**Minutes – Board of Adjustment – January 22, 2020**

## PUBLIC HEARINGS

**Item No. 1 Variance – 287 Milton Street**
**(Point Douglas Ward)**
**File DAV 218313/2019C**

BOARD OF ADJUSTMENT DECISION:

The Board of Adjustment concurred in the recommendation of the Winnipeg Public Service, and approved a Variance on "the land" for the establishment of two residential zoning lots to permit lot areas of 2,624.8 square feet (243.8 square metres), subject to the following conditions:

1. That the height of principal buildings shall be limited to a maximum of 30 feet.

2. That no front driveway approach shall be permitted.

3. That there shall be no new garages constructed attached to any principal dwelling on the subject property.

4. That any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.

5. That each newly constructed dwelling shall be distinctly different from one another in terms of the design, and incorporate a balance of varying materials and colours into the front façade.

6. That the variance order shall not come into force until the existing dwelling on LOT 93, PLAN 194 is upgraded along the south wall in order to comply with the Winnipeg Building By-law and Manitoba Building Code for spatial separation, to be determined by and thereafter maintained to the satisfaction of the Director of Planning Property and Development.

7. That alcoves, bay windows, vestibules and similar building elements creating interior floor area shall be at least two feet from any side lot line, measured from the exterior finish of said building elements.

DECISION MAKING HISTORY:

The Winnipeg Public Service advised that all statutory requirements with respect to this application have been complied with.

Moved by Joel Remis,

That the report of the Winnipeg Public Service be taken as read.

Carried

Moved by Joel Remis,

That the receipt of public representations be concluded.

Carried

Moved by Joel Remis,

That in accordance with Subsection 247(3) of The City of Winnipeg Charter, the Variance,

(a) [✓] is consistent [ ] is not consistent
with Plan Winnipeg, and any applicable secondary plan;

(b) [✓] does not create [ ] does create
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) [✓] is [ ] is not
the minimum modification of a zoning by–law required to relieve the injurious effect of the zoning by–law on the applicant's property; and

(d) [✓] is [ ] is not
compatible with the area in which the property to be affected is situated.

Supporting Comments:

1. The Board of Adjustment agreed with the administrative comments contained in the report of the Urban Planning Division dated January 9, 2020.

Carried

DECISION MAKING HISTORY (continued):

Moved by Joel Remis,

That the recommendation of the Winnipeg Public Service be concurred in, and the Variance be approved.

Carried

Moved by Joel Remis,

That the public hearing with respect to this application be concluded.

Carried

# THE CITY OF WINNIPEG
# VARIANCE ORDER
## BOARD OF ADJUSTMENT

**DAV 218313/2019C**

| | |
|---|---|
| Before: | Board of Adjustment<br>Bill Sawka, Chairperson<br>Bill Maretski<br>Joel Remis |
| Hearing: | January 22, 2020<br>Council Building, 510 Main Street |
| Applicant: | Blue Bella Draft Design (Steven Ulrich) |
| Premises Affected: | 287 Milton Street |
| Legal Description: | LOT 93/94 PLAN 194 11A ST J, hereinafter called “the land” |
| Property Zoned: | "R2 PDO-1 Airport Vicinity Protection Area" Residential Two-Family Planned Development Overlay-1 (District) |
| Nature of Application: | To vary the "R2 PDO-1 Airport Vicinity Protection Area" District Dimensional standards of the Winnipeg Zoning By-Law No. 200/2006 for the establishment of two residential zoning lots to permit lot areas of 2,624.8 square feet (243.8 square metres) instead of 5,000 square feet (464.5 square metres). |

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this Variance meets the statutory criteria as outlined in Subsection 247(3) of The City of Winnipeg Charter in that it:

(a) [✓] is consistent [ ] is not consistent
with Plan Winnipeg, and any applicable secondary plan;

(b) [✓] does not create [ ] does create
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) [✓] is [ ] is not
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(d) [✓] is [ ] is not
compatible with the area in which the property to be affected is situated.

Supporting Comments:

1. The Board of Adjustment agreed with the administrative comments contained in the report of the Urban Planning Division dated January 9, 2020.

