

TITLE: <p style="text-align: center;">VARIANCE 1451 ROSSER AVENUE EAST OWNER: THE GREEN SPOT INC. APPLICANT: BERNIE WHETTER</p>		
PRESENTER: Andrew Mok, BES MCIP RPP		Page 1 of 4
DEPARTMENT: Planning, Property & Buildings	ATTACHMENTS: A. Application related documents B. Map, air photo & drawings C. Community participation report	
CLEARANCES: Chief Planner	MEETING DATE: September 20, 2017	
APPROVALS:		
 Community Planner	Sept. 11, 2017 Date	 Chief Planner
		Sept, 15, 2017 Date

REQUEST:

The applicant, Bernie Whetter, on behalf of the property owner, The Green Spot Inc, is applying to vary the following provisions of the City of Brandon Zoning By-law No. 7124 to build an addition to the existing business on property located at 1451 Rosser Avenue East in the “A” Agricultural Zone and the Floodplain Overlay Zone:

- Subsection 69(b) to allow for a building addition
- Clause 69(d)(3) by allowing the first floor of a building less than 0.6m above the design flood level
- Clause 69(d)(4) by allowing the finished grade for a building less than 0.3m above the design flood level.

BACKGROUND:

Development Context

The subject site is home to The Green Spot garden centre and is located on the east end of Rosser Avenue East at 17th Street East. The site sits lower than the streets and railway lines along its perimeter. The site is surrounded by the CP principal railway line and the Assiniboine River to the north, large-lot detached dwellings to the east, mixed residential development to the south and the CP railway yard to the west. Access to the site is provided by Rosser Avenue East.

History

The subject site, along with 1329 Rosser Avenue East to the west, had a greenhouse operation since at least 1981 before The Green Spot was established in the early 1990’s. By 2001, greenhouse additions were built towards the north and east of the site.

ANALYSIS:

The applicant is proposing to build a 14.8m x 29.5m building addition in the south central portion of the subject site. Located east of the existing retail store building, this building addition will accommodate expanded indoor retail operations for the business.

Consistency with Part 6, Section 97(1)(b) of The Planning Act and Demonstration that the Variance:***1. Will be compatible with the general nature of the surrounding area;***

The subject site and its surrounding area are isolated by the CP principal railway line to the north and spur line to the south. The subject site therefore only has five residential neighbours, of which two to the east are large-lot residential properties also developed in the floodplain. The existing greenhouse operation has been coexisting with the neighbours for over 20 years. Given that there is no change in total site area used for business operations, the proposal is compatible with the general nature of the surrounding area.

2. Will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area;

The subject site sits on a lower elevation than the other properties along Rosser Avenue East, while an elevated 17th Street East separates the subject site from the two large-lot floodplain residential properties. If the building addition were approved, the addition should have no impact on the surrounding area with respect to flood risk. The subject site also sits near the end of a dead-end street, and most of the nearby properties should not be affected by any increase in traffic that may result from the building addition. However, the site's business currently has materials stored on 1515 Rosser Avenue East, property owned by the City immediately east of the site. Provided the materials are removed from 1515 Rosser Avenue East, the proposal will not have any negative effects to the surrounding area.

3. Is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

The Zoning By-law does not allow for any expansion of business activities that are otherwise permitted in the "A" Agricultural Zone due to the low elevation of the subject site. Furthermore, construction of building additions above the design flood level will create ground level disparity between the building addition and the existing retail building and adjacent greenhouses. By building at a similar elevation as the existing retail building on the site, the proposal is the minimum modification of the Zoning by-law required to relieve its injurious effect on the site.

4. Is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law

The Brandon & Area Planning District Development Plan 2013 ("Development Plan") designates the subject site as "Agricultural". Though Policy 8.2.1 specifically refers to agricultural areas in the neighbouring Rural Municipalities, the proposal meets the intent of this policy in that an agricultural activity will continue on the site. Policy 15.2.1 of the Development Plan states that all flood prone lands should be restricted to certain uses, including certain types of agricultural uses, provided that the structures do not inhibit the free flow of water. The subject site is not in the direct path of the Assiniboine River, and therefore no existing and proposed buildings and structures on the site will inhibit the river's flow during a flood. The proposal therefore conforms to the Development Plan.

The Zoning By-law permits low-intensity agricultural activities, and the proposed building addition internalizes this permitted use and its ancillary retail component. However, some of the buildings on the subject site have non-compliant setbacks as they currently straddle the joint property line between 1329 and 1451 Rosser Avenue East. Both properties are owned by the same owner and operate as a single site. By consolidating the titles of these properties, the proposal will conform to the Zoning By-law.

Commenting Agencies

All comments have been addressed and summarized below.

City of Brandon

The City of Brandon advises that the applicant or owner must complete the following prior to the issuance of a building permit for the building addition, of which the last two items are standard building permit requirements:

- The removal of the business' materials, such as pallets, from City property at 1515 Rosser Avenue East located east of the subject site
- Consolidation of titles for 1329 and 1451 Rosser Avenue East to resolve the issue of buildings straddling over two properties
- Entering into a save harmless agreement with the City for developing in an area at risk of flooding
- Submission of a drainage plan
- Confirmation on how or if the building addition will be serviced

Utilities

Manitoba Hydro advises there are Centra Gas Manitoba Ltd. Facilities in the area, and that the applicant should "Call Before You Dig" prior to constructing the building addition.

Notification

As required under s. 169 of The Planning Act, notice of this Public Hearing regarding this application was sent to owners of property within 100 metres (328 feet) of the subject property and notice posters were posted on the property.

Public Outreach

In accordance with section 13 of the Zoning By-law, the applicant met with owners of the neighbouring residential properties individually on August 12, 2017 and included a summary in a public participation report (Attachment C). As of the writing of this report, the Planning, Property & Buildings Department has not received representation in favour of or in opposition to this application.

RECOMMENDATIONS:

That the Public Hearing for Variance Application V-08-17-B at 1451 Rosser Avenue East be concluded.

That Variance Application V-08-17-B to vary Subsection 69(b), Clause 69(d)(3) and Clause 69(d)(4) to allow for construction of a building addition in the “A” Agricultural Zone and the Floodplain Overlay Zone be approved at 1451 Rosser Avenue East (Pt. Block 40, Plan 379 BLTO) in accordance with the intent of the application “Attachment A-1”, the attached letter of intent “Attachment A-2” and the attached site plan “Attachment B-2”, subject to the owner or successor, prior to the issuance of a building permit,

1. Removing all materials associated with the subject site from 1515 Rosser Avenue East (Pt. Block 41, Plan 379 BLTO),
2. Consolidating the titles of the subject site and 1329 Rosser Avenue East (Lot 1, Block 2, Plan 27536 BLTO), and
3. Entering into a save harmless agreement with the City of Brandon.