

MINUTES
BOARD OF VARIANCE MEETING
COMMITTEE ROOM NO.2,
SAANICH MUNICIPAL HALL, 770 VERNON AVENUE,
WEDNESDAY, JANUARY 9, 2008, AT 7:00 PM

Members: Mr. Weinrich; Mr. Bartlett; Mr. Charania; Ms. Jones and Mr. Parker.
Staff: Mr. Jackson, Building Inspector; Mrs. Hoffmann, Sr. Committee Clerk.

The Secretary asked for nominations for Chair for 2008.

Election of Chair Moved by Mr. Charania and Seconded by Ms. Jones: "That Peter Weinrich be nominated as Chair for 2008."
There being no other nominations, the Motion was Put and Carried, and Mr. Weinrich assumed the Chair.

Election of Vice Chair Moved by Mr. Bartlett and Seconded by Ms. Jones: "That Haji Charania be nominated as Vice-Chair."
There being no other nominations, the Motion was Put and Carried

Minutes: Moved by Mr. Charania and Seconded by Mr. Bartlett: That the Minutes of December 12, 2007 be adopted as amended."

Carried.

Sea View Road
Accessory bldg.

APPLICATION OF BARRIE AND MARGARET HILL FOR RELAXATION OF THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 0.25 M, AND THE FRONT LOT LINE FROM 7.5 M TO 3.04 M, FURTHER TO THE RECONSTRUCTION OF THE EXISTING NON-CONFORMING GARAGE AND A SMALL ADDITION TO THE NORTHEAST CORNER, RELAXING THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 0.25 M, ON LOT A OF 1, SECTION 44, VICTORIA DISTRICT, PLAN 4152, 2710 SEA VIEW ROAD.

The application was TABLED at the December 12, 2007 meeting.

Moved by Mr. Charania and Seconded by Mr. Bartlett: "That the application be lifted from the table."
Carried.

Applicant: Mr. and Mrs. Hill, owners and applicants, were present in support of the application and had nothing to add.

In Favour: Ms. K. Jones, 2724 Sea View Road, stated her only concern is about possible damage to her plantings, but understands this is a civil matter.
The Board noted that the applicant had given assurance at the last meeting that there would be no trespass.

In Opposition:
MOTION:

Nil
MOVED BY MR. CHARANIA AND SECONDED BY MR. BARTLETT: "THAT A VARIANCE BE GRANTED TO RELAX THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 0.25 M, AND THE FRONT LOT LINE FROM 7.5 M TO 3.04 M, FURTHER TO THE RECONSTRUCTION OF THE EXISTING NON-CONFORMING GARAGE AND A SMALL ADDITION TO THE NORTHEAST CORNER, RELAXING THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 0.25 M, ON LOT A OF 1, SECTION 44, VICTORIA DISTRICT, PLAN 4152, 2710 SEA VIEW ROAD, IN ACCORDANCE WITH THE PLANS SUBMITTED, WITH SAID VARIANCE EXPIRING ON JANUARY 9, 2010, IF NOT ACTED UPON."

CARRIED.

Haro Road
Deck
replacement

APPLICATION OF MR. AND MRS. G. PREVOST FOR RELAXATION OF THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 0.61 M, THE COMBINED INTERIOR SIDE LOT LINE FROM 4.5 M TO 4.1 M AND THE CANTILEVERED PORTION OF THE DECK FROM 0.84 M TO 0 M, FURTHER TO THE RECONSTRUCTION OF AN EXISTING NON-CONFORMING DECK ON LOT C, SECTION 44, VICTORIA DISTRICT, PLAN 15548, 4069 HARO ROAD.

The Notice of Meeting was read and the applicants' letter received.

A letter in opposition was received from Hisashi Kobayashi, 4071 Haro Road dated January 7, 2008.

Just prior to the meeting, the applicant's submitted a letter in response to Mr. Kobayashi's concerns dated January 9, 2008, together with letters in support of the variance from Jocelyn and John Holm, 2274 Arbutus Road, Douglas Freeman, 4086 Monarch Place, Mr. and Mrs. Carreiro, 4175 Tuxedo Drive, Peter Symcox, 502-5110 Cordova Bay Road.

Applicant: Mr. and Mrs. Prevost, owners and applicants, were present in support of the application. They had nothing to add to the application at this time.

In Opposition: Mr. Kobayashi, 4071 Haro Road, submitted a second letter dated January 9, 2008, together with photographs, and stated:

- His neighbours started construction disregarding the property line, without consulting him in advance and are asking for approval after the fact – and for this alone, the application should be rejected.
- There is no evidence in the Prevost's letter to indicate that the new deck is in exactly the same location and the same size as the original deck.
- He presented a colour-coded drawing (attachment #1) he prepared in consultation with the previous owners, the Lidstones, showing the house, the original deck, the new deck, the property line, and the required setback. This plan indicated that a large portion of the deck encroached onto his property.
- The Prevosts are extending the deck and stairs towards the ocean, and this part is almost twice as large as the original.
- He submitted photographs showing the current status of the deck, the four trees that have been planted on his property, and the stone wall and steps that have been built during his absence, without any consultation with him.