ORDER:

The Board of Adjustment orders that the provisions of the "R2 PDO-1 Airport Vicinity Protection Area" Residential Two-Family Planned Development Overlay-1 (District) District Dimensional Standards of the Winnipeg Zoning By-law No. 200/2006 are varied on “the land” for the establishment of two residential zoning lots to permit lot areas of 2,624.8 square feet (243.8 square metres), subject to the following conditions, which the Board of Adjustment considers necessary to ensure compliance with criteria (a) to (d) as outlined in Subsection 247(3) of The City of Winnipeg Charter, namely:

1. That the height of principal buildings shall be limited to a maximum of 30 feet.

2. That no front driveway approach shall be permitted.

3. That there shall be no new garages constructed attached to any principal dwelling on the subject property.

4. That any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.

5. That each newly constructed dwelling shall be distinctly different from one another in terms of the design, and incorporate a balance of varying materials and colours into the front façade.

6. That the variance order shall not come into force until the existing dwelling on LOT 93, PLAN 194 is upgraded along the south wall in order to comply with the Winnipeg Building By-law and Manitoba Building Code for spatial separation, to be determined by and thereafter maintained to the satisfaction of the Director of Planning Property and Development.

7. That alcoves, bay windows, vestibules and similar building elements creating interior floor area shall be at least two feet from any side lot line, measured from the exterior finish of said building elements.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: January 24, 2020

CERTIFIED BY:



L. Cowan
Senior Committee Clerk

HOW TO APPEAL

If you object to this Order, you are entitled to file a notice of appeal. Your notice of appeal must:

(a) be in writing;

(b) contain your name, mailing address and phone number;

(c) be addressed as set out below;

(d) be received at that office not later than 4:30 p.m. on February 12, 2020;

**[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]**

(e) refer to Variance Order No. DAV 218313/2019C; and

(f) provide the reason(s) for the appeal

The City Clerk may not schedule an appeal hearing until your notice of appeal meets the above requirements.

| | |
|---|---|
| Address: | City Clerk, City of Winnipeg<br>c/o Appeal Committee<br>Susan A. Thompson Building<br>Main Floor, 510 Main Street<br>Winnipeg, Manitoba, R3B 1B9 |
| Fax: | 204-947-3452 |
| Email: | CLK-Appeals@winnipeg.ca |

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Steven Ulrich

In Opposition:

Nil

For Information:

Nil

For the City:

D. Harris, Planner, Planning, Property and Development Department

**EXHIBITS FILED FOR DAV 218313/2019C**

1. Application dated December 23, 2019
2. Notification of Public Hearing dated January 2, 2020
3. Manitoba Status of Title 3034161/1
4. Letter of authorization dated December 3, 2019 from Eric Vielfaure, Hive Properties, to Steve Ulrich
5. Surveyor's Building Location Certificate and sketch dated November 19, 2019
6. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
7. Petition in support of the application purporting to contain the signatures of 2 area residents, submitted by the applicant
8. Plans, Sheets 1 to 2 inclusive, for File DAV 218313/2019C dated December 19, 2019
9. Report from the Urban Planning Division dated January 9, 2020
10. Inspection Report

Exhibit “9” referred to in File DAV 218313/2019C

# ADMINISTRATIVE REPORT

**Title:** DAV 19-218313\C – 287 Milton Street

**Issue:** For consideration at the public hearing for a variance associated with a residential lot split.

**Critical Path:** Board of Adjustment as per the Development Procedures By-law and The City of Winnipeg Charter.

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| R. Hayer, MCP | n/a | n/a | |

## RECOMMENDATIONS

The Urban Planning Division recommends **approval** of the application to vary the "R2 PDO-1 Airport Vicinity Protection Area" dimensional standards of *Zoning By-Law No. 200/2006* for the establishment of two residential zoning lots to permit lot areas of 2,624.8 square feet (243.8 square metres) instead of 5,000 square feet (464.5 square metres).

