

RIVERVIEW PLANNING ADVISORY COMMITTEE

STAFF REPORT Variance Request

Subject : Variance request for a garden suite

File number: 23-1233

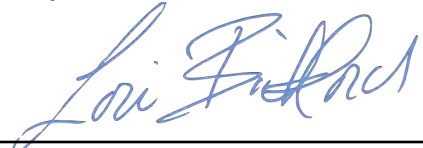
Meeting Date: Wednesday, October 11, 2023

From :

Reviewed by :



Kirk Brewer
Planner / Urbaniste



Lori Bickford
Planner / Urbaniste

GENERAL INFORMATION

Applicant/: Grace Moore


Landowner : Jordan Moore

Proposal:

Variance request to place a garden suite in a side yard instead of a rear yard



Property Location Map

 Subject Property



SITE INFORMATION

Location: 114 Court Street, Town of Riverview / Ville de Riverview

PID: 00648733

Lot Size: 929m²

Current Use: Residential

Zoning: R1

Future Land

Use: Residential

Surrounding

Use & Zoning: R1, single unit dwellings with some R3 multi-unit dwellings in proximity on Hillsborough Road

Municipal

Servicing: Municipal sewer, stormwater, and water services

Access/Egress: Court Street

Municipal Plan Policies

Policy 5.4.1 It shall be the intention of Council to maintain the character of existing single

unit dwelling neighbourhoods by establishing a Single Unit Dwelling Zone (R1) within the Residential Designation

Policy 5.4.2 Within the Residential Designation, it shall be the intention of Council to prezone specific areas within the Town for single unit dwellings as a means to encourage the development of affordable single family developments.

Policy 5.4.3 It shall also be the intention of Council to maintain affordability in new R1 zones by encouraging smaller houses on smaller lots.

"At the same time, Council recognizes that, with an aging population, it is desirable to create accessory dwelling units and garden suites within low density neighbourhoods. These units allow low-income seniors or adults with a disability, to live independently in their community, close to family and friends. Alternatively, accessory dwelling units or garden suites can provide a modest source of revenue for a homeowner."

Policy 5.4.4 It shall be the intention of Council to permit, as a secondary use within a single unit dwelling, an accessory dwelling unit, a garden suite, a home occupation use, a bed and breakfast or a home daycare.

Zoning Bylaw and or Subdivision By-law Regulation

“garden suite” means a detached accessory dwelling placed or erected in the rear yard of an existing single unit dwelling lot

Garden suite

69 When permitted, a garden suite shall:

- (a) despite the yard requirements for the zone in which it is located, not be closer than 1.2 metres from a side lot line or 2.5 metres from the rear lot line;
- (b) not exceed six metres in height;
- (c) be located in the rear yard;
- (d) be located on a lot occupied by a single unit dwelling as a main use;
- (e) not exceed 75 square metres of ground gross floor area;
- (f) be fully serviced by water and sanitary sewer;
- (g) provide one parking space in addition to the parking required for the main use;
- (h) use the same driveway and parking aisle as the main use;

Internal Consultation & External Consultation

Staff distributed the request to the Development Review Committee (Planning, Corporate, Parks, Engineering, Economic Development, Fire). No concerns were raised, but the Engineering department will require an engineered drainage plan at the building permit stage.

Discussion

The applicants are seniors seeking to downsize from their current home, and would like to build a garden suite (small detached accessory dwelling) on their son's property. Garden suites are a permitted use in an R1 zone, subject to certain provisions, including that they not exceed 75m² (808sqft), and that they be located in a rear yard. The intent of the rear yard requirement is not clear, but staff suspects it was to add "gentle" density to single unit dwelling neighbourhoods in a way that is not readily visible from the street.

The Municipal Plan is supportive of garden suites to allow the aging population to remain in their

communities, and live close to family while maintaining their independence. Garden suites have been permitted in the zoning by-law for many years, but there has been little interest in them until recently. This may be due to cost factors for home owners seeking to generate rental income in a shifting economy, or due to the aging population seeking alternative housing options. Staff anticipates this trend to continue over the coming years, and will revisit the provisions for garden suites during the municipal plan review to ensure they are in line with current best practices.

In this case, placing the garden suite in the rear yard is not ideal for the applicants and comes with certain challenges. The property has a notable grade change, with a french drain system placed in the middle of the lot to manage stormwater, which splits the lot into two developable areas. There is a detached garage to the rear of the house already, along with a deck, which leaves insufficient space behind the house to accommodate the proposed 720 square foot (24 x 30) garden suite.

It is worth noting that the definition of garden suite specifies that the building is located in the rear yard. This is peculiar, since building location is normally regulated by zoning provisions, not a definition. Staff is generally of the opinion that a definition cannot be varied, and changes to a definition must be addressed via a text amendment. However, in this particular situation we are not considering a variance to **what** a use is, but rather **where** the use is permitted to occur. The *Community Planning Act* is clear that the Committee has the authority to grant a variance to "the placement, location and arrangement of buildings and structures." In this case staff feels that requiring a text amendment would be an excessive and lengthy application that would need to be considered by Council. As such, staff is comfortable with treating the request as a variance application and will revisit this definition during the plan review.

The property is a double-wide lot, with 30m of road frontage. The possibility of subdividing was discussed with the applicant in order to consider the second dwelling as a main use on its own property rather than an accessory dwelling unit. Minimum lot width is 15m, which would allow for the property to be divided. However, the location of the existing house on the property would not allow for two 15m wide lots, since this would result in the property line being drawn through a portion of the house. As such, a subdivision would require variances to reduce the lot width and lot area to accommodate the second dwelling. Staff feels it is preferable to vary the garden suite location as opposed to creating a non-conforming lot.

