Minute No. 321
Report – Executive Policy Committee – March 12, 2014

Item No. 3 **Zoning Agreement Amendment – 92 Marygrove Crescent (Charleswood – Tuxedo Ward)**
File ZAA 13/2013

COUNCIL DECISION:

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

1. That the Zoning Agreement under File DASZ 2/89 dated May 31, 1989 (By-law No. 5232/89) be amended by adding the following clause as 17.(b):

   "17.(b) excepting Lot 39, Block 1, Plan 24528 31/35 ST V, which shall have a rear yard of 12.2 metres (40.03 feet) to a three-season, non-winterized, un-heated sunroom."

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 2/89 (By-law No. 5232/89) dated May 31, 1989, 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 – March 12, 2014

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 March 12, 2014, the Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 4, 2014, the Assiniboia 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 – 92 Marygrove Crescent**
File ZAA 13/2013

For submission to: **Executive Policy Committee**

Prepared by: **Destiny Watt, Committee Clerk**
Assiniboia Community Committee

Report date: **March 5, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 4, 2014, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That the Zoning Agreement under File DASZ 2/89 dated May 31, 1989 (By-law No. 5232/89) be amended by adding the following clause as 17.(b):

   "17.(b) excepting Lot 39, Block 1, Plan 24528 31/35 ST V, which shall have a rear yard of 12.2 metres (40.03 feet) to a three-season, non-winterized, un-heated sunroom."

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 2/89 (By-law No. 5232/89) dated May 31, 1989, 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 Assiniboia Community Committee provided the following supporting reason for its recommendation:

The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated February 19, 2014.

PUBLIC HEARING SUMMARY

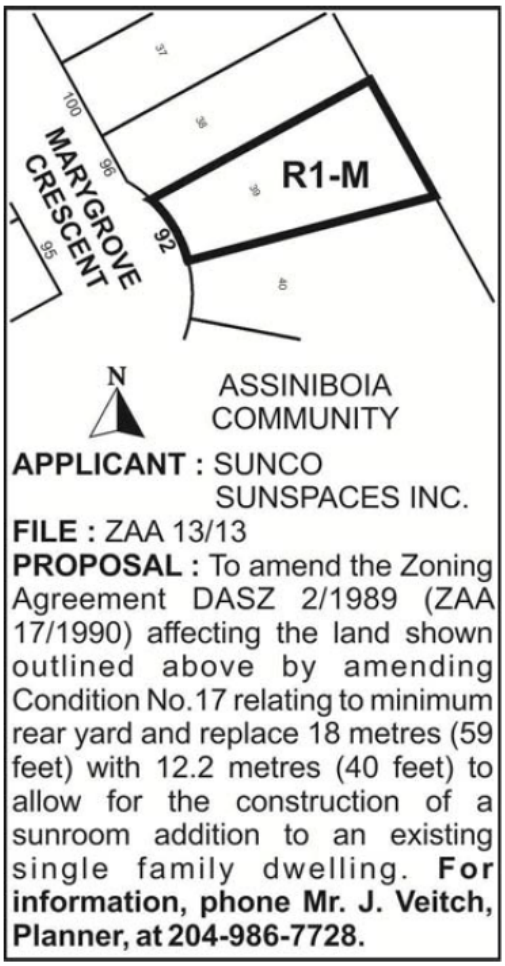
File: ZAA 13/2013

Before: Assiniboia Community Committee
Councillor Nordman, Chairperson
Councillor Fielding
Councillor Havixbeck

Public Hearing: March 4, 2014
Council Building, 510 Main Street

Applicant: SunCo Sunspaces Inc. (Chris Reimer)

Subject:



Premises Affected: 92 Marygrove Crescent

Exhibits Filed:

1. Application dated December 17, 2013
2. Notification of Public Hearing dated January 29, 2014
3. Manitoba Status of Title 2621260/1
4. Letter of authorization dated November 8, 2013 from Bev McBain to SunCo Sunspaces Inc.
5. Surveyor's Sketch dated 2009
6. Caveat 1232448
7. Zoning Agreement Amendment ZAA 17/1990 dated October 10, 1990
8. Plans (3 pages)
9. Report from the Urban Planning Division dated February 19, 2014
10. Inspection Report
11. Audio Recording of Representations

REPRESENTATIONS:

In Support:

Owen Shaffer, SunCo Sunspaces Inc.