Subject to the following condition(s):

1) That, the height of principal buildings shall be limited to a maximum of 30 feet.
2) That, no front driveway approach shall be permitted.
3) That, there shall be no new garages constructed attached to any principal dwelling on the subject property.
4) That, any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.
5) That, each newly constructed dwelling shall be distinctly different from one another in terms of the design, and incorporate a balance of varying materials and colours into the front façade.
6) That, the variance order shall not come into force until the existing dwelling on LOT 93, PLAN 194 is upgraded along the south wall in order to comply with the Winnipeg Building By-law and Manitoba Building Code for spatial separation, to be determined by and thereafter maintained to the satisfaction of the Director of Planning Property and Development.

7) That alcoves, bay windows, vestibules and similar building elements creating interior floor area shall be at least two feet from any side lot line, measured from the exterior finish of said building elements.

## REASON FOR THE REPORT

- The applicant is proposing to separate the underlying titles of the subject property and establish each lot as a buildable zoning lot. The existing dwelling would be maintained on the northerly lot. A new single-family dwelling would be constructed on the southerly lot. Variances are required to establish the proposed lots.
- Variance applications require a public hearing as per *The Development Procedures By-law* No. 160/2011 and *The City of Winnipeg Charter*, section 249.
- The report is being submitted for the Board of Adjustment'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 proposal can proceed.

## FILE/APPLICANT DETAILS

| | |
|---|---|
| **FILE:** | **DAV 19-218313\C** |
| **RELATED FILES:** | |
| **COMMUNITY:** | Assiniboia Committee |
| **NEIGHBOURHOOD #:** | 2.114 (Weston) |
| **SUBJECT:** | To vary the "R2 PDO-1 Airport Vicinity Protection Area" dimensional standards of Zoning By-Law No. 200/2006 for the establishment of two residential zoning lots to permit lot areas of 2,624.8 square feet (243.8 square metres) instead of 5,000 square feet (464.5 square metres). |
| **LOCATION:** | 287 Milton ST |
| **LEGAL DESCRIPTION:** | LOT 93/94 PLAN 194 11A ST J |
| **APPLICANT:** | Steven Ulrich<br>16 Courtwood PL<br>Winnipeg, Manitoba R2J 3J7 |
| **OWNER:** | Hive Properties Ltd.<br>295 Lyndale Drive<br>Winnipeg, Manitoba R2H 1L6 |

## DISCUSSION

### CRITERIA FOR APPROVAL

Pursuant to Section 247(3) of *The City of Winnipeg Charter*, an application for a variance with respect to a property may be approved if the variance:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(d) is compatible with the area in which the property to be affected is situated.

### SITE DESCRIPTION

**The subject site is located on the east side of** Milton Street, in the Weston neighbourhood and the Point Douglas ward.

Currently on the site is a single-family dwellings that was built in 1909. Also on the land is a 23 ft. by 12 ft. detached garage that takes vehicle access from the public lane.

The site is approximately 53 ft. wide by 99 ft. deep; providing a total lot area of 5,296 sq. ft.

The site is designated ‘Areas of Stability – Mature Community’ policy area under the *Complete Communities Direction Strategy* of *OurWinnipeg*, and is zoned “R2” Residential Two-Family under the City of Winnipeg Zoning By-law (no. 200/06).

