Agenda – Council – March 20, 2020

Report – Executive Policy Committee – March 17, 2020

Item No. 4 Zoning Agreement Amendment – 60 Demers Place
(St. Norbert-Seine River Ward)
File ZAA 8/2019

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2020, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the following to Council:

1. That Zoning Agreement No. 56/86, dated May 6, 1987 (the "Zoning Agreement"), registered at the Winnipeg Land Titles Office as Caveat No. 87-81709, be amended to permit the following rear yard setbacks, measured from the rear lot line, on the property located at 60 Demers Place:

    A. a minimum of 25.76 metres (84.5 feet) measured from that rear lot line to any principal building;

    B. a minimum of 18.1 metres (59.4 feet) measured from that rear lot line to any detached accessory building; and,

    C. a minimum of 12.27 metres (40.25 feet) measured from that rear lot line to any temporary structure or swimming pool not enclosed within a building.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the Director of Legal Services and City Solicitor to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – March 17, 2020

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2020, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 2, 2020, 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.

PUBLIC HEARING SUMMARY

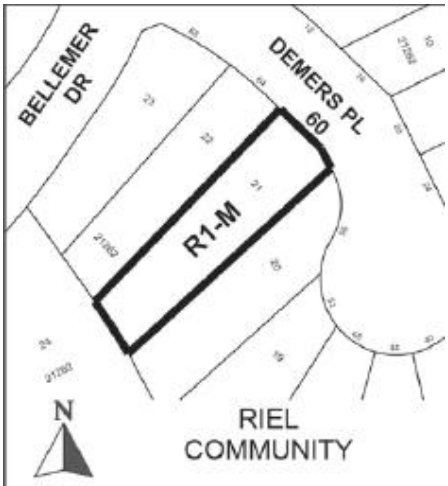
File: ZAA 8/2019

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

Public Hearing: March 3, 2020
Council Building, 510 Main Street

Applicant: Todd Matthews

Subject:



APPLICANT: Todd Matthews
FILE: ZAA 8/2019
PROPOSAL: To amend the Zoning Agreement DASZ 56/86, By-law 4632/87, affecting the land shown outlined above by amending Clause 3(a), (b) and (c) to allow a minimum rear yard of 25.7 metres (84.3 feet) to the principal building, a minimum rear yard of 18.1 metres (59.38 feet) to any detached accessory building, and a minimum rear yard of 12.2 metres (40 feet) to a temporary structure, or swimming pool not enclosed within a building. **For information, phone S. Jerez, Planner at 204-986-7175.**
DEMANDEUR: Todd Matthews
N° DE DOSSIER: MCZ 8/2019
PROJET: Modification des dispositions 3(a), (b) et (c) de la convention de zonage DALZ 56/86, règlement municipal no 4632/87, visant le bien-fonds délinéé ci-dessus afin de permettre une marge minimale de 25,7 mètres (84,3 pieds) derrière le bâtiment principal, une marge minimale de 18,1 mètres (59,38 pieds) derrière tout bâtiment annexe isolé, et une marge arrière minimale de 12,2 mètres (40 pieds) derrière toute structure temporaire ou derrière toute piscine ne se trouvant pas à l'intérieur d'un bâtiment. **Pour plus de renseignements, veuillez communiquer avec S. Jerez, urbaniste, au 204-986-7175.**

Premises Affected: 60 Demers Place

For submission to: Executive Policy Committee

Prepared by: Rebecca Ford, Committee Clerk
Riel Community Committee

Report date: March 2, 2020

Community Committee Recommendation:

On March 2, 2020, 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 No. 56/86, dated May 6, 1987 (the "Zoning Agreement"), registered at the Winnipeg Land Titles Office as Caveat No. 87-81709, be amended to permit the following rear yard setbacks, measured from the rear lot line, on the property located at 60 Demers Place:

    A. a minimum of 25.76 metres (84.5 feet) measured from that rear lot line to any principal building;

    B. a minimum of 18.1 metres (59.4 feet) measured from that rear lot line to any detached accessory building; and,

    C. a minimum of 12.27 metres (40.25 feet) measured from that rear lot line to any temporary structure or swimming pool not enclosed within a building.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The Riel Community Committee provided the following supporting reasons for its recommendation:

1. It's existed, there's been no issues.

2. St. Norbert has changed since 1997 with respect to the flood. Proper mitigation to control flooding has been implemented through the lift station that's been built. I don't see any problems happening to the back of this property.

