



City of Moose Jaw

TITLE: Development Appeal – 459 Lillooet Street West

TO: Members of the Development Appeals Board

FROM: Department of Planning and Development Services

DATE: July 31, 2019

PUBLIC: This is a public document

Purpose:

The applicant is requesting a variance from the City of Moose Jaw Zoning Bylaw No. 5346, to construct an accessory building with a proposed:

- Combined accessory structure floor area of 179 m² (1927 ft²), contrary to the 83.6 m² (900 ft²) prescribed by the City of Moose Jaw Zoning Bylaw.

Background:

The subject property is larger than average and is composed of two legal lots. The property has dimensions of approximately 100 ft by 125 ft and contains a one-unit dwelling and a detached garage. It is located on the corner of Lillooet Street West and 5th Avenue Southwest and is zoned R1 – Large Lot Low Density Residential District. The purpose of this District is to provide for large lot residential development in the form of one-unit dwellings as well as complementary community uses.

The applicant has requested to construct a detached accessory building for the purposes of vehicle storage. The proposed building will measure 24 ft by 68 ft, for a total floor area of 1,632 ft². The property already contains a detached accessory building with a floor area of 295 ft². The one-unit dwelling has a total floor area of 2,030 ft² and would be slightly larger than the proposed floor area of the accessory buildings.

A similar appeal for this property was heard before the Development Appeals Board on August 15, 2017 and was denied on August 21, 2017. The application at that time was for a detached accessory building measuring 24 ft by 70 ft, for a total floor area of 1,680 ft². The decision of the Appeals Board was appealed to the Saskatchewan Municipal Board, who upheld the decision. It was stated that granting the appeal would provide a special privilege to the applicant, be contrary to the intent of the Bylaw, and would cause injurious affect to the neighbouring properties.

The applicant has proposed that this accessory building have a length of 68 ft, instead of the 70 ft proposed in the previous appeal. The change to the size of the proposed building allows for the development standard to be appealed again.

In considering any application for relief from the provisions of the City of Moose Jaw Zoning Bylaw, the Development Appeals Board is under a statutory duty to consider all evidence presented with respect to the application and to only grant a variance if it is satisfied, based on such evidence, that any Order or Decision (i.e. a variance) will not:

- (a) result in a special privilege being granted to the applicant, inconsistent with the restrictions on the neighboring properties in the same zone;
- (b) contradict the purpose and intent of the Zoning Bylaw;
- (c) injuriously affect the neighbouring properties.

The onus is on the applicant, with or without the assistance of City staff, to tender such evidence as may be necessary to satisfy the Board's statutory duty in considering the above captioned tests.

The Grounds for Variance Requested:

The proposed development would contravene the size requirement for accessory buildings under the City of Moose Jaw Zoning Bylaw.

Attachments:

- 1. Development Permit application package
- 2. Overhead view of property
- 3. Zoning Bylaw excerpt
- 4. Record of Decision – Saskatchewan Municipal Board; Appeal No. 7 of 2017

Development Appeals Records:

Variances to size were granted to properties in the R1 District as follows:

1) 138 Hochelaga Street East	Total accessory building floor area of 1092 ft ² instead of 900 ft ²	July 22, 2019
2) 33 Bluebell Cres	Total accessory building floor area of 1352 ft ² instead of 900 ft ²	July 22, 2019
3) 901 Normandy Drive	Accessory building floor area of 2063 ft ² instead of 900 ft ²	May 21, 2019
4) 53 Buttercup Crescent	Accessory building floor area of 1152 ft ² instead of 900 ft ²	July 27, 2016

5) 1115 Athabasca Street West	Accessory building floor area of 1092 ft ² instead of 900 ft ²	July 27, 2016
6) 936 Grandview Street	Accessory building floor area of 968 ft ² instead of 900 ft ²	June 16, 2015
7) 1633 Marshall Crescent	Accessory building floor area of 1288 ft ² instead of 900 ft ²	July 21, 2015
8) 801 Athabasca Street West	Accessory building floor area of 952 ft ² instead of 900 ft ²	April 29, 2014

The Zoning Bylaw:

The purpose of the Zoning Bylaw, as stated in Section 1.2 is to “regulate development in the City of Moose Jaw, to provide for the amenity of the area and for the health, safety and general welfare of the inhabitants in the City, in accordance with the provisions of the City's Official Community Plan (OCP).” The intent of the Bylaw as stated in Section 1.4 is “to implement the objectives, policies and strategies of the City's Official Community Plan”.

The general goals of the City's Official Community Plan are to direct development and growth in Moose Jaw in a manner that:

- a) Ensure efficient use of land and municipal infrastructure (efficiency);
- b) Maintains a positive relationship with environmental values and resource capabilities (sustainability);
- c) Enhances economic diversity and security (diversity and security);
- d) Provides for equity in land use decisions and fair distribution of community services (equity); and
- e) Enhances Moose Jaw's identity as a place to visit, to locate or expand a business, to work and to live (identity).

One of the objectives of the “Residential Land Use and Housing” section of the OCP states:

- c) To ensure that dwellings, accessory buildings and lots are constructed and maintained to acceptable standards.*

Section 6.4 of the Zoning Bylaw prescribes development standards for the R1 - Large Lot Low Density Residential District.

The purpose of the maximum floor area requirement is to preserve the residential character of neighbourhoods and ensure that accessory buildings do not become the primary use of the property. Large accessory buildings may tend to be used for commercial/industrial types of uses which may cause a nuisance to adjacent properties.

Summary

The variance requested is a relaxation of the size requirement for accessory buildings as prescribed by the City of Moose Jaw Zoning Bylaw.

Respectfully submitted,

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