



## **Board of Variance**

**2:30pm – February 3, 2017**  
**Council Chamber**

### **NOTES**

**PRESENT:**

Mr. Philip Walkinshaw, Chair  
Mr. Ross Hood  
Mr. Baj Puri  
Mr. Michel Roy  
Ms. Maryam Salmani

**STAFF:**

Mr. Mike Watson, Senior Planning Analyst  
Mr. Hardev Gill,  
Ms. Joan Drabyk, Senior Plan Reviewer  
Mr. Philip Lo, Board of Variance Secretary

The Hearing was called to order at 2:30 pm

#### **APPOINTMENT OF 2017 CHAIR/ACTING CHAIR**

**MOVED and SECONDED**

*THAT Philip Walkinshaw be appointed as the Board of Variance Chair for 2017.*

**CARRIED.**

All members of the Board present voted in favour of the motion.

**MOVED and SECONDED**

*THAT Michel Roy be appointed as the Acting Board of Variance Chair for 2017.*

**CARRIED.**

All members of the Board present voted in favour of the motion.

#### **1.0 ADDITIONS TO AGENDA**

No Items.

#### **2.0 ADOPTION OF MINUTES**

## 2.1 Receipt of October 3, 2016 Notes

In response to questions from the Board, Philip Lo, Board of Variance Secretary, noted the following:

- As prescribed in the New Westminster Board of Variance Bylaw No. 7226, 2008, in the event of a tie vote on an application, the application is rejected and the Board is not legally permitted to revisit or reconsider the application; and
- As the Chair is also a member of the Board, the Chair is entitled to vote on an application.

### **MOVED and SECONDED**

*THAT the October 3, 2016 Board of Variance Notes be received.*

**CARRIED.**

All members of the Board present voted in favour

## **3.0 APPLICATIONS**

### **3.1 Application No. BV000340 – 337 East Eighth Avenue**

Order of Business for each application:

- a) Secretary's Report regarding Public Notice and Title Search

Philip Lo, Board of Variance Secretary, reported that on January 12, 2017, 33 notices were mailed to owners and occupants located within the 50 meter notification area of 337 East Eighth Avenue. Mr. Lo further noted that on Thursday, January 19, 2017, 33 notices advising of a new hearing date were mailed to the same owners and occupants within the notification area.

Mr. Lo reported that, to date, no notices have been returned, with nine written submissions and seven On Table written submissions received.

- b) Submission by Development Services

Mike Watson, Senior Planning Analyst, provided a summary of the variance application, noting the following:

- Variance request resulted from two errors. The first resulted in a change to the datum calculation, due to an initial survey which was taken from incorrect locations. The second error is that the eave level of the installed trusses are higher than indicate on the approved permit plans;

- Once staff became aware of the error in roof height, staff requested the applicant to perform no further work on the roof; however, other compliant work on the building was permitted to continue;
- Staff evaluated the variance proposal and have found it to be consistent with the City's policy for requesting a variance;
- The errors have resulted in the building being constructed 4.4 inches over the maximum permitted height in RS-1 zoning; and

In response to questions from the Board, Mr. Watson noted the following:

- The original survey dated July 4, 2016 was accepted by staff and a review of the provided design drawings indicated the proposed home complied with the zoning at the time;
- It is standard practice for staff to request stop-work only on non-compliant portions of a project; however, this situation may have warranted consideration of a stop-work order; Once a second survey was received, it was noted that the datum had changed and that the eave had been constructed higher than previously indicated. Based on this information the building did not meet the height requirements;
- The exact date of truss installation is not known;
- Initially, the applicant was made aware by staff of the non-compliance, with the understanding that the issue was to be resolved through building methods;
- There is no written record of a discussion between staff and the applicant on the matter on November 1, 2016, however staff have indicated that they recall a phone conversation with the applicant around the beginning of November;
- Staff was not aware of the eave height change until after receiving the second survey on November 28, 2016, with staff advising the applicant of the concerns on November 29, 2016.

c) Submission by Applicant/Agent

Avinash Dhillon, the applicant, noted the following:

- Roof trusses were delivered and installed at the end of October and the beginning of November, with an inspection by a truss engineer on November 20, 2016;
- In order to minimize obstruction of views, the home has been designed with a low-pitch roof and reduced massing on the upper level so that the bulk of the building is on the main floor;
- The home has been built based on plans and specifications approved by the City;

- Weather-proofing work had to be continued in order to protect the integrity of the structure and to protect the pipes from freezing in cold weather;
- The constructed roof is currently still below the maximum roof peak height permitted in the RS-1 zoning;
- Financial hardship has been caused by discrepancies between two surveys resulting in an error in the roof height, which went unnoticed after review by numerous professionals, including a reputable surveyor, as well as City staff; and
- The financial hardship consists of lost profits and an increase in holding costs over a three-month extended construction timeline, including an extended construction mortgage, resulting in an estimated loss of \$35,000;

**MOVED and SECONDED**

*THAT the On Table items from the applicant be received for information.*

**CARRIED.**

All members of the Board present voted in favour of the motion.

d) Submissions by interested parties

John Herrington, resident at 324 Carnegie Street, noted the following:

- Mr. Herrington had reported concerns regarding the roof height at the 337 East Eighth Avenue construction project to Dave Guiney, Senior Planning Analyst, on November 1, 2016;
- Mr. Herrington suggested that he was informed by staff of errors in the roof height; however, truss installations continued on the project despite assurances from Mr. Guiney that the error had been communicated to the builders; and
- Obstruction of views from Mr. Herrington's home was noted.

e) Discussion/Decision

The Board requested clarification from the applicant as to whether the applicant had received a notice from the City on November 1, 2016 concerning the error.

In response, Mr. Dhillon advised that he cannot recall any specific conversations to that regard due to a number of concurrent projects, and that he did not receive a notice from the City to discontinue work on the roof until November 29, 2016.

In response to questions from the Board, Mr. Watson advised of the following:

- Staff recall that a phone conversation took place to advise the applicant of the error; however, there is no written record of the discussion with the applicant; and
- The peak height on the application has not been changed, and that only the average height has been changed.

Discussion ensued, with Board members noting the following:

- The question to be considered by the Board may not be the loss of view, but the granting of a variance as noted in the staff memo and the application;
- The Board suggested that there may be no other hardship other than cost, and that the financial hardship is clear and substantial;
- The variance is relatively minor;
- Concerns were expressed regarding builders utilizing the Board of Variance to retroactively correct preventable errors in new construction projects;
- Changes to the construction project should have been made when the error was discovered at the beginning of November, and may have resulted in a lessened hardship; and
- There was a communication problem between staff and the applicant, and staff did not retain sufficient written records of the timeline;

**Procedural Note:** The Board recessed at 3:50 PM and reconvened at 3:55 PM

**MOVED and SECONDED**

*WHEREAS, the Board of Variance has listened to all parties expressing an interest in the proposed variance and considered the information presented,*

*WHEREAS, the Board is of the opinion that the variance does not:*

- i) Result in inappropriate development of the site,*
- ii) Adversely affect the natural environment,*
- iii) Substantially affect the use and enjoyment of adjacent land,*
- iv) Vary permitted uses and densities, or*
- v) Defeat the intent of the bylaw, and*

*WHEREAS, the Board finds that undue hardship would be caused to the applicant by requiring compliance with Sections 310.12 of the Zoning Bylaw in view of a lack of clear communication from City staff, and the resulting financial hardship to the applicant.*

*WHEREAS, the Board considers the requested variance to be minor:*

*The Board of Variance hereby **varies** Section 310.12 of the New Westminster Zoning Bylaw to allow the proposed maximum height of 7.73 meters (25.37 feet) for the principal single detached dwelling at 337 East Eighth Avenue.*

**CARRIED.**

Chair Philip Walkinshaw and Michel Roy voted in opposition.

#### **4.0 NEXT HEARING**

**2:30pm, Friday, March 31, 2017, Council Chamber**

#### **5.0 ADJOURNMENT**

**ON MOTION**, the meeting was adjourned at 4:03 pm.

---

**Philip Walkinshaw**  
**Chair**

---

**Philip Lo**  
**Board of Variance Secretary**