Exhibits Filed:

1. Application dated December 18, 2019
2. Notification of Public Hearing dated January 21, 2020
3. Manitoba Status of Title 1700384/1
4. Letter of authorization dated October 22, 2019 from Todd Matthews and Catherine Matthews to Todd and Catherine Matthews
5. Surveyor's Building Location Certificate and sketch dated June 21, 2019 and November 28, 2019
6. Caveat 87-81709/1
7. Petition in support of the application purporting to contain the signatures of 4 area residents, submitted by the applicant
8. Slope Stability Assessment dated October, 2019
9. Plans (3 pages)
10. Report from the Urban Planning Division dated February 19, 2020
11. Inspection Report

REPRESENTATIONS:

In Support:

Todd Matthews

In Opposition:

Nil

For Information:

Nil

For the City:

E. Finnigan, Planner, Planning Property and Development Department
J. Hildebrand, Planner, Planning Property and Development Department
S. Jerez, Planner, Planning Property and Development Department

Exhibit "10" referred to in File ZAA 8/2019

ADMINISTRATIVE REPORT

Title: ZAA 8/2019 –60 Demers Place

Issue: For consideration at the Public Hearing to amend a Zoning Agreement under File DASZ 56/86, to allow the maintenance of a deck, sunroom and swimming pool.

Critical Path: Riel Community Committee – Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
S. Jerez, MCP	M. Pittet	N/A	

RECOMMENDATIONS

1. That Zoning Agreement No. 56/86, dated May 6, 1987 (the "Zoning Agreement"), registered at the Winnipeg Land Titles Office as Caveat No. 87-81709, be amended to permit the following rear yard setbacks, measured from the rear lot line, on the property located at 60 Demers Place:

   a) a minimum of 25.76 metres (84.5 feet) measured from that rear lot line to any principal building;

   b) a minimum of 18.1 metres (59.4 feet) measured from that rear lot line to any detached accessory building; and,

   c) a minimum of 12.27 metres (40.25 feet) measured from that rear lot line to any temporary structure or swimming pool not enclosed within a building.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other

terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

- The applicant is proposing to modify the existing zoning agreement which regulates minimum rear yard setback to a retention pond.
- Modification of caveats on a Land Title requires a Zoning Agreement Amendment application.
- Approval of a Zoning Agreement Amendment application 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, the subject Zoning Agreement will be **amended** and the caveat will be modified.

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. Approval of DASZ 56/86 was subject to a zoning agreement which stipulated minimum rear yard setbacks for buildings located on lots which back onto a retention pond.
- Conditions included in this zoning agreement relevant to the subject application (ZAA 8/2019) are as follows:
- 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 bylaw from time to time, namely:

  3(a) a minimum of 25.9 metres (85 feet) measured from that rear lot line to any principal building,
  and
  3(b) a minimum of 20.4 metres (67 feet) measured from that rear lot line to any detached accessory
  building, and
  3(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.

- In 2019, it came the Public Service's attention when the applicant applied for a permit to construct a shed that the applicant had completed construction of a sunroom, pergola, and a deck higher than 2 feet without approved permits. The subject application is intended to bring these works into compliance with the zoning agreement under DASZ 56/86.

