

**City of Surrey
Board of Variance
Minutes**

2E – Community Room B
City Hall
13450 - 104 Avenue
Surrey, B.C.
WEDNESDAY, MARCH 11, 2020
Time: 9:00 a.m.
File: 0360-20

Present:

Gil Mervyn, Chair
Inderjit Dhillon
Dave Hans
Puneet Sandhar
Beerinder Sidhu

Absent:

Staff Present:

K. Broersma, Planning & Development
L. Anderson, Secretary

ELECTIONS and APPOINTMENTS

1. Election of Chair for 2020

The Secretary called for nominations for the Chair of the Board for the 2020 calendar year.

It was

Moved by P. Sandhar
Seconded by I. Dhillon

THAT Gil Mervyn be nominated for Chair of the Board of Variance for the 2020 calendar year.

Following due process, Gil Mervyn was elected Chair of the Board of Variance for the 2020 calendar year, by acclamation.

A. ADOPTION OF MINUTES

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

Moved by P. Sandhar
Second by I. Dhillon

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

CARRIED UNANIMOUSLY

B. DEFERRED APPEALS

C. NEW APPEALS**1. Appeal No. 20-01 – Ghani**

For permission to relax the 80/20 provision that the second floor area be 80% of the ground floor area, to permit an addition to the front entrance area of the existing house at 7880 – 139A Street.

The Board acknowledged Iftikhar Ghani, Appellant, in attendance to speak to the application.

Mr. Ghani informed he has a Building Permit to renovate space on the first (lower) floor of his house to provide space for a daycare. However, once the daycare is in operation, access to the home for the family of five and all guests will be through the front door as the garage entrance will become daycare access only. Given the extremely tight entrance area at the front door, a small renovation, to increase the floor space at the front entrance is proposed. The extra space will provide greater access for the family and guests and include space for shoes, moving furniture, etc. Although the entrance is not on the second floor, the Appellant was advised the location of the entrance needs to meet the requirements of the 80/20 Rule (“80/20”); the second-floor area be no more than 80% of the ground floor area, which would require extensive renovations of the second floor in order to accommodate. A variance to relax the 80/20 to allow an addition to the front entrance area of the house is being sought.

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

- There was already a Building Permit for the daycare when the front entrance addition was discussed. City staff suggested the daycare be completed and receive final inspection first.
- The daycare is almost finished; the flooring is currently being done.
- The existing front entrance does not provide enough space as an entrance for family members and guests, shoes would need to be taken downstairs, and the area is too small to move any furniture in or out of the home, if needed.
- The only setback to the proposed renovation is the 80/20.

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

- The 80/20 requirement may have been triggered through the Building Permit application when it was being reviewed under the existing zone. In this case it does not comply to the 80/20

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

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

- The proposed renovation design conserves the existing layout of the two storeys of the home itself. Adding only to the front façade, which seems part of the first storey, brings the necessity of a variance into question.
- Undue hardship has been demonstrated. The entrance from the garage is not available due to the daycare therefore extra space is required to accommodate dedicated space at the front entry to the home, which would be allowed if not for the 80/20. The house was built long before the 80/20 Bylaw was introduced and, given the location of the front façade, it is not possible to bring the home into compliance without further, and very extensive, renovations.

Therefore, it was

Moved by I. Dhillon
Second by B. Sidhu

THAT the Board finds that undue hardship would be caused to the Appellants by compliance with the Zoning Bylaw and orders that Appeal No. 20-01, to relax the 80/20 provision that the second floor area be 80% of the ground floor area, to permit a an addition to the front entrance area at 7880 – 139A Street, as presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

2. Appeal No. 20-02 – Singh

For permission to increase the building height from 9.0 metres to 9.8 metres, to permit the construction of a new single family dwelling at 12822 – 114A Avenue.

I. Dhillon declared a conflict of interest regarding Appeal No. 20-02 and left the meeting at 9:15 a.m.

The Board acknowledged Kamaljit Singh, Appellant, and Manjit Singh, Agent for the Appellant, in attendance to speak to the application.

