Minute No. 150
Report – Executive Policy Committee – January 16, 2013

Item No. 3 Zoning Agreement Amendment – 89 Waterbury Drive (River Heights-Fort Garry Ward) File ZAA 10/2012

COUNCIL DECISION:

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

1. That the Zoning Agreement under File DASZ 42A/84 dated April 17, 1985 be amended for the subject property (Lot 10 Block 1 Plan 19134) to permit a rear yard of 11.9 metres (39.2 feet) instead of 12.8 metres (42 feet).

2. That the Director of Legal Services and City Solicitor be requested to amend the subject Zoning Agreement to DASZ 42A/84 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 – January 16, 2013

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 January 16, 2013, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 8, 2013, the City Centre 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.

On December 4, 2012, the City Centre Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on January 8, 2013 at 6:00 p.m. in the Council Building, 510 Main Street.

RE: **Zoning Agreement Amendment – 89 Waterbury Drive**
File ZAA 10/2012

For submission to: **Executive Policy Committee**

Prepared by: **Andrew Poitras, Senior Committee Clerk**
City Centre Community Committee

Report date: **January 9, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 8, 2012, the City Centre 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 the Zoning Agreement under File DASZ 42A/84 dated April 17, 1985 be amended for the subject property (Lot 10 Block 1 Plan 19134) to permit a rear yard of 11.9 metres (39.2 feet) instead of 12.8 metres (42 feet).

2. That the Director of Legal Services and City Solicitor be requested to amend the subject Zoning Agreement to DASZ 42A/84 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 City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The amendment to this Zoning Agreement is minor.

PUBLIC HEARING SUMMARY

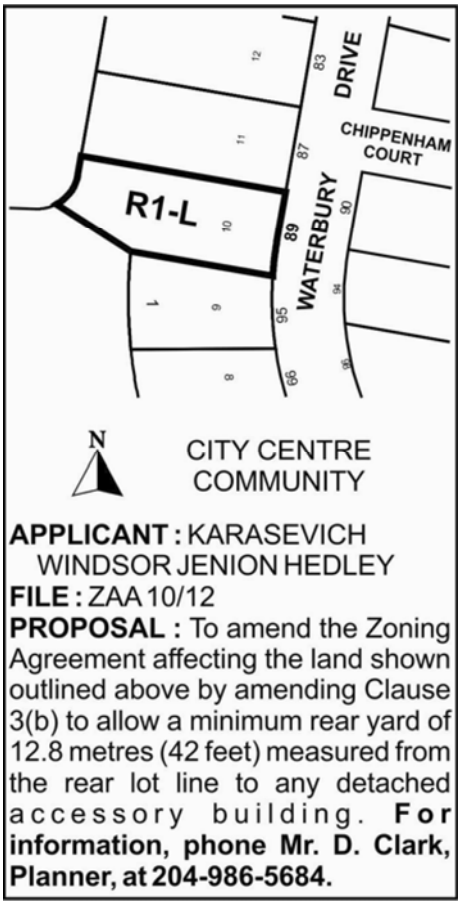
File: ZAA 10/2012

Before: City Centre Community Committee
Councillor Orlikow, Chairperson
Councillor Gerbasi
Councillor Smith

Public Hearing: January 8, 2013
West Committee Room
Council Building, 510 Main Street
December 4, 2012
Council Chambers
Council Building, 510 Main Street

Applicant: Karasevich Windsor Jenion Hedley LLP

Subject:



Premises Affected: 89 Waterbury Drive

Exhibits Filed:

1. Application dated October 5, 2012
2. Notification of Public Hearing dated October 19, 2012
3. Manitoba Status of Title 2618902/1
4. Letter of authorization dated September 22, 2012 from Jennifer Ann Griffin and Chad Arlington Griffin to Stephen Kirk Windsor, Karasevich Windsor Jenion Hedley LLP
5. Surveyor's Building Location Certificate and sketch dated August 29, 2012
6. Copy of Caveat 85-62929
7. Copy of Caveat 85-87509
8. Report from the Urban Planning Division dated November 21, 2012
9. Notice of Adjournment dated December 12, 2012
10. Notification of Public Hearing dated November 19, 2012
11. Report from the Urban Planning Division dated December 17, 2012
12. Inspection Report
13. Audio Recording of representations

REPRESENTATIONS:

In Support:

Stephen Kirk Windsor

In Opposition:

Nil

For Information:

Nil

For the City:

Mr. M. Robinson, Senior Planner, Planning, Property and Development Department

Exhibit "10" referred to in File ZAA 10/2012

ADMINISTRATIVE REPORT

Title: ZAA 10/12 – 89 Waterbury Dr. Public Hearing

Issue: For consideration at the Public Hearing to amend the Zoning Agreement to allow a reduced rear yard setback to an accessory structure.

