

**City of Surrey  
Board of Variance  
Minutes**

**2E – Community Room A**  
City Hall  
13450 - 104 Avenue  
Surrey, B.C.  
**WEDNESDAY, MAY 9, 2018**  
Time: 9:00 a.m.  
File: 0360-20

**Present:**

Gil Mervyn, Chair  
Mike Bola  
Inderjit Dhillon  
Jennifer Rahiman  
Puneet Sandhar

**Absent:**

**Staff Present:**

K. Broersma, Planner  
J. Wonfor, Residential Plan Checker  
A. Kenny, Residential Plan Checker  
L. Anderson, Secretary

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**A. ADOPTION OF MINUTES**

1. Minutes of the Board of Variance hearing held March 14, 2018.

Moved by P. Sandhar  
Seconded by M. Bola

THAT the Minutes of the Board of Variance hearing held on March 14, 2018,  
be received and adopted as circulated.

CARRIED UNANIMOUSLY

**B. DEFERRED APPEALS**

**C. NEW APPEALS**

1. **Appeal No. 18-56 – P. Yuan**

*For permission to expand an existing non-conforming single family dwelling by enclosing a deck on the second floor and converting that deck area to habitable space; and to formalize existing nonconformities: to reduce the baseline setback on the front yard (Timberland Drive) from 7.5m to 0.054m for the front stairs; to reduce the setback on the north east side yard from 7.5m to 5.62m; and to reduce the setback on the south east yard from 7.5m to 4.36m, to permit the construction of a garage on the ground floor, with the existing living space to be expanded on the second floor, at 10928 Timberland Drive.*

The Board acknowledged Pei Chen (Patrick) Yuan, Appellant, in attendance to speak to the application.

The Appellant informed that he purchased the property almost two years ago for its Business Park Zone (IB) specifications that would permit future development related to the cabinet and countertop business he started 10 years ago. It has been determined that redevelopment under the IB zone cannot proceed as a connection to sewage is required at a cost in excess of \$250,000 due to the distance from the property to the sewage connection on the other side of the highway. In the interim, the Appellant would like to restore the existing (non-conforming) house to a habitable state. To ensure the security of the home and the Appellant's vehicle(s), a garage constructed on the ground floor is proposed. The Applicant is also proposing to enclose a deck on the second floor and convert the deck area to habitable space.

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

- As the listing agent and also young entrepreneur with a cabinet and countertop business, it seemed a unique opportunity to purchase the property at a very reasonable price for future development for the business. It was only after the property was purchased that the lack of a sewage line to the property was revealed and that the nearest connection was approximately 500m away on the other side of the highway.
- Due to the high cost of connecting to the sewage line, the only choice currently is to restore the building to a livable condition. The home will not become a rental property. It will likely be used for office use as it is not really in an area to raise a young family.
- An engineer was hired to address some of the concerns with the building. Beams were put in place to support the building and prevent it from falling. Studs were also put in place three feet deeper to support the weight as the foundation was sinking and the footing had already shifted.
- The building was not occupied at the time of purchase and there were signs of significant deterioration of the building as well as vandalism damage. After two years of ownership, the property continues to be vacant.
- Once renovated, and to relieve personal financial pressure, the Appellant is considering using a part of the building as a showroom and/or office space. There will also be a part of the building that will be liveable to provide the opportunity to stay overnight when working late.
- Consideration will also be given to residing in the home for a period of time in order to recuperate finances.

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:**

- When an area is rezoned from one zone to another, it is permitted to continue as a non-conforming use when the new zone comes into place. The non-conforming use is allowed to continue as long as the original use is maintained. Section 911 (1) of the *Local Government Act* states “if non-conforming use is discontinued for a continuous period of 6 months, any subsequent use of land, building or other structure becomes subject to the bylaw”.
- It is clear that the use of the subject property discontinued and has been empty and not occupied for more than six months and was allowed to deteriorate. As a result, the Appellant has to work with current legislation as it pertains to the new zone and must proceed under the new Zoning Bylaw, which does not permit a residence. Furthermore, the building does not comply with the setbacks required under the Zoning Bylaw.
- Planning staff have confirmed that under the IB Zone the intent is to develop and regulate industrial business parks, light industrial, etc. The IB Zone permits one or two dwelling unit(s) provided the dwelling unit(s) is contained within a principal building, is occupied by the owner or a caretaker for the protection of the businesses permitted, and is within the maximum dwelling unit size permitted in the IB Zone.
- The Board must consider and conclude that the requested variance does not, in particular: result in inappropriate development of the site; vary permitted uses and densities under the applicable bylaw; or defeat the intent of the Zoning Bylaw.
- As with all property purchases, it is incumbent upon the purchaser to review any restrictions that would impact the investment required to develop the property.
- Based on the information provided, and keeping in mind the intent of the Zoning Bylaw and the provisions of the non-conforming use of the property, Appeal 18-56 cannot be approved by the Board.