There is currently a second driveway on the property which was installed by a previous landowner. It would appear that this driveway would not be permitted by the zoning by-law, which restricts most properties to a single driveway. The applicants plan to remove this driveway and use the driveway of the main house per the zoning provisions.

The final design and location of the garden suite has not been determined, but the applicants are aware of all required setbacks, and confirmed that the building will exceed the minimum required front yard setback of 6m. It is also worth noting that the building to the north, at 110 Court Street, is of a similar size to the proposed garden suite. Since the subject property is wider than a standard lot, the building will give the appearance of being an independent dwelling and will respect the surrounding character of the neighbourhood.

No concerns were raised by the development review committee. However, Engineering did note that while accessory buildings do not require a drainage plan, since this is an accessory dwelling, it will be required to meet net zero drainage requirements with an engineered drainage plan submitted at the time of the building permit application.

Public Notice

Neighbours within 60m of the subject property were sent notices on September 27.

Legal Authority

Community Planning Act

Making of zoning by-law

53(2) For greater certainty and without limiting sub- section (1), a zoning by-law shall divide the municipality into zones, prescribe the purposes for which land, buildings and structures in a zone may be used and prohibit the use of land, buildings and structures for any other purpose, and may

(a) with respect to a zone, regulate:

(v) the placement, location and arrangement of buildings and structures, including their setting back from the boundaries of streets and other public areas, and from rivers, streams or other bodies of water

Variances from zoning by-law

55(1) Subject to the terms and conditions it considers fit, the advisory committee or regional service commission may permit

(b) 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.

Recommendation

Staff recommends that the Riverview Planning Advisory Committee APPROVE the variance to permit a garden suite in a side yard instead of a rear yard at 114 Court Street (PID 00648733) because there is limited space in the rear yard and the garden suite will respect the context of the surrounding neighbourhood, subject to the following conditions:

1) that an engineered drainage plan be submitted and approved by the Town's Engineering department prior to the issuance of a building/development permit

114 Court Street (PID/NID 00648733)

Riverview

Date: 8/29/2023



Snapshot of the item below:

To Riverview Planning Dept
1234 Main St. Moncton NB

My husband & I (both 71 yrs old) are applying for permission to build a 720 sq foot (66.9 square meter) garden suite on our son's property in Riverview. His home is located at 114 Court St, Riverview. At approx 10,000 sq feet (942 sq meters),this lot is a bit short of being a double lot so can not be subdivided.

We realize the guidelines ask that a garden suite be placed behind the main house but it's not possible in this situation. Because of the layout of the property,we want to build on the empty south (uphill) side of our son's land. The space behind his home already has a garage,a deck,a large trampoline and a privacy fence. We realize that this requires us to apply for a variance.

We understand that our house would have to be set back 20 feet (8 meters) from the Court St curb.

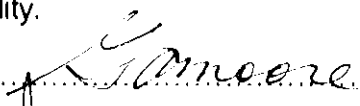
The existing black chain link fence will be relocated so their child & dog will still have security but not interfere in construction.

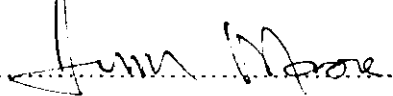
It was mentioned that the 2nd upper driveway isn't permitted under zoning by-laws. This driveway was built by previous owners,not our son. If we get permission to build we would remove this driveway and use the main parking area beside our son's home. This driveway is more than adequate for our cars.

My husband is a retired Parks Manager & Community-in Bloom judge so attractive green space is a high priority with us.

If possible, we would like the water & sewer lines to be dug just for our home. We are naturally hesitant to try & link into our son's existing old utilities. His home is well over a hundred years old so pipes could crack or cause problems.

We have secured a contractor to build in the spring but obviously we need your approval before we can sign an agreement with him. We are hoping for a speedy resolution so we don't lose his availability.

Grace Moore.....

Jim Moore.....

Dated August 23, 2023 - Moncton, N.B.

From: [Grace Moore](#)
To: [Kirk Brewer](#)
Subject: Drainage detail -MOORE-114 Court St, Riverview
Date: August 24, 2023 8:51:03 AM

ATTENTION! External email / courriel externe

On site drainage at 114 Court St, Riverview has been corrected by cleaning out the original 100 year old drainage swale .
Years of silt was removed and the excavation was lined with drainage grade filter fabric. .
A base layer of ¼ inch to ¾ inch clear stone was installed.

A continuous run of 4 inch perforated pipe was installed.
The remainder of the ditch was filled with 1/4 to 3/4 inch stone to lawn level.

The swale runs east west with the lower end of the swale at the east end or back of 114 Court Street where it percolates into the ground

The existing house has no basement windows on the east , south and west sides.

Jim Moore

114 Court St. Riverview, NE X

Show search results for 114 Co



(1 of 4)

Property Parcel Information

PID / NID	00648733
Last Update / Date de mise à jour	2021-07-14
Property Map / Cartes cadastrales	N,20104
Titles Status / Statut de titres foncier	Land Titles
Gazette Status / Statut dans la Gazette	No Records Returned
County / Nom du comité	Albert
Area / Superficie	942.07 m ²

Zoom 10

24' x 30'
720 sq ft

7.5 → 1.2 → ↑



