Minute No. 565
Report – Executive Policy Committee – September 21, 2011

Item No. 2 Zoning Agreement Amendment – 34 Darbrett Bay (Old Kildonan Ward) File ZAA 9/2011

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That Zoning Agreement Caveat 3711441 under File DASZ 36/2007 dated March 19, 2008 (By-law No. 42/2008), be amended as follows:

   A. That Clause 2 be amended by adding the following:

      Excepting Lot 9 Block 1 Plan 48083, which shall provide a minimum rear yard setback of 15.14 metres (49.67 feet).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 36/2007 (By-law No. 42/2008) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report – Executive Policy Committee – September 21, 2011

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2011, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2011, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Zoning Agreement Amendment – 34 Darbrett Bay**
File ZAA 9/2011

For submission to: **Executive Policy Committee**

Prepared by: **Inga Skundberg, Committee Clerk**
Lord Selkirk - West Kildonan Community Committee

Report date: **September 14, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2011, the Lord Selkirk - West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That Zoning Agreement Caveat 3711441 under File DASZ 36/2007 dated March 19, 2008 (By-law No. 42/2008), be amended as follows:

   A. That Clause 2 be amended by adding the following:

      Excepting Lot 9 Block 1 Plan 48083, which shall provide a minimum rear yard setback of 15.14 metres (49.67 feet).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 36/2007 (By-law No. 42/2008) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

The Lord Selkirk - West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. The subject application poses no negative impact on the surrounding neighbourhood.

PUBLIC HEARING SUMMARY

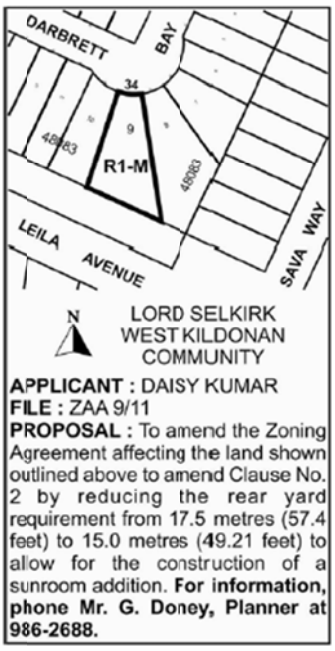
File: ZAA 9/2011

Before: Lord Selkirk - West Kildonan Community Committee
Councillor Sharma, Chairperson
Councillor Eadie
Councillor Pagtakhan

Public Hearing: September 13, 2011
Council Chamber
Council Building, 510 Main Street

Applicant: Daisy Kumar

Subject:



Premises Affected: 34 Darbrett Bay

Exhibits Filed:
1. Application dated June 14, 2011
2. Notification of Public Hearing dated June 22, 2011
3. Manitoba Status of Title 2459435
4. Letter of authorization dated June 14, 2011 from Sanjeev Kumar to Daisy Kumar

5. Surveyor's Building Location Certificate and sketch dated August 21, 2009
6. Caveat 3711441
7. Plans (4 pages)
8. Report from the Planning and Land Use Division dated September 6, 2011
9. Inspection Report
10. Audio Recording of representations

REPRESENTATIONS:

In Support:
Nil

In Opposition
Nil

For Information:
Nil

For the City:
Mr. G. Doney, Senior Planner, Planning, Property and Development Department
Mr. J. Veitch, Senior Planner, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 9/2011

ADMINISTRATIVE REPORT

Title: ZAA 9/11 – 34 Darbrett Bay

Issue: For consideration at the Public Hearing to amend the Zoning Agreement for the construction of a sunroom to permit a minimum rear yard of 49.67 feet instead of 57.4 feet.

Critical Path: Lord Selkirk – West Kildonan Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	N/A	N/A	

RECOMMENDATIONS

1. That Zoning Agreement Caveat 3711441 under File DASZ 36/2007 dated March 19, 2008 (By-law No. 42/2008), be amended as follows:

   A. That Clause 2 be amended by adding the following:

   Excepting Lot 9 Block 1 Plan 48083, which shall provide a minimum rear yard setback of 15.14 metres (49.67 feet).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 36/2007 (By-law No. 42/2008) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

REASON FOR THE REPORT

- The applicant intends to construct a two-storey 256 sq ft three season sunroom addition at the rear of an existing single family dwelling.
- The existing single family dwelling is a 2694 square foot 2 storey dwelling with a 522 square foot attached garage and a 56 square foot covered front porch.
- The rear yard setback Phase IX of the Amber Trails residential development filed under DASZ 36/2007 where Public Works recommended that the residential lots that back onto Leila Avenue be developed with a minimum rear yard setback of 57.41 feet (17.5 metres) for the purposes of noise attenuation.
- The applicant is now applying to amend zoning agreement DASZ 36/2007 to construct the sunroom into conformance with the by-law.
- A zoning agreement amendment requires a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee's consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Planning and Land Use Division are concurred in, 256 sq ft three season sunroom will be permitted, 49.67 feet away from the rear property line instead of 57.4 feet.

HISTORY

DASZ 36/2007

- On March 19, 2008, Council recommended approval of the application DASZ 36/2007 to develop one hundred sixty two (162) single-family residential lots on the subject lands. The lots will all be zoned "R1-4" Residential, which has a minimum lot area of 4,000 square feet and a minimum lot width of 40 feet.
- DASZ 36/2007 is a large subdivision and the zoning by-law for specific setbacks was enacted for Leila Avenue and the future Chief Peguis Trail:
    - Public Works is recommending that the residential lots that back onto Leila Avenue be developed with a minimum rear yard setback of 57.41 feet (17.5 metres) for the purposes of noise attenuation. The proposed lot depths are adequate to accommodate this condition.
    - Also, where lots flank Leila Avenue, the said lots are to be established with a minimum side yard setback of 32.8 feet (10.0 metres) for the purposed of noise

attenuation. The proposed lot widths are adequate to accommodate this condition.

