

**City of Surrey
Board of Variance
Minutes**

2E – Community Room A
City Hall
13450 - 104 Avenue
Surrey, B.C.
WEDNESDAY, OCTOBER 12, 2016
Time: 9:29 AM
File: 0360-20

Present:

Gil Mervyn, Chair
Mike Bola
Inderjit Dhillon
Don Maciver
Puneet Sandhar

Absent:

Staff Present:

K. Broersma, Planning & Development
S. Chand, Plan Review Supervisor, Building
K. Shangari, Residential Plan Checker, Building
L. Anderson, Secretary

A. ADOPTION OF MINUTES

Minutes of the Board of Variance meeting held September 14, 2016.

Moved by M. Bola
Seconded by D. Maciver

THAT the Minutes of the Board of Variance meeting held on September 14, 2016 be received and adopted as circulated.

CARRIED UNANIMOUSLY

The Chair advised Board members there was an error made with respect to the interpretation of the information considered for item C.1 of the September 14, 2016 Minutes and requested further discussion.

Board member I. Dhillon declared a conflict of interest regarding the Chair's request for discussion and left the meeting at 9:32 am.

The Chair reported that prior to the start of the September 12, 2016 Board meeting, Board member I. Dhillon, as the designer of the new residential home in the area of Bridgeview where there is a floodplain, which was the item to be considered by the Board under item C.1, provided information to clarify that the property could not be developed with a pitched roof in accordance with the bylaw. Subsequently, prior to considering item C.1, Board member I. Dhillon declared a conflict of interest and excused himself from the meeting for that item. Unfortunately the additional information was interpreted by the Board incorrectly, resulting in the comment made on page two of the minutes of that meeting (second to last bullet) "... 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", which is false.

The error was identified immediately following the adjournment of the meeting during a brief discussion with Mr. Dhillon, who noted that he had been trying to clarify that the possibility of altering the roof to a pitched roof was not possible without a

variance. Regardless of the fact that photos of neighbouring properties were shown to have pitched roofs and that staff had confirmed that a variance had not been required for those homes, this particular site will require a variance for a similar roof.

Although the Board was uncomfortable approving the appeal with the flat roof, aside for the relaxation of height, staff had also noted there was no precedent for the flat roof in this area. Consequently, the Board's decision was based on inaccurate or misinterpreted information and may have been made in error, which needs to be addressed.

Board members concurred with the Chair, noting there were two things to consider with this item, the height of the flat roof and the possibility of a patio on the roof. The precedent referred to from staff was to do with the patio on the roof, which was not the issue as it was not going to be considered. Rather, the communication from the Appellant suggested health issues as the hardship. It was unfortunate that the Appellant did not have any representation and that the Board had difficulty without the additional Board member present to help clarify the additional information he had provided as the designer of the project.

It was suggested the Appellant, Mr. Hguyen, be given the opportunity to return to the Board with a new appeal for a revised design incorporating a pitched roof, assuming the revised design requires a variance to the bylaw.

Therefore, it was

Moved by M. Bola
Seconded by D. Maciver

THAT the Board of Variance formally communicate to the Appellant, Mr. Hguyen, to encourage him to look again at the design of his proposed home at 12751 - 112A Avenue, with a pitched roof rather than flat roof, and return before the Board for further consideration.

CARRIED UNANIMOUSLY

As a point of interest to staff, the Chair noted there had been some discussion with Board members with respect to situations where a floodplain is generally limiting the maximum permitted height of developments in the area. It was recommended an amendment be considered to provide that the maximum height within the floodplain be adjusted so that the maximum permitted building height be increased the same amount. Staff acknowledged the comment and reported that many properties have been built in the floodplain during the last decade or so without any variations, however areas that become a pattern, have the potential to lead to a change.

B. DEFERRED APPEALS**C. NEW APPEALS****1. Appeal No. 16-14 – Hardev & Gurdev Sidhu**

For permission to vary the maximum height permitted for an accessory building from 4.0m to 5.5m to accommodate the incorrect truss measurements delivered and installed at 16725 - 76 Avenue.

The Board acknowledged Gurdev Sidhu, Appellant, in attendance to speak to the application. Mr. Sidhu reported that he was not aware that the pitch of the roof of the accessory building was over height until it was pointed out by the building inspector. He further stated that it was an honest mistake and suggested that perhaps the trusses received were intended for delivery to another property. Mr. Sidhu confirmed that the accessory building has been fully constructed and that the roof and trusses would need to be removed and replaced in order to bring the building into compliance. Mr. Sidhu further noted that the neighbour beside him has a similar accessory building which is taller in height.

