

**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 20, 2021. The meeting was held virtually with participants appearing via video conference.

**Present:** Mr. J. Paul, Chair  
Mr. G. Akester, Vice-Chair  
Mr. L. Gavel  
Ms. L. Richard  
Mr. N. York

**Staff:** Mr. J. Gordon, Manager – Administrative Services  
Ms. G. Lanz, Deputy Municipal Clerk  
Ms. L. Koncsik, Plans Reviewer  
Ms. J. Tehrani, Plans Reviewer  
Ms. S. Dale, Confidential Council Clerk  
Ms. S. Ferguson, Committee Clerk

**Also in Attendance:** Mr. Mark Simone, Applicant  
Mr. Bill McClintock, Neighbour

Ms. Genevieve Lanz, Deputy Municipal Clerk, introduced Laura Lee Richard as the newest member of the Board of Variance and welcome her to the Board.

Ms. Lanz asked for nominations for the positions of the Chair and Vice-Chair.

**MOVED by Lee Gavel**  
**SECONDED by Guy Akester**  
THAT Jim Paul is appointed to the position of the Chair.

**CARRIED**

**MOVED by Jim Paul**  
**SECONDED by Lee Gavel**  
THAT Guy Akester is appointed to the position of the Vice-Chair.

**CARRIED**

**1. Adoption of Minutes**

**1.1 April 15, 2021, Board of Variance Meeting**

**MOVED by Lee Gavel**  
**SECONDED by Neville York**  
THAT the minutes of the April 15, 2021 Board of Variance meeting are adopted.

**CARRIED**

## 2. Hearing of Application

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

### 2.1 2905 Crescentview Drive

#### Staff Presentation

Staff reported that the property is located in the RSE Zone. The house was built in 1949 and is in the Slope, Streamside and Wildfire Permit Area. It is not on the heritage registry. The proposed work is for new construction in the Streamside Development Permit Area and they have been working with the District's Engineering department on this proposal. Staff advised that it meets the 15m setback from the top of the bank.

The variance requested on the property is as follows:

1. Combined Front & Rear Setbacks variance of 5.63 ft. (1.72 m).

In response to a question from the Board, staff advised that the proposed dwelling exceeds the minimum requirements for the front and rear setbacks but does not meet the combined 60 ft. requirement.

#### Applicant Presentation of Hardship

The applicant drew attention to the following points and hardships:

- The hardship is that the lot is relatively shallow;
- The owners are a retired couple and have requested a floor plan that will allow for aging in place where their day-to-day living requirements have been accommodated on the ground level of the home;
- Without a relaxation to the combined front and rear yard setbacks, it would not be possible to provide for a master bedroom, ensuite, and dressing room on the ground level of the home;
- If the footprint of the house were to conform to the required combined front and rear yard setbacks, this would force more of the square footage to be located on the upper level, which would make the house feel more massive from the street and cast more of a shadow onto the neighbouring property to the north;
- There is only one adjacent home to the north of this property as the site to the south is the Murdo Frazer Park and the rear yard backs onto a ravine containing a tributary of Mackay Creek;
- Support was received from the immediate neighbouring properties;
- The design of the home is in keeping with the character of the neighbourhood; and,
- The design of the home is contemporary and visually pleasing, and respects the established scale and aesthetics of the neighbourhood.

In response to a question from the Board, the staff advised that the Engineering Department has confirmed that the property is included in the Slope Hazard Development Permit Area.

In response to a question from the Board, the applicant advised that other design options were considered; however, as a result of the owners being elderly and wanting to age in place, ground living requirements are being proposed.

In response to a question from the Board, the applicant advised that neighbours at 2253, 2905, 2881, 3020, and 3025 Crescentview Drive provided letters of support.

In response to a question from the Board, the staff advised that the garage is not included in the proposed variance as it has a different property line from the setback.

### **Input from Notified Persons**

Mr. Bill McClintock, 2915 Crescentview Drive:

- Questioned if the garage slab will still be lowered by 3 ft. given the Development Variance Permit application for a pool as been removed; and,
- Expressed concern regarding the noise of the side-yard heat pump.

### **Discussion**

Mr. Lee Gavel spoke in support of the application, noting that the only design remedy would be to increase the upper floor but would not work as the owners are elderly and have requested that their day-to-day living requirements are accommodated on the ground level of the home. He also commented that there is minimal impact to the surrounding neighbours.

