

**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, July 21, 2022. The meeting was held virtually with participants appearing via video conference.

Present: Mr. J. Paul, Chair
Mr. L. Gavel
Ms. L. Richard
Mr. N. York

Absent: Mr. G. Akester, Vice-Chair

Staff: Ms. G. Lanz, Deputy Municipal Clerk
Ms. L. Koncsik, Residential Plans Reviewer
Ms. V. Milburn-Brown, Residential Plans Reviewer
Ms. C. Archer, Confidential Council Clerk
Ms. S. Clarke, Committee Clerk

Also in Attendance: Mr. Jeff Mackay, Applicant/Owner
Ms. Karen Mackay, Applicant/Owner
Ms. Andrea Walker, Notified Person
Mr. Bradley Walker, Notified Person

1. Adoption of Minutes

1.1 June 16, 2022, Board of Variance Meeting

MOVED by James Paul

SECONDED by Lee Gavel

THAT the minutes of the June 16, 2022 Board of Variance meeting are adopted.

CARRIED

2. Hearing of Applications

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

2.1 4121 Russell Court

Staff Presentation

Staff reported that the property is located in the RS3 Zone and that the lot area is approximately 7140 square feet. The house was built in 1984, is not on the Heritage Registry, and is located in Development Permit Areas for Streamside Protection and Wildfire Hazard. The Environment Department has reviewed the proposal and has indicated that an exemption will be permitted for this application.

The proposal is to remove the existing non-conforming retaining wall and construct a new retaining wall on the north, east and south sides of the property. There are

statutory rights of way for sanitary and sewer services on the east and south sides of the property.

The variance requested on the property is as follows:

1. Max Retaining Wall Height variance of 7.42 ft (2.26 m).

In response to a question from the Board, staff advised that the public gravel pathway is within the statutory right of way and that the path encroaches on the subject property.

In response to a question from the Board, staff advised that Lima Road ends in a cul-de-sac.

In response to a question from the Board, staff clarified that structures are not permitted on the statutory right of way and that the existence of gravel path would not prevent access to the sanitary line.

Applicant Presentation of Hardship

The applicant drew attention to the following points and hardships:

- Opined that the proposal conforms to the intent of the Zoning Bylaw;
- Noted the recent change to retaining wall requirements in the Zoning Bylaw;
- Advised that the public pathway has heavy foot traffic and is poorly lit;
- Commented on the potential for criminal activity to their own and neighbouring properties as a result of access from the public pathway;
- Advised that they were told by police following a break-in at a previous residence that ease of access increases the probability of this type of crime;
- Opined that a three feet tall retaining wall with a four feet tall fence would allow access to the property and negatively affect privacy;
- Commented on the hardships associated with conforming to the current Zoning Bylaw:
 - Would require tiering of the rear yard or replacing the retaining wall in its current form, with the same issues that have led to its deterioration; and,
 - Two of the four sides of the property are constrained by statutory rights of way.
- Acknowledged that the neighbouring properties to the north are also constrained by the gravel path and a right of way;
- Commented on the payment of property tax for unusable space on their property;
- Noted that they are committed to preserving green space and that tree removal will be required for any of the available options;
- Stated that their geotechnical consultant has advised that more trees would need to be removed to reconstruct the retaining wall in its current location or to tier the rear yard to comply with the Zoning Bylaw;
- Noted that the rear of the property is adjacent to open space and opined that the proposal will not impact their neighbours; and,
- Stated that the proposal is consistent with the neighbouring properties.

In response to a question from the Board, the applicant advised that no neighbour letters were submitted as part of the application.

In response to a question from the Board, the applicant advised that a magnolia tree would need to be removed to rebuild the retaining wall in its current location.

In response to a question from the Board, the applicant advised that the neighbours' retaining walls are similar in dimensions to the proposal and the height of one of the neighbours' walls is ten feet.

In response to a question from the Board, the applicant advised that the house has one step down to ground level from the basement.

Representations from the Public

Ms. Andrea Walker, 4100 Block Russell Court:

- Spoke in opposition to the application;
- Stated that the applicant had not provided specific dimensions of the proposed wall or drawings when they had spoken to neighbours to gain support for their proposal;
- Noted that the elevation of the applicant's property is four feet higher than her property on the south side and that the proposed retaining wall and fence would negatively impact their water views;
- Expressed concern that the proposed retaining wall would bury her existing retaining wall and undermine its structural integrity; and,
- Expressed concern regarding drainage from additional fill on the applicant's property that would be required in the proposal is approved.

Mr. Bradley Walker, 4100 Block Russell Court:

- Spoke in opposition to the application;
- Noted that the elevation of the applicant's property is four feet greater than his property;
- Stated that the properties on their side of the street are staggered;
- Noted that if the proposal is approved, their view will be of a ten feet tall wall and fence;
- Advised that they had purchased their house for the unobstructed water view;
- Stated that the proposal would have a significant negative impact on the enjoyment of their property and its value; and,
- Opined that the proposal is not within the intent of the Zoning Bylaw.

In response to a question from the Board, staff advised that the maximum height of a fence is calculated in conjunction with the height of the retaining wall.

Discussion

Mr. Lee Gavel spoke in opposition to the application, noting that the intent of the Zoning Bylaw is to protect neighbourhoods and that a ten feet tall wall does not respect the interests of the neighbour to the north.

Ms. Laura Lee Richard spoke in opposition to the application, noting that the lot behind the subject property is zoned Parks and Open Space and that stepping of landscaping is included in the Zoning Bylaw to avoid the use of imposing large walls. Ms. Richards

noted that the neighbours did not raise issues regarding criminal activity and further noted that the proposal is not within the intent of the Zoning Bylaw.

Mr. Neville York spoke in opposition to the application, noting that neighbours would be negatively impacted and that there are other available design options. Mr. York acknowledged that security and privacy are issues for the property and advised that these issues are not enough to constitute a hardship sufficient to approve the application.

The Chair spoke in opposition to the application and expressed agreement with the reasons presented by the other members of the Board. Mr. Paul expressed concern that granting the variance would set a precedent.

MOVED by Lee Gavel

SECONDED by Laura Lee Richards

THAT Board of Variance Application BOV2022-00007 4121 Russell Court presented at the July 21, 2022 Board of Variance meeting is DENIED as follows:

Zone	Regulation	Required/ Allowed	Existing	Proposed	Variance
RS3	Max Retaining Wall Height	3 ft (0.91 m)	6.5 ft (1.98 m)	10.42 ft (3.18 m)	7.42 ft (2.26 m)

CARRIED

3. CORRESPONDENCE

Nil

4. NEXT MEETING

The next regular meeting of the Board of Variance is scheduled for Thursday, September 15, 2022.

5. ANY OTHER BUSINESS

Nil

6. ADJOURNMENT

MOVED by James Paul

SECONDED by Lee Gavel

THAT the July 21, 2022 Board of Variance Meeting is adjourned at 5:37 p.m.

CARRIED


Chair


Committee Clerk