

BOARD OF VARIANCE/PARKING VARIANCE BOARD – SUMMARY MINUTES

DATE: Tuesday, February 14th, 2023

TIME: 1:15 PM

PLACE: Townhall, Main Floor, City Hall

PRESENT: Gilbert Tan – Board Chair

Namtez Sohal

Alexander Ray

ABSENT: Rakshin Kandola (after 2:00 PM)

SECRETARY: Louis Ng

Assistant

SECRETARY: Carmen Lau

ALSO PRESENT: Tony Chen, Manager

Joe Bosnjak, Supervisor

3019 Point Grey Road – Board Minutes and Decision

Appeal Section: 573(1)(b) - Appeal of Regulation – Building Line

Legal Description: Lot A, Block 24, District Lot 192 and Plan VAP 9538

Lot Size: Irregular site

Zone: RS-2

Related By-Law Clause: Zoning By-law and Tree By-law

Appeal Description:

Requesting relaxations of the Zoning By-law and the Tree By-law with permission to provide new development beyond the Building Line (proposed development beyond the building line: new swimming pool and a hot-tub, new patios, new stepped terraces and stairs with new landscaping), new over-height fence and gate at this site, and a request to remove existing trees from the site (New construction at this site).

Related to Development Application No. DB-2022-04243: To construct a two-storey with cellar, one-family dwelling with an attached garage providing five (5) parking spaces, and having vehicular access from Point Grey Road and a proposed new swimming pool, hot-tub, stepped terraces and patios in the rear yard at this site (and BOV's approval is required for development the building line).

Appellant's zoning request (See attached letters and Arch. drawings):

1. Allow for over height fence and gate (6'-0") for safety of residents consistent with the existing property and other residences along Point Grey Road.
2. Allow development beyond the rear yard building line to enhance the foreshore condition for both private and public benefit.
3. Allow the removal of by-law protected trees in conflict with the proposed development.

Discussion:

Kalli Niedoba, and David Battersby were present to speak in support of the appeal.

At the request of the Chair, the appellant agreed to dispense with the reading of the submission, which had been in the Members' possession prior to the meeting.

The appellant's initial comments were that they are looking to build some new developments beyond the building line; such as a new swimming pool, a hot tub, a new patio, new stepped terraces and stairs with new landscaping, new over height fence and gate, and to remove existing trees from the site. They're looking to remove invasive plant species on site.

The Director of Planning's Representative

Mr. Chen's initial comments were that this is an appeal for building beyond the building line. The Director of Planning cannot permit building beyond the building line, and cannot support the appeal. They also have concerns over the swimming pool.

The Board Chair stated that the Board's site office received three (3) letters in Support and two (2) letters in opposition to this appeal.

The Chair stated that if there were any interested parties in the audience who wished to speak to this appeal, they should raise their hand to be recognized and when recognized, state their full name and address and spell their surname for the record.

There were no comments.

Final Comments:

Mr. Chen's final comments were that the boulder clusters beyond the North property line is not what the Director of Planning is objecting to. The Director of Planning is not in support of the appeal.

The appellant had no final comments.

This appeal was heard by the Board of Variance on February 14h, 2023 and was ALLOWED in PART, thereby ONLY approving the removal and the replacement of trees as presented at the appeal hearing, and subject to the following conditions:

(1) that the development shall otherwise comply with the requirements and regulations of the Zoning and Development By-law to the satisfaction of the Director of Planning.

NOTE: The Owners must comply with the Tree-By-law and shall remove and replace the existing trees on-site at a 1 to 1 ratio, and shall be to the satisfaction of the Director of Planning.

2028 West 36th Avenue – Board Minutes and Decision

Appeal Section: 573(1)(a) & 573(1)(b) - Appeal of Regulation & Decision

Legal Description: Lot 10, Block 21, District Lot 526 and Plan VAP2975

Lot Size: Lot Area = 2,402 sq. feet

Zone: RS-5

Related By-Law Clause: Sections 4.6 (Rear Yard) and 4.16 (Building Depth)

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2021-00638 and a request to permit exterior alteration and replacing an existing open sundeck at the rear of this existing one-family dwelling site.

Development Application No. DP-2021-00638 was refused for the following reasons

-The proposed development does not comply with the regulations of the Zoning and Development By-law (Rear Yard and Building Depth) that affect the site.

Technical Information:

Required Rear Yard: 48.00 feet

Existing non-conforming: 33.60 feet

Proposed: 26.50 Feet [As per DP-2021-00638.]

