

MINUTES
BOARD OF VARIANCE MEETING
COMMITTEE ROOM NO.2,
SAANICH MUNICIPAL HALL, 770 VERNON AVENUE,
WEDNESDAY, JUNE 11, 2008, AT 7:00 PM

Members: Mr. Weinrich in the Chair; Mr. Bartlett; Mr. Charania; and Ms. Jones.
Staff: Mr. Jackson, Building Inspector; Mr. Gill, Development Assistant; Mrs. Hoffmann, Sr.
Minutes: Committee Clerk.
Moved by Ms. Jones and Seconded by Mr. Bartlett: That the Minutes of May 14, 2008 be adopted as amended."

Carried.

Miramar Drive
Retention of
Existing fence

Applicant: Godfrey and Myrna Westmoreland
Property: 1243 Miramar Drive
Variance: Relaxation of fence height from 1.9 m to 2.8 m

Applicant: Mr. and Mrs. Westmoreland, owners and applicants, were present in support.

This application was considered and approved by the Board on March 12, 2008. Due to a procedural error and at the request of the neighbours, Mr. and Mrs. Rados, the application was reconsidered by the Board.

Moved by Mr. Charania and Seconded by Mr. Bartlett: "That the variance to relax the fence height from 1.9 m to 2.8 m, granted on March 12, 2008, be rescinded."

Carried.

Mr. Westmoreland stated:

- A number of issues concerning their neighbours, Mr. and Mrs. Rados, prompted the construction of a higher fence, including screening from equipment, delivery and garbage trucks and chemicals used by their neighbours in the operation of their business.
- The fence has been up for over five years and the complaints from Mrs. Rados started soon after their business partnership was dissolved.
- You can't see the fence because of the foliage growing over it now and the fence is well inside the property line.
- He chose to build the fence with beach wood because it was free.

In Opposition: Mr. and Mrs. Rados thanked the Board for re-hearing the application and stated they were opposed to the variance. Mr. Rados stated:

- According to air photos of the site, the fence was built between 2003 and 2005.
- His property is about 30' higher than his neighbours and he can see into their backyard and their hot tub from the kitchen window; the fence does not serve any purpose from a privacy point of view.
- The beach wood is an eyesore.

Mrs. Rados stated:

- The only reason she complained about the fence is because of the appearance; the height is not as much of a concern.
- If the fence were built out of regular wood or fencing it would be better.
- Very few delivery trucks come to her property now and she can get

confirmation of this from Snow Cap Trucking.

- It is not true that the fence was built in 2002 when she was in a business partnership with her neighbours.
- The neighbours who support the retention of the fence can't see it.
- In the winter, there is no foliage to cover the fence.

In response to a question from the Board whether the Westmorelands would be agreeable to changing the beach wood to regular fencing, Mr. Westmoreland stated if he were to build more fencing, it would be at the correct height, but it would be with beach wood. He does not intend to replace it with regular fencing.

In Favour: Nil

MOTION: **MOVED BY MS. JONES AND SECONDED BY MR. BARTLETT: "THAT THE VARIANCE TO RETAIN THE FENCE AT A HEIGHT OF 2.8 M BE REJECTED."**

Discussion noted the following points:

- The Board must consider the height issue, not the aesthetics.
- Notwithstanding the open hostility between the neighbours, consideration must be given to the impact of the fence.
- The additional fence height does not provide any more privacy; the neighbours can still see into the Westmoreland's backyard.
- The applicant has clearly stated he is not willing to use a different fence material, but he is entitled to build a fence of any type of material he chooses, within the height requirements.
- It seems the more serious issues between the neighbours have nothing to do with the fence and don't come under the Board's jurisdiction.

**The Motion was then Put and Carried,
With Mr. Weinrich voting against.**

Bellevue Road
addition

Applicant: Hannah and Geoff Murrison
Property: 3204 Bellvue Road
Variance: Allowable floor space in non-basement areas from 80% to 85%

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

Applicant: Geoff and Hannah Murrison, owners and applicants, together with Alan Dolphin, were present in support.

- The property is over 16,000 sq. ft. and the addition is 465 sq.ft. on the main floor, with a deck on top.
- Their home is a licensed family daycare for up to seven children.
- Mrs. Murrison's father will be living with them but it will not be in a separate suite – they will be living as one family.

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 85%, FURTHER TO THE CONSTRUCTION OF AN ADDITION TO THE HOUSE ON LOT 1, SECTION 62, VICTORIA DISTRICT, PLAN 4992, 3204 BELLEVUE ROAD, IN ACCORDANCE WITH THE PLANS SUBMITTED, WITH SAID VARIANCE EXPIRING ON MAY JUNE 11, 2010, IF NOT ACTED UPON.**

CARRIED.