The Building Inspector noted that the applicants have made it clear on their application that the small corner of the deck that encroaches onto Mr. Kobayashi's property will be removed.

In Favour: Mr. Freeman, 4086 Monarch Place, stated his house is above the subject property and he has lived here since 1996.

- He was on the deck on a number of occasions when the property was owned by the Lidstones – and at that time the deck was in

need of repair.

- The skeleton deck that is there now is in the same place as the original, abutting the large hedge. You could not walk between the original deck and the hedge and he can confirm that the deck shown on the diagrams submitted by the applicants looks like the deck that was there previously.

Mrs. Prevost confirmed:

- The surveyors came out after the deck reconstruction had started because she had assumed that the variance was to their property line.
- Dr. Kobayashi had installed a chain link fence, which she assumed was on the property line, and therefore she planted trees on her side of the fence for screening.

Mrs. Holme, 2274 Arbutus Road, stated:

- She has been on the Prevost's property many times, and also before they owned the property, and she assured the Board that she has never been able to walk behind the deck and the hedge to get to the beach.
- It has been implied that between 2001 and 2005 the Prevosts changed the size of the existing deck, meaning that the aerial view taken by Saanich in 2005 does not show the original deck.
- The Prevosts maintain that they are reconstructing the deck in the same location as the old deck. She can confirm this and also the fact that the old deck was dangerous and needed to be repaired.
- The Prevosts did nothing to the deck from 2001 until the summer of 2007; her husband helped them with some of the construction.
- The Prevosts do not hold large parties or make a lot of noise as alleged by Mr. Kobayashi.
- She has never once seen Mr. Kobayashi in his garden in the past five or six years.

Ms. Rose Nyhoff, 4080 Monarch Place, stated she knew the previous owner and part of the reason why he did not worry about property lines is because he was in the construction business and probably built the deck himself without permits.

Mr. Jim Wessell, 4090 Monarch Place, stated as far as he is concerned, this issue only affects the Kobayashis and the Prevosts. It does not affect him at all.

While one Board member thought the coloured sketch submitted by Dr. Kobayashi was a pivotal point, other Board members questioned its validity because Mr. Kobayashi maintains the green area is the original deck and the red area is the proposed deck. In particular, the black outline was queried as some members felt that was the original deck.

Dr. Kobayashi assured the Board that he had completed the sketch in consultation with Mr. Lidstone, who built the deck. The new trees

planted by the Prevosts may establish privacy for them but they will block his view.

Mrs. and Mrs. Prevost stated:

- The deck is on the same footings and the same position.
- The black line on the Dr. Kobayashi's sketch is the deck that is there now – not the green line.
- A survey has been submitted showing the deck with the original application package – they did not “draw” the deck on it.
- They are only replacing the deck because it was unsafe.
- The configuration has changed slightly and this is where things went astray.
- They are sure Mr. Lidstone was unaware that the deck encroached onto the neighbour's property; they were unaware of this also until the most recent survey was completed.
- They had a previous survey when they bought the property that showed the property line; there was also a long fence between the properties. They did not check to ensure the fence was right on the property line – which apparently it isn't.
- They are unsure what the cost would be to alter the deck so it meets the required setback, but they have already spent a great deal on money on the reconstruction as well as surveyors' fees.

The Building Inspector stated that as per his instructions, the applicants hired a surveyor – and this document is part of the package. The survey indicates that .29 m of the deck encroaches on one corner, and the post encroaches .005 m. The applicant will be removing this construction – and would have already done so if a stop work order had not been issued. The survey relates to the black line on the sketch.

MOTION:

**MOVED BY MR. CHARANIA AND SECONDED BY MR. BARTLETT:
“THAT THE APPLICATION BE REJECTED.”**

Discussion from some Board members noted:

- The chronology of events, the pre-existing deck based on Dr. Kobayashi's evidence and his discussions with the previous owners suggests that the location of the original deck is questionable.
- All existing lumber could be re-used if the deck were to be altered.
- There is no hardship: the applicants want to replace an existing deck.
- No permits were applied for and some members take issue with applicants asking for permission after the fact.

Other Board members had a different point of view, noting:

- This construction is not “after the fact” because the applicants thought they were just replacing a pre-existing deck that was rotten.
- There was no intentional deceit – the deck was simply unsafe and in need of repair; the applicants state portions of the deck and stairs are smaller and have less lot coverage.
- Both parties were unaware of the actual property line; Dr. Kobayashi recently installed a chain link fence following the same

line as the existing fence.

- The previous deck also encroached on the neighbour's property.
- The coloured sketch submitted by Dr. Kobayashi is not believable and his evidence is feeble. The Lidstones did not sign this drawing supposedly confirmed by them and they did not attend the meeting.
- Dr. Kobayashi has a large property; his house is far away from the deck in question; with the existing hedge, privacy is not an issue.
- Although there was concern noted regarding the zero lot line, the encroachment onto the neighbour's property is minor – and will be removed.