CONSULTATION

In preparing this report there was consultation with:

- Water & Waste Department, Engineering Division, Land Drainage & Flood Protection Branch
- Legal Services, as to legal issues

OUR WINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Simi Jerez, MCP
Date:	February 19, 2020
File No.	ZAA 8/2019

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

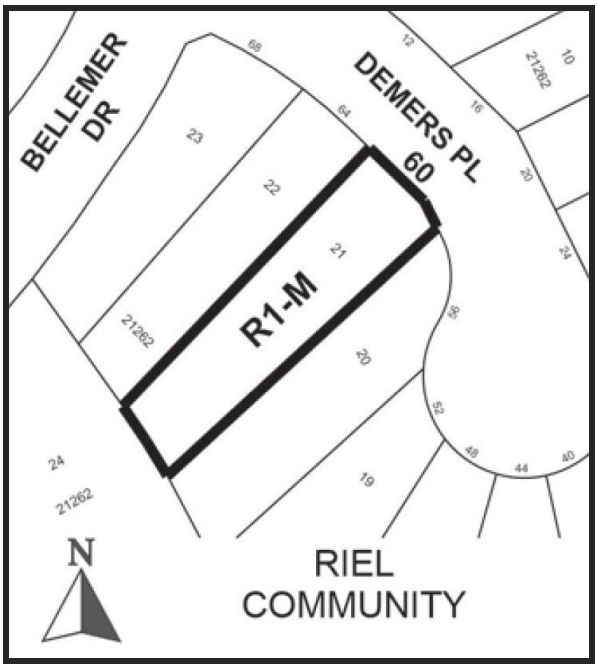
DATE: February 19, 2020

FILE: **ZAA 8/19**
RELATED FILES: DAV 19-214109/B
COMMUNITY: Riel
NEIGHBOURHOOD #: 5.641 – Richmond Lakes

SUBJECT: For consideration at the Public Hearing to amend to amend Clause 3(a) of the Zoning Agreement to permit the maintenance of a deck.

LOCATION: 60 Demers PL

LEGAL DESCRIPTION: LOT 21 BLOCK 4 PLAN 21262 87/90 ST N



APPLICANT: Todd & Catherine Matthews
60 Demers Place
Winnipeg, Manitoba R3V 1W4

OWNER: Todd & Catherine Matthews
60 Demers Place
Winnipeg, Manitoba R3V 1W4

RECOMMENDATION: Approval

SITE DESCRIPTION

- The subject property is located on the south side of Demers Place, in the Richmond Lakes neighbourhood of the St Norbert - Seine River ward.
- The site is 9,016 square feet in area and contains a 1,940 square foot two storey dwelling with an attached garage, built in 1997.
- The property backs onto a storm water retention lake to the south.
- 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.

