

# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number: A-38/21  
Location: 223 Victoria Road South  
Hearing Date: July 8, 2021  
Owner: Mark Bunney and Brenda Dawson  
Agent: N/A  
Official Plan Designation: Low Density Residential  
Zoning: Specialized Residential Single Detached (R.1C-3) Zone

**By-Law Requirements:** The property is located in the Specialized Residential Single Detached (R.1C-3) Zone.

The property contains a semi-detached dwelling, which is considered to be a legal non-conforming use in the Residential Single Detached (R.1C) Zone. Any additions or changes to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment.

**Request:** The applicant is seeking permission to enlarge/extend the legal non-conforming use to permit the construction of a two-storey building addition with a gross floor area of 7.4 square metres onto the rear of the existing semi-detached dwelling unit.

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## Staff Recommendation

### Approval

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## Recommended Conditions

None

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## Comments

### Planning Services

The subject property is designated "Low Density Residential" in the City's Official Plan. The "Low Density Residential" land use designation applies to residential areas within the built-up area of the City and permits a range of housing types including single detached and semi-detached residential dwellings. The request meets the general intent and purpose of the Official Plan.

The subject property is zoned "Specialized Residential Single Detached" (R.1C-3) according to Zoning By-law (1995)-14864, as amended. The R.1C-3 zone permits single detached dwellings and other related accessory uses. The existing residential semi-detached dwelling is considered to be a legal non-conforming use in the residential single detached zone. It is noted that the Comprehensive Zoning By-law is proposing to recognize and appropriately zone existing semi-detached dwellings.

The applicant is proposing a 7.4 square metre addition to the existing legal non-conforming semi-detached dwelling to rebuild, extend and add a second storey to the rear of the dwelling where there was fire damage. The applicant is requesting permission to enlarge/extend the legal non-conforming use to permit the construction of a two-storey building addition with a gross floor area of 7.4 square metres onto the rear of the existing semi-detached dwelling unit.

As set out in Section 45(2) of the Planning Act, the Committee of Adjustment may:

- a) where any land, building or structure, on the day the By-law was passed, was lawfully used for a purpose prohibited by the By-law, may permit,
  - (i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the By-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed.

Policy 10.10.3(2) of the Official Plan provides direction for reviewing applications concerning legal non-conforming uses. The Official Plan states:

"In reviewing an application concerning a legal non-conforming use, property, building or structure, the Committee of Adjustment will consider the matters outlined in section 10.10.2 of this Plan, with necessary modifications as well as the requirements of the Planning Act, to evaluate the appropriateness of a development proposal and the use of property. In addition, the following matters shall be considered:

- i) that the use has been continuous;
- ii) that the extension/enlargement is situated only on the property owned by the development proponent;
- iii) that no new separate buildings will be permitted; and,
- iv) that the proposed use is similar or more compatible with the uses permitted by the Zoning By-law in effect."

Policy 10.10.3(4) of the Official Plan further states that "In certain circumstances, it may be desirable to permit the extension or enlargement to a building or structure for a legal non-conforming use in order to avoid unnecessary hardship." In this situation if the enlargement/extension was not granted, the owners could face unnecessary hardship as they would be unable to make changes to the existing dwelling on the property. The semi-detached residential use of the property predates the R.1C-3 zone designation of the property.

Staff have reviewed the above criteria and Official Plan policies and are satisfied that the proposal to enlarge/extend the legal non-conforming use is appropriate for the development of the land.

Planning staff recommend approval of the application.

### **Engineering Services**

Engineering has no concerns to grant permission to enlarge/extend the legal non-conforming use to permit the construction of a two-storey building addition with a gross floor area of 7.4 square metres onto the rear of the existing semi-detached dwelling unit.

We agree with recommendations made by the Planning and Building staff.

### **Building Services**

The property is located in the Specialized Residential Single Detached (R.1C-3) Zone. The applicant is proposing to construct a two-storey building addition onto the rear of the existing semi-detached dwelling unit, which is a legal non-conforming use in the Residential Single Detached (R.1C) Zone. Any additions or changes to a property which is legal non-conforming requires the approval of the Committee of Adjustment.

Building Services does not object to this application. A building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

### **Comments from the Public**

None

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### **Contact Information**

**Committee of Adjustment:** City Hall, 1 Carden Street, Guelph ON N1H 3A1

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