


<b>TITLE:</b> <p style="text-align: center;"><b>VARIANCE</b>  <b>1129 ASSINIBOINE AVENUE</b>  <b>APPLICANT/ OWNER : GEOFFREY &amp; TIMOTHY GREGOIRE</b></p>										
<b>PRESENTER:</b> Waleed Albakry, MCP	<b>FILE NO:</b> V-15-13-B									
<b>DEPARTMENT:</b> City of Brandon Planning & Building Safety Department	<b>MEETING DATE:</b> September 4, 2013									
<b>CLEARANCES:</b> Principal Planner	<b>ATTACHMENTS:</b> 1. Application related documents 2. Map, air photo & drawings									
<b>APPROVALS:</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center;"><i>Original signed by W. Albakry</i></td> <td style="width: 10%; text-align: center;">August 22, 2013</td> <td style="width: 50%; text-align: center;"><i>Original signed by A. Veilleux</i></td> <td style="width: 10%; text-align: center;">August 22, 2013</td> </tr> <tr> <td style="text-align: center;"><b>Community Planner</b></td> <td style="text-align: center;"><b>Date</b></td> <td style="text-align: center;"><b>Principal Planner</b></td> <td style="text-align: center;"><b>Date</b></td> </tr> </table>			<i>Original signed by W. Albakry</i>	August 22, 2013	<i>Original signed by A. Veilleux</i>	August 22, 2013	<b>Community Planner</b>	<b>Date</b>	<b>Principal Planner</b>	<b>Date</b>
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**BACKGROUND:**

Geoffrey & Timothy Gregoire, owners and applicants, are applying for the following variances to:

- increase the maximum number of dwelling units from 2 dwelling units to 4 dwelling units;
- reduce the minimum number of required parking spaces for four dwelling units from six (6) parking spaces to five (5) parking spaces; and
- reduce the Railway Overlay Zone from 30 metres to 25 metres.

for a property located at 1129 Assiniboine Avenue (Lots 9 and 10, Block 89, Plan 2 BLTO in NW ¼ 23-10-19 WPM) in the RLD Residential Low Density Multiple Family Zone.

***Zoning/Development Context***

The 16.62m (54.52’) x 35.78m (117.38’) currently vacant property is 559.06m<sup>2</sup> (6017.67’) in size and is located on the corner of Assiniboine Avenue East and 12<sup>th</sup> Street North. Primary vehicle access to the site is by the rear lane to the north. The immediate surrounding area consists of RLD zoned properties, most of which have remained single family dwellings. There is also RMD Residential Moderate Density Multiple Family zoned property consisting of 4 multiple-family dwellings west of the subject site along Assiniboine Avenue. The Canadian Pacific Railway right-of-way is in close proximity to the subject site as it is located south of Assiniboine Avenue. Additionally, the Sokol Manor Senior Housing is one block west of the subject property and the North End Community Centre is one block to the northwest along Stickney Avenue.

**DISCUSSION:**

The applicant is proposing to construct a two-storey 4-unit multi-family dwelling on a corner lot. It should be noted that the subject site was approved in 2009 under variance order V-11-09-B to increase the maximum required number of dwelling units from two (2) to four (4) and reduce the minimum required number of parking spaces for a four (4) dwelling units from six (6) spaces to five (5) spaces. That variance order expired since it was not acted upon within 12 months of the date of the decision as stipulated in clause 102(1) of the Planning Act regarding the expiry of variance order. The applicant applied for and was granted a 12 month extension expiring in May 20<sup>th</sup>, 2011 in accordance with clause

102(2) of the Planning Act regarding extending approval deadline. The variance order extension was also not acted upon. The applicant is currently applying for the same previously approved variance.

Section 51.1(b) Railway Protection Overlay Zone of Brandon Zoning By-law 6642, as amended stipulates that no dwelling units will be permitted within 30 metres of a railway right-of-way. The purpose of the Railway Overlay Zone is to ensure that development is compatible with railway operations as there is the possibility that the safety, health and welfare of residents could be adversely affected by railway activities. Part of this property falls within the required 30 metre railway right-of-way therefore the proposed building must have a minimum front yard setback of 9.8m. Though most of the older buildings along Assiniboine Avenue do not comply with the Railway Protection Overlay Zone setback requirement, the Planning and Building Safety Department received an objection letter from C.P.R regarding the Railway Overlay Zone setback variance for the proposed development.