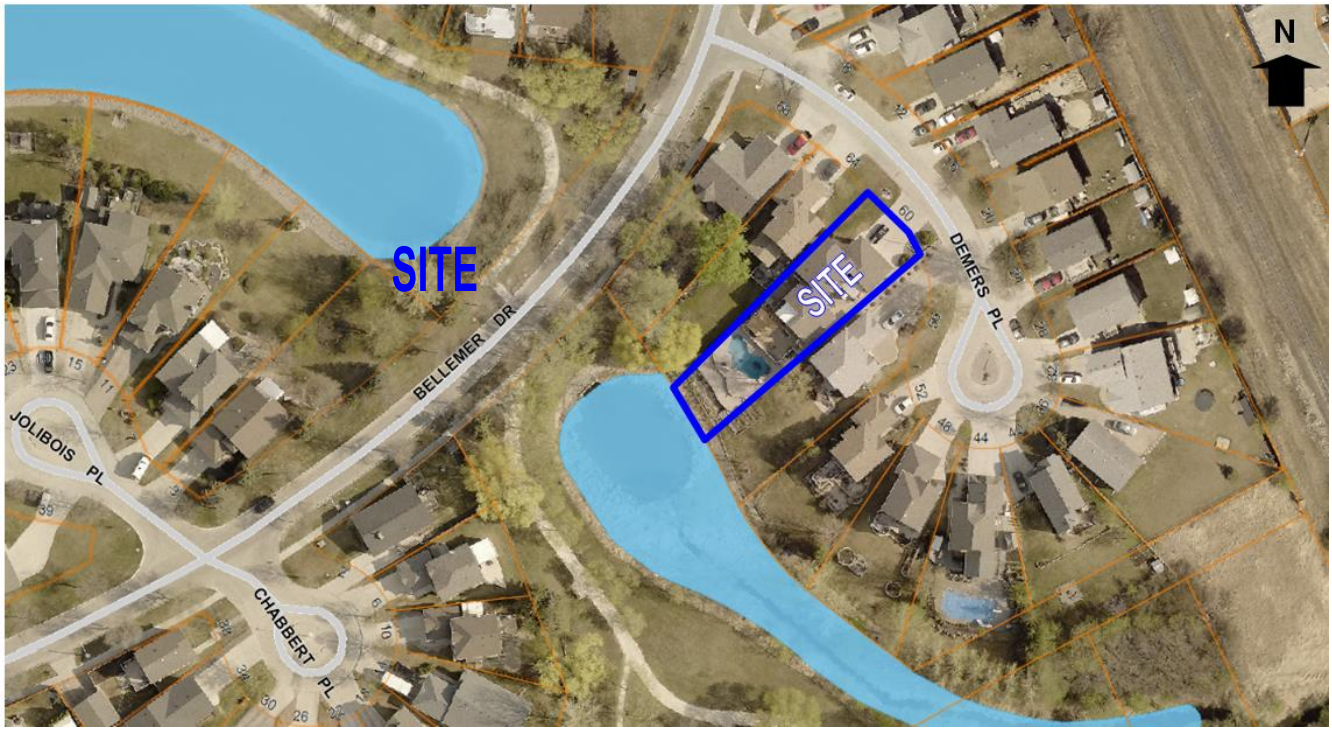


Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Demers Place; then detached single-family dwellings zoned "R1-M" Residential Single-Family Medium.

South: A storm water retention lake zoned "PR-1" Parks and Recreation 1 (Neighbourhood).

East: Detached single-family dwellings zoned "R1-M" Residential Single-Family Medium.

West: Detached single-family dwellings zoned "R1-M" Residential Single-Family Medium.

