



CITY OF LACOMBE
MUNICIPAL PLANNING COMMISSION

MINUTES 070616

DATE: July 6, 2016

PLACE: City of Lacombe Council Chambers

TIME: 5:00p.m.

PRESENT:

Steve Christie	Mayor
Debbie Gallant	Member at Large
Wayne Rempel	Councilor
Sandra Badry	Member at Large
Reuben Konnik	Councilor

REGRETS:

STAFF:

Gail Long, Development Officer
Deb Bonnett, Development Officer

1. CALL TO ORDER

The meeting was called to order by Chairperson Christie at 5:00 p.m.

2. ADOPTION OF AGENDA

MOVED BY: Member Rempel

THAT the Agenda be adopted as presented.

CARRIED: Unanimously

3. ADOPTION OF MINUTES

MOVED BY: Member Badry

That the Municipal Planning Commission minutes for June 15, 2016 be confirmed as presented.

CARRIED: Unanimously

4. NEW DEVELOPMENT APPLICATION

- A. 61/251.29 (2016), 16 Tennyson Close, Lot 24, Block 1, Plan 012 4669, Rear Yard Setback Variance for Existing Rear Yard Deck, zoned R1c – Smaller Lot Single Detached Dwelling**

The applicant was in attendance to provide additional information and answer questions if required. The applicant advised that all development was existing when they purchased the property and they were unaware that the deck did not comply to the bylaw requirements.

Development Officer, Deb Bonnett presented information regarding the application. An application has been received requesting a variance to the rear yard setback requirements as it applies to the location of an existing rear yard deck at 16 Tennyson Close. All development was existing when the current owner purchased the property.

A total of twenty eight (28) property owners within 60m of the subject site were notified. No responses had been received.

The Land Use Bylaw requires that a 9.75 m rear yard setback be provided in R1c. The bylaw states that this requirement may be reduced to 6 meters if the deck is less than 1.8 meter in height. The deck was constructed 5.3 meters from the rear boundary, requiring a 12% variance. The residence was constructed in 2002, however there is no record of a development permit or building permit for the deck.

Recommendations:

Both the residence and deck were existing when the current owner purchased the property. To date no complaints have been received regarding the deck, therefore the Planning and Development is recommending approval as submitted subject to the conditions listed.

MOVED: Member Konnik

“RESOLVED that the Municipal Planning Commission approve a rear yard variance of 12% as it applies to the location of an existing deck at 16 Tennyson Close, Lot 24, Block 1, Plan 012 4663, zoned R1c.”

Approval is in respect of works consisting of and as described on the development permit application form and plans submitted by the applicant, subject to the following conditions:

1. This permit indicates that only the development to which it relates is authorized, with the provisions of the Land Use Bylaw and in no way relieves or excuses the applicant from complying with the Land Use Bylaw and in or any other bylaw, orders and/or regulations affecting such development.
2. This permit is valid for a period of twelve (12) months from the date of issue. If, at the expiry of this period, the development has not been commenced with reasonable diligence, this permit shall be null and void.
3. The Development Officer may, in accordance with Section 645 of the Municipal Government Act, take such action as is necessary to ensure that the provisions of this bylaw are complied with.
4. Applicant is to obtain a City of Lacombe building permit for the deck to confirm compliance to the Building Code requirements.
5. The decision of the Municipal Planning Commission being mailed to adjacent landowners, a sign posted on site, and advertised in the local newspaper, and no appeal against the decision being successful.

Please note that this decision is subject to an appeal period which ends on July 28, 2016 at 4:30pm.

CARRIED: Unanimously

B. 61/251. (2016) 13 43 Avenue Close, Lot 14A Block 5A Plan 892 3307 Variance for Side Yard Setback Requirements for an existing dwelling to allow for the construction of a Four Season Sun Room & Deck – zoned R1b – Medium Lot Single Detached Dwelling

The applicants was not in attendance.

