

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-26/23
Location: 192 Arthur Street North
Hearing Date: April 13, 2023
Owner: Evelyn Thompson
Agent: Philip Beuglet
Official Plan Designation: Low Density Residential and Significant Natural Areas and Natural Areas
Zoning Designation: Residential Single Detached (R.1B) and Floodway (FL)

Request: The applicant is seeking permission to enlarge/extend the legal nonconforming use to permit the construction of a two-storey building addition with a gross floor area of 7.16 square metres onto the right side of the existing semidetached dwelling unit.

By-Law Requirements: 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.

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 combined overhead hydro service to both 190 and 192 Arthur Street North. The servicing costs would be at the applicant's expense.
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Comments

Planning Services

The front portion of the subject property is designated "Low Density Residential" and the back portion of the subject property is designated as "Significant Natural Areas & Natural Areas" in the Official Plan. The "Low Density Residential" land use designation permits residential single detached, semi-detached and duplex

dwellings as well as associated accessory structures. Legally existing uses, buildings and structures are permitted within the "Significant Natural Areas & Natural Areas", but generally development and site alteration is not permitted. The proposed addition and new deck meet the Official Plan definition of development as it would be intensification (expansion of an existing building).

Staff have reviewed the proposal in relation to the Natural Heritage System (NHS) policies of the Official Plan and have determined that the proposed development, would be maintained outside of the mapped NHS (Significant Valleylands and Fish Habitat buffer) on the subject property. Official Plan policy 4.1.1.11 indicates that minimum buffers have not been applied (i.e. mapped) to lands containing existing development. Staff have determined that it is appropriate to consider the existing backyard up to the western limit of the existing shed to be existing development (given the presence of the shed and that vehicles have been parked beside the shed in aerial photography).

The proposal is not located within the NHS on the property, it is located within adjacent lands where an Environmental Impact Study (EIS) is generally required to demonstrate no negative impacts on the NHS. However, NHS policy does allow for the EIS to be scoped. As the area where the development is proposed is already developed with a deck, driveway, shed, and backyard, and because the scale of the proposal is minor, an EIS is not required for the proposal.

The front portion of the subject property is zoned "Residential Single Detached" (R.1B) and the back portion of the subject property is zoned "Floodway" (FL) according to Zoning By-law (1995)-14864, as amended. The existing semi-detached dwelling is considered to be a legal non-conforming use in the R.1B zone. The applicant is requesting permission to enlarge/extend the legal non-conforming use to permit the construction of a two-storey addition and new deck onto the existing semi-detached dwelling unit.

As set out in Section 45(2) of the *Planning Act*, the Committee of Adjustment may permit 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.

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."

Staff have reviewed the above criteria and Official Plan policies and are satisfied that the proposal to enlarge/extend the legal non-conforming use is appropriate for the development of the land.

Staff are satisfied that the Official Plan policies relating to the enlargement/extension of legal non-conforming use are met and therefore recommend approval of the application.

Engineering Services

Engineering has no concerns with the requested variance application.

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

Building Services

The property is located in the Residential Single Detached (R.1B) and Floodway (FL) Zones. The property contains a semi-detached dwelling, which is a legal non-conforming use in the Residential Single Detached (R.1B) Zone. The applicant is seeking permission to enlarge/extend the legal non-conforming use to permit the construction of a two-storey building addition on the right side of the existing semi-detached dwelling unit.

Building Services has no objects 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.

Grand River Conservation Authority (GRCA)

The GRCA has no objection to the proposed minor variance application (see attached letter).

Comments from the Public

None

Contact Information

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