

**City of Surrey  
Board of Variance  
Minutes**

2E – Community Room B  
City Hall  
13450 - 104 Avenue  
Surrey, B.C.  
**WEDNESDAY, FEBRUARY 8, 2017**  
Time: 9:30 AM  
File: 0360-20

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**Present:**

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

**Absent:**

**Staff Present:**

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

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**A. ADOPTION OF MINUTES**

1. Minutes of the Board of Variance meeting held January 11, 2017 to be adopted.

Moved by I. Dhillon  
Seconded by P. Sandhar

THAT the Minutes of the Board of Variance meeting held on January 11, 2017 be received and adopted, as circulated.

CARRIED UNANIMOUSLY

2. Business Arising: Minutes of the Board of Variance meeting held November 16, 2016.

At the Regular Council Public Hearing meeting of January 16, 2016, Council considered the Board's request to initiate a formal review of the future development of the Bridgeview area, and develop a Neighbourhood Concept Plan. Council referred the Board's recommendation to staff. The Board requested that staff provide an update to the Board at their earliest convenience.

**B. DEFERRED APPEALS**

**C. NEW APPEALS****1. Appeal No. 17-03 – K. Walia, G. Walia, H. Walia and R. Dosanjh**

*For permission relax the maximum front yard setback (40 Avenue) from 50m to 68.2m, and to relax the maximum depth of the farm residential footprint from the front lot line (40 Avenue) from 60m to 75.6m, to permit the construction of a new residential dwelling 18164 – 40 Avenue.*

The Board acknowledged Kanwar Walia and Rajvinder Dosanjh, Appellants, in attendance to speak to the application.

The Appellants advised the property was purchased in 2015. For the past eight years, the property has had a blueberry crop, which has been harvested by the current owners for the past two seasons. Upon purchasing the property, the intention was to build a new home where the approved home plate preload was placed by the previous owner in 2013, prior to the change to the Zoning Bylaw in 2013 and more recently in November, 2016. A longer period of time was given for the preload to settle, given its location in the floodplain. It wasn't until the building process was initiated that the setback requirements and variance were identified. The existing home has recently been demolished, which alleviates any question or concern by of there being two residences on the property. Financially as well as timely it will be a hardship to move at least two thirds of the preload forward on the property and delay the construction of the residential dwelling for a further 18-24 months in order for the fill to settle. The footprint for agriculture would be affected as well.

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

- Both setbacks are required to identify and ensure the distance from the road to the back of the house as well as from the road to the back of the farm plate (fill).
- As there is only one dwelling for this property and the Appellants have indicated that they meet the 2,000 sq. ft. fill area, this application will not be required to be reviewed by the Agricultural Land Commission (ALC). The ALC does not regulate the size of the dwelling.
- With respect to any sensitive environmental feature on the site, there is a ditch alongside and around the entire property. A ground work study is required each year to confirm the required 15m setback from the ditches.
- Engineering staff has been copied on all drainage and environmental information pertaining to this property and have not identified any concerns.
- Staff confirmed that future applications that have undergone a review by Engineering staff and brought forward to the Board will include

confirmation of that review (perhaps within a checklist) and comments, if any, pertaining to the application.

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:**

- The Zoning Bylaw changed after the prefill was approved. The appeal is based on the change to the Zoning Bylaw and the significant hardship created.
- In addition to the financial hardship for new fill to be placed, a further delay would be encountered as a result of the extended time required for a new fill area to settle.

