Board of Variance
Minutes

City Hall
14245 - 56 Avenue
Surrey, B.C.
TUESDAY, FEBRUARY 23, 2010
Time: 9:00 a.m.
File: 0360-20

Present: Chairperson - M. Cooper
           K. Nice
           A. Pease
           D. Kenny
           S. Round

Absent: J. McKenzie  Manager, Residential Section - Planning & Development
        L. Pitcairn  Planner, North Surrey Division - Planning & Development
        L. Cesario  Secretary

Staff Present:

B. NEW APPEALS

1. Appeal No. 10-03 - Lynch

For permission to relax the lot coverage requirement from 20% to 22.5% to allow the construction of a detached storage building at 2677 – 168 Street.

Mr. Lynch was in attendance to discuss the appeal.

It was  Moved by D. Kenny
        Seconded by K. Nice
        That the following correspondence:

1. Letter from the Appellant; and
2. Letter of support from D. Markow of 2647 – 168 Street, be received.
   Carried

The Manager, Residential Section confirmed the following site information:

• The lot is located within the One Acre Residential (RA) Zone.
• The lot is one acre in area and therefore “stays” within the RA Zone.
• A straightforward question of lot coverage. The maximum allowed under the zone is 20%.
• With the proposed new accessory building and the pool building the lot coverage will be slightly less than 22 ½ %.
• Mr. Lynch will be required to confirm that the siting of the proposed accessory building will not be a problem in terms of its location relative to the septic disposal field.

The Appellant provided the following comments concerning their hardship:

• He and his wife have owned the property since 2001 and the home was built in 2003.
• A small shed at the bottom of the lot was built in the mid 60s by the previous owner.
• On the 25th of July they had a house fire that was caused by a break and enter where gas was used to start the fire. The portion of the house that survived was a part of the garage. All of his family’s jewellery and artefacts were in the house and all the family entrustment was within the home.

• Upon building the new home, his wife requested that any off-road vehicles and gas not be stored in the house.

• Upon applying for a building permit, they were informed they exceeded their lot coverage. As part of the permit process, a bond to remove the existing shed was required. Their belongings are being stored offsite at this time.

• The wish to have a new building that matches the house. The building will house the off-road vehicles and gas and will be fully alarmed in order to keep their home safe.

• They have lived in Surrey for 35 years. This home was built as their last home. They would like to add the building to facilitate their lifestyle and have comfort not having flammables within the house.

In response to questions from the Board, the Appellant added the following comments:

• The existing shed is approximately 24 square feet. The allowable coverage would not allow him to build at all as the house maximizes lot coverage.

Members of the Board made the following concluding comments regarding the variance or exemption to relieve hardship:

• 20% lot coverage is not ideal for every property. The property in question is a large lot and it is not sensible to apply a percentage rule for the small amount of overage as it does not protect a particular planning principle.

• The neighbour to the immediate south is the most affected by the variance and they are in support of the application.

There were no neighbours present to speak to this appeal.

It was Moved by S. Round Seconded by D. Kenny
That Appeal No. 10-03 be allowed as there is a hardship caused by the arbitrary nature of the Zoning By-law with respect to site coverage on this particular lot.

Carried

It was the decision of the Board of Variance that the Appeal 10-03 be allowed.

S. Round left the meeting at 9:15 a.m. as he resides in the neighborhood of Appeal 10-05.

2. Appeal No. 10-05 - Freiheit

*For permission to relax the north side yard setback requirement from 4.5m to 1.5m to allow the construction of a garage addition to a single family dwelling at 2936 Countrywoods Drive.*
Mr. Rob Freiheit was in attendance to discuss the appeal.

It was Moved by K. Nice
Seconded by D. Kenny
That the following correspondence:

1. Letter from the Appellant, and
2. Letter from Margaret Hurst of 17218 Hillview Place, be received.

Carried

The Manager, Residential Section confirmed the following site information:

- The lot is located within the Acreage Residential Gross Density (RA-G) Zone.
- There are no other structures on the lot. There are no easements or right of ways along the subject north property line. The map on COSMOS shows what appear to be several trees along the trail to the north of the property line that may be impacted by construction of the proposed addition.
- File History:
  - Building permit for single family dwelling issued in June of 1983
  - Board of Variance Appeal No 3990 allowed in September of 1983 to permit the south side yard setback to be reduced from the required 6' to 4.39'
  - Final approval for the single family dwelling given in April of 1984
  - Building permit for small sunroom addition at rear of house issued in November of 1990
  - Final approval for the addition given in June of 1991
  - No other building permits have been applied for or issued for the subject property
- Plans of the proposed addition were not provided for this appeal; therefore the proposed setbacks were the only item reviewed.

