Minute No. 446
Report – Executive Policy Committee – July 13, 2016

Item No. 4 **Zoning Agreement Amendment – 42 Smuggler's Cove (St. Boniface Ward) File ZAA 4/2016 [c/r DAV 120192/2016D]**

COUNCIL DECISION:

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

1. That the Zoning Agreement Caveat 87-82436/1 under File DASZ 8C/86 dated October 15th,1986 (By-law 4583/1987), be amended as follows:

   A. That Clause 6.2 be amended as follows:

      Notwithstanding clause 6 of this agreement the dwelling constructed on Lot 61, Block 1 Plan 21267 shall be set back a minimum distance of 17.03 m (55.87 feet) from the abutting boundary of Lagimodiere Boulevard instead of 17.5 m (57.41 feet).

   B. That a new clause 6.3 be added as follows:

      Notwithstanding clause 6.2 of this agreement, the sunroom addition to the dwelling on Lot 61, Block 1 Plan 21267 shall be set back a minimum distance of 12.65 m (41.50 feet) from the abutting boundary of Lagimodiere Boulevard instead of 17.5 m (57.41 feet).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8C/86 (By-law 4583/1987) 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 – July 13, 2016

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,
That the recommendation of the Executive Policy Committee be adopted.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 13, 2016, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 4, 2016, 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 – 42 Smuggler's Cove**
File ZAA 4/2016

For submission to: **Executive Policy Committee**

Prepared by: **Kate McMillan, Committee Clerk**
Riel Community Committee

Report date: **July 5, 2016**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 4, 2016, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Executive Policy Committee:

1. That the Zoning Agreement Caveat 87-82436/1 under File DASZ 8C/86 dated October 15th,1986 (By-law 4583/1987), be amended as follows:

    A. That Clause 6.2 be amended as follows:

    Notwithstanding clause 6 of this agreement the dwelling constructed on Lot 61, Block 1 Plan 21267 shall be set back a minimum distance of 17.03 m (55.87 feet) from the abutting boundary of Lagimodiere Boulevard instead of 17.5 m (57.41 feet).

    B. That a new clause 6.3 be added as follows:

    Notwithstanding clause 6.2 of this agreement, the sunroom addition to the dwelling on Lot 61, Block 1 Plan 21267 shall be set back a minimum distance of 12.65 m (41.50 feet) from the abutting boundary of Lagimodiere Boulevard instead of 17.5 m (57.41 feet).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8C/86 (By-law 4583/1987) 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 reasons for its recommendation:

1. I believe the applicant has done their work and there has been no community opposition.

2. By approving this report the sunroom can be built in compliance with the zoning for the area.

PUBLIC HEARING SUMMARY

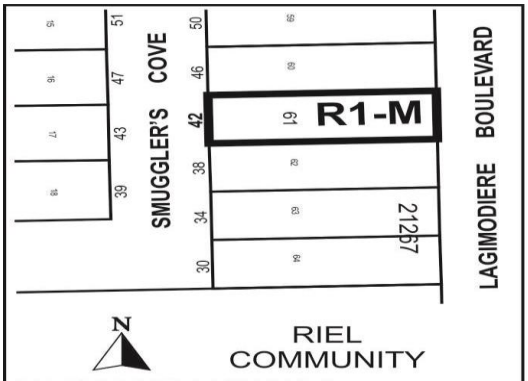
File: ZAA 4/2016

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

Public Hearing: July 4, 2016
Council Building, 510 Main Street

Applicant: Kazwel Levandoski (Lumon Canada)

Subject:



APPLICANT: KAZWEL LEVANDOSKI, LUMON CANADA
FILE: ZAA4/16
PROPOSAL: To amend the Zoning Agreement DAZ 8C/1986, By-law 4583/1987 and ZAA 29/1988 affecting the land shown outlined above to permit a rear yard of 12.65 meters (41.50 feet) instead of 17.50 meters (55.87 feet) to allow for the construction of a sunroom addition to an existing single family dwelling. **For information, phone Ms. E. Finnigan, Planner, at 204-986-8602.**
DEMANDEUR : KAZWEL LEVANDOSKI, LUMON CANADA
N° DE RÉFÉRENCE : MCZ4/16
PROJET : Modification de la convention de zonage (DAZ 8C/1986, règlement municipal no 4583/1987 et MCZ 29/1988) touchant le bien-fonds délinéé ci-dessus afin de permettre la construction d'un solarium constituant un rajout à une habitation unifamiliale existante et laissant une marge arrière de 12,65 mètres (41,50 pieds) au lieu de 17,50 mètres (55,87 pieds). **Pour plus de renseignements, veuillez communiquer avec Mme. E. Finnigan, urbaniste, au 204-986-8602.**