The Motion was then Put and **REJECTED**,
With Mr. Parker, Ms. Jones and Mr. Weinrich voting against.

MOVED BY MS. JONES AND SECONDED BY MR. PARKER: "THAT THE APPLICATION BE APPROVED TO RELAX THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 0.61 M, THE COMBINED INTERIOR SIDE LOT LINE FROM 4.5 M TO 4.1 M AND THE CANTILEVERED PORTION OF THE DECK FROM 0.84 M TO 0 M, FURTHER TO THE RECONSTRUCTION OF AN EXISTING NON- CONFORMING DECK ON LOT C, SECTION 44, VICTORIA DISTRICT, PLAN 15548, 4069 HARO ROAD, IN ACCORDANCE WITH THE PLANS SUBMITTED TO THE BOARD, WITH SAID APPROVAL EXPIRING ON JANUARY 9, 2010, IF NOT ACTED UPON."

CARRIED,

With Mr. Charania and Mr. Bartlett opposed.

Broadway Ave
Addition

APPLICATION OF ROBERT AND DONJA McDONALD FOR RELAXATION OF THE ALLOWABLE FLOOR SPACE IN NON- BASEMENT AREAS FROM 80% TO 94%, FURTHER TO THE CONVERSION OF EXISTING GARAGE SPACE INTO LIVING SPACE FOR THE HOUSE ON LOT 12, SECTION 82, VICTORIA DISTRICT, PLAN 1413, 588 BROADWAY AVENUE.

The Notice of Meeting was read and the applicants' letter received. A letter in opposition was received from Mrs. T. Arnold, 590 Broadway Avenue.

Applicant:

Mr. Robert McDonald, owner and applicant, together with his father, John McDonald, was present in support of the application. Mr. R. McDonald stated:

- He has received a copy of Mrs. Arnold's letter and has talked to the seven adjacent neighbours. He submitted a letter with all 7 neighbours signing to confirm their support.
- Some of the comments in Mrs. Arnold's letter are irrelevant to the application as they concern his home-based business.
- He has records regarding all the complaints regarding his business: in all cases he was found to be compliant with the regulations, except in one instance when he had an unlicensed vehicle.
- He was surprised he had to go through this process to build the bedrooms.

Because of neighbourhood concerns, he no longer operates the business from his home – which was basically using the garage as storage. Therefore, he was faced with a few options to raise extra income: operate a family day care centre, rent a basement suite, or build a couple of bedrooms for international students.

In Favour: Nil
In Opposition: Nil

MOTION: MOVED BY MS. JONES AND SECONDED BY MR. BARTLETT: "THAT A VARIANCE BE GRANTED TO RELAX THE ALLOWABLE FLOOR SPACE IN NON- BASEMENT AREAS FROM 80% TO 94%, FURTHER TO THE CONVERSION OF EXISTING GARAGE SPACE INTO LIVING SPACE FOR THE HOUSE ON LOT 12, SECTION 82, VICTORIA DISTRICT, PLAN 1413, 588 BROADWAY AVENUE, IN ACCORDANCE WITH THE PLANS SUBMITTED, WITH SAID VARIANCE EXPIRING ON JANUARY 9, 2010, IF NOT ACTED UPON."

CARRIED.

Buckingham Plc
Front porch

APPLICATION OF JOHN AND ISOBEL COLE FOR PERMISSION TO RELAX THE ALLOWABLE FLOOR SPACE IN NON-BASEMENT AREAS FROM 80% TO 92.25%, FURTHER TO THE CONSTRUCTION OF AN ADDITION TO THE FRONT PORCH ON LOT 21, SECTION 54, VICTORIA DISTRICT, PLAN 28778, 4217 BUCKINGHAM PLACE.

The Notice of meeting was read and the applicants' letter received.

Applicant: Mr. Cole, owner and applicant, was present in support of the application and had no new information to add, other than to confirm that the existing house is non-conforming.

In Favour: Nil
In Opposition: Nil

MOTION: MOVED BY MR. CHARANIA AND SECONDED BY MS. JONES: "THAT A VARIANCE BE GRANTED TO RELAX THE ALLOWABLE FLOOR SPACE IN NON-BASEMENT AREAS FROM 80% TO 92.25%, FURTHER TO THE CONSTRUCTION OF AN ADDITION TO THE FRONT PORCH ON LOT 21, SECTION 54, VICTORIA DISTRICT, PLAN 28778, 4217 BUCKINGHAM PLACE, IN ACCORDANCE WITH THE PLANS SUBMITTED TO THE BOARD, WITH SAID APPROVAL EXPIRING ON JANUARY 9, 2010, IF NOT ACTED UPON."

CARRIED.

Tudor Avenue
Retaining wall

APPLICATION OF JOHN REDMOND, ALMIC HOLDINGS, ON BEHALF OF THE OWNER MR. GAGE, FOR PERMISSION TO RETAIN AN ALREADY CONSTRUCTED RETAINING WALL, RELAXING THE HEIGHT REQUIREMENTS FROM 0.6 M TO 2.79 M, ON PART OF PARCEL A, VICTORIA DISTRICT, PLAN 501, 2705 TUDOR AVENUE.

