

**DISTRICT OF NORTH VANCOUVER
BOARD OF VARIANCE**

Minutes of the Board of Variance of the District of North Vancouver held at 5:00 p.m. on Thursday, May 18, 2023 in the Committee Room of the District Hall, 355 West Queens Road, North Vancouver, British Columbia.

Present: James Paul, Chair
Guy Akester, Vice-Chair
Lee Gavel (via Zoom)
Laura Lee Richard
Neville York

Staff: Genevieve Lanz, Deputy Municipal Clerk
Louise Simkin, Records Management and Privacy Advisor
Jacqueline Jorgenson, Supervisor – Residential Plans Review
Lisa Koncsik, Residential Plans Reviewer
Cheryl Archer, Confidential Council Clerk
Hedvig Pellerud, Committee Clerk

Also in Attendance: Robin Cameron, Owner
Steven Cross, Applicant
Ashley Ghanei, Owner/Applicant
Kian Ghanei, Owner/Applicant
Andre Kott, Applicant Representative
Leo Perez, Owner/Applicant
Luvi Sandhu, Applicant
Michel Watson, Owner
Michael Watson, Owner
Alex Voth, Applicant
Alison, Owner Representative

1. Adoption of Minutes

1.1 March 16, 2023, Board of Variance Meeting

MOVED by James Paul

SECONDED by Guy Akester

THAT the minutes of the March 16, 2023 Board of Variance meeting are adopted.

CARRIED

2. Hearing of Applications

James Paul, Chair, welcomed members of the public to the meeting and provided an overview of the procedures for the meeting.

2.1 1418 Mill Street

Staff Presentation

Staff reported that the property is located in the RS3 Zone and that the lot area is 10,309.4 square feet. A new house is currently under construction. It is not on the Heritage Registry and not located in a Development Permit Area (DPA). The proposal is for a retaining wall built without a permit.

The variance requested on the property is as follows:

1. Maximum retaining wall height variance of 5.87 ft (1.79 m).

In response to a question from the Board, staff advised that the natural grade of the property slopes toward the neighbour. The retaining wall is required to retain the existing soil as a rock pit and sump is required as part of their storm water management plan.

Applicant Presentation of Hardship

The applicant drew attention to the following points and hardships:

- The site is difficult to build on due to the grade;
- At the time of purchase, the portion of the property where the retaining wall has been constructed contained a great deal of ivy, which interfered with the surveyor's ability to accurately measure the elevations;
- A rock pit was constructed for drainage, which is required to remain at the level at which it was constructed
- The rock pit was a factor in determining the height of the retaining wall;
- The property adjacent to the retaining wall slopes away from the wall; and,
- The owner of the property adjacent to the retaining wall has written a letter in support of the application.

In response to a question from the Board, the applicant advised that the rock pit is designed to achieve permeable soil for an alternate drainage solution to tying into the District's stormwater system and has been approved by the District.

In response to a question from the Board, the applicant clarified details regarding the elevation drawings.

In response to a question from the Board, the applicant advised that the photos submitted as part of the application were taken from the neighbour's property facing the subject property. The trees on the neighbour's property in the photos have been cut since the photos were taken.

In response to a question from the Board, the applicant advised that the retaining walls have been constructed and a provisional occupancy permit has been issued.

In response to a question from the Board, the applicant advised that a ground soil study was conducted and the retaining wall is designed to address the existing slope of the lot.

In response to a question from the Board, the applicant confirmed that the elevation of the retaining wall is required for the rock pit and that a retaining wall would have been required with other drainage solutions.

In response to a question from the Board, the applicant advised that the drawings submitted for the Building Permit showed the rock pit height and did not show the retaining wall in its current form, and that during construction of the rock pit, it was discovered that a higher retaining wall was required. The height of the retaining wall was not noticed by District staff until the final inspection.

In response to a question from the Board, staff advised that the soil coverage over the rock pit is approximately 1.5 feet.

Representations from Notified Persons

Nil

Representations from the Public

Nil

Discussion

The Chair spoke support of the application, noting that the grade of the property and elevation of the rock pit constitute a hardship, and that the retaining wall requirements were missed by District staff at the time of submission of the rock pit design. It was further noted that the neighbour most impacted by the application has indicated their support.