In Opposition:

Nil

For Information:

Nil

For the City:

Mr. J. Veitch, Principal Planner, Planning, Property and Development Department
Mr. D. Clark, Planner, Urban Planning Division, Property and Development Department

Exhibit "9" referred to in File ZAA 13/2013

ADMINISTRATIVE REPORT

Title: ZAA 13/13 – 92 Marygrove Crescent Public Hearing

Issue: For consideration at the Public Hearing to amend a condition from the Zoning Agreement for DASZ 2/89 to allow a reduced rear yard setback to a three-season sunroom.

Critical Path: Assiniboia 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
B. Smith	N/A	N/A	

RECOMMENDATIONS

1) That the Zoning Agreement under File DASZ 2/89 dated May 31, 1989 (By-law No. 5232/89) be amended by adding the following clause as 17.(b):
   17.(b) excepting Lot 39, Block 1, Plan 24528 31/35 ST V, which shall have a rear yard of 12.2 metres (40.03 feet) to a three-season, non-winterized, un-heated sunroom.

2) That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 2/89 (By-law No. 5232/89) dated May 31, 1989, 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 wishes to construct a three-season sun room at the rear of the dwelling. The sun room will encroach into the required rear yard. As such, the applicant is proposing to amend condition number seventeen (17) from the Zoning Agreement under file DASZ 2/89 in order to allow a reduced rear yard setback for the subject property.

- Zoning Agreement Amendments 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 allow a rear yard setback of twelve (12) metres (40 feet) to a three season sunroom on the subject property.

CONSULTATION

In preparing this Report there was consultation with:

N/A

HISTORY

The rear yard for Whyte Ridge adjacent to Route #90 was originally set at 18 metres or 59 feet under DASZ 2/89. This was amended to 17 metres or 55.8 feet under ZAA 17/90. The increased rear yard was requested by the then Streets and Transportation Department to help attenuate the traffic noise on Route #90. However, the increased separation distance was really intended for year-round, habitable dwelling space, especially bedrooms.

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Devin Clark
Date:	February 19, 2014
File No.	ZAA 13/13

List of Schedules and Attachments

1. Appendix A – Planning Discussion

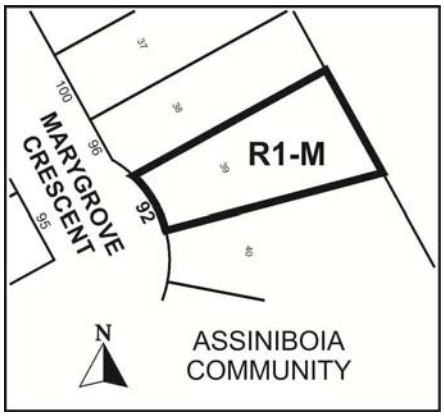
APPENDIX 'A'

DATE: February 19, 2014
FILE: ZAA 13/13
RELATED FILES: DASZ 2/89
COMMUNITY: Assiniboia
NEIGHBOURHOOD #: 2.647 – Whyte Ridge

SUBJECT: The applicant is proposing to amend the zoning agreement for DASZ 2/89 which restricts rear yard setbacks to 55.8 feet to allow a rear yard setback of 40 feet to allow for the construction of a three (3) season sunroom.