Therefore, it was

Moved by P. Sandhar

Seconded by M. Bola

THAT Appeal No. 17-03, to relax the maximum front yard setback (40 Avenue) from 50m to 68.2m, and to relax the maximum depth of the farm residential footprint from the front lot line (40 Avenue) from 60m to 75.6m, to permit the construction of a new residential dwelling 18164 – 40 Avenue, as presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

**2. Appeal No. 17-3 – 0724941 BC Ltd.**

*For permission to reduce the minimum north rear yard setback from 7.5m to 4.5m, to allow for an outdoor storage rack structure at 19175 - 22 Avenue.*

The Board acknowledged the Letter of Authorization for Peter Dartana, C.I. Design, to act as the Agent on behalf of 0724941 B.C. Ltd. The Board further acknowledged correspondence from 0724941 B.C. Ltd. to permit Romeo Tarrayo, Plant Manager, Flynn Canada Ltd, also to speak to the application on behalf of 0724941 B.C. Ltd.

The Agent noted that the owner of the property is the Flynn Group of Companies. The Surrey operations are located at the site, providing curtain wall and glazing roofing systems and architectural metals. Temporary storage

of raw products is critical at the Surrey operations. Although located along the side of the building, the north side of the building is technically identified as the rear of building and requires a minimum setback of 7.5m. It is felt that the proposed storage area is underutilized, with no functional operations in that area except serving primarily as an alternate access for fire trucks. The proposed storage rack has been designed to allow emergency vehicle access and would be independent of the building and can be removed, if required in the future, without affecting the integrity of the building. Furthermore, it will not impose access restrictions from the north. There is currently a gate allowing access to the north side, however this secondary access is rarely used; all traffic into the yard is from the 22 Avenue entrance. It is felt there is undue hardship as a result of the definition of 'structure' and its application to the proposed storage structure.

**In response to questions from the Board, the Agent and Mr. Tarrayo noted the following:**

- The company accommodates and processes long (16-20 ft.) extrusions, and is constantly receiving shipments to store, process and then send back out to building sites.
- The location for the proposed structure would not only facilitate much needed storage space for these extrusions, it would also address safety concerns identified within the work yard, incurred when the extrusions are being received and again shipped out.
- Currently any movement of the elevated extrusions require everything to be shut down until the movement is completed. The proposed storage area would alleviate this, by providing a separate area for direct delivery, allowing time within the day to plan a clearing area to process the finished product, without having to shut everything down.
- The proposed storage area, currently unused, would provide well over 100 ft. for the much needed storage space and would free up another area to dedicate for finished product.
- Deliveries are made from 22 Avenue, not 190 Street.
- There has been some consideration for extending the existing roofline, however the problem is in providing clearance for the extrusions which requires a 20 ft. clearance every time they are lifted.
- There have been other options considered, however there has been an increase in vehicles required within the site and the three buildings have evolved over time to accommodate the roofing, decking, etc. materials, received daily and weekly.
- In assessing the hardship, it appears the reason for hardship is based on the interpretation of 'structure', more than the requirement for a setback.

The Chair confirmed there were no persons present to speak to the application and that one item of correspondence not in support was received in response to the notification regarding the appeal.

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

- The definition of structure includes any kind of structure, whether fixed to, supported by or set into and supported by the land. Even though the intent is for the shelving to have its own foundation and bolted to the slab, whether attached or not, it is a structure.
- Outside storage shall not encroach on the minimum setback applies to all sides of the building, including the rear setback.
- With respect to the registered Statutory Building Scheme on the site (BW315978) and Covenant BW315979, the City is signatory to these registered covenants.

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

- The Board does not have jurisdiction to consider the appeal, as it is in conflict with the provisions of a covenant registered under Section 219 of the *Land Registry Act*.
- The Declaration of Building Scheme BW315978 registered indicates in Section 4.5 that:  
  
*" (b) Outside storage areas, if permitted, shall not encroach on required minimum setbacks and shall not exceed a total area greater than the lot area covered by the principal building(s). "*

The proposed variance conflicts with this condition and therefore falls outside the jurisdiction of the Board.

Therefore, it was

Moved by D. Mciver  
Seconded by M. Bola

THAT, as a result of the restrictions defined in the Section 219 Covenant BW315979, Development Design Guidelines (section 4.5), the Board of Variance is unable to consider Appeal No. 17-04 in accordance with the *Local Government Act*, Part 14, Section 542 (2) (a), which states "*The board of variance must not make an order under subsection (1) that would do any of the following: (a) be in conflict with a covenant registered under section 219 of the Land Title Act or section 24A of the Land Registry Act, R.S.B.C. 1960, c. 208;*".