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

- Looking through the documentation received by the Board, there does not appear to be an Inspector's Report acknowledging there is a problem with the roof pitch.
- There is a lack of information with respect to the plans received; they are dated November, 2015, which have not been approved by Planning and Development.
- The Appellant has confirmed the plans provided to the Board, on table, are 'as built'; however the difference in the pitch was not identified until inspection.

The approved plans were provided by the Appellant and reviewed by the Board. It was noted that the pitch of the roof and the square footage of the building were the same measurements as the plans provided to the Board earlier (on table).

The Board viewed photos of the accessory building which included the neighbouring property with a similar accessory building that sits higher than the Appellant's accessory building.

The Board commented further:

- The entire building appears to be elevated, making it difficult to distinguish where the measurement of the height is determined.
- The height of the building is calculated from the existing average grade which is done through a survey.
- It is likely the inspector noticed the pitch was wrong and therefore determined the height was not in compliance.
- The Appellant has advised the lot was sloped, which resulted in them piling the area, resulting also in a higher building.
- The distance between of the windows of the building appears to be somewhat different from the plans. In some ways it doesn't look like the same building. The window by the door is also lower.
- The accessory building is consistent with the design of the main house, which is likely why it was built that way.

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

- If the application is approved, it will not trigger any further requirements.
- The Board is being asked to consider an increase in height from 4m to 5.5 m.
- The Appellant has noted the roof of the accessory building is the same pitch as the main house.

The Chair confirmed there were no persons present to speak to the application and no correspondence received in response to the notification regarding the appeal.

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

- Adjoining neighbours reported they do not have a problem with the height of the accessory building and that it does not obstruct their property in anyway.
- There is a hardship if the Appellant has to remove and replace the roof.
- In cases like this, if the supplier or manufacturer is at fault, there should be some supporting documentation (e.g. wrong trusses).
- Documentation from the supplier/manufacturer would essentially be accepting liability on the part of the supplier/manufacturer if they provided a letter, making the issue much more black and white.
- Based on the information presented to the Board that the trusses delivered were incorrect and the error was not known before completion of the roof, the hardship would be to remove the newly built roof and replace the trusses/roof completely.

- Furthermore, the accessory building is not an eyesore and is similar to the accessory building in the neighbouring property which is slightly higher.

Therefore, it was

Moved by I. Dhillon
Seconded by P. Sandhar

THAT Appeal No. 16-14, to vary the maximum height permitted for an accessory building from 4.0m to 5.5m to accommodate the incorrect truss measurements delivered and installed at 16725 - 76 Avenue, be **ALLOWED**, thereby permitting the retention of the accessory building as constructed.

CARRIED UNANIMOUSLY

The Chair expressed discomfort with the application, noting that the accessory building is not in accordance with the bylaw and that the Board must accept the limited information provided by the Appellant in good faith. Furthermore, there is nothing about the application that suggests financial hardship. However, the fact that the neighbours have expressed support and a similar accessory building (shed) is located immediately next door, the decision of the Board is reasonable.

The Chair expressed further concern with respect to the number of appeals before the Board that are the result of mistake that could have been avoided. A mistake is not a basis for approval, however in this particular case, the support of the neighbours was identified and the accessory building does fit nicely in relation to the home and the surrounding neighbourhood.

2. **Appeal No. 16-15 – Jasbir Banwait**

For permission to relax the front yard setback for 50% of the house (except the garage) from the required minimum 7.5m to 6.74m (from the existing property line) and from the required minimum 5.5m to 4.74m (from the ultimate property line); and to relax the front yard setback for the remaining 50% of the house (including the garage) from the required minimum 9.5m to 7.91m (from the existing property line) and from the required minimum 7.5m to 5.91m (from the ultimate property line) to permit construction of a new house at 13124 Marine Drive.

The Board acknowledged the Letter of Authorization for Rajeev Mangla, Mainland Engineering, to act as Agent on behalf of Jasbir Banwait.

Rajeev Mangla, Mainland Engineering, Agent for the Appellant, was in attendance before the Board to speak to the application. The Agent provided

a larger image of the site to illustrate the front (north) yard setback requirements, and to demonstrate the Restrictive Covenant (RC) registered on title on the southerly (rear) portion of the site, as it pertains to the neighbouring property two doors to the west.

