Minute No. 233
Report – Executive Policy Committee – March 4, 2015

Item No. 2 **Zoning Agreement Amendment – 127 Bellemer Drive (St. Norbert Ward) File ZAA 17/2014**

COUNCIL DECISION:

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

1. That Zoning Agreement Caveat 87-81709 under File DASZ 56/86 dated July 24th, 1987 (By-law 4632/1987), be amended as follows:

   A. That Clause 3(a) be amended by adding the following:

   Excepting Lot 10 Block 5 Plan 21262, which shall provide a minimum of 21.3 metres (70 feet) measured from that rear lot line to any principal building.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 56/86 (By-law 4632/1987) 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 4, 2015

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 4, 2015, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 9, 2015, the Riel 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 - 127 Bellemer Drive**
File ZAA 17/2014

For submission to: **Executive Policy Committee**

Prepared by: **Rochelle Viray, Assistant Committee Clerk**
Riel Community Committee

Report date: **February 12, 2015**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 9, 2015, the Riel 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 Zoning Agreement Caveat 87-81709 under File DASZ 56/86 dated July 24th, 1987 (By-law 4632/1987), be amended as follows:

   A. That Clause 3(a) be amended by adding the following:

   Excepting Lot 10 Block 5 Plan 21262, which shall provide a minimum of 21.3 metres (70 feet) measured from that rear lot line to any principal building.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 56/86 (By-law 4632/1987) 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 Riel Community Committee provided the following supporting reason for its recommendation:

1. There is no impact on the storm water retention pond, as the Winnipeg Public Service is in agreement.

PUBLIC HEARING SUMMARY

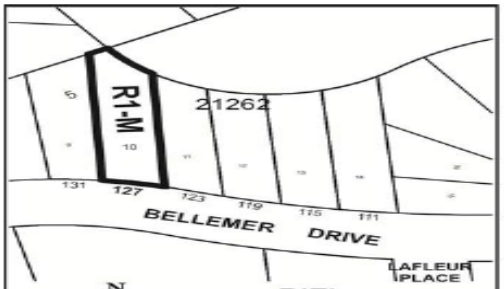
File: ZAA 17/2014

Before: Riel Community Committee
Councillor Lukes, Chairperson
Councillor Allard
Councillor Mayes

Public Hearing: February 9, 2015
Council Building, 510 Main Street

Applicant: SunCo Sunspaces (Owen Shaffer)

Subject:



RIEL COMMUNITY

APPLICANT : SUNCO SUNSPACES

FILE : ZAA 17/14

PROPOSAL : To amend the Zoning Agreement for DASZ 56/1986, Clause 3(a) affecting the land shown outlined by reducing the special rear yard setback to any principal building from eighty-five (85) feet (25.9 metres) to seventy (70) feet (21.3 metres) to allow for the construction of a three season sunroom addition to an existing single family dwelling. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**

DEMANDEUR : SUNCO SUNSPACES

N° DE RÉFÉRENCE : MCZ 17/14

PROJET : Demande de modification de la disposition 3 a) de la convention de zonage du bien-fonds indiqué ci-dessus par la réduction de la marge d'isolement arrière spéciale contiguë à un bâtiment principal de 85 pieds (25,9 mètres) à 70 pieds (21,3 mètres) en vue de permettre la construction d'un solarium trois saisons constituant un rajout à une habitation unifamiliale existante. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected: 127 Bellemer Drive

Exhibits Filed:

1. Application dated December 16, 2014
2. Notification of Public Hearing dated December 22, 2014
3. Manitoba Status of Title 2391479/1
4. Letter of authorization dated July 9, 2014 from Raym,ond Clement and Colette Le Gal to SunCo Sunspaces
5. Surveyor's Building Location Certificate and sketch dated October 11, 1989
6. Caveats 81708 and 81709
7. Report from the Urban Planning Division dated January 26, 2015
8. Inspection Report
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

Owen Shaffer

In Opposition

Nil

For Information:

Nil

For the City:

Mr. R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 17/2014

ADMINISTRATIVE REPORT

Title: ZAA 17/14 – 127 Bellemer Drive

Issue: For consideration at the Public Hearing to amend the Zoning Agreement to permit a minimum rear yard of 70 feet instead of 85 feet to facilitate the construction of an addition (3-season sunroom) to the existing dwelling.

