

**THE CORPORATION OF THE DISTRICT OF WEST VANCOUVER
BOARD OF VARIANCE HEARING MINUTES
MUNICIPAL HALL COUNCIL CHAMBER
WEDNESDAY, APRIL 17, 2019**

BOARD MEMBERS: Chair A. Bhayani; Members I. Davis, L. Radage, S. Sanguinetti, and D. Simmons.

STAFF: P. Cuk, Board Secretary; M. Panneton, Director, Legislative Services/ Corporate Officer; and S. McSherry, Building Inspector.

1. Call to Order

The Hearing was called to order at 5 p.m.

2. Introduction

Staff introduced the Board Members and described the Hearing procedure.

3. Confirmation of the Agenda

It was Moved and Seconded:

THAT the April 17, 2019, Board of Variance Hearing agenda be approved as circulated.

CARRIED

4. Adoption of the March 13, 2019, Minutes

Chair Bhayani referred to the Minutes of the Board of Variance Hearing held on March 13, 2019.

It was Moved and Seconded:

THAT the March 13, 2019, Board of Variance Hearing minutes be adopted as circulated.

CARRIED

5. Time Limit of Board of Variance Orders

Chair Bhayani read out the following statement regarding Time Limit of Order Approving a Variance and noted that the time limit applied to each application approved by the Board:

“Pursuant to section 542 of the *Local Government Act*, if a Board of Variance orders that a minor variance be permitted from the requirements of the bylaw, and the Order sets a time limit within which the construction of the building or structure must be completed, and the construction is not completed within that time, the permission of the Board terminates and the bylaw applies. Orders of this Board of Variance that permit a variance specify that: if construction is not substantially started within 6 months of the issuance of the Building Permit, the permission terminates and the Zoning Bylaw applies; AND FURTHER THAT in the event the Owner is delayed or interrupted or prevented from obtaining a Permit by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the owner, the time for obtaining a Permit shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention, provided that commercial or financial consideration of the Owner shall not be viewed as a cause beyond the control of the Owner.”

6. Application 19-009 (2993 Burfield Place)

Staff confirmed the following requested variance regarding a proposed new duplex:

- a) 1.15 m to Front Yard Setback.

Staff provided the permit history of the following subject properties: 2993 Burfield Place (Application 19-009); 2997 Burfield Place (Application 19-010); and 3003 Burfield Place (Application 19-011).

Staff informed that no written submissions were received for Application 19-009 (2993 Burfield Place) prior to the Board of Variance hearing.

Written submissions received:

| SUBMISSION AUTHOR | SUBMISSION DATED | # |
|-------------------|------------------|---|
| None. | | |

J. Wexler (Vice President, Design & Development, British Pacific Properties, representing the owner of 2993 Burfield Place) displayed images and described the variance applications for proposed new duplexes at 2993 Burfield Place (Application 19-009), 2997 Burfield Place (Application 19-010), and 3003 Burfield Place (Application 19-011). J. Wexler and staff responded to Board members’ questions.

Chair Bhayani queried whether there was anyone in the gallery who wished to address the Board regarding Application 19-009 (2993 Burfield Place) and there was no response.

Members of the Board considered:

- All of the submissions;
- Whether the application was for a minor variance that did not
 - result in inappropriate development of the site
 - adversely affect the natural environment
 - substantially affect the use and enjoyment of adjacent land
 - vary permitted uses and densities under the applicable bylaw; or
 - defeat the intent of the bylaw; and
- Whether compliance with the bylaw would cause the applicant undue hardship.

Having read the application dated March 8, 2019, including the applicant's letter, plans and all other related documents, and having read the statutory Notice of Hearing for the subject application, and having inspected the subject site, and having heard the submission of J. Wexler:

It was Moved and Seconded:

THE BOARD finds that undue hardship would be caused to the Applicant by compliance with the Zoning Bylaw and orders that Application 19-009 regarding a proposed new duplex at 2993 Burfield Place with a variance of:

- 1.15 m to Front Yard Setback

BE ALLOWED pursuant to the plans dated February 1, 2019, submitted with the application; AND THE BOARD FURTHER ORDERS THAT if construction is not substantially started within six months of the issuance of the Building Permit, the permission terminates and the Zoning Bylaw applies; AND FURTHER THAT in the event the Owner is delayed or interrupted or prevented from obtaining a Permit by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the owner, the time for obtaining a Permit shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention, provided that commercial or financial consideration of the Owner shall not be viewed as a cause beyond the control of the Owner.

