

# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number: A-40/21  
Location: 15 Clearview Street  
Hearing Date: July 8, 2021  
Owner: Jessica Lee and Ryan Schnurr  
Agent: Emily Loker, CAKE Interior Design Inc.  
Official Plan Designation: Industrial  
Zoning: Industrial (B.4) Zone

**By-Law Requirements:** The property is located in the Industrial (B.4) Zone. The property contains a single detached dwelling, which is considered to be a legal non-conforming use in the Industrial (B.4) 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 proposed additional residential dwelling unit (ARDU) with a gross floor area of 56 square metres in the basement of the existing single detached dwelling.

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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 "Industrial" in the City's Official Plan and is zoned "Industrial" (B.4) according to Zoning By-law (1995)-14864, as amended.

The existing single detached dwelling and accessory buildings are considered to be legal non-conforming in the B.4 zone as the residential use of the property predates the Zoning By-law. The applicant is requesting the following:

Permission to enlarge/extend the legal non-conforming use to permit an Additional Residential Dwelling Unit (ARDU) within the basement of the existing single detached dwelling.

The notice indicates that the proposed ARDU is 55.92 square metres, but that does not include the 30.1 square metre storage area within the ARDU which is only accessible by the tenants of the accessory apartment. There are no concerns with the size of the ARDU as it meets the requirements of Section 4.15.1.6 of the Zoning By-law:

- a) The ARDU shall not exceed 45 percent of the total net floor area of the building (Section 4.15.1.6.1);
- b) Despite Section 4.15.1.6.1, if the ARDU is located within the basement, the ARDU may occupy the entirety of the basement (Section 4.15.1.6.1.1);
- c) The ARDU within a primary dwelling unit shall not contain more than two bedrooms (Section 4.15.1.6.2); and
- d) Interior access is required between floor levels and between the ARDU and the primary dwelling unit (Section 4.15.1.6.3).

The ARDU has 2 bedrooms, is located in the basement; therefore permitted to occupy the entirety of the basement and the proposed interior access through an enclosed, insulated and temperature controlled hallway has been deemed acceptable by the Building Department to meet the interior access requirements.

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 residential use of the property predates the B.4 zone designation of the Zoning By-law.

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 with to grant permission to enlarge/extend the legal non-conforming use to permit the proposed additional residential dwelling unit (ARDU) with a gross floor area of 56 square metres in the basement of the existing single detached dwelling.

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

### **Building Services**

The property is located in the Industrial (B.4) Zone. The applicant is proposing to construct an additional residential dwelling unit (ARDU) in the basement of the existing single detached dwelling. The property contains a single detached dwelling, which is considered to be a legal non-conforming use in the Industrial (B.4) Zone. Any additions or changes to a property which is legal non-conforming requires approval of the Committee of Adjustment. The applicant is seeking permission to enlarge/extend the legal non-conforming use to permit the proposed additional residential dwelling unit (ARDU) with a gross floor area of 56 square metres in the basement of the existing single detached dwelling.

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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