Development Officer Deb Bonnett presented information regarding the application which requested a variance to the side yard setback requirements as it applies to the location of an existing dwelling at 13 43 Avenue Close. The applicant is proposing to construct a four season sunroom and deck. In order to proceed with the project, approval is required for an 18% side yard variance.

A total of eleven (11) property owners within 60m of the subject site were notified. At the writing of the agenda, no comments have been received.

The Land Use Bylaw requires that a 1.5 m side yard setback be provided in the R1b District. The attached garage was constructed 1.23 meters on the west side from the side boundary, requiring a 18% variance. The residence was constructed in 1980, however there is no record of a development permit or building permit for the deck.

When the existing dwelling was constructed in 1980, the bylaw in effect required a 1.2 meter side yard. The current bylaw requires 1.5 meters. This now renders the location non conforming, and while it allows the building to continue to exist, it may not be enlarged, added to, rebuilt, or structurally altered except to make it conform, or for general maintenance. In this instance, the location of existing dwelling must be brought into compliance in order to allow for construction of the four season sun room and deck. A side yard variance of 18% is required.

Recommendations:

The dwelling and attached garage were constructed in 1980. To date no complaints have been received regarding the location of the development, therefore the Planning and Development is recommending approval as submitted subject to the conditions listed.

MOVED: Member Gallant

“RESOLVED that the Municipal Planning Commission approve a side yard variance of 18% as it applies to the location of an existing dwelling at 13 43 Avenue Close, Lot 14A Block 5A Plan 892 3307, zoned R1b.”

Approval is in respect of works consisting of and as described on the development permit application form and plans submitted by the applicant, subject to the following conditions:

1. This permit indicates that only the development to which it relates is authorized, with the provisions of the Land Use Bylaw and in no way relieves or excuses the applicant from complying with the Land Use Bylaw and in or any other bylaw, orders and/or regulations affecting such development.
2. This permit is valid for a period of twelve (12) months from the date of issue. If, at the expiry of this period, the development has not been commenced with reasonable diligence, this permit shall be null and void.
3. The Development Officer may, in accordance with Section 645 of the Municipal Government Act, take such action as is necessary to ensure that the provisions of this bylaw are complied with.
4. Applicant is to obtain a City of Lacombe building permit for the construction of the four season sunroom and deck.
5. Applicant to apply for and obtain any required secondary permits (electrical, plumbing, gas).
6. Applicant to ensure that the sunroom and deck match or is complimentary to the primary dwelling unit in color and materials.
7. The decision of the Municipal Planning Commission being mailed to adjacent landowners, a sign posted on site, and advertised in the local newspaper, and no appeal against the decision being successful.

Please note that this decision is subject to an appeal period which ends on July 28, 2016 at 4:30pm.

CARRIED: UNANIMOSLY

C. 61/251.37 (2016) 5724 54 Avenue, Lot 6B Block 32 Plan 3176 RS, Construction of an Over Height Privacy Fence in the Side Yards, zoned R1b - Residential Medium Lot Single Detached Dwelling

The applicants were in attendance to provide additional information and answer questions. The applicants provided the reasons why they chose this design and height of fence. Over the years, they have had drainage issues and have determined a higher fence would provide greater privacy. The fence was ordered from the US and when it arrived, they applied for the variance, however advised that they would be starting the fence immediately. The contractor was available to complete the fence right away.

Development Officer Gail Long presented information regarding the application for the construction of a 2.14m high fence in the side yards of 5724 54 Avenue. As the height of a fence will exceed the maximum height for a fence in the residential district, the application was referred Municipal Planning Commission for consideration.

A total of sixteen (16) property owners within 60m of the subject site were notified. At the writing of this report, three responses had been received - 1 in support and 2 in opposition. The resident in support of the application, whose property is located across the laneway and to the east, stated as follows:

- *that the fence is asthetically pleasing and height is reasonable for the location.*

Only one of the two responses received in opposition of the proposed development provided comment, as follows:

My understanding is the bylaw says a maximum 6'. I own the adjoining property until June 15/16. The fence is already half up and this hasn't been approved yet. You don't build a house and then get a permit.

