

**DISTRICT OF NORTH SAANICH**  
MINUTES OF THE BOARD OF VARIANCE MEETING  
NORTH SAANICH HALL – COUNCIL CHAMBERS

**24 January, 2019 at 10:00 a.m.**

---

**ATTENDING:**

Board Members: Denny Warner, Chair  
Gordon Safarik  
Paige Gibson

Absent:

Staff: Anne Berry, Director of Planning & Community Services  
Steve Jesso, Commission Secretary

Also Attending: 8 members of the public

---

Chair, D. Warner called the meeting to order at 10:00 a.m.

**1. ADOPTION OF THE AGENDA**

MOVED BY: P. Gibson  
SECONDED: G. Safarik

**01-BOV** Amend agenda to adopt minutes after the applications are heard, and before the Staff update.

**CARRIED**

**2. APPLICATIONS**

**2.1 1946 Mills Road**

a) Location: Lot AM3, Section 13, Range 2E, Legal Plan VIP6652  
Civic Address: 1946 Mills Road  
Applicant/Owner: Steve Slegg  
Variance: **The applicant is requesting a variance to the following:**

- Section 402.1(b) of Zoning Bylaw No. 1255 in order to eliminate the requirement to provide landscaping and screening to separate industrial and commercial uses from residential uses in the form of evergreen shrubbery along the property boundaries to adjacent residential uses, a reduction of 100%;

- Section 506.1.3(b) of Zoning Bylaw No. 1255 in order to increase the maximum size of a principal building in the CS-1 zone from 300m<sup>2</sup> to 511.15m<sup>2</sup>, an increase of 211.15m<sup>2</sup> or 70.4%;

- Section 506.1.4(b) of Zoning Bylaw No. 1255 in order to increase the maximum size of an accessory building in the CS-1 zone from 65m<sup>2</sup> to 230.4m<sup>2</sup>, an increase of 165.4m<sup>2</sup> or 254.5%;

SUBJECT TO ADOPTION

**- Section 506.1.4(c) of Zoning Bylaw No. 1255 in order to increase the maximum height of an accessory building in the CS-1 zone from 4.5m to 5.2m, an increase of 0.7m or 16%.**

**Correspondence:**

Email from Sharon Sundher, 1920 Mills Rd, dated 11 Jan 2019

Email from Kimberly Philip, 10202 McDonald Park Road, dated 17 Jan 2019

Chair, D. Warner – Asked for discussion regarding the variance application.

Curtis Miles (10924 Inwood Road, North Saanich) took the podium and provided a background overview. He stated that the meeting today was a result of a retroactive building permit. He explained that the building has had modifications (without a permit) such as walls on the east side. He said that the abnormality exists in the position of the building with regard to the permit when it was constructed in 1993 as there was no requirement for building area. Regarding the accessory building, Mr. Miles gave a definition of a building and said that the containers are used as walls to support the roof. He noted that the District of North Saanich has recognized cases where containers have been used as building materials. He acknowledged the letter from a neighbour that described the noise from truck operation, citing that recreational vehicles do not make noise. He believes the matter of a visual barrier to be subjective.

Chair, D. Warner recused herself out of a conflict of interest and moved for Paige Gibson to be made the Acting Chair.

**03-BOV**

MOVED BY: D. Warner

SECONDED: G. Safarik

Paige Gibson to made the Acting Chair for this Board of Variance meeting.

CARRIED

Opposed: None

P. Gibson, Acting Chair asked for comments from the gallery.

Sharon Sundher (1920 Mills Road) took the podium. She stated that her property abuts the property requesting the variance, and that she is not there to speak on technical issues. Notes that living next to this property has changed, citing loud and constant noise, exhaust from trucks, and that the owners have allowed boundary trees to die. She described the cost of the expenses to maintain living trees and referenced the airport that had planted trees on boundaries to reduce the noise impact as an example, saying she would like the District of North Saanich to display a similar proactivity. She explained her property was purchased in 1967 and at the time was the neighbouring property was located in the ALR and changed in the early 90's.