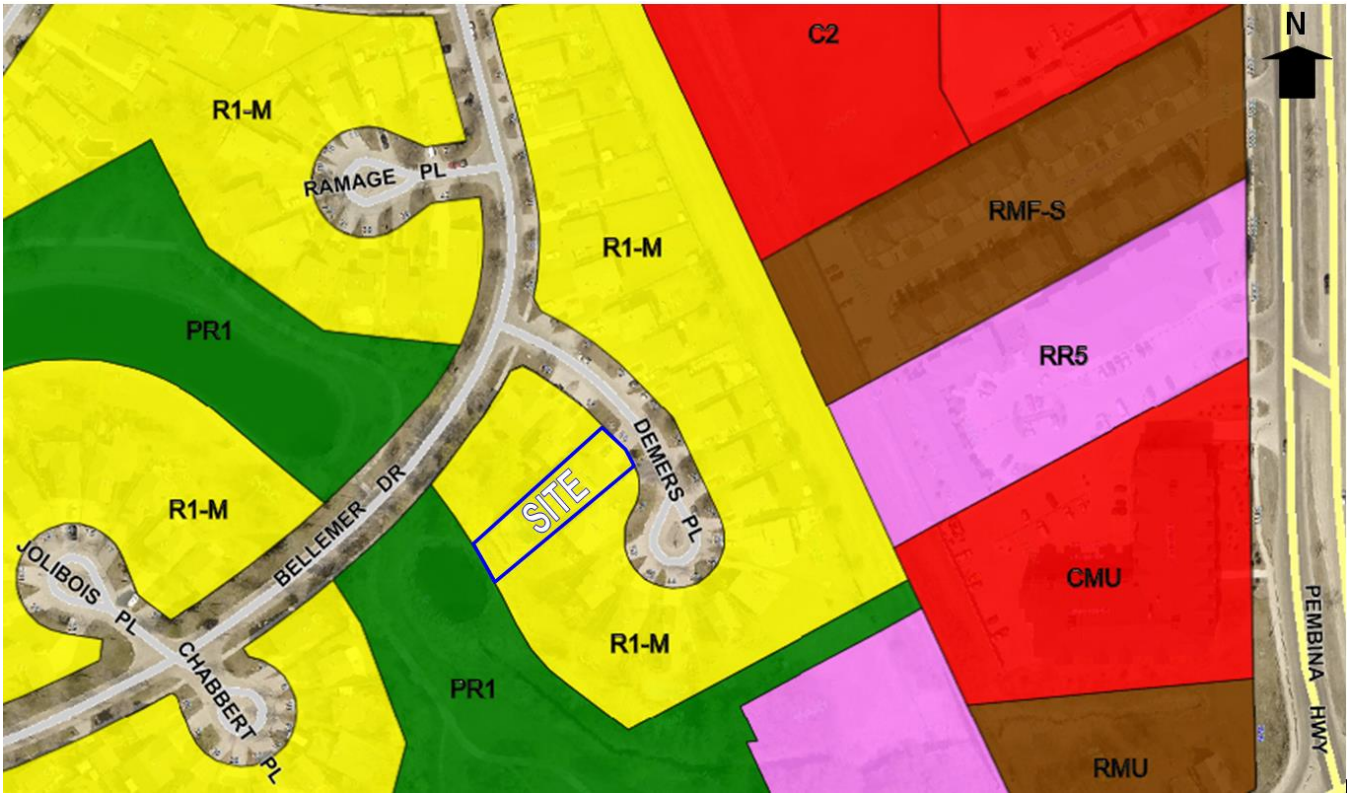


Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- Approximately 9 years ago, the applicant built a sunroom extension to the existing dwelling, a deck, and an outdoor pool.
- The sunroom addition provides a 25.76 metres (84.5 feet) rear yard to the principal building instead of 25.9 metres (85 feet).
- The deck (considered an accessory building or structure) provides a rear yard of 18.1 metres (59.4 feet) instead of 20.4 metres (67 feet).
- The outdoor swimming pool (a temporary structure) is set back 12.27 metres (40.25 feet) to the rear property line instead of 12.8 metres (42 feet).

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- The subject property is located within a *Recent Community* as designated in the *Complete Communities Direction Strategy.*
- *Recent Communities* are primarily residential areas with the following characteristics:
  - Dispersed, low to medium-density development patterns.
  - Curvilinear local road pattern with many cul-de-sacs.
  - Typically planned after 1950.

- The subject ZAA application to enable an addition to an existing dwelling at 60 Demers Place will not alter the character of development in this Recent Community and is thereby consistent with the vision for *Recent Communities* as described in the *Complete Communities Direction Strategy.*

CITY OF WINNIPEG ZONING BY-LAW 200/2006

"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.

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 sunroom addition provides a 25.76 metres (84.5 feet) rear yard to the principal building, the deck provides a rear yard of 18.1 metres (59.4 feet) , and the outdoor swimming pool is 12.27 metres (40.25 feet) to the rear property line. These structures therefore do not comply with Clause 3(a), (3(b), and 3(c) of the zoning agreement.

ZONING AGREEMENT ANALYSIS

- The rear yard setback incorporated into the zoning agreement is intended to accommodate fluctuations in the water level of the storm water 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.
- When applicants proposing changes to any yard setback onto a retention pond the Urban Planning Division consults with the Water and Waste Department to determine the suitability of the proposed yard setback. Water and Waste were consulted about the subject application and had no major concerns.
- As part of the subject ZAA application, the applicant has submitted a Slope Stability Assessment completed by an Engineering Consultant.