Guy Akester spoke in opposition to the application, noting that most new construction should not require variances, the retaining wall has already been constructed, and other design options could have been explored to reduce the requested variance.

Neville York spoke in support of the application, noting that the grade of the property and elevation of the rock pit constitute a hardship, and that the retaining wall requirements were missed by District staff at the time of submission of the rock pit design, and that there were issues with the site survey. It was further noted that a rock pit would require a retaining wall regardless of where it was situated on the property and that the adjacent neighbour has indicated their support.

Laura Lee Richard spoke in support of the application, noting that the adjacent neighbour has indicated their support, the proposal does not defeat the intent of the Zoning Bylaw, and the environmental impact would be greater if the retaining wall were altered or reconstructed.

Lee Gavel spoke in support of the application, noting agreement with the comments made by the other Board members.

MOVED by James Paul
SECONDED by Guy Akester

THAT Board of Variance Application BOV2023-00006 1418 Mill Street presented at the May 18, 2023 Board of Variance meeting is APPROVED as follows:

Zone	Regulation	Required/ Allowed	Existing	Proposed	Variance
RS3	Maximum retaining wall height	3 ft (0.91 m)		8.87 ft (2.7 m)	5.87 ft (1.79 m)

CARRIED

Opposed: Guy Akester

2.2 2988 Duchess Avenue

Staff Presentation

Staff reported that the property is located in the RS3 Zone and that the lot area is 9,598.5 square feet. The house was built in 2015, is not on the Heritage Registry, and is not located in a DPA. The proposal is for an accessory structure and hot tub, which have been constructed without a permit. Staff advised that the previous accessory building was non-conforming and the pool was constructed in 2021 with the required permits.

The variances requested on the property are as follows:

1. Accessory Building Rear Yard Setback variance of 4 ft (1.22 m).
2. Accessory Building Rear Yard Roof Projection Setback of 2 ft (0.61 m).
3. Hot Tub Rear Yard Setback variance of 2.75 ft (0.84 m).
4. Accessory Building Size variance of 93 ft² (8.64 m²).

In response to a question from the Board, staff advised that the proposed structure has already been constructed without a building permit.

Applicant Presentation of Hardship

The applicant drew attention to the following points and hardships:

- Work on the back yard commenced in 2021;
- Placement of the pool was restrained by the existing retaining wall, patio and fire pit and they wished to ensure their neighbours were not negatively impacted by noise;
- A permit was issued to use the previously existing non-compliant shed, which was constructed of reclaimed wood;
- During construction, it was discovered that services and equipment could not be installed underground and the shed would need to be demolished and reconstructed;
- They misunderstood the requirements of the Zoning Bylaw, believing that a rear yard setback was not required if there is no lot adjacent to the rear of the property;
- The design of the new shed took into account the Zoning Bylaw requirements for side yard setback and height;
- They misunderstood the requirements of the Zoning Bylaw, believing that the ten foot setback only applied to in-ground pools;

- The hot tub can be relocated;
- The overhang of the shed is non-compliant;
- Removing the back two feet of the shed would bring the structure into compliance, and would expose the pool equipment to the elements and increase the noise level;
- The front of the shed and the walls are constructed of six-inch-thick reclaimed wood, which provides sound insulation; and,
- The back of the shed is not visible to anyone.

In response to a question from the Board, the applicant advised that the minimum required setbacks for the pool are ten feet from the rear of the property and five feet from the side. Due to the location of the existing patio and fire pit, it was difficult to find appropriate an space for the pool.

In response to a question from the Board, the applicant advised that locating the pool on other side of the yard was not desirable as it is in shade and the large number of trees would increase the amount of required maintenance.

In response to a question from the Board, the applicant advised that a fence is required to be constructed around the pool, which has not yet been completed. The reiterated that removing the back of the shed would expose the pool equipment to the elements and negatively impact neighbouring properties.

Representations from Notified Persons

Nil

Representations from the Public

Nil

Discussion

Guy Akester spoke in opposition to the application, noting that the Board cannot take into consideration that the structure is already built and hardship has not been demonstrated. Mr. Akester further noted that the application defeats the intent of the Zoning Bylaw to keep structures away from the edges of properties, and that the replacement shed is much larger than the original structure it replaced.

The Chair spoke in opposition to the application, noting that hardship has not been demonstrated and that the structure is situated on the property line. The Chair further noted that the issue could have been resolved prior to construction had the applicant followed the District's processes.