Permitted Building Depth: 48.00 feet

Existing non-conforming: 62.40 feet

Proposed: 69.50 Feet [As per DP-2021-00638.]

Discussion:

Michael Elliston, and the owners were present to speak in support of the appeal.

At the request of the Chair, the appellant agreed to dispense with the reading of the submission, which had been in the Members' possession prior to the meeting.

The appellant's initial comments were that there was wood rot on the existing deck, and as they were trying to repair it, they realized it was worse than expected. The deck provides a way to get out of the kitchen, as well as access to having a meal on the deck. They have support from 25 neighbours, with 14 letters of support.

The Director of Planning's Representative

Mr. Chen's initial comments were that this is an appeal of refusal of a rear deck replacement. The Director of Planning did not support that application, and would like the Board to uphold their decision. There was some enforcement action back in 1999; the old owners tried to go through the process with the Board of Variance, and their appeal was denied, as there were charges laid in court.

The Board Chair stated that the Board's site office received fourteen (14) letters in Support and no (0) letter in opposition to this appeal.

The Chair stated that if there were any interested parties in the audience who wished to speak to this appeal, they should raise their hand to be recognized and when recognized, state their full name and address and spell their surname for the record.

There were no comments.

Final Comments:

Mr. Chen's final comments were that the Director of Planning is not in support of the appeal.

The appellant's final comments were that their entire neighbourhood is in support of the appeal.

This appeal was heard by the Board of Variance on February 14h, 2023 and was ALLOWED, thereby overturning the decision of the Director of Planning who refused Development Application No. DP-2021-00638 and approved exterior alterations and replacing an existing open sundeck at the rear of this existing one-family dwelling site, and subject to the following condition:

- (1) that the development shall otherwise comply with the requirements and regulations of the Zoning and Development By-law to the satisfaction of the Director of Planning.

Board's summary and decision based on the following:

- The Board found site hardship to allow this appeal (older home with non-conforming by-laws)
- The Board also received Support letters from the surrounding neighbourhood and all accepted the proposed development.
- No Opposition from the neighbourhood (from the Board's neighbourhood notices)
- The Owners confirmed that they will continue working with the City and obtain all the required City's Development – Building permits to the satisfaction of the Director of Planning.

2981 McGill Street – Board Minutes and Decision

Appeal Section: 573(1)(a) Appeal of Decision – DP Refusal

Legal Description: Lot B of District Lot 342 and Plan 14972.

Lot Size: Lot Area = 4,026 sq. feet.

Zone: RS-1

Related By-Law Clause: Section 4.7 (FSR)

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No.DP-2022-00561 and a request to permit interior and exterior alterations and to validate the cover over the rear sundeck, to enclose a portion of the carport and convert the space into anew laundry room, installing a new window adjacent to laundry room and to enclose a portion under the stairs (new storage area) at this existing single-family detached house site.

Development Application No. DP-2022-00561 was refused for the following reasons

-The proposed development does not comply with the regulations of the Zoning and Development By-law (FSR, Floor Space Ratio – Floor Area) that affect the site.

Technical Information:

Permitted FSR: 0.60 (2,415 sq. ft.)

Existing: 0.60 (2,434 sq. ft.)

Proposed: 0.71 (2,879 sq. ft.) [as per DP-2022-00561.]

464 sq. ft. or 19 % over the maximum permitted

445 sq. ft. or 18 % over existing

Permitted above-grade FSR: 2,205 sq. ft.

Existing non-conforming: 2,434sq. ft.

Proposed: 2,879 sq. ft. [as per DP-2022-00561.]

Discussion:

Erica Lloyd-Jones was present to speak in support of the appeal.

At the request of the Chair, the appellant agreed to dispense with the reading of the submission, which had been in the Members' possession prior to the meeting.

The appellant's initial comments were that the home was built in 1973, this house changed hands on multiple occasion before she purchased it. She is looking to keep what was there since she moved in.

The Director of Planning's Representative

Mr. Chen's initial comments were that this is an appeal of floor area. The Director of Planning did refuse this application and would like the Board to concur with the decision, as this was done without permit, and was found by building inspectors during a short term rental inspection. The enclosure brought the floor area over.

The Board Chair stated that the Board's site office received no (0) letter in Support and no (0) letter in opposition to this appeal.

The Chair stated that if there were any interested parties in the audience who wished to speak to this appeal, they should raise their hand to be recognized and when recognized, state their full name and address and spell their surname for the record.

There were no comments.

Final Comments:

Mr. Chen's final comments were that the floor space right now is about 72.5%, the maximum allowed is 70%.

