

**CITY OF VICTORIA  
BOARD OF VARIANCE MEETING MINUTES  
FOR THURSDAY, APRIL 27, 2017  
ESQUIMALT NATION MEETING ROOM**

**Present:** Andrew Rushforth, Chair  
Rus Collins  
Margaret Eckenfelder  
Trevor Moat

**Absent:** Jaime Hall

**Staff:** Nina Jokinen, Planning Technician  
Quinn Anglin, Secretary

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The meeting was called to order at 12:42 pm.

1. **Appeals**

**12:30 Board of Variance Appeal #00634  
Brian Trenchard, Builder/Applicant; Michael Mackwood, Owner  
1540 Montgomery Avenue**

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Present Zoning: R1-A - Rockland Single Family Dwelling District  
Present Use: Single Family Dwelling

The proposal is for a newly constructed single family dwelling.

**Bylaw Requirements**

**Relaxation Requested**

Part 1.1.4 a.

Relaxation for height from 7.60m to 7.85m

Mike Mackwood, Owner; Brian Trenchard, Builder, Envirotec; Will Peereboom, Nick Salvador, Matthew Keizers, Cathy Mons, Nathalie Therault, Designers, Victoria Design Group, Designers; Jacob Todd, Legal Counsel for Steve Jones and Catherine Stewart, Notified Neighbours, were present.

*Quinn Anglin, Board Secretary, read aloud a letter from Notified Neighbour of 1551 Rockland Avenue opposing the development.*

Applicant

- Will Peereboom states that the height of the roof has given no advantage to the client; the problem came from the truss construction. In the design, there were some tray ceilings. To allow for the ceilings, the heel of the truss was raised without letting anyone know. Usually shop drawings go from truss manufacturer to engineer. Because the truss manufacturer was also the engineer, this is where the problem occurred.

- During the construction of the trusses, the heel of the truss was raised by 8 inches, which caused the home to be over height. The soffit was also dropped from the original design to help with the height before knowing about the mistake of the trusses. This resulted in the home being 10 inches over height once complete.
- The actual ridge is only 8 inches higher than what was proposed in the drawings.
- They pushed the house further down the slope to accommodate neighbours and not have a house sited higher on the lot, to potentially alleviate blocking views.
- It does not affect the views of the neighbouring properties.
- If the house had been moved back it would have not changed in ridge height, but would be higher and kept with the actual proposed design.
- The houses on either side are significantly higher as they were built in the old zone.
- The house is one of the lower new houses and was designed to fit in with the rest of the neighbourhood.

*Nina Jokinen, Planning Technician, clarified that the relevant Bylaw was changed in 2011.*

#### Notified Neighbours

- Jacob Todd, Legal Counsel of Notified Neighbours of 1541 Rockland Avenue, voices the neighbours' strong opposition to allowing this height variance.
- It is a bigger issue than it was during the previous hearing on March 23. It is not clear how it came to be built, but what is clear is that it is clearly higher than it should be according to bylaw.
- Peak is one half meter higher than bylaws permit.
- Applicant waited until after construction was complete to claim height variance; the present hardship was caused by wilful neglect.
- Builders should not be allowed to build first and to later ask permission.
- Neighbours at 1541 Rockland recently built a new deck and should be able to enjoy the views.
- There is no hardship in this appeal, and even if there was hardship the variation defeats the purpose of the zoning bylaw and would affect these neighbours' use and enjoyment of their property.

#### Board

- Will Peereboom states that the ridge is not ½ meter higher and the 9 ft. high ceiling statement is not accurate. The roof moved up 10 in., so the ridge point moved up 10 inches.
- The home has 8 ft. coffered ceilings; the height in heel of the trusses were increased and the ridge is actually only 10 in. higher than planned due to the soffit also being dropped.
- Could you explain the tray ceilings?
  - With tray ceilings, the plates of the walls are built at 8 feet, but they then come in from the coffers to accommodate 9 foot tray ceilings. This could have mitigated it if the truss manufacturer had told them that they were raising the trusses.
  - There was not any double check to the trusses because the engineer and manufacturer are the same person.
  - Because of the higher dormer style room on front, they are having to measure from that as well. Thus, the issue is caused by how they have to make the calculations.

