



**CITY OF BRANDON  
PLANNING & BUILDING SAFETY DEPARTMENT**

421 - 9<sup>th</sup> Street • Brandon, Manitoba • R7A 4A9  
Telephone (204) 729-2110 • Fax (204) 728-2406

**Variance to Zoning By-law 6642**

Name of Property Owner: Curtis Dean Goertz and Maurcen Mae Goertz  
(Please Print)

Name of Applicant: Dennis M. Foerster  
(Please Print)

Civic Address of Property: 555-38<sup>th</sup> Street, Brandon, MB R7A 3R4

Legal Description of Property: Lots 27 to 30 Both inclusive block 4 plan 2606150  
Exc. out of said lot 30 the NLY 12 feet in NE

References: 1/4 16-10-19

BAPD Development Plan By-law No. 78/01/04  
Applicable Secondary Plan By-law  
City of Brandon Zoning By-Law No. 6642  
Urban Design Standards and Guidelines

Variance Request: To reduce the minimum required rear yard set back for  
an Accessory Building from 0.60m (1.97') to 0.11m (0.36') in the  
RSF Residential Single Family Zone.

*I undertake to observe and perform all provisions of The Planning Act, the Development Plan, the Zoning By-law, and the provisions of other relevant laws, by-laws or agreements.*

Signature of Owner: [Signature] Date: Nov-21

Address: 555 38th St Brandon R7B2T2 E-Mail: \_\_\_\_\_  
Street Address City/Province Postal Code

Home Phone: 727-2236 Cell Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Signature of Applicant: [Signature] Date: \_\_\_\_\_

Address: 921 Rosser Ave Brandon, MB R7A0L3 E-Mail: \_\_\_\_\_  
Street Address City/Province Postal Code

Home Phone: \_\_\_\_\_ Cell Phone: 204-224-3758 Work Phone: 204-727-7192

The personal information which you are providing is being collected under the authority of The Planning Act and will be used for the purpose of approving this application. Information is also being collected for the purpose of statistical reporting. It is protected by the Protection of Privacy provisions of The Freedom of Information and Protection of Privacy Act. If you have any questions about the collection and/or use of information, contact Jennifer Houlihan, FIPPA Coordinator, City of Brandon Planning & Building Safety Department, 421 - 9<sup>th</sup> Street, Brandon, Manitoba, R7A 4A9, Telephone (204) 729-2116.

**FOR PLANNING OFFICE USE ONLY:**  
Community Planner: RYAN ENICK Planning File No.: V-43-12-B CityView No.: 12-174  
Date Application Received: Dec 10/12 Payment Date: Dec 10/12 Receipt No.: 50819 Amount: \$ 900.00  
Variance - Application

November 15, 2012

File No. 979F

**BRANDON & AREA PANNING DISTRICT**

421-9<sup>TH</sup> Street

Brandon, Manitoba, R7A 4A9

Dear Sirs:

RE: 555- 38<sup>th</sup> Street Brandon, Manitoba R7A 3R4

The writer requests that you treat this correspondence as the Detailed Letter of Intent with respect to the Application for Variation Order. The writer is enclosing his firm's cheque in the amount of \$900.00, but in the circumstances the writer hopes that your office will agree to reduce the amount for this application to proceed to \$450.00.

Wayne and Jeanine Rowe were the owners of the above described property which they sold to the present owners on or about October 1, 2011. When this transaction was closing the writer, who acted as counsel for the vendors, was informed that the subject property was not in compliance with all applicable zoning by-laws. Please see the attached Zoning Memorandum as provided by the Purchasers' solicitor to the writer marked as **Attachment "A"**.

The vendors', Mr. and Mrs Rowe purchased the property on September 28, 2001 at which time the improperly built shed was already constructed and on the property. Please see the reporting letter of the solicitor representing the Rowe's when they purchased the property marked as **Attachment "B"**

As part of the transaction, and referred to in the reporting letter to the Rowe's when they purchased the property, they had a survey conducted. An original sealed copy is provided.

What appears to have happened is that subsequent to the receipt of the survey, which does not indicated any encroachments, counsel for Mr. and Mrs. Rowe received a zoning memorandum dated 3 days after the date of the surveyor's letter wherein it was indicated that the shed does not conform and must be relocated Please see **Attachment "C"**

I can advise the planning department that neither Mr. nor Mrs Rowe were aware of this Zoning Memorandum and only became aware of the non-compliance of their property when attempting to complete the transaction for the sale to the present owners.

It is for this reason that the writer is requesting that the filing fee be reduced to the normal \$450.00 and not the somewhat punitive \$900.00. The higher rate is for property owners who commence a project and only afterwards apply for the appropriate zoning memorandum. This situation is somewhat unique in that they did not construct this non-complying shed rather this was already on the property when they purchased it. Their lawyer when they purchased the property did not take the

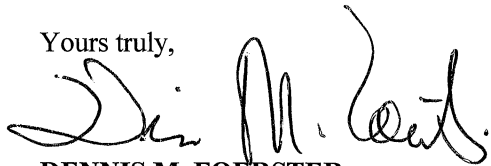
necessary steps to protect their interests when they purchased the property. You may note that the reporting letter was sent in December 2001 quite some time after the lawyer received both the survey and the zoning memorandum and at that time was in a position to take action against the previous vendor in much the same manner that the present lawyer for the purchaser is requiring Mr. and Mrs Rowe to obtain a variation.

In terms of the substance of the request of Mr. and Mrs. Rowe, this shed is not merely a shed, but includes a cement base which houses a pump. Although therefore a relatively small structure, it would not be possible to move the structure as the cement base which was construct for a well could not easily be moved. Further the writer understands that the public lane referred to on the survey is actually green space and therefore to allow the building to remain in a non-conforming manner would not impair an actual public lane.

We trust the above is appropriate in order to grant the appropriate remedy allowing the present owners to have their property be in compliance by granting the necessary variation.

The writer thanks you in advance for your attention to this matter. Should you require any further information please do not hesitate to contact the writer.

Yours truly,

A handwritten signature in black ink, appearing to read "Dennis M. Foerster". The signature is fluid and cursive, with a large initial "D" and "F".

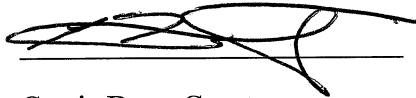
**DENNIS M. FOERSTER**

DMF/

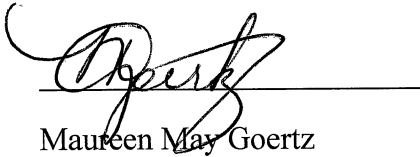
**Authorization**

I, **CURTIS DEAN GOERTZ** and I, **MAUREEN MAE GOERTZ**, authorize Dennis M. Foerster of The Law Office of Dennis M. Foerster, to be my agent for obtaining an Application for a Variation Order.

Dated at the City of Brandon this *21* day of *Nov.*, 2012.

A handwritten signature in black ink, appearing to read "Curtis Dean Goertz", written over a horizontal line.

Curtis Dean Goertz

A handwritten signature in black ink, appearing to read "Maureen May Goertz", written over a horizontal line.

Maureen May Goertz