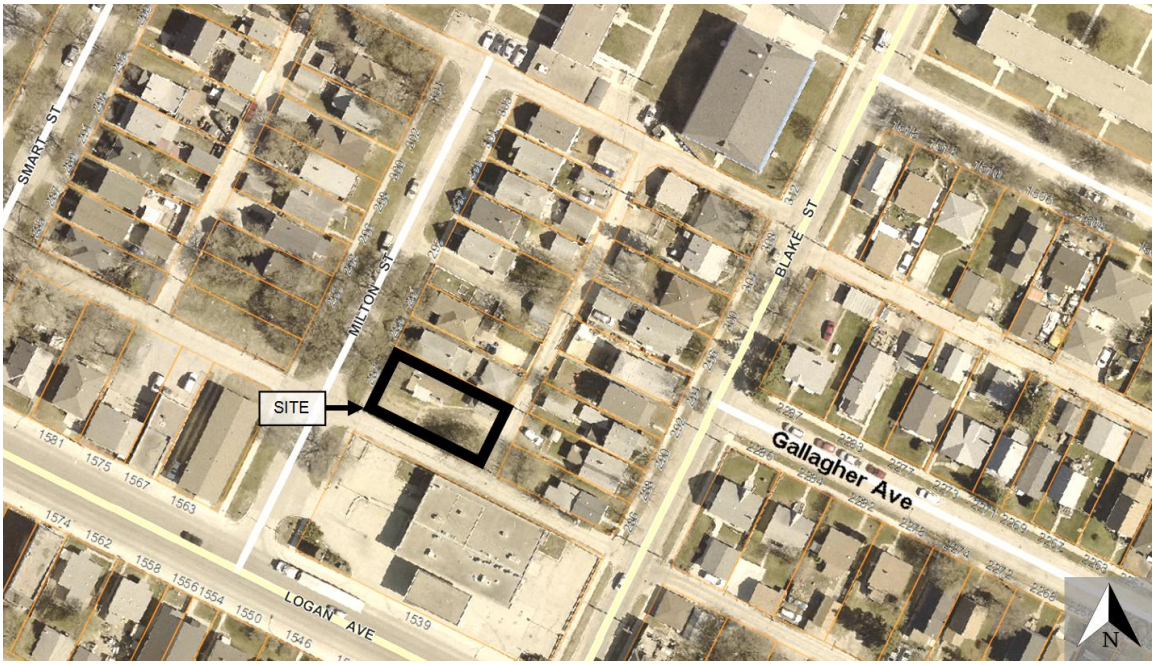


**Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)***

## SURROUNDING LAND USE AND ZONING (See Figure 2)

**North:** Single-family dwelling zoned “R2” Residential Two-Family district.

**South:** Public lane; then a commercial property (gas station with carwash and convenience store) zoned “C2” Commercial Community district.

