

**Minutes- Board of Adjustment - August 23, 2006**

**PUBLIC HEARINGS**

**Minute No. 265      Variance - 160 Murray Park Road  
File DAV 145390/2006C**

**BOARD OF ADJUSTMENT DECISION:**

The Board of Adjustment did not concur in the administrative recommendation and approved a Variance on “the land” for a change of use for a period not to exceed five (5) years, for the establishment of a dance studio use in an existing multi-tenant industrial building, subject to the following condition:

1. That if any Variance granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Variance shall terminate.

## **Minutes- Board of Adjustment - August 23, 2006**

### **DECISION MAKING HISTORY:**

The Administration advised that all statutory requirements with respect to this application have been complied with.

Moved by Ken Desrochers,  
That the administrative report be taken as read.

Carried

Moved by Ken Desrochers,  
That the receipt of public representations be concluded.

Carried

Moved by Ken Desrochers,  
That criteria (a) to (d) of Subsection 247(3) of The City of Winnipeg Charter are satisfied.

Carried

Moved by Ken Desrochers,  
That the administrative recommendation not be concurred in and that the provisions of the "MP-2" Industrial District regulations of The Winnipeg Zoning By-law No. 6400/94 be varied on "the land" for a change of use for a period not to exceed five (5) years, for the establishment of a dance studio use in an existing multi-tenant industrial building, subject to the following condition:

1. That if any Variance granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Variance shall terminate.

Carried

Moved by Ken Desrochers,  
That the public hearing with respect to this application be concluded.

Carried



---

**The City of Winnipeg**  
**VARIANCE ORDER**  
**BOARD OF ADJUSTMENT**

**DAV 145390/2006C**

Before: Board of Adjustment  
Mr. Bill Evans, Chairperson  
Mr. Ken Desrochers  
Mr. Mark Morgan

Hearing: August 23, 2006  
West Committee Room  
Council Building, 510 Main Street

Applicant: Studio One School of Performing Arts (Katherine Lind)

Premises Affected: 160 Murray Park Road

Legal Description: Lot 20 Block 1 Plan 10634 12 St JA, hereinafter called  
“the land”

Property Zoned: “MP-2” Industrial District

Zoning Atlas Sheet: Z15 (AS)

Nature of Application: To vary the “MP-2” Industrial District regulations of The  
Winnipeg Zoning By-law No. 6400/94 for a change of use  
for a period not to exceed five (5) years, for the  
establishment of a dance studio use in an existing multi-  
tenant industrial building

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this Order meets the statutory criteria of The City of Winnipeg Charter in that it:

- (a) is consistent with Plan Winnipeg, and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

- (c) is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is compatible with the area in which the property to be affected is situated.

C.W. Charter Subsection 247(3)

#### ORDER:

The Board of Adjustment orders that the provisions of the "MP-2" Industrial District regulations of The Winnipeg Zoning By-law No. 6400/94 are varied on "the land" for a change of use for a period not to exceed five (5) years, for the establishment of a dance studio use in an existing multi-tenant industrial building, subject to the following condition, which the Board of Adjustment considers necessary to ensure compliance with criteria (a) to (d) above, namely:

1. That if any Variance granted by this Order is not established within two (2) years of the date hereof, this Order, in respect of that Variance shall terminate.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: August 25, 2006

CERTIFIED BY:



---

Carlos Gameiro  
Acting Secretary to the Board

#### HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal.

That letter must be submitted in writing, be signed by the appellant, show the printed name of the appellant, contain the mailing address of the appellant, contain the contact telephone number of the appellant, and

- (a) be addressed as set out below,
- (b) be received at that office not later than 4:30 p.m. on September 13, 2006,  
[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

- (c) refer to Variance Order No. DAV 145390/2006C, give brief reasons for the appeal and must describe whether you appeal the whole order or only part(s) of it.

Any appeal letters not containing all of the above elements will be rejected by the City Clerk as invalid appeals and will not be heard at an appeal hearing.