Laura Lee Richard spoke in support of the application, noting that the applicant has reused materials from the previous structure and that the rear property line is adjacent to a large property that looks like parkland.

Neville York spoke in opposition to the application, noting that hardship has not been demonstrated and that the proposal is for a large structure with a covered hot tub.

Mr. York noted that the applicant could remove the back of the shed to comply with the Zoning Bylaw and add insulation.

Lee Gavel spoke in opposition to the application, noting that hardship has not been demonstrated. Mr. Gavel noted that while there is no negative impact to the neighbours, non-conforming structures must comply with the Zoning Bylaw if demolished and replaced.

MOVED by Guy Akester

SECONDED by James Paul

THAT Board of Variance Application BOV2023-00007 2988 Duchess Avenue presented at the May 18, 2023 Board of Variance meeting is DENIED as follows:

Zone	Regulation	Required/ Allowed	Existing	Proposed	Variance
RS3	Accessory Building Rear Yard Setback	4 ft (1.22 m)	1.6 ft (0.49 m)	0 ft (0.05 m)	4 ft (1.22 m)
	Accessory Building Rear Yard Roof Projection Setback	2 ft (0.61 m)		0 ft (0.05 m)	2 ft (0.61 m)
	Hot Tub Rear Yard Setback	10 ft (3.05 m)		7.25 ft (2.21 m)	2.75 ft (0.84 m)
	Accessory Building Size	269 ft ² (24.99 m ²)	168 ft ² (15.61 m ²)	362 ft ² (33.63 m ²)	93 ft ² (8.64 m ²)

CARRIED

Opposed: Laura Lee Richard

2.3 4304 Cliffmont Road

Staff Presentation

Staff reported that the property is located in the RS4 Zone and that the lot area is 5,996 sq. ft. The house was built in 1978, is not on the Heritage Registry, and is located in the Wildfire DPA, but is not applicable. The proposal is for a deck addition. The existing dwelling is non-conforming due to the covered area between the house and the garage, and the proposed deck addition would increase the existing non-conformity.

The variances requested on the property are as follows:

1. Building Depth variance of 9.45 ft (2.88 m).
2. Building Coverage variance of 202 ft² (18.76 m²).

In response to a question from the Board, staff advised that if the garage and proposed deck were not attached to the house and at least five feet apart, the garage structure would be considered not attached and would not require the variance for Building Depth. Staff noted that the covered area is considered veranda space under the Zoning Bylaw.

In response to a question from the Board, staff confirmed that the garage was included in the original house construction.

In response to a question from the Board, staff confirmed that the property is classified as a corner lot and that this does not impact the variances requested.

Applicant Presentation of Hardship

The applicant drew attention to the following points and hardships:

- The family, including three small children, recently moved to the property;
- They discovered the area has more traffic than they had expected and the back yard is not suitable for the children to play in;
- The only existing outdoor access is at the front of the house;
- A patio would be a safer area for outdoor access;
- The designer did not notice the existing building depth was non-conforming;
- They considered removing the roof between the house and the garage, but the separation between the structures would be less than the required five feet; and,
- The roof between the house and the garage provides protection from the rain, access to the roof and upper areas to clean, and serves as a second emergency exit for the house.

In response to a question from the Board, the applicant advised that they considered other locations for the patio, but other locations would not have privacy and the house is in a high traffic area.

In response to a question from the Board, the applicant confirmed that glass panels are proposed for the patio.

Representations from Notified Persons

Nil

Representations from the Public

Nil

Discussion

Laura Lee Richard spoke in support of the application, noting that the proposed structure is not large and the proposal does not defeat the intent of the Zoning Bylaw.

Neville York spoke in support of the application, noting that the proposal is for a small deck and the roof attached to the garage and house impacts the Building Depth.

Lee Gavel spoke in support of the application, noting that the proposed deck is a modest size.

Guy Akester spoke in support of the application, noting that although the proposal increases the existing non-conformity, had the garage been constructed at least five feet from the house, the variances would not be required. Mr. Akester noted that input from the neighbour to the east would have been helpful.

The Chair spoke support of the application, noting that the location of the existing garage less than five feet from the house creates the need for the variance and that the proposal is for a small deck. The Chair further noted that the neighbours will not be impacted and the proposal does not defeat the intent of the bylaw.