The appellant's final comments were that she didn't do anything ill intentionally, she appreciate the opportunity in front of the Board.

This appeal was heard by the Board of Variance on February 14h, 2023 and was ALLOWED, thereby overturning the decision of the Director of Planning who refused Development Application No. DP-2022-00561 and approved interior and exterior alterations and approving the cover over the rear sundeck, to enclose a portion of the carport and convert the space into a new laundry room, installing a new window adjacent to laundry room and to enclose portion under the stairs (new storage area) at this existing single-family detached house site, and subject to the following condition:

- (1) that the development shall otherwise comply with the requirements and regulations of the Zoning and Development By-law to the satisfaction of the Director of Planning.

Board's summary and decision based on the following:

- The Board found site hardship to allow this appeal (older home with non-conforming by-laws)
- The Board also received Support letters from the surrounding neighbourhood and all accepted the proposed development.
- No Opposition from the neighbourhood (from the Board's neighbourhood notices)
- The Owners confirmed that they will continue working with the City and obtain all the required City's Development – Building permits to the satisfaction of the Director of Planning.

Unit #102 – 950 West Broadway – Board Minutes and Decision

Appeal Section: 57	3(1)(a) Appeal of Decision – DP Refusal
Legal Description:	Lot 5, Block 356, District Lot 526 and Plan V NWD.
Lot Size:	Irregular site
Zone:	C-3A
Related By-Law Clause:	Section 11.6.2

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2022-00572 and a request to permit interior alterations and a change of use from Office to a new Cannabis Retail Store on the main floor (in Unit #102) of this existing commercial building site.

Development Application No. DP-2022-00572 was refused for the following reasons

- The proposed development does not comply with the regulations in Section 11.6.2 of the Zoning and Development By-law that affect the site.
- Objections have been received from neighbouring property owners.

Discussion:

Michelle Rochon was present to speak in support of the appeal.

At the request of the Chair, the appellant agreed to dispense with the reading of the submission, which had been in the Members' possession prior to the meeting.

The appellant's initial comments were that they're a recreational company that wanted to start a new company. They have spent a lot of time scouting locations to open a store, but found it very difficult.

The Director of Planning's Representative

Mr. Bosnjak's initial comments were that there is a private school within 100 meters from the cannabis store that ranges from grade 8 to 12. The Director of Planning doesn't see a site specific hardship, and cannot support the appeal.

The Board Chair stated that the Board's site office received no (0) letter in Support and four (4) letters in opposition to this appeal.

The Chair stated that if there were any interested parties in the audience who wished to speak to this appeal, they should raise their hand to be recognized and when recognized, state their full name and address and spell their surname for the record.

There were no comments.

Final Comments:

Mr. Bosnjak's final comments were that the Director of Planning refused this application due to being within 100 meters to a private school.

The appellant's final comments were that they feel they're a perfect fit to the community.

This appeal was heard by the Board of Variance on January 17th, 2023 and was ALLOWED, thereby overturning the decision of the Director of Planning who refused Development Application No. DP-2022-00572 and approved interior alterations and a change of use from Office to a new Cannabis Retail Store on the main floor (in Unit #102) of this existing commercial building site, and subject to the following conditions:

- (1) that the approval is for the exclusive use of Michelle Rochon and operating the business as 'Team Cannabis.' – and doing business as (DBA) "Team Cannabis";
- (2) that the approval is for one-year and expiring on February 14th, 2024;
- (3) that the Board may grant an extension to the time-limit on or before February 14th, 2024;
- (4) that signs must be displayed at the storefront and displayed at all times and noting "NO MINORS ARE ALLOWED INSIDE THE STORE"
- (5) that the storefront windows must be "frosted" and shall be to the satisfaction of the Director of Planning; and
- (6) that the development shall otherwise comply with the requirements and regulations of the Zoning and Development By-law to the satisfaction of the Director of Planning.

Board's summary and decision based on the following:

- The Board found site hardship to allow this appeal (and the proposed location is on a major street intersection at Oak Street and West Broadway – commercial unit is located within a plaza)
- The Board also received Support letters from the surrounding neighbourhood and all accepted the proposed development.
- No Opposition from the neighbourhood (from the Board's neighbourhood notices)
- The Owners confirmed that they will continue working with the City and obtain all the required City's Development – Building permits to the satisfaction of the Director of Planning.

649 West 22nd Avenue – Board Minutes (New Architectural drawings Approved)

Appeal Section: 573(1)(b) Appeal of Regulation (Crawlspace Conversion drawings accepted)

Legal Description: Lot 21, Block 599, District Lot 472 and Plan VAP507.