The Agent informed the Appellant hired a designer to prepare plans for the new home in accordance with the RF (Single Family Residential) Zone for the property, however it was determined that the 9.8m height required for the design of the home, to accommodate the required living space within 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 of the floodplain limitations and height challenges for the design of the home, a variance 0.8m, to increase the height to 9.8m is being sought.

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

- Not sure if the pitch of the roof can be reduced.
- If it wasn't for the flood plain restrictions, the design of the home would comply with the requirements of the RF Zone. The home cannot have a traditional ground floor; the crawl space is not habitable.
- To comply with the Bylaw, the ceiling heights would need to be less than 8 ft., or the home would need to be a single storey.

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

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

- 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 less space available to meet the requirements of the zoning bylaw.
- 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.
- The property is on a dead-end street and it is due for redevelopment; most of the properties are single storey, dating back to the 50's 60's.
- Undue hardship has been demonstrated as a result of the impact from the floodplain restrictions requiring the habitable space to be above the established floodplain level.

Therefore, it was

Moved by P. Sandhar

Second by B. Sidhu

THAT the Board finds that undue hardship would be caused to the Appellants by compliance with the Zoning Bylaw and orders that Appeal No. 20-02, to increase the maximum permitted building height from 9.0 metres to 9.8 metres, to permit the construction of a new single family dwelling at 12822 – 114A Avenue, as presented to the Board, be **ALLOWED**.

CARRIED UNANIMOUSLY

D. OTHER BUSINESS

1. Concerns Arising from Board Appeals

(a) 80/20 Rule

Further to the many discussions the Board had in 2019 with respect to the requirement for the 80/20 Rule ("80/20") Appeals for homes constructed prior to the establishment of 80/20, the Board raised additional concerns with respect to the necessity for an 80/20 Appeal where the change is very minor, as demonstrated earlier in the meeting under Appeal 20-01.

It was noted that previously issues arose when there were major changes to an existing building, however Appeal 20-01 seems very unjust to have put the client through the time and expense to consider such a minor change.

Discussion ensued with respect to grandfathering homes constructed prior to the adoption of the 80/20. Comments were as follows:

- Until recently, it was the understanding that only an addition to the home which was visible from the street had to comply to the 80/20; previously additions made to the rear of the home were not impacted by the 80/20. In Appeal 20-01, the Applicant is adding on to the lower floor at the front of the home, which shouldn't need 80/20 compliance as it is already on the lower floor. Compliance for such a small change on the lower floor would require significant changes to the second floor to meet the 80/20.
- Would it also be the case if an Applicant wanted to change a few windows?

- The Board reviews many unique situations resulting from the zoning applied and the individual home design requirements, but what about those homes that want to retain the building and do simple renovations? With the economy as it is, there needs to be consideration given for those property owners that want to improve the home they have now, to support their needs, without undergoing the added time constraints and Appeal process as a result of the 80/20.
- The Bylaw itself needs a thorough review; currently it is written such that it can be interpreted in many ways and, in a general sense, creates a significant number of cases of "undue hardship" and appeals to the Board.
- Even though the Board of Variance process is less expensive and less time consuming, it doesn't warrant all non-conforming construction to require the Board's consideration.
- If grandfathering was permitted for "box" homes constructed prior to the 80/20 adoption, will there be any instances where this liberty may be misused? Would it be at the discretion of staff?
- If changes to the home are made to the inside, and the foundation walls are not changed at all to impact the house shape, then non-compliance would still be flagged/triggered.
- It is appropriate for the Board to refer any issues and/or concerns it identifies to Council; for Council to refer to staff for consideration and report back.
- There is value in presenting observations/concerns to Council. It is the Board's duty to present to Council in an effort to make processes efficient and to raise a flag where it has identified a consistent issue which is creating a more generalized hardship as a result of a provision of the Zoning Bylaw.

