

# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number: A-23/23  
Location: 139 Victoria Road South  
Hearing Date: April 13, 2023  
Owner: Claudio Gutwein  
Agent: N/A  
Official Plan Designation: Low Density Residential  
Zoning Designation: Specialized Residential Single Detached (R.1C-3)

**By-Law Requirements:** The By-Law requires that the minimum side yard setback for a dwelling in the R.1C Zone be 1.2 metres.

**Request:** The applicant is seeking relief from the By-Law requirements to permit a minimum right side yard setback of 0.22 metres for the addition at the rear of the existing dwelling.

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## Staff Recommendation

### Approval with Conditions

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## Recommended Conditions

### Planning Services

1. That the variance only apply to the right side yard setback in general accordance with the Public Notice sketch.
2. That the addition be limited to one storey in height.

### Building Services

3. That an Encroachment Agreement be registered on title of the neighbouring property (137 Victoria Rd S) for the portions of the building and eaves that cross the property line, and it is to be submitted prior to the issuance of the building permit to the satisfaction of the Chief Building Official.
4. That an Access and Maintenance Agreement be registered on title of the neighbouring property (137 Victoria Rd S) that shall contain provisions to permit access for the owner of 139 Victoria Rd S onto 137 Victoria Rd S to allow for maintenance and construction of the right side of the dwelling, and it is to be submitted prior to the issuance of the building permit to the satisfaction of the Chief Building Official.

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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 dwellings. The requested variance will facilitate the existing addition to a single detached dwelling. As the use is permitted staff are satisfied that the requested variance conforms to 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 applicant has requested a variance to permit a minimum right side yard setback of 0.22 metres, whereas Table 5.1.2, Row 7 of the Zoning By-law requires a minimum side yard setback of 1.2 metres. The original front portion of the dwelling predates the Zoning By-law and maintains a legal non-complying side yard setback of 0.19 metres at its closest point. An addition was constructed to the rear of the original structure maintaining the reduced side yard setback. As the original structure is not parallel to the property line, the side yard setback of the addition is 0.22 metres rather than the original 0.19 metres. As indicated on the survey provided, the eaves of the original portion of the building overhang the property line by 0.03 metres. The eaves of the addition portion of the building are located directly on the property line at their furthest point. The owners of the neighbouring property (137 Victoria Road South) have indicated that they have no concerns with the proposed setback or the encroachment of the eaves on the original portion of the building.

The intent of the required 1.2 metres setback is to ensure adequate separation between residential structures, allow for proper lot grading and drainage, allow for maintenance and access to the rear yard. As the addition maintains the same setback as the original portion of the building, is not any taller than the original portion of the building and there is access to the rear yard from the left side of the dwelling, staff are satisfied that the proposal conforms with the general intent and purpose of the Zoning By-law.

As the addition is in line with the legal non-complying original portion of the dwelling and the neighbouring property owners are supportive of the application, staff are of the opinion that the proposal is minor in nature and is desirable for the appropriate development of the land.

In the opinion of planning staff, the requested variance meets the general intent and purpose of the Official Plan and Zoning By-law, is desirable for the appropriate development of the land and is minor in nature.

Staff recommend approval of the application subject to the above noted conditions.

## **Engineering Services**

Engineering has no concerns with the applicants' request for seeking relief from the By-Law requirements to permit a minimum right side yard setback of 0.22 metres for the addition at the rear of the existing dwelling

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

## **Building Services**

The subject property is in the Specialized Residential Single Detached (R.1C-3) Zone which permits single detached dwellings. 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 requesting permission to recognize a minimum right side yard setback of 0.22 metres for an addition at the rear of the existing dwelling. Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended requires a 1.2 metre side yard setback for dwellings. Eaves are permitted to encroach into the required side yard 0.8 metres, with a minimum setback of 0 metres to the property line. A minor variance to allow a 0.22 metre side yard setback for the dwelling will have the effect of permitting the eaves since, if approved, 0.22 metres will be the required minimum side yard setback. The eaves on the addition are shown to have a 0 metre setback to the property line. The drawing shows the existing eaves near the front face of the dwelling and the chimney crossing the right side property line.

Building Services notes the site plan shows the chimney and portion of the eaves cross the property line. An Encroachment Agreement registered on title with the neighbouring property owner (137 Victoria Rd S) is required with the building permit submission as portions of the structure cross the property line. It is also noted that the proposed right side yard setback of the addition is 0.22 metres from the property line. As the proposed dwelling right side yard setback is less than 0.6 metres, an Access Agreement registered on title of the neighbouring property owner (137 Victoria Rd S) will be required with the building permit. The agreement shall contain provisions to permit access for the owner of 139 Victoria Rd S onto 137 Victoria Rd S to allow for maintenance and construction of the right side of the dwelling.

Unprotected openings are also not permitted on the dwelling closer than 1.2 metres to the property line. Walls less than 0.6m to the property line require a 45 minute fire resistance rating and shall have non-combustible cladding.

Building Services supports Planning and Engineering recommendations subject to the recommended conditions.

## **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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