We purchased this house 7 1/2 years ago. The neighbours agreed to go half on the fence so that it would be the same as the rest of their property. Two months ago they mentioned they might put a vinyl fence up on the other neighbours side. I was opposed to them putting it on my side as their was nothing wrong with the chain link fence in my opinion. They said they would discuss it with me at a later date. Around the first of June he rings my doorbell and forms me that the fence is being ripped out. Needless to say I wasn't impressed and said "You think you can do whatever you feel like". The fence was left open for over a week and there was no way to keep my dog in the yard. I feel frustrated with the situation as I paid for 1/2 the fence that was there and someone else just does

what they feel like. I tried to discuss t with her as they were putting up the fence but she just became irate so I said "I didn't come to play games with you." Worst neighbours I've had in my 60+ years.

The application form says a 17% increase when in reality the bylaw states 6' and the top board averages around 7 1/2'. When I look in my backyard I feel like I am in a prison courtyard. I believe if the bylaw says 6' you need to stay at 6' or why have a bylaw if anyone can do whatever they feel lie.

Our house is in the process of being sold June 15. We have no idea how the new people will fee about the fence and have left a copy of your letter for them to review.

Please find attached copy of invoice and cancelled cheque that I paid for 7 years ago. (The City has been provided with a copy of the invoice and payment for the neighbours share in the costs of the fence). I trust you will carry

out the bylaw the way it's stated, if not I will be thoroughly disappointed. I wish you nothing but the best in handling this situation.

Addition Comments Received & Presented to the Municipal Planning Commission

- I am writing to support their property upgrade, with the addition of their new vinyl privacy fence. I have no issues with the height of the fence and actually feel that it will improve the aesthetics of both our property values. As well, the fence they are now installing, separating our property matches the fence they have on the west side of their property. Having fences that match will also improve the aesthetics of the property, as well as the neighbourhood. I also believe that in the future if either they or I decide to sell our homes, that having a privacy fence will improve the likelihood of interest in the properties. It is nice to have a community of caring, friendly individuals, but at the end of the day, privacy is also very important to community members.
- I have spoken with the applicant about this matter and feel that everything about the fence will be a benefit. I will be upgrading my roofing and siding later this summer, and their fence and choice of colour will, I believe, compliment the colour scheme that I have planned. Their choice for vinyl is commendable, the durability of it will be seen for years to come, unlike the gaudy wooden fences on surrounding properties that are faded and falling apart. There is a newer wooden fence on a nearby property, that has only been there for a couple of years; weather is already making a difference on its appearance. The neighbor directly to the east of me has an older wooden fence, that is weathered, and I believe it negatively impacts the property values, so I would much rather have a fence bordering my property that has a guarantee to stand up to elements, than a fence that continually needs to be painted/refinished in order to maintain an aesthetically pleasing appearance or the "playground/industrial" look of chain-link fencing.
- We are writing this letter in regards to the fence on the East side of our property commissioned by the applicants.
- The fence is well constructed and adds beauty to our yard. We see no issue with the added height and do not want the fence to be taken down or shortened as we like the privacy the fence offers.
- Doesn't affect me. Very well kept yard.
- We do not wish to have a 7' fence in our neighbourhood – Next year 8?
- I had received a letter from your office dated June 8, 2016 in regards to the proposed fence at 5724 54 Avenue. When we received this notice in the mail, I immediately went outside and took the attached photo's of the fence in question that was in the process of being built.
- I had come into your office on June 10th with my copy of your notice signed that I am opposed to the application. With the meeting to take place this week I thought I should send these photo's to your office so you have them on file that the homeowners had started this fence prior to approval from the City.
- I rent a home in Lacombe, AB, I am writing this to clarify we have no problem with the fence being erected 2 houses down and understand the need and want for privacy from neighbours. With the neighbors not wanting to share the expense, or whatever reason I see no problem with a higher fence.