The Notice of Meeting was read and the applicant's letter received. A letter in opposition was received from Irene Stewart, Cadboro Bay Residents' Association.

Applicant: Mr. Redmond, applicant, Mr. Gage, owner, and Mr. Larry Tschritter, Citta Construction, were present in support of the application.

Mr. Redmond stated:
– They took advantage of the existing seawall for a number of reasons, but mainly because the top of the wall was beginning to crack.

- The proposal was thoroughly discussed with Saanich Engineering Department and he assumed this was sufficient.
- There were no objections from Saanich at that time so they went ahead and constructed the wall.
- During installation of storm water pipes, some bones were exhumed. Because they were higher than the existing sea wall, they assumed that natural grade was about 2 or 3 feet higher than the sea wall.

In Favour: Nil

In Opposition: Ms. Irene Stewart, President, Cadboro Bay Residents Association, read a letter in opposition from Ruby and Mary Ann Marchildon of 2710 Tudor Avenue noting that granting the variance will undermine the fundamental principles upon which the bylaw is based, as well as set an unwanted precedent in a beach front community.

Ms. Stewart stated:

- The neighbours contacted her about the sea wall construction.
- She finds it difficult to understand how a retaining wall can be built on a sea wall when the bylaw regulating ocean front property is so clear in its intent.
- Beach shoreline is a public asset and requires added vigilance to ensure compliance prior to undertaking any work.
- The Local Area Plan is explicit regarding ocean shoreline and states in part that the bay and Haro Strait are a significant component of the character of Cadboro Bay.
- Contrary to the Local Area Plan, the appearance of the sea wall from the ocean is out of character and not in keeping with neighbouring properties.
- RS-16 zoned properties require a rear setback of 11 metres, not 7.5 metres – no structures are to be built within 11 metres of this boundary. This being ocean front property, she assumed the rear lot line was on the water side of the property.

The Building Inspector stated that accessory buildings and structures can be located 1.5 m (4.9 feet) from a rear and interior side lot line for non ocean front properties.

Mr. Wm . Laurie, 3930 Telegraph Bay Road, stated:

- It is disrespectful to the community, the neighbours and the landscape that a property owner can go ahead and build something five times the legal height.
- There is no structure like this retaining wall in the whole bay.
- He doesn't understand why it is necessary to build something this high and he hoped the Board will deny the request.

Ms. Jill Roach, 2711 Tudor Avenue, stated:

- She provided the Board with photos of the original sea wall with a fence on top, and the other sea walls on the bay.

- This particular structure is not in keeping with the others and she assumed because the wall is so high there would have to be a fence for safety reasons.
- Her sea wall is a continuation of the original sea wall and she has never yet had any water problems.
- She is concerned allowing a wall of this height will set a precedent.
- She is okay with walls being a little higher, but the owners should have gone through the proper process first.
- She acknowledged that perhaps the 2' height currently allowed is insufficient and should be revisited.
- A portion of her sea wall is approximately the same height as this wall, but it is recessed about 1.5 feet further back on the property.
- Because this is a public beach, there should have been community consultation – it is not a personal issue but a neighbourhood issue and impacts a lot of people.

The Building Inspector confirmed that a sea wall is not considered a structure – it is landscaping - and as such is not covered by the Building Code. Although Saanich bylaws have recently changed to require a guard rail on top of retaining walls, it does not apply to property fronting the ocean. He would, however, recommended that a guard rail be installed in this case.

Mr. Redmond stated:

- He thought he was following process: drawings were submitted and he assumed they would be directed to appropriate departments. He thought he had approval and he proceeded on this basis.
- It was not his intention to build something that required a variance; he was surprised when he found it was in contravention.
- The new wall was built on top of the original sea wall, with a 4" overhang and he tried to tie it in with the two existing sea walls on either side – he thought this would look better rather than dropping the height down.
- The zoning is silent on whether a wall can be built 2' back or 6" back; while no official approval was given – no objections were raised either.

Ms. Karen Hurley, 3931 Lauder Road, stated:

- She asked that the variance not be granted because hardship has not been demonstrated and it will set a precedent.
- She was concerned when she first saw the start of the construction but unfortunately did nothing about it.
- The wall is an eyesore and inhospitable; it could be reduced in height to the previous wall height.
- The original second retaining wall on this property was significantly further back than the first retaining wall.
- Regarding the letter submitted by the applicant from UVIC Professor Thomas Pederson, which speaks about climate change and rising sea levels, she agreed that we need to consider climate

- change issues – but building a wall like this is not the way to do it.
- The wall goes against the community's best interests and the Local Area Plan. If it is agreed that the height of sea walls in Cadboro Bay need to be raised because of climate change, then it should be a community decision.

Terry Pearce, 3924 Lauder Road, stated:

- He moved into the area in 1957 and he is opposed to the variance.
- If we allow people to ignore the bylaws and build what they want, then what is the point of having a bylaw?
- Natural grade seems to be inconsistent; he believes it is at the top of the buttresses.
- At least the old wall has some interest to it compared to the block of solid concrete that forms the new wall. It is an eyesore.

