Minutes – Executive Policy Committee – December 6, 2017

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 27, 2017

Item No. 3 Zoning Agreement Amendment – 776 Bonner Avenue (North Kildonan Ward) File ZAA 5/2017

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That Zoning Agreement Caveat 4552450/1 under File DASZ 57/13 dated May 27, 2014 (By-law 74/2014), be amended as follows:

    A. That Clause 3 be removed and replaced by "Lot 2 must have a minimum east side yard of 5 feet (1.5 metres) and a west side yard of 3.95 feet (1.20 metres), and Lots 1, 3, and 4 must have a minimum side yard of 1.524 metres (5 feet)" , subject to the following condition:

        i. That the applicant be responsible for extending the existing wood fence on the west property line to the northern limit of the north facing elevation of the home, as well the restoration of any damage to the existing wood fence, all subject to the satisfaction of the Director of Planning, Property and Development. The new fence and repairs shall be of like kind and quality to that of the existing fence.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 57/13 (By-law 74/2014) 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 – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 27, 2017

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On November 27, 2017, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 7 and 8, 2017, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Add the following after "1.524 metres (5 feet)":

  , subject to the following condition:

  i. That the applicant be responsible for extending the existing wood fence on the west property line to the northern limit of the north facing elevation of the home, as well the restoration of any damage to the existing wood fence, all subject to the satisfaction of the Director of Planning, Property and Development. The new fence and repairs shall be of like kind and quality to that of the existing fence.

and forwarded to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

RE: **Zoning Agreement Amendment – 776 Bonner Avenue**
File ZAA 5/2017

For submission to: **The Standing Policy Committee on Property and Development, Heritage and Downtown Development**

Prepared by: **Andrew Poitras, Senior Committee Clerk**
East Kildonan-Transcona Community Committee

Report date: **November 8, 2017**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 7, 2017, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development:

1. That Zoning Agreement Caveat 4552450/1 under File DASZ 57/13 dated May 27, 2014 (By-law 74/2014), be amended as follows:

    A. That Clause 3 be removed and replaced by "Lot 2 must have a minimum east side yard of 5 feet (1.5 metres) and a west side yard of 3.95 feet (1.20 metres), and Lots 1, 3, and 4 must have a minimum side yard of 1.524 metres (5 feet)" **,** ***subject to the following condition:***

        i. That the applicant be responsible for extending the existing wood fence on the west property line to the northern limit of the north facing elevation of the home, as well the restoration of any damage to the existing wood fence, all subject to the satisfaction of the Director of Planning, Property and Development. The new fence and repairs shall be of like kind and quality to that of the existing fence.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 57/13 (By-law 74/2014) 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

The East Kildonan-Transcona Community Committee provided the following supporting reason for its recommendation:

1. It’s not at this point feasible to move things over.

PUBLIC HEARING SUMMARY

File:	ZAA 5/2017
Before:	East Kildonan-Transcona Community Committee Councillor Schreyer, Chairperson Councillor Browaty Councillor Wyatt
Public Hearing:	November 7, 2017 (most recent date) Council Building, 510 Main Street
Applicant:	Mohinderpal Grewal, Stony Grewal Homes
Subject:	



Premises Affected: 776 Bonner Avenue

Exhibits Filed:

1. Application dated September 12, 2017
2. Notification of Public Hearing dated September 19, 2017
3. Manitoba Status of Title 2876681/1
4. Letter of authorization dated August 30, 2017 from Craig and Robin Scott to Stony G. Homes
5. Surveyor's Building Location Certificate and sketch dated August 31, 2017
6. Signatures of support from adjoining impacted property owners dated September 8, 2017
7. Caveats 4552450/1, 4552451/1
8. Plans (4 pages)
9. Report from the Urban Planning Division dated October 31, 2017
10. Inspection Report
11. Recording of Representations
12. Presentation in opposition to the application submitted by Michael Perner at the public hearing

REPRESENTATIONS:

In Support:

Birbarinder Singh
Craig Scott
Robin Whiddon

In Opposition

Jennifer Downey
Michael Perner

For Information:

Nil

For the City:

G. Doney, Senior Planner, Planning, Property and Development Department
R. Hayer, Planner, Planning, Property and Development Department

Exhibit "9" referred to in File ZAA 5/2017

ADMINISTRATIVE REPORT

Title: ZAA 5/17 – 776 Bonner Ave

Issue: For consideration at the Public Hearing to amend the Zoning Agreement to permit a minimum west side yard of 3.95 feet instead of 5 feet to maintain an existing dwelling.

