

TITLE: VARIANCE 725 VAN HORNE AVENUE (FORMERLY 660 – 7 TH STREET) OWNER: 5853452 MANITOBA LTD. APPLICANT: BRIAN DORNN	
MEETING DATE: May 4, 2022	Page 1 of 4
DEPARTMENT: Planning & Buildings	ATTACHMENTS: A. Application related documents B. Map, air photo & drawings C. Supplemental comments
PRESENTER: Justin Quigley, Community Planner	MANAGER: Ryan Nickel, Director of Planning & Buildings

RECOMMENDATIONS:

That Variance Application V-07-22 to vary Table 1 under Part II, Division 2, Subsection 24(a) of the Zoning By-law by reducing the permitted obstruction of balconies from no closer than 4.0m to the front site line to no closer than 1.5m to the front site line be approved at 725 Van Horne Avenue (Lots 1 to 5 and Part of Lots 27 to 30, Block 71, Plan 8 BLTO, Parcel A, Plan 43705 BLTO, and Parcel A, Plan 51401 BLTO) in accordance with the attached letter of intent “Attachment A-1” and site plan “Attachment B-3”.

BACKGROUND:

Request

The applicant, Brian Dornn, on behalf of the property owner, 5853452 Manitoba Ltd., is applying to reduce the permitted obstruction in the front yard of balconies from being not closer than 4.0m to a front site line to 1.5m. Approval of this application will allow for front yard balconies to be constructed along the front of the building facing Van Horne Avenue.

Development Context

The site is bound by Van Horne Avenue to the south, the CN rail line along the northwest, and 621 – 7th Street to the east. The site is surrounded by single-detached dwellings and light industrial to the east and single-detached and medium density dwellings to the south. General commercial uses are located to the north and west on the other side of the rail line.

History

The site, formerly 660 – 7th Street and 725 Van Horne Avenue, has been consolidated with confirmation of consolidation received by the City on April 14, 2022, after the applicant submitted this variance application. The City confirms the address for the consolidated site as 725 Van Horne Avenue, and so will refer to this address despite this application having cited 660 – 7th Street at the time of application and circulation. The site is currently undeveloped. A wood-

framed, metal-clad commercial building used to occupy the site formerly known as 660-7th Street, which has since been demolished.

In 2018, the City received concurrent zoning by-law amendment and variance applications from the previous property owner. The applications requested the site be rezoned from Industrial Restricted (IR) to Residential Moderate Density (RMD), and to reduce the required front yard setback from 4.6m to 3.0m along with the Railway Protection Overlay Zone from 30.0m to 18.5m. City Council and the Planning Commission approved the respective applications. The previous property owner successfully obtained an extension to the 2018 variance order to facilitate the sale of the site to the current property owner.

The City received a development permit application on March 15, 2022 proposing the development of an 18-unit multiple-dwelling building. Included in the submission were further details on the building design as outlined in Attachment B-3, which included front balconies that were not in compliance with Table 1 of the Zoning By-law.

ANALYSIS:

The applicant is proposing to build balconies within 1.5m of the front site line, allowing for balconies to extend 1.5m from the building.

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 surrounding area consists of a mix of predominantly residential and light industrial developments. Many of these properties, particularly those adjacent to Van Horne Avenue, have varying setbacks due to the varying years in which the buildings on those sites were built. Many of the setbacks on these older buildings do not comply with regulations in effect today. The proposal to allow for balconies to be developed within 1.5m of the front site line will add structural elements within the front yard, which adds bulking within the front site line that is not dissimilar to the varying setbacks in the neighbourhood. The proposal will 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;

The siting and proposed height of the building is sufficiently removed from adjacent properties to minimize any sight lines to adjacent properties that may cause privacy concerns as per the Urban and Landscape Design Standards. Further, the encroaching balconies into the front site line will result in close proximity to Van Horne Avenue, which is not expected to

result in significant detrimental impacts to the public right-of-way. The proposal to allow for balconies to be developed as close at 1.5m to the front site line therefore will not be detrimental to the health or general welfare of people living or working in the surrounding area and will not negatively affect other properties or potential development in 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*

Due to the limitations imposed on the site from the shape of the site and the Railway Protection Overlay Zone, which has already been reduced as per Variance Order V-16-18-B, the available land for development on the site is limited. When the previous property owner applied for rezoning and a variance in 2018, the proposal consisted of a 24-unit building with no balconies. The current applicant is proposing balconies on a building with less dwelling units (18 total), but does not want to further decrease the Railway Protection Overlay Zone, as such a request would be more challenging (see “Commenting Agencies” further in this report). The proposal to allow for balconies to be developed within 1.5m of the front site line will therefore be the minimum modification of the Zoning By-law required to relieve the injurious effect of the Zoning By-law 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

- Area designated “Residential” (Map 1)
- Site will provide an increased density in an area that is predominantly single-detached dwellings, which offers a greater mix of housing options in the neighbourhood (2.2.2, 2.2.4)

City of Brandon Zoning By-law

- Proposed development complies with all other requirements within the Zoning By-law
- Balconies are encouraged for multiple dwelling developments with common entrances within the Urban and Landscape Design Standards Manual (3.2 (b))
- Balconies are sufficiently setback from adjacent sites to minimize privacy concerns as per the Urban and Landscape Design Standards Manual (4.4 (a))

Commenting Agencies

CN Rail

- On April 8, 2022, CN, as one of the commenting agencies the City contacted, stated their objection to the proposed development
- CN cited the close proximity of the site to CN railway operations, the residential use being incompatible with the rail operations and facilities in the yard, and potential safety issues that will result from such proximity as reasons for their objections
- The City views these comments as a contradiction of CN's own position provided during the 2018 zoning by-law amendment and variance applications (see Attachment C-1 for details)
- The City further notes that the cited reasons for the objections are not relevant to this variance application
 - The comments provided on April 8, 2022 state concerns regarding the overall siting and use of the site, which were addressed in the 2018 zoning by-law amendment and variance applications
 - The applicant has not applied for further reducing the Railway Protection Overlay Zone
- The zoning by-law amendment approved in 2018 included conditions within a development agreement that requires the applicant to include design elements mitigating all concerns CN Rail identified in their 2018 comments
 - The City has concluded the applicant's site plan complies with these 2018 conditions in principle

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 reached out to property owners who owned lands in the adjacent area for comments on the variance proposal through door-to-door consultation on April 1, 2022. The applicant noted that many of the respondents were already familiar with the development due to the consultation that had previously occurred in 2018. The applicant has reported that the feedback received was generally positive and required no further alterations to the plan as submitted.