Mr. Eric Mueller, 3931 Cadboro Bay Road, stated:

- He constructed a new wall on his property three years ago under adverse storm conditions in February. He used exposed aggregate and built it 4" below the walls on either side.
- This beach is heavily used by the public and a 9' high wall is a radical departure from the neighbourhood standard, which is between 4' and 5'.
- He displayed photos of the bay at high tide, which shows the water lapping at the storm water outfall.

In response to a question from the Board about whether he had considered using a different finish for aesthetic reasons, Mr. Redmond stated he has put some reveals on the wall.

- He could change the appearance and the height of the wall and in hindsight if he knew this was going to be a problem he would have constructed it 6" further back.
- The old wall was set back 18" from the sea wall, but cut across the property at an angle. He tried to save as much of the original wall as possible but with the excavation to remove the old septic tank they had to demolish it.
- The original permit drawings submitted to Saanich did not show the wall because it is considered a landscaping feature. When the sewer and storm water outfall were built, he submitted drawings showing the retaining wall and the storm water outfall.
- Given that the old wall (buttresses) are there, he could comply with the bylaw in one of the following ways:
 - Remove some of the existing wall; it would be worthwhile leaving some of the wall to strengthen the old wall. He would need to build a smaller wall behind this one for additional support. This may alleviate some of the concerns.
 - Another option is to remove the whole wall and build a new wall two or three feet further back.
 - A final alternative, which is not practical or feasible, is to excavate material behind the wall and call the wall a fence. From the beach side, however, it would look no different.

The Board suggested the application be tabled to allow consultation with the community to see if an amicable solution could be found.

The applicants stated that perhaps removing all but one foot of the new wall would help to maintain the integrity of the old wall. Another wall could then be built further back on the property and landscaping in between to break it up.

MOTION: MOVED BY MR. CHARANIA AND SECONDED BY MR. PARKER: "THAT THE APPLICATION BE TABLED FOR A PERIOD OF UP TO THREE MONTHS, AND THAT THE APPLICANT CONSULT WITH THE NEIGHBOURS AND BRING BACK REVISED PLANS."

The Building Inspector confirmed the wall does not require a permit. He also noted that a significant amount of structural engineering work has been done by the applicant to support the old wall. What the applicant is suggesting, eg: removing a portion of the new wall, would salvage some of the work and expense. He pointed out if the wall is reduced to just under 2' in height – no variance would be required.

Mr. Mueller had additional comments he wished to make, but the Chair advised that issues regarding climate change are not an issue for this hearing.

The Motion was then Put and CARRIED.

Wyndeatt Avenue **APPLICATION OF ED JOHNSON FOR PERMISSION TO RELAX THE**
Carport enclosure **ALLOWABLE FLOOR SPACE IN NON-BASEMENT AREAS FROM 80% TO**
90.5%, FURTHER TO THE ENCLOSURE OF A CARPORT ON LOT 24,
SECTION 21, PLAN 5033, 2807 WYNDEATT AVENUE.

The Notice of Meeting was read and the applicant's letter received.

Applicant: Mr. Ed Johnson, owner and applicant, was present in support of the application. He stated he would like to enclose the carport for security reasons, and because it will look better for the neighbourhood. In response to a question from the Board regarding hardship, he advised he does a lot of woodworking and his current space does not have enough room to use power tools and equipment.

In Favour: Nil

In Opposition: Nil

MOTION: **MOVED BY MR. CHARANIA AND SECONDED BY MR. BARTLETT: "THAT A VARIANCE BE GRANTED TO RELAX THE ALLOWABLE FLOOR SPACE IN NON-BASEMENT AREAS FROM 80% TO 90.5%, FURTHER TO THE ENCLOSURE OF A CARPORT ON LOT 24, SECTION 21, PLAN 5033, 2807 WYNDEATT AVENUE, IN ACCORDANCE WITH THE PLANS SUBMITTED, WITH SAID VARIANCE EXPIRING ON JANUARY 9, 2010, IF NOT ACTED UPON."**

CARRIED.

Sea Ridge Lane **APPLICATION OF DANIEL AND CLAIRE KELLY FOR PERMISSION TO**
Deck Addition **RELAX THE FRONT LOT LINE FROM 7.5 M TO 6.89 M, AND FOR THE**
DECK TO PROJECT INTO THE REQUIRED FRONT YARD BY 1.81 M,
FURTHER TO THE CONSTRUCTION OF A DECK ADDITION TO THE

HOUSE ON LOT 2, SECTION 28, LAKE DISTRICT, PLAN VIP 77918, 943 SEA RIDGE LANE.

The Notice of Meeting was read and the applicants' letter received.

- Applicant: Mr. Daniel Kelly, owner and applicant, was present in support of the application and stated:
- Application for driveway access from another street was declined.
 - All he is doing is enlarging the existing deck by 2' because the back yard is so restricted due to the slope of the property.