CARRIED

7. Application 19-010 (2997 Burfield Place)

Staff confirmed the following requested variance regarding a proposed new duplex:

- a) 1.17 m to Front Yard Setback.

Staff informed that no written submissions were received for Application 19-010 (2997 Burfield Place) prior to the Board of Variance hearing.

Written submissions received:

| SUBMISSION AUTHOR | SUBMISSION DATED | # |
|-------------------|------------------|---|
| None. | | |

Permit history of the subject property was provided during Item 6.

The description of the application for a proposed new duplex at 2997 Burfield Place was provided by J. Wexler (Vice President, Design & Development, British Pacific Properties, representing the owner of 2997 Burfield Place) during Item 6.

Chair Bhayani queried whether there was anyone in the gallery who wished to address the Board regarding Application 19-010 (2997 Burfield Place) and there was no response.

Members of the Board considered:

- All of the submissions;
- Whether the application was for a minor variance that did not
 - result in inappropriate development of the site
 - adversely affect the natural environment
 - substantially affect the use and enjoyment of adjacent land
 - vary permitted uses and densities under the applicable bylaw; or
 - defeat the intent of the bylaw; and
- Whether compliance with the bylaw would cause the applicant undue hardship.

Having read the application dated March 8, 2019, including the applicant's letter, plans and all other related documents, and having read the statutory Notice of Hearing for the subject application, and having inspected the subject site, and having heard the submission of J. Wexler:

It was Moved and Seconded:

THE BOARD finds that undue hardship would be caused to the Applicant by compliance with the Zoning Bylaw and orders that Application 19-010 regarding a proposed new duplex at 2997 Burfield Place with a variance of:

- 1.17 m to Front Yard Setback

BE ALLOWED pursuant to the plans dated February 6, 2019, submitted with the application; AND THE BOARD FURTHER ORDERS THAT if construction is not substantially started within six months of the issuance of the Building Permit, the permission terminates and the Zoning Bylaw applies; AND FURTHER THAT in the event the Owner is delayed or interrupted or prevented from obtaining a Permit by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the owner, the time for obtaining a Permit shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention,

provided that commercial or financial consideration of the Owner shall not be viewed as a cause beyond the control of the Owner.

CARRIED

8. Application 19-011 (3003 Burfield Place)

Staff confirmed the following requested variance regarding a proposed new duplex:

- a) 1.19 m to Front Yard Setback.

Staff informed of written submissions received for Application 19-011 (3003 Burfield Place) prior to the Board of Variance hearing.

Written submissions received:

| SUBMISSION AUTHOR | SUBMISSION DATED | # |
|-------------------|------------------|---|
| Redacted | April 17, 2019 | 1 |

Permit history of the subject property was provided during Item 6.

The description of the application for a proposed new duplex at 3003 Burfield Place was provided by J. Wexler (Vice President, Design & Development, British Pacific Properties, representing the owner of 3003 Burfield Place) during Item 6.

Chair Bhayani queried whether there was anyone in the gallery who wished to address the Board regarding Application 19-011 (3003 Burfield Place) and there was no response.

Members of the Board considered:

- All of the submissions;
- Whether the application was for a minor variance that did not
 - result in inappropriate development of the site
 - adversely affect the natural environment
 - substantially affect the use and enjoyment of adjacent land
 - vary permitted uses and densities under the applicable bylaw; or
 - defeat the intent of the bylaw; and
- Whether compliance with the bylaw would cause the applicant undue hardship.

Having read the application dated March 8, 2019, including the applicant's letter, plans and all other related documents, and having read the statutory Notice of Hearing for the subject application, and having inspected the subject site, and having heard the submission of J. Wexler:

It was Moved and Seconded:

THE BOARD finds that undue hardship would be caused to the Applicant by compliance with the Zoning Bylaw and orders that Application 19-011 regarding a proposed new duplex at 3003 Burfield Place with a variance of:

- 1.19 m to Front Yard Setback

BE ALLOWED pursuant to the plans dated February 6, 2019, submitted with the application; AND THE BOARD FURTHER ORDERS THAT if construction is not substantially started within six months of the issuance of the Building Permit, the permission terminates and the Zoning Bylaw applies; AND FURTHER THAT in the event the Owner is delayed or interrupted or prevented from obtaining a Permit by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the owner, the time for obtaining a Permit shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention, provided that commercial or financial consideration of the Owner shall not be viewed as a cause beyond the control of the Owner.