- Similarly, Public Works is requesting that a uniform noise attenuation fence, 6.5 feet (2.0m) in height, be constructed within the rear and/or side yards of all lots abutting Leila Avenue.
- Public Works is recommending that residential lots which back onto the future Chief Peguis Trail be developed with a minimum rear yard setback of 49.21 feet (15.0 metres) for the purposed of noise attenuation. Such yards are consistent with the rear yards of the Foxwarren Lake development to the southwest of the subject development.
- Also, Public Works is recommending that a uniform noise attenuation fence, 6.5 feet (2.0m) in height, be constructed within the rear and/or side yards of all lots abutting the future Chief Peguis Trail.

CONSULTATION

In preparing this report there was consultation with: N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Date:	*September 6, 2011*
File No.	ZAA 9/11

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE: September 6, 2011

FILE: ZAA 9/11
RELATED FILES: DASZ 36/2007

COMMUNITY: Old Kildonan
NEIGHBOURHOOD #: 3.337

SUBJECT: For consideration at the Public Hearing to amend Clause 2 of the Zoning Agreement for the construction of a sunroom to permit a minimum rear yard of 49.67 feet instead of 57.4 feet.

LOCATION: 34 Darbrett Bay

LEGAL DESCRIPTION: Lot 9 Block 1 Plan 48083



APPLICANT: Daisy Kumar
34 Darbrett Bay
R2P 1K6

OWNER: *Same as above*

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant intends to construct a two-storey 256 sq ft three season sunroom addition at the rear of an existing single family dwelling.
- The existing single family dwelling is a 2694 square foot 2 storey dwelling with a 522 square foot attached garage and a 56 square foot covered front porch located on a pie-shaped lot with an irregular rear property line that creates a deep southeast corner to the lot, and a shallow southwest corner.
- The rear yard setback Phase IX of the Amber Trails residential development filed under DASZ 36/2007 where Public Works recommended that the residential lots that back onto Leila Avenue be developed with a minimum rear yard setback of 57.41 feet (17.5 metres) for the purposes of noise attenuation.
- The applicant is now applying to amend zoning agreement DASZ 36/2007 to construct the sunroom into conformance with the by-law.
- A zoning agreement amendment requires a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee's consideration of the development application at the Public Hearing.

SITE DESCRIPTION

- The subject property is located on the south side of Darbrett Bay in the Amber Trails neighbourhood of the Old Kildonan Ward.
- The property is a pie shaped lot **10,419 sq. ft. in area**.
- The subject property contains a 2694 square foot 2 storey dwelling with a 522 square foot attached garage and a 56 square foot covered front porch.
- The property backs onto Leila Avenue.



Figure 1: Aerial photograph showing approximate area of subject property (flown 2009)

SURROUNDING LAND USES & ZONING (See Figure 1)

North: Detached single-family homes zoned "R1-M" Residential Single-Family Medium.

South: Leila Avenue with detached single-family homes zoned "R1-M" Residential Single-Family Medium backing onto Leila Avenue.

East: Detached single-family homes zoned "R1-M" Residential Single-Family Medium.

West: Detached single-family homes zoned "R1-M" Residential Single-Family Medium.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to construct a two-storey 256 sq ft three season sunroom addition at the rear of an existing single family dwelling conformance with the by-law and allow the gazebo to remain in its existing place on the land.

- The sun room will be 21 feet from the west property line, 30 feet from the east property line, 61.6 feet from the southeast corner of the lot; 49.8 feet from the southwest corner of the lot.
- The sunroom will be 16 feet by 16 feet and be attached to the house with screen doors on all three sides.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Draft Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Recent Communities policy area. A key policy guiding the development of Areas of Stability includes:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.

ZONING

"R1-M" Residential Single-Family Medium District

- The R1-M district requires: a minimum lot width of 25 feet, a minimum lot area of 3,500 square feet, side yards of 4 feet, a front yard of 15 feet, and a rear yard of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 45 percent.

LAND USE BY-LAW

Zoning Agreement DASZ 36/2007

- Clause 2 of the zoning agreement for DASZ 36/2007 states the following:

Residential lots with rearage on Leila Avenue must maintain a minimum rear yard setback of seventeen and one-half (17.5) metres.

RATIONALE FOR REAR YARD SETBACK IN THE ZONING AGREEMENT

- The rear yard setback incorporated into the zoning agreement is intended to provide for an adequate amount of rear yard to mitigate against traffic noise generated from Leila Avenue.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The attached sunroom cannot be seen neighbours.
- Landscaping elements such as coniferous trees and shrubs, and developments that comply with the setback requirements of the zoning agreement can also potentially deter neighbouring views of the sunroom.

RECOMMENDATION

The Planning and Land Use Division recommends **approval** for the following reasons:

- The primary reason for including the rear yard setbacks stipulated in the zoning agreement is to mitigate against traffic noise from Leila Avenue.
- The attached sunroom is only a three season sunroom that generally compiles with the Zoning Agreement setback and the Zoning By-law setback, however, the odd shape of the lot with the irregular rear lot line, brings the southwest corner of the sunroom closer to the rear property line by 7 feet.
- Also, there are houses on nearby Sava Way that flank Leila Avenue, and are much closer than the proposed sunroom.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared By: John Wintrup
PPD File # ZAA 9/11