The Building Inspector stated that should the application be approved, the applicant should hire an engineer look at the cantilevered portion.

In Favour: Nil
In Opposition: Nil
MOTION:

MOVED BY MS. JONES AND SECONDED BY MR. CHARANIA: "THAT A VARIANCE BE GRANTED TO RELAX THE FRONT LOT LINE FROM 7.5 M TO 6.89 M, AND FOR THE DECK TO PROJECT INTO THE REQUIRED FRONT YARD BY 1.81 M, FURTHER TO THE CONSTRUCTION OF A DECK ADDITION TO THE HOUSE ON LOT 2, SECTION 28, LAKE DISTRICT, PLAN VIP 77918, 943 SEA RIDGE LANE, IN ACCORDANCE WITH THE PLANS SUBMITTED, WITH SAID VARIANCE EXPIRING ON JANUARY 9, 2010 IF NOT ACTED UPON."

CARRIED.

Oceanwood Lane
Accessory bldg.

APPLICATION OF CITTA CONSTRUCTION ON BEHALF OF E. Y. PROPERTIES, FOR PERMISSION TO RELAX THE OVERALL BUILDING HEIGHT FROM 3.75 M TO 4.25 M, FURTHER TO THE CONSTRUCTION OF AN ACCESSORY BUILDING ON LOT 15, SECTION 24, LAKE DISTRICT, PLAN VIS 6414, 1267 OCEANWOOD LANE.

The Notice of Meeting was read and the applicant's letter received.

- Applicant: Mr. Bill Patterson and Mr. Mike Dalton, Citta Construction, were present in support of the application. Mr. Patterson stated:
- The accessory building is located on the low side of the property.
 - The site has not been excavated because they didn't want to blast into the tree root zones. There will be blasting in the subdivision, but only to provide for basements.
 - They have gone to great effort to preserve the trees.
 - They want to maintain the roof line of the accessory building because it is visible from the front of the house.
 - A covenant on the property requires an 8:12 roof pitch.
 - An analysis has been done on the entire site and nearly all the lots will have a problem with height requirements; they intend to apply to Council for a Development Variance Permit.
 - There are "no build" areas on the property, which cause restrictions.
 - This development was approved by Saanich Council in December 2006, and will be a Build Green BC Gold Standard
 - There is no connection between the accessory building and the house, except for a decorative breezeway with no roof – it is more like a fence.

In Favour: Nil

In Opposition: Nil

MOTION: MOVED BY MR. CHARANIA AND SECONDED BY MR. BARTLETT: "THAT A VARIANCE BE GRANTED TO RELAX THE OVERALL BUILDING HEIGHT FROM 3.75 M TO 4.25 M, FURTHER TO THE CONSTRUCTION OF AN ACCESSORY BUILDING ON LOT 15, SECTION 24, LAKE DISTRICT, PLAN VIS 6414, 1267 OCEANWOOD LANE, IN ACCORDANCE WITH THE PLANS SUBMITTED TO THE BOARD, WITH SAID VARIANCE EXPIRING ON JANUARY 9, 2010 IF NOT ACTED UPON."

CARRIED.

Lonsdale Place
Addition

APPLICATION OF HEATHER AND RICHARD GRANT FOR PERMISSION TO RELAX THE ALLOWABLE FLOOR SPACE IN NON-BASEMENT AREAS FROM 80% TO 94%, FURTHER TO THE CONSTRUCTION OF AN ADDITION TO THE HOUSE ON LOT 22, SECTION 32, VICTORIA DISTRICT, PLAN 29852, 1281 LONSDALE PLACE.

The Notice of Meeting was read and the applicants' letter received.

The Board noted that the footprint of the addition was not marked on the site.

Applicant: Mr. Richard Grant, owner and applicant, together with Ron McNeill, designer, was present in support of the application. Mr. Grant submitted a letter in support from Griffin Chen, 1279 Lonsdale Place.

Mr. McNeill apologized that the footprint was not marked; he hoped the proposal was obvious and noted that the marking was likely missed due to the Christmas holidays.

In response to questions from the Board, Mr. Grant stated:

- The area behind the existing garage is being used as a bedroom but this will be removed.
- The main reason for the addition is that this is not a large house by today's standards and his family needs more space.
- He has two children, 9 and 11, who will very soon want their own rooms and need extra space.

Mr. McNeill explained:

- A recent renovation to the upstairs to provide a family room and modern kitchen provides for space below this for the bedrooms.
- If he could dig down 2.5' lower from the existing basement, a variance would not be required.
- However, apart from the expense of doing this, there are already drainage issues: the ground is very wet and digging lower would be a nightmare.

In Favour: Nil

In Opposition: Nil

MOTION: MOVED BY MS. JONES AND SECONDED BY MR. PARKER: "THAT A VARIANCE BE GRANTED TO RELAX THE ALLOWABLE FLOOR SPACE IN NON-BASEMENT AREAS FROM 80% TO 94%, FURTHER TO THE

CONSTRUCTION OF AN ADDITION TO THE HOUSE ON LOT 22, SECTION 32, VICTORIA DISTRICT, PLAN 29852, 1281 LONSDALE PLACE, IN ACCORDANCE WITH THE PLANS SUBMITTED, WITH SAID VARIANCE EXPIRING ON JANUARY 9, 2010, IF NOT ACTED UPON.”