LOCATION: 92 Marygrove Crescent

LEGAL DESCRIPTION: LOT 39 BLOCK 1 PLAN 24528 31/35 ST V



APPLICANT: Sunco Sunspaces Inc. (Chris Reimer)
260 Inglenook RD
Headingly MB R4H 1C8

OWNER: Beverly McBain
92 Marygrove Cres.
Winnipeg MB R3Y 1M2

RECOMMENDATION: Approval to amend condition number seventeen (17) from the Zoning Agreement under file DASZ 2/89.

REPORT SUMMARY:

- The home owner intends to build a three season sun room attached to the rear of their dwelling, which would encroach into the required rear yard setback. The request is to

amend condition number seventeen (17) of the Zoning Agreement to allow a rear yard setback of 12.2 metres (40 feet) instead of the required 17 metres (55.8 feet).

- There is a precedent for amendments to this zoning agreement that allow for the establishment of three-season sunrooms. Specifically, 88 Marygrove Crescent which is next door to the subject applicant applied to amend the zoning agreement in 2004 to allow a rear yard setback of 13.32 metres (43.7 feet).
- The Urban Planning Division recommends approval to amend the zoning agreement to allow a rear yard setback of 12.2 metres (40 feet) for the purposes of establishing a three-season sunroom.

SITE DESCRIPTION

- The subject site is located on the east side of Marygrove Crescent in the Whyte Ridge Neighbourhood of the Charleswood - Tuxedo Ward.
- The property is approximately 7,038 square feet in area.
- The site is located within an "Area of Stability" as identified in the Complete Communities Direction Strategy.
- The subject site is zoned "R1-M" Residential Single Family – Medium.



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

SURROUNDING LAND USES & ZONING

North: Single Family Dwelling zoned **"**R1-M" Residential Single Family - Medium

South: Single Family Dwelling zoned **"**R1-M" Residential Single Family - Medium

East: An active transportation (A.T.) path, then Route 90 (Kenaston Blvd.)

