

TITLE: VARIANCE 14 & 16 Balmoral Bay Ken & Esther Sitko			
PRESENTER: Robert Zilke, BES		FILE NO: V-25-14-B	
DEPARTMENT: Planning & Building Safety		MEETING DATE: November 19 th 2014	
CLEARANCES: Principal Planner		ATTACHMENTS: 1. Application related documents (Schedule A) 2. Map, air photo & drawings (Schedule B) 3. Community participation report (Schedule C)	
APPROVALS:			
Original signed by R. Zilke		Original signed by R. Nickel	
Oct 30, 2014		Oct 31, 2014	
Community Planner		Principal Planner	
Date		Date	

REQUEST:

The property owners, Ken and Esther Sitko, are applying to vary provision 30(e)(1) of the City of Brandon Zoning By-law to increase the maximum floor area of a Secondary Suite from 80m² to 182m² and the maximum size of a Secondary suite from 40% to 43% of the total floor area of the principal single-family dwelling for a property located at 14 & 16 Balmoral Bay (Parcel B, Plan 1468 BLTO) in RSF Residential Single Family Zone. Approval of this application will allow for the development of a secondary suite within an existing single-family detached dwelling.

BACKGROUND:

Development Context

The subject site is currently occupied by a two-family dwelling within a detached building and is located on a corner site along Balmoral Bay. The immediate surrounding area consists of RSF zoned properties, all of which have remained as single-family dwellings. The lane located to the south of the subject site is undeveloped and is not used for vehicle access. Primary access to the site is provided by Balmoral Bay. The site is within 400m or a five minute walk from a neighbourhood Park (Crocus Playground) and a transit stop along 9th Street.

History

The subject site is currently occupied by a single family detached house which in accordance with the community participation report was built in 1973 as two separate dwelling units when the property was located in the RM of Cornwallis. The two-family dwelling was sold in 1976, at which time the dwellings were connected by means of an attached second floor and glass atrium. In 2005 the property was purchased and used exclusively as one large single-family detached dwelling. The current owners purchased the property in 2013 and have used the dwelling as two units to accommodate family members. The property has always been assessed as one dwelling unit by Provincial Assessment.

Multifamily dwellings are not permitted in the RSF Zone. The City has recently received multiple complaints regarding the subject property to be sold as a duplex. Upon review of the history as noted above, it is determined that the subject duplex is not considered lawfully non-conforming. In accordance with

section 91(b) of the Planning Act a use loses its non-conforming status if it has been discontinued for more than 12 consecutive months.

The applicant has also applied to subdivide the subject property to create a separate 17.4m (57') lot on the eastern portion of the property which will result in a residual parcel with a width of 44.6m (146.4'). The completion of the proposed subdivision has no bearing on this variance, as the size of both the proposed and residual parcel are in compliance with the residential bulk and siting requirements as set forth in Table 11 in the Zoning By-law.

ANALYSIS:

The intent of the RSF zone is to allow for the development of single-family detached dwelling units only, regardless of the size of the property. In an attempt to remedy the non-compliance issue, the applicant is applying for a variance to Section 30(e)(1) to increase the maximum floor area of a Secondary Suite from 80m² to 182m² and the maximum size of a Secondary suite from 40% to 43% of the total floor area of the principal single-family dwelling. Both the principal dwelling unit and the secondary suite have separate entrances facing east on Balmoral Bay and share a common entrance off of the rear of the building. Both the primary and secondary units have a direct pedestrian connection to the public sidewalk along Balmoral Bay. Vehicle parking is provided exclusively from Balmoral Bay with three (3) parking spaces located within the detached garage.

Consistency with Part 6, Section 97(1)(b) of The Planning Act and Demonstration that the Variance:

1. Will be compatible with the general nature of the surrounding area;

The proposal is to allow for an enlarged secondary suite in a single-family dwelling. The proposed use is consistent with the residential character of the existing neighbourhood that includes exclusively single-family detached dwellings. The only changes to the subject site will be restricted to the internal space of the dwelling, thereby maintaining the residential character of the neighbourhood.

2. Will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area;

The proposal is to allow for a secondary suite to be larger than the floor area as permitted under the Zoning By-law; the proposed use will likely generate noise, vibration, dust, lighting, odour or traffic at a level that is commensurate with a RSF zoned area. To ensure preservation of the character of the area, the secondary suite must be owner occupied in accordance with the definition for a secondary suite in Section 6(b)(65) in the zoning by-law. Furthermore, the external structure and use of the subject property will not change from its current state. Therefore, the proposed secondary suite, as proposed, will not likely be detrimental to the surrounding area.

3. 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

The property was purposely built as a duplex back in 1973 when the subject property was still in the RM of Cornwallis. Limiting the size of the suite to current requirements will likely cause hardship to the applicant's property. Due to the history of the site and the design of the existing two dwellings, the request is the minimum modification.

4. Is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law

The subject site is designated "Residential" in the Development Plan, and the proposed variance to convert one of the units to a secondary suite complies with the objectives of the Residential Policies 2.1 (b)(e) which encourages adequate supply of affordable housing and to promote the efficient

utilization of land by achieving increased residential densities while maintaining the character of the neighbourhood. Policy 2.2.3 of the Development Plan 2013 regarding housing affordability encourages the provision of alternative housing types, styles, sizes and tenures in a variety of geographical areas in order to increase the affordable housing stock in City of Brandon. Furthermore, the variance will bring the property into compliance by allowing the two-family dwelling to convert back into a single-family dwelling by turning one of the dwelling into a secondary suite. The Zoning By-law requires that the owner must occupy the main dwelling. To implement this requirement, the owner must provide the City a signed occupancy affidavit prior to the occupancy of the secondary suite. Furthermore, the existing site, as proposed, complies with the minimum bulk and siting requirements in Table 11 and the minimum parking requirements set forth in Table 4 of the Zoning By-law.

Commenting Agencies

A summary of comments on the application are summarized below. All other comments received have been addressed.

City of Brandon

- A building permit will be required for any required upgrades to the Secondary Suite.

Notification

As required under section 169 of The Planning Act, notice of this Public Hearing regarding this application was sent to owners of property within 100 metres (328 feet) of the subject property; notice posters were posted on the property.

Public Outreach

In accordance with the Zoning By-law Appendix D, Public Hearing requirements, the applicant went door-to-door to residents in the surrounding neighborhood of the subject property and gave the residents an overview of the proposed application. The applicant spoke with eight (8) nearby residents, and according to the Public Participation Report, there were some questions regarding the nature of the use (whether it would be used for a duplex or secondary suite), but the feedback received was generally positive. As of the writing of this report, the Planning & Building Safety Department did not receive any written comments in favour of or in opposition to the proposed variance.

RECOMMENDATIONS:

1. That the Public Hearing for Variance Application V-25-14-B at 14/16 Balmoral Bay be concluded.
2. That Variance Application V-25-14-B to increase the maximum floor area of a secondary suite from 80m² to 182m² and the maximum size of a secondary suite from 40% to 43% of the total floor area of the principal single-family dwelling in the RSF Residential Single Family Zone be approved at 14 & 16 Balmoral Bay (Parcel B, Plan 1468 BLTO) in accordance with the intent of the application “Schedule A- 1”, the attached letter of intent “Schedule A- 2” and the attached site plan “Schedule B- 2” and floor plans “Schedule B- 3 & B - 4”.