G. Safarik said how he believes in the enjoyment of a property as it was zoned when it was originally purchased. Understands the points about containers however believes it to be a way around applying for a building permit by using them and therefore is not inclined not to agree on containers. Regarding main building, says he can see a point with enclosure but that an argument from someone in real estate that they did not know it would increase space is not sound.

P. Gibson, Acting Chair stated the variance on landscaping to be a nonstarter especially in areas with commercial properties abutting residential. She was not willing to grant that variance. Regarding the accessory building, she clarifies that the board deals with size/dimensions. Discussing the bylaw on long

SUBJECT TO ADOPTION

term storage for shipping containers, she advises that the Board cannot do anything about using something that is not intended for building material and recommends Mr. Miles speak to DNS Staff.

Mr. Miles noted a minor discrepancy with the amount of variance percent requested.

P. Gibson stated that ignorance of or disregard of bylaws in effect is not a hardship, and that the variances would defeat the intent of bylaws. After seeing the building during the site visit she was not willing to accept ignorance of the Bylaws.

**04-BOV**

MOVED BY: G. Safarik  
SECONDED: P. Gibson

The application to vary Section 402.1(b) of Zoning Bylaw No. 1255 in order to eliminate the requirement to provide landscaping and screening to separate industrial and commercial uses from residential uses in the form of evergreen shrubbery along the property boundaries to adjacent residential uses, a reduction of 100% be denied.

CARRIED

Opposed: None

G. Safarik moved that the second variance be granted. Gibson did not second, and stated that a motion without a seconder must fail. Both Board members discussed the outcome amongst themselves before agreeing to return to this particular variance discussion later in the meeting.

**05-BOV**

MOVED BY: G. Safarik  
SECONDED: None

The application to vary Section 506.1.3(b) of Zoning Bylaw No. 1255 in order to increase the maximum size of a principal building in the CS-1 zone from 300m<sup>2</sup> to 511.15m<sup>2</sup>, an increase of 211.15m<sup>2</sup> or 70.4%, failed to have a seconder and the variance is denied.

MOTION FAILS

Opposed: None

**06-BOV**

MOVED BY: G. Safarik  
SECONDED: P. Gibson

The applications to vary:

Section 506.1.4(b) of Zoning Bylaw No. 1255 in order to increase the maximum size of an accessory building in the CS-1 zone from 65m<sup>2</sup> to 230.4m<sup>2</sup>, an increase of 165.4m<sup>2</sup> or 254.5%;

Section 506.1.4(c) of Zoning Bylaw No. 1255 in order to increase the maximum height of an accessory building in the CS-1 zone from 4.5m to 5.2m, an increase of 0.7m or 16%, both be denied.

CARRIED

Opposed: None

SUBJECT TO ADOPTION

P. Gibson requested that Mr. Miles remain after the other applications have been heard to discuss the matter further.

**2.2 11175 Woodpecker Place**

- a) Location: Lot B, Section 21, Range 2E, VIP2374
- Civic Address: 11175 Woodpecker Place
- Applicant/Owner: Tony Longman
- Variance: **The applicant is requesting a variance to Sec 204.1.3(b) of Zoning Bylaw 1255 in order to increase the maximum permitted size of a guest cottage from 92m<sup>2</sup> to 104.61m<sup>2</sup>, an increase of 12.61m<sup>2</sup> or 13.7%.**

**Correspondence:** None

Chair, D. Warner – Asked for discussion regarding the variance application.

Tony Longman (11175 Woodpecker Place) took the podium and identified himself as the property owner. He stated that he built the house in 1990, and that at that time the square footage was calculated by perimeter of the footprint and he was allowed to build accordingly. He compared this to the present regulations where the calculation is done by stories, giving a different result that's above the max square footage for guest cottage.

Chair, D. Warner asked for his hardship.

Mr. Longman explained that his hardship is that calculation is done differently now than it was back in 1990, and he is unable to conform with the current calculations

P. Gibson asked Mr. Longman to confirm that he initially had obtained approval for a phase development plan that has since lapsed; Mr. Longman confirmed that he had a phased development plan in 1990. P. Gibson asked if he was notified when the approval lapsed and Mr. Longman replied that he was not.