Critical Path: Riel 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 Zoning Agreement Caveat 87-81709 under File DASZ 56/86 dated July 24th, 1987 (By-law 4632/1987), be amended as follows:

   A. That Clause 3(a) be amended by adding the following:

   Excepting Lot 10 Block 5 Plan 21262, which shall provide a minimum of 21.3 metres (70 feet) measured from that rear lot line to any principal building.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 56/86 (By-law 4632/1987) 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 construct a 3-season sunroom onto the existing house in the rear yard of 127 Bellemer Drive. The property backs onto a stormwater retention lake.
- The eastern corner of the sunroom addition will be approximately 74 feet away from the rear property line. The minimum rear yard setback for principal buildings is 85 feet under zoning agreement DASZ 56/86 due to the proximity to the stormwater retention lake.
- The applicant is applying to amend zoning agreement DASZ 56/86 to permit a rear yard setback of 70 feet in order to accommodate the proposed sunroom addition.
- 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 Urban Planning Division are concurred in, a rear yard setback of 70 feet (21.3 metres) measured from the rear property line to the principal building will be permitted on Lot 10, Block 5.

HISTORY

DASZ 56/86

- DASZ 56/86 involved the subdivision and rezoning of lands located south of Grandmont Boulevard, west of the CNR Rail line, east of Payment Street, and north of Houde Drive. This site is now part of the Richmond Lakes neighbourhood. A condition of approval for DASZ 56/86 was that the applicant enter into a zoning agreement with the City of Winnipeg. Conditions included in this zoning agreement relevant to the subject application (ZAA 17/14) are as follows:

  3. Each lot within Parcel Two of the land has a rear lot line abutting the boundary of public lands containing a storm water coulee (Beaujolais Coulee) and accordingly there shall be provided and maintained on each of those lots in Parcel Two the following special rear yard, as such term is defined in the applicable zoning by-law from time to time, namely:

     a) a minimum of 25.9 metres (85 feet) measured from that rear lot line to any principal building, and

     b) a minimum of 20.4 metres (67 feet) measured from that rear lot line to any detached accessory building, and

     c) a minimum of 12.8 metres (42 feet) measured from that rear lot line to any temporary structure or swimming pool not enclosed with a building.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Elise Finnigan, MAP
Date:	January 26, 2015
File No.	ZAA 17/2014

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE: January 26, 2015

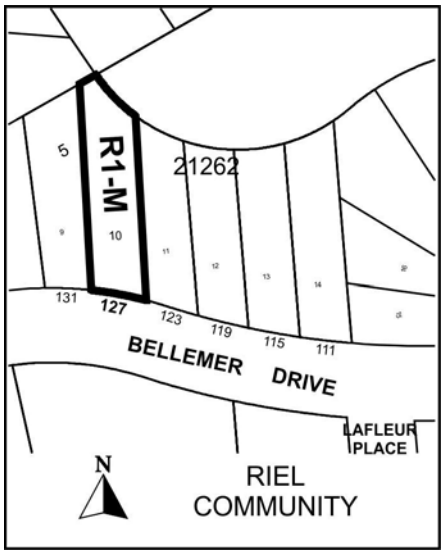
FILE: ZAA 17/14
RELATED FILES: DASZ 56/86 (B/L 4632/87), DAV 835/99B

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.641

SUBJECT: For consideration at the Public Hearing to amend Clause 3(a) of the Zoning Agreement to permit a minimum rear yard of 70 feet instead of 85 feet to facilitate the construction of an addition (3-season sunroom) to the existing dwelling.

LOCATION: 127 Bellemer Drive

LEGAL DESCRIPTION: Lot 10 Block 5 Plan 21262



APPLICANT: SunCo Sunspaces Inc. (Owen Shaffer)
4835 Portage Ave.
Headingley, MB R4H 1C7

OWNER: Raymond Clement and Colette Le Gal
127 Bellemer Drive
Winnipeg, MB R3V 1V6

