

# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number: A-8/23  
Location: 179 Eramosa Road  
Hearing Date: February 9, 2023  
Owner: Brian Leonard Van Harten  
Agent: Len Van Harten  
Official Plan Designation: Low Density Residential  
Zoning Designation: Residential Single Detached (R.1B) Zone

### **By-Law Requirements:** The By-Law requires:

- a) a minimum distance of 3 metres between a primary dwelling unit and an additional residential dwelling unit in a separate building on the same lot;
- b) a minimum side yard setback and rear yard setback of 1.5 metres for an additional residential dwelling unit in a separate building on a lot within the R.1B Zone;
- c) that an additional residential dwelling unit in a separate building on a lot may occupy a yard other than a front yard or required exterior side yard; and
- d) that an additional residential dwelling unit shall not occupy more than 30% of a yard.

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

- a) a minimum distance of 2.31 metres between the primary dwelling unit and the proposed additional residential dwelling unit within a separate building on the same lot;
- b) a minimum rear yard setback of 1.37 metres for the proposed additional residential dwelling unit within a separate building on the lot;
- c) an additional residential dwelling unit to be partially located in the required exterior side yard, with a minimum exterior side yard setback of 1.95 metres;
- d) the proposed additional residential dwelling unit within a separate building on the lot to occupy 40.43% of the exterior side yard of the lot; and
- e) the proposed additional residential dwelling unit within a separate building on the lot to occupy 42.8% of the rear yard of the lot.

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## Staff Recommendation

### Approval with Condition

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## **Recommended Conditions**

### **Engineering Services**

1. That prior to issuance of a building permit the owner agrees to restore the driveway width to its original condition as shown in the image contained within the comments document.
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## **Comments**

### **Planning Services**

The subject property is designated "Low Density Residential" in the Official Plan. This designation is meant to accommodate low rise forms of housing including detached, semi-detached, townhouses and apartment buildings.

Section 9.2.4 of the Official Plan establishes the criteria to permit ARDUs within a separate building on the same lot as the primary dwelling:

- i. the use is subordinate in scale and function to the primary dwelling on the lot;
- ii. the use can be integrated into its surroundings with negligible visual impact to the streetscape;
- iii. the use is situated on an appropriately-sized housing lot;
- iv. the use is compatible in design and scale with the built form of the primary dwelling unit;
- v. 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
- vi. any other siting requirements related to matters such as servicing, parking and access requirements, storm water management and tree preservation can be satisfied.

The proposed ARDU is subordinate in scale and function as it is smaller in GFA and height than the main structure. As an existing detached accessory structure, the proposed ARDU is already compatible with the scale and design of the primary building (i.e., similar façades and walkway with smaller height and area, etc.). The orientation of the proposed ARDU backs onto vegetation including trees, preserving privacy with adjacent neighbors. The proposed ARDU is separated sufficiently from the primary dwelling unit with the entrance opening towards Eramosa Road (away from the primary dwelling unit), mitigating privacy issues between residents on this property. Additional requirements such as servicing, parking and access requirements, storm water management and tree preservation can all be satisfied. The requested variances are considered to meet the general intent and purpose of the Official Plan.

179 Eramosa Road is zoned "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended. As background information for the Committee, the subject property was created in 2003 through a lot addition. At the time of Consent, the existing detached accessory structure was specifically not

permitted to be used for human habitation, mainly because ARDUs were not permitted in the City at the time. A number of variances were also approved in 2003 to address the irregular lot shape and layout, including permitting a reduced lot frontage, a reduced dwelling setback, a reduced rear yard and increased rear yard occupation for a detached accessory structure.

The following 5 variances to Zoning By-law (1995)-14864 have been requested by the applicant to permit the conversion of the existing detached accessory structure into an ARDU.

#### Variance A

The applicant is requesting a variance to permit a minimum distance of 2.31 metres between the primary dwelling unit and the proposed additional residential dwelling unit within a separate building on the same lot, whereas Section 4.15.1.7.9 requires a minimum distance of 3 metres between a primary dwelling unit and an additional residential dwelling unit in a separate building on the same lot.

The general intent and purpose of this regulation is to ensure sufficient room for privacy, amenity space and access around the buildings. A reduced minimum distance between the primary dwelling unit and the proposed ARDU is supported by Planning as the proposed ARDU already exists as an accessory structure and the reduction is negligible. The requested variance is considered to meet the general intent and purpose of the Zoning By-law.

#### Variances B and C

The applicant is requesting a variance to permit a minimum rear yard setback of 1.37 metres for the proposed additional residential dwelling unit within a separate building on the lot, whereas Section 4.15.1.7.8 requires a minimum side yard setback and rear yard setback of 1.5 metres for an additional residential dwelling unit in a separate building on a lot within the R.1B Zone.