CARRIED.

Walking Stick Ln
Overhang
Encroachment

APPLICATION OF THOMAS AND KATHERINE BRANTON FOR RELAXATION OF THE PROJECTION OF EAVES INTO A SIDE YARD TO ALLOW THE EAVES TO PROJECT 0.86 M (2.82 FEET) INTO THE INTERIOR SIDE LOT LINE, FURTHER TO THE CONSTRUCTION OF A NEW HOUSE ON LOT 12, SECTION 33, LAKE DISTRICT, PLAN VIS 4576, 900 WALKING STICK LANE.

The Notice of meeting was read and the applicants' letter received.

A letter in support was received from Mr. and Mrs. Serafini, 204 – 5327 Cordova Bay Road, and an email in opposition was received from Mr. and Mrs. Jarzebiak, 904 Walking Stick Lane.

Applicant: Mr. and Mrs. Branton, owners and applicants, were present in support of the application. They had nothing to add to their application.

In Favour: Mr. Serafini, 204 – 5327 Cordova Bay Road, was in support of the application, and read his letter dated January 3, 2008. He noted it appears the applicants have suffered and continue to do so through no fault of their own and should not endure further hardship. He hoped the Board would approve the application.

In Opposition: Mr. Jarzebiak and his wife Maureen Leech, live next door to the property and were opposed to the variance. Mr. Jarzebiak stated:

- While a 10” encroachment is not much, it is 30% closer to the property line.
- The encroachment will affect his deck and impact his property values. His realtor has advised it would also impact on the ability to find a buyer for his property.
- Anyone considering buying the Branton's property will feel the same way because the overhang is so close to the property line.
- He raised the issue of the overhang with the site foreman in late August when the roof trusses were installed; at that time he also contacted the municipality to confirm the distance the eaves could project into the side yard, and asked that an inspector visit the site.
- The work continued on the house even though they tried on many occasions to have discussions with the site foreman.
- It wasn't until October that a building inspector confirmed a section of the eaves encroached by approximately 30%; by that time the roof was already framed. If the Municipality or the foreman had listened when he first brought the issue to their attention, it could have been dealt with.
- He acknowledged that this error was not intentional and the Brantons have every reason to be seeking accountability from the professionals they hired.
- However, he did not create the problem and does not want to live

- with the consequences.
- He submitted photographs showing the extent of the variance and noted four main reasons why the application should be rejected:
 1. The size of the encroachment is substantial.
 2. It will interfere with the quiet and enjoyment of his property.
 3. It has a negative impact on his property value.
 4. There is no hardship.
 - They received an email from the Brantons on October 23 noting that their contractor, Horizon, will be making an adjustment to the 10" overhang. On another occasion Mr. Branton also stated he was not concerned about the cost to remove the section because they would not be responsible for any costs related to cutting it back.
 - The Brantons' letter does not explain risks associated with their flat roof if they are required to cut it back.
 - Cutting back the roof would not affect the aesthetics of the house as the northeast section of roof is barely visible – except from his deck.
 - Granting this application will mean there is no accountability and he will be left with a mistake which impacts the value and enjoyment of his home.

Mr. Meagher, Horizon Contracting, stated:

- Throughout the process, the neighbours came to the site repeatedly about various issues, including the location of the building, the foundation, and the distance from their property.
- These site visits happened prior to the roof being installed.
- The surveyor marks the exact location of the house before anything is built; at the end of the day, Saanich is paid to check the setbacks and the surveyor's pins.

Mr. Jarzebiak reiterated that he specifically asked on three separate occasions about the roof overhang – and nothing was done.

Mr. Meagher continued:

- Because the house has one angled wall, the overhang along the entire length of the building varies from 3" to 10".
- This was missed by Saanich during the routine plan check; the house has been built as per the approved plans.
- Another reason why the overhang looks so close to the neighbours' property line is because his fence encroaches about 10" into the Brantons' property.
- The interior of the house is complete. Making modifications to a flat roof with pre-engineered trusses is not simple: the roof has to be opened up and redesigned, to ensure there is no water penetration.
- In hindsight, if this had been caught at the front of the process it would have been easier.
- Everyone has tried to ensure the building meets every requirement.
- One third of the property is covenanted, allowing for a very narrow building envelope.

Mr. Branton stated:

- It is difficult to find an exact demarcation point for something that is 14' in the air; he relied on his surveyors and the fact that the house is built exactly as per the approved plans.
- He was unaware of the overhang issue until the Saanich Inspector visited the site in October.

Mr. Jarzebiak admitted that a portion of his rock wall encroaches onto Mr. Branton's property; his contractor made a mistake and it will be corrected. The Brantons should also correct their mistake. There would be no shadow impact on his deck from the Brantons' house.