Premises Affected: 42 Smuggler's Cove

Exhibits Filed:

1. Application dated April 27, 2016
2. Notification of Public Hearing dated May 12, 2016
3. Manitoba Status of Title 1962033/1
4. Letter of authorization dated March 12, 2016 from Anthony and Karen Sanfilippo to Kazwel Levandoski
5. Plans (4 pages)
6. Zoning Agreement 8C/86
7. Zoning Agreement Amendment 14/89
8. Report from the Urban Planning Division dated June 21, 2016
9. Inspection Report
10. Recording of Representation

REPRESENTATIONS:

In Support:

Kazwel Levandoski
Anthony Sanfilippo
Karen Sanfilippo

In Opposition

Nil

For Information:

Nil

For the City:

R. Mahé, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 4/2016

ADMINISTRATIVE REPORT

Title: ZAA 4/16 – 42 Smuggler's Cove

Issue: For consideration at the Public Hearing to amend the Zoning Agreement to permit a rear yard of 41.50 feet instead of 55.87 feet to a proposed 3-season sunroom addition to the existing dwelling and to amend the street name recorded in clause 6.2 from "Bishop Grandin Boulevard" to "Lagimodiere Boulevard."

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 87-82436/1 under File DASZ 8C/86 dated October 15th,1986 (By-law 4583/1987), be amended as follows:

   A. That Clause 6.2 be amended as follows:

   Notwithstanding clause 6 of this agreement the dwelling constructed on Lot 61, Block 1 Plan 21267 shall be set back a minimum distance of 17.03 m (55.87 feet) from the abutting boundary of Lagimodiere Boulevard instead of 17.5 m (57.41 feet).

   B. That a new clause 6.3 be added as follows:

   Notwithstanding clause 6.2 of this agreement, the sunroom addition to the dwelling on Lot 61, Block 1 Plan 21267 shall be set back a minimum distance of 12.65 m (41.50 feet) from the abutting boundary of Lagimodiere Boulevard instead of 17.5 m (57.41 feet).

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8C/86 (By-law 4583/1987) 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 42 Smuggler's Cove. The property backs onto Lagimodiere Boulevard.
- The sunroom addition will be 41.50 feet away from the rear property line. The minimum rear yard setback for principal buildings is 57.41 feet under zoning agreement DASZ 8C/86 due to the proximity to Lagimodiere Boulevard and concerns about buffering from traffic noise.
- The applicant is applying to amend zoning agreement DASZ 8C/86 to permit a rear yard setback of 41.50 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 41.50 feet (12.65 metres) measured from the boundary of Lagimodiere Boulevard to the sunroom addition to the existing dwelling on Lot 61, Block 1 Plan 21267 will be permitted and the street name recorded in clause 6.2 will be amended from "Bishop Grandin Boulevard" to "Lagimodiere Boulevard."

HISTORY

DASZ 8C/86

- DASZ 8C/86 involved the subdivision and rezoning of lands located south of Bishop Grandin Boulevard, west of Lagimodiere Boulevard, east of De La Seigneurie Boulevard, and north of Cassin Crescent. This site is now part of the Island Lakes neighbourhood. A condition of approval for DASZ 8C/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 4/16) are as follows:

  6. On each lot abutting Bishop Grandin Boulevard or Lagimodiere Boulevard the dwelling constructed thereon shall be set back a minimum distance of 17.5 metres (57.41 feet) from the abutting boundary of that street right-of-way.

ZAA 14/1989

- On February 14th, 1990 the zoning agreement approved under DASZ 8C/86 was amended in order to permit the maintenance of a single-family house with a rear yard of 55.87 feet. The zoning agreement was amended by adding a new clause 6.2 as follows:

  Notwithstanding clause 6 of this agreement the dwelling constructed on Lot 61, Block 1, Plan 21267 shall be set back a minimum distance of 17.03 m (55.87 feet) from the abutting boundary of Bishop Grandin Boulevard instead of 17.5 m (57.41 feet).

