

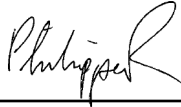
**Shediac Planning Review and Adjustment Committee /
Comité de révision de la planification de la Commission du Shediac**
Wednesday, October 18, 2017 / Le mercredi 18 octobre, 2017

Staff Report / Rapport du personnel

Subject / Objet : Variance Request / Demandes de Dérogation

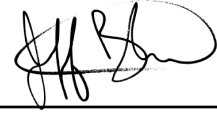
File number / Numéro du fichier : 17-1585

From / De :



Phil Robichaud

Reviewed by / Révisé par :



Jeff Boudreau

Development Officer / Agent
d'aménagement

General Information / Information générale

Applicant / Requérant :

Chris Boudreau Strum Consulting

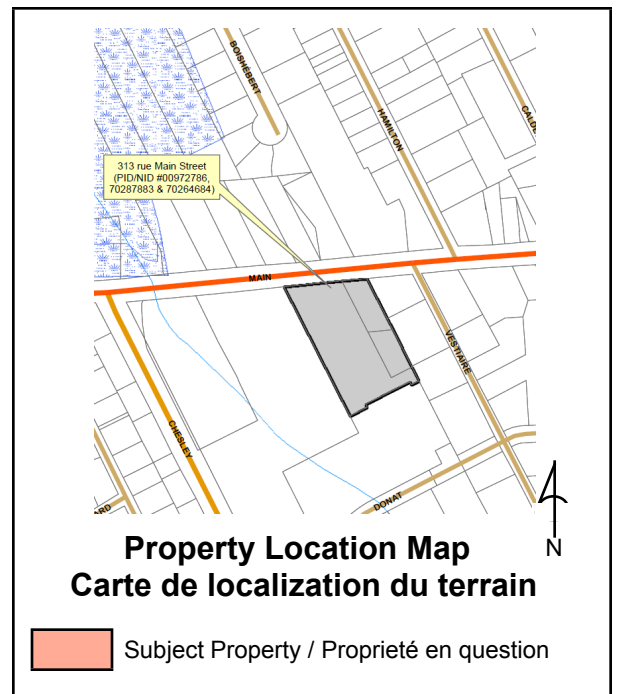
Landowner / Propriétaire :

// LOBLAWS INC. // CP REIT LPL NB PROPERTIES

Proposal / Demande :

Following variances requests for a new NB Liquor Store
(Retail Store) on Main Street in Shediac:

1. **Section 13.4:** Reduce minimum required storeys from 2 to 1 for new main building
2. **Section 13.7 a)** Reduce the percentage of doors and windows on the facade fronting Main Street (minimum required 40%)
3. **Section 13.7 b):** Change public entrance orientation to face side yard
4. **Section 13.3:** Increase maximum setback for new main building



Site Information / Information du site

PID / NID: 00972786

Lot Size / Grandeur du lot: 1073 m² + 825 m² + 5826 m²

Location / Endroit :

313 Main Street, Ville de Shediac / Town of Shediac

Current Use / Usage présent :

Vacant

Zoning / Zonage :

CC - Central Commercial

Future Land Use Designation / Désignation de l'utilisation future du sol :

Future Land Use : Commercial

Surrounding Use & Zoning / Usage des environs & Zonage :

Uses: Commercial (Retail stores, restaurants, etc.)

Zoning: Central Commercial

Municipal Servicing / Services municipaux:

Water & Sewer

Access-Egress / Accès/Sortie :

Main Street

Policies / Politiques

3.2.4 Commercial sectors and uses

1. Council's policy is to recognize that historically, the Town of Shediac had quickly established a firmly-rooted business centre and currently, the Town of Shediac is revealing itself to be a second-tier regional service hub.
2. Council's policy is to correctly frame commercial activities.
3. Council's policy is to recognize the downtown area as the heart of commercial activity within the municipality.
5. Council's policy is to implement urban design guidelines in the downtown core and in other commercial boroughs so as to highlight its features, attract new businesses and sustain its economic viability.
6. Council's policy is to encourage continued growth in commercial developments in the Town of Shediac.
8. Council's policy is for every new commercial and institutional development to contribute to the improvement of municipal services such as roads, sidewalks, bicycle paths, and hiking trails.
10. Council's policy is to encourage businesses servicing a local population or a population in a borough to be located within those boroughs and within the downtown area.
11. Council's policy is to encourage new buildings within the downtown area to be at least two storeys high, and to incorporate a mix of offices, businesses and/or dwelling units.

3.2.11 Urban design

1. Council's policy is to encourage all new residential, commercial, and institutional development to follow the general provisions in terms of design, as shown in the zoning by-law.
2. Council's policy is to assure that all new development in the downtown core are in accordance with the CC zone guidelines that are part of the zoning by-law.
3. Council's policy is to favour the insertion of buildings in boroughs that will improve the boroughs' appearance thanks to its design.
4. Council's policy is to protect and showcase interesting visual perspectives.
5. Council's policy is to assure that the provisions of the sub-division and zoning by-laws emphasize top quality urban design.
6. Council's policy is to improve the main artery's appearance, function and safety through good designs of sidewalks, signage, tree planting, and urban fittings.

7.1.2 Proposals related to the Downtown borough:

2. It is proposed that Council enforce, by means of the zoning by-law, urban design and landscaping standards, as well as insure that nuisances to surrounding boroughs be mitigated.
3. It is proposed to invite developers to take advantage of concepts related to the conservation design philosophy in their development.
8. It is proposed to maintain and improve pedestrian networks in order to promote connections between different businesses, institutional facilities, and boroughs.

11. It is proposed to maintain an appropriate number of parking spaces in the downtown area without causing an overconsumption of this vital space to interact with local stakeholders.

Zoning and/or Subdivision Regulation / Réglementations de zonage et/ou de lotissement

13. Central Commercial Zone (CC)

13.1 Permitted uses

13.1.1 No land, building or structure shall be used for any purpose other than:

a) one or several of the following main uses:

(x) a retail store,

13.2 Lot sizes

Subject to the provisions of this by-law, no minimum sizes are imposed within this zone.

13.3 Yards for main buildings

It is prohibited to place, erect or alter a building or a structure if it is:

a) more than 3 metres from the street line;

b) less than 1.5 metres from a side lot line and less than 3 metres from the opposite side line for lots not facing onto Main St.;

c) less than 6 metres from the rear lot line. The maximum set-back for a front or flankage yard is 3 metres.

Definition Yard means an open, uncovered space located on a lot between a property line or alignment and the main building or structure, as well as real or imaginary extensions;

Definition Yard, front means the open space extending from one of the lot's side lines to the other between the public thoroughfare (the street line) and the front of the building or its real or imaginary extensions that run parallel to the public thoroughfare, measured perpendicularly from the front lot line to the closest point on a wall;

13.4 Height of main building

Any main building within this zone must be at least 2 storeys high, but shall not exceed 20 metres in height.

13.6 Landscaping Section

46.1b) of the general provisions for landscaping in a commercial zone shall apply.

13.7 Special provisions for lots having frontage on Main Street

No development shall be permitted nor shall any land, building or structure be used on a lot within the CC zone for the purpose of a central commercial use unless:

a) at least 40% of the facade of the ground floor of the main building is facing a public road and is equipped with windows or doors with windows;

b) at least 25% of the facade above ground level is facing a public road and is equipped with windows or doors;

c) the building's facade consists of at least one public entrance and is facing a public road;

d) at least 90% of the frontage facing a public road is finished with traditional materials; (see definition)

e) all electrical, air conditioning, mechanical equipment or any other related equipment located on the building's rooftop, shall be hidden from the neighbouring public road;

f) parking shall be located in the rear yard

Internal Consultation & External Consultation / Consultations internes et externes

The town of Shediac staff was consulted for official comments October 4th, 2017.

NB Power was consulted for the release of easements.

Downtown Shediac Inc. has been contacted for comments on the project. The variances were presented to the board of directors October 3rd, 2017. The corporation submitted a letter with official comments. (Schedule G: Letter Downtown Shediac)

Staff planners and development officers were consulted.

Discussion

The applicant has inquired with the Southeast Regional Service Commission on September 8th, 2017 to build a new NB Liquor Retail Store on a property fronting the Main Street in the Town of Shediac. The location of the proposed development will be located in between the Home Hardware and the Needs Convenience and in between the No Frills and the Main Street. A subdivision plan with parcel exchanges will be required to change the property lines to accommodate the proposed development location.

Schedule A: Aerial view of lot

Schedule B: Initial proposal September 8th, 2017

There is a 5 meter public utility easement by NB Power along the property fronting Main Street. The zoning by-law states that buildings in the CC zone on Main Street must not be further than 3 meters from the front property line. This means in order to place the building in accordance with the zoning by-law, the building will need to be in the NB Power easement. September 11th, 2017 a discussion was initiated with NB Power for the possibility of releasing the easement. September 22nd, 2017 NB Power stated they would allow the release of an easement in order to place the building at 3 meter from the property line with certain conditions. The applicant was made aware of the possibility to locate the building in the easement. Initially, the applicant proposed a setback of 5 meters from the property which would have required a variance. Now the applicant is locating the building in accordance with the zoning by-laws (at 3 meters from the front property line).

Schedule C: NB Power Easements (1995 Registered Subdivision Plan)

Schedule D: NB Power Email and attachments

The proposed use, retail store, is a permitted use in this zone (Central Commercial). This means that the proposed development is an as-of-right development as per the zoning by-law permitted uses. That being said, the proposed development needs variances for some zoning by-law provisions.

A meeting was held with the applicant and a development officer of the Southeast Regional Service Commission on September 11th, 2017. In this meeting, the project was discussed and aspects of the proposal not conforming to the zoning by-law were identified.

September 20th 2017, the applicant has submitted a new proposal where they solved a few of discrepancies identified at the previous meetings (traditional materials, property lines, parking lot).

September 20th 2017, the applicant applied for the following variances:

Variance 1. Section 13.4: Reduce minimum required storeys from 2 to 1 for a new main building

Variance 2. Section 13.7 a) Reduce the % of doors and windows on the facade fronting Main Street (from 40%)

Variance 3. Section 13.7 b): Change public entrance orientation to face side yard

Variance 4. Section 13.3: Increase maximum setback for a new main building (this variance will not be addressed because the applicant is now meeting the provision of zoning by-law in his newest proposal)

and there is the possibility to locate the building in the easement with NB Powers approval)

Schedule E: Proposal September 20th 2017

Schedule E_2: Proposal September 29th 2017

A meeting was held September 25th, 2017 at the Town of Shediac Town hall where the developer, stakeholders, municipal staff, and the Southeast Regional Service Commission staff were present. In this meeting, the variances were presented and discussed.

A final copy of the proposal was sent October 5th, 2017.

Schedule F: Final Proposal October 5th, 2017

Modifications to the proposal related to the esthetics of the east wall were made. However, no modifications were made to address the required variances that were previously identified.

Variance 1:

The first variance is to reduce the minimum required storeys from 2 storeys to one storey. The plan stipulates that any new main building in the CC zone with frontage on Main Street must be at least 2 storeys. The proposed building does not have two stories, but has a height of ~27 feet (8.2 meter) which is the approximate height of an average two story building.

The municipal plans policies mentions that commercial development is encouraged to follow the general provisions in terms of design as shown in the zoning by-law. The plan also states that commercial development is encouraged to be at least two storeys high. The intention is to frame Main Street and create a consistent streetwall as found on most traditional Main Streets. This variance request meets the general intent of the zoning by-law and the Municipal Plan by maintaining visual perspectives of having a two story building.

This variance is reasonable and follows the general intent of the zoning by-law and the municipal plan

Variance 2:

The second variance is to reduce the percentage of doors and windows on the facade facing Main Street. The zoning by-law states that the required percentage of door and windows on the ground floor is 40% and is 25% for the floors above the ground floor. The intent is to create a relationship between the sidewalk and the interior space by avoiding large blank spaces facing the public realm. Because this building only has one storey, 40% of the whole facade is required to be doors and windows. The applicant is proposing ~25% doors and windows for the whole facade, but if we consider the first half of the building from the ground up, the ratio would be over 40% door and windows on the lower level. However, the top half would only be ~9% windows.

Again, the policies for Commercial uses and Urban Design in the Municipal plan states that commercial development is encouraged to follow the general provisions in terms of design as shown in the zoning by-law. There is also a policy that stipulates that it is council policy to assure that all new developments in the downtown core are in accordance with CC zone guidelines that are part of the zoning by-law. Another policy states that it is to favour the insertion of buildings in boroughs that will improve the boroughs' appearance thanks to its design.

The policies in the Municipal plan are clear that the general intent of the zoning by-law for the CC zone must be respected. Staff is of the opinion that this variance is not in accordance with the general intent of the Municipal and the zoning by-law. The variance request is also significant (from 40% to 25%) This is not a reasonable variance.

Variance 3:

The third variance is to orient the location of the main door to face the parking lot instead of a public street. The plan states that the building's facade must consist of at least one public entrance that is facing a public road. The applicant is proposing the door to be facing on the parking lot side and no entrance

facing the public road.

The reason the applicant is locating the door on the side towards the parking instead of the front pointing towards Main Street is because it will give better access for clients entering from the parking lot. In some situations, this type of access to the building is preferable. But in this case, the building is in the downtown borough. Shediac has a vibrant downtown with a large volume of pedestrian traffic, particularly in the summer. The Town is now in the midst of a large scale downtown revitalization project with a focus on improving the public realm and pedestrian experience. Currently downtown Shediac is defined by large parking lots. The Municipal Plan's emphasis on urban design is intended to shift the focus away from auto-dependent uses in the downtown and create a more walkable environment. Shifting the orientation of the public entrance runs counter to this design philosophy and results in a building that faces away from Main Street, encouraging auto-dependency.

The municipal plan proposes to maintain and improve pedestrian networks in order to promote connections between different businesses, etc. Once again, the policies stipulate that it is council policy to assure that all new development in the downtown core are in accordance with CC zone guidelines that are part of the zoning by-law.

This variance does not meet the general intent of the zoning by-law and municipal plan. The variance is not reasonable.

Public Notice / Avis public

A notice was sent to the owners of the surrounding lots within 60 meters of the property in question on October 4th 2017. At the time of writing this report, no comments or objections were presented to the commission.

Legal Authority / Autorité légale

Town of Shediac Zoning by-law Z-14-44

PART I - ENFORCEMENT

4 Powers of the Commission

4.2 The Commission may, subject to the terms and conditions it judges appropriate:

d) permit a reasonable variance from the requirements of the zoning by-law falling within subsection 34(3)a) of the Community Planning Act, if it is of the opinion that the variance is desirable for the development of a parcel of land or a building or structure, and accords with the general intent of the by-law and any plan or statement affecting the development in accordance with the Act;

Community Planning Act

35(1) The advisory committee or regional service commission may permit, subject to such terms and conditions as it considers fit,

(b) such reasonable variance from the requirements of the zoning by-law falling within paragraph 34(3) (a) as, in its opinion, is desirable for the development of a parcel of land or a building or structure and is in accord with the general intent of the by-law and any plan or statement hereunder affecting such development.

34(3) Subject to subsection (4), for greater certainty without limiting the general power conferred by subsection (1) or (2), a zoning by-law mentioned therein shall divide the municipality into zones, prescribe the purposes for which land, buildings and structures in any zone may be used, and prohibit the use of land, buildings and structures for any other purpose, and may

(a) regulate as to any zone

(iii) the height, number of storeys, ground area, floor area and bulk of buildings and structures,

(vi) the design, character and appearance of buildings and structures

Recommendation / Recommendation

Variance 1:

Staff respectfully recommends that the Shediac Planning Review and Adjustment Committee APPROVE the variance to reduce the amount of storeys required for a new main building from 2 storeys to 1 storey as proposed in the schedules

Variance 2:

Staff respectfully recommends that the Shediac Planning Review and Adjustment Committee DENY the variance to reduce the percentage of doors and windows on the facade on Main Street for a new main building from 40 percent to ~25 percent as proposed in the schedules

Variance 3:

Staff respectfully recommends that the Shediac Planning Review and Adjustment Committee DENY the variance to orient the of public entrance of the main building to face away from a public street as proposed in the schedules