G. Safarik stated that he believes the original intentions to be good, that intent was to build a 2<sup>nd</sup> building, and that he was not notified of the change.

P. Gibson noted that the Board is not bound by precedent; though despite that, this was a unique case for a guest cottage and the lapse occurred without his knowledge which was a distinguishing factor.

**07-BOV**

MOVED BY: P. Gibson  
SECONDED: G. Safarik

The application to vary to Sec 204.1.3(b) of Zoning Bylaw 1255 in order to increase the maximum permitted size of a guest cottage from 92m<sup>2</sup> to 104.61m<sup>2</sup>, an increase of 12.61m<sup>2</sup> or 13.7%, be approved.

CARRIED

Opposed: None

SUBJECT TO ADOPTION

**2.3 11366 Chalet Road**

- a) Location: Lot 5, Section 22, Range 3W, Legal Plan VIP 4735  
Civic Address: 11366 Chalet Road  
Applicant/Owner: Matt Law  
Variance: **The applicant is requesting a variance to Section 502.2.4(d)(iii) of Zoning Bylaw No. 1255 in order to decrease the minimum required interior side setback for an accessory building in the Single Family Residential Zone 2 (R-2) from 3m to 1.5m, a decrease of 1.5m or 50%.**

**Correspondence:** None

Chair, D. Warner – Asked for discussion regarding the variance application.

Matthew Smith (1631 Madrona drive) stated the reason for the application which is a carport, describing his driveway, property and the lot. He discussed where they intend to have the carport and that it will not have a visual impact on nearby owners. He said that the hardship is the turning radius, and the current width and configuration of the driveway

P. Gibson asked to confirm the owner statement and asked if he has spoken with the nearby owners.

Mr. Smith affirmed that the owner has communicated with their neighbours.

Chair, D. Warner asked for comments from the gallery, and there were none.

G. Safarik moved to grant the variance.

Chair, D. Warner seconded.

**08-BOV**

MOVED BY: G. Safarik  
SECONDED: D. Warner

The application to vary Section 502.2.4(d)(iii) of Zoning Bylaw No. 1255 in order to decrease the minimum required interior side setback for an accessory building in the Single Family Residential Zone 2 (R-2) from 3m to 1.5m, a decrease of 1.5m or 50%, be approved.

CARRIED

Opposed: None

SUBJECT TO ADOPTION

## 2.4 11410 Chalet Road

- a) Location: Lot B, Section 22, Range 3W, Plan 37220  
Civic Address: 11410 Chalet Road  
Applicant/Owner: Michael Moody  
Variance: **The applicant is requesting a variance to Section 110.3 of Zoning Bylaw No. 1255 in order to decrease the minimum required setback from the natural boundary of the marine shoreline from 15m to 7.169m, a decrease of 7.831m or 52%, as well as a variance of Section 502.2.3(d)(ii) of Zoning Bylaw No. 1255 in order to decrease the minimum required rear setback for a principal building in an R-2 zone from 7.6m to 7.169m, a decrease of 0.431m or 6%**

**Correspondence:** Email from Frank & Gloria Paper, 11424 Chalet Road, dated 08 Jan 19

Chair, D. Warner asked for discussion regarding the variance application.

Michael Moody (110-909 Vancouver St, Victoria) took the podium He explained that his variance is to build within the setback, and described house location, as well as the work done including the environmental consultant and arborist. He discussed the importance of accessibility for his clients. He stated that given the steep slope of the property, it was the most logical place to place the house and that moving things around causes disruption to the nearby land.

Chair, D. Warner asked the Board for comments.

P. Gibson said that she accepts the hardship, and had reservation that the siting of the house was so far into the waterfront setback stands to affect the use and enjoyment of properties with neighbours, specifically for the owners at 11424 Chalet Road though noted the letters of support for the application from the owners of the property.

Chair, D. Warner asks for comments from gallery; there were none.