Critical Path: East Kildonan - Transcona 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	N/A

RECOMMENDATIONS

1. That Zoning Agreement Caveat 4552450/1 under File DASZ 57/13 dated May 27, 2014 (By-law 74/2014), be amended as follows:

   A. That Clause 3 be removed and replaced by "Lot 2 must have a minimum east side yard of 5 feet (1.5 metres) and a west side yard of 3.95 feet (1.20 metres), and Lots 1, 3, and 4 must have a minimum side yard of 1.524 metres (5 feet)".

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 57/13 (By-law 74/2014) 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 applying to amend the above noted clause to maintain an existing dwelling with a west side yard of 3.95 feet.

- 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 west side yard of 3.95 feet will be permitted on the subject site.

HISTORY

DASZ 57/13

- DASZ 57/2013 involved the subdivision and rezoning of lands in the Springfield North neighbourhood of North Kildonan. The subject condition included in the zoning agreement relevant to the subject application (ZAA 5/17) is as follows:

  3. Each lot on the Owner's Land must have a minimum side yard of 1.524 metres (5 feet).

Plan Approval 16 – 162863 – 776 Bonner Ave

- On October 18, 2016, the East Kildonan - Transcona Community Committee approved plans for construction of a single-family dwelling and attached garage. Approved plans show a west side yard of 5 feet.

CONSULTATION

In preparing this report there was internal consultation with the Plan Examination Branch.

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Rakvinder Hayer, MCP
Date:	October 31, 2017
File No.	ZAA 5/17

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE: October 31, 2017

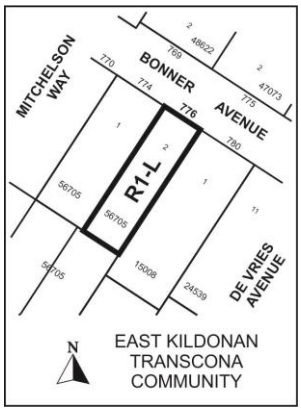
FILE: **ZAA 5/17**
RELATED FILES: **DASZ 57/2013 (B/L** 74/2014**)**

COMMUNITY: **East Kildonan - Transcona**
NEIGHBOURHOOD #: 4.419 (Springfield North)

SUBJECT: For consideration at the Public Hearing to remove and replace Clause 3 of the Zoning Agreement to permit a minimum west side yard of 3.95 feet instead of 5 feet to allow the maintenance of single-family dwelling.

LOCATION: **776 Bonner Ave**

LEGAL DESCRIPTION: LOT 2 PLAN 56705 43/44 K



APPLICANT: **Mohinderpal Grewal (Stony Grewal Homes)**
76 Mercedes Drive
Winnipeg, MB
R2P 1L6

OWNER: **Craig and Robin Scott**
776 Bonner Ave
Winnipeg, MB
R2G 2J7

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant is applying to amend zoning agreement under File DASZ 57/13 to permit a west side yard of 3.95 feet instead of 5 feet in order to maintain an existing dwelling.
- The Urban Planning Division recommends supporting this application because:
    - The property is zoned “R1-L” Residential Single-Family (Large) district under *Zoning By-law 200/2006*, which permits a minimum side yard of 4 feet. In addition, the *By-law* permits a tolerance of up to 3-inches for finishing into the side yard, which would bring the required minimum side yard down to 3.98 feet.
    - In this case, although a Zoning Agreement stipulates that any new dwelling constructed on the lot must provide a minimum side yard of 5 feet, the new single-family dwelling has been substantially built, and the sub-standard west side yard of 3.95 feet does not create a substantial adverse effect on the adjoining property and adjacent area, and is generally consistent with the dimensional standards of the *Zoning By-law* for the “R1-L” district.