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant is proposing to construct a 3-season sunroom onto the existing house in the rear yard of 127 Bellemer Drive. The property backs onto a stormwater retention lake.
- The eastern corner of the sunroom addition will be approximately 74 feet away from the rear property line. The minimum rear yard setback for principal buildings is 85 feet under zoning agreement DASZ 56/86 due to its proximity to the stormwater retention lake.
- The applicant is applying to amend zoning agreement DASZ 56/86 to permit a rear yard setback of 70 feet in order to accommodate the proposed sunroom addition.
- The Urban Planning Division recommends supporting this application because:
    - The primary reason for including the rear yard setbacks stipulated in the zoning agreement is to protect structures on lots abutting the retention lake from flooding and related damage in the event of a 100-year storm.
    - Water and Waste were consulted about the subject application and had no major concerns. They emphasized that through the building permit process Water and Waste will determine the flood protection level for the property and the development will have to comply with the Floodway Fringe Regulations in relation to the specified elevation.
    - The sunroom addition will have virtually no impact on neighbouring views of the retention lake.
    - Clause 3(a) of the zoning agreement (DASZ 56/86) was amended in 1989 under ZAA 32/88 to permit a rear yard setback of 72 feet (22 metres) to a principal building instead of 85 feet (25.9 metres).

SITE DESCRIPTION

- The subject property is located on the north side of Bellemer Drive in the Richmond Lakes neighbourhood of the St. Norbert Ward.
- The property is **9,070 square feet** in area.
- The subject property contains a bi-level, 1,348 square foot home with an attached garage that was built in 1989.
- The property backs onto a stormwater retention lake to the north.
- The site is within the Areas of Stability – Recent Communities Policy Area under the Complete Communities Direction Strategy. The property is zoned “R1-M” Residential Single-Family Medium.



Figure 1: Aerial photograph showing approximate area of subject property (flown 2014)

SURROUNDING LAND USES & ZONING (See Figure 2)

North: A storm water retention lake zoned “PR-1” Parks and Recreation 1 (Neighbourhood).

South: Bellemer Drive, then park space zoned “PR-2” Parks and Recreation 2 (Community).

