

**City of Surrey
Board of Variance
Minutes**

2E – Community Room A
City Hall
13450 - 104 Avenue
Surrey, B.C.
WEDNESDAY, SEPTEMBER 14, 2016
Time: 9:36 AM
File: 0360-20

Present:

Gil Mervyn, Chair
Mike Bola
Inderjit Dhillon
Don Maciver

Absent:

Puneet Sandhar

Staff Present:

K. Broersma, Planning & Development
K. Shangari, Residential Plan Checker, Building
I. Pooni, Residential Plan Checker, Building
L. Anderson, Secretary

A. ADOPTION OF MINUTES

Minutes of the Board of Variance meeting held July 13, 2016.

Moved by I. Dhillon
Seconded by M. Bola

THAT the Minutes of the Board of Variance meeting held on July 13, 2016 be received and adopted as circulated.

CARRIED UNANIMOUSLY

B. DEFERRED APPEALS

C. NEW APPEALS

1. Appeal No. 16-11 – Hien Hguyen

For permission to increase the maximum allowed building height in the RF Zone from 7.3 m to 9.11 m for a flat roof at 12751 – 112A Avenue.

Board member I. Dhillon declared a conflict of interest and left the meeting at 9:40 am.

The Board acknowledged Hien Hguyen, Appellant, in attendance to speak to the application. Mr. Hguyen reported that the area where the property is located is within a flood plain, which is a major concern for him and his family, noting that his wife and son have severe asthma and being close to damp and flooded lands affects their health. As such, the home that Mr. Hguyen wishes to build requires the height of the underside of the main floor joists to be greater, making the overall height of the house he wishes to build taller than the height limit of the zoning bylaw for a home with a flat roof.

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

- The foundation needs to be built higher because the area is in a designated flood plain.
- It is very important that family members with asthma are kept away from damp ground as they will become quite sick.
- The flat roof will allow for the house to be higher from the ground.
- Would like a flat roof because so many creatures can nest in a pitched, roof.

The Board viewed photos of several new homes in the area which did not require variance to permit construction within the requirements of the RF Zone.

In response to questions from the Board staff made the following comments:

- There is no reason why a pitched roof at the maximum 9 m would not work. If the choice is for a flat roof instead, then the roof must be a maximum of 7.3 m. The RF Zone limits differ for a flat roof and a pitched roof but both provide the same living space in the same.
- Not sure there is an NCP for this area.
- The elevation of the home is higher which is why there is a request to have a flat roof, although it would appear that it is possible to build a similar house that does not require a flat roof and will accommodate a pitched roof within the Zone limits.

The Chair questioned if there were any persons present to speak to the application and confirmed that no correspondence had been received in response to the notification regarding the appeal.

Members of the Board made the following comments regarding the requested variance:

- The request is for a variance to permit the construction of a home with flat roof. It was noted by the Chair, Board member I. Dhillon, as designer of the project, had submitted plans prior to the start of the meeting that identify the possibility of altering the roof to a pitched roof without the need for a variance.
- It should further be noted that there is also a request for a roof deck. Staff expressed concern with respect to potential privacy issues for surrounding properties, noting that there is no precedent for this type of roof deck proposal in the Bridgeview area. However the designer has

indicated that the deck is not really necessary and could be removed from the design if required.

- With respect to considering the application without the roof deck, the Board is limited to approve, deny or defer the application and cannot consider an application with amendments without providing further notice of such amendment(s).
- It would appear that the Appellant can proceed with the development with a change to the roof or to pursue a Development Variance Permit, which would bring the application to the level of Council and policy.
- The Appellant is raising medical issues as hardship, which are not directly related to or caused by the requested variance.
- Based on the information that has been provided and an assessment of other developments in the area, the Zoning Bylaw is not preventing the development of this property, therefore there is no real direct hardship demonstrated.

Therefore, it was

Moved by D. Maciver
Seconded by M. Bola

THAT Appeal No. 16-11, to increase the maximum allowed building height in the RF Zone from 7.3 m to 9.11 m for a flat roof for a proposed house at 12751 – 112A Avenue, be **DENIED**.

CARRIED UNANIMOUSLY

The Chair confirmed the denial of the application to the Appellant, noting that it was felt strongly that the option to build a home at the property was still possible within the zoning bylaw requirements.

