Minute No. 653
Report - Standing Policy Committee on Property and Development – September 7, 2004

Item No. 23 Zoning Agreement Amendment - 80 Woodside Crescent
File ZAA 13/2004 [c/r DASZ 33/74B]

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That Zoning Agreement Caveat No. 85-98643 under File DASZ 33/74B dated March 19, 1986 (By-law No. 4081/85) be amended as follows:

   A. That the required rear yard for Lot 46, Block 2, Plan 19410 shall be a minimum of twenty-five (25) feet.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 33/74B (By-law No. 4081/85) dated March 19, 1986, as approved in Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the City Solicitor/Manager of Legal Services 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 - September 7, 2004

DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 22, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 7, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the Committee, with the following amendment, namely:

- Delete Recommendation 5 in its entirety,

and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 29, 2004, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation with the following amendment, namely:

- That Recommendation 1.A. be deleted and replaced with the following:

  "A. That the required rear yard for Lot 46, Block 2, Plan 19410 shall be a minimum of twenty-five (25) feet."

and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: Zoning Agreement Amendment - 80 Woodside Crescent - File ZAA 13/2004

For submission to: The Standing Policy Committee on Property and Development

Prepared by: Inga Skundberg, Clerk, East Kildonan-Transcona Community Committee

Report date: July 14, 2004

COMMUNITY COMMITTEE RECOMMENDATION:

On June 29, 2004, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement Caveat No. 85-98643 under File DASZ 33/74B dated March 19, 1986, (By-Law 4081/85) be amended as follows:

   A. That the required rear yard for Lot 46, Block 2, Plan 19410 shall be a minimum of 25 feet.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 33/74B (By-Law 4081/85) dated March 19, 1986, as approved in aforesaid Clause I.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

5. That in the event this application is not proceeded with expeditiously and the agreement is not signed within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of this time is applied for prior to the expiry of this twenty four (24) month period and the extension is subsequently approved by Council.

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. The East Kildonan-Transcona Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated June 19, 2004.

PUBLIC HEARING SUMMARY

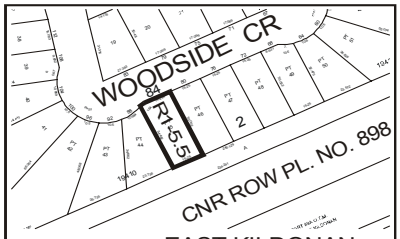
File: ZAA 13/2004

Before: East Kildonan-Transcona Community Committee
Councillor Wyatt, Chairperson
Councillor Lubosch
Councillor Thomas

Public Hearing: June 29, 2004
Community Committee Chamber
755 Henderson Highway

Applicant: Murray Clark

Subject:



APPLICANT : MR. M. CLARK
FILE : ZAA 13/04
PROPOSAL : To amend the Zoning Agreement affecting the lands shown outlined above to permit a minimum setback of 17.68 m. (58 ft.) instead of 22.86 m. (75 ft.) measured from the north limit of the Canadian National Railway Right-of-way Plan No. 898 to the closest portion of any wall of the dwelling constructed on the land. **For information, phone Mr. J. Wintrup, Planner at 986-5102.**

Premises Affected: 80 Woodside Crescent

Exhibits Filed:

1. Application dated May 12, 2004
2. Notification of Public Hearing dated May 14, 2004
3. Manitoba Status of Title 1453033
4. Zoning Development Information
5. Zoning Agreement DASZ 33/74B
6. Site Plan
7. Plans (2 pages)
8. Aerial Plan
9. Report from the Manager of Planning and Land Use dated June 19, 2004
10. Inspection Report
11. Communications (3 pages) from Diane Matt and Greg Marten, Janice and Rick McRae, and Mary Clark in support of the application

REPRESENTATIONS:

In Support:

Murray Clark

In Opposition:

Nil

For Information:

Nil

For the City:

Mr. J. Wintrup, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

Murray Clark appeared in support of the application.

John Wintrup, Planner, City of Winnipeg, requested that the administrative recommendation outlined in the Report from the Manager of Planning and Land Use dated June 19, 2004 (Exhibit 9) to amend Zoning Agreement Caveat No. 85-98643 as follows: "That the dwelling erected on Lot 46, Block 2, Plan 19410 shall not be located closer than 25 feet from the rear lot line." be changed to "That the required rear yard for Lot 46, Block 2, Plan 19410 shall be a minimum of 25 feet."