- In 1989 the City of Winnipeg approved ZAA 32/88 which involved amending the same zoning agreement (DASZ 56/86) that the subject application proposes to amend. 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.
- The sunroom addition, deck and pool have been constructed and have virtually no impact on neighbouring views of the retention pond.

RECOMMENDATION

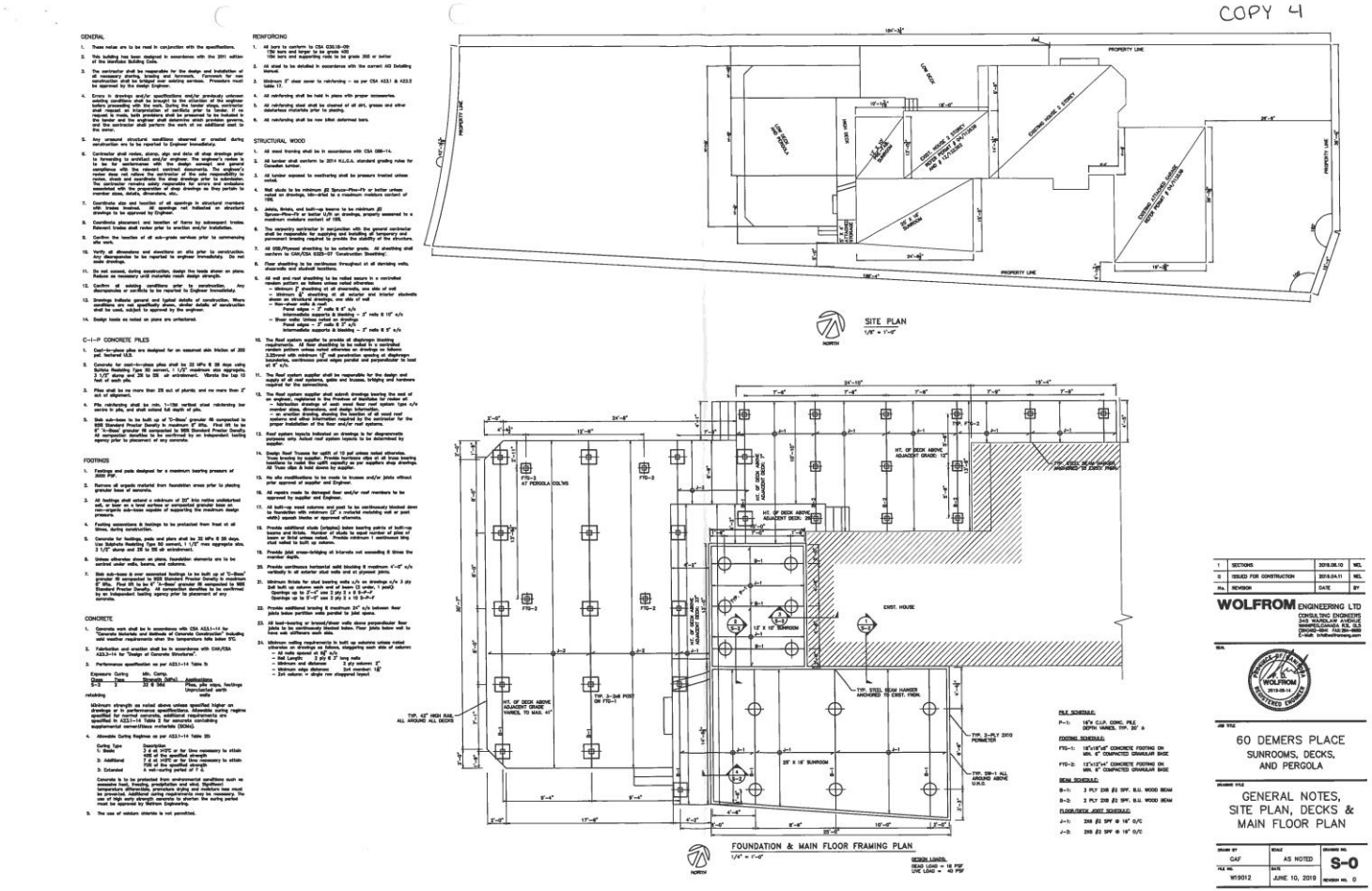
The Urban Planning Division recommends **approval** for the following reasons:

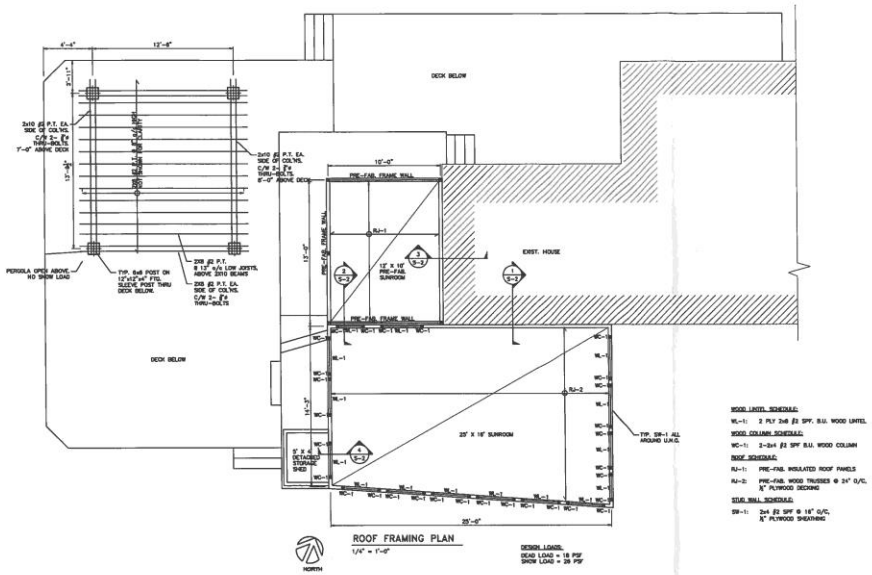
- The primary reason for including the rear yard setbacks stipulated in the zoning agreement is to protect structures on lots abutting the retention pond from flooding and related damage in the event of a 100-year storm.
- Water and Waste were consulted about the subject application and had no major concerns regarding the impact of the structures on the retention pond.
- The sunroom addition, deck and pool 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) for neighbouring properties at 44, 48 and 52 Demers Place.

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

Report Prepared By: Simi Jerez
PPD File # ZAA 8/19

Exhibit “9” referred to in File ZAA 8/2019





No.	REVISION	DATE	BY
1	SECTIONS	2019.06.10	WL
0	ISSUED FOR CONSTRUCTION	2019.04.11	WL

WOLFROM ENGINEERING LTD
CONSULTING ENGINEERS
345 WARDLAW AVENUE
WINNIPEG, CANADA R3L 0L3
(204)452-1044 FAX:204-8880
E-Mail: info@wolfromeng.com

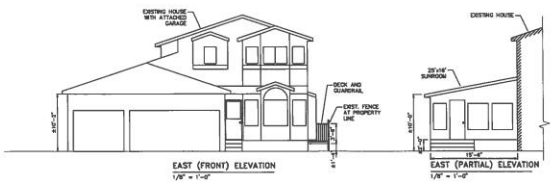
SEAL

PROVINCE OF BRITISH COLUMBIA WOLFROM 2019-06-14 REGISTERED ENGINEER

JOB TITLE
60 DEMERS PLACE
SUNROOMS, DECKS, AND PERGOLA

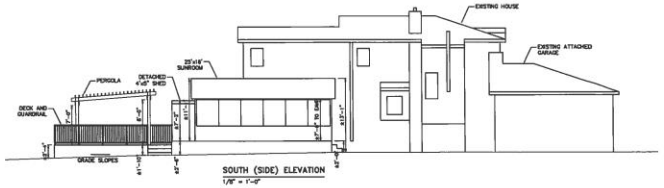
DRAWING TITLE
SUNROOMS ROOF AND PERGOLA PLANS

