

City of Surrey  
Board of Variance  
Minutes

1E – Committee Room B  
City Hall  
13450 - 104 Avenue  
Surrey, B.C.  
WEDNESDAY, JUNE 12, 2019  
Time: 9:00 a.m.  
File: 0360-20

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Present:

Gil Mervyn, Chair  
Inderjit Dhillon  
Jennifer Rahiman  
Puneet Sandhar  
Beerinder Sidhu

Absent:

Staff Present:

K. Broersma, Planning & Development  
J. Wonfor, Plan Review, Building  
L. Anderson, Secretary

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A. ADOPTION OF MINUTES

1. Minutes of the Board of Variance hearing held February 13, 2019.

Moved by I. Dhillon  
Seconded by P. Sandhar

THAT the Minutes of the Board of Variance hearing held on  
February 13, 2019, be received and adopted as circulated.

CARRIED UNANIMOUSLY

B. DEFERRED APPEALS

C. NEW APPEALS

1. Appeal No. 19-02 – Bura

For permission to increase the building height from 9.0m to 9.4m, to permit the construction of a new single family dwelling at 12438 – 114 Avenue.

The Board acknowledged Kuldip Bura, wife and agent for the Appellant, Harjit Bura, in attendance to speak to the application.

Mrs. Bura informed the property was purchased in 2018 and the original home was demolished in October 2018, with the intent of building the family dream home as soon as possible. A designer prepared plans for the new home in accordance with the RF (Single Family Residential) Zone for the property, however it was determined that the design of the home could not comply with the maximum building height of 9.0m due to floodplain construction restrictions, requiring the habitable space to be 4.4m above sea level. As a result, the ceiling height has been reduced to 8 ft. for the main floor and 9 ft.

for the top floor, but the overall height to accommodate the design still requires a variance in the height of 0.4 metres.

Mrs. Bura further stated that it would be a hardship for the family to reduce the height of the living space any further as her mother-in-law will also reside in the home and requires as much height/space around her as possible as she is prone to claustrophobia in rooms with closed doors and lower ceilings.

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

- There is a neighbouring home behind the property that was recently built with one of the floors having a 9 ft. ceiling.
- The home will not be constructed with flat roof trusses.
- If it wasn't for the flood plain restrictions, the design of the home would comply with the requirements of the RF Zone. This home cannot have a traditional ground floor; the crawl space is not habitable.

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

- This is an area in Surrey that has a common issue as a result of the flood plain; property owners are limited to the height they can have.
- Compared to other RF zoned areas in Surrey with a maximum height of 9.0m, the proposed residential dwelling is required to be pushed up to meet the minimum flood plain zone to begin with, leaving roughly 6 m to provide liveable space and meet the requirements of the zoning bylaw.

The Chair confirmed there was one item of correspondence received in opposition in response to the notification regarding the appeal, and one person present to speak to the application. The correspondence was reviewed noting concerns with respect to the size of the proposed home, the potential for illegal suites resulting in parking issues, and anticipated loss of water pressure to neighbouring homes. Damage without repair to the driveway and existing hedge, as a result of the removal of the existing house, was also reported.

Mr. R. Wood, neighbour of the Appellant, residing at 12448 - 114 Avenue, presented concerns as follows:

- Was not informed the proposed home would be pushed so close to his property. Not against building a larger home, would just like to see the proposed home centred on the lot instead of 9 ft. from his house, blocking all the sunshine on that side of his home, which will impact his quality of life considerably.

- His home is the lowest property in the surrounding area, resulting in drainage concerns with respect to excess paving on the subject property, similar to concerns raised with the new home directly behind the property which resulted in drainage issues.
- Not in support of the height relaxation as there are no external stairs from the top floor; a safety concern if there was a fire.