MOVED by Laura Lee Richard

SECONDED by Neville York

THAT Board of Variance Application BOV2023-00009 4304 Cliffmont Road presented at the May 18, 2023 Board of Variance meeting is APPROVED as follows:

Zone	Regulation	Required/ Allowed	Existing	Proposed	Variance
RS4	Building Depth	65 ft (19.81 m)	68.7 ft (20.94 m)	74.45 ft (22.69 m)	9.45 ft (2.88 m)
	Building Coverage	2099 ft ² (195 m ²)	2233 ft ² (207.45 m ²)	2301 ft ² (213.76 m ²)	202 ft ² (18.76 m ²)

CARRIED

The meeting recessed at 6:06 p.m. and resumed at 6:10 p.m.

2.4 5772 Sunshine Falls Lane

Staff Presentation

Staff reported that the property is located up Indian Arm in the RS2 Zone and that the lot area is 34,545 square feet. The construction date of the house is unknown, the house is not on the Heritage Registry, and is located in DPAs for Streamside Protection, Slope Hazard, and Wildfire Hazard. The proposal is for an existing accessory/parking structure, retaining wall and deck.

Staff advised that the applicant is building a new principal dwelling. The suite in the accessory building is not allowed under the Zoning Bylaw and will be removed. The variances are required for the existing non-conforming structures as the new home construction requires non-conforming accessory structures to be brought into conformance with the Zoning Bylaw. Parking is located in the lower portion of the building with the accessory use above. The retaining wall is required in order to retain the existing deck. The deck at the side property line is currently over the property line and will be moved fully onto the property. Staff noted a large degree of variation in the slope of the lot.

The variances requested on the property are as follows:

1. Parking Structure Height - Flat Roof variance of 4.58 ft (1.39 m).
2. Accessory Building Height - 3/12 or Greater Roof variance of 14.75 ft (4.49 m).
3. Accessory Building Floor Height above Natural Grade variance of 11.98 ft (3.65 m).
4. Accessory Building Location variance of Location.
5. Retaining Wall Height variance of 17 ft (5.18 m).
6. Deck Projection Rear Yard Setback variance of 11.02 ft (3.36 m).
7. Deck Projection Side Yard Setback variance of 6 ft (1.83 m).

8. Total Parking Structure and Accessory Building on Lot variance of 1260 ft² (117.06 m²).
9. Maximum Accessory Building Size variance of 936 ft² (86.96 m²).

In response to a question from the Board, staff advised that nothing is proposed to be added to the accessory/garage structure and they are altering the interior only to remove a non-conforming suite.

In response to a question from the Board, staff advised that seven of the requested nine variances are for existing structures. The variances pertaining to new construction are to retain the existing deck for the new construction, which is currently living space underneath that will be removed.

In response to a question from the Board, staff advised that the total floor space ratio (FSR) is impacted by the overage of the accessory structure and it will count toward the total for the new construction. Staff confirmed that the overage for the parking garage will come out of the allowable floor space for the primary dwelling.

Applicant Presentation of Hardship

The applicant drew attention to the following points and hardships:

- The neighbourhood is well-established and has unique qualities due to the remote location;
- Neighbours share the maintenance of a private road, have limited services, and contend with the risk of wildfire as well as wildlife including bears and coyotes;
- There are approximately twelve residences in the neighbourhood;
- The house at the time of purchase was not habitable as it had low ceiling heights and was not in good condition;
- They want to minimize the environmental impact of their project;
- The site varies from zero to eighty-four feet in elevation and has several large trees;
- In order to demolish the garage, the house would need to be moved to the garage site;
- The views are better where the house is proposed to be located on the existing footprint;
- The neighbours support the proposal to retain the existing structures as this will avoid demolished materials adding to the landfill;
- Demolition and reconstruction would require significant access to the private road and disruption to the neighbours; and,
- A staging site is planned to facilitate the use of smaller trucks and barges to transport materials.

In response to a question from the Board, the applicant advised that the hardship is that of the garage would be required to be demolished at its current location and reconstructed adjacent to the primary dwelling. This would require the removal of a significant amount of rock, with environmental and financial impacts.

In response to a question from the Board, the applicant advised that garage is located in the front yard and the primary dwelling in the rear yard as it is a waterfront property.