DRAWN BY	SCALE	DRAWING NO.
GAF	AS NOTED	S-1
FILE NO. W19012	DATE JUNE 10, 2019	REVISION NO. 0

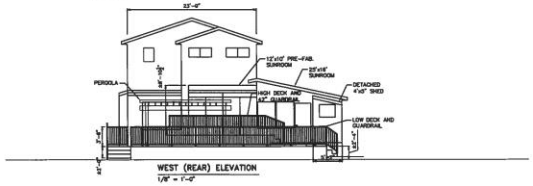


EAST (FRONT) ELEVATION
1/8" = 1'-0"

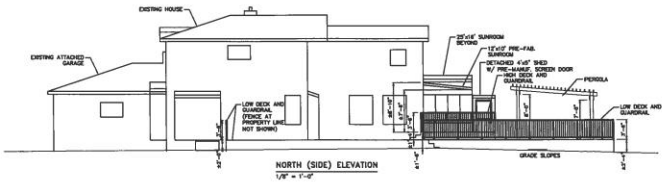
EAST (PARTIAL) ELEVATION
1/8" = 1'-0"



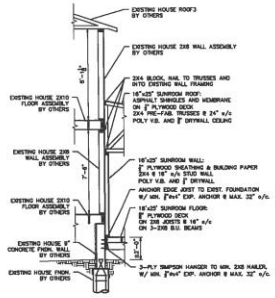
SOUTH (SIDE) ELEVATION
1/8" = 1'-0"



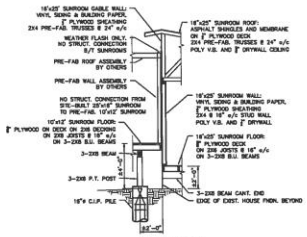
WEST (REAR) ELEVATION
1/8" = 1'-0"



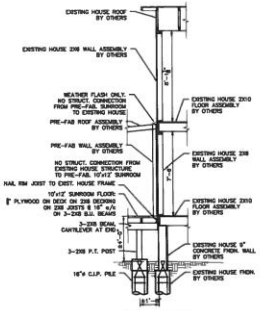
NORTH (SIDE) ELEVATION
1/8" = 1'-0"



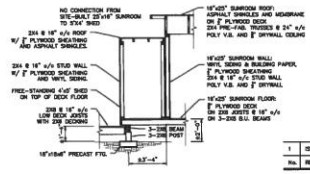
1 SECTION
S-2 1/4" = 1'-0"



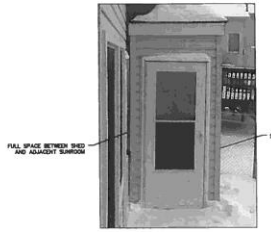
2 SECTION
S-2 1/4" = 1'-0"



3 SECTION
S-2 1/4" = 1'-0"



4 SECTION
S-2 1/4" = 1'-0"



DETACHED SHED
1/4" = 1'-0"

1	ISSUED FOR CONSTRUCTION	2019.06.10	MEL
No.	REVISION	DATE	BY

WOLFROM ENGINEERING LTD
CONSULTING ENGINEERS
348 WARDLAW AVENUE
WINNIPEG, CANADA R3L 0L5
(204)453-4944 FAX 284-8880
E-MAIL: info@wolfromeng.com

PROVINCE OF MANITOBA — WOLFROM — 2019-06-14 — REGISTERED ENGINEER

JOB TITLE

60 DEMERS PLACE
SUNROOMS, DECKS, AND PERGOLA

DRAWING TITLE

SUNROOMS AND PERGOLA ELEVATIONS & SECTIONS

DRAWN BY: GAF	SCALE: AS NOTED	DRAWING NO.: S-2
FILE NO.: W19012	DATE: JUNE 10, 2019	REVISION NO.: 0