In response to the correspondence received and information provided by Mr. Wood, the Appellant made the following comments:

- The proposed home is not a 'monster house' compared to others in the neighbourhood.
- There will be only one suite in the home.
- There will not be any grass at the back of the property, it will be paved to provide parking, in addition to parking at the front of the home.
- As discussed with the neighbour previously, the damage to his property during demolition of the old home (driveway and hedge) will be fixed when the new home is being built.
- There is only one exit from the main floor of the house as the City does not allow stairs from the second floor.

In response to the correspondence and information provided by Mr. Wood, the Board made the following comments:

- Apart from the height restriction, the size and design of the home, including one suite, is permitted under the RF Zone and the building location complies with the necessary setbacks.
- The additional six inches of soil added for the crawl space should alleviate any concern with respect to the flow of the water/drainage.
- Any illegal activity observed in the neighbourhood should be dealt with by launching a formal complaint to the City's Bylaws Department, as those issues are not related to the role of the Board.

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

- There is a swale sloping the lot to provide drainage.
- All proposed setbacks comply with the Zoning Bylaw.

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

- If the Appellant reduced the height of the second floor to 8 ft., the overall construction height would still exceed the maximum height by 4 in. If the requested variance was not granted, the maximum height for the second floor would be reduced to 7 ft. 8 in. in order to comply.
- To address the neighbour's concern with respect to the location of the proposed home on the property, it's reasonable to suggest the home be centred as opposed to having the straight wall so close to the neighbour.
- After construction of the home, the paved coverage cannot be more than 50% of the remaining land. Therefore, parking cannot be permitted at the side of the home, as proposed by the Appellant.
- Undue hardship has been demonstrated as a result of the impact from the floodplain restrictions requiring the habitable space to be 4.4m above sea level, which would result in a reduction of ceiling height to be less than 8 ft.

Therefore, it was

Moved by I. Dhillon  
Seconded by J. Rahiman

THAT the Board finds that undue hardship would be caused to the Appellant by compliance with the Zoning Bylaw and orders that Appeal No. 19-02, to increase the building height from 9.0 metres to 9.4 metres, to permit the construction of a new single family dwelling at 12438 – 114 Avenue, as presented to the Board, be ALLOWED.

It was further

Moved by I. Dhillon  
Seconded by G. Mervyn

THAT the motion be amended to include a condition that support for Appeal No. 19-02 be subject to the repositioning of the proposed development to the centre of the lot to provide equal setbacks on each side of the building.

Amendment Motion DEFEATED  
With J. Rahiman, P. Sandhu and  
B. Sidhu opposed.

Main Motion CARRIED UNANIMOUSLY

2. Appeal No. 19-03 – Bihal

For permission to relax the 80/20 provision that the second floor area be 80% of the ground floor area, to permit the construction of an addition to the rear of an existing home at 12236 – 64 Avenue.

Board member I. Dhillon declared a conflict of interest regarding Appeal No. 19-03 and left the meeting at 9:44 a.m.

The Board acknowledged Jagdip Bihal, Appellant, in attendance to speak to the application.

Mr. Bihal informed he has been living in the home for 4 years and requires more space for his growing family. Consideration was given to selling the home and purchasing a larger home, but he was unable to find a suitable home within budget. It was determined that an addition above the garage of the current home would support the needs of the family. The existing house does not comply with the 80/20 Rule ("80/20"), which stipulates that the second floor area must be no more than 80% of the ground floor area. The Applicant is proposing that the second floor be 85% of the ground floor area. Although the application meets most of the requirements (allowable square footage, setbacks and lot coverage), a variance to the 80/20 is required for compliance.

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

- There are six family members, including the Appellant, his wife, two children and his parents.
- The family is growing and more space is required. The Appellant's parents occupy one (and sometimes two) bedrooms, and the children (ages 8 and 11) often share the remaining bedroom with their parents.
- The extra space will be an office/multipurpose space with a computer area and space for the children to play/study, for extra clothes (wardrobe), as well as space for overnight visitors.

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 subject property was built before the 80/20 regulation was adopted. The 80/20 applies only to the front and side of the home.