SITE DESCRIPTION

- As shown on Figure 1 and 2 of this report, the subject site:
    - is located on the south side of Bonner Avenue in the Springfield North neighbourhood of the North Kildonan Ward;
    - is 8,626 square feet in area and 49.85 feet in lot width;
    - currently has a one-storey single-family dwelling under construction;
    - is in a Recent Communities policy area, which is a type of Areas of Stability Policy Area of *OurWinnipeg* and *Complete Communities*; and
    - is zoned “R1-L” Residential Single-Family (Large).



Figure 1: Aerial photograph showing approximate area of subject property, looking west (flown 2016)

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Bonner Avenue; then, single-family dwellings zoned “R1-L” Residential Single-Family Large.

South: Vacant land and single-family dwellings zoned “R1-L” Residential Single-Family Large.

East: Burnley Place; then single-family homes zoned “R1-L” Residential Single-Family Large.

West: Single-family homes zoned “R1-L” Residential Single-Family Large.

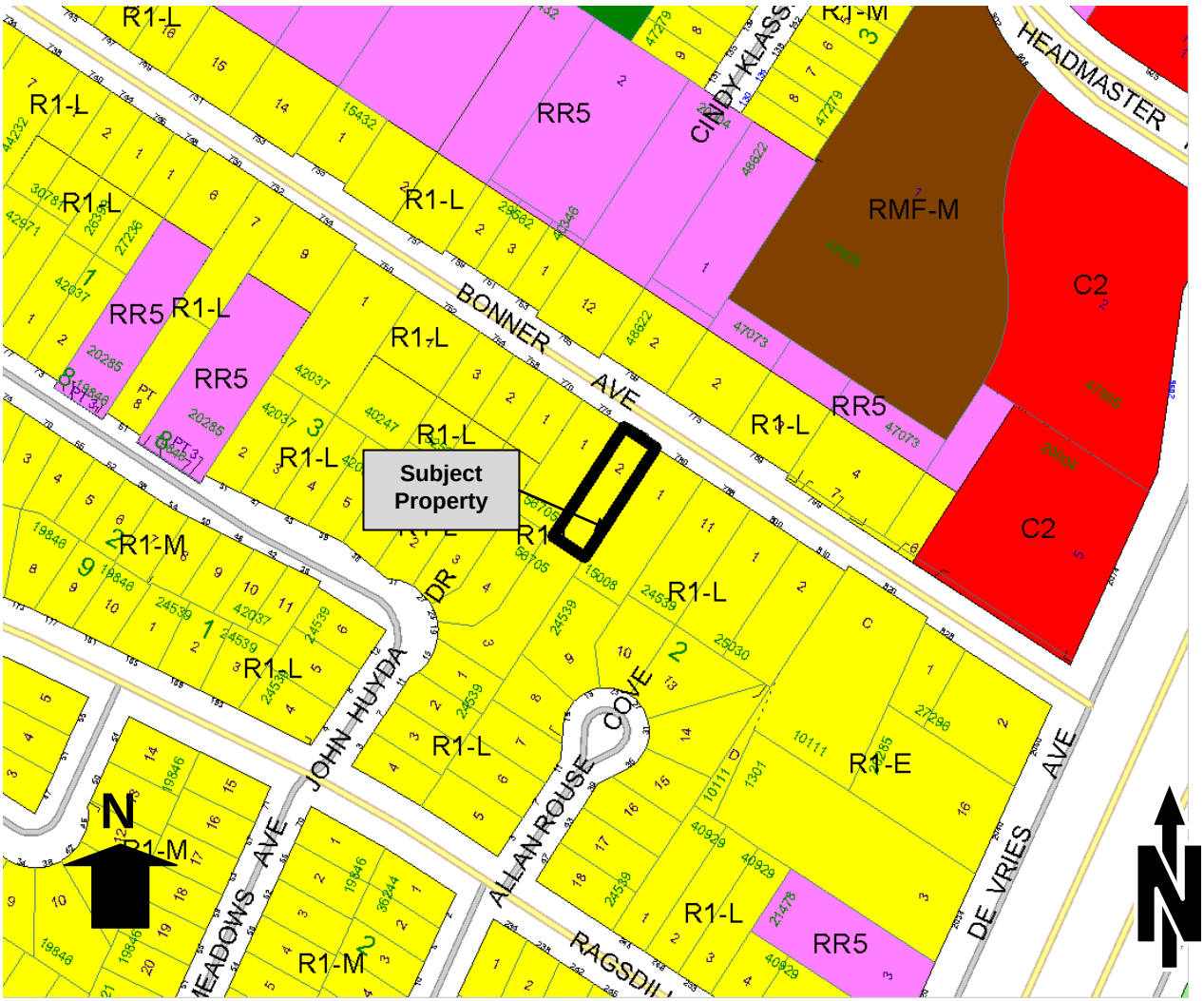


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is requesting to amend Zoning Agreement Caveat 4552450/1 under File DASZ 57/13 in order to maintain a single-family dwelling that is currently under construction.
- Under the subject Zoning Agreement, Lots 1 – 4 of Plan 54705 are required to have side yards of 5 feet. The side yard clause was included in the Zoning Agreement to ensure future development on the lots would have side yards that would be consistent with existing residential properties in the neighbourhood. A separate clause under the Zoning Agreement also requires all proposed dwellings and/or garages on the lots to be approved by the East Kildonan-Transcona Community Committee and the Director of Planning, Property and Development (Plan Approval).
- The subject property is Lot 4 of Plan 54705, and has a single-family dwelling currently under construction that was not built in accordance with Plans approved by the Director and the Community Committee on October 16, 2016. Mainly, the building has been

located 1.05 feet west of the location where it was approved under that Plan Approval application; this reduces the west side yard down to 3.95 feet instead of 5 feet.

- In order to maintain the single-family dwelling, the subject Zoning Agreement would need to be amended to allow for a west side yard of 3.95 feet on Lot 4 Plan 54705.

Site Layout

- Plans **submitted with the application show a single-family dwelling that is:**
    - a one-storey dwelling currently under construction;
    - on a lot that is 49.85 feet wide, 173 feet deep, and has a total lot area of 8624.05 square feet;
    - has an attached garage with a front approach;
    - has a west side-yard of 3.95 feet and an east side-yard of 7.6 feet; and