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: City Clerk, City of Winnipeg  
c/o Appeal Committee  
510 Main Street  
Winnipeg, MB R3B 1B9  
Fax 947-3452  
Email clk-appeals@winnipeg.ca

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Katherine Lind-Thorlakson  
Emily Allebone  
Elizabeth Allebone  
D. Balageorge  
Janna M. Barkman  
Michael S. B. Barkman  
Stephen Barkman  
Cheryl Bate  
Kevin Bate  
Natasha Bate  
Nevaya Bate  
Noelle Bate  
Carl Bell  
Jayder Bell  
Tannis Bell  
Carla Bennett  
Annick Bernard  
Cathy Breckman  
Steve Brockington  
Barry Brown  
Heather and Yannick Charland  
Leslie Chaszewski  
Joanne Cookson  
Haley and Keri Cooper

Anthony Cornwell  
Sabrina Cornwell  
Christina Danyluk  
Leanne Davies  
Tegan Davies  
Olga DiMarco  
Sabrina DiMarco  
Alanna Doell  
Sandra Doell  
Valdine Doering  
Vanessa Doering  
Melanie Fetterly  
Colleen Fowler  
Melissa Fowler  
Don Fowler  
Jacob Fowler  
Natalie French  
Aaron Richard Frost  
Leah Frost  
Rick Frost  
Wilhelmina Frost  
Attilio, Brenda and Rebecca Funari  
Karen Ginter  
Lucas Ginter

Bill Granger  
Freda L. Granger  
Donna Granger  
Heather Belle Guest  
Donna Hall  
Ian Hall  
Jen Harvey  
Stephanie Hintz  
Bradley Keefe  
Randi Keefe  
Mark Kinsley  
Rachel Kinsley  
Maura Ann Kippen  
Meghan Leigh Kippen  
Robert Kippen  
Carey Lee  
Brock Legge  
David Lind  
Eleanor Lind  
Gerry Lind  
Karen Margaret Lind  
Wendell Lind  
Laura Lindal  
Jona Loney  
Kara Loney  
Sherri Loney  
Megan Luff  
Virginia Luff  
Doreen Magee  
Krista Lynn Magee  
Trevor Magee  
Shannon Putter Mahussier  
Kent Martin  
Karly Melnyk

Amber McBurney  
Russella McBurney  
Susan, Samantha and Charisse Pearce  
Carrie Peters  
Danielle Picard  
Margot Picard  
Nicole Picard  
Debra Pointkoski  
Ken Pointkoski  
Tara Pointkoski  
Jackie Pollon  
Nancy Prystupa  
Susan Ralph  
Tara Roberts  
Jean Robson  
Marley Robson  
Bouvar Salamatin  
Kalen Schick  
David W. B. Scott  
Mauren H. Scott  
Adams Sims  
Sahnnon Smith  
Brad Sheldon  
Adrienne Swart  
Jenelle Tallas  
Derek Thorlakson  
Lorna M. Thorlakson  
Dr. T. Kennett Thorlakson  
Kristi Thorlakson  
Barbara Thuen  
Danielle Thuen  
Jamie Vann  
Margo Vannoort  
Jocelyn Wiebe

In Opposition:

Nil

For the City:

Ms A. Clark, Planner, Planning, Property and Development Department  
Mr. J. McNairnay, Coordinator, Urban and Neighbourhood Planning, Planning, Property and  
Development Department

EXHIBITS FILED FOR DAV 145390/2006C

1. Application dated August 4, 2006
2. Notification of Public Hearing to Applicant dated August 4, 2006
3. Manitoba Status of Title 1031542
4. Letter of authorization from Carlyle Investments Ltd. to Katherine Lind dated July 13, 2006
5. Surveyor's Building Location Certificate and sketch dated October 16, 1990
6. Confirmation from the Zoning Development Administrator that the subject property may be posted in substitution for newspaper advertising
7. Drawing
8. Site Plan
9. Plans, Sheets 1 to 2 inclusive, for File DAV 145390/2006C dated August 2, 2006
10. Report from the Planning and Land Use Division dated August 4, 2006
11. Inspection Report
12. Presentation including thirty-nine (39) communications in support of the application, submitted at the public hearing by Katherine Lind
13. Communication (undated) from Olga De Marco in support of the application

Exhibit "10" referred to in File DAV 145390/2006C

**DATE:** August 4, 2006  
**FILE:** **DAV 06-145390/C**  
**RELATED FILES:**  
**COMMUNITY:** Assiniboia Community  
**NEIGHBOURHOOD #:** 2.220

**SUBJECT:** To vary the "MP-2" district regulations of Zoning By-Law No. 6400/94 for a **Change of Use** for a period not to exceed 5 years for the establishment of a dance studio use in an existing multi-tenant industrial building.