- Can you verify that the 10 inches is over what the Bylaw allows, or 10 inches at the ridge height?
  - The as built ridge height exceeds the allowable built height by 10 inches by geodetic height.
- If the tails on the fascia board would be brought down it would have changed the midpoint calculation?
  - Yes, this could have been done and would have made the variance request for about 10cm instead of 25cm. This would be an ugly feature and would not change where the ridge is now, so would make no difference to the current height of the house.
  - On Page 3 of the drawings brought to the meeting today you can see a dotted line where the ridge should be.
- On the new drawings, is the relative height between the shaded house and the subject property illustrated to scale?
  - The illustration demonstrates what would happen if the house was pushed back on the lot and conformed to bylaws. In this scenario, the same as-built house would be 7 ft. higher than it is constructed today and would require no variance in height.
  - It would be a 4m difference in the height of the house compared to the house behind.
- Did you consider pushing the house back?
  - There were lots of factors that determined how they got to where they are today; if they had known about the trusses they would have had a chance to change the plans in order to accommodate for the overages.

#### Owners

- They would like to emphasize their desire for this home to fit into the neighbourhood and to work with the neighbourhood. The family have lived in this location for 50 years.
- The Owner is very conscious that the neighbours have lost their view from the single story home that was there before. But the Owners wanted to construct a home that could accommodate their family, and so constructed a 2 storey house. The Owners intentionally came up with a low pitch to be sensitive to the neighbours.
- The Owner has gone through a lot of effort to show that the neighbours' view would have been far worse if the house had been built further back from the property line, in accordance with the bylaws. The house would have been almost 2 ft. higher, so the Owners have done everything they could to minimize the visual impact to the neighbours.

#### Board

- The eaves calculation is what is pushing the mid-grade point calculation. If the main roof eave was the one that was governing the calculation, the variance would only be about 5.5" less than what they are requesting now.
- If the fascia had been taken down to equal to the other eaves, would the only difference be in heel height?
  - Mathematically, yes. We would have only been over by 10cm.

*Public portion of the meeting closed.*

- Concerning a Neighbour's point regarding precedence, this is a site-specific variance that is being considered, so there is no issue of precedence.

**Moved:** Margaret Eckenfelder

**Seconded:** Trevor Moat

That the following variance be allowed;

**Bylaw Requirements**

**Relaxation Requested**

Part 1.1.4 a.

Relaxation for height from 7.60m to 7.85m

**CARRIED UNANIMOUSLY**

**12:50 Board of Variance Appeal #00641  
Eric & Emma Ross, Applicants / Owners  
1007 McCaskill Street**

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Present Zoning: R1-B - Single Family Dwelling District  
Present Use: Single Family Dwelling

The proposal is to lift and reposition an existing one storey building and construct a new lower floor level to produce a two storey building.

**Bylaw Requirements**

**Relaxation Requested**

Part 1.2.5.a

Relaxation for the front yard setback from 7.50m to 5.95m.

Will Peereboom, Designer, Victoria Design Group, was present.

Board

- On the site plan, why is the variance not being requested on the porch?

*Nina Jokinen, Planning Technician, clarified that porches in this zone are allowed to project 1.6m into the yard.*

Applicant

- They are proposing to raise the house, and are turning the house square to the property which triggers a variance.

*Public portion of the meeting closed*

**Moved:** Margaret Eckenfelder

**Seconded:** Trevor Moat

That the following variance be allowed;

**Bylaw Requirements**

**Relaxation Requested**

Part 1.2.5.a

Relaxation for the front yard setback from 7.50m to 5.95m.

**1:10 Board of Variance Appeal #00642  
Norman Kessner, Applicant / Owner  
1468 Rockland Avenue**

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Present Zoning: R1-A – Rockland Single Family Dwelling District  
Present Use: Single Family Dwelling

The proposal is for interior renovations, a house lift of 0.46m, and an addition to the existing second storey and a half storey addition for a total addition of 99.13m<sup>2</sup>.

**Bylaw Requirements**

**Relaxations Requested**

Part 1.1.5.b.

Relaxation for rear yard setback from 9.23m to 7.87m.

Part 1.1.5.d.

Relaxation for side yard setback from interior lot line from 3.00m to 2.46m.

Part 1.1.5.e.

Relaxation for side yard setback on a flanking street from 6.00m to 5.78m.

Gerald Hoffman, Designer, Hoffman Design; Tim Murphy, Contractor; Norman Kessner, Owner were present.

Applicant

- Applicant spoke to many neighbours and there were no objections.

