



TITLE: <p style="text-align: center;">VARIANCE 140 22nd STREET OWNER: DMYTRO LUPANCHUK</p>		
PRESENTER: Robert Zilke, MCIP RPP		Page 1 of 3
DEPARTMENT: Planning, Property & Buildings	ATTACHMENTS: A. Application related documents B. Map, air photo & drawings	
CLEARANCES: Chief Planner	MEETING DATE: October 18, 2017	
APPROVALS: <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  September 27, 2017 Community Planner Date </div> <div style="text-align: center;">  September 29, 2017 Chief Planner Date </div> </div>		

REQUEST:

The owner Dmytro Lupanchuk, is applying to vary Table 10 of Part III, Division, I, Section 51 of the City of Brandon Zoning By-law No. 7124 to decrease the required side yard projection setback of an accessory building from 0.3 metres to 0.1 metres for the property located at 140 22nd Street in the Residential Low Density (RLD) Zone. Approval of this application will allow the owner to build a new garage to the reduced setbacks of the existing garage.

BACKGROUND:

Development Context

The subject site currently has a single detached dwelling and is located along 22nd Street, west of Brandon University. The site was developed in 1911 and a surrounded by properties with similar older single detached dwellings and accessory structures on all sides. The properties in this area are characterized with similar legal non-conforming structures situated on smaller residential sites and in some instances, encroachments. Access to the site is provided by a public lane. The garage was constructed on a concrete slab in the rear portion of the site off the public lane.

ANALYSIS:

The purchasers of the property are seeking the variance to allow for the construction of a new garage to the reduced setbacks of the existing garage.

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 site is located in an older developed neighbourhood with various examples of structures situated closer to property lines. The location of the existing garage is directly off the public lane which similar to surrounding residential properties with accessory buildings. The existing garage is lawfully non-conforming as it was constructed prior to any Zoning By-law being adopted, and has remained there without any complaints from neighboring residents. The owner is proposing to construct a new larger garage with the same side yard setback, therefore the decreased setback will be 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 location of the accessory building in such close proximity to the property line is mitigated by the neighbour's garage which is also situated closer to the property line than what is permitted by the Zoning By-law. The garage is not visible to any other surrounding properties since the yard is enclosed by a fence. Therefore, the decrease in the side yard setback will not be detrimental to the health or general welfare of surrounding residents nor negatively affect potential development.

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

Although a 0.1m side yard projection setback is not injurious on the owner's property, the garage is located on a permanent concrete foundation which makes rebuilding the garage in a different location a challenge. As the neighbor at 126 22nd Street is the only directly impacted property owner, administration is recommending a condition of approval whereby the applicant must submit a letter of support from the impacted neighbor.

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 City of Brandon Zoning By-law No. 7124 (Zoning By-law) allows for the placement of accessory buildings in the rear yards in the RLD zone. The proposed location is fully contained within the property boundaries and meets all other siting requirements in Table 10 in the Zoning By-law for the location and height of an accessory building.

Commenting Agencies

All comments have been addressed and summarized below.

Planning

- That as a condition of approval of the variance the owner obtains a letter of support from 126 22nd Street stating that the property owner has no concerns regarding the variance.

Building

- A fire resistance rating is required as per the MBC 9.10.14.5 (4b) “shall have a fire resistance rating of not less than 45 min, where the limiting distance is less than 0.6 m”
- An outstanding building permit April 30, 2013 for renovations remains outstanding.
- The drawing provided requires more information (e.g. door lintels, concrete slab) requirements.
- A method of completing the building envelope must be provide as there would be no room to work if the buildings remain tight together.

Engineering

- No roof drainage from the north side of the garage shall be discharged to the north or east of the garage.

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.

RECOMMENDATIONS:

That the Public Hearing for Variance Application V-15-17-B at 140 22nd Street be concluded.

That Variance Application V-15-17-B to vary Table 10 of Part III, Division, I, Section 51 of the City of Brandon Zoning By-law No. 7124 to decrease the required side yard projection setback of an accessory building from 0.3 metres to 0.12 metres in the RLD Residential Low Density Zone be approved at 140 22nd Street in accordance with the intent of the application “Attachment A-1”, the letter of intent “Attachment A-2” and the site plan “Attachment B-2”, subject to the applicant, prior to the issuance of a building permit submitting a letter of support from the owners of 126 22nd Street.