- The 80/20 was put into place in the 1990s to improve the massing/design of the houses to make them less "boxy" looking. The proposed addition will not be seen from the front of the house and would not affect the look of the home from the street.
- Undue hardship has been demonstrated. The Appellant is restricted in his ability to construct a small addition to the home as a result of the 80/20. The proposed addition is located reasonably at the back of the home and will have the least impact to the neighbours, etc.

Therefore, it was

Moved by P. Sandhar  
Seconded by J. Rahiman

THAT the Board finds that undue hardship would be caused to the Appellant by compliance with the Zoning Bylaw and orders that Appeal No. 19-03, to relax the 80/20 provision that the second floor area be 80% of the ground floor area, to permit the construction of an addition to the rear of an existing home at 12236 – 64 Avenue, as presented to the Board, be ALLOWED.

CARRIED UNANIMOUSLY

I. Dhillon rejoined the meeting at 9:55 a.m.

#### D. OTHER BUSINESS

##### 1. Planning Updates

The Chair recalled recent meetings where the Board requested information on the following issues:

- The construction of new developments in the Bridgeview flood plain area, resulting in unreasonable restrictions on overall building height and design ("Bridgeview"); and
- Impacts of the 80/20 Rule ("80/20") on existing housing built prior to the adoption of the Bylaw regulation.

With respect to Bridgeview, Planning staff acknowledged it is difficult for some new development in the area to comply with the height restrictions as a result of the flood plain. However, exceptions to the Bylaw could become very complex and cumbersome with many layers, making it more complicated to understand. As Bridgeview is the only area affected by this restriction (agricultural land has preloaded to accommodate the flood plain), staff will continue to monitor the number of Board of Variance Appeals for future consideration.

With respect to the 80/20 and the possibility of grandfathering developments constructed prior the implementation of the Bylaw, Planning staff provided an overview of the number of Appeals considered by the Board from 2015 to 2019, and reported the following:

- Excluding Land Use Contract Appeals, 85% of the Appeals considered from 2015 to date were for standard set back variances, and the remaining 15% were split with four Bridgeview Appeals and five 80/20 Appeals.
- Similarly, for the 80/20 between 2016 and 2018, there were only two Development Variance Permit (DVP) applications to Council for renovations to homes, and four new-build DVP applications to Council. Typically, new-build 80/20 variances are not seen as a hardship, which is why they are considered by Council under a DVP.

Planning staff concluded that although 80/20 Appeals have been identified as an issue anticipated to increase with the number of residents now considering renovations to their homes instead of moving, and Bridgeview Appeals are likely to increase as the area is redeveloped, discussions within the Planning Department (Building and Planning Management) concluded it is still a relatively low number of Appeals to warrant any amendments at this time.

In response to the information provided, the Board noted the following:

- The intent of the 80/20 was to ensure new development (back in the 80s) was not repetitive. However, the intent does not fit for a simple addition to a home, or for the homeowner to spend so much time and money to determine how to meet the 80/20; it creates unnecessary anxiety and an unreasonable expectation from the property owners.
- As noted previously, the interpretation of the 80/20 in some cases allowed an alteration to the rear of the home only; this practise has since changed and the 80/20 is applied to all circumstances.
- One of the roles of the Board is to identify where there are regulations that don't make sense. The lack of height adjustment for Bridgeview, an area that needs the amendment simply because of where it is located, does not make sense.
- Furthermore, since the first 80/20 Appeal was considered by the Board, it has been requested that when citizens are seeking a Building Permit for an addition to their home that is affected by the 80/20, that they are informed at the very beginning that they may not be restricted or have to compromise their design options because of the 80/20. They should not be reluctant to proceed with their plans and know there is a process in which they may receive a variance to achieve what they wanted in the first place.

E. NEXT MEETING

The next Board of Variance hearing is scheduled for Wednesday, July 10, 2019 at 9:00 a.m.


F. ADJOURNMENT

Moved by B. Sidhu  
Second by P. Sandhar

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The meeting adjourned at 10:17 a.m.



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Gil Mervyn, Chair



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Lorraine Anderson, Secretary