CARRIED

9. Application 19-012 (928 Groveland Road)

Staff confirmed the following requested variance regarding retaining walls:

- a) 1.7 m to Retaining Wall Grade Line.

Staff informed of written submissions received for this application prior to the Board of Variance hearing.

Written submissions received:

| SUBMISSION AUTHOR | SUBMISSION DATED | # |
|-------------------|------------------|---|
| Redacted | April 15, 2019 | 1 |
| ADC Holdings Ltd. | April 16, 2019 | 2 |

Staff provided permit history of the subject property.

P. Garrow (Director, ADC Holdings Ltd.) described the variance application for retaining walls and responded to Board members' questions.

Chair Bhayani queried whether there was anyone in the gallery who wished to address the Board regarding the application.

P. Barkham (representing the owner of 905 Kenwood Avenue): read from a written submission; expressed opposition to the requested variance; commented regarding water runoff from the subject property onto 905 Kenwood Avenue and the fact that the subject property is currently for sale; and responded to Board members' questions.

P. Garrow provided information regarding a stormwater management system in place to deal with water runoff from the subject property onto 905 Kenwood Avenue, and commented regarding retaining wall aesthetics.

Chair Bhayani queried whether there was anyone else in the gallery who wished to address the Board regarding the application and there was no response.

Members of the Board considered:

- All of the submissions;
- Whether the application was for a minor variance that did not
 - result in inappropriate development of the site
 - adversely affect the natural environment
 - substantially affect the use and enjoyment of adjacent land
 - vary permitted uses and densities under the applicable bylaw; or
 - defeat the intent of the bylaw; and
- Whether compliance with the bylaw would cause the applicant undue hardship.

Having read the application dated February 15, 2019, including the applicant's letter, plans and all other related documents, and having read the statutory Notice of Hearing for the subject application, and having inspected the subject site, and having heard the submissions of P. Garrow and P. Barkham:

It was Moved and Seconded:

THE BOARD finds that undue hardship would be caused to the Applicant by compliance with the Zoning Bylaw and orders that Application 19-012 regarding retaining walls at 928 Groveland Road with a variance of:

- 1.7 m to Retaining Wall Grade Line

BE ALLOWED pursuant to the plans dated January 25, 2019, submitted with the application; AND THE BOARD FURTHER ORDERS THAT if construction is not substantially started within six months of the issuance of the Building Permit, the permission terminates and the Zoning Bylaw applies; AND FURTHER THAT in the event the Owner is delayed or interrupted or prevented from obtaining a Permit by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the owner, the time for obtaining a Permit shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention, provided that commercial or financial consideration of the Owner shall not be viewed as a cause beyond the control of the Owner.

CARRIED

Chair Bhayani and Member Sanguinetti voted in the negative

10. Application 19-013 (1488 Jefferson Avenue)

Staff confirmed the following requested variance regarding a proposed secondary suite:

- a) 1 Parking Space to Secondary Suite Parking Space.

Staff informed that no written submissions were received for this application prior to the Board of Variance hearing.

Written submissions received:

| SUBMISSION AUTHOR | SUBMISSION DATED | # |
|-------------------|------------------|---|
| None. | | |

Staff provided permit history of the subject property.

A. Karimi (Archia Development Ltd., representing the owner of 1488 Jefferson Avenue) and Y. Zhang (1488 Jefferson Avenue) described the variance application for a proposed secondary suite. A. Karimi, Y. Zhang, and staff responded to Board members' questions.

Chair Bhayani queried whether there was anyone in the gallery who wished to address the Board regarding the application and there was no response.

Members of the Board considered:

- All of the submissions;
- Whether the application was for a minor variance that did not
 - result in inappropriate development of the site
 - adversely affect the natural environment
 - substantially affect the use and enjoyment of adjacent land
 - vary permitted uses and densities under the applicable bylaw; or
 - defeat the intent of the bylaw; and
- Whether compliance with the bylaw would cause the applicant undue hardship.