Doncaster Drive
addition

Applicant: Chris and Chistine Purse
Property: 3435 Doncaster Drive
Variance: Single face height requirements from 7.5 m to 8.4 m
(note: previous variance granted to a single face height of 8.25 m in August, 2007)

The Notice of Meeting was read and the applicants' letter received. A letter in opposition was received from Merrill Almendares, 3434 Doncaster Drive.

Applicant: Mr. and Mrs. Purse, applicants and owners, were present, together with Ed MacDonald, the contractor. Mr. Purse submitted seven letters in support from neighbours at 3425 Doncaster; 3430 Doncaster; 3431 Doncaster; 3440 Doncaster; 3441 Doncaster; 3451 Doncaster; and 3450 Cedar Hill Road.

They also submitted a letter from Scott Engineering Inc. confirming an engineered truss system was recommended to eliminate the large concentrated loads from the ridge beams which could not be supported by the existing structure.

In favour: Mr. and Mrs. Sharp, 3440 Doncaster Drive, stated:

- In response to the letter in opposition from the neighbour at 3434 Doncaster, lowering the roof to the originally approved height will not make any difference to the neighbour's view because the her house is lower, and it is likely she would have had no view prior to construction either.
- They lost their view of Mt. Tolmie years ago because of the trees.
- They fully support the addition to the house; the additional 6" will make no difference.

Mr. Ken Purse, the applicant's father, stated he lives next door at 3431 Doncaster. We have to allow for tolerances in buildings; building precisely to height and size is very rare.

Board discussion noted that the computer generated sketch submitted with this application is different from the originally approved plans; the roof line over the living room window has been changed and a small window on the upper floor has been replaced with a sky light.

Mr. MacDonald stated:

- There was a problem with water run off with the original design and it had to be amended to allow for proper installation of the gutters.

In opposition: Nil

MOTION: **MOVED BY MR. CHARANIA AND SECONDED BY MR. BARTLETT: "THAT A VARIANCE BE GRANTED TO RELAX THE SINGLE FACE HEIGHT REQUIREMENTS FROM 7.5 M TO 8.4 M, FURTHER TO THE CONSTRUCTION OF AN ADDITION TO THE HOUSE ON LOT 17, BLOCK 43, VICTORIA DISTRICT, PLAN 1443, 3435 DONCASTER DRIVE, IN ACCORDANCE WITH THE AMENDED PLANS SUBMITTED TO THE BOARD, WITH SAID APPROVAL EXPIRING ON MAY 14, 2010 IF NOT ACTED UPON."**

Discussion noted:

- Some members thought it was unreasonable to grant another variance, even though it was acknowledged that a 6" error could easily occur.
- Questioned why a stop work order was not issued due to the design change.
- Some members thought the previous hip roof design was more acceptable.

**The Motion was then Put and Carried,
With Ms. Jones voting against.**

Ralph Street
New House

Applicant: Nigel Banks Design on behalf of Graham Smith
Property: 636 Ralph Street
Variance: Relaxation of the overall height from 6.5 m to 7.92 m
Relaxation of the single face height from 6.5 m to 6.55 m
Relaxation of the allowable floor space in non-basement areas from 80% to 97%

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

Applicants: Nigel Banks, designer, and Graham Smith, owner, were present in support. Mr. Banks stated:

- The property was recently subdivided and because of Council's concerns about infill developments, the building envelope was reviewed at the time of subdivision.
- All criteria were carefully reviewed before submitting the design; it was later discovered the services were too high.
- Drainage by gravity is not possible without a variance.
- The original property was subdivided almost in equal halves; this lot is just under 4,800 sq.ft.
- There are covenants on the property, one of which protects trees.
- The design submitted to Council at the time of subdivision was for the mass, form and siting of the building.
- When the subdivision was approved, it was noted the building must be built as substantially submitted at that time.
- The finished drawings presented with this application represent the form and character at the time of subdivision.

The Board questioned whether this should be a matter for Council to reconsider through a Development Variance Permit as Council approved the original plans with the subdivision.

The Planner confirmed that if the approved plans have been changed, and the Director of Planning felt there were too many significant changes, it would be referred back to Council for amendment. The original plans had no variance attached.

Mr. Banks explained he applied to the Board at the direction of Planning staff.

- The issue with the non-basement area results from having to lift the house out of the ground, thereby increasing the height of the basement.
- He used the inverts available for 638 Ralph when submitting the plans to Council. There were no other inverts because there were no services to this lot.
- When he applied for the permit, he was given no information on flood plain issues. The permit had been issued when the error was discovered.

One Board member noted that Council cannot regulate form and character of a dwelling unless the property is within a Development Permit Area.

In Favour:

Mr. J. Humphries, 641 Canterbury Road, stated:

- He used to live at 638 Ralph Street and can understand why the new owner is having drainage issues; the whole area floods.
- The new services were installed at the incorrect height.