The City has received an application for the construction of a 2.14m high fence from the front of the house to the rear laneway on both side boundaries of the parcel. At the time of submission of the application, the applicant indicated he would be going ahead with the construction of the fence prior to the application being presented to the Municipal Planning Commission. The applicant was advised that if construction commenced prior to the application being issued, it would be at the applicant's risk and double fees would be incurred.

When conducting a site inspection of the property, it was noted that the fence has been partially constructed. A measurement at the rear of the property indicated that the fence is actually 2.24m in height from the ground, while the fence posts are 2.32m in height. If approved, a 29% variance to the maximum height for a fence will be required.

It should be noted that variances for maximum heights of fences or other means of enclosure have been granted in the past when there is a difference in topography between two lots or on the occasion when a lot backs onto the side of another lot, both of which would create privacy issues between the two parcels. Also previously approved has been the location of a hedge under "other means of enclosure" on the perimeter of the parcel which exceeded the maximum height, but was compatible with what was existing in the area. In the case of the need for a higher fence on this particular parcel, there appears to be minimal differences in topography between the lot on which the fence is to be located when compared to the lot on each side of the subject parcel.

The Department is unaware of overheight fence approvals requiring this great of a variance when the yards appear to be of a similar topography and shape. There is also no noticeable difference in height between the houses immediately adjacent the applicant's property. This means that there should be no rear deck which immediately overlooks the applicants' property.

Recommendations:

The City's Land Use Bylaw restricts the height of gates, fences, walls, or other means of enclosure to 1.8 metres on side and rear property boundaries. The reason for this is so the rear yards of all properties are relatively similar in relation to the height of any fencing, hedges, or other means of yard enclosure, allowing for a nice visual and aesthetically pleasing streetscape, while also providing a means of privacy and safety for the residents. As there is no difference in the topography between the lots, no discernible difference in building heights immediately adjacent the property and the lot is of a standard shape, Planning and Development Services is of the opinion that the proposed height of the fence does not fit into the regulations of the Bylaw.

As such, it is recommended that the applicant be required to either totally remove the fence and if desired, construct a maximum 1.8m high fence, or remove the upper portion of the fence, which height would then comply with the City's Land Use Bylaw requirements. Should the applicant request a height greater than the Land Use Bylaw recommends, the Department recommends that the height be no greater than 10% of the regulation – or measuring 1.98m in height at the highest point (including posts).

- An adjacent landowner spoke and advised that while the fence is attractive, due process was not followed and she does not want to see this approved. It is her opinion that as future fences are constructed on the block, that these fences will be made to be consistent with what is currently existing, and if one fence is permitted at this height, a number of overheight fences will follow. She indicated that it would be only a matter of time before everyone on the block has a 7 ½ ft. fence.
- The applicants spoke again advising that the drainage problem was caused by an adjacent landowner and they have finally remedied this. They also advised that if they do not receive approval, they will have no choice but to send the fence back to the US to allow for the required adjustments and this may take some time.

The Municipal Planning Commission suggested alternatives to the applicant and after further discussion moved the resolution as follows:

MOVED: Member Badry

“RESOLVED that the Municipal Planning Commission approve a 12% variance to allow for an overheight fence to be constructed on the side property boundaries from each side of the front of the detached dwelling located at 5724

54 Avenue, Lot 6B Block 32 Plan 3187RS zoned R1b, to the rear property boundary so that no portion of the fence exceeds the height of 2.016m from the bottom rail of the fence, to the top of any supporting posts, and further, that all work required to meet this height restriction be completed no later than October 15, 2016.”

The date to appeal the decision of refusal ends at 4:30 p.m. on July 28, 2016. The applicant or any other person who feels affected by the decision has the right to appeal.

CARRIED: Unanimously

5. BUSINESS

A. Next MPC Meeting: Wednesday, July 20, 2016

6. ADJOURNMENT

MOVED BY: Member Gallant

THAT this meeting now adjourns at 6:12 p.m.

CARRIED: Unanimously

Chairperson Christie

Date