Therefore, it was

Moved by I. Dhillon
Second by B. Sidhu

THAT the Board recommend to Council that staff be directed to review the provisions of the 80/20 Rule, as applied to all existing principle buildings on the properties developed prior to the adoption of the 80/20 Rule, and give consideration to grandfathering such non-conforming principle buildings.

CARRIED UNANIMOUSLY

(b) Floodplain Issues

Concerns pertaining to the zoning and impact of height restrictions in the Bridgeview area were discussed. It was noted that the Board had identified these issues with staff previously without resolution due to the limited Appeals in this regard. In the meantime, the Bridgeview area has increased development, floodplain or not, making it very likely for an increase in Appeals due to the current zoning height restrictions. Comments were as follows:

- Surrey does not appear to have any policies in relation to flood zone areas or any provisions to adjust height provisions, but there are other municipalities that have effectively addressed the issue, allowing for adjusted maximum permitted building heights in flood zone areas.
- Would seem reasonable to have a provision for floodplain areas to be permitted to maintain the same height as permitted in other areas not impacted by a floodplain, by adjusting the maximum height permitted to compensate for the floodplain.

In response to questions from the Board, staff reported the following:

- For the Fraser River floodplain there is a 4.4m flood construction level; no habitable space below 4.4m permitted. There are homes that look like they are three storeys, but actually two storeys. If there was a zone for the Bridgeview area to a height of 10m from the street, Appeals such as 20-02 above would not be necessary.
- Calculations are not taken from the floodplain; the province is continually monitoring the floodplain as it is changing.
- Crescent Beach is another area in Surrey with sea level rise. Bridgeview and Crescent Beach are the only two real non-farm areas that area affected.
- Under the Coastal Flood Adaptation Strategy, staff are currently looking at the zoning for the rising sea levels in Crescent Beach and have recently done two pilot projects with the main floor completely non-habitable.

The Board reiterated the issue is that the floodplain in the Bridgeview area results in undue hardship because of the height restrictions from the current zoning. Consideration should be given to providing an adjustment to the maximum building height permitted in a flood zone

Therefore, it was

Moved by B. Sidhu
Second by D. Hans

THAT the Board recommend to Council that staff be directed to review the application and interpretation of the principle building height for new residential development in the Bridgeview area which are impacted by flood plain limitations.

CARRIED UNANIMOUSLY

(c) Land Use Contract Appeal Follow-up

Members of the Board raised concerns with respect to a previous Land Use Contract Termination Extension Appeal approved by the Board. In particular, registered owners on the Certificate of Title (joint Appellants) at the time the Appeal was granted, and the interpretation with respect to the removal of any one or more of those joint Appellants, and the status of the Appeal approval prior to the issuance of the Building Permit. In this case, the Building Permit had been denied, as the registered owners of the property at the time the Appeal was granted had changed. One registered owner had been removed from title, but the others remained.

It was reported that members of the Board were receiving inquiries directly from the public as opposed to City staff. Staff confirmed that all inquiries should be communicated directly to staff for response and that the information recently received by members of the Board will be forwarded to staff to follow-up, and report back to the Board.

E. NEXT MEETING

The next Board of Variance hearing is scheduled for Wednesday, April 8, 2020 at 9:00 a.m.

F. ADJOURNMENT

Moved by P. Sandhar
Second by B. Sidhu

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The meeting adjourned at 10:20 a.m.

Gil Mervyn, Chair

Lorraine Anderson, Secretary

**BOARD OF VARIANCE
RECOMMENDATION INDEX
Wednesday, March 11, 2020**

TWO RECOMMENDATIONS

1. Concerns Arising from Board Appeals

That Council direct staff to review the provisions of the 80/20 Rule, as applied to all existing principle buildings on the properties developed prior to the adoption of the 80/20 Rule, and give consideration to grandfathering such non-conforming principle buildings.

2. Floodplain Issues

That Council direct staff to review the application and interpretation of the principle building height for new residential development in the Bridgeview area which are impacted by flood plain limitations.