Exhibit "9" referred to in File ZAA 13/2004

In reply please refer to / Référence à rappeler : John S. Wintrup
(204) 986-5102
Fax / Téléc. : (204) 986-3684

File No. ZAA 13 / 04 June 19, 2004
Our c/f CP 500 (.415)

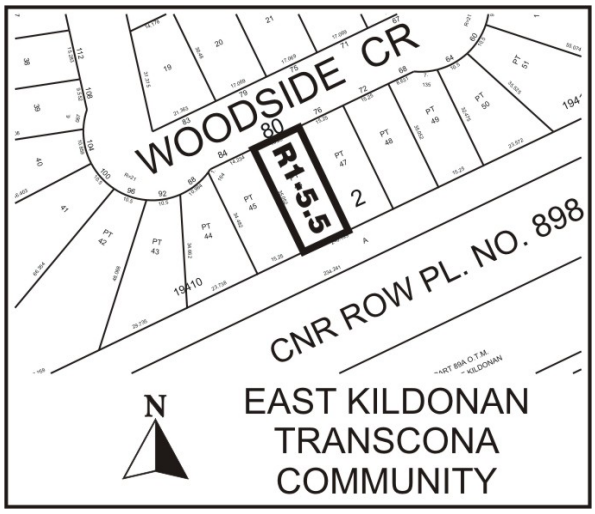
Ms. Inga Skundberg, Community Clerk
East Kildonan – Transcona Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Skundberg:

ZONING AGREEMENT AMENDMENT
80 Woodside Crescent
East Kildonan - Transcona
File No. ZAA 13 / 04

An application has been received from Murray Clark, to amend the Zoning Agreement affecting the property shown below.

RELATED FILES: DASZ 33/74B, ZAA 33/85, ZAA 25 & 26/87, ZAA 15/88



SITE DESCRIPTION:

Dimensions:

50.0 feet by 118 feet.

Site Area:

5,754.87 square feet (534.645 square metres).

Existing Land Use and Zoning:

Single Family Dwelling zoned "R1-5.5" Residential District.

DEVELOPMENT DESCRIPTION:

The applicant intends to construct an addition to the existing single family dwelling. The addition is an all season's family room and sitting nook that will be located on the southwest corner of the dwelling. It will extend the house approximately 17 feet into the rear yard. There is no fencing along the rear property line.

The existing single family dwelling has a 40 foot rear yard. There is a 35 foot wide parcel of City of Winnipeg land next to the CNR tracks that results in a 75 foot setback between the residential dwelling and the rail tracks. The new addition will result in a 23 foot rear yard and a total setback of 58 feet from the rail line.

ADMINISTRATIVE COMMENTS:

In 1985, By-law No. 4081/85 required that the homes built on properties on Woodside Crescent, backing onto the CNR rail line shall have rear yard setbacks of 90 feet.

In 1986, the zoning agreement was amended reducing the required setback to 75 feet. The reduction was based on noise calculation that indicated that the railway noise level would be 65 dBA (the minimum acceptable noise level) at a point 50 feet from the north limit of the rail right-of-way. The distance of 75 feet was chosen based upon traffic noise attenuation standards applied to regional streets and transportation corridors. A 35 foot strip of land running along the tracks was dedicated to the City, which resulted in the residential rear yard requirement becoming 40 feet (in order to maintain the 75 foot separation distance).

In subsequent years, applications have been made for 60, 68 and 92 Woodside to amend the zoning agreement to allow 28 foot rear yards for a total separation distance of 63 feet from the rail lines. The Department has supported these applications since it followed the intent of the zoning agreement regarding sound and separation distances.

More recently, the Planning and Land-use Division has recommend in similar situations that a 50 foot (15.24 metre) setback between the rear property line and any habitable rooms of principal buildings that are adjacent to rail tracks. This setback is in combination with a 6 foot high wood barrier fence for sound attenuation.

The Planning and Land-Use Division is of the opinion that the minimum setback for a residential dwelling against a rail corridor with no wood barrier fencing should be 60 feet. This would allow the applicant a 25 foot rear yard. A requirement for a 25 foot rear yard is the standard rear yard setback provided in Zoning By-Law 6400/94 for all residential zones. The applicant will still have an opportunity to expand the dwelling with a family room / nook into the rear yard.

