The meeting was called to order at 12:30 pm.

1. Minutes

Minutes from the meeting held November 12, 2020

Moved: Margaret Eckenfelder   Seconded: Rosa Munzer

That the minutes from November 12, 2020 be adopted as amended.

Carried Unanimously

2. Appeals

12:30 Board of Variance Appeal #00871
Steven & Meadow Bachalo, Applicants
303 Beechwood Avenue

Present Zoning: R1-G
Present Use: Single Family Dwelling

The proposal is to replace the existing deck connection between main building and garage.

Bylaw Requirements

<table>
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<td>1.6.6.a</td>
<td>Site coverage relaxed from 30% (maximum) to 35%</td>
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Steven Bachalo & Meadow Bachalo, Applicants; were present.
Applicant

- Our family would like to continue to enjoy our upper deck. It’s very important to us to be able to enjoy our outdoor space.
- There is currently no access to the deck from the house. Without this variance we would have to use a ladder to get up.
- There is some financial hardship as well. There is a floating door on the side of our house which we cannot leave as-is and will have significant costs associated to fix if the variance is not granted.

Board

- This is a reasonable request due to the circumstances.
- These variances will not have a great effect on neighbours.

Public portion of the meeting closed.

Motion:

Moved: Margaret Eckenfelder  
Seconded: Rosa Munzer

That the following variance be approved:

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Carried unanimously

1:00  
Board of Variance Appeal #00861  
Louis Horvat, Zebra Designs, Applicant; Walter & Karen Madro, Owners  
1980 Fairfield Place

Present Zoning: R1-G  
Present Use: Vacant

The proposal is to construct a new single-family dwelling.
Bylaw Requirement

Part 1.6.5 (b) Reduce the rear yard setback from 14.01m to 7.08m (to the covered patio and deck) and 8.21m (to the building)

Louis Horvat, Applicant; Walt Madro & Karen Madro, Owners were present. Neighbours Scott Chapman and Janya Freer of 330 Denison Road, Brad Atchison and Cheryl Shoji of 1968 Fairfield Place, Philippe Doré (with son Graham Doré) of 1962 Fairfield Place, Arlene Lonergan of 388 Denison Place, Steven Jones of 1541 Rockland Avenue, Kevin and Bev Dickson of 235 Denison Road, Mary Doody Jones of 435 Kipling Street, Madeline Rigg, David Collins, Graham Mackenzie (arborist with Talbot-MacKenzie), Julie Budgen (Corvidae Environmental Consulting)

Correspondence concerning the application from neighbours and other interested residents was acknowledged. Board members indicated that they had read all correspondence.

Applicant

- On July 26, 2018, we obtained a variance to the rear yard setback that allowed us to shift the house deeper into the property and reduce the number of trees which would otherwise have to be removed.
- The start of construction was delayed for a number of reasons, including our decision to build a garden suite. We were advised that the variance would not expire as long as an application for a building permit had been submitted. This was not correct, the variance expired after 2 years.
- A request to extend the variance was denied on September 22, 2020. Since that request was made, we have fully withdrawn the garden suite application, and have reverted to the exact site plan presented in July 2018.
- The hardships related to the driveway construction have not changed; it was designed for egress safety and approved under our previously expired building permit.
- The driveway will be constructed from permeable paving stones.
- We have revised the retaining wall to reduce the height to mitigate the impact on the western neighbours.
- A staff report to the CRD Parks Committee meeting on February 21, 2018 regarding the variance request noted that the main focus for visitors is the view from the bluffs to the ocean and that views from the park would not be severely affected by construction of the house or the variance to move the house deeper into the property.
- The distances from our proposed house to the neighbours’ houses with the proposed variances are still generous – approximately 65 feet to the house at 1968 Fairfield Place, and over 97 feet to the house at 330 Denison Street.
- Moving the house from the allowable build area to the proposed site will substantially reduce the shadowing for the residents at 1968 Fairfield Place.
- The variance will allow more trees to be retained.
- Hardships to be addressed include the irregular shaped lot, vehicle access, location of protected trees, and topography.
- Compliance would force the building down the slope towards the road and would require removal of more trees.
- Shadow! Study was presented by the applicants, and applicants suggest there will be minimal shading from the house itself.
• Julie Budgeon with Corvidae Environmental Consulting, Inc. confirmed that without the variance, 19 oak trees would need be removed vs 10 to be removed if the variance were allowed. Up on the hill, the proposed location of the house, there is very little vegetation that would be affected.
• Graham Mackenzie (arborist with Talbot-MacKenzie) indicated that there would be a much greater opportunity to save better healthier trees with the variance.