**LOCATION:** 160 Murray Park RD  
**LEGAL DESCRIPTION:** LOT 20 BLOCK 1 PLAN 10634 12 ST JA

**APPLICANT:** Katherine Lind Studio One School of Performing Arts  
590 COMMUNITY ROW  
WINNIPEG MB R3R 1H5

**OWNER:** CARLYLE INVESTMENTS LTD  
46 MAGELLAN BAY  
WINNIPEG MB R3K 0P8

**RECOMMENDATION:** *Denial*

**CRITERIA FOR APPROVAL:**

Pursuant to Section 247(3) of the City of Winnipeg Charter, a Zoning Variance application can be approved with necessary conditions if the proposed development:

- (a) is consistent with Plan Winnipeg and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is compatible with the area in which the property to be affected is situated.

**SITE DESCRIPTION**



### Existing Land Use and Zoning

The subject site is just under one acre and is occupied by a 2-unit 10 000 square foot building, zoned “MP-2” Industrial Park. The site is located in the Murray Industrial Park Neighbourhood of the Assiniboia Community and is designated “Industrial” in *Plan Winnipeg*.



**Figure 1: The Murray Industrial Park with Subject Site (Aerial Photo Flown 2005)**

### Surrounding Land Use and Zoning

North: Murray Park Road then ‘MP-2’ Industrial (Boeing of Canada Ltd.)

South: ‘MP-2’ Industrial then Cree Crescent

East: ‘MP-2’ Industrial

West: ‘MP-2’ Industrial

## BACKGROUND

- Building Permit #3703 - 1990 for 160 Murray Park Rd for a 10 000 square foot building
- Variance 148/1990 to establish a Professional/ Business Office use, (Catholic Women's League of Canada) not being permitted in 'MP-2' Industrial Park District
- Occupancy permit 3702/1990 Business Office
- Occupancy permit 219/1996 Warehouse Office

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant intends to establish a dance studio within a portion (approximately 4 400 square foot floor area) of the 10 000 square building. The proposed studio operations include dance instruction, with accessory costume storage and video production. The studio will provide day and evening instruction.



**Figure 2: Front Elevation of 160 Murray Park Road**

## ANALYSIS AND ISSUES

The subject site and the Murray Industrial Park are designated “Industrial” in *Plan Winnipeg*. This general *Plan Winnipeg* designation accommodates a variety of industrial and warehouse uses, along with a limited array of commercial and institutional uses. The “MP-2” Industrial Park zoning district is intended to provide for development of a higher design standard than other industrial districts, with stricter land use provisions.

Typically, while personal service and retail uses are somewhat restricted in the “M1”, “M2”, and “M3” Industrial Zoning Districts, they are excluded almost entirely in the “MP-1” and “MP-2” Industrial Park Zoning Districts. There are two fundamental bases for these restrictions: in part, they are to assure land use compatibility when introducing commercial uses into areas designed for industrial purposes; and, mostly, they are to ensure ongoing availability of industrial lands and facilities.

The textbook Winnipeg example of commercial uses gradually overtaking an area designed for industrial operations is the St. James Industrial area, north of Polo Park Shopping Centre. While there's no disputing the appeal of this area for retailers, personal service providers, and customers of both, the transportation system has not proven adequate for vehicular and foot traffic customers. Specific land use incompatibility examples are also easily identified, including: schools and residences near noxious manufacturing or transportation terminal operations.