The applicant is also requesting a variance to permit an additional residential dwelling unit to be partially located in the required exterior side yard with a minimum exterior side yard setback of 1.95 metres, whereas Section 4.15.1.7.7 requires that an additional residential dwelling unit in a separate building on a lot may occupy a yard other than a front yard or required exterior side yard.

The general intent and purpose of the Zoning By-law in requiring setbacks and not allowing ARDUs in the exterior side yard is to ensure privacy amongst neighbours, to ensure a consistent streetscape and to ensure there are no sight line issues created with ARDUs located in the exterior side yard. Variances B and C are both supported as the proposed ARDU already exists and does not interfere with the streetscape or sight lines. The subject property is located at the corner of Stuart Street and Eramosa Road and is an irregular shaped property that creates challenges for an ARDU to be located only in the rear yard. Furthermore, the exterior side yard setback of the existing detached accessory structure aligns with the exterior side yard setback of the existing primary dwelling unit on the property. The proposed ARDU will not project further into the exterior side yard than the existing residential dwelling on Eramosa Road, therefore a consistent streetscape is

maintained. The requested variances meet the general intent and purpose of the Zoning By-law.

#### Variances D and E

The applicant is requesting a variance to permit the proposed additional residential dwelling unit within a separate building on the lot to occupy 40.43% of the exterior side yard of the lot, whereas Section 4.15.1.7.3 requires that an additional residential dwelling unit shall not occupy more than 30% of a yard.

The applicant is also requesting a variance to permit the proposed additional residential dwelling unit within a separate building on the lot to occupy 42.8% of the rear yard of the lot, whereas Section 4.15.1.7.3 requires that an additional residential dwelling unit shall not occupy more than 30% of a yard.

The general intent and purpose of the Zoning By-law in requiring a maximum 30% yard coverage for additional residential dwelling units within a separate building is for consistency with coverage regulations in the City's Zoning By-law for accessory structures and buildings. The 30% yard coverage applies to the yard the additional residential dwelling unit is located in and ensures the lot is not over built and that open space and amenity space is available for residents.

Variances D and E are both supported by staff as the proposed ARDU already exists and occupies more than 30 percent of the yard as previously approved by a variance in 2003. The property is relatively small and irregular in shape which results in a higher percentage of yard coverage. The requested variances meet the general intent and purpose of the Zoning By-law.

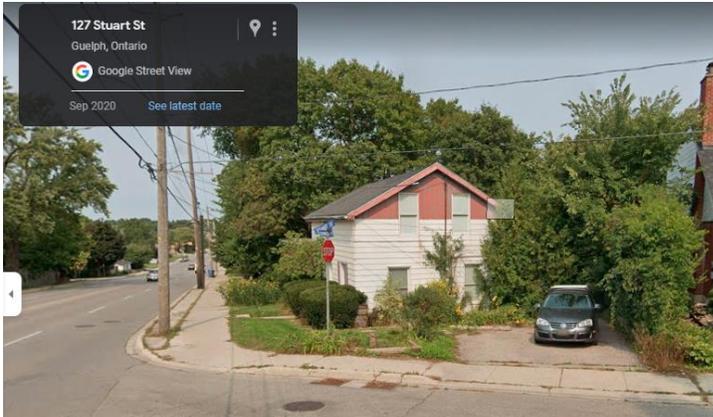
Given that the requested variances apply to an existing structure on the subject property and do not impact the neighbouring property, the requested variances are considered to be desirable for the appropriate development of the lands and minor in nature.

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

#### **Engineering Services**

Staff met with the applicant to discuss the proposed variances and conducted a site visit in December of 2022. During the site visit it was determined that the applicant has widened the driveway illegally (See provided images below), creating a safety hazard for vehicles and pedestrians as the new widen driveway will impact the already poor sightlines this was discussed with the applicant.

The requested variances apply to the existing building as such Engineering has no concerns with the requested variances subject the above noted condition is imposed.



## Building Services

The subject property is in the Residential Single Detached (R.1B) Zone which permits a single detached dwelling and an additional residential dwelling unit (ARDU) within a separate building on the same lot. The property is also with Defined Area Map 66, which is a boundary of the older city lands which surround downtown and many structures were built prior to zoning by-laws being created and do not meet current requirements.

The applicant is proposing to convert the existing accessory building to an ARDU within a separate building on the same lot which requires four variances to meet zoning requirements.

Note that a building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

Building Services supports Planning and Engineering recommendations.

## 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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