minimum required side yard setback for a greenhouse is also 15 meters.
• Confirmation that these will be greenhouses is required.
• Construction has started on the site.

The Appellant advised:

• They visited City Hall inquiring on the construction of greenhouses. There was no discussion regarding the size of the proposed greenhouses.
• They followed the design of an existing barn at the rear of the property.
• After they started construction, City Hall staff came to the property and advised they require a permit for the greenhouse.

In response to questions from the Board, the Appellant continued as follows:

• The greenhouses will be used to grow seed from small pots for flowers.
• They currently rent the house but in the future, they will live on the site.
• They have applied for a future storage building for tools for the greenhouse.
• They are building a parking lot close to the driveway and on the other side of the property they are growing flowers.
• They have a building permit for the future storage building but not the greenhouses. They received this permit last Friday.
• The angle of the greenhouses follows the angle of the existing barn.
• Construction of all three greenhouses has begun.
• Greenhouse #1 will be a small shopping shed for customer access.

In response to questions from the Board, the Manager, Residential Section provided the following comments:

• There may be an issue with respect to allowable retail use.
• There is no issue with the structure. However, the greenhouse is very stout. The plans provided indicate roof trusses, strapping, and poly roof layering. The intent may be to put plastic across these roof trusses.

In response to questions from the Board, the Planner confirmed the following information:

• The maximum floor area for the display and sale of products is limited to 1,000 square feet.

In response to further questions from the Board, the Appellant provided the following additional information:

• Greenhouse #1 is 30 x 100 feet. A double poly plastic will be used for the roof.

Mr. Tom Godwin of 9087 – 168 Street was in attendance and provided the following comments:
• He lives on the farm to the north. He and his wife have actively farmed for the past 40 years.
• Trees on the Appellant’s property were cut down without a permit.
• During the dry summer time, there was a fire on the property and the Fire Department attended.
• Fill has been brought onto the site and has pushed down his fence.
• Most recently, a cottonwood tree was cut down and it came down across his property. The cows are allowed into this area to eat grass around the redwoods. The fence has been broken for at least 10 days. If he had let the cows out into this field, they would have been out on 168 Street.
• He would like the fill brought back and does not want the variances on the greenhouses.
• He understands the Appellants own a trucking company. He understood that there may be a truck park and maintenance facility created on the lot.
• A number of trusses stacked up do not appear to be a greenhouse but possibly a maintenance building.

It was Moved by K. Nice
Seconded by S. Round
That the following correspondence:

1. Letter and photographs from Tom and Elaine Godwin dated September 19, 2009, be received.

Carried

Mr. Patrick Flanagan of 8897 – 168 Street was in attendance and provided the following comments:

• He owns 20 acres to the south and west which border two boundaries of the Appellant’s property.
• He has not been approached by the Appellant regarding the plans for the property.
• The Appellants began building and are asking forgiveness after the fact.
• He is opposed to the relaxation because allowing a 10 foot variance would provide no distance between properties.
• He has substantial property around the Appellant's property. He is worried about the future if these setbacks are going to be varied. This may start a series of new setbacks on these properties where buildings will be built on the property line.
• He is opposed to having a wall close to the edge of the property.
• His concerns include emergency vehicle access or room for a laneway. Ten feet does not provide much room between his fence and the building.
• He is concerned that once the building is up, the use may change.
• On a 5 acre parcel, the Appellants should be able to build within the allowable envelope.

In response to questions from the Chair, the Manager Residential Section advised:

• Truck parking would not be allowed on the site.
In the Agriculture Land Reserve, a soil deposition permit is required for any quantity of soil deposited.

In response to questions from the Board, the Appellant advised:

- They did not have a soil deposition permit before bringing soil on the property.
- The roof material was selected as metal was expensive.
- They have a letter from the Engineering Department regarding the soil depositing.

Members of the Board made the following comments:

- The matter of depositing soil on agriculture land should be resolved before the Board renders a decision on the variance presented.
- The property is a large piece of land with no overall plan for its use. There is some question as to how much retail use is proposed.
- Good planning would allow the community as a whole and particularly the neighbors to be clear on the property use.

It was Moved by S. Round
Seconded by K. Nice
That the meeting be adjourned to allow staff time to consult with the Engineering Department on the status of the soil deposition at the proposed site.

Carried

The meeting adjourned at 11:00 am and reconvened at 11:19 am with Tindi Sekhon of the Engineering Department joining the meeting.

There was a sidebar for all those present to view the picture submissions provided by the Building Division and the neighbor, Mr. Godwin.

The Engineering Assistant provided the following comments:

- The soil at the site in question was imported without soil permits.
- The Bylaw Department staff attended the site and had the property owners contact him.
- A soil permit is required although you may obtain a building permit which can justify the soil. Therefore, if you have a building permit you can bring in required soil.
- The Appellants hired a Professional Engineer who verified the soil was required for the buildings.
- The Appellants were then guided to the Building Department to obtain permits for the structures.
- The correspondence provided by the Engineer verified that the soil was required for the building and included an erosion sediment control plan.

In response to questions from the Board, the Appellant provided the following comments:
- Some of the soil is for the car parking and the rest is for the buildings.
- The soil came from someone’s house and it was not tested.
- They did not have permission to cut down the trees.
- She visited City Hall many times and was advised it was okay to build a greenhouse on agriculture land.
- In the greenhouse they are putting sand down with poly on top and the pots on top of the poly.

In response to questions from the Board, the Manager, Residential Section provided the following comments:

- Under a building permit, the drawings must show how the soil was required for the site. The drawings and parking areas do not show that information. The buildings are shown at grade and it is a relatively flat site. The building drawings provided do not indicate a need for soil deposition.
- It is also dependent on how much soil was brought in. The greenhouses contain a gravel floor and do not appear to require a great deal of top soil.

Members of the Board made the following concluding comments:

- The site in question has no overall plan, no future plan details, and no clear long-term use.

The Chair suggested that the Appellants meet with City staff to receive assistance and explanation of relevant regulations.

It was
Moved by S. Round
Seconded by A. Pease
That Appeal No. 09-27 be denied as there is no definable hardship.

Carried with M. Cooper against.

It was the decision of the Board of Variance that the Appeal 09-27 be denied.

C. ADOPTION OF MINUTES

It was
Moved by S. Round
Seconded by A. Pease
That the minutes of the Board of Variance meeting of July 28, 2009 be approved as circulated.

Carried

D. OTHER COMPETENT BUSINESS

1. The notification letters were approved by the Board and initialed by the Chair.

2. Correspondence Item
It was Moved by S. Round
Seconded by K. Nice
That the letter from Valerie and Alan
Hermiston and Jan Coleman dated September 17, 2009, be received.
Carried

E. NEXT MEETING

The next meeting of the Board of Variance will be held on Tuesday, October 27, 2009 at 9:00 a.m.

F. ADJOURNMENT

The Board of Variance meeting adjourned at 12:05 p.m.

________________________________________________________
Jane Sullivan, City Clerk  Marie Cooper - Chairperson