I. Dhillon rejoined the meeting at 10:00 am.

2. **Appeal No. 16-12 – Karine & Marc Fleveaux**

For permission to relax the minimum required side yard (north) setback from 1.8 m to 1.5 m, and to relax the minimum required front yard (east) setback from 7.5 m to 7.28 m for a newly constructed garage addition at 5844 Angus Place.

Karine Fleveaux, Appellant, was in attendance before the Board to speak to the application. The Appellant reported that the rancher was purchased and renovated to increase the living space and to add a garage to the side of the house where the driveway was. A contractor was hired for the construction of the garage and the renovations to the original home. In September 2015, the

estimate given for completion of all the construction was four months. The family of four (including two small children) have been living in the home throughout the renovation process. It has now been 11 months and the work has not been completed; it has been extremely stressful for the family to live such an extended period of time during renovations. It was not until the Building Inspector reviewed the work done that the error in the setback measurements for the garage was identified. Partial approval has been granted for the house itself, but work has stopped for the garage. The walls and roof of the garage are already built and it is ready to pour the concrete floor. To correct the measurement error would require the garage to be taken down and replaced at an estimated cost of nearly \$6,000 with a new contractor.

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

- Assurance was given that the contractor was responsible for attaining all the required permits. The Building Permit was issued to the contractor in October, 2015 under his name and it was assumed that all the work was done in accordance with the plans and measurements submitted for the Building Permit.
- Unaware of the errors in the measurement for the garage until the Building Inspector reported.
- The drawings issued June 2016 reflect changes that were made inside the home only; the windows and the closet sizes were changed. No changes were made to the original plans for the garage.
- The new survey now shows the actual measurements of 1.5 m side yard (north) setback and 7.28 m front yard (east) setback.

The Chair confirmed one item of written correspondence received from neighbour L. Stephens, 5854 Angus Place, in response to the notification regarding the appeal, who was also in attendance to observe the meeting and to address any questions the Board had.

In response to the correspondence and further questions from the Board, the neighbour commented:

- This is not a situation that has ever been experienced before. It is a quiet neighbourhood of respectful neighbours that all appear to have good relationships with one another.
- Since construction of the garage has stopped, there has not been any further encroachment on the neighbouring property and the situation has improved, however there is concern that once the construction starts up again, the issue of encroachment and lack of privacy will return.

- The windows in the new addition to the back of the home directly face the living room, dining room and kitchen of her property, taking away all the privacy there once was.
- It is felt that the concerns submitted in the correspondence were reasonable, however the advice received from the Bylaw department is that they are a civil matter, which is not an option worth pursuing.

In response to the correspondence and comments from the neighbour, the Appellant made the following comments:

- It is sad to read the correspondence and it is very unfortunate that this has happened. It was not the intention to disrupt any neighbouring properties and apologies have been extended for any inconvenience caused.
- Cleanup was supposed to be taken care of by the contractor who did not remove any drywall material, claiming it was too expensive to remove. The contractor has since been fired and alternate arrangements were made, at an additional expense, to find the proper facility to take the drywall and other construction waste.
- All of the windows in the house have been approved by the City.
- There are no windows in the garage at all. Windows for the garage were originally planned, however to mitigate privacy issues, the windows were not installed. There are only two doors for the garage, the main garage door and a small door at the back of the garage.
- It was noted when the survey was done that the retaining wall on the neighbouring property encroaches on the property by 9 cm. The neighbour should have been advised by the City, but it appears they may not have been. This is not a concern however the neighbour should be aware of this and know that it is not a concern.

Members of the Board made the following comments regarding the requested variance:

- In every other way the application conforms to the Zoning Bylaw.
- The window size and number of windows are not a zoning issue and would have been reviewed at the time the Building Permit was issued.
- Many of the concerns noted in the correspondence appear to be a default of the contractor, who was also a problem for the Appellant.
- After reviewing all the information received and noting the construction of the garage already built, there would be a financial hardship to correct the contractor's error and re-build the garage.
- The reduced side yard setback is not contrary to the Building Code as it is greater than the minimum required (1.2 m).

Therefore, it was

Moved by I. Dhillon
Seconded by M. Bola

THAT Appeal No. 16-12, to relax the minimum required side yard (north) setback from 1.8 m to 1.5 m, and to relax the minimum required front yard (east) setback from 7.5 m to 7.28 m for a newly constructed garage addition at 5844 Angus Place, as described in the drawings presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

Members of the Board commented further:

- The Appellant had the opportunity to tear down the original home and build a new home which could have been taller and larger, but it looks like the Appellant was working within the bylaws except the mistake the contractor made.
- With the exception of the very minor variances to accommodate the garage measurements, the building complies completely with the Zoning Bylaw and Building Code.
- Fire hazard is not a concern as the separation between the neighbouring homes is greater than what is allowed.

