

BOARD OF VARIANCE/PARKING VARIANCE BOARD – SUMMARY MINUTES

DATE: Tuesday, February 08th, 2022 (and adjourned appeals heard on February 22nd, 2022)

TIME: 1:15 PM

PLACE: Online Meeting (Web-Ex Platform)

PRESENT: Gilbert Tan – Board Chair

Matthew Naylor

Simona Tudor

ABSENT: Rakshin Kandola

Namtez Sohal

SECRETARY: Louis Ng

Assistant

SECRETARY: Carmen Lau

ALSO PRESENT: Sonia Erichsen, Manager

Joe Bosnjak, Supervisor

1238 Burrard Street (Unit 804) – Board Minutes and Decision

Appeal Section: 573(1)(a) - Appeal of Decision (DP-Refusal)
Legal Description: Lot D, Block 100, District Lot 541 and Plan VAP3145.
Lot Size: Irregular Lot
Zone: DD
Related By-Law Clause: Density (Floor Area, Downtown District)

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2021-00863 and a request to permit interior alterations to remove an enclosed balcony (removing a set of balcony sliding-doors), resulting in a floor area increase of approx. 73 sq. feet.

Development Application No. DP-2021-00863 was refused for the following reason:

-The proposed development does not comply with the regulations of the Zoning and Development By-law that affect the site.

Permitted Density is 5.0 (FSR):	74,950 sq. feet
Existing:	74,950 sq. feet
Proposed:	75,023 sq. feet

Discussion:

Mr. Scott Forbes 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.

Mr. Forbes' initial comments were that in May of 2017 they moved into the condo unit, and they asked Strata if they could remove the enclosed balcony, which was approved by strata at the time. This is a 14 storey concrete construction. They installed engineered hardwood to replace the enclosed balcony.

The Director of Planning's Representative

Mr. Bosnjak's initial comments were that this application was refused due to its regulation. Permits were originally issued back in 2001. During review, the owner had removed an aluminum wall in the kitchen, and the floor area is over by 73 square feet. The Director of Planning does not see a hardship, and cannot support the appeal.

The Board Chair stated that the Board's site office received sixteen (16) 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.

(Neighbour in the building) is in support of the appeal.

Final Comments:

Mr. Bosnjak's final comments were that the application in regards to regulations. It is 73 square feet over. The Director of Planning does not see a hardship, and cannot support the appeal.

Mr. Forbes' final comments were that it is difficult to put the enclosed balcony in. They would not have done it had there been any objections.

This appeal was heard by the Board of Variance on February 08th, 2022 and was DISALLOWED.

Board's summary and decision based on the following:

- Building's floor area was at the maximum allowance (City's calculation - 74,950 sq. feet).
- Building's exclusion of balcony area was at the maximum allowance, at 2,800 sq. feet.
- The Board was in agreement with the City's Director of Planning, and appeal was denied.
- The Board's decision was 2-2 (not a majority vote, and appeal was disallowed).

1232 Burrard Street – Board Minutes (Amendment request for an extension)

Appeal Section:	573(1)(a) - Appeal of Decision (Cannabis Renewal Appeal)
Legal Description:	Strata Lot 2, District Lot #541 and Strata Plan BCS478.
Lot Size:	Irregular site
Zone:	C-1
Related By-Law Clause:	Section 11.28

Appeal Description:

Amendment request for an extension and to update the expiry date. Previous Board decision approved the cannabis land-use and related to Development Application No. DP-2021-00001 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 March 09th, 2021 (see decision below).

Board of Variance History:

This appeal was heard by the Board of Variance on March 09th, 2021 and was ALLOWED, thereby overturning the decision of the Director of Planning who refused Development Application No. DP-2021-00001 and approved interior alterations and to change the use from a commercial Retail Store, (grocery), to a new Retail Cannabis Store, in this existing mixed-use building on this site, and subject to the following conditions:

- (1) the approval is for the exclusive use of “OM Cannabis Boutique” and shall be operated by Jettana Darcus and doing business as (DBA): “OM Cannabis Boutique”.
- (2) the Board granted a limited-time approval for one (1) year and expires on: March 09th, 2022;
- (3) the Board may grant an extension on/or before the expiry date: March 09th, 2022; and
- (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:

Ms. Jettana Darcus and Mr. Jack Lloyd 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 looking for an extension and they're quite far in the application stage. They are seeking a three year extension as it's taken a long time for them to move their application forward. They have signed a lease agreement and the landlord is in support of them, as well as the neighbouring properties.