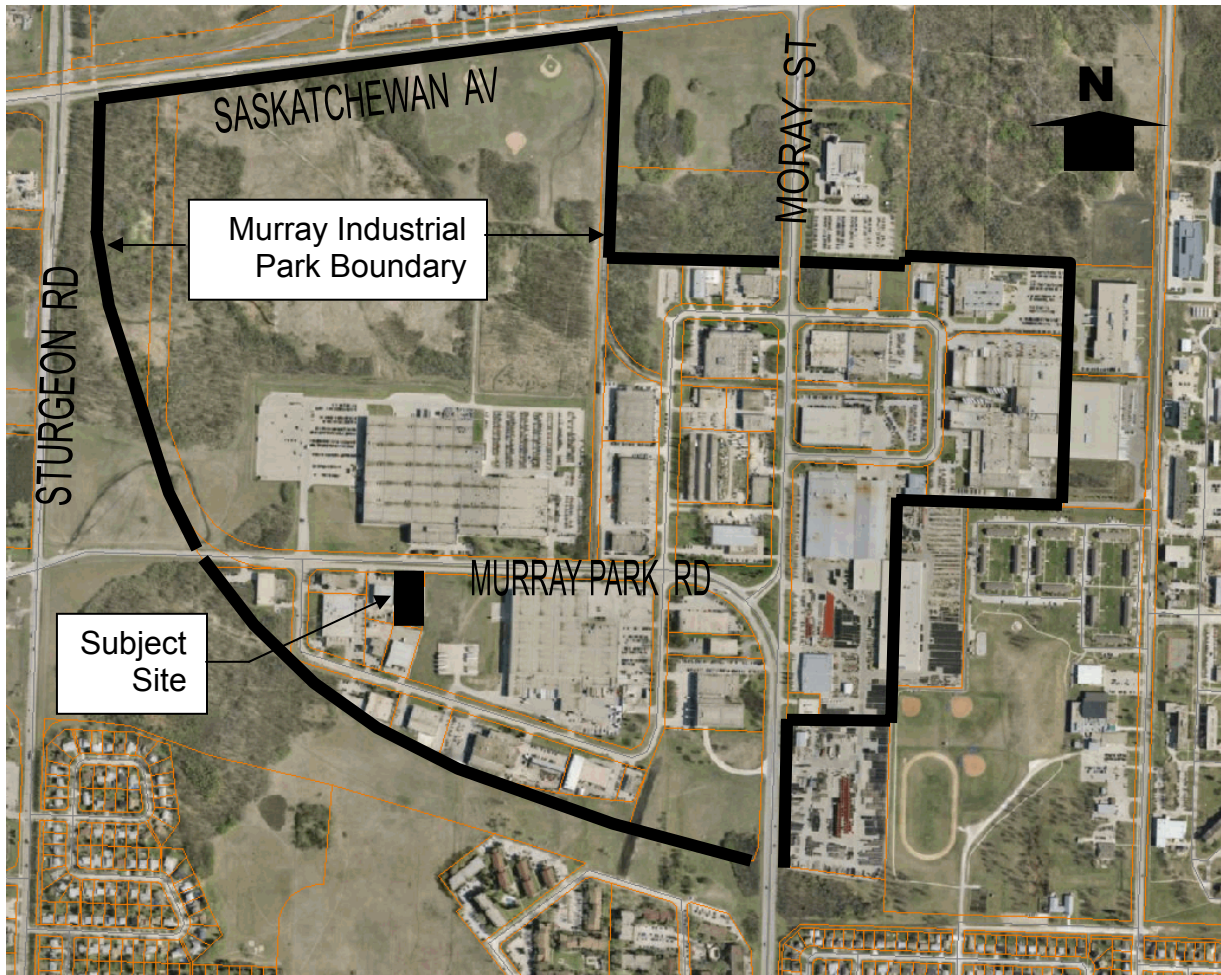
Effects on the ongoing availability and sustainability of industrial lands and facilities are less obvious than land use compatibility, but are as important for a city striving to protect and enhance its diverse industrial and employment sectors. Clearly, the zoning by-law's regulations grapple with compatibility concerns—these concerns form the basis for the earliest zoning codes and by-laws and have certainly been retained in Winnipeg's current zoning by-law, *Winnipeg Zoning By-Law* (#6400/94). Although the City's stewardship responsibilities for industrial and employment clusters are reflected in the zoning by-law provisions, these responsibilities are articulated in the City's official development plan—*Plan Winnipeg: 2020 Vision* (By-Law #7630/2000).

Tempting as it is to cherry-pick *Plan Winnipeg* policies to suit present circumstances, *Plan Winnipeg* policies 2C-04 ("Implement Industrial Land Planning Strategy"), 3A-01 ("Promote Orderly Development"), 3B-06 ("Accommodate New Industrial Areas"), and 3B-07 ("Provide Ongoing Stewardship of Industrial Areas") collectively articulate the importance of industrial lands and land uses to Council and the community. The 2002 *Winnipeg Industrial Inventory and Industrial Market Review* (prepared by UMA Engineering Ltd and subconsultants for the Planning, Property, & Development Department) represents the first step in an Industrial Land Planning Strategy (policy 2C-04). This study confirms the importance of protecting current industrial clusters, in particular those in the northwest quadrant of the city. Although there is a significant supply of potential industrial lands west of Winnipeg International Airport, these lands are not serviced and will require significant infrastructure investment (likely public and private) in order to prepare them for development.