Having read the application dated March 7, 2019, including the applicant's letter, plans and all other related documents, and having read the statutory Notice of Hearing for the subject application, and having inspected the subject site, and having heard the submissions of A. Karimi and Y. Zhang:

It was Moved and Seconded:

THE BOARD finds that undue hardship would be caused to the Applicant by compliance with the Zoning Bylaw and orders that Application 19-013 regarding a proposed secondary suite at 1488 Jefferson Avenue with a variance of:

- 1 Parking Space to Secondary Suite Parking Space

BE ALLOWED pursuant to the plans dated February 12, 2019, submitted with the application; AND THE BOARD FURTHER ORDERS THAT if construction is not substantially started within six months of the issuance of the Building Permit, the permission terminates and the Zoning Bylaw applies; AND FURTHER THAT in the event the Owner is delayed or interrupted or prevented from obtaining a Permit by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the owner, the time for obtaining a Permit shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention, provided that commercial or financial consideration of the Owner shall not be viewed as a cause beyond the control of the Owner.

CARRIED

11. Application 19-014 (1083 Duchess Avenue)

Staff confirmed the following requested variance regarding a proposed secondary suite:

- a) 1 Parking Space to Secondary Suite Parking Space.

Staff informed of written submissions received for this application prior to the Board of Variance hearing.

Written submissions received:

| SUBMISSION AUTHOR | SUBMISSION DATED | # |
|-------------------|------------------|---|
| Redacted | April 14, 2019 | 1 |
| Redacted | April 16, 2019 | 2 |

Staff provided permit history of the subject property.

Member Davis recused himself (conflict of interest as he resides in close proximity to the subject property) and left the hearing at 5:52 p.m.

D. Sang (representing the owner of 1083 Duchess Avenue) displayed images, read from a written submission, described the variance application for a proposed secondary suite, and responded to Board members' questions.

Chair Bhayani queried whether there was anyone in the gallery who wished to address the Board regarding the application.

J. Yi (628 11th Street) displayed images, expressed support for the requested variance, and commented regarding: a previous application for a zoning bylaw variance regarding setbacks on the subject site; parking on 11th Street and on Duchess Avenue; lifestyle in West Vancouver; the provincial speculation tax; and the ditch along the lane adjacent to the subject site.

Chair Bhayani queried whether there was anyone else in the gallery who wished to address the Board regarding the application and there was no response.

Members of the Board considered:

- All of the submissions;
- Whether the application was for a minor variance that did not
 - result in inappropriate development of the site
 - adversely affect the natural environment
 - substantially affect the use and enjoyment of adjacent land
 - vary permitted uses and densities under the applicable bylaw; or
 - defeat the intent of the bylaw; and
- Whether compliance with the bylaw would cause the applicant undue hardship.

Having read the application dated March 12, 2019, including the applicant's letter, plans and all other related documents, and having read the statutory Notice of Hearing for the subject application, and having inspected the subject site, and having heard the submissions of D. Sang and J. Yi:

It was Moved and Seconded:

THAT further consideration of Application 19-014 (1083 Duchess Avenue) be deferred to a future Board of Variance Hearing to allow the applicant time to work with staff in the Permits & Inspections Department to investigate whether a third parking stall could reasonably be located on the subject site.

CARRIED

Member Davis returned to the hearing at 6:17 p.m.

12. Application 19-015 (2755 Rosebery Avenue)

Staff confirmed the following requested variance regarding an exterior staircase:

- a) 1.22 m to Combined Side Yard Setback
- b) 0.61 m to Minimum Side Yard Setback.

Staff informed that no written submissions were received for this application prior to the Board of Variance hearing.

Written submissions received:

| SUBMISSION AUTHOR | SUBMISSION DATED | # |
|-------------------|------------------|---|
| None. | | |

Staff provided permit history of the subject property.

D. Buttjes (2755 Rosebery Avenue) described the variance application for an exterior staircase.

Chair Bhayani queried whether there was anyone in the gallery who wished to address the Board regarding the application and there was no response.

Members of the Board considered:

- All of the submissions;
- Whether the application was for a minor variance that did not
 - result in inappropriate development of the site
 - adversely affect the natural environment
 - substantially affect the use and enjoyment of adjacent land
 - vary permitted uses and densities under the applicable bylaw; or
 - defeat the intent of the bylaw; and
- Whether compliance with the bylaw would cause the applicant undue hardship.