West: Single Family Dwelling zoned **"**R1-M" Residential Single Family - Medium

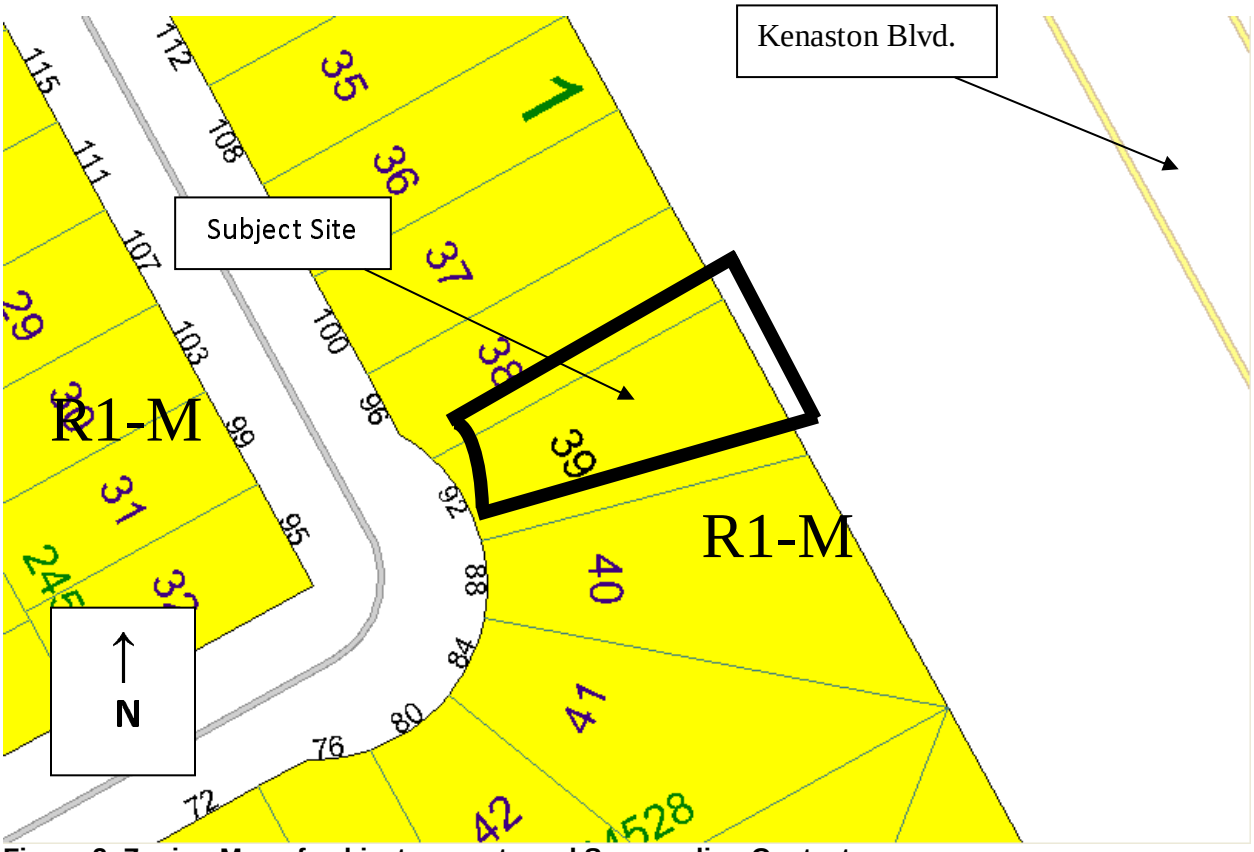


Figure 2: Zoning Map of subject property and Surrounding Context.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant wishes to construct a three-season sun room on the rear of the dwelling. The sun room will encroach into the required rear yard. The sun room measures fifteen (15) feet in length and ten and a half (10.5) feet in width. The height of the structure will be eight and a half (8.5) feet at its highest point, sloping down to 7 feet at its lowest point.

ANALYSIS AND ISSUES

ZONING (BY-LAW 200/2006)

- The subject property is zoned "R1-M" Residential Single Family – Medium. Typical rear yard requirements in the "R1-M" zoning district are 7.62 metres or 25 feet.

- The rear yard for Whyte Ridge adjacent to Route #90 was originally set at 18 metres or 59 feet under DASZ 2/89. This was amended to 17 metres or 55.8 feet under ZAA 17/90. The increased rear yard was requested by the then Streets and Transportation Department to help attenuate the traffic noise on Route #90. However, the increased separation distance was really intended for year-round, habitable dwelling space, especially bedrooms.

- Given that the proposal is for a three season sun room, and concerns regarding sound and separation distance were a consideration for year round habitable space, the Urban Planning Division feels that the rear yard setback requirements should be amended to allow the sun room use.

COMPATABILITY WITH SURROUNDING NEIGHBOURHOOD

- The neighbour to the south at 88 Marygrove Cres. previously amended the zoning agreement to allow a reduced rear yard setback for a three season patio. The proposal for the subject property is consistent with the amendment allowed for 88 Marygrove Cres.

- The sunroom (8.5 feet, sloping down to 7 feet in height) will be slightly visible above the fence line (typically 6 feet in height) for neighbours to the north at 96 Marygrove Cres. The Urban Planning Division does not anticipate that this height will significantly impact the convenience and comfort of the resident's outdoor space at 96 Marygrove Cres.

RECOMMENDATION

1) That the Zoning Agreement under File DASZ 2/89 dated May 31, 1989 (By-law No. 5232/89) be amended by adding the following clause as 17.(b):
   17.(b) excepting Lot 39, Block 1, Plan 24528 31/35 ST V, which shall have a year yard of 12.2 metres (40.03 feet) to a three-season, non-winterized, un-heated sunroom.

2) That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 2/89 (By-law No. 5232/89) dated May 31, 1989, 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 13/13