### 09-BOV

MOVED BY: P. Gibson  
SECONDED: G. Safarik

The application to vary Section 110.3 of Zoning Bylaw No. 1255 in order to decrease the minimum required setback from the natural boundary of the marine shoreline from 15m to 7.169m, a decrease of 7.831m or 52%, as well as a variance of Section 502.2.3(d)(ii) of Zoning Bylaw No. 1255 in order to decrease the minimum required rear setback for a principal building in an R-2 zone from 7.6m to 7.169m, a decrease of 0.431m or 6% be approved.

CARRIED

Opposed: None

SUBJECT TO ADOPTION

**2.5 10966 Setchell Road**

- a) Location: Lot A, Section 19, Range 3W, Legal Plan EPP 86030  
Civic Address: 10966 Setchell Road  
Applicant/Owner: Daniel Boot  
Variance: **The applicant is requesting a variance to Section 502.2.4(d)(i) in order to decrease the minimum permitted front yard setback for an accessory building in the R-2 zone from 7.6m to 6.1m, a decrease of 1.5m or 19.7%, as well as a variance of Sec 502.2.4(c)(iii) in order to decrease the minimum permitted interior side yard setback for an accessory building in the R-2 zone from 3m to 1.5m, a decrease of 1.5m or 50%.**

Correspondence: None

Chair, D. Warner – Asked for discussion regarding the variance application.

Daniel Boot (10973 Madrona Drive) took the podium, representing the client/owner who was in attendance in the gallery. He referenced the support from neighbours as he spoke to the hardship for his client, as he noted the slope of the driveway and that the present carport is subject to flooding. He pointed out that by relaxing the setback, a carport would be able to be moved up the slope further.

Chair, D. Warner asked staff regarding having the letters of support.

Commission Secretary responded that five total letters were received but none for this particular application, and that none were located during an email search.

G. Safarik did not have any problem with the height/elevation difference, and accepted the hardship and the support from neighbours.

P. Gibson asked what the height will be upon completion. Mr. Boot replied that the slab elevation would raise about two feet. P. Gibson asked for clarification where the finished structure will be conforming despite moving up the slope and Mr. Boot confirmed that it would after discussing the grade adjustment.

P. Gibson stated that she preferred to table the application as nearby owners were not in town and could not get the notification letters. The Director of Planning advised that out of town notifications had been couriered.

**10-BOV**

MOVED BY: G. Safarik

SECONDED: P. Gibson

The application to vary Section 502.2.4(d)(i) in order to decrease the minimum permitted front yard setback for an accessory building in the R-2 zone from 7.6m to 6.1m, a decrease of 1.5m or 19.7%, as well as a variance of Sec 502.2.4(c)(iii) in order to decrease the minimum permitted interior side yard setback for an accessory building in the R-2 zone from 3m to 1.5m, a decrease of 1.5m or 50%.

CARRIED

Opposed: None

SUBJECT TO ADOPTION

Chair, Denny Warner requested a break to discuss the one outstanding variance for the 1946 Mills Road application. Mr. Miles sought procedural clarification and potential outcomes (including an application to Council).

### **3. ADOPTION OF THE MINUTES**

P. Gibson moved to table the approval of both November and December Minutes pending further discussion with the Commission Secretary.

G. Safarik seconded.

**Commented [SJ1]:** These were done as one motion, and not two separate motions. How should this be recorded?

#### **11-BOV**

MOVED BY: P. Gibson

SECONDED: G. Safarik

That the November and December Minutes be tabled pending further discussion with the Commission Secretary.

**CARRIED**

Opposed: None

### **4. STAFF UPDATE - APPLICATION PROCESSING PROCEDURE**

The Director of Planning updated the Board regarding possible changes to the way Board of Variance applications are received.

### **5. ADDITIONAL BUSINESS:**

G. Safarik left the meeting at 11:16 a.m.

### **6. DATE OF NEXT MEETING**

The date of the next Board of Variance meeting will be 21 February, 2019 at 10:00 am.

### **ADJOURNMENT**

MOVED BY: P. Gibson

SECONDED: D. Warner

**11-BOV** That the Board of Variance meeting be adjourned at 11:36.

**CARRIED**

Opposed: None

---

D. Warner, Chair

SUBJECT TO ADOPTION