Mr. W. Vandebroek, 638 Ralph Street, stated:

- He understood the house had to be raised because of the 200 year flood plain and it is impossible to put any livable space below the flood plain.
- With respect to possible damages from blasting, his house is a 1930's bungalow and needs to be upgraded anyway.
- He purchased the property on the condition that the subdivision was completed.

In Opposition:

Nil

MOTION:

MOVED BY MR. BARTLETT AND SECONDED BY MR. CHARANIA: "THAT THE APPLICATION BE REJECTED."

Discussion noted:

- The applicant should apply for a Development Variance Permit.
- The design was approved by Council as part of the subdivision so any decision to change the design should be vetted by Council.
- Although the Board noted that the applicant was unaware of the flood plain issues at the time of subdivision, the Planner maintained that they would have been aware of these issues.
- The inverts should have been checked at the time of subdivision.

**The Motion was Put and Carried,
with Ms. Jones voting against.**

Arundel Drive
Addition

Applicant: Bob Ormerod
Address: 902 Arundel Drive
Variance: Interior side lot line from 1.5 m to 0.66 m
Combined interior side lot lines from 4.5 m to 2.91 m

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

Applicant: Mr. Bob Ormerod, owner and applicant, was present and had nothing to add to his application.

The Board noted the existing house was legal non-conforming.

In Favour: Nil
In Opposition: Nil

MOTION: **MOVED BY MS. JONES AND SECONDED BY MR. CHARANIA: "THAT A VARIANCE BE GRANTED TO RELAX THE INTERIOR SIDE LOT LINE FROM 1.5 M TO 0.66 M, RESULTING IN A RELAXATION OF THE COMBINED INTERIOR SIDE LOT LINES FROM 4.5 M TO 2.91 M, FURTHER TO THE CONSTRUCTION OF AN ADDITION TO THE HOUSE ON LOT 3, BLOCK 1, SECTION 21, VICTORIA DISTRICT, PLAN 807A, 902 ARUNDEL DRIVE, IN ACCORDANCE WITH THE PLANS SUBMITTED TO THE BOARD, WITH SAID APPROVAL EXPIRING ON JUNE 11, 2010, IF NOT ACTED UPON."**

CARRIED.

Timber Place
Deck addition

Applicant: Petra Homes Inc. on behalf of L. Brooks and P. George
Address: 4795 Timber Place
Variance: Rear yard setback from 12 m to 8.1 m

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

Applicant: Darrell Heppener, 4263 Westervelt Place, applicant, and Pat George, owner, were present in support.

Mr. Heppener stated:

- He has found the original drawings for the house and noted deck and the foot print does not conform to the legal setbacks.
- He is just replacing the deck in the existing location.

In Favour: Nil
In Opposition: Nil

MOTION: **MOVED BY MR. CHARANIA AND SECONDED BY MS. JONES: "THAT A VARIANCE BE GRANTED TO RELAX THE REAR YARD SETBACK FROM 12 M TO 8.1 M FURTHER TO THE RECONSTRUCTION OF AN EXISTING DECK ON LOT A, SECTION 121, LAKE DISTRICT, PALN 17293, 4795 TIMBER PLACE, IN ACCORDANCE WITH THE PLANS SUBMITTED TO THE BOARD, WITH SAID APPROVAL EXPIRING ON JUNE 11, 2010 IF NOT ACTED UPON."**

CARRIED.

Torquay Drive
addition

Applicant: Jesse McKay
Property: 4389B Torquay Drive
Variance: Rear yard setback from 7.5 m to 7.15 m
Combined front and rear setbacks from 15 m to 14.68 m

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

Applicant: Mr. Jesse McKay, owner and applicant, present in support, stated:

- The deck was incorrectly built by the framer.
- The overhang on the deck is allowed to be cantilevered up to 3.9'.
- The 7.15 m setback is to the post; he has cantilevered another 2 feet.

In Favour: Nil

In Opposition: Nil

Motion: **MOVED BY MR.CHARANIA AND SECONDED BY MR. BARTLETT: "THAT A VARIANCE BE GRANTED TO RELAX THE REAR YARD SETBACK FROM 7.5 M TO 7.15 M, RESULTING IN RELAXATION OF THE COMBINED FRONT AND REAR SETBACKS FROM 15 M TO 14.68 M, FURTHER TO THE CONSTRUCTION OF A DECK ADDITION TO THE HOUSE ON LOT C, SECTION 84, VICTORIA DISTRICT, PLAN VIP 84149, 4389B TORQUAY DRIVE, IN ACCORDANCE WITH THE PLANS SUBMITTED TO THE BOARD, WITH SAID VARIANCE EXPIRING ON JUNE 11, 2010, IF NOT ACTED UPON."**

CARRIED.

Adjournment: On a Motion from Ms. Jones, the meeting adjourned at 9:45 p.m.

Peter Weinrich, Chair

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

Recording Secretary