**East:** Public lane; then single-family dwelling zoned “R2” Residential Two-Family district.

**West:** Milton Street; then single-family dwelling zoned “R2” Residential Two-Family district.

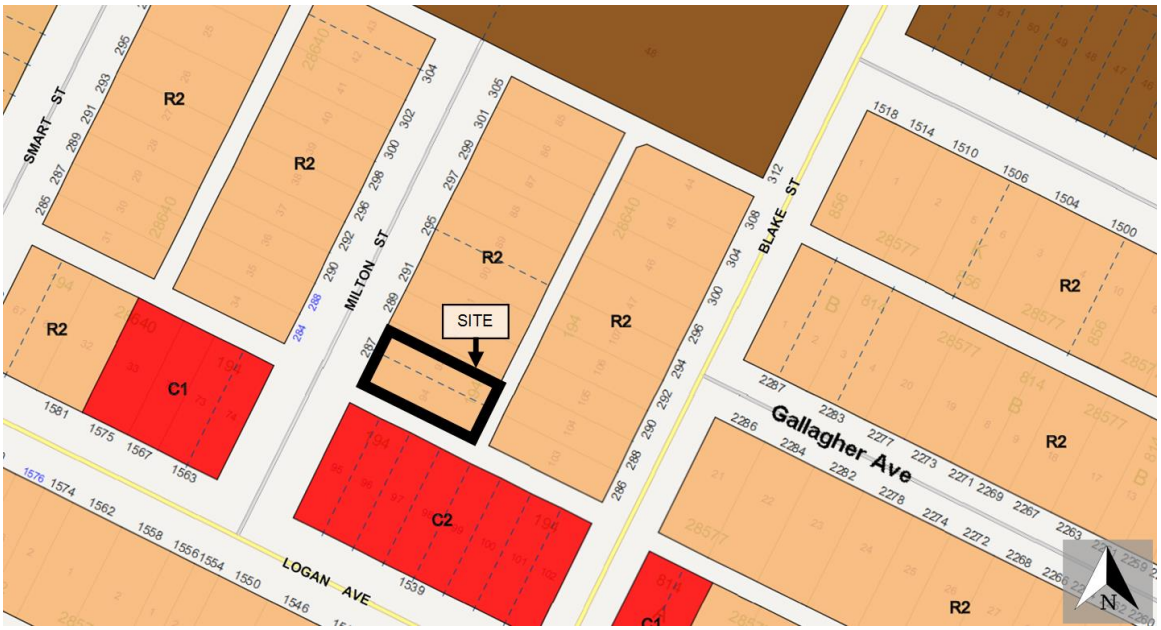



**Figure 2: Zoning of the site and surrounding area.**

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development involves maintenance of an existing dwelling and construction of one single-family dwelling. To facilitate the proposed development, the applicant is proposing to separate the underlying lots in order to establish each lot as a buildable zoning lot; proposed Lot 93 and Lot 94. Variances are required because the proposed lots do not meet the minimum lot area requirements under the City of Winnipeg Zoning By-law (no. 200/06).

On proposed Lot 93, the existing dwelling and detached garage would be maintained. The dwelling currently has concrete steps and a landing located within the south side yard, which are proposed to be demolished. The south building wall is also proposed to be upgraded to meet building code requirements. As a result of the proposed development, the existing dwelling would be maintained with a 3.5 ft. south side yard.

On proposed Lot 94, a new single-family dwelling would be constructed. Final plans of development have not been submitted.

<u>Collaboration:</u>

The Applicant consulted with the Urban Planning Division prior to submitting the subject application. The Division advised the applicant that the proposed Lot Split would be

recommended for approval, subject to conditions. The applicant has also shared preliminary drawings with the Division, however these have not been formally submitted with the subject application.

## ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

The subject property is with the 'Areas of Stability – Mature Community' policy area under *Complete Communities*. Key policies include:

- *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.*
- *Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.*
- *Support the subdivision of a parcel into two (2) or more lots when it is done in a context sensitive manner.*
- *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character, and built form.*

The subject proposal would be generally consistent with *Complete Communities* because it would add a low degree of density to a mature community; and the proposed lot sizes would be consistent with the community context. New residential structures can also provide a number of positive spin-offs, for example:

- Added eyes on the street.
- More people to patronize the local community clubs, schools, parks, libraries, etc.

From a City's perspective, infill development is beneficial for a variety of reasons as well:

- Increases the tax base.
- Utilizes existing infrastructure.
- Slows suburban sprawl.

In addition, new development can also help foster a positive environment for growth and investment in the community, which can contribute to neighbourhood revitalization.

VARIANCE REVIEW

*Lot Area:*

When evaluating a variance to allow a reduced lot size for a residential property, the Urban Planning Division will look to the subject block to determine if the proposed lot size would be compatible with existing lot sizes on the block.

In this case, the majority of lots on the block are the same width and size as the proposed lots. In fact, the subject property is only one of three properties on the block that are greater than 2,600 sq. ft. in lot area.

## CONDITIONS OF APPROVAL

In order to maintain the character of the existing built form in this residential area, a few conditions of approval are recommended. These include garages not being attached to the

principal dwelling; vehicle access to the proposed lot is directly from the rear public lane (i.e. no front approaches); entrance being provided on the front wall of the building facing the street; and limiting the height of new principal buildings to 30 feet.

Given the south side yard currently contains a concrete landing and steps, and that the side yard would be less than 4 ft., it is recommended that the existing dwelling be modified along the south side yard, to the extent necessary to comply with the building code, prior to the variance coming into effect.

**REASONS FOR RECOMMENDATIONS**

In the context of Section 247(3), the Urban Planning Division recommends **approval** for the following reasons:

(a) is consistent with Complete Communities Direction Strategy;

***In that,*** *the Complete Communities Direction Strategies supports subdivision of parcels of land into two or more lots when done in a context-sensitive manner.*

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

***In that,*** *the proposed lot sizes are compatible with the surrounding neighbourhood and will not cause any adverse effect on amenities, use and safety of adjoining properties in the area.*

(c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

***In that,*** *the proposed variance will allow the applicant to introduce moderate intensification on the subject property which is consistent with the Complete Communities Direction Strategy.*