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, MA Planning
Date:	June 21st, 2016
File No.	ZAA 4/2016

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE: June 21st, 2016

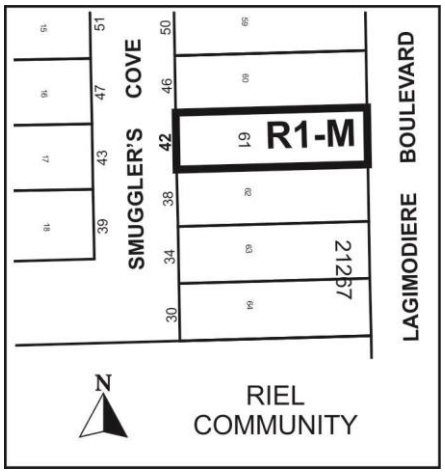
FILE: ZAA 4/16
RELATED FILES: DASZ 8C/86 (B/L 4583/1987), DAV 16-120192D

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.556

SUBJECT: For consideration at the Public Hearing to amend Clause 6 of the Zoning Agreement to permit a rear yard of 41.50 feet instead of 55.87 feet to a proposed 3-season sunroom addition to the existing dwelling and to amend the street name recorded in clause 6.2 from "Bishop Grandin Boulevard" to "Lagimodiere Boulevard."

LOCATION: 42 Smuggler's Cove

LEGAL DESCRIPTION: Lot 61 Block 1 Plan 21267



APPLICANT: Kazwel Levandoski
435 McNeilly RD Unit 104
Stoney Creek , Ontario L8E 5E3

OWNER: ANTHONY J & KAREN A SAN FILIPPO
42 SMUGGLER'S COVE
Winnipeg, Manitoba R3X 1R4

RECOMMENDATION: Approval

SITE DESCRIPTION

- The subject property is located on the east side of Smuggler's Cove in the Island Lakes neighbourhood of the St Boniface ward.
- The property is **5,384 square feet** in area.
- The subject property contains a split level, 1,783 square foot home with an attached garage that was built in 1989.
- The property backs onto Lagimodiere Boulevard.
- 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: Detached single-family homes zoned “R1-M” Residential Single-Family Medium.

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

East: Lagimodiere Boulevard classified as a Major Thoroughfare, then multi-family developments zoned “RMF-M” Residential Multi-Family Medium.

West: Smuggler’s Cove, then detached single-family homes zoned “R1-M” Residential Single-Family Medium.