3. Appeal No. 16-13 – S. Abbas & Cathy Mofazeli

For permission to relax the minimum required rear yard (south) setback from 7.5 m to 6.0 m to construct a sundeck at 15058 – 82 Avenue.

Cathy Mofazeli, Appellant, was in attendance before the Board to speak to the application. The Appellant reported the application has been in the process since May and that a series of miscommunications prevented the opportunity to submit the application until late August. As a result, there is a level of urgency to the application in order to move ahead with the construction of the sundeck during fair weather.

The Appellant further noted the angle of the house on the property, being built as far forward, backwards and to the side as possible, due to the Fortis BC easement between the property and the neighbouring property to the west. As a result of the limitations of the easement and a walkway on the other side of the home, there is very little area in the yard to construct a deck. The unusual way that the home was built (to accommodate all the angles) created two decks on the upper level, however neither deck is large enough to accommodate a BBQ and an eating area in one. As such, the BBQ is located on one deck, with the area to eat/entertain on a second deck that requires walking through the house to get to. Joining the two decks will provide an

opportunity for outside living space; to spend more time outside, BBQ and eat outside in the same area. There is very limited space for outdoor activity, as the lower level of the home is developed as a secondary suite, and the outside area, below the decks, is for the use of its occupants.

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

- Access to the greenspace below is unavailable as there is no access from upstairs and there is a tenant downstairs that has permission to use that greenspace.
- Currently, the larger of the two decks looks down towards the neighbours at the back. In an effort to ensure the privacy of all parties, a cedar hedge, at least 10 ft. tall, is in place. There is a small area that would require an extension of the cedar hedge, which has been acknowledged to all of the neighbouring property owners, and will be installed.
- Attached to the application is a letter from the neighbour directly behind the property (who is an engineer) in support of the request for the larger deck, understanding that there is very little opportunity for outdoor living space at present. In addition, the neighbour to the west that shares the easement, has also provided support with the understanding that some lattice and a fast growing tree will be installed to provide privacy to both parties.

The Chair confirmed that no correspondence had been received in response to the notification regarding the appeal.

The Chair questioned if there were any persons present to speak to the application. J. Hangartner, 15050 82 Avenue, neighbour, was noted in attendance to speak to the BOV regarding Appeal 16-13.

Hangartner, 15050 82 Avenue (adjoining property to the west) expressed support of the appeal, although there is some concern about the impact to his privacy with respect to the location of his swimming pool and the sloping area between the two properties. Photographs were shown to the Board to identify the swimming pool in relation to the Appellant's property which is noted to be 20 – 40 ft. lower than the Appellant's property. It was requested that the installation of some lattice with ivy and a fast growing tree would alleviate the privacy concerns.

In response to the comments from the neighbour, the Appellant noted the following:

- Privacy has been addressed and every privacy measure proposed between all of the immediately neighbouring properties has been considered and it is understood that the extension of the cedar hedge, as well as the required lattice with ivy and a fast growing tree will all be installed in order to ensure the privacy of all parties. It will all be done.

Members of the Board made the following comments regarding the requested variance:

- From the point of view of the hardship, the property is impacted by a very significant easement. If the easement was not there, the house would have been designed and built differently; the house dimensions were pushed to extreme limitations.
- The proposed addition does not project into the easement.
- Privacy concerns of the neighbours have been addressed and the measures discussed and agreed to be undertaken by the Appellant will be necessary to satisfy those concerns.

Therefore, it was

Moved by D. Maciver
Seconded by M. Bola

THAT Appeal No. 16-13, to relax the minimum required rear yard (south) setback from 7.5 m to 6.0 m to construct a sun deck at 15058 – 82 Avenue, as illustrated in the drawings presented to the Board, be **APPROVED**.

CARRIED UNANIMOUSLY

D. OTHER BUSINESS

E. NEXT MEETING

The next scheduled meeting of the Board of Variance will be held on **Wednesday, October 12, 2016** at 9:30 am., in Meeting Room 2E – Community Room A, City Hall.

F. ADJOURNMENT

Moved by I. Dhillon
Second by D. Maciver

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The meeting adjourned at 10:41 am.



Gil Mervyn, Chair



Lorraine Anderson, Secretary