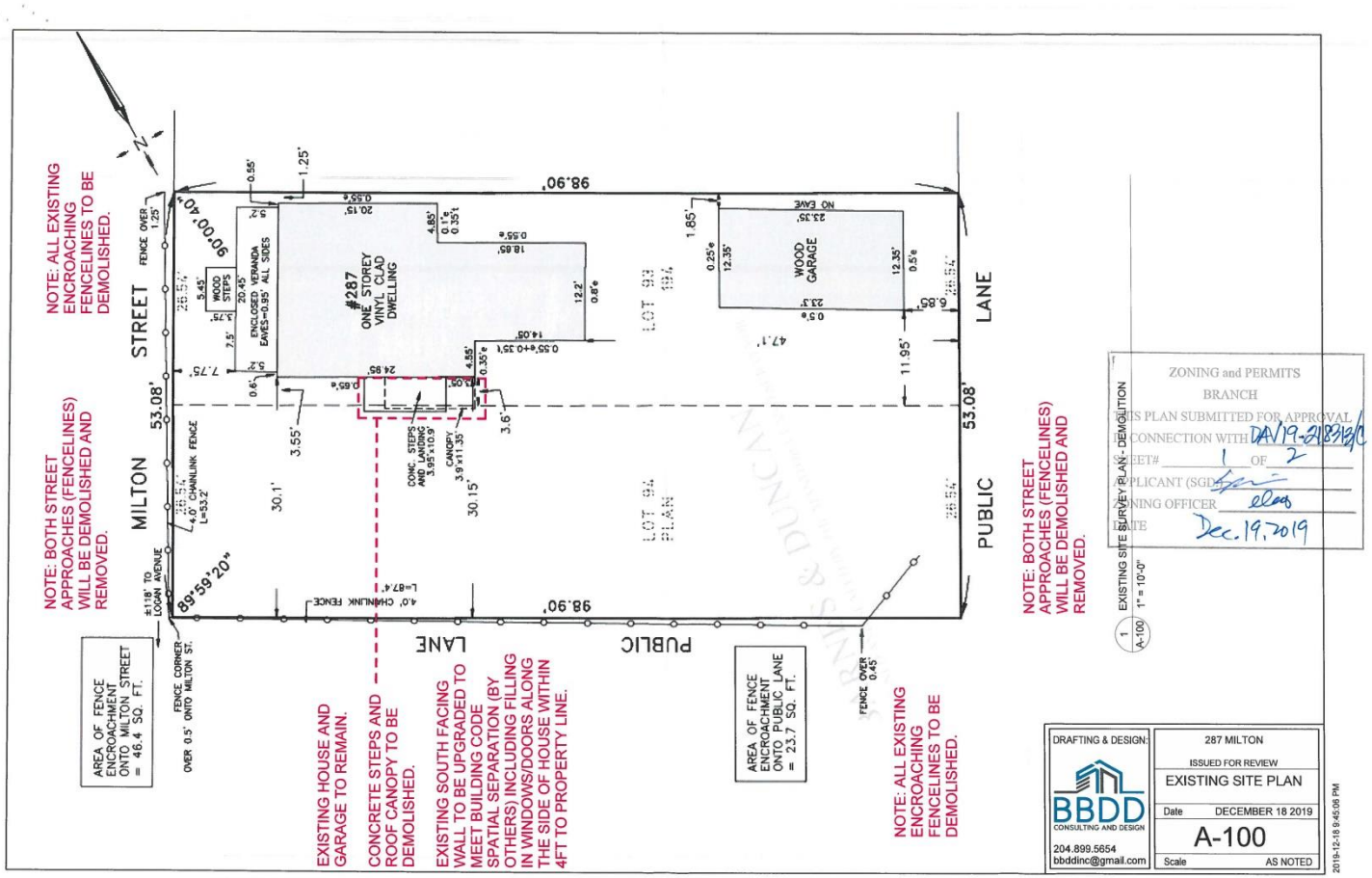
(d) is compatible with the area in which the property to be affected is situated.

