

**Subject: Re: Notification Process for Development Variance Permits**

**Date:** Sun, 24 Jul 2005 20:16:30 -0700

**From:** Brian Platts <bplatts@shaw.ca>

**To:** Ernie Crist <ernie\_crist@dnv.org>

**CC:** Alan Nixon <Alan\_Nixon@dnv.org>, Mayor Harris <Janice\_Harris@dnv.org>, Jim Cuthbert <Jim\_Cuthbert@dnv.org>, Lisa Muri <lisa\_muri@dnv.org>, Maureen McKeon Holmes <Maureen\_McKeonHolmes@dnv.org>, Richard Walton <richard\_walton@dnv.org>, DNVCouncil <DNVCOUNCIL@dnv.org>, James Ridge <James\_Ridge@dnv.org>, Irwin Torry <Irwin\_Torry@dnv.org>, Paula Huber <Paula\_Huber@dnv.org>, FONVCA <fonvca@fonvca.org>, Senior Management Committee <managecomm@dnv.org>, m.bragg@shaw.ca, cagebc@yahoo.com

Dear Ernie,

While I can appreciate you wanting to extend the debate on this issue, you must admit to taking a partial quote from me and twisting it out of context. I wrote very clearly on behalf of FONVCA that: "It is important to note, however, that for the purpose of our recommendation it matters not whether it is Council or the Board that is considering variance applications. [I added the underline here for emphasis]" What FONVCA is talking about is the process for soliciting input on variance applications and not which avenue of approval is preferable.

For the record it is important to remember just how the current process for handling DVPs came about. Ms Huber's June 9th '05 report to Council provides and excellent summary: *"In the mid 1990's some neighbourhoods expressed concern that these [zoning] changes did not go far enough to address their concerns about neighbourhood character and so the process of Neighbourhood Zoning was initiated. During the period of creating neighbourhood zones, Council enacted a bylaw amendment (Bylaw 6645) which required that anyone who was proposing to increase the height of their house above the existing eave height needed to apply for a variance so that their proposal could be considered on a case by case basis. At the time the two avenues for appeal were a DVP -- through Council and the Board of Variance. A large number of applicants chose to have their appeals heard through the Board of Variance and this caused considerable concern for some members of Council who felt that applications to the Board were circumventing Council's desire to consider every application. As a result, the majority of variance requests were subsequently channeled through Council. This approach continues today."*

So as to be perfectly clear, it was the Board of Variance that was the problem at that time. I recall going to a Board meeting in '98 because the house across the street from me was being redeveloped. There were about a dozen applications at that one meeting and they were all being essentially rubber-stamped by the Board using the same rationalizations that you object to now. No wonder the word got passed around that it was better to go to the Board than apply for a DVP through Council!!! Admittedly the situation is different today. But FONVCA's point is that whether a variance application is going to Council or the Board, then the adjacent neighbours and community association should be provided with all the relevant details before being officially polled for comment.

On another point, you alluded to certain motions that you brought forward recommending abolishment of the DVP process and having variances only considered by the Board of Variance. You said these motions received no support from Council or the community through FONVCA. Usually my recall ability is quite good but I am having difficulty remembering such initiatives. For my reference it would be helpful if you could forward these motions along with the dates they appeared on the Council Agenda.

As a councillor I can imagine that you find it very frustrating when your well thought-out motions are not supported. Likewise, as a member of the public, I find it equally frustrating when my own consistent efforts to oppose Council's practice of granting huge variances to the maximum floor space and maximum building size (contrary to other municipalities) has never received any support in the way of a forthcoming motion.

In closing, I really don't want to make it seem like we are on opposite sides of this debate. Like I wrote in my previous e-mail, you will receive little argument from FONVCA that the Board of Variance should be the forum for consideration of minor variance applications for the renovation or redevelopment of single family homes. Keeping in mind that there are many very legitimate and reasonable situations that result in homeowners applying for a variance to the Zoning Bylaw, it is the process and outcome we should focus upon with the protection of neighbourhood character being paramount.

Sincerely,  
-Brian

Ernie Crist wrote:

Dear Mr Platts:

I cannot agree with your position that "it matters not whether it is Council or the Board that is considering variance applications". If

this is true as far as FONVCA is concerned, it certainly is not true as far as the outcome of such applications is concerned. It certainly makes a great deal of difference regarding the ultimate impact on neighbourhoods.

To begin with, any application submitted to the Board Of Variance would have to be based on truly proven hardship and would have to be truly minor. Statements presented by District Staff to the effect that this or that application is recommended for approval, as is the case now, because "the variance is not visible from the back" or "because it is not visible from the front" or because there "already is a house in the neighbourhood which is in violation of existing regulations" or "because it is adjacent to a park" and/or a thousand other excuses should not be a rationale for variances. But this is exactly what occurs under the present politically and pro development influenced method.

Indeed, statements used in the staff reports to justify DVP applications are, in my opinion, nothing but flimsy excuses to violate existing rules and regulations so hard fought for by neighbourhoods.

Also, while I am very much aware of the dislike of the DVP system by FONVCA, I am not aware that at any time FONCA requested that this system be abolished. When I have done so I was truly on my own. I am not aware that FONVCA had an official position in opposition to the DVP process. Neither am I aware that FONVCA made its opposition officially known when my motions to this effect came before Council. Please correct me if I am in error.

As to the statement by Mrs Bragg about such violations on the waterfront - her claims refer to waterfront issues only and, to that extent, she is absolutely correct. But this is as far as it goes.

I appreciate fully that FONVCA is not a political organisation. However, when it comes to changes via the DVP process, the method currently used by District Council amounts to the same. It circumvents and indeed undermines the character of neighbourhoods and it does so outside the official Community planning process. The result is the same more or less. One way or another, the changes taking place in most cases are to the detriment of neighbourhoods and their liveability. It is a perfect setup for speculators and "to stimulate" the real estate market. This is quite apart from the huge and expensive bureaucracy which it has brought in its wake.

I always thought that such matters would go to the very heart of the FONVCA philosophy, despite the fact that FONVCA is not a political organisation per se.

Yours truly,

Ernie Crist

Original Message -----

From: Brian Platts <<mailto:bplatts@shaw.ca>>  
To: Ernie Crist <[mailto:ernie\\_crist@dnv.org](mailto:ernie_crist@dnv.org)>  
Cc: Alan Nixon <[mailto:Alan\\_Nixon@dnv.org](mailto:Alan_Nixon@dnv.org)> ; Mayor Harris <[mailto:Janice\\_Harris@dnv.org](mailto:Janice_Harris@dnv.org)> ; Jim Cuthbert <[mailto:Jim\\_Cuthbert@dnv.org](mailto:Jim_Cuthbert@dnv.org)> ; Lisa Muri <[mailto:lisa\\_muri@dnv.org](mailto:lisa_muri@dnv.org)> ;

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Sent: Tuesday, July 19, 2005 8:18 PM

Subject: Re: Notification Process for Development Variance Permits

Dear Ernie,

Thank you for your e-mail in response to FONVCA's suggested amendment to the notification process for development variance permits. We appreciate your comments. After all, FONVCA and its individual member associations often submit recommendations to Council, so in turn, constructive criticism directed at us is equally welcome because it gives us an opportunity to reconsider issues or clarify any misunderstandings.

In response to your main point, you will receive little argument from FONVCA that the Board of Variance should be the forum for consideration of minor variance applications for the renovation or redevelopment of single family homes. It is important to note, however, that for the purpose of our recommendation it matters not whether it is Council or the Board that is considering variance applications. Either way, our recommended change in process for soliciting input on variance applications remains equally relevant. If a variance goes to the Board, then we still want all the relevant information available to the adjacent neighbours and the local community association before they are officially polled for comment on the application.

With respect to your expressed disappointment with FONVCA allegedly having never voiced an opinion on the handling of DVPs by Council, I can tell you that this is simply not true. Attached to this e-mail are two official letters from FONVCA to Council on the issue of DVPs. No doubt you recall reading our strongly stated concerns in the 2002 letter that: "the viability of both District-wide and individual neighbourhood zones, together with local area plans, are under threat. We believe the number and scope of the DVPs granted can only result in encouraging the public to pursue development beyond the provisions of relevant zoning bylaws, in effect circumventing the democratic process through which they had been enacted." In addition to the two attached letters on DVPs, there are other FONVCA letters to Council in which the issue

of variance applications was at least partially addressed.

On a personal note, the District's handing of Development Variance Permits has long been a particular concern for me. I have studied the various single family zoning bylaws, co-chaired the Edgemont Neighbourhood Zoning Committee in '99/00, written countless e-mails and have spoken to Council on DVPs during the Public Input Period more times than on any other subject over a decade. This is no boast, but I think I can say with confidence that I am more knowledgeable on this subject than most current or past members of Council.

The issue that I have argued for years isn't that all variance applications are bad. Indeed there are many very legitimate and reasonable situations that result in homeowners applying for a variance to the Zoning Bylaw. The problem that I have consistently focused on

over the years, and backed by FONVCA, is the District's practice of issuing huge variances beyond the maximum allowable floor space ratio (FSR) and/or the maximum allowable building size. It should be well-known to all members of Council that you can only legally alter "use" or "density" by rezoning. I have often stated, as has Corrie Kost, that altering the building density can only be legally approved through a rezoning process. Of course when challenged about the legality of issuing variances to floor area, the District went to its own solicitor to obtain an opinion that the practice was legal.

In a report to Council last month, however, we finally discovered that NVD is in fact at variance with other municipalities when issuing DVPs to single-family homes (please refer to my June 26/05 e-mail to Council). Other municipalities like NV City require a rezoning process in order to increase FSR beyond the maximum allowed. In West Vancouver, altering the permitted floor area with a DVP process is quite unusual and is only pursued for very minor cases. Burnaby, Richmond, and even Surrey require a rezoning to alter FSR beyond the maximum allowed under the Zoning Bylaw.

I closing, I hope the above helps to reinforce FONVCA's long-standing position on Development Variance Permits. Rest assured, the credibility of FONVCA remains intact: there is no silence on this issue or acceptance of the status quo.

Sincerely,  
Brian Platts

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Ernie Crist wrote:

Dear Mr. Platts

I appreciate FONVCA's concerns regarding the Notification Process for Development Variance Permits. I believe, however, that you are aware of my personal position in this matter which is that the whole Development Variance Process is itself at variance with the Community Planning concept a concept, which FONVCA, as I understand it subscribes to.

While I have and continue at times to vote in favour of Development Variance applications, my position remains essentially the same. I am opposed to the present variance process. As I have indicated on numerous occasions, the DVP process, in my opinion, is essentially unfair, it undermines the credibility of neighbourhood and community planning, it leads to speculation and, in some cases, to a deliberate neglect of homes. Furthermore it is highly subjective and creates a considerable municipal expense despite the fees charged by the municipality. The cost of manpower is far in excess of the expenses.

In my opinion, the way to deal with such matters is through the Board of Variance which has been specifically created to address such issues in a fair and equitable manner without involving the

municipality directly.

I am both surprised and disappointed that FONVCA which claims to be a champion of neighbourhood and community planning has, to the best of my knowledge, never at any time voiced an official opinion in this matter not to speak of official opposition. Neither am I aware that any of the individual community Associations, including Seymour and other Community Associations have ever taken an official position in opposing this process for the reasons mentioned.

This, Mr. Platts, is my position and I would appreciate if you could convey this to all members of FONVCA notwithstanding that FONVCA is non political and/or non partisan. Notwithstanding that FONVCA is non partisan I would urge FONVCA to review it's stance since it is in direct conflict with the aims of the existing neighbourhood organizations as I understand it. To put it succinctly, I do not believe that FONVCA can maintain its credibility, not to mention enhancing its influence unless it takes a stand on this fundamental issue.

Yours truly,

Ernie Crist

: Brian Platts [<mailto:bplatts@shaw.ca>]

Sent: Sunday, July 17, 2005 9:15 PM

To: Alan Nixon; Ernie Crist; Mayor Harris; Jim Cuthbert; Lisa Muri; Maureen McKeon Holmes; Richard Walton; DNV Council

Cc: James Ridge; Irwin Torry; Paula Huber; FONVCA

Subject: Notification Process for Development Variance Permits

Federation of North Vancouver

Community Associations

Mayor & Council:

At the June 16th meeting of the Federation of NV Community Associations, a discussion took place over the process for soliciting feedback on Development Variance Permits.

Community associations and no doubt adjacent neighbours appreciate being notified of individual DVPs at the earliest stage of the development process. The only problem with this process is that all the information necessary to determine if an application amounts to any concern is not revealed until after the final report to council has been prepared. The result is that the report to council usually indicates no response to the application.

A recent DVP that came to Council is a good example. The initial letter from staff that went out to the adjacent neighbours and the local community association stated that a variance was in process, but the letter could not indicate any specifics because the plan checkers had yet to review the application in detail. There was no indication that the variance in question would amount to anything significant and therefore no feedback was received. The final staff

report to Council, however, made it abundantly clear that if the DVP was approved against staff's advice, it would then be used as a precedent for other applications in the neighbourhood.

As a result of the above, FONVCA respectfully requests that the notification process for Development Variance Permits be amended so that adjacent neighbours and the relevant community association are not officially polled for comment until all the relevant information with respect to the actual size of each variance is made available.

Sincerely,  
Brian Platts

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