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

- The property is zoned RF. Based on the zoning, the permitted site coverage is 36%; 4,065.85 sq. ft. total floor area. The proposed site coverage is 31.11%, to construct a new 3,931.56 sq. ft. total floor area house. Even with the requested variances, the floor area is not being maximized.
- The property has an RC on title which requires there to be a rear (southerly) setback to the proposed house building of 14.5m, as opposed to the standard 7.5m allowed for the RF zone.
- As a result of the RC, a suitable new house cannot be built between the required setbacks for this site.
- The RC is in favour of the neighbouring property two doors to the west (a corner lot that fronts 131 Street) to maintain the views from that property.
- The resulting areas for the proposed house are less than what is permitted by the City's RF zone, and minimum areas required to build a suitable residence at this site is being proposed.
- The variance is required because the garage will be from Marine Drive. Future access from the rear (south) of the property and a lane opened to the back of the property, discussed as a result of an arterial road being considered for Marine Drive, does not look likely at this time.

The Chair confirmed there was no correspondence received in response to the notification regarding the appeal, and questioned if there were any persons present to speak to the application. S. Grande, 13114 Marine Drive, neighbour, was in attendance to speak to the BOV regarding Appeal 16-15.

S. Grande, 13114 Marine Drive (adjoining property to the west) expressed her opposition to the application and concerns about the proposed house obstructing her view and creating parking issues. Ms. Grande reported that under the same RC her house was built to use the back alley to access the garage and cannot access her home from Marine Drive, noting it was one of the requirements of the RC when her house was built in 2001. Concerns with respect to a front driveway for the subject property, which will be fairly short and limit the space for parking, were reiterated. It was again noted that the new house, built to the RC line, would impede the view of Mount Baker from her deck. Although it was expected the existing home would be removed at some point, it was understood that a newly constructed house would also be subject to the same RC, designed to protect the views from her property.

The Board viewed photos of the property and neighbouring properties, noting the area of the RC as well as the limited lane access.

In response to the comments from the neighbour, the Board made the following comments:

- Ms. Grande indicated that the purpose of the RC was to protect the view from her property, however the RC is not for the benefit of her property, rather it is for the protection of the view for the corner property, which holds the RC.
- It is an amazing RC that does not have any rights for Ms. Grande's property, only obligations to the RC owner; not between Ms. Grande and the new subject property owner.
- Indirectly Ms. Grande benefits because the neighbour is required to be setback 14.5m from the lane.

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

- The requested front yard variance will result in a setback similar to the existing properties to the east.
- If the RC was not in place, a new house could be built similar to the house on the east side of the subject property and a variance would not be needed.

Therefore, it was

Moved by P. Sandhar

Seconded by M. Bola

THAT Appeal No. 16-15, to relax the front yard setback for 50% of the house (except the garage) from the required minimum 7.5m to 6.74m (from the existing property line) and from the required minimum 5.5m to 4.74m (from the ultimate property line); and to relax the front yard setback for the remaining 50% of the house (including the garage) from the required minimum 9.5m to 7.91m (from the existing property line) and from the required minimum 7.5m to 5.91m (from the ultimate property line) to permit the construction of a new single family dwelling at 13124 Marine Drive, as described in the drawings presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

D. OTHER BUSINESS

1. City of Surrey OCP and Related Bylaws

As a new member of the Board of Variance, D. Maciver requested a presentation be arranged for the Board from Planning and Development Department staff with respect to how planning works in the City of Surrey; specifically the OCP and related bylaws.

Discussion ensued with respect to the logistics of providing a presentation, noting it could be scheduled to follow a future BOV meeting or at an alternate date and time convenient for Board members and staff.

Staff noted the reasonable request and advised that the Surrey Zoning Bylaw is available through Google search, and also suggested that a great deal of information could be gained from spending some time with staff at the Planning counter.

It was generally agreed that the Board members would appreciate a presentation from Planning and Development staff on the OCP and related zoning bylaws, and that Board members submit, in advance, the specific item(s) they wish to have addressed, to the Secretary for the purposes of the requested presentation.

E. NEXT MEETING

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

F. ADJOURNMENT

Moved by P. Sandhar
Second by D. Maciver

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The meeting adjourned at 10:48 am.



Gil Mervyn, Chair



Lorraine Anderson, Secretary