Mr. Alan Lowe, architect, distributed information on the design to the Board, and stated:

- The Board is here to consider whether this is a minor variance, if it is appropriate for the site and whether it maintains the general intent of the bylaw.
- The general intent of the bylaw is to have at least 10' between properties - with the minimum 5' setback on each property. Making allowance for a 2' overhang on each dwelling, there is the possibility of at least 6' between the houses.
- On this particular site plan, the neighbours at 904 Walking Stick Lane have a 5' setback on the east side and 10' on the west side.
- The Branton home is 5' on the east with a much larger setback on the west because of the covenant area.
- Because it is next to the condos, this is the only lot within the subdivision that permits a two-storey house.
- As the Brantons decided to build a single storey house, more of the allowable building envelope has been used.
- In this scenario, even with the 10" encroachment – from eave to eave there is still 10' 2" between the properties; in some areas, the distance between the properties is more than 15'.
- The property line is skewed and because of this a design feature was added to allow the wall to flare out at this point. Had this not been done, we would probably not be here this evening.
- He was not involved in the construction of the project.
- He felt that the 10" variance was a minor given the situation.

The Building Inspector confirmed that the scope of the stop work order, issued on October 17, was for the fascia projection only.

Mr. Meagher estimated the cost to correct the problem would be approximately \$4,000 to \$5,000. Timing is the main issue because of the weather. He explained the process involved, which would include altering the engineered trusses. The neighbours' fence encroaches and this gives a false sense of the property line.

MOTION: MOVED BY MS. JONES AND SECONDED BY MR. CHARANIA: "THAT THE VARIANCE BE APPROVED TO RELAX THE PROJECTION OF EAVES INTO A SIDE YARD TO ALLOW THE EAVES TO PROJECT 0.86 M (2.82 FEET) INTO THE INTERIOR SIDE LOT LINE, FURTHER TO THE CONSTRUCTION OF A NEW HOUSE ON LOT 12, SECTION 33, LAKE DISTRICT, PLAN VIS 4576, 900 WALKING STICK LANE, IN ACCORDANCE WITH THE PLANS SUBMITTED, WITH SAID VARIANCE EXPIRING ON JANUARY 9, 2010, IF NOT ACTED UPON."

Discussion noted:

- The architect made a good point about the distance between properties and the required setbacks allowed.
- It is unfortunate that the neighbours' fence is incorrectly sited because this gives the illusion that the variance is more than it is.
- The 10" encroachment is an unfortunate mistake but it is doubtful when the construction is complete it would be noticed.
- The neighbours tried on many occasions to tell the foreman he was making a mistake but he chose to ignore them.
- Although the error was not premeditated, perhaps the owners will seek compensation - \$5000 is a substantial amount.
- The neighbours have spent a lot of money on their deck but some members were unconvinced there was a significant diminishment of enjoyment caused by the 10" overhang.
- The impact on the neighbours' property with a two-storey house would be much more significant than the 10" overhang.
- The October 23rd email did state that the owner would direct the contractor to make an adjustment.
- Although this error was missed by all parties involved, the owner is ultimately responsible to ensure his house is built in compliance with the bylaws.

The Motion was then Put and DEFEATED,
With Ms. Jones, Mr. Parker and Mr. Bartlett voting against.

Mclvor Avenue
Addition

APPLICATION OF RAJ DHEENSAW FOR PERMISSION TO RELAX THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 1.45 M, AND THE COMBINED INTERIOR SIDE LOT LINE FROM 4.5 M TO 3.27 M, FURTHER TO THE CONSTRUCTION OF AN ADDITION TO THE HOUSE ON LOT 2, SECTION 39, VICTORIA DISTRICT, PLAN 10885, 3680 MCLIVOR AVENUE.

The Notice of Meeting was read and the applicant's letter received. An email was received from Anita Reichenbach, 3670 Mclvor Avenue, noting concerns about use of heavy equipment and increased truck traffic due to the proposed construction.

Applicants: Ms. Dheensaw, owner and applicant, together with Mr. Brook Clarke, Contractor, were present in support of the application. Mr. Clarke stated the letter from the neighbour, Mrs. Reichenbach, states concerns that are irrelevant to the variance.

In Favour: Nil
In Opposition: Nil

MOTION: **MOVED BY MR. CHARANIA AND SECONDED BY MS. JONES: "THAT A VARIANCE BE GRANTED TO RELAX THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 1.45 M, AND THE COMBINED INTERIOR SIDE LOT LINE FROM 4.5 M TO 3.27 M, FURTHER TO THE CONSTRUCTION OF AN ADDITION TO THE HOUSE ON LOT 2, SECTION 39, VICTORIA DISTRICT, PLAN 10885, 3680 McIVOR AVENUE, IN ACCORDANCE WITH THE PLANS SUBMITTED, WITH SAID VARIANCE EXPIRING ON JANUARY 9, 2010, IF NOT ACTED UPON."**

CARRIED.

Adjournment: On a Motion from Ms. Jones, the meeting adjourned at 11:30 p.m.

Peter Weinrich, Chair

I hereby certify that these Minutes are a true and accurate recording of the proceedings.

Recording Secretary