Therefore, it was

Moved by P. Sandhar

Seconded by J. Rahiman

THAT the Board finds, in accordance with Section 911 (1) of the *Local Government Act*, the continuation of the non-conforming use of the subject property as primary residential cannot be approved and orders that Appeal 18-56 to expand an existing non-conforming single family dwelling by enclosing a deck on the second floor and converting that deck area to habitable space; and to formalize existing nonconformities: to reduce the baseline setback on the front yard (Timberland Drive) from 7.5m to 0.054m for the front stairs; to reduce the setback on the north east side yard from

7.5m to 5.62m; and to reduce the setback on the south east yard from 7.5m to 4.36m, to permit the construction of a garage on the ground floor, with the existing living space to be expanded on the second floor, at 10928 Timberland Drive, as presented to the Board, be **DENIED**.

CARRIED UNANIMOUSLY

## 2. Appeal No. 18-57 – G. Singh

*For permission to allow the 6.0m rear yard setback provision to be applied to 55% of the length of the rear principal building face instead of 50% of the length of the rear principal building face, to permit the construction of a new single family dwelling at 9399 – 160 Street.*

The Board acknowledged Vikas Mehta, Seamax Development Group Inc., Agent for the Appellant, Gurmukh Singh, in attendance to speak to the application.

The Agent provided an overview of the property noting there is a Restrictive Covenant (RC) registered on the property to protect a tree at the front of the property on the east side. To comply with the RC the architect designed the new home with a double garage at the rear of the home, along the lane. To meet the garage width requirements, the Appellant is requesting that the rear setback of 6.0m be applied over 55% of the rear building face instead of the 50% of the rear building stipulated by the site's zoning.

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

- There is a lane at the rear of the property that separates the subject property from the neighbours in the back.
- The Appellants met with the neighbours immediately surrounding the property who have expressed their support for the requested variance.

The Chair confirmed there were no persons present to speak to the application and three letters of support had been provided by the Agent in response to the notification they received regarding the appeal.

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

- It should be noted that the variance sought is not the actual setback it is the percentage of the rear of the building; a minimal amount of five percent. The setback effect is greater than what it would have been under the Zoning Bylaw.



- The five percent requested is equivalent to 24 inches. It is a reasonable request.
- Undue hardship has been determined. A garage to accommodate two cars is not possible if the Appeal is denied due to the RC to protect the tree at the front of the property. Furthermore, the neighbouring properties have expressed their support for the variance.

Therefore, it was

Moved by P. Sandhar  
Seconded by M. Bola

THAT the Board finds that undue hardship would be caused to the Appellant by compliance with the Zoning Bylaw and orders that Appeal No. 18-57 to allow the 6.0m rear yard setback provision to be applied to 55% of the length of the rear principal building face instead of 50% of the length of the rear principal building face, to permit the construction of a new single family dwelling at 9399 – 160 Street at 9399 – 160 Street, as presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

### 3. **Appeal No. 18-58 – J. and B. Biran**

*For permission to vary the required siting for the rear wall of the house from 50m from front lot line (152 Street) to a maximum of 57m from front lot line (152 Street), to permit the construction of a new single family dwelling at 4904 – 152 Street.*

The Board acknowledged Gary Grewal, Alpha West Developments Ltd., Agent for the Appellants, Joga and Balwinder Biran, in attendance to speak to the application.

The Agent provided an overview of the subject property, noting that upon purchasing the property, the Appellants' intention was to build a new home where the approved home plate preload was placed by the previous owner in 2007, prior to the change in the Zoning Bylaw in 2012. To require the existing preload to be moved at this time would not only incur an additional cost to building the home, the viability of the affected land for agriculture would be destroyed.

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

- The previous owner of the property received the fill permit and placed the fill back in 2007. The Appellant purchased the property in 2011.
- The illegal fill as noted was placed prior to the purchase of the property by the Appellant in 2011. It was apparently due to issues with the ditch.

- The area is the floodplain and some of the land is like a swamp. The illegal fill was used to make a road which will be addressed and remediated prior to building the new home. The Appellant will not be able to build without remediating the land first.
- With respect to the illegal building noted on the property, again it was in place when the Appellant purchased the property. It was used to house the chemical sprays, etc. It will also be removed with the development of the project.
- The hardship is the existing preload that was already in place prior to the change to the bylaw.

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 hardship created.
- It is noted there are still a number of issues that will need to be addressed prior to the issuance of a Building Permit.
- Undue hardship has been determined. The preload was in place before the Zoning Bylaw was changed and moving that preload and preparing a new preload would disturb the land further.

Therefore, it was

Moved by I. Dhillon  
Seconded by M. Bola

THAT the Board finds that undue hardship would be caused to the Appellant by compliance with the Zoning Bylaw and orders that Appeal No. 18-58 to vary the required siting for the rear wall of the house from 50m from front lot line (152 Street) to a maximum of 57m from front lot line (152 Street), to permit the construction of a new single family dwelling at 4904 – 152 Street, as presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

**D. OTHER BUSINESS**

**E. NEXT MEETING**

The next Board of Variance hearing is scheduled for Wednesday, June 13, 2018 at 9:00 a.m.


**F. ADJOURNMENT**

Moved by M. Bola  
Second by I. Dhillon

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The meeting adjourned at 9:49 a.m.

  
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Gil Mervyn, Chair

  
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Lorraine Anderson, Secretary