    - has a cantilever on the west side of the dwelling that projects 1.5 feet into the side yard.

ANALYSIS AND ISSUES

OUR WINNIPEG AND COMPLETE COMMUNITIES DIRECTION STRATEGY

- *OurWinnipeg* is the City's development plan. The Key Direction of *OurWinnipeg* regarding Areas of Stability states:

    Enhance the quality, diversity, completeness and sustainability of stable neighbourhoods and expand housing options for Winnipeg's changing population.

- *Complete Communities* is a "Direction Strategy" of *OurWinnipeg* that provides additional directions and policies on land use and development in the city. 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.

- The proposed Zoning Agreement Amendment is generally consistent with the above noted policies because:
    - most single-family dwellings in the surrounding neighbourhood are zoned "R1-L", which permits a minimum side yard of 4 feet under the *Zoning By-law* and the proposed amendment to accommodate a side-yard of 3.95 feet would be generally consistent with required dimensional standards for adjacent residential properties; and
    - maintaining a new single-family dwelling that has already been constructed would ensure that new housing stock remains in the neighbourhood and would prevent waste from going to landfill.

ZONING

"R1-L" Residential Single-Family Large District

- The R1-L district requires: a minimum lot width of 25 feet, a minimum lot area of 5,500 square feet, side yards of 4 feet, a front yard of 20 feet, and a rear yard of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 40 percent.
- Under the R1-L district, alcoves, bay windows, vestibules, and similar additions creating interior floor area are permitted to project 2 feet into the side yard but no closer than 1 foot to the property line, and create a maximum floor area of 20 sq. ft. The subject dwelling has a cantilever that meets to the Zoning By-law requirement.

RECOMMENDATION

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

- The subject zoning agreement amendment would enable the preservation of a single-family dwelling currently under construction. Although the dwelling was not built in accordance with the approved Plans or with the Zoning Agreement registered on the title, the substandard side yard is still within the acceptable range in terms of minimum side-yard separation distances that the Urban Planning Division would typically support.
- Under the Zoning By-law, the property would be required to provide a 4 foot side yard. Given that 3.95 feet is a relatively minor variation from what would be permitted under the zoning by-law, the side yard would be considered compatible with the surrounding neighbourhood.

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

Report Prepared By: Rakvinder Hayer
PPD File # ZAA 4/17