The Director of Planning's Representative

Mr. Bosnjak's initial comments were that this is an appeal for an extension. There are no recent complaints on file. As of today, nothing had been issued as it is sitting in the refused status, and will be expiring in 3 weeks. The Director of Planning defers to the Board for their decision.

The Board Chair stated that the Board's site office received one (1) letters and a petition with four hundred (400) signatures 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.

(Neighbour in the building) is not in support of the appeal.

Final Comments:

Mr. Bosnjak had no final comments.

Mr. Darcus' final comments were that they have complied with everything and with the passing of Ms Darcus' partner, it's taken a long time to apply for the permit.

This is an amendment request for an extension and was reviewed by the Board of Variance on February 08th, 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 "OM Cannabis Boutique" and shall be operated by Jettana Darcus and doing business as (DBA): "OM Cannabis Boutique".
- (2) the Board granted a limited-time approval for one (1) year and expires on: March 09th, 2023;
- (3) the Board may grant an extension on/or before the expiry date: March 09th, 2023; and
- (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.

Board's summary and decision based on the following:

- The City reported no complaints on file since the original approval by the Board of Variance
- Limited-time approval to continue and an extension may be granted on/before March 2023.
- The Board agreed with an extension in order for the operators to obtain the Provincial approval and all City's required permits (including the City's Business License to operate).
- Owners confirmed at the appeal hearing that they will continue to work with the City – and to obtain all the City permits to the satisfaction of the Director of Planning.

1817 West Broadway (Related to 2401 Burrard Street)

Appeal Section:	573(1)(a) - Appeal of Decision (Cannabis Retail Store)
Legal Description:	Lot H, Block 327, District Lot 526 and Plan VAP 20404
Lot Size:	Irregular Lot.
Zone:	C-3A
Related By-Law Clause:	Section 11.6

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2021-00694 and a request to permit interior and exterior alterations and to change the use of approximately 890 sq. ft. health enhancement centre to a new Cannabis Retail Store, in this existing commercial building on this site.

Development Application No. DP-2021-00694 was refused for the following reasons:

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

Discussion:

Mr. Jag Sandher 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.

Mr. Sandher's initial comments were that they're looking for a 3 year approval as it's tied to the lease and the Broadway Subway Project. The Cannabis store will increase eyes on Broadway, which is what the City of Vancouver wants. There are letters stating a lot of vacant store fronts due to the construction project, losing around \$125k a year. St. John International school has been relocated, which is not within the 300 meter location. Century High School is mainly for homestays and adults. Lord Tennyson Elementary School is within 300 meters, but is separated by a major arterial. There were strong support from residents, with no letters received from any of the Schools, concerned parents, teachers, or principals.

The Director of Planning's Representative

Mr. Bosnjak's initial comments were that this was refused due to regulations and letters received. They are within 38 meters from Century High School, 106 meters from St John International School, and 194 meters from Lord Tennyson Elementary School, and they received letters of objection from the neighbourhood. The Director of Planning does not see a hardship, and cannot support the appeal.

The Board Chair stated that the Board's site office received thirteen (13) letters in Support, one of which is from the landlord, one (1) letter of concern 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. Bosnjak had no final comments.

Mr. Sandher's final comments were that the hardship is due to the Broadway subway construction project. They're looking for a 3 year conditional approval which will be the end of the lease, as well as the construction project.

This appeal was heard by the Board of Variance on February 22nd, 2022 and was Disallowed.

Board's summary and decision based on the following:

-The Board's decision (3-2 majority of votes) was in agreement with the Director of Planning - and upheld the City's decision and refused Development Application No. DP-2021-00694.

