

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-44/21
Location: 9 Mercer Street
Hearing Date: August 12, 2021
Owner: Joanne Peach and Stewart Davies
Agent: N/A
Official Plan Designation: Low Density Residential
Zoning: Residential Single Detached (R.1B) Zone

By-Law Requirements: The By-Law requires that:

- a) 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) 1 driveway (residential) access only shall be created per residential property;
- c) a driveway (residential) in an R.1 Zone shall have a maximum width of 6.5 metres in an R.1B Zone;
- d) the additional residential dwelling unit shall not occupy more than 30 percent of the yard, including all accessory buildings and structures; and
- e) a minimum distance of 3 metres shall be provided between the primary dwelling unit and an additional residential dwelling unit in a separate building on the same lot.

Request: The applicant is seeking relief from the By-Law requirements to permit:

- a) the required parking space to be located a minimum distance of 4.6 metres from the street line and to the rear of the front wall of the main building;
- b) the two existing residential driveway accesses on the property;
- c) the existing driveway width of 11 metres;
- d) the proposed additional residential dwelling unit and existing accessory structures to occupy a maximum of 30.8 percent of the yard; and
- e) a minimum distance of 1.6 metres between the existing primary dwelling unit and the proposed additional residential dwelling unit within the existing accessory structure (detached garage).

Staff Recommendation

Approval with Conditions

Recommended Conditions

Engineering Services

1. That prior to the issuance of the building permit, the Owner(s) shall apply and obtain an entrance permit. Further, the Owner(s) shall pay the City the actual cost of construction, curb cuts and/or curb fills, and boulevard restoration.
 2. That prior to the issuance of the building permit, the Owner(s) agree to remove the existing fence from within the sightline triangle.
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Comments

Planning Services

The subject property is designated "Low Density Residential" in the Official Plan. This designation applies to residential areas within the Built-up Area of the City which are currently predominantly low-density in character. The predominant land use in this designation is residential and includes single detached, semi-detached, duplex dwellings and multiple unit residential buildings, such as townhouses and apartments. The requested variances to permit an accessory residential dwelling unit do not conflict with the criteria listed in Section 9.2.4 of Official Plan that is used as the basis for permitting additional residential dwelling units within a separate building on the same lot as the primary dwelling:

- a) the use is subordinate in scale and function to the primary dwelling on the lot;
- b) the use can be integrated into its surroundings with negligible visual impact to the streetscape;
- c) the use is situated on an appropriately-sized housing lot;
- d) the use is compatible in design and scale with the built form of the primary dwelling unit;
- e) the orientation of the use will allow for optimum privacy for both the occupants of the new additional residential dwelling units within a separate building on the same lot as the primary dwelling or garden suite and the primary dwelling on the lot; and
- f) any other siting requirements related to matters such as servicing, parking and access requirements, storm water management and tree preservation can be satisfied.

The requested variances are considered to meet the general intent and purpose of the Official Plan.

The applicant is proposing to convert the second storey of an existing two-storey detached accessory structure (garage) to an additional residential dwelling unit (ARDU). The first floor of the garage contains two vehicle parking spaces. The detached garage was permitted by way of a minor variance in 1994, prior to the adoption of Zoning By-law (1995)-14864. The conversion of the second storey of the detached garage to an ARDU will require the following 5 variances to Zoning By-law (1995)-14864 to permit the ARDU and to legalize the existing detached garage conditions:

3. To permit required parking space to be located a minimum distance of 4.6 metres from the street line and to the rear of the front wall of the main building, whereas Section 4.13.2.1 states 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;
4. To permit the two existing residential driveway accesses on the property, whereas Section 4.13.7.2 ii) states in a R.1 Zone 1 Driveway (Residential) access only shall be created per residential property;
5. To permit the existing driveway width of 11 metres, whereas Section 4.13.7.2.1 states a driveway (Residential) in an R.1 Zone shall have a maximum width of 6.5 metres in an R.1B Zone;
6. To permit the proposed additional residential dwelling unit and existing accessory structures to occupy a maximum of 30.8 percent of the yard, whereas Section 4.15.1.7.3 states the ARDU shall not occupy more than 30 percent of the Yard, including all accessory Buildings and Structures; and
7. To permit a minimum distance of 1.6 metres between the existing primary dwelling unit and the proposed ARDU within the existing accessory structure (detached garage), whereas Section 4.15.1.7.9 states a minimum distance of 3 metres shall be provided between the primary Dwelling Unit and an ARDU in a separate Building on the same Lot.

The variances to permit the existing conditions of the parking space setback distance, driveway width and driveway accesses are supportable by Planning for the reason that the existing detached garage contains 2 parking spaces as required for a dwelling and accessory dwelling unit, and there is a City street tree in the middle of the driveway access to the garage. Permitting the existing widened driveway together with the 2 driveway accesses around the tree will allow the City's street tree to remain in place.

The variances required to permit the detached ARDU on the second storey of the existing detached garage are supportable by Planning as the main dwelling and accessory structure are situated so each building/dwelling unit maintains privacy and access to both dwelling units. The 30.8 percent accessory structure and ARDU lot coverage in the side yard is an existing condition where the 0.8 percent increase in coverage is considered negligible.

The requested variances are considered to meet the general intent and purpose of the Official Plan and Zoning By-law, are considered to be desirable for the appropriate development of the land and are considered to be minor in nature.

Staff recommend approval of the application.

Environmental Planning

The subject property is less than 0.2 hectares in size and therefore not regulated by the Private Tree By-law. However, there are two City owned trees fronting Mercer Street and consistent with the Official Plan, trees and shrubs within the City's right-of-way need to be appropriately considered and protected during any type of construction/works within the dripline. Protection of City trees must be optimized as

injury or destroying a City tree may not be granted by the City. Any proposal to injure or destroy a tree must be accompanied by a Tree Inventory and Preservation Plan, to the satisfaction of the General Manager of Parks. Please contact Timea Filer, Forestry Technologist, before submitting a building permit.

Engineering Services

Staff conducted a site visit in July of 2021, and it appears that the west driveway entrance was constructed illegally, and asphalt was added to the City's right-of-way to create a slope over the curb. Engineering can support the additional access as the driveway is U-shaped; however, the Owner must obtain an entrance permit, remove the existing asphalt, and cut the curb to create the entrance as per the City's guidelines.

Further, the site visit revealed that the existing fence along the east property line creates sightline obstructions and is a hazard for vehicles. Therefore, the fence shall be removed from within the sightline triangle.

Engineering has no concerns with the requested variances subject to the conditions noted above.

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

Building Services

The property is located in the R.1B Residential Single Detached Zone. The applicant is requesting a number of variances to legalize a detached Accessory Residential Dwelling Unit and a number of site conditions.

The applicant is seeking relief from the By-Law requirements to permit:

- a) the required parking space to be located a minimum distance of 4.6 metres from the street line and to the rear of the front wall of the main building;
- b) the two existing residential driveway accesses on the property;
- c) the existing driveway width of 11 metres;
- d) the proposed additional residential dwelling unit and existing accessory structures to occupy a maximum of 30.8 percent of the yard;
- e) a minimum distance of 1.6 metres between the existing primary dwelling unit and the proposed additional residential dwelling unit within the existing accessory structure (detached garage).

Building Services notes that the garage has a previous variance (file A-91/94) for height and the setbacks for an Accessory Residential Dwelling Unit are new to the Zoning By-law. Building Services does not object to the proposed variances.

Comments from the Public

None

Contact Information

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