
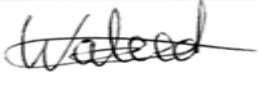



<b>TITLE:</b> <b>VARIANCE V-43-12-B</b> <b>555 38<sup>TH</sup> STREET</b> <b>LOTS 27/30, BLOCK 4, PLAN 260 BLTO EXCL NLY 12' OF LOT 30</b> <b>OWNER: CURTIS &amp; MAUREEN GOERTZ</b> <b>APPLICANT: DENNIS FOERSTER</b>		
<b>PRESENTER:</b> Waleed Albakry, MCP	<b>AGENDA NO:</b>	
<b>DEPARTMENT:</b> Planning & Building Safety	<b>MEETING DATE:</b> February 6, 2013	
<b>CLEARANCES:</b> A/Senior Planner	<b>REPORT &amp; ATTACHMENTS:</b> 1. Report (# of pages = 2) 2. Application related documents (# of pages = 4) 3. Map, air photo & drawings (# of pages = 3)	
<b>APPROVALS:</b>		
 January 27, 2013 <b>Community Planner</b>	 January 28, 2013 <b>A/Senior Planner</b>	

**BACKGROUND:**

Dennis Foerster, on behalf of the owners, Curtis & Maureen Goertz, is applying for a variance to reduce the minimum required rear yard setback for an accessory building from 0.6m (1.97') to 0.5m (1.64') and the projection for overhanging eaves and gutters from 0.3m (1') to 0.1m (.33') to a rear site line for a property located at 555 38<sup>th</sup> Street in the RSF Residential Single Family Zone. This would allow the owner to retain the existing non-compliant shed located in the backyard of the site.

***Zoning/Development Context***

The subject site is a single family house located at the corner of McTavish Avenue East and 38<sup>th</sup> Street and primary vehicle access to the site is by 38<sup>th</sup> Street. The immediate surrounding area consists of single family houses. Fowler Hyundai dealership and Westside Storage are located two blocks west of the subject site, Victoria Inn Hotel one block to the east, and the House of Nissan dealership one block to the north.

**DISCUSSION:**

The Planning Commission is required to make the decision as in accordance with section 92(1) of *The Planning Act* since the non-conformity is greater than 10%. The existing non-compliant shed located in the backyard of the subject site is 14.85 square metres in size and is located on a concrete foundation. Therefore, it would be arduous for the owner to relocate the shed. Hence, the owner is seeking relief from the provisions of Zoning By-law No. 6642 to permit an existing non-compliant shed located 0.1m (0.33') from the rear property line.

***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 existing shed is small in size (14.85 square metres) and the subject house is located within a mostly residential area. Furthermore, the location of the shed is acceptable since the property backs onto an undeveloped back lane, and the shed is in the same general location as the sheds on adjacent properties to the east.

**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 approval of the proposed variance will not result in adverse impacts on the neighbourhood, such as noise, dust, odour, or vibration. Additionally, there would be no lighting illuminating directly onto adjoining sites or streets. Furthermore, the southern portion of the rear yard, where the shed is located, is screened from McTavish Avenue by a line of boulevard trees.

**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 intent of the variance is to allow for an existing shed (located on a permanent foundation) to exist legally, not to allow for future constructing of noncompliant accessory buildings.

**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 shed conforms to the requirements for the maximum height and distance from main building specified in Table 11 of Zoning By-law 6642 as it is under 4m high and has a distance of more than 17m from the house.

***Commenting Agencies***

All comments received have been addressed.

***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 the applicant conducting additional outreach with the public on its proposal, and, as of the writing of this report, 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-43-12-B at 555 38<sup>th</sup> Street be concluded.
2. That Variance Application V-43-12-B to reduce the minimum required rear yard setback for an accessory building from 0.6m (1.97') to 0.5m (1.64') and the projection for overhanging eaves and gutters from 0.3m (1') to 0.1m (.33') to a rear site line in the RSF Residential Single Family Zone be approved at 555 38<sup>th</sup> Street (Lots 27/30, Block 4, Plan 260 BLTO exc Nly 12' of Lot 30) in accordance with the intent of the application dated December 10, 2012, the attached letter of intent dated November 15, 2012 and the attached site plan.