In regards to the parking variance, the applicant is proposing to reduce the parking from 6 spaces to 5 spaces. This will provide one parking space per unit as well as an accessible parking space. With the property being located on a corner lot and north of the C.P.R right-of-way, on-street parking should be sufficient on Assiniboine Avenue and 12<sup>th</sup> Street North. The Planning and Building Safety Department believes that this reduction of parking does not pose a problem for the neighbourhood.

However, the Planning and Building Safety Department is not in support of this proposal as it deviates from the Department's consistent approach of supporting only one additional unit on 50' x 120' lots. The only exception to this approach in dealing with similarly sized lots might occur in properties that are either located within the Hub or the central neighbourhoods area of the Downtown Promenade Overlay Zone.

***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 immediate surrounding area consists of RLD zoned properties, most of which have remained single family dwellings. There is also an RMD Residential Moderate Density Multiple Family zoned four-plex west of the subject site along Assiniboine Avenue. The residential nature of the proposal is consistent with the surrounding area.

Though the two-storey height of the proposed building will be compatible with the general nature of the surrounding area because the subject site is a corner lot and the surrounding area is composed of a mix of one and two-storey building, it is the view of the Planning & Building Safety Department that the proposed 4 dwelling units and the wall span will detract from the character of the neighbourhood. Bulky dwellings detract from the attractiveness of the neighbourhoods and negatively affect the outlook of the neighbours by creating a closed feeling.

***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 residential and will not impair the integrity and character of the neighbourhood as it does not generate noise, vibration, dust, lighting, traffic, or odour concerns. Parking will be accessed off the rear lane to the north and the garbage bins will be screened by opaque fencing.

***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***

Limiting the site to two (2) dwelling units does not impose an injurious effect on the subject site. It is the view of the Planning & Building Safety Department that only one additional unit on 50' x 120'

lots is a reasonable density increase in areas outside the Hub and the central neighbourhoods area of the Downtown Promenade Overlay Zone.

**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 Map 1: Urban Land Use of the Development Plan 2013, and the proposal meets general objective 10.2.3(a) of the Development Plan 2013, supporting the intensification of infill areas. Furthermore, the proposed development meets all setback requirements listed in the Zoning By-law with the exception of the Railway Overlay Zone setback. The design of the building meets the Urban Design Standards and Guidelines, such as section 3.1.1.1 - locating active windows to overlook semi-private and public spaces in front of and behind the subject site – and section 3.7.3 - locating perennial and/or shrub plantings directly adjacent to the building foundation of any façade which is plainly visible from a street.

***Commenting Agencies***

A summary of comments requesting conditions of approval or recommending rejection of the application is below. All other comments received have otherwise been addressed.

***City of Brandon***

- A cash-in-lieu of land dedication for public reserve purposes is required;
- Servicing and drainage plan are required;
- The planting of boulevard trees in accordance with the City of Brandon Landscape Design Standards is required; and
- Property Department requests that the applicant designates the building as units.

A development agreement will be required to ensure, amongst other things:

- Lane to be paved entire length of site;
- Access on Assiniboine Avenue to be removed. Additionally, the curb, boulevard and sidewalk shall be restored to City of Brandon Standards; and
- A Letter of Credit to ensure the work done on the public streets is completed to the City of Brandon Engineering Department’s satisfaction.

***School Division***

A cash-in-lieu of land dedication for school reserve purposes is required.

***Canadian Pacific Railway***

The Canadian Pacific Railway (C.P.R) is not in favour of residential uses adjacent to the right-of-way, as there is the possibility that the safety, health, and welfare of residents could be adversely affected by railway operations. Therefore, C.P.R objects to the Railway Overlay Zone setback variance.

***Public Outreach/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 and notice posters were posted on the property. The Planning Department is not aware of any additional public consultations conducted by the applicant, and to date the Planning Department has not received any written comments from the public in favour of or in opposition to the proposal.

**RECOMMENDATION:**

1. That the Public Hearing for Variance Application V-15-13-B at 1129 Assiniboine Avenue be concluded.
2. That Variance Application V-15-13-B to increase the maximum number of dwelling units from 2 dwelling units to 4 dwelling units, reduce the minimum number of required parking spaces for four dwelling units from six (6) parking spaces to five (5) parking spaces, and reduce the Railway Overlay Zone from 30 metres to 25 metres be **rejected**.