Lot Size: Lot Area = 4,024.90 sq. feet

Zone: RS-5

Related By-Law Clause: 4.7 (FSR)

Appeal Description:

New updated Architectural drawings were submitted for the Board's final approval. This is NOT a appeal but confirming the approved drawings submitted to the planning department. Previous board decision stands, and requesting a relaxation of the Floor Space Ratio (FSR) regulations of the RS-5 District Schedule and requesting to permit interior alterations by converting the existing crawlspace area in the basement - into new habitable floor area within this existing one-family dwelling site.

Discussion:

Dr. Esther Grunau, and the owners were present to speak in support of the appeal.

At the request of the Chair, the appellant agreed to dispense with the reading of the submission, which had been in the Members' possession prior to the meeting.

The appellant's initial comments were that they're requesting the allowance to change their existing crawlspace into a bedroom. They have the support of their neighbours. The reason they want a bedroom is to accommodate their family needs. They wish to create a multi generation home that works with them.

This appeal drawings were reviewed by the Board of Variance on February 14h, 2023 and the updated drawings were accepted and ALLOWED, thereby granting a relaxation of the Floor Space Ratio (FSR) regulations of the RS-5 District Schedule and approved interior alterations by converting the existing crawlspace area in the basement - into new habitable floor area within this existing one-family dwelling site.

2140 Kingsway – Board Minutes (Amendment request – Expiry Date updated)

Appeal Section: 573(1)(a) - Appeal of Decision (Cannabis Renewal Appeal)

Legal Description: Lot 1, District Lot 393, and Plan VAS1239.

Lot Size: Irregular site

Zone: C-2

Related By-Law Clause:

Appeal Description:

Amendment request only and a request to update the expiry date as requested by the Cannabis operator. Previous board decision: and related to Development Application No. DP-2020-00927 and a request to permit an extension to retain the approved Cannabis Retail Store for a further period of time. Previously approved by the Board of Variance on January 25th 2022 (see decision below).

Board of Variance History:

This appeal was heard by the Board of Variance on January 25th, 2022 and was ALLOWED, thereby granting an extension to retain the approved Cannabis Retail Store for a further period of time and subject to the following conditions:

- (1) the approval is for the exclusive use of “Grand Forks Cannabis Ltd.” and shall be operated by Charles Varabioff and doing business as (DBA): “Kingsway Cannabis”.
- (2) the Board granted a limited-time approval for one (1) year and expires on: May 04th, 2023;
- (3) the Board may grant an extension on/or before the expiry date: May 04th, 2023;
- (4) that the development shall otherwise comply with the requirements and regulations of the Zoning and Development By-law to the satisfaction of the Director of Planning.

Discussion:

Charles Varabioff, was present to speak in support of the appeal.

At the request of the Chair, the appellant agreed to dispense with the reading of the submission, which had been in the Members' possession prior to the meeting.

The appellant's initial comments were that this was originally granted in May of 2021. They're looking to get a renewal to match the end of lease date.

The Director of Planning's Representative

Mr. Bosnjak's initial comments were that the following appeal is in regards to DP-2020-00927 and is requesting an extension to condition 2 of the BOV appeal Z35783. There are no recent complaints on file for this use at this address. The Director of Planning defers to the Board for their decision.

The Board Chair stated that the Board's site office received no (0) letter in Support and no (0) letter in opposition to this appeal.

The Chair stated that if there were any interested parties in the audience who wished to speak to this appeal, they should raise their hand to be recognized and when recognized, state their full name and address and spell their surname for the record.

There were no comments.

Final Comments:

Mr. Bosnjak had no final comments.

The appellant's final comments were that they're looking for a longer approval to accommodate their lease, and to hopefully not go back to the Board as often.

This amendment request was reviewed by the Board of Variance on February 14th, 2023 and the expiry date was updated and ALLOWED, thereby approved Cannabis Retail Store for a further period of time and subject to the following conditions:

- (1) the approval is for the exclusive use of "Grand Forks Cannabis Ltd." and shall be operated by Charles Varabioff and doing business as (DBA): "Kingsway Cannabis".
- (2) the Board granted a limited-time approval for three (3) years and expires on: February 14th, 2026;
- (3) the Board may grant an extension on/or before the expiry date: February 14th, 2026;
- (4) that the development shall otherwise comply with the requirements and regulations of the Zoning and Development By-law to the satisfaction of the Director of Planning.