Representations from Notified Persons

Nil

Representations from the Public

Nil

Discussion

Neville York spoke in support of the application, noting that the topography of the site and the mature trees are a hardship and that the owner wishes to retain the existing structures.

Laura Lee spoke in support of the application the application, noting concurrence with the reasons stated by Neville York.

Guy Akester spoke in opposition to the application, noting that some of the variances are more reasonable than others. Mr. Akester spoke in support of the variance for Accessory Building Location, noting that locating the garage in the rear of the property would place it in between the primary dwelling and the waterfront. Mr. Akester spoke in opposition to the variances requested for the garage and deck sizes and projections, noting that the structure is very large.

Lee Gavel spoke in support of the application, noting that the applicant intends to retain the existing garage and that the Zoning Bylaw is not designed to account for properties with steep cliffs.

The Chair spoke in support of the application, noting that demolishing the garage would be a hardship and have a negative environmental impact. The Chair further noted the steep topography of the site makes complying with the Zoning Bylaw difficult.

MOVED by Neville York

SECONDED by Laura Lee Richard

THAT Board of Variance Application BOV2023-00008 5772 Sunshine Falls Lane presented at the May 18, 2023 Board of Variance meeting is **APPROVED** as follows:

Zone	Regulation	Required/ Allowed	Existing	Proposed	Variance
RS2	Parking Structure Height - Flat Roof	12 ft (3.66 m)	16.58 ft (5.05 m)	16.58 ft (5.05 m)	4.58 ft (1.39 m)
	Accessory Building Height - 3/12 or Greater Roof	15 ft (4.57 m)	29.75 ft (9.06 m)	29.75 ft (9.06 m)	14.75 ft (4.49 m)
	Accessory Building Floor Height above Natural Grade	4 ft (1.22 m)	15.98 ft (4.87 m)	15.98 ft (4.87 m)	11.98 ft (3.65 m)
	Accessory Building Location	Rear Yard or Interior side yard only	Front	Front	Location
	Retaining Wall Height	3 ft (0.91 m)	20 ft (6.1 m)	20 ft (6.1 m)	17 ft (5.18 m)
	Deck Projection Rear Yard Setback	25 ft (7.62 m)	13.98 ft (4.26 m)	13.98 ft (4.26 m)	11.02 ft (3.36 m)
	Deck Projection Side Yard Setback	6 ft (1.83 m)	-3.1 ft (0.94 m)	0 ft (0 m)	6 ft (1.83 m)
	Total Parking Structure and Accessory Building on Lot	800 ft ² (74.32 m ²)	2060 ft ² (191.38 m ²)	2060 ft ² (191.38 m ²)	1260 ft ² (117.06 m ²)
	Maximum Accessory Building Size	269 ft ² (24.99 m ²)	1205 ft ² (111.9 m ²)	1205 ft ² (111.9 m ²)	936 ft ² (86.96 m ²)

CARRIED

Opposed: Guy Akester

2.5 2868 Panorama Drive

Staff Presentation

Staff reported that the property is located in the RS4 Zone and that the lot area is 2,833 sq. ft. The house was built in 1967, is not on the Heritage Registry, and is located in Development Permit Areas for Slope Hazard and Wildfire Hazard. Staff noted that the Wildfire Hazard DPA is not applicable to this application. The proposal is for a new elevator. A Development Variance Permit (DVP) for FSR and Building Coverage, through a process that is no longer supported back in 2002 & 2006, were issued to accommodate a parking structure, which is common for properties on Panorama Drive. As the structures are already over the FSR permitted by the Zoning Bylaw, the proposal includes the removal of floor space from the accessory building below the garage to accommodate the new structure. Staff noted that the Board of Variance cannot vary FSR.

The variances requested on the property are as follows:

1. Maximum Accessory Building Height - 3/12 Roof Pitch variance of 14.83 ft (4.52 m).
2. Accessory Building Location variance of Location.
3. Maximum Building Coverage variance of 1044 ft² (96.99 m²).

In response to a question from the Board, staff advised that compliance with the Zoning Bylaw is not possible on this property.

In response to a question from the Board, staff advised that the existing building coverage was approved by DVP and the total proposed building coverage includes the amount permitted by the DVP.