Critical Path: City Centre 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 the Zoning Agreement under File DASZ 42A/84 dated April 17, 1985 be amended for the subject property (Lot 10 Block 1 Plan 19134) to permit a rear yard of 11.9 metres (39.2 feet) instead of 12.8 metres (42 feet).

2. That the Director of Legal Services and City Solicitor be requested to amend the subject Zoning Agreement to DASZ 42A/84 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 is proposing to amend the Zoning Agreement for the subject property to allow an existing patio to remain within the required yard setbacks from the stormwater retention pond.

- Zoning Amendment Applications require 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 Urban Planning Division are concurred in, the Zoning Agreement will be amended to permit a rear yard setback of 11.9 metres (39.2 feet) instead of 12.8 metres (42 feet).

CONSULTATION

In preparing this Report there was consultation with:

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Urban Planning
Prepared by: Devin Clark
Date: Dec.17, 2012
File No. ZAA 10/12

List of Schedules and Attachments

1. Appendix A – Planning Discussion

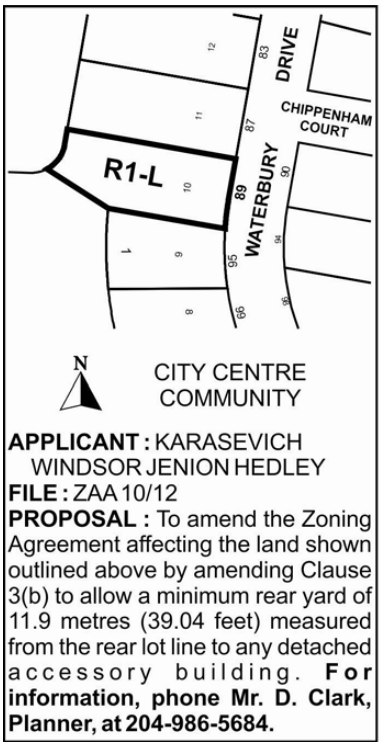
APPENDIX 'A'

DATE: Dec. 17, 2012
FILE: ZAA 10/12
RELATED FILES: DASZ 42/84
COMMUNITY: City Centre
NEIGHBOURHOOD #: 1.634 – Linden Woods

SUBJECT: The applicant is proposing to amend the Zoning Agreement on the property in order to allow for the maintenance of non-conforming, existing patio built within the rear yard setback requirements.

LOCATION: 89 Waterbury Drive

LEGAL DESCRIPTION: **Lot 10 Block 1 Plan 19134**



APPLICANT: Karasevich, Windsor, Jenion, Hedley
440-5 Donald St.
Winnipeg MB R3L 2T4

OWNER: Jennifer and Chad Griffin
89 Waterbury Dr.
Winnipeg MB R3P 1R6

RECOMMENDATION: Amend Zoning Agreement

REPORT SUMMARY:

- The applicant's have recently purchased the home at 89 Waterbury Dr. During this process it was identified that a structure was constructed on the property that was in violation of the zoning agreement on the land which indicates no structures shall be constructed within 45 feet of the stormwater retention pond.
- The subject property is zoned "R1-L" Residential Single Family - Large and is adjacent to single-family residential uses, and park space.
- The Urban Planning Division recommends amending the zoning agreement to allow the maintenance of the existing patio.

SITE DESCRIPTION

The subject site is located on the west side of Waterbury Dr. and is zoned "R1-L" Residential Single Family – Large. The site is located in the Lindenwoods Neighbourhood of the River Heights – Fort Garry Ward.



Figure 1: Subject Site and Surrounding Land Uses (Aerial Photo – flown 2012)

SURROUNDING LAND USES & ZONING

North: Single Family Dwelling zoned **"**R1-L" Single Family Residential - Large

South: Single Family Dwelling zoned **"**R1-L" Single Family Residential - Large

East: Single Family Dwelling zoned **"**R1-L" Single Family Residential - Large

West: Park and open space zoned "PR-1" Parks and Recreation – Passive Neighbourhood

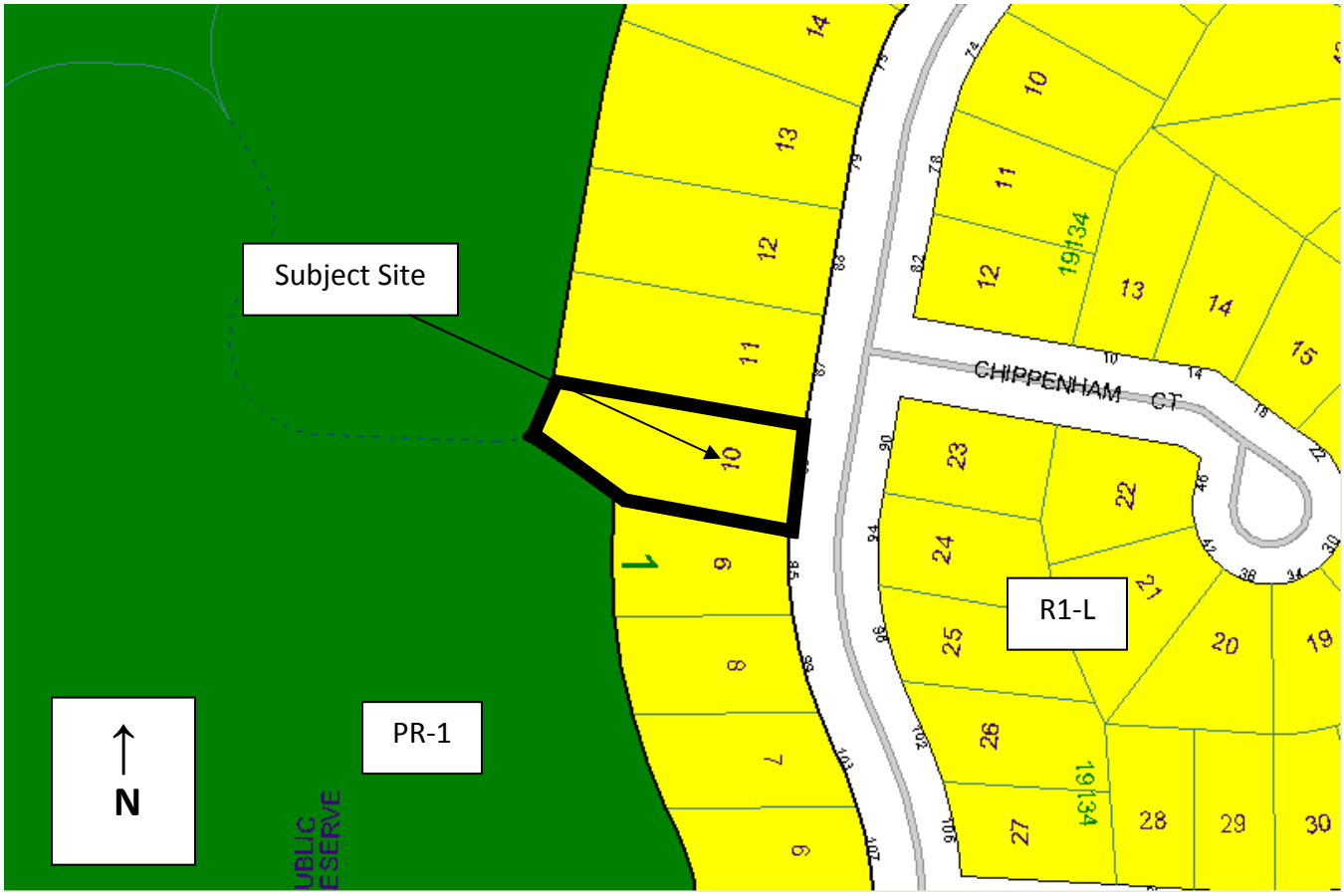


Figure 2: Zoning Map of subject property and Surrounding Context.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The zoning agreement amendment is required for the maintenance of an existing patio that was constructed within the required rear yard setback. The home has recently been sold and upon the sale, the issue was identified. As such, the new homeowner is required to apply for a zoning agreement amendment to allow for the existing patio to remain.

ANALYSIS AND ISSUES

ZONING

"R1" Residential District - The Residential Single-Family (R1) district is intended to accommodate primarily single-family residential development in lower–density neighbourhoods.

ZONING (BY-LAW 200/2006)

The Zoning Agreement states - *Each lot within the land abutting the stormwater retention lake shall have and maintain the following minimum rear yards:*
b) a minimum rear yard of 12.8 metres (42 feet) measure from the rear lot line to any detached accessory building.

In this case, the detached accessory building is a patio.



Figure 3: Patio built within the rear yard setback requirements.

The patio is the subject of the reduced rear yard setback. It comprises part of the walkway from the rear of the home to the retention pond. The impact on the landscape is minor and is not foreseen to have negative impact on the stormwater retention pond. As such, the Urban Planning Division recommends that the Zoning Agreement Amendment be approved.

RECOMMENDATION

1) That the Zoning Agreement under File DASZ 42A/84 dated April 17, 1985 be amended for the subject property (Lot 10 Block 1 Plan 19134) to permit a rear yard of 11.9 metres (39.2 feet) instead of 12.8 metres (42 feet).

2) That the Director of Legal Services and City Solicitor be requested to amend the subject Zoning Agreement to DASZ 42A/84 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.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning Division
Report Prepared by: Devin Clark
PPD File # ZAA 10/12