The study also clarifies the extent to which industrial clusters should accommodate a broader mix of land uses, by recognizing "the growing integration of 'Office' and 'Industrial' uses. In a post-industrial economy the need to exclude offices from areas with 'Industrial Park' zoning may be counterproductive." Note that personal service and retail uses are not identified in this recommended land use mix for industrial parks. Although not readily apparent in the zoning regulations, the department has supported the establishment of office uses in industrial parks over the years when use variance applications have been submitted.

The department has not, however, supported the introduction of personal service and retail uses in the heart of industrial parks—other than those established primarily to serve the industrial employment base. The department has supported these types of land uses on industrial-zoned properties located along regional streets. Typically, this support has occurred in circumstances where the linear industrial area is transitioning towards uses serving drive-by traffic. Existing industrial clusters—including Murray Industrial Park, Inkster Industrial Park, Fort Garry Industrial Park, St. Boniface Industrial Park, and University of Manitoba SmartPark—have developed as a result of significant foresight and investment. These efforts must be respected when assessing development proposals within these clusters. Assembling and servicing new industrial clusters is tremendously difficult and expensive.





**Figure 3: Murray Industrial Park Boundaries (Aerial Photo Flown 2005)**

No one objects to the establishment of a dance studio, particularly when located in commercial areas or in combination with community institutions. The department takes its stewardship responsibilities seriously and opposes any land use that, in combination with similar uses, could cumulatively result in a shortage of available industrial facilities (aka the “death by a thousand cuts” analogy). Murray Industrial Park is a key strategic cluster. It is not *potential* supply; it is *actual* supply that should remain available to industrial and employment uses. Industrial park tenants should not be gradually squeezed-out by a collection of potentially higher paying uses, such as retailers and personal service providers that do not have a direct relationship to the industrial park’s employment base.

The applicant has noted that a draft Zoning by-law prepared as part of the *Comprehensive Review of the Winnipeg Zoning By-Law 6400/94* indicates that the dance studio may be either a conditional or permitted use in some industrial zones under that proposed by-law. However at this point any reference to the outcomes of the *Comprehensive Review of the Winnipeg Zoning By-Law 6400/94* are speculative at this time, especially with respect to the future regulation of industrial parks.

The Planning and Land Use Division does not support the establishment of a dance studio at this location and **recommends the 5-year use variance be denied.**

### **REASONS FOR RECOMMENDATIONS**

In the context of Section 247(3), the Planning and Land Use Division recommends **denial** for the following reasons:

- (a) is **NOT** consistent with *Plan Winnipeg* and any applicable secondary plan;
- (b) **DOES** create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is **NOT** the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is **NOT** compatible with the area in which the property to be affected is situated.

This Report Submitted by:  
Planning, Property and Development Department  
Planning and Land Use Division

Report Prepared by: James Veitch  
PPD File # DAV 06-145390/C





EXISTING WALLS  
ADDITION WALLS

# NOT A MINOR EXAMINATION BRANCH

THIS PLAN IS SUBMITTED IN CONNECTION WITH DAY 06-KF5390-K

20 2

APPLICATION OF  $\alpha$ -DGL.

DEV 11/11

DATE 6/8/2009

REMARKS	1	DATE/TIME, PAGE	1
	2	FILE (FILE NUMBER)	2
	3	OBJECT (OBJ. ADDRESS)	3
	4	CALL TO FILE (FILE NUMBER)	4
	5	NAME (NAME)	5
	6	FILE (FILE NUMBER)	6
	7	OBJECT (OBJ. ADDRESS)	7
	8	NAME (NAME)	8
	9	FILE (FILE NUMBER)	9

[illegible]

GENERAL NOTES

© 2004 Blackwell Publishing Ltd, *Journal of Internal Medicine* 255: 111–118

PROJECT NAME		STUDIO 1 RETROFIT	
PROJECT ADDRESS		160 MURRAY PARK RD WINNIPEG, MANITOBA	
DATE		PROPOSED PLAN	
DATE	BY	DATE	BY
2011	SP	2011 JUL 11	SP
DATE	BY	DATE	BY
2011	SP	-	SP
DATE	BY	DATE	BY
2011	SP	2011	SP