Applicant Presentation of Hardship

The applicant drew attention to the following points and hardships:

- Access to the property from parking is via 32 steps with a 19.2 feet change in elevation;
- The owner would like to age in place and requires more accessibility in order to do so;
- The design is mindful of the appearance of the structure to neighbours and from the street, continuing the roof line from the existing structure; and,
- The adjacent neighbours have provided letters of support.

In response to a question from the Board, the applicant advised that the design incorporates the existing landing and designing the elevator closer to the garage would compromise the existing accessory structure and require excavation and the demolition and reconstruction of the existing stairs.

In response to a question from the Board, the applicant advised that approximately half of the existing accessory space will be filled in with concrete to reduce the FSR to that permitted by the DVP.

Representations from Notified Persons

Nil

Representations from the Public

Nil

Discussion

Guy Akester spoke in support of the application, noting that the topography and issues associated with Panorama Drive including the narrow roadway and having been originally designed for small cottages constitute hardships, in addition to the owner's mobility impairment. Mr. Akester noted the design minimizes the visual impact of the proposal.

Neville York spoke in support of the application, noting that hardships exist with the topography of the lot and that the proposal would allow the owner to age in place.

Laura Lee Richard spoke in support of the application, noting the adjacent neighbours have expressed support.

Lee Gavel spoke in support of the application, noting that hardships exist with the topography of the lot and that the proposal would allow the owner to age in place.

The Chair spoke in support of the application, noting there are hardships related to the existing structure as well as those common to properties on Panorama Drive including topography and access from the roadway.

Two members of the Board commented on the requirement to fill in accessory space to comply with the maximum FSR allowed under the DVP.

MOVED by Guy Akester

SECONDED by Neville York

THAT Board of Variance Application BOV2023-00010 2868 Panorama Drive presented at the May 18, 2023 Board of Variance meeting is APPROVED as follows:

Zone	Regulation	Required/ Allowed	Existing	Proposed	Variance
RS4	Maximum Accessory Building Height - 3/12 Roof Pitch	15 ft (4.57 m)		29.83 ft (9.09 m)	14.83 ft (4.52 m)
	Accessory Building Location	Rear or Interior side yard only		Front Yard	Location
	Maximum Building Coverage	992 ft ² (92.16 m ²)	1824 ft ² (169.45 m ²)	2036 ft ² (189.14 m ²)	1044 ft ² (96.99 m ²)

CARRIED

3. CORRESPONDENCE

Nil

4. NEXT MEETING

The next regular meeting of the Board of Variance is scheduled for Thursday, June 15, 2023.

5. ANY OTHER BUSINESS

Louise Simkin, Records Management and Privacy Advisor, provided an overview of the *Freedom of Information and Protection of Privacy Act* (FOIPPA), highlighting that all records in the custody and control of the Board of Variance, regardless of whether they are on personal or District-issued devices are subject to FOIPPA. Ms. Simkin advised that the Board of Variance is considered a separate public body under FOIPPA and, unless they designate a FOIPPA Head, the entire Board is considered the FOIPPA Head under the Act.

Ms. Simkin provided information on the Board's duties under FOIPPA, including the development of a Privacy Management Program, processing requests for and disclosure of records, investigating privacy breaches, and ensuring private information is protected in accordance with the Act. Ms. Simkin noted that North Shore Emergency Management, also considered a separate public body under the Act, has designated the District's Municipal Clerk as their FOIPPA Head.

The Board discussed the requirements of FOIPPA as they relate to the Board of Variance and expressed concern regarding the additional workload that would be required as well as possible legal liability.

MOVED by Laura Lee Richard

SECONDED by Guy Akester

THAT the Clerk of the District of North Vancouver is designated as Freedom of Information and Protection of Privacy (FOIPPA) head for the Board of Variance, and that the District of North Vancouver provides Freedom of Information and Protection of Privacy (FOIPPA) services to the Board of Variance.

6. ADJOURNMENT

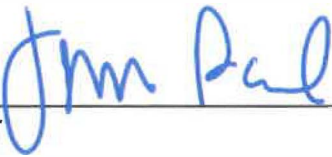
MOVED by James Paul

SECONDED by Guy Akester

THAT the May 18, 2023 Board of Variance Meeting is adjourned at 7:24 p.m.

CARRIED

Chair



Committee Clerk

