

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-35/21
Location: 102 Kathleen Street
Hearing Date: July 8, 2021
Owner: Annette Twist
Agent: Art Janzen, Menno S. Martin Contractor Limited
Official Plan Designation: Low Density Residential
Zoning: Residential Single Detached (R.1B) Zone

By-Law Requirements: The By-law requires:

- a) that in a R.1 Zone, every required parking space shall be located a minimum distance of 6 metres from the street line and to the rear of the front wall of the main building;
- b) a minimum front or exterior side yard for dwellings located within Defined Area Map Number 66 of 6 metres or the average of the setbacks of the adjacent properties; and where the off-street parking space is located within a garage or carport, the setback for the garage or carport shall be a minimum of 6 metres from the street line; and
- c) a minimum front yard setback of 6.0 metres for one to two-storey single-detached dwellings in an R.1B zone.

Also, the property contains a semi-detached dwelling, which is considered to be a legal non-conforming use in the Residential Single Detached (R.1B) 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:

- a) relief from the By-law requirements to permit the required parking space to be located a minimum of 5.2 metres from the street line;
 - b) relief from the By-Law requirements to permit a minimum front yard setback of 5.2 metres for the proposed two-storey building addition and attached garage; and
 - c) 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 112.17 square metres onto the left side of the existing semi-detached dwelling unit.
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Staff Recommendation

Approval

Recommended Conditions

None

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 requested variances meet the general intent and purpose of the Official Plan.

The subject property is zoned "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended. The R.1B 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 112.17 square metre, two-storey addition onto the left side of the existing legal non-conforming semi-detached dwelling. The applicant is requesting the following:

- a) 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 112.17 square metres onto the left side of the existing semi-detached dwelling unit; and
- b) To permit a minimum front yard setback of 5.2 metres for the proposed two-storey building addition with attached garage; whereas Section 5.1.2.7 of the Zoning By-law states despite Row 6 of Table 5.1.2, the minimum front or exterior side yard for dwellings located within Defined Area Map Number 66 of Schedule "A" of this By-law shall be 6 metres or the average of the setbacks of the adjacent properties and where the off-street parking space is located within a garage or carport, the setback for the garage or carport shall be a minimum of 6 metres from the street line; and
- c) To permit the required parking space to be located a minimum of 5.2 metres from the street line; whereas, Section 4.13.2.1 of the Zoning By-law states in a R.1, R.2 and R.3B Zone, every required parking space shall be located a minimum distance of 6 metres from the street line and to the rear of the front wall of the main building.

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.1B zone designation of the property.

The purpose and intent of the required front yard setback is to ensure a harmonious streetscape. The proposed addition is setback from the front face of the existing dwelling on a street with varying front yard setbacks. The garage containing a required parking space is to be setback 6 metres from the property line to allow an additional parking space on the driveway within the limits of the property. The driveway is remaining close to its existing location with its existing setback can accommodate a standard car length.

Staff have reviewed the above criteria and policies relating to the enlargement/extension of a legal non-conforming use and are satisfied that the proposal to enlarge/extend the legal non-conforming use is appropriate for the development of the land. The requested variances are considered to be minor in nature, meet the general intent and purpose of the Zoning By-law and the Official Plan and are desirable for the appropriate development and use of the land.

Planning staff recommend approval of the application.

Engineering Services

Engineering has no concerns with the applicant's request of seeking relief from the By-law requirements to permit the required parking space to be located a minimum of 5.2 metres from the street line; and to permit a minimum front yard setback of 5.2 metres for the proposed two-storey building addition and attached garage.

Further, 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 112.17 square metres onto the left side 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 Residential Single Detached (R.1B) Zone. The applicant is proposing to construct a two-storey building addition including an attached garage onto the left side of the existing semi-detached dwelling. Variances from Sections 4.13.2.1 and 5.1.2.7 i), and Table 5.1.2, Row 6 of Zoning By-law (1995)-14864, as amended, are being requested.

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

Yes (See Attached)

Contact Information

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