

Southwest New Brunswick Service Commission

January 8th, 2018

ITEM 17-01-01

Applicant: Gerald Ingersoll,
5 Canterbury Close,
Saint Andrews, NB

Property: Town of Saint Andrews, County of Charlotte, NB
PID(s)# 15054893, 01320035, 01320043

Subject: Consideration of seven (7) dimensional variances to the Town of Saint Andrews Zoning Bylaw to permit an eighteen (18) unit multi-residential building in a Mixed Use "MU" zone in the Town Plat and Historic Business District.

Request:

This is an application by Gerald Ingersoll, on behalf of Jeff Holmes, to grant seven (7) variances to an 18-unit multi-residential building (Princess Royal Condominiums) proposed for the location of 260 Water Street (former HMS Transportation building) and 48 Princess Royal Street.

Recommendation:

Staff recommends that the Planning Review and Adjustment Committee of the Southwest New Brunswick Service Commission (SNBSC) grant all seven (7) variances for the proposed 18-unit multi-residential building on the basis that it is reasonable, desirable for the development of this parcel of land, and is in keeping with the general intent of the Town of Saint Andrews Zoning By-law and Municipal Plan By-law.

Planning Office

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Background:

SNBSC inherited this file from the Town of Saint Andrews' former Planning Department which was opened in the Spring of 2017. Town approved a rezoning and gave 3rd reading to a by-law to facilitate this project on Monday, December 4th, 2017. The Town also entered into a Development Agreement that laid out terms & conditions for this proposed building. Under the guidance of Town staff, the applicant rezoned the property from Central Commercial "CC" to the Mixed Use "MU" zone. As the property is designated Commercial under the municipal plan, the Mixed Use zone was considered the most suitable because it is the only zone in the Zoning By-law that is categorized as commercial but also allows for purely residential developments. At the same time, the permitted uses within the Mixed Use zone are not tailored to conform to the character of the Historic Business District. The Mixed Use zone allows property owners to use their property as if it were in another zone, such as the Multiple Residential 1 "MR1" zone. One problem with this approach is that Multiple Residential 1 zone is more suitable to the newer areas of St. Andrews where, for example, large setbacks are possible due to larger yards. The seven (7) variances under consideration mostly have to do with the fact that this proposed development is being facilitated with a zone that itself does not uphold the character of the Historic Business District. The applicants went to lengths to ensure that their proposed multi-residential building very carefully maintained the same character of other historic buildings on Water Street.

Prior to the required public hearing involved with the rezoning process, the applicants consulted the Town, neighbours and the Saint Andrews Heritage Committee regarding their proposed development and revised their design four times based on the feedback that they received. According to the applicant, 400 residents attended an open house hosted by the project developers on September 20th at the St. Andrews Legion. Please see their consultation summary in an attached document.

Upon SNBSC staff's request, the applicant hired a surveyor who provided the building heights for adjacent properties and similar properties along Water Street. The shortest adjacent building is 50 Princess Royal Street which is measured at 8.8 m. Other buildings on Water Street and nearby were measured at the following heights: Kennedy Inn (218 Water St.) = 15.6 m; Mallory Livery Stable (25 Princess Royal St.) = 12.6 m; Masonic Hall (255 Water St.) = 11.2 m; Leather House (162 Water St.) 10 m; Old Post Office (270 Water St.) = 9.5 m.

The parcel where the 18-unit multi-residential development is being proposed is on the edge of the Historic Business District at the corner of Water Street and Princess Royal Street. The nearby properties to the north and east are residential while those to the west and south are a mix of residential, commercial and institutional. Being at the edge, the proposed location is not in the busiest shopping area of Water Street.

Interdepartmental Consultation:

There were no interdepartmental consultations.

External Consultations:

Notification of this Planning Review and Adjustment Committee meeting have been sent to the Town of Saint Andrews and to the neighbours located within 100 metres of the property in question.

Discussion:

The Planning Review and Adjustment Committee are being asked to grant seven (7) dimensional variances to allow a proposed 18-unit multiple residential building in the Mixed Use zone under the Town of Saint Andrews Zoning Bylaw – Community Planning Act.

What is critical to keep in mind is that, under the Community Planning Act S. 55(1)(b), a PRAC may grant variances to dimensional standards where, in its opinion, it is reasonable, desirable for the development of that parcel of land, and is in keeping with the general intent of the Town of Saint Andrews Zoning By-law and Municipal Plan By-law.

In terms of reasonableness, this means that a landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the zoning bylaw. The question is: is it reasonable for the landowner to request that their building be so located and designed in the manner that they are proposing? Staff opinion is that since other buildings on Water Street are located and designed in a similar manner, it seems apparent that this is a reasonable proposal.

