

**City of Surrey
Board of Variance
Minutes**

1E – Committee Room B
City Hall
13450 - 104 Avenue
Surrey, B.C.
WEDNESDAY, NOVEMBER 13, 2019
Time: 9:00 a.m.
File: 0360-20

Present:

Gil Mervyn, Chair
Inderjit Dhillon
Beerinder Sidhu

Absent:

Puneet Sandhar
Jennifer Rahiman

Staff Present:

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

A. ADOPTION OF MINUTES

1. Minutes of the Board of Variance hearing held September 11, 2019.

Moved by B. Sidhu
Seconded by I. Dhillon

THAT the Minutes of the Board of Variance hearing held on September 11, 2019, be received and adopted as circulated.

CARRIED UNANIMOUSLY

2. Minutes of the Board of Variance hearing held October 9, 2019.

Moved by I. Dhillon
Seconded by B. Sidhu

THAT the Minutes of the Board of Variance hearing held on October 9, 2019, be received and adopted as circulated.

CARRIED UNANIMOUSLY

B. DEFERRED APPEALS

C. NEW APPEALS

1. **Appeal No. 19-09 – Chow**

For permission to reduce the rear yard setback from 7.5m to 6.6m, to permit the retention of an existing patio canopy at 8099 – 168A Street.

The Board acknowledged Nathan Chow, Appellant, in attendance to speak to the application.

Mr. Chow informed the existing patio canopy was built without permits and is considered non-conforming. Based on aerial photos, it appears the canopy has existed since 2008, prior to 2016 when the Applicant purchased the home. As the canopy is projecting 80cm or more and is attached to the building, it is not considered a separate structure, whereas a canopy that is not attached would be considered a separate structure and would be permitted. The height of the canopy is lower than the 6ft. fence at the rear property line and does not have any height dominance or pose any threat of massing to the privacy of the neighbours. There is a honeysuckle vine that covers the canopy for more privacy, however there is a 3m wide utility easement in the rear yard that prevents the ability to plant any additional functional landscape privacy screening. The canopy provides the Appellant with a sense of privacy and enjoyment of the backyard space as the topography of neighbouring property at the rear is much higher, resulting in the neighbour having direct sightlines to the Appellant's property and into his home. Permission is sought to retain the existing patio canopy without removing or modifying the structure and to provide continued enjoyment of the space and privacy from the neighbouring property.

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

- If the variance is permitted an unrelated building permit for a secondary suite located in the basement of the house will be released.
- To detach the existing canopy would create water ingress to the building envelope because it is attached to the stucco. Removal of the canopy would be more difficult and costly to achieve than to retain the function of the canopy which, as stated by the neighbours, is not a nuisance, distraction or has any other adverse affects on to any neighbouring properties.
- The canopy existed when the home was purchased in 2016; not aware of the 80cm encroachment until undergoing the process of approval for a secondary suite.
- Planting a hedge where there is a utility easement would be taking a risk; future access, if required, would be at a cost to the property owner. Moreover, there may be issues with disrupting the land, e.g. drainage or any unforeseen damage as a result.

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:

- Neighbours behind the property are significantly higher resulting in an issue with privacy for the Appellant.

- Undue hardship has been demonstrated. The patio canopy already existed when the Appellant purchased the home, he was unaware that the structure was non-conforming, and it does not intervene with the neighbour's privacy. To remove the canopy will cause damage to the structure of the home and be costly (and timely) to repair.

Therefore, it was

Moved by I. Dhillon

Seconded by B. Sidhu

THAT the Board finds that undue hardship would be caused to the Appellant by compliance with the Zoning Bylaw and orders that Appeal No. 19-09, to reduce the rear yard setback from 7.5m to 6.6m to permit the retention of an existing patio canopy at 8099 – 168A Street, as presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

2. **Appeal No. 19-10 – Lenko**

For permission to reduce the rear yard setback from 7.5m to 6.4m, and to reduce the garage depth from 6.1m to 5.45m, to permit the retention of an existing second floor deck and the existing garage configuration at 1951 – 128 Street.

The Board acknowledged Marie-Anne Lenko, Appellant, in attendance to speak to the application.

Ms. Lenko informed she purchased the property in 2011. During a storm in December 2018, a tree fell on the house and damaged the roof. During the Building Permit (BP) process, required by the insurance company to repair the roof, it was noticed that the second-floor deck did not comply with the 7.5m rear yard setback. The second-floor deck was pre-existing when the home was purchased, however when the City did their investigation of the property the footprint of the deck was not the same as what is shown on the 1985 BP drawings; it was not the current deck size of 12 feet x 13 feet. At the same time, it was also noticed that the garage had been enclosed and that the basement of the 1985 drawings, originally roughed-in, has since been finished to include a suite. At some point, also prior to the Applicant's purchase, the depth of the garage was reduced by approximately two feet inside the house to provide a larger habitable space in the basement level.

Ms. Lenko further noted that it was not until the damage to the roof that she discovered the non-compliance with respect to the garage and the second-floor deck. When she purchased the home there was already a secondary suite and the previous owners had been paying the fees to the City for the suite. As the house has a secondary suite, three parking spaces are required.

Given the two parking stalls on the driveway and the ability for her to park her small car in the garage, providing additional parking was never previously a concern for the Applicant or any of her neighbours. Instead of incurring more expense to remove landscaping in the small rear yard to add an additional gravel parking pad, a relaxation of the garage depth is being sought in order to legalize the existing suite. Similarly, retention of the pre-existing second-floor deck is also being sought to avoid a substantial financial hardship.

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

- The property is unique to neighbouring houses as it is set back quite a bit and has a water main in the rear yard.
- Neighbours have been advised of the City's requirements and have expressed their support for the current parking configuration on the property, recognizing that the parking stalls are used by the tenant.
- The City's request for the BP for the repair was confusing, noting it was required for the roof repair because of the structural component, however there had already been a structural engineer inspect the roof, deck and garage, which were all fine.
- The suite is pre-existing; a BP application for the suite had not been applied for as it was already there, but it is now a requirement to apply for a BP for the deck, the suite and enclosing the garage.

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

- The Applicant is unable to provide parking at the front (east side) of the house because 128 Street is an arterial road and driveways are not permitted on arterial roads.
- The suite was on record with the previous owner as an illegal suite.
- There is now a requirement for three parking spots for all homes with suites, previously two, plus one for a suite, but now three all around.
- Looks likely there was a carport when the house was built, which was longer than the garage because the den was not previously there; likely an exterior wall of the house.

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

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

- There are two appeals to be considered, to reduce the garage depth and to reduce the rear yard setback, both of which came about as a result of a tree falling on the roof, not from a complaint from a neighbour, etc.
- Looking at the intent of the bylaw, the rear yard setback is consistent for most properties, having space between the property line and the house to provide a yard. In this case however, there is a lane. If the intent is to provide privacy, the intent is being met by virtue of there being a lane.
- Undue hardship has been demonstrated. The request is to permit the garage depth and the second-floor deck, as already existing when the Appellant purchased the property. To extend the garage at the back of the property is not possible without incurring a significant expense and similarly, compliance for the second-floor deck would require removing and rebuilding a new deck, incurring additional financial hardship.

Therefore, it was

Moved by I. Dhillon
Seconded by B. Sidhu

THAT the Board finds that undue hardship would be caused to the Appellant by compliance with the Zoning Bylaw and orders that Appeal No. 19-10, to reduce the rear yard setback from 7.5m to 6.4m and to reduce the garage depth from 6.1m to 5.45m, to permit the retention of an existing second floor deck and the existing garage configuration at 1951 – 128 Street, as presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

D. OTHER BUSINESS

1. Proposed 2020 Board of Variance Meeting Schedule

The proposed 2020 Board of Variance Meeting Schedule was reviewed.

Therefore it was

Moved by B. Sidhu
Seconded by I. Dhillon

THAT the proposed 2020 Board of Variance Meeting Schedule, as presented, be adopted.

CARRIED UNANIMOUSLY

E. NEXT MEETING

The next Board of Variance hearing is scheduled for Wednesday, December 11, 2019 at 9:00 a.m.

F. ADJOURNMENT

Moved by B. Sidhu
Second by I. Dhillon

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The meeting adjourned at 9:36 a.m.

Gil Mervyn, Chair

Lorraine Anderson, Secretary