Having read the application dated March 12, 2019, including the applicant's letter, plans and all other related documents, and having read the statutory Notice of Hearing for the subject application, and having inspected the subject site, and having heard the submission of D. Buttjes:

It was Moved and Seconded:

THE BOARD finds that undue hardship would be caused to the Applicant by compliance with the Zoning Bylaw and orders that Application 19-015 regarding an exterior staircase at 2755 Rosebery Avenue with variances of:

- 1.22 m to Combined Side Yard Setback
- 0.61 m to Minimum Side Yard Setback

BE ALLOWED pursuant to the plans dated March 1, 2019, submitted with the application; AND THE BOARD FURTHER ORDERS THAT if construction is not substantially started within six months of the issuance of the Building Permit, the permission terminates and the Zoning Bylaw applies; AND FURTHER THAT in the event the Owner is delayed or interrupted or prevented from obtaining a Permit by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the owner, the time for obtaining a Permit shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention, provided that commercial or financial consideration of the Owner shall not be viewed as a cause beyond the control of the Owner.

CARRIED

13. Application 19-016 (425 Westholme Road)

Staff confirmed the following requested variances regarding a proposed private power pole (accessory structure):

- a) 8.44 m to Front Yard Setback
- b) 2.4 m to Accessory Structure Height.

Staff informed of written submissions received for this application prior to the Board of Variance hearing.

Written submissions received:

| SUBMISSION AUTHOR | SUBMISSION DATED | # |
|-------------------|------------------|---|
| Redacted | Undated | 1 |

Staff provided permit history of the subject property.

S. Dhanji (President, Perceptive Property Ltd.) described the variance application for a proposed private power pole (accessory structure) and responded to Board members' questions.

Chair Bhayani queried whether there was anyone in the gallery who wished to address the Board regarding the application and there was no response.

Members of the Board considered:

- All of the submissions;
- Whether the application was for a minor variance that did not
 - result in inappropriate development of the site
 - adversely affect the natural environment
 - substantially affect the use and enjoyment of adjacent land
 - vary permitted uses and densities under the applicable bylaw; or
 - defeat the intent of the bylaw; and
- Whether compliance with the bylaw would cause the applicant undue hardship.

Having read the application dated March 15, 2019, including the applicant's letter, plans and all other related documents, and having read the statutory Notice of Hearing for the subject application, and having inspected the subject site, and having heard the submission of S. Dhanji:

It was Moved and Seconded:

THE BOARD finds that undue hardship would be caused to the Applicant by compliance with the Zoning Bylaw and orders that Application 19-016 regarding a proposed private power pole (accessory structure) at 425 Westholme Road with variances of:

- 8.44 m to Front Yard Setback
- 2.4 m to Accessory Structure Height

BE ALLOWED pursuant to the plans dated March 4, 2019, submitted with the application; AND THE BOARD FURTHER ORDERS THAT if construction is not substantially started within six months of the issuance of the Building Permit, the permission terminates and the Zoning Bylaw applies; AND FURTHER THAT in the event the Owner is delayed or interrupted or prevented from obtaining a Permit by reason of any Act of God, labour unrest (including strike and lockouts), weather conditions or any similar cause reasonably beyond the control of the owner, the time for obtaining a Permit shall be extended for a period equal to the duration of the contingency that occasioned the delay, interruption or prevention, provided that commercial or financial consideration of the Owner shall not be viewed as a cause beyond the control of the Owner.

CARRIED

14. Receipt of Written and Oral Submissions

It was Moved and Seconded:

THAT all written and oral submissions regarding the following Board of Variance Applications:

- Application 19-009 (2993 Burfield Place);
- Application 19-010 (2997 Burfield Place);
- Application 19-011 (3003 Burfield Place);
- Application 19-012 (928 Groveland Road);
- Application 19-013 (1488 Jefferson Avenue);
- Application 19-014 (1083 Duchess Avenue);
- Application 19-015 (2755 Rosebery Avenue);
- Application 19-016 (425 Westholme Road);

up to and including April 17, 2019 be received.

CARRIED

15. Public Question Period

There were no questions.

16. Next Hearing

Staff confirmed that the next Hearing of the Board of Variance is scheduled for May 15, 2019 at 5 p.m. in the Municipal Hall Council Chamber.

17. Adjournment

It was Moved and Seconded:

THAT the April 17, 2019 Board of Variance Hearing be adjourned.

CARRIED

The Board of Variance Hearing adjourned at 6:24 p.m.

Certified Correct:

[Original signed by Chair]

CHAIR

[Original signed by Secretary]

SECRETARY