*Public portion of the meeting closed.*

- The existing residence is already encroaching in the setback areas.
- The proposed changes to the house will not worsen the impact for neighbours, and the deck addition is a reasonable change.
- The setbacks are governed by the irregular lot regulations.
- There are no objections from neighbours.

**Moved:** Trevor Moat

**Seconded:** Margaret Eckenfelder

That the following variances be allowed;

**Bylaw Requirements**

**Relaxations Requested**

Part 1.1.5.b.

Relaxation for rear yard setback from 9.23m to 7.87m.

Part 1.1.5.d.

Relaxation for side yard setback from interior lot line from 3.00m to 2.46m.

Part 1.1.5.e.

Relaxation for side yard setback on a flanking street from 6.00m to 5.78m.

**1:30 Board of Variance Appeal #00643  
Melissa Ollsin, Appleford Building Company; Kent Fullarton and Megan Matthews,  
Owners  
1251 Montrose Avenue**

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Present Zoning: R1-B – Single Family Dwelling District  
Present Use: Single Family Dwelling

The proposal is to construct a rear deck.

**Bylaw Requirements**

**Relaxations Requested**

Part 1.2.4 a.

Relaxation for the number of storeys from 2 to 3.

Part 1.2.5 d.

Relaxation for the combined side yard setbacks from 4.50m to 4.15m

Melissa Appleford, Appleford Building Company; were present.

*Quinn Anglin, Board Secretary, read aloud correspondence from Notified Neighbours of 1247 Montrose Avenue opposing the application.*

Applicant

- Spoke to Notified Neighbour of 1247 Montrose Avenue and they did not seem to have any particular issues about the proposal.
- The properties in the neighbourhood all look into each other, as the hill slopes down. It isn't really something that can be rectified.
- There is a large cedar hedge that varies from 15 ft. to 9 ft. high, and the Owners would like to take the cedar hedge down and build a fence. The Owners wrote and phoned the neighbours letting them know of this change, and eventually heard that the neighbours

were adamant that they did not want the hedge cut down. For this reason, the Owners have agreed not to cut down the hedge.

- Drainage should no longer be an issue. There is no drainage system now, and the Owners had to pay for a sump to pump to pump the water uphill to the system. They are currently waiting for the City to install storm water drainage.
- The plans show the high side and low side of the property, and how this made the average grade come up. The back yard is up significantly higher, and that is why they are asking for a story variance.
- The Owners had initially asked the Designers about developing the basement instead of the second storey, but the basement has no footings so it cannot be dug down.
- The basement is classed as a first storey, but cannot be used as such because it is only 5ft high. The Designers would like the floor classed as a basement, which would be consistent with its use.
- The new staircase is compliant with new setbacks, but not compliant with combined yard setbacks because the existing setback on the other side is built close to the property line. When the Designers built the second storey addition, they moved the second storey back to be compliant. They also designed the deck to be compliant on that side.
- There is no room for the stairs on the other side of the house, otherwise they would have preferred to build them there. There is also a sidewalk on the other side of the house. To have a deck with no access to the back yard would be a hardship to the Owners, who have young children.

#### Board

- Did you consider putting the stairs on the south side in the back of the house?
  - No variance would be required for the combined yard setback if they wanted to have stairs in the back off the deck.
  - The stairs work much better as an access point from the side yard. This would also reduce the amount of space taken away from the back yard.
- Can you build above the sump pit?
  - No; the sump pit needs access and cannot be built over. Also the slope of the yard would mean more stairs necessary if the staircase was built elsewhere.
- Could the stairs be moved away from the house to help with the neighbour's concern about overlooking?
  - This would be an option which may help to satisfy the neighbour's concerns. While moving the stairs away from the house would reduce the number of stairs and make for a longer walkway, it would not affect the variance requested.

*Public portion of the meeting closed.*

- The house is located so that it has a very small side yard setback on the east side, which affects the primary setback.
- The house meets the side yard setback requirements on the west side.
- There is a hardship associated with putting the stairs in the rear of the property due to the slope and the sump pump's location at the lowest point in the yard.

**Moved:** Trevor Moat

**Seconded:** Rus Collins

That the following variances be allowed;

**Bylaw Requirements**

**Relaxations Requested**

Part 1.2.4 a.

Relaxation for the number of storeys from 2 to 3.

Part 1.2.5 d.

Relaxation for the combined side yard setbacks from 4.50m to 4.15m.

Meeting Adjourned: 1:56 pm

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