In response to a question from the Board regarding the adequacy of the plans provided by the Appellant, the Manager, Residential Section advised:

- Although the drawings provided are not sufficient for building permit application, it is up to the Board to determine if the drawings are adequate for their consideration.

The Appellant provided the following comments concerning their hardship:

- Their home is a small rancher containing 2,200 square feet. The home has no storage space other than a 3 foot crawlspace that he has a challenge accessing. The garage addition with storage will provide him with the required space.
- Without a variance he could build a larger structure in the rear yard.
- He plans to soften the look and design of the garage as a take-off from the original house plan. He does not want the garage to be bulbous.
- His hardship is the cost is less to add on to the existing house rather than building a large accessory building.
- He would like the convenience of going directly from the house into the garage.
- There is no living area in the proposed garage; it will be used for storage.
• Country Woods residents own the adjacent trail and pay towards the Association to maintain the trail.

Margaret Hurst and Hugh Harris of 17218 Hillview Place were in attendance and provided the following comments and questions as outlined in their correspondence:

• Their home is immediately north of the Appellant’s house.
• They understand the north side setback represents the north property line. Their concern is their home has four windows facing south that face the Appellant’s existing garage. A garage extension that comes closer would block more view as it is built on an angle.
• Would dormers, children’s rooms, etc. be allowed on top of the proposed garage as many garages are altered to allow for a play room.
• Would the north side hedge abutting the equestrian trail have a minimum height or elevation to prevent having to look at the garage from their property? The existing hedge is a comfortable height.
• What material, colour, roofing would be permitted on the proposed garage? They find the materials of the existing garage acceptable.
• Would an additional chimney be allowed that may impede their view?
• Any additional large, high powered spotlights added to the garage are a concern. The existing spotlights on the house are acceptable.

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

• The proposed attached structure is limited to a height of 9 metres.
• There is a dormer at the back of the house with a window to the east.
• An additional chimney is not proposed in the sketch before the Board. However, in general there would be no restriction on an additional chimney.
• The City does not regulate the location of spotlights.
• There is no regulation on the height of hedges.

The Chair confirmed the Appellant is requesting a side yard variance and the Board has no jurisdiction over the Building Code.

There was a sidebar to review the proposed plan.

The Appellant concluded with the following comments:

• The materials and colour used will be the same as the existing house. The roof material will also be the same as the house.
• The height of the proposed addition is lower in the front to soften the look of the house. The back of the house faces east. There will be a kick-up at the back of the garage to allow for storage room.
• The neighbour will see a bit more of the wall. However, the distance from their home to the addition is 75 yards.
• There is full foliage during summer months. However, the neighbour may be able to see the addition from their upper floor.
• He does not intend to install a chimney and will use electric heat.

It was Moved by D. Kenny
Seconded by K. Nice
That Appeal No. 10-05 be allowed as there is hardship caused by the angle of the house on the property that the Appellant is adhering to and the approval is based on the plans on Pages 118 through 120 of the Agenda Package.

Carried

It was the decision of the Board of Variance that the Appeal 10-04 be allowed.

S. Round returned to the meeting.

3. Appeal No. 10-04 - Dosanjh

For permission to relax the rear yard setback requirement from 7.5 m to 5.21 m to allow the construction of a single family dwelling at 5938 – 151 Street.

Mr. Martin Dosanjh was in attendance to discuss the appeal.

It was Moved by D. Kenny
Seconded by K. Nice
That the following correspondence:

1. Letter from the Appellant dated January 31, 2010, be received.

Carried

The Manager, Residential Section confirmed the following site information:

• The lot is located within the Single Family Residential (12) Zone – Type II
• The Floor Area Ratio (FAR) for the lot is 0.70
• The lot area is 354. square meters. This results in a maximum allowable floor area of 2667 square feet (excluding basement).
• The proposed dwelling has a floor area of 2520 square feet plus 1005 square feet in the basement. 3525 square feet in total. Based on the Dosanjhs’ letter, we understand that a dwelling designed in conformance with the minimum required setbacks would be approximately 350 square feet smaller.
• The building scheme covenant identifies protected trees at the rear of the lot. The required minimum rear yard setbacks achieve the necessary buffer from the construction excavation to the protected trees. It is uncertain how the protection will be maintained if the setbacks are reduced.

The Appellant provided the following comments concerning their hardship:

• They had consulted with the designer to get an idea of the square footage and floor plan allowed on the lot. They proceeded with the purchase as they felt although there were some limitations the lot would be adequate for their needs. They were advised they could build approximately 2,800 sq.ft. on all three levels including basement.
- The lot is on a cul-de-sac and there are protected trees on the lot. Due to the tree protection area, there may be a limitation compared to other lots with the same zoning in the subdivision.

