

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-24/23
Location: 390 York Road
Hearing Date: April 13, 2023
Owner: 2596049 Ontario Inc.
Agent: Thomas Lukacs, Zoltan Engineering Inc.
Official Plan Designation: Mixed Office-Commercial
Zoning Designation: Commercial Residential (CR) Zone

By-Law Requirements: The By-Law requires:

- a) that an accessory building or structure may occupy a yard other than a front yard or required exterior side yard;
- b) that an accessory building or structure may not occupy more than 30% of a yard, other than a front or required exterior side yard; and
- c) that an accessory building or structure may not exceed 4.5 metres in height in the Commercial Residential Zone.

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

- a) an accessory structure (proposed gas canopy) be located in the front yard of the subject property;
 - b) an accessory structure (proposed gas canopy) to occupy 45.1% of the front yard; and
 - c) a maximum height of 5.9 metres for the proposed gas canopy.
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Staff Recommendation

Approval with Condition

Alectra Utilities

1. That prior to issuance of a building permit, the applicant make arrangements with the ICI & Layouts Department of Alectra Utilities for the possible relocation of the existing overhead hydro service and confirmation of appropriate clearances from the existing pole line infrastructure. This would be at the applicant's expense.
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Comments

Planning Services

The subject property is designated "Mixed Office/Commercial" in the City's Official Plan. The "Mixed Office/Commercial" land use designation permits a variety of small-scale commercial, office and mixed-uses. Office, convenience commercial, retail commercial and personal service uses that serve the needs of the surrounding neighbourhood are specifically promoted. The requested variances support and enhance an existing convenience commercial use and therefore meet the general intent and purpose of the Official Plan.

The subject property is zoned "Commercial Residential" (CR) according to Zoning By-law (1995)-14864, as amended, and permission was granted in 1998 "to allow for the continuation of a vehicle service station use...". The applicant is proposing to add a canopy over the existing gas pumps, within the front yard of the subject property. The canopy is considered an accessory structure because the CR zone does not have regulations of gas pumps or canopy usually associated with a vehicle service station. The applicant is proposing to construct the canopy at the standard height of 5.9 metres. The applicant has applied for three variances as follows:

Variance A

The first variance requested is to permit the accessory structure (canopy) to be located in the front yard of the subject property, whereas Section 4.5.1 of the Zoning By-law requires that an accessory structure may only occupy a yard other than a front yard or a required exterior site yard. The Zoning By-law sets out locations of accessory structures to ensure the streetscape is not negatively affected. The gas pumps are existing in the front yard and the canopy is to be located over the pumps to protect from weather. The design has met the setback requirement from the nearest property line. Staff are satisfied that the accessory structure does not create any significant, unacceptable adverse impacts for the abutting neighbour or the streetscape. The requested variance meets the general intent and purpose of the Zoning By-law.

Variance B

The second variance requested is to permit the accessory structure to occupy 45.1% of the front yard, whereas Section 4.5.1.1 of the Zoning By-law requires that an accessory structure may not occupy more than 30% of a yard. The general intent and purpose of the Zoning By-law in requiring a maximum yard coverage is so adequate space is left for other needs on the property, e.g. parking, landscaping, signage, to allow for maintenance; and to allow for proper drainage as per the grading of the lot. For the canopy, vehicles will be able to drive and park under the canopy and it will not impede maintenance (snow clearing) or drainage. Planning staff are satisfied that the accessory structure will not negatively impact adjacent properties or use of the property it is located on. The requested variance is considered to meet the general intent and purpose of the Zoning By-law.

Variance C

The third variance requested is to permit the accessory structure to be a maximum height of 5.9 metres, whereas Section 4.5.2.2 of the Zoning By-law requires that an accessory structure may not exceed 4.5 metres in height in the Commercial Residential Zone. The general intent and purpose of the Zoning By-law in not permitting tall accessory structures is to ensure the accessory structure is subordinate, incidental and exclusively devoted to the primary use of the Vehicle Service Station. In this situation the canopy is open on all sides, not enclosed, and only serves to protect the gas pumps from weather, so it is subordinate and exclusively devoted to the Vehicle Service Station use. In order for the canopy to serve its purpose, vehicles must be able to drive under the canopy, so adequate height is needed for large vehicles and fuel delivery trucks to maneuver underneath. The canopy proposed is a standard height and consistent with canopies at other Vehicle Service Stations. Since the "Commercial Residential" (CR) Zone does not contain standards for Vehicle Service Stations, the variance is need to permit the otherwise standard accessory structure height. The requested variance is considered to meet the general intent and purpose of the Zoning By-law.

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. Planning staff recommend approval of the application.

Engineering Services

Engineering staff have reviewed this application since there is no additionally impervious area being added through the construction of the proposed canopy. Engineering has no concerns with the requested variances.

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

Building Services

The subject property is in the Commercial-Residential (CR) Zone and with Defined Area Map 66, which is a boundary of the older city lands which surround downtown where many structures were built prior to zoning by-laws being created and do not meet current requirements. The gas bar is a legal non-conforming use on the property. There are no zoning regulations for a gas canopy under the CR Zone so the proposed structure is being requested as an accessory structure which triggers variances under Section 4.5 Accessory Buildings or Structures, of the Zoning by-law.

A building permit will be required prior to the construction of the structure, at which time requirements under the Ontario Building Code will be reviewed.

Building Services has no objections to the application and supports Planning and Engineering recommendations.

Comments from the Public

None

Contact Information

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