CARRIED UNANIMOUSLY

## D. OTHER BUSINESS

### 1. Planning & Development Update

Shawn Low, Current Planning Manager – South, was in attendance to provide a general update regarding the recent and upcoming Land Use Contract (LUC) terminations and to respond to any questions with respect to the role of the Board.

A brief PowerPoint presentation was given, providing a history of the LUCs and the 2014 *Local Government Act* changes in legislation to terminate all LUCs in the province by June 30, 2024.

Copies of Corporate Report R122, which provides the process for early termination of LUCs, and supported by Council in June, 2015, were circulated on table to Board members.

Additional comments were as follows:

- Legislation requires that all LUCs, as provided by the Province in the late 1970s, must be terminated by 2024. There is some flexibility to enter into early termination prior to that.
- All LUC By-law terminations are subject to a Public Hearing. The City has been going through a formal process to terminate all 370 LUCs, beginning with the Commercial Industrial lands, and presently working through Urban Single Family LUCs. With approximately 296 LUCs remaining at the beginning of 2017, of which 204 were recently terminated on February 6, 2017, there are approximately 92 LUCs remaining to be terminated. The City expects to have all LUCs terminations completed by 2018.

- Upon the LUC termination, a one year grace period is given to obtain a building permit. If an extension of the one year grace period is required, the property owner has the right to apply to the Board for an extension of time.
- Applications to the Board for an extension of time must be received by the Board within six months of the By-law adoption date and will be subject to the discretion of the Board. The extension of time will be in addition to the one year grace period given from the By-law adoption date, and cannot be transferred if the property is sold. The extension of time is owner initiated and granted to the owner, not the property.
- The LUC applications to the Board will specifically deal with timing. Part 14, Section 543 (5) of the Local Government Act, states that:  
*"On an application under subsection (1), the board of variance may order that, despite the termination of the land use contract and despite any zoning bylaw, the provisions of that land use contract continue to apply in relation to the applicant for a specified period of time ending no later than June 30, 2024, if the board of variance*
  - (a) has heard the applicant, and*
  - (b) finds that the timing of the termination of the land use contract by the bylaw would cause undue hardship to the applicant."*
- It is important to note that any LUC extension granted by the Board is for the Applicant only. If the Applicant chooses to sell the property after the extension has been granted, the extension does not transfer with the property.
- Given that all LUCs will be terminated, staff is recommending that all hardship time extensions do not run later than 2022 (at the discretion of the Board).

The Board expressed concern with respect to the anticipated number of applications, and noted further concern regarding the potential conflict of interest for some Board members which will require them to be excused during the consideration of any such applications.

The Board advised staff of the information they would like to be provided with when considering any LUC termination time extensions, as follows:

- Confirmation of the LUC termination date;
- The zoning that the property is going to be converted to;
- If possible, what was permitted under the LUC and what will be permitted under that the new zone;
- A copy of the LUC termination Corporate Report for the application; and
- Any additional information to assist the Board that staff consider relevant to the application.

The Board further requested that copies of the LUC termination information package and frequently asked questions, as distributed to all LUC owners, also be copied and circulated to the Board, for information.

**2. Appointments**

The Chair announced Puneet Sandhar as the appointment of the Vice Chair for the 2017 calendar year

**E. NEXT MEETING**

The next Board of Variance meeting is scheduled to be held on Wednesday, March 8, 2017 at 9:30 am, in Meeting Room 2E – Community Room A, City Hall.

**F. ADJOURNMENT**

Moved by I. Dhillon  
Second by P. Sandhar

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The meeting adjourned at 11:16 am.

  
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Gil Mervyn, Chair

  
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Lorraine Anderson, Secretary