- They have some family factors that have evolved, that will now require larger space. They are moving back to Surrey due to his father's deteriorating health condition and the need to be closer to him. They have determined additional space will be required in the house in the event his parents need to move in. Additionally they require space for a live-in nanny. This additional space will amount to 400 sq. ft. representing a room and bathroom.

- He met with the Manager, Residential Section and the City tree specialist and was advised the tree issue should be dealt with through the Board of Variance and not through the development variance permit process.

- They have hired a designer to come up with a design, and the plan includes a single car garage. He would like to know if the Board would consider a plan revision to a double car garage.

- Tynan Design has informed him that the plan submitted to the Board is in keeping with the tree protection zone. The basement door well and rear of the house does not enter into the tree protection zone.

- He has spoken with the neighbours on one side and the property at the rear and they advise they have no issue with the proposed construction.

In response to questions from the Board regarding the interpretation of whether the Appeal was a variance of density, the Manager, Residential Section provided the following comments:

- The determination of density is for the Board's discretion.

- The Zoning By-law regulates a certain size of house a lot can accommodate with or without tree issues. The trees may restrict the design or configuration of the home.

- The issue is the size of the house as constrained by the size of the lot.

- FAR is established by taking all the floor areas of the main upper floor and garage (a 50% in-ground would be exempt) and divide by the area of the lot. In this Appeal, the size of the lot with setbacks does not allow the designer to achieve .70, so FAR is not exceeded.

The Chair stated her position that density is not an issue as the variance before the Board is for a rear yard setback for one single family unit.

In response to questions from the Board regarding the plan details, the Appellant provided the following comments:

- The house would be extended further and closer to the trees.

- They purchased the lot 1.5 months ago. The designer advised that in order to maximize the living space, a single car garage was proposed. It would be practical to build a two-car garage similar to homes in the neighbourhood.

- The intent is to build the house proposed, with the only major alteration from a single car to a two-car garage. The resulting change would be to the stairwell that will affect the interior layout, but the building envelope would not change.

- Regardless of what plan they put on the lot, it will not change the subdivision.
• His understanding is the plan is not final until Tynan Design and the Engineer give their final approval.
• The proposed plan including single car garage is sufficient. He would like to know the level of discretion Building has on minor changes to the plan.
• His intent is to build a house that is in conformity with other houses in the subdivision.

In response to questions from the Board regarding the Building Division review process and any changes to the plans subsequent to the Board’s decision, the Manager, Residential Section provided the following comments:

• In general terms, a revision from a single to double car garage would not be considered a minor alteration.
• The plans are reviewed to ensure the protection of trees. A construction buffer ensures the distance between the building and the "do not disturb" fence during construction.

The Chair clarified that any structural alteration to the plans would not be considered a minor change. The Appellant may wish to table the Appeal and revisit the Board with a final plan.

Members of the Board made the following concluding comments regarding the variance or exemption to relieve hardship:

• The challenge is whether the Appeal is minor. The Board does not have jurisdiction to deal with an Appeal that is beyond minor.
• The implications in this subdivision are people not being able to park due to a large amount of frontages made up of driveways due to the pie-shape lots.
• There is an issue on the impact of the quality of the environment that may be better dealt with by City Council. There are implications for adjacent neighbours where overdevelopment is allowed. This particular variation on the rear yard results in overdevelopment of the site.

There were no neighbours present to speak to this appeal.

It was Moved by K. Nice Seconded by S. Round That Appeal No. 10-04 be denied on the basis of no determination of hardship. Carried

It was the decision of the Board of Variance that the Appeal 10-04 be denied.

C. ADOPTION OF MINUTES

It was Moved by K. Nice Seconded by A. Pease That the minutes of the Board of Variance meeting of January 26, 2010 be approved as circulated. Carried
D. OTHER COMPETENT BUSINESS

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

2. The Board was requested to elect a Chairperson for the 2010 calendar year.

   It was Moved by D. Kenny
   Seconded by A. Pease
   That Marie Cooper be elected as Chair for the year 2010.
   Carried

3. The Board was requested to elect a Vice-Chairperson for the 2010 calendar year.

   It was Moved by D. Kenny
   Seconded by A. Pease
   That Stuart Round be elected as Vice-Chairperson for the 2010 calendar year.
   Carried

4. The Chair requested the Board to.

   It was Moved by D. Kenny
   Seconded by K. Nice
   That Lidstone, Young, Anderson, Barristers and Solicitors provide continued legal counsel to the Board of Variance.
   Carried

The meeting recessed at 11:10 a.m. and reconvened at 11:34 a.m. with D. Kenny having left the meeting.

E. NEXT MEETING

The next meeting of the Board of Variance will be held on Tuesday, March 23, 2010 at 9:00 a.m.

F. ADJOURNMENT

The meeting adjourned at 11:40 a.m.

____________________________________  ______________________________________
Jane Sullivan, City Clerk              Marie Cooper - Chairperson