


<b>TITLE:</b> <p style="text-align: center;"><b>VARIANCE</b>  <b>821 — 9<sup>TH</sup> STREET</b>  <b>(LOTS 19/20, BLOCK 56, PLAN 8 BLTO)</b>  <b>OWNER: STEPHANIE AND CHARLES JORDAN</b>  <b>APPLICANT: KATE MCKENZIE</b></p>		
<b>MEETING DATE:</b> November 16, 2022		<b>Page 1 of 4</b>
<b>DEPARTMENT:</b> Planning & Buildings	<b>ATTACHMENTS:</b> A. Application related documents B. Map, air photo & drawings C. Variance Order V-13-22	
<b>PRESENTER:</b> Justin Quigley, Community Planner	<b>MANAGER:</b> Ryan Nickel, Director of Planning & Buildings	

**RECOMMENDATIONS:**

That Variance Application V-22-22 to decrease the required minimum site width from 18.2m to 9.0m and the minimum site area from 670.0m<sup>2</sup> to 324.0m<sup>2</sup> in the Residential Moderate Density (RMD) Zone be approved at 821 – 9<sup>th</sup> Street (Lots 19/20, Block 56, Plan 8 BLTO) in accordance with the attached letter of intent “Attachment A” and site plan “Attachment B-3”.

**BACKGROUND:**

***Request***

The applicant Kate McKenzie, on behalf of owners Stephanie and Charles Jordan, is applying to reduce the minimum site width from 18.2m to 9.0m and the minimum site area from 670.0m<sup>2</sup> to 324.0m<sup>2</sup> in the Residential Moderate Density (RMD) Zone to subdivide a new lot and construct a duplex dwelling on the new lot for a property located at 821 – 9<sup>th</sup> Street in the RMD Zone.

***Development Context***

The subject site currently has a detached dwelling on the south side. Uses surrounding the site include a mixture of low- to moderate-density dwellings. General commercial is located on three of the corner properties along the street, as well as one block west along 10<sup>th</sup> Street. Access is currently provided by a front approach to a garage and is also available by a rear lane right-of-way. The CN railway line is located on the opposite side of the street and crosses along the intersection of 9<sup>th</sup> Street and College Avenue.

***History***

The detached dwelling on the site was built in 1904. The applicant notes that an A/C Unit and shed are currently encroaching on the property from 811 – 9<sup>th</sup> Street, as outlined in site plan “Attachment B-3”.

The applicant applied for a Variance application in August 2022 to reduce the Railway Protection Overlay Zone (RPOZ) from 30.0m to 22.1m to allow for the construction of a duplex on the north side of the property. The Planning Commission approved the request with conditions in September 2022, as outlined in Variance Order V-13-22 “Attachment C”.

The applicant later applied for subdivision in September 2022 to create one new lot on the northern portion of the existing site to separate the duplex from the existing detached dwelling that will remain. Council will consider the subdivision application for conditional approval at its November 14, 2022 meeting, and one of the recommended conditions of subdivision approval is the approval of this variance application. At the time of writing this report, Council has not rendered a decision on the subdivision application.

### **ANALYSIS:**

#### ***Variance***

The applicant is proposing to subdivide the site to create one new lot on the northern portion of the existing site to separate the proposed duplex from the existing detached dwelling, as outlined in the site plan “Attachment B-3”

#### ***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;***

Properties along 9<sup>th</sup> Street zoned RMD are of varying widths and accommodate a variety of densities, which includes several narrow lots with detached dwellings. Further, the majority of lots to the rear of the property and along 8<sup>th</sup> Street are narrow RMD lots. The proposed reduction to the minimum site width and site area therefore will be compatible with the general nature of the surrounding area.

***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;***

At the time of writing this report, there has been no evidence by way of formal complaints or public concern that the presence of similarly sized RMD zoned lots in the area has been detrimental to the health or general welfare of residents. Further, the proposed use for the new lot is of a density similar to many properties in the area, which has also not resulted in concerns from people living or working in the surrounding area.

The City has identified that the property to the north does not comply with current setback requirements due to historic construction, which does present concerns for portions of the duplex that are in close proximity to the neighbouring building to the north. However, the

City has also noted that design and construction details are available to the applicant that will address these concerns and can be provided at the time of building permit.

The proposed reduction to the minimum site width and site area therefore will not be detrimental to the health or general welfare of people living or working in the surrounding area and will also not negatively affect other properties or potential development in 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***

Approval of the requested reduction to the minimum site width and site area requirements are necessary for subdividing the new lot, as outlined in “Attachment B-3. With the existing detached dwelling on the south side of the site remaining, the subdivision must take into account the detached dwelling’s new side yard compliance under both the Zoning By-law and the Manitoba Building Code, the latter requiring significant upgrades to the existing dwelling if the side yard were less than 1.2m. The proposed reduction to the minimum site width and site area is therefore the minimum modification of the zoning by-law required to relieve the injurious effect.

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

*Brandon & Area Planning District Development Plan 2013*

- Site designated “Residential” (Map 1)
- Proposal is an infill development, which is a general priority of the Development Plan (1.6.2(I), 10.2.3)
- Proposal provides a mixture of housing options in the neighbourhood (2.2.2)
- Proposed development will contribute to a range of housing density options in the neighbourhood (2.2.4)

*City of Brandon Zoning By-law*

- Proposed duplex is within the RPOZ, which has been addressed through the approval of Variance Application V-13-22 as outlined in “Attachment C”
  - Proposed duplex dwelling complies with all other provisions of the Zoning By-law beyond the previous and current variance requests, including bulk and siting requirements, and parking
- Proposed building design shows compliance with the site design standards in the Urban & Landscape Design Standards Manual

***Commenting Agencies***

All comments have been addressed and summarized below.

***City of Brandon***

The combustible projection on the north side of the building will be required to be constructed in accordance with Article 9.10.15.5. of the Manitoba Building Code. The cantilevered projection shall have all its sides clad with metal or noncombustible siding, have no openings except for fireplace chimneys and have a fire resistance rating of not less than 45 minutes. The Planning & Buildings Department recommends that the applicant submit plans as part of their building permit application demonstrating compliance. This comment can be addressed at the time of building permit.

**LEGISLATIVE REQUIREMENTS:*****Notification***

In accordance with 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 site and notice posters were posted on the site.

***Public Outreach***

In accordance with Subsection 13(b)(4) of the Zoning By-law, the application is for a variance to the By-law that does not result in the increase of intensity or density of the use of a site. The applicant was therefore not required to undergo another round of consultation beyond the public outreach performed for Variance Application V-13-22 as outlined in “Attachment C”.