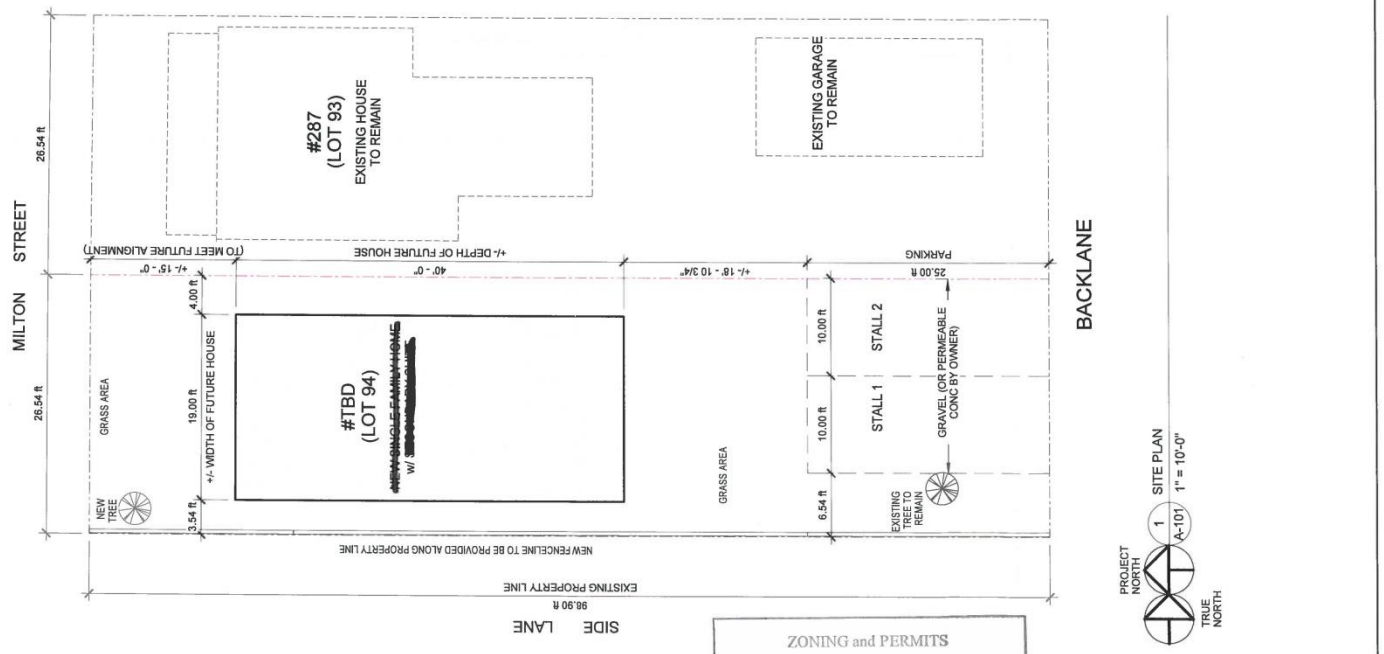
***In that,*** *the proposal is consistent with existing established lots on the subject block and the recommended conditions of approval will help to ensure future development is compatible with existing single family homes on the block.*

**SUBMITTED BY**

| | |
|---|---|
| Department: | Planning, Property and Development |
| Division: | Urban Planning |
| Prepared by: | R. Hayer, MCP |
| Date: | Thursday, January 9, 2020 |
| File No. | DAV 19-218313\C |

Exhibit “8” referred to in File DAV 218313/2019C






PLANS FOR NEW BUILDING ARE NOT AVAILABLE AT THIS TIME.
VARIANCE FOR LOT AREA IS ONLY BEING APPLIED FOR AND FINAL PLANS TO BE PROVIDED AT A LATER DATE SUBJECT TO PLAN APPROVAL.

ZONING and PERMITS
BRANCH
THIS PLAN SUBMITTED FOR APPROVAL
IN CONNECTION WITH DA19-218313
SHEET# 2 OF 2
APPLICANT (SGD.)
ZONING OFFICER
DATE Dec. 19, 2019

DRAFTING & DESIGN:
BBDD
CONSULTING AND DESIGN
204.899.5654
bbddinc@gmail.com

287 MILTON
ISSUED FOR REVIEW
PROPOSED SITE PLAN
Date DECEMBER 18 2019
A-101
Scale AS NOTED

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