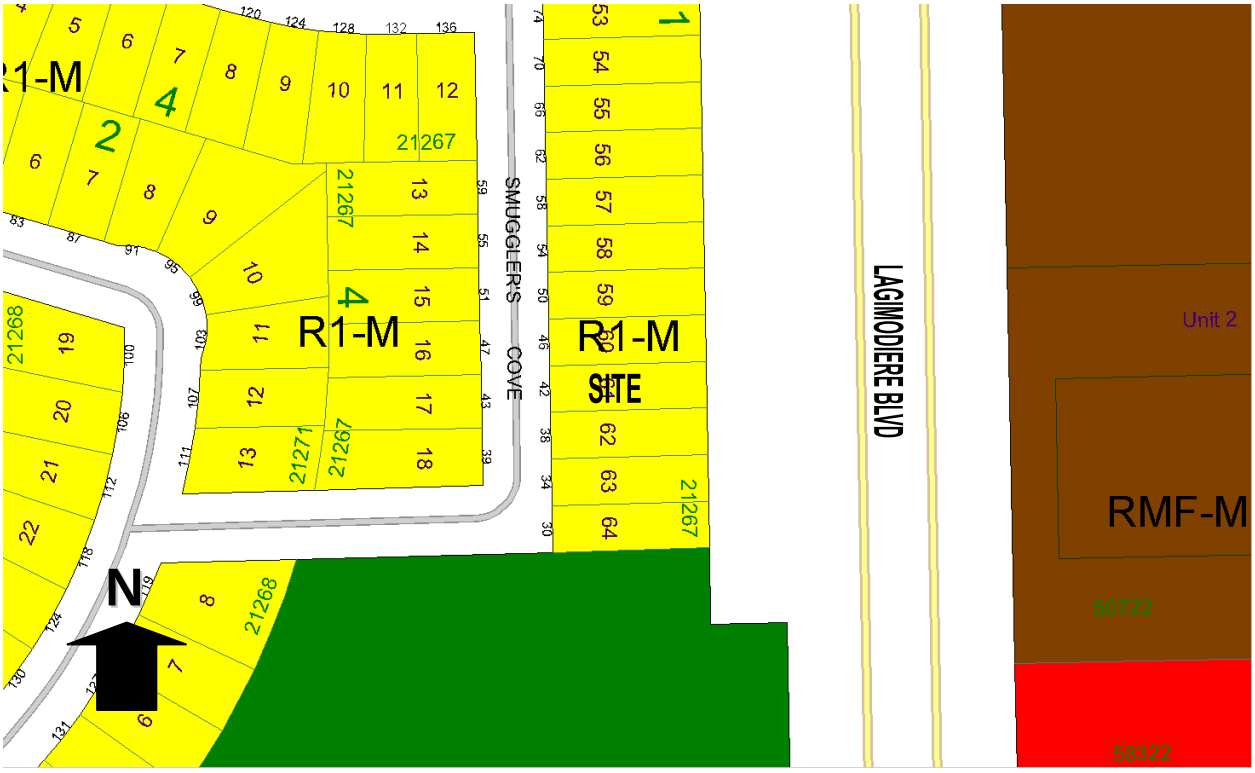


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to construct a 204 square foot (15.75 feet by 13 feet), approximately 11 foot tall 3-season sunroom addition to the rear of the existing house at 42 Smuggler's Cove.
- The sunroom addition will be constructed on top of a previously approved open deck.
- The sunroom addition will be approximately 41.5 feet away from the rear property line with a north side yard of 2.5 feet. There is an associated variance application for the reduced north side yard (see DAV 16-120192D) of which the Public Service is recommending support.

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 8C/86 & ZAA 14/1989

- Clause 6 of the zoning agreement for DASZ 8C/86 states the following:

  On each lot abutting Bishop Grandin Boulevard or Lagimodiere Boulevard the dwelling constructed thereon shall be set back a minimum distance of 17.5 metres (57.41 feet) from the abutting boundary of that street right-of-way.

- Clause 6.2 of the zoning agreement states the following:

  Notwithstanding clause 6 of this agreement the dwelling constructed on Lot 61, Block 1, Plan 21267 shall be set back a minimum distance of 17.03 m (55.87 feet) from the abutting boundary of Bishop Grandin Boulevard instead of 17.5 m (57.41 feet).

- The applicant is proposing to construct a sunroom addition that will be approximately 41.50 feet away from the rear property line and therefore not comply with Clause 6 or Clause 6.2 of the zoning agreement.

ZONING AGREEMENT ANALYSIS

- The rear yard setback incorporated into the zoning agreement is intended to protect residents from noise generated by traffic on Lagimodiere Boulevard. The Public Works Department made the original recommendation for the inclusion of the setback in the zoning agreement.
- The Public Works Department were consulted about the subject application and had no concerns.

- The sunroom addition is proposed to be constructed on top of a previously approved open deck. The addition of the sunroom should help to buffer some of the noise generated by the traffic on Lagimodiere Boulevard.
- Noting the property has already amended the rear yard setback in the zoning agreement for the location of the principle dwelling, the Public Service is recommending the 41.50 foot rear yard only apply to the sunroom addition. This will help ensure any future development on the property retains a rear yard setback similar to the neighbouring properties.
- In the processing of ZAA 14/1989 the street name included in clause 6.2 was incorrectly recorded as “Bishop Grandin Boulevard” instead of “Lagimodiere Boulevard”. The Public Service is recommending this administrative error be corrected through the subject application.

PUBLIC INPUT

- The applicant has discussed the proposal with the neighbours and received their signed support.

RECOMMENDATION

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

- The Public Works Department were consulted about the subject application and had no concerns.
- The sunroom addition is proposed to be constructed on top of a previously approved open deck. The addition of the sunroom should help to buffer some of the noise generated by the traffic on Lagimodiere Boulevard.
- The applicant has discussed the proposal with the neighbours and received their signed support.

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

Report Prepared By: Elise Finnigan
PPD File # ZAA 4/16