RECOMMENDATION:

That the Zoning Agreement Caveat No. 85-98643 under file no. DASZ 33/74B, dated March 19, 1986 (By-Law # 4081/85) be amended as follows:

That the dwelling erected on Lot 46, Block 2, Plan 19410 shall not be located closer than 25 feet from the rear lot line.

That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 33/74B (By-Law # 4081/85), dated, March 19, 1986 as approved in aforesaid Clause I.

That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

That the City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

That, in the event this application is not proceeded with expeditiously and the agreement is not signed within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of this time is applied for prior to the expiry of this twenty four (24) month period and the extension is subsequently approved by Council.

Final Draft

Yours truly,

C. Knoll

Manager of Planning and Land Use

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Per: John S. Wintrup, Planner
East Kildonan – Transcona Community
986-5102



Figure 1: Air Photo of Subject Property and Surrounding Context

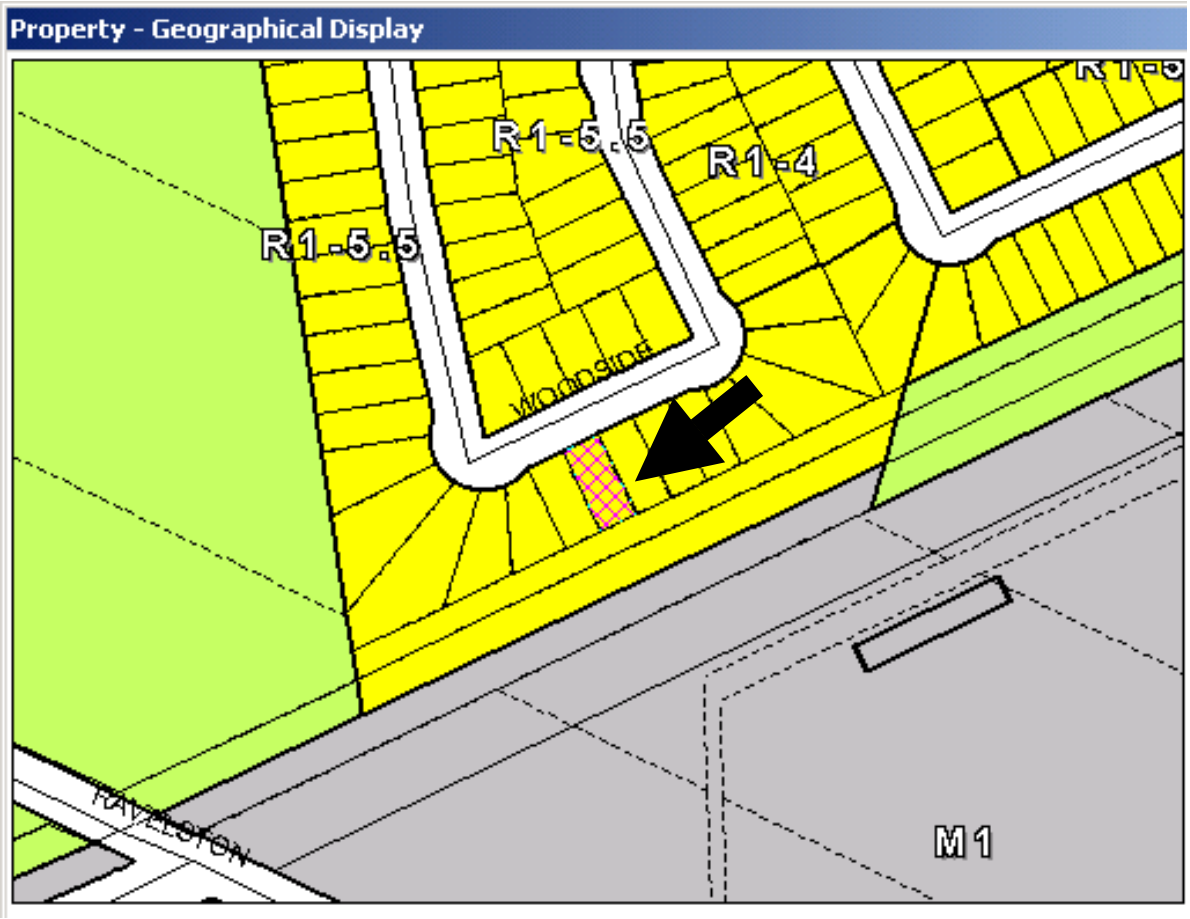

Figure 2: Zoning Map of Subject Property and Surrounding Context



Figure 3: Photo of subject property and approximate location of proposed addition.