

Present:

G. Mervyn, Chair
I. Dhillon
D. Hans
H. Meawad
B. Sidhu

Absent:**Staff Present:**

K. Broersma, Planner, Planning & Development
S. Guinjicna, Plan Checker, Building
M. Medurecan, Plan Checker, Building
J. Welkhu, Plan Checker, Building
L. Blake, Secretary

A. ADOPTION OF MINUTES**1. Board of Variance – March 9, 2022**

It was

Moved by I. Dhillon

Seconded by B. Sidhu

That the Minutes of the Board of Variance hearing held on March 9, 2022, be received and adopted as circulated.

Carried

B. DEFERRED APPEALS

This section had no items to consider.

C. NEW APPEALS**1. Appeal No. 22-05 – Magnuson**

To vary the north side yard setback from 1.8 metre to 1.5 metre, and the east rear yard setback from 7.5 metre to 0.6 metre for a maximum 50% of the length of the rear building face, to permit retention of an existing covered deck at 10682 – 164A Street.

The Board acknowledged K. Magnuson and A. Magnuson, the Appellants, and their agent, Ryan Mills, in attendance to speak to the application.

The Chair confirmed that there were no persons present to speak to the application and that one piece of correspondence had been received in opposition to the proposal.

The Chair then called on the Appellant to present their appeal.

The Appellants provided the following information:

- The Appellants have lived in the area since 2001 and have lived in the home since 2009. Over the years, they have completed many upgrades, budget permitting, as the home was in poor condition when it was purchased.

- After completing an in-ground swimming pool and accompanying structure to house the pool equipment, both built with the required permits, the Appellants began construction on an outdoor living space. The project evolved during the construction process, resulting in the current covered outdoor deck. In July 2021, a stop-work order was applied to the property, as the deck did not have the necessary permits.
- In August 2021, the family endured a personal tragedy when their son was killed in a car accident near their home. As the crash site is a constant reminder of their loss, the family wishes to move from the area, but cannot sell their home due to the stop-work order and unpermitted deck. The Appellants have been unable to return to work full time since the accident and have used the remaining equity in their home to pay for many unforeseen costs. Removing the structure would be costly.

In response to the correspondence received, the Appellants advised that the deck does not impact the neighbouring property, an existing hedge along the property line provide privacy (especially during spring and summer) and there are no shade impacts. The Appellants suggested that the deck increases their homes value, which will positively increase neighbouring properties' values.

In response to questions from the Board, Keith Broersma, Planner, and Sabrina Guinjicna, Plan Checker, provided the following information:

- As the deck structure is less than two feet from grade, the Appellants would be able to retain the deck without the roof and supporting posts. Additional review would be required to determine if a partially covered structure would be permitted.
- The intent of the rear yard setback in the Zoning Bylaw is to provide outdoor space for recreation as well as a buffer between neighbouring properties. It was noted that the interface between each property is unique, as grading and landscaping can impact buffers.
- There are fire and spatial requirements under the BC Building Code that would usually apply to an exposed wall face depending on the distance from the property line. In this case, as the structure is an attached covered outdoor space, it does not need to meet those requirements.

In response to a question from the Board, the Appellants noted that their rear neighbour has a deck, which is also covered, that is close to their property line.

In reviewing photographs of the site and the floorplans, Members of the Board made the following comments regarding the requested variance:

- Board of Variance hardships must be undue and created by the application of the Zoning Bylaw. The Board cannot take circumstances beyond that into consideration and cannot take action that defeats the intent of the Zoning Bylaw.

- The deck does not defeat the purpose of outdoor recreation space. While it is close to the property line, there is an existing hedge on the rear property line that provides privacy and a buffer.
- There would be financial hardship to remove the deck.

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. 22-05, permission to vary the north side yard setback from 1.8 metre to 1.5 metre, and the east rear yard setback from 7.5 metre to 0.6 metre for a maximum 50% of the length of the rear building face, to permit retention of an existing covered deck at 10682 – 164A Street, as presented to the Board, be allowed.

Carried

The Board noted that it is unfortunate when residents begin construction projects without understanding the necessary requirements. The Board's decision is not a precedent for other applications, and the Board does not encourage residents to build without the necessary permits.

D. OTHER BUSINESS

This section had no items to consider.

E. NEXT MEETING

The next Board of Variance hearing is scheduled to be held on Wednesday, May 11, 2022, at 9:00 a.m.

F. ADJOURNMENT

It was Moved by I. Dhillon
Seconded by D. Hans
That the April 13, 2022 Board of Variance meeting be adjourned.

Carried

The Board of Variance meeting adjourned at 9:43 a.m.

Certified correct:

Lauren Blake, Secretary

Gil Mervyn, Chair