Neighbours/Interested Residents

• A notified neighbour at 1968 Fairfield Place expressed general concern about ecosystems and strong feelings against this and any other development affecting sensitive ecosystems. This neighbour further stated that the opposition voiced by the Gonzales Hill Preservation Society is very ironic since their request to deny this variance would have a more deleterious impact on the mature Gary Oak trees.
• This neighbour noted there had been an agreement between adjacent neighbours that if a house were built on the subject lot, the impact would be shared. The proposed variance will result in a development that maximizes preservation of the ecosystem and equitably balances the burden between both impacted neighbours. Accordingly, the BOV should approve this variance.
• Adjacent neighbours at 330 Denison stated that the applicants do not need this variance; it is more a matter of want. The applicants show a motor court destroying numerous trees. A 3-car garage is not required and is not grounds for a variance. They suggested the tree loss would be the same without the variance. Undue hardship is important in these applications and there is none. There is no attempt to preserve these trees with this driveway design.
• These neighbours also disagree with the assessment of the shadow study. There is a significant shadowing of both neighbouring properties. They stated they had gone to great lengths to show this (presented in a submission to the BOV dated December 15, 2020).
• An interested resident spoke in support of the variance, stating that all the applicant wants to do is build a house on a City of Victoria approved lot. They noted that many concessions have already been made by the applicants. The proposed variance is supported by experts who have studied the site.
• Another interested resident suggested that there is no hardship here. The Ministry of Transportation does not require a turn around.
  o The applicant’s designer noted that he had not made any comment about the Ministry of Transportation requirements. He noted that the location at the end of a dead-end narrow street requires the turn around for safe access to and from the property.
• A neighbour at 1968 Fairfield Place indicated that their only remaining concern is the impact of shadowing on their skylights, but supported approval of the application.
• A nearby neighbour noted the professionalism with the BOV over these long 4 years.
• A nearby neighbour disagreed with CRD staff that the views from the North are not important.
Applicants’ Response

- The applicant noted that there have been a number of design concessions, including the loss of a potential secondary suite in the basement and the garden suite. The garage is not a full 3 car garage. The current plan is to build a 2500sq ft house.
- The applicants noted that they have provided the Board with quite a few signatures in support of the variance. They also indicated that they had reached out to adjacent neighbours and only received a response from the neighbours to the west at 1968 Fairfield Place.

Board (Questions with Applicant’s Response)

- Is this the same plan that was presented to the BOV in July 2018?
  - Yes – the same.
- With reference to your plans: BOV 04, basement plan, shows elevations of the slab for garage and entry area. I see both as 53.54m, is that correct?
  - 53.54 is correct.
- On BOV 06 and BOV 10, I see the top of the garage floor slab is at 53.54, and the Basement Floor Elevation is shown as 54.56, however BOV 04 shows the basement floor is at the same level as the garage slab. Is this an error?
  - There is an error, the basement floor elevation should be the same as the garage slab height. Our basement stairs run from the garage slab to the main floor.
- Please comment on Ministry of Transportation requirements regarding the slopes of driveways, provision for vehicle turning and how you decided on the size of the parking pad. That was something that factored into the hardships presented in support of the variance.
  - The regulation for grading for entry to the site is 8% over 6 meters so we are limited. Then we can reach a max of 15%. We would need to go up to 8% then could go to 15% and then go back to 8% to enter the garage. The turn around is located so as to minimize affect on the trees. Fairfield Place is very narrow, and in order for one to leave safely a turn around on the property is needed.
- Are you convinced this is the smallest parking pad possible to meet the requirement?
  - In the past we were asked to reduce parking area and we have. And then we were asked to reduce it again during this process to save another tree, which we have done. In order to back out of the garage we require 23ft. clear. I'm not certain where we can eliminate anymore space.
- Could the larger garage door be made narrower, making it possible to move the retaining wall further away from the property line?
  - We have produced an elevation from that view. The retaining wall does not follow the whole driveway. The hillside takes over and you will not see the retaining wall after a certain point.
- It looks like the nearest wall to the wall of the house to the north at 330 Denison is about 97 feet. Is that the horizontal distance between walls?
  - Yes, as the bird flies.
- In a submission from neighbours at 330 Denison dated December 15, there were renderings provided showing the relationship between their house and the proposed development. Do you have those images that you could share that shows those same images?
  - I am aware of those renderings; however, I do not have copies of them.
• The drawing in that submission appears to have been extracted from one of your drawings, however, it appears to be out of scale. Can you comment?
  o Agreed – the ratio of height to horizontal distance appears to be out of scale.

• The letter also shows a photo of the proposed development area from 330 Denison with the image of the house superimposed. However, it shows the taller South elevation facing the property, not the North elevation, which should rightfully be shown.
  o Agreed, the incorrect building face is shown in the picture.

• For these reasons I am of the opinion that the shadow studies presented by the letter writers cannot be relied upon as being factual.

• Are you in compliance with the maximum allowable parking area in the front yard?
  o The calculation is for 50% of the front yard and we are well under the setback.
  o The only variance being sought is for the rear yard setback, and it is motivated by hardships related to the access, irregular shape and topography of the lot.

• Even though there is not a height variance being requested for this property, is there an opportunity to reduce the height of the house? Following the discussion at the outset of the hearing regarding the error in the Basement Floor Elevation, it appears possible to lower the geodetic height of the house without compromising its views nor access; only the crawlspace and basement heights would be reduced. It appears from the statements made at this and prior hearings that a height reduction would be unanimously appreciated by each neighbour and by users of the park.
  o In our view this is the best possible solution for the driveway access for the house. If we try to move the house around, we end up starting to chase grade. We would have to adjust grade at the rear of the house and that would require more blasting. We decided to minimize the blasting. We have moved the building forward to retain the top of the hill.

• In the affidavit regarding the garden suite, there is a statement that the applicants’ intention is not to build one. Why was this wording chosen rather than a simple statement that the applicants will not build a garden suite on this lot?
  o Mr. Madro stated: “Mr. Chair, I’m not sure our words were properly put to that and we had a thought to revise that for this meeting. I want to stress that if our home is allowed to be built in the variance location there is no access to the back property anyway. We have also been told that to put a caveat in place on your house could devalue it but we wanted to provide some longer term intentions. We cannot afford to build a suite at this point. Our desire is to just build the main house and move on with our lives. The CRD is also unwilling to grant access to our land to gain access to the back of the house.”

Public portion of the meeting closed.

• BOV is sympathetic to ecosystem concerns expressed regarding construction on this site; however, it is a legal building lot and the applicants are entitled to build a home there.

• BOV is persuaded that putting the house where it is allowed without the requested variance will be more damaging to the ecosystem, especially the mature Gary Oak trees. This perspective is amply supported by expert opinion obtained by the applicants.

• The lot is not part of the park. It has existed since 1955 as part of a subdivision. There was opportunity for public or private interests to purchase the lot and dedicate it as a park and that did not happen. It is designated for building.

• The most affected neighbour is the CRD and they have not expressed anything other than an acceptance that a variance is being sought and they have no objections to it.
- When the variance was granted in July 2018, the applicants stated that they planned to put a restrictive covenant in place to protect the lot from further development. The BOV has no jurisdiction in this regard. However, there was strong support for this undertaking when the variance was originally approved. The Board acknowledges the current affidavit from the Applicants indicating the intent not to develop the lot further.

**Motion:**

**Moved:** Margaret Eckenfelder  
**Seconded:** Rosa Munzer

That the following variance be approved:

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*Carried unanimously*

Meeting Adjourned at 3:25 pm