


TITLE: <p style="text-align: center;">VARIANCE 1031 1st STREET OWNER: MITCHELL HASSLER & NATASHA ECKERT APPLICANT: ANNE BOYCHUK</p>		
PRESENTER: Ryan Eidick	FILE NO: V-23-13-B	
DEPARTMENT: City of Brandon Planning & Building Safety Department	MEETING DATE: January 15, 2014	
CLEARANCES: Principal Planner	ATTACHMENTS: 1. Application related documents 2. Map, air photo & drawings	
APPROVALS:		
<i>Original signed by R. Eidick</i> Community Planner	December 30, 2013 Date	<i>Original signed by A. Veilleux</i> Principal Planner
		Jan. 2/14 Date

BACKGROUND:

Anne Boychuk, on behalf of the owners, Mitchell Hassler and Natasha Eckert, is applying to reduce the minimum required rear yard setback for an accessory building from 0.60m to 0.20m, and to increase the maximum projection for eaves from no closer than 0.30m to no closer than 0.00m for a property located at 1031 1st Street in the RLD Residential Low Density Multiple Family Zone.

Zoning/Development Context

The subject property is currently used for a single-family dwelling, and is located midblock on 1st Street, between Southern Avenue East and Madison Crescent. The property is surrounded with primarily single-family dwellings.

DISCUSSION:

The proposal is to allow for an existing shed to remain in its current location, 0.20m away from the rear property line, with the eaves projecting into the public right-of-way. There is evidence showing the shed was built without a permit after 1987, therefore it cannot be deemed legally non-conforming and is required to be located in accordance with the most current setback regulations in the Zoning By-law. The shed cannot be moved easily to conform with the setback regulations, as it has electrical services installed and would be costly and complicated to move. Due to the fact that the eaves project into the public right-of-way, an encroachment agreement will be required with the City of Brandon.

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;

Although the exact date of construction is unknown, the shed has been situated in its present location for, according to the letter of intent (A-3), almost twenty years.

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;

No access from the rear lane is possible from the shed; therefore traffic along the rear lane is not impacted by its placement, nor will it be detrimental to any of the surrounding properties.

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 reduction of the rear yard setback requirement for the shed is the minimum modification of the zoning by-law possible given the circumstances.

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 property is designated "Residential" in the Development Plan, and the shed meets all other requirements of the zoning by-law, including all other setbacks.

Commenting Agencies

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

City of Brandon

-An encroachment agreement with the City of Brandon will be required to deal with the eaves that project into the public right-of-way.

-A building permit will be required to legally establish the shed.

Public Outreach/Notification

As required under s. 169 of The Planning Act, notice of this Public Hearing regarding this application were posted on the property. The Planning & Building Safety Department is not aware of any additional public consultations conducted by the applicant, and to date the Planning & Building Safety Department has not received any written comments from the public in favour of or in opposition to the proposal.

RECOMMENDATIONS:

1. That the Public Hearing for Variance Application V-23-13-B at 1031 1st Street be concluded.
2. That Variance Application V-23-13-B to reduce the minimum required rear yard setback for an accessory building from 0.60m to 0.20m be approved at 1031 1st Street (Lots 10/11, Block 1, Plan 14 BLTO) in accordance with the intent of the application (A-1), the attached letter of intent (A-3) and the attached site plan (B-2), subject to:
 - a. the owner or successor, prior to the issuance of a building permit, submitting written confirmation to the satisfaction of the City of Brandon Planning & Building Safety Department that an encroachment agreement has been registered on the Title to the subject property.