Mr. Neville York spoke in support of the application, stating that the lot is shallow and causes the hardship. He also acknowledge neighbourhood support.

The Vice Chair spoke in support of the application, recognizing the narrow size of the lot.

Ms. Laura Lee Richard spoke in support of the application, noting that it is a difficult lot due to the slope and angular shape.

The Chair spoke in support of the application, and opined that the depth of the lot makes it difficult. He also acknowledge that unanimous neighbourhood support was provided.

**MOVED by Lee Gavel**

**SECONDED by Laura Lee Richard**

THAT Board of Variance Application BOV2021-000006 2905 Crescentview Drive presented at the May 20, 2021 Board of Variance meeting is APPROVED as follows:

Zone	Regulation	Required/ Allowed	Existing	Proposed	Variance
RSE	Combined Front & Rear Setbacks	60 ft. (18.29 m)	N/A	54.37 ft. (16.57 m)	5.63 ft. (1.72 m)

**CARRIED**

**3. CORRESPONDENCE**

Nil

**4. NEXT MEETING**

The next regular meeting of the Board of Variance is scheduled for Thursday, June 17, 2021.

**5. ANY OTHER BUSINESS**

Mr. Richard Boase, Section Manager – Environmental Sustainability, provided a presentation on the methodology of determining appropriate setbacks highlighting the following:

- Outlined the Streamside Protection Development Permit Area (DPA);
- Described the Protected Areas within the DPA's;
- Explained the District's DPA process; and,
- Compared the DPA with the Riparian Area Regulation (RAR).

Mr. Boase advised that he can answer any related questions of the Board.

In response to a question from the Board, staff advised that the District is reviewing both slope hazard development permit areas and streamside development permit areas.

In response to a question from the Board, staff advised that the Planning Department stopped providing planning advice letters. These letters contained opinions and conclusions (which could be construed as recommendations) about whether or not there is hardship in the application and whether or not a requested variance is minor. The legislation and case law are clear that the finding of hardship and the determination of minor are the exclusive jurisdiction of the Board to determine after hearing the applicant and other notified persons and having taken into consideration all relevant factors. The proper role for Planning staff is to inform the Board whether or not the Corporation supports the variance and not to purport to advise or guide the Board.

In response to a question from the Board, staff advised that the *Local Government Act* outlines the Board's power when permitting a minor variance. It was further noted that that there is no strict definition of a minor variance and it is at the Board's discretion. Moreover, if the Board considers an application to be a major variance the applicant could apply for a Council-approved Development Variance Permit. This is typically done when renovating an existing non-conforming building and is necessary to vary the Zoning Bylaw to accommodate the proposal.

In response to a question from the Board, staff advised that the Board may grant a variance if they find that compliance with the bylaw would cause undue hardship and have considered the following factors and are of the opinion that the variance does 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;
- Defeat the intent of the bylaw; and,
- Vary the application of an applicable bylaw in relation to residential rental tenure.

In response to a question from the Board, staff advised that the Board must not approve an application that would do any of the following:

- be in conflict with a covenant registered under s.219 of the *Land Title Act* or s.24A of the *Land Registry Act*, R.S.B.C. 1960, c.208;
- deal with a matter that is covered in a land use permit or land use contract;
- deal with a matter that is covered by a phased development agreement;
- deal with a flood plain specification under s.524(3) of the *Local Government Act*;
- apply to a property:
  - for which an authorization for alterations is required under Part 15 [*Heritage Conservation*];
  - for which a heritage revitalization agreement under s.610 is in effect; or
  - that is scheduled under s.614(3)(b) [*protected heritage property*] or contains a feature or characteristic identified under s.614(3)(c) [*heritage value or character*]

The Board requested that staff provide a consideration sheet to help the Board when considering undue hardship.

In response to a question from the Board, staff advised that Non-conforming buildings that have been damaged or destroyed by 75% or more of their value may only be reconstructed to conform with zoning.

In response to a question from the Board, staff advised that that the Board cannot diverge from the District's Environmental Protection and Preservation Bylaw and that the District's Environment Department follows the Provincial guidelines.

The Board requested a copy of the Section Manager – Environmental Sustainability PowerPoint presentation entitled Riparian Setback Discussion.

## 6. ADJOURNMENT

**MOVED by Jim Paul**

**SECONDED by Guy Akester**

THAT the May 20, 2021 Board of Variance Meeting is adjourned at 6:43 p.m.

**CARRIED**

Chair



Committee Clerk

