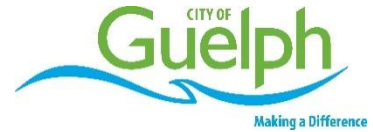


Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-32/23
Location: 60 Ontario Street
Hearing Date: June 8, 2023
Owner: Watir Holdings Group
Agent: Charlotte Balluch, GSP Group Inc.
Official Plan Designation: Low Density Residential
Zoning Designation (1995)-14864: Specialized Convenience Commercial (C.1-15) Zone
Zoning Designation (2023)-20790: Convenience Commercial (CC) Zone

Zoning By-Law (1995)-14864 Requirements:

The By-law:

- a) permits certain uses in the C.1-15 Zone, but does not permit a licensed establishment with an outdoor patio;
- b) does not permit any building or structure to be located in the sight line triangle of a corner lot;
- c) permits a maximum capacity of 50% of the indoor licensed capacity, or 70 persons, whichever is less, for an outdoor patio associated with a restaurant or licensed establishment;
- d) permits, where only the rear lot line adjoins a residential zone, an outdoor patio in the front yard or exterior side yard, provided it is a minimum of 3 metres from the street;
- e) permits an outdoor patio within the building envelope of the development on the site; and
- f) permits an accessory building or structure in any yard except a front yard or required exterior side yard.

Zoning By-Law (2023)-20790 Requirements:

The By-law:

- a) permits a variety of uses in the CC Zone, but does not permit a licensed establishment with an outdoor patio;
- b) does not permit any building or structure to be located in the sight line triangle of a corner lot;

- c) permits, where only the rear lot line adjoins a residential zone, an outdoor patio in the front yard or exterior side yard, provided it is a minimum of 3 metres from the street;
- d) requires an outdoor patio to comply with the building setbacks in the CC Zone; and
- e) permits an accessory building or structure in any yard except a front yard or required exterior side yard.

Request:

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

- a) a licensed establishment with an associated outdoor patio in the C.1-15 Zone and the CC Zone;
 - b) the proposed outdoor patio to be partially located within the site line triangle of the lot;
 - c) a maximum capacity of 100% of the indoor capacity [being 20 persons] for the proposed outdoor patio associated with a licensed establishment;
 - d) the proposed outdoor patio to be located in the front yard and exterior side yard, a minimum of 1 metre from the street line;
 - e) the proposed outdoor patio to be located outside the building envelope and required setbacks on the site; and
 - f) an accessory building or structure (outdoor patio) to be located in the front yard.
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Staff Recommendation

Approval with Conditions

Recommended Conditions

Planning Services

1. That liquor shall not be offered for sale or sold beyond 12:01 a.m.
2. That the hours of operation for the outdoor patio shall end at 11:00 p.m.

Building Services

3. That no parking be permitted on the property other than temporary loading.
 4. That the accessory structure portion of the patio with posts and beams be located outside of a 6.5m x 6.5 metre sightline triangle taken from the tip of the triangