

<b>TITLE:</b> <b>CONDITIONAL USE AND VARIANCE</b> <b>1147 – 4<sup>TH</sup> STREET</b> <b>OWNER AND APPLICANT: GEOFF GREGOIRE</b>		
<b>MEETING DATE:</b> March 16, 2022		<b>Page 1 of 6</b>
<b>DEPARTMENT:</b> Planning & Buildings	<b>ATTACHMENTS:</b> A. Letter of intent B. Map, air photo, site plan, & elevations C. Community participation report D. Prior submissions	
<b>PRESENTER:</b> Justin Quigley	<b>MANAGER:</b> Ryan Nickel, Director of Planning & Buildings	

**RECOMMENDATIONS:**

That Conditional Use Application C-09-21 to allow for a duplex in an interior site with a width less than 15.2m in the Residential Low Density (RLD) Zone be approved at 1147 – 4<sup>th</sup> Street (Lot 38, Block 27, Plan 7 BLTO) in accordance with the attached letter of intent “Attachment A-1” and site plan “Attachment B-3”.

That Variance Application V-23-21 to vary Table 10 under Section 59 of Zoning By-law No. 7124, as amended, to reduce the required north interior side yard from 1.2m to 1.0m in the Residential Low Density (RLD) Zone be approved at 1147 – 4<sup>th</sup> Street (Lot 38, Block 27, Plan 7 BLTO) in accordance with the attached site plan “Attachment B-3”.

**BACKGROUND:**

***Request***

The applicant, Geoff Gregoire, is applying for the following for a property located at 1147 – 4<sup>th</sup> Street in the RLD Zone:

- Conditional use approval to allow for a duplex in an interior lot with a width less than 15.2m
- Variance to reduce the north interior side yard from 1.2m to 1.0m

Approval of these applications will allow for the expansion of the existing detached dwelling to accommodate a second dwelling unit.

***Development Context***

The site is located on the east side of 4<sup>th</sup> Street between Brandon and Hill Avenues, and currently has a detached dwelling. The site is surrounded by residential uses to the north, west and south, and George Fitton School to the east. There is also a place of worship further south. The site has access off a public lane that connects to Hill and Brandon Avenues.

***History***

The applicant applied for a building permit in October 2021 to construct an addition to the rear of the existing detached dwelling, built in 1921, converting the building into a duplex dwelling. Following review, City administration notified the applicant that a duplex in the RLD Zone on a site with a width of less than 15.2m requires conditional use approval. City administration further determined that the existing building on the site had lawfully non-conforming side yards on both sides, with the south side of the house actually encroaching into the property known as 1161 – 4<sup>th</sup> Street. The application proposed aligning the addition to the existing building, which does not comply with the Zoning By-law's setback requirements. After further discussion with the applicant, the applicant agreed to apply for a concurrent conditional use and variance application to accommodate a duplex on a site in the RLD Zone that has a site width of less than 15.2m and to reduce the side setback requirements along the north and south side site lines from 1.2m to 0.8m, as detailed in the Letter of Intent "Attachment A-1" and the original site plan "Attachment D-1".

City administration determined it could not support the variance application due to risks associated to the neighbouring properties. By reducing the side setback to 0.8m, City administration identified a risk that the property will negatively impact the adjacent neighbour's property. Further, should either adjacent properties choose to develop new buildings with the intent of maximizing footprints to the shared side site lines, there would be a conflict with the reduced setback proposed for 1147 – 4<sup>th</sup> Street. City administration recommended the applicant revise their concurrent conditional use and variance applications to determine a suitable alternative that would address these concerns.

In February 2022, the applicant submitted a revised site plan "Attachment B-3" and elevations "Attachments B-4 and B-5" that eliminated the need for a variance to the south side site line and would extend the existing non-conforming side yard along the north side site line.

**ANALYSIS:*****Conditional Use***

A duplex in the RLD Zone that has a site width of less than 15.2m requires conditional use approval. The intent of the conditional use process is to ensure that development is an appropriate fit in the neighbourhood.

***Consistency with Part 7, Section 106(1)(b) of The Planning Act and Demonstration that the Use:******1. Will be compatible with the general nature of the surrounding area;***

The site is located in a neighbourhood that has a predominant mixture of detached, duplex, and multi-unit dwellings. An extension to lengthen the existing single-story dwelling unit to

accommodate a second residential unit and retention of parking in the rear yard are 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 proposed building's use and design is consistent with surrounding residential units. The addition is proposed to the rear of the site, further extending the existing footprint away from sight lines along 4<sup>th</sup> Street. The addition will also retain the height of the existing structure, thereby not vertically intensifying the site and maintaining consistency with the existing conditions of the site.

The use is consistent with the general nature of uses within the neighbourhood, as nearby residential units include a mix of single-detached and multi-unit dwellings. Therefore, the proposed use is not providing an intensification that is beyond what exists in the neighbourhood and is not expected to have negative impacts or effects on other properties or potential development in the surrounding area.

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

*Brandon & Area Planning District Development Plan 2013*

- Site designated "Residential" (Map 1)
- Proposal provides a mixture of housing options in the neighbourhood (2.2.2)
- Proposed development will contribute to a range of housing density options in the neighbourhood, and increase density in close proximity to major institution, transit routes, open space areas and major collector streets (2.2.4 & 2.2.5)
- Infill development is one of the top growth priorities in the City of Brandon (10.2.3)

*City of Brandon Zoning By-law*

- Proposed building addition complies with all provisions of the Zoning By-law with the exception of the proposed reduction of the north side yard setback
- The applicant has applied for a variance concurrently to address the north side yard (see following subsection for analysis of the variance application)

**Variance**

The applicant is proposing to add an addition to the rear of the existing single-detached residential unit to accommodate a second residential unit, as outlined in “Attachment B-3”. The applicant has identified limitations resulting from the width of the site that requires a variance to the north site line to accommodate the addition.

**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;**

Properties in this block have varying setbacks due to their construction in three general time periods: early 20<sup>th</sup> century, 1950’s-1970’s, both of these consisting of detached dwellings, and 1990’s onwards, consisting of semi-detached dwellings. Many of the side setbacks on these older residential buildings do not comply with regulations in effect today. The proposed side yard reduction therefore 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;**

Interior side yard requirements exist to ensure buildings are sufficiently separated from each other to reduce the risk of increased drainage onto the adjacent properties, and to reduce the risk of damage in the event of a fire. Upon review of the site and distances between buildings on this site and the property to the north at 1143 – 4<sup>th</sup> Street, City administration determines that the footprint of the proposed addition is acceptable. However, the applicant must ensure, at the building permit application stage, that the proposed design of the addition and renovations will comply with limiting distance requirements and other applicable requirements of the Manitoba Building Code to minimize the possible damaging effects of extending the non-conforming element along the north site line. The proposed north side yard reduction will therefore 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.

Though the variance is for the north side yard, City administration advises that the existing lawful non-conformity on the south side of the site, namely the encroachment of the building onto 1161 – 4<sup>th</sup> Street, remains unchanged. The applicant is proposing a compliant south interior side yard for the building addition, and is therefore not increasing the existing non-conformity, such as an encroachment, on the south side.

**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 proposed 1.0m north side yard is necessary as identified by the applicant due to the narrow overall width of the site. The applicant is proposing a footprint addition that will extend the northern wall, which currently has a lawfully non-conforming setback of 1.0m to ensure there are adequate interior spaces. The requested variance is therefore the minimum modification of the Zoning By-law required to relieve its injurious effect on the applicant's property.

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

*Brandon & Area Planning District Development Plan 2013*

- Site designated "Residential" (Reference Map 11)
- Proposal provides a mixture of housing options in the neighbourhood (2.2.2)
- Proposed development will contribute to a range of housing density options in the neighbourhood, and increase density in close proximity to major institution, transit routes, open space areas, and major collector streets (2.2.4 & 2.2.5)

*City of Brandon Zoning By-law*

- Proposed building addition complies with all other setback requirements on all other sides
- Proposed building design shows compliance with the site design standards in the Urban & Landscape Design Standards Manual
- Existing building will remain, therefore lawful non-conforming provisions of The Planning Act continue to apply to the existing building only

***Commenting Agencies***

*City of Brandon*

- The applicant will be required to work with the Planning & Buildings Department during the detailed design process to ensure the proposed design of the addition and renovations of the existing building will meet the spatial separation requirements, or identify items that do not meet the requirements and take additional measures to minimize the possible damaging effects of the non-conforming items
  - This can be addressed under the building permit application
- Development charges will be applicable to the building addition, to be applied on the applicant's building permit application
- If service upgrades are required, the applicant is to maintain a minimum separation of 3.0m between any new service and any existing boulevard tree
  - This can be addressed under the building permit application

**LEGISLATIVE REQUIREMENTS:**

***Notification***

In accordance with Section 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 site and notice posters were posted on the site.

***Public Outreach***

In accordance with Section 13 of the Zoning By-law, the applicant mailed their proposal to the property owners of nearby properties. As of the writing of this report, the Planning & Buildings Department has not received representation in favour of or in opposition to this application.