-The majority of the Board Members did not find a site hardship to allow the proposed Cannabis Store to operate at 1817 West Broadway that is less than 300m away from nearby schools (Three nearby schools at 194m away from Lord Tennyson Elementary School, at 106m away from St. John's International High-School, and also at 38m away from Century High-School).

3596 Kingsway

Appeal Section:	573(1)(a) - Appeal of Decision (Cannabis Retail Store)
Legal Description:	Lot 2 of A, Block 12, District Lot 49 and Plan VAP11999
Lot Size:	Irregular Lot.
Zone:	C-2
Related By-Law Clause:	Section 11.6

Appeal Description:

Appealing the decision of the Director of Planning who refused Development Application No. DP-2021-00784 and a request to permit interior alterations and to change the use of approximately 1,085.0 square feet from Commercial Retail to a new Cannabis Retail Store in this existing mixed-use building on this site.

Development Application No. DP-2021-00784 was refused for the following reasons:

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

Discussion:

Mr. Mark Okoth 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.

Mr. Okoth's initial comments were that he had been a retail owner for over 29 years. He is the owner of the building and he also lives upstairs. They have their own parking lot, so the public will not have to use street parking. Their windows are frosted, and they'll have staff that will check IDs. They are looking to comply with the bylaws.

The Director of Planning's Representative

Mr. Bosnjak's initial comments were that this appeal was refused due to regulations. This space is within 274 meters away from Collingwood Neighbourhood House. They have also received letters of objection due to being within 300 meters from Collingwood Neighbourhood House. The Director of Planning does not 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 eleven (11) 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.

(Neighbour in the area attended) is in support of the appeal

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Final Comments:

Mr. Bosnjak's final comments were that this cannabis store is within 274 meters away from Collingwood Neighbourhood House. They have also received oppositions from neighbours, and cannot support the appeal.

Mr. Okoth's final comments were that this location is not visible to the Neighbourhood House. They would like to professionally run the business, and work with the City and neighbourhood.

This appeal was heard by the Board of Variance on February 22nd, 2022 and was ALLOWED with conditions, thereby overturning the decision of the Director of Planning who refused Development Application No. DP-2021-00784 and a request to permit interior alterations and to change the use of approximately 1,085.0 square feet from Commercial Retail to a new Cannabis Retail Store in this existing mixed-use building on this site, and subject to the following conditions:

(1) that the approval is for the exclusive use of the three (3) operators Mark Ochieng Okoth, Dennis Young-Joon Park, and Terry Craig and operating under "Craft Greenery Cannabis, and 1248627 BC LTD.", and doing-business-as (DBA): "Craft Greenery Cannabis "

(2) that the Board granted a limited-time approval of one (1) year and expires on February 22nd, 2023 and the Board may grant an extension to the time limit on or before February 22nd, 2023; and

(3) 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 Board accepted the operators' hours of operation from 10:00 am to 9:00 pm (Seven Days a week) at 3596 Kingsway.

Board's summary and decision based on the following:

-The Board relaxed the by-law (300m distance) and approved this Cannabis Store that is located approx. 274m away (from property line to property line - or from 3596 Kingsway to the Collingwood Neighbourhood House, Annex). The Site Survey confirmed that the distance to the building (from 3596 Kingsway's store to the building entrance at the Collingwood Neighbourhood House Annex) is approx. 306m, and with a walking distance of approx. 450m away.

-The Board reviewed the Cannabis By-law and confirmed with the City's Director of Planning's Rep. at the meeting, and that "Daycare Centres" are no part of the 300m distancing requirements in the by-law.

-The Board also supported the proposed location and confirmed with the City's Director of Planning's Rep. at the meeting, and that there are no other Cannabis stores approved within the 300m distance from 3596 Kingsway, and also the Board approved this location in this part of the City to serve a growing population (a higher density area).

-The Board accepted the operator's proposed store hours from 10:00 am to 9:00 pm, seven (7) days a week.

-The Board's decision was 5-0 votes in support of the appeal thereby overturning the City's decision (overturned Development Application No. DP-2021-00784).

-The Board Members approved a 'one-year limited-time approval' and the operators are required to obtain the Provincial approval, all the City's required permits (Building and License permits) before they can operate at this location.