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

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

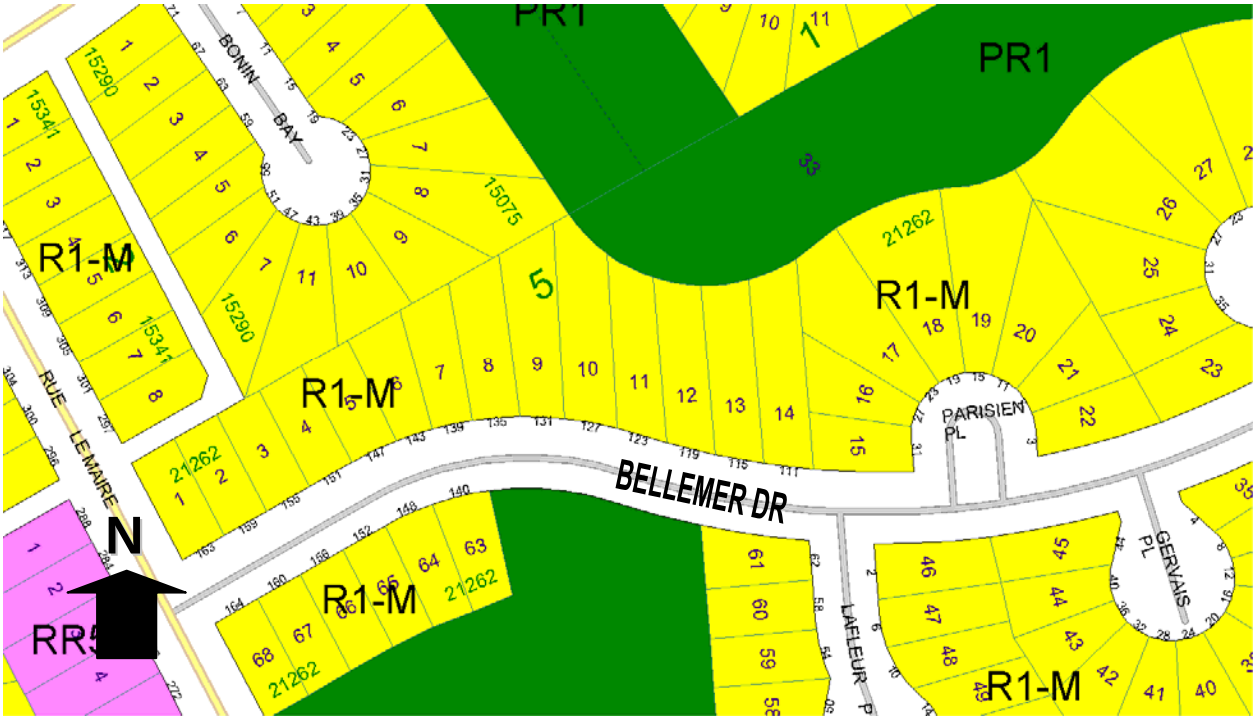


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to construct a 232 square foot (16.6 feet by 14 feet), 11.6 foot-tall, 3-season sunroom addition to the rear of the existing house at 127 Bellemer Drive.
- The eastern corner of the sunroom addition will be approximately 74 feet away from the rear property line. The minimum rear yard setback for principal buildings is 85 feet under zoning agreement DASZ 56/86 due to the proximity to the stormwater retention lake.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Recent Communities policy area. Key relevant policies guiding development within Areas of Stability include:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.
    - Support Complete Communities by ensuring diverse and high quality housing stock.

- In order to meet the full life-cycle of housing needs within the community, promote a mix of housing type and tenure, such as duplexes, low rise apartments, secondary suites, semi-detached homes, townhouses.

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 56/86

- Clause 3 of the zoning agreement for DASZ 56/86 states the following:

  Each lot within Parcel Two of the land has a rear lot line abutting the boundary of public lands containing a storm water coulee (Beaujolais Coulee) and accordingly there shall be provided and maintained on each of those lots in Parcel Two the following special rear yard, as such term is defined in the applicable zoning by-law from time to time, namely:

  a) a minimum of 25.9 metres (85 feet) measured from that rear lot line to any principal building, and

  b) a minimum of 20.4 metres (67 feet) measured from that rear lot line to any detached accessory building, and

  c) a minimum of 12.8 metres (42 feet) measured from that rear lot line to any temporary structure or swimming pool not enclosed with a building.
- The applicant is proposing to construct a sunroom addition that will be approximately 74 feet away from the rear property line and therefore not comply with Clause 3(a) of the zoning agreement.

RATIONALE FOR REAR YARD SETBACK IN THE ZONING AGREEMENT

- The rear yard setback incorporated into the zoning agreement is intended to accommodate fluctuations in the water level of the stormwater retention pond.
- The rear yard setback applied to principal and detached buildings, temporary buildings and swimming pools is intended to provide for an adequate amount of usable on-site rear yard space after the lake has reached its highest design level, which is a 100-year storm frequency. Further, the setback stipulated in the Zoning Agreement is also intended to guard against potential legal repercussions in the event of a 100-year storm.
- Water and Waste were consulted about the subject application and had no major concerns. They emphasized that through the building permit process Water and Waste will determine the flood protection level for the property and the development will have to comply with the Floodway Fringe Regulations in relation to the specified elevation.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- In 1989 the City of Winnipeg approved ZAA 32/88 which involved amending the same zoning agreement (DASZ 56/86) as the subject application. Under ZAA 32/88, Clause 3(a) was amended to permit a rear yard setback of 72 feet (22 metres) to a principal building instead of 85 feet (25.9 metres) for 44, 48 and 52 Demers Place.
- In 1996 the neighbouring property, 123 Bellemer Drive, was granted a 5 percent tolerance permitting a rear yard setback of 80.75 feet to a principal building instead of 85 feet.
- The sunroom addition will have virtually no impact on neighbouring views of the retention pond.

RECOMMENDATION

The Urban Planning Division recommends **approval** for the following reasons:

- The primary reason for including the rear yard setbacks stipulated in the zoning agreement is to protect structures on lots abutting the retention pond from flooding and related damage in the event of a 100-year storm.
- Water and Waste were consulted about the subject application and had no major concerns. They emphasized that through the building permit process Water and Waste will determine the flood protection level for the property and the development will have to comply with the Floodway Fringe Regulations in relation to the specified elevation.
- The sunroom addition will have virtually no impact on neighbouring views of the retention pond.
- Clause 3(a) of the zoning agreement (DASZ 56/86) was amended in 1989 under ZAA 32/88 to permit a rear yard setback of 72 feet (22 metres) to a principal building instead of 85 feet (25.9 metres).

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

Report Prepared By: Elise Finnigan
PPD File # ZAA 17/14