In terms of desirability, the PRAC has to determine that allowing these variances and permitting this development would benefit the Town at large. Staff opinion is that this development is not only desirable for the Town of St. Andrews in terms of increasing the tax-base but also in terms of meeting particular housing demands.

In terms of preserving the general intent of the bylaw, the PRAC needs to consider whether these variances would permit a development that would be supported by the municipal plan. Consideration of the municipal plan has to be first and foremost, as zoning by-law standards are merely tools to implement the plan's policies. To understand the intent of the zoning by-law, it is essential to read it in the overall context of the municipal plan. At the same time, variances to zoning should not be so extremely different from the original standards that they basically render them null. Staff opinion is that these variances fall within the intent of the municipal plan and, while they deviate significantly from the Zoning By-law provisions, each proposed variance has its own justification.

In regards to the municipal plan, it is clear that the new development must respect the historic character of heritage areas of Town. Under section 2.2.2(1), the policy of the Municipal Plan is stated as such:

It shall be a policy of Council to recognize the value of retaining and enhancing heritage structures and areas while allowing residents and businesses the reasonable enjoyment and appropriate uses of their properties.

And, under section 2.2.2(2)(d): "It shall be Council's policy to encourage...compatible development in the vicinity of valuable heritage resources." It is therefore imperative that the PRAC consider whether these proposed variances would lead to an enhancement of the heritage area and whether the proposed building is reasonably compatible with other nearby historic buildings.

The seven (7) variances to the Town of Saint Andrews Zoning Bylaw are as follows:

Under Section 4.4.3

- 1) Frontage required for 18 units = 108 m; whereas 37.10 m is proposed

- 2) Lot coverage maximum = 45%; whereas 49% is proposed

Lot size variance justification: Smaller lots in the historic business district would not allow for 108 meters of frontage, while 3-storey development of this size is typical. A 4% lot coverage variance can be considered minor.

- 3) Front yard required = 6 m; whereas 0 m is proposed

Setback variance justification: While a significant variance, purpose of the Zoning Bylaw is to implement the policies of the Municipal Plan, and reducing this set back requirement to 0 m preserves the typical setback pattern of historic commercial development on Water Street and fulfills Section 2.2.2(2)(c) of the plan which states that it is a policy of Council to encourage: "the conservation of elements which define the Town's character." The St. Andrews Heritage Handbook also recommends that setbacks be compatible with nearby properties.

- 4) Height maximum = 8.5 m; whereas 13.25 m is proposed

Under Section 9.4.1

- 5) 9.4.1 requires limits difference in height between adjacent buildings to 20%; proposed difference between Princess Royal Condominiums and adjacent buildings = 33.2%
- 6) 9.4.1(2)(b) states that a proposed development may not exceed a zone's max height.

Height variance justification: While height requires another significant variance, several points need to be kept in mind, including: 1) without the cupola-like structure on top the height would be less significant (10.77 m) and ornamental cupolas are exempt from height requirements under the Zoning Bylaw; 2) even at 13.25 m, the Princess Royal Condominiums would not be the tallest building on Water St. and nearby buildings are of similar height. The proposed height would match the heights of other heritage buildings in the historic business district.

Under Section 9.7.3

- 7) 9.7.3(2) variances required for a proposed flat roof which would have a greater than 10% difference in pitch compared with the only neighbouring building that is in the historic business district.

Pitch variance justification: The roof on the Princess Royal Condominiums is flat whereas the relevant structure to the West at 254 Water St. has a 45 degree pitch. However, the building just further West to 254 Water St. also has a flat roof as does the historic building at 270 Water St which is situated East and across the road from the proposed development. A flat roof would therefore not be out of character for the location. Additionally, the developer had originally proposed a sloped roof design but changed it to a flat roof

based on community feedback. A flat roof is more fitting for a 3-storey building from a Saint Andrews architectural heritage perspective.

If the PRAC wished not to grant one or more of these variances, it could conceivably do so under the notion that the Mixed Use zone is not the best zone to foster compatible development in the Historic Business District.

Legal Authority:

Section 51 – Community Planning Act – Subject to the terms and conditions it considers fit, the advisory committee or regional service commission may permit:

- a) a reasonable variance from the requirements referred to in paragraph 53(2)(a) of a zoning by-law 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 is in keeping with the general intent of the by-law and any plan under this Act affecting the development.

Attachments:

Map 1:	SNB Map
Map 2:	Zoning Map
Map 3:	GeoNB Aerial Map
Map 4:	Neighbour Contact Map
Attachment A:	Developer's consultation summary
Attachment B:	Application

SNBSC Planning Director:

Alex Henderson, MCIP, RPP (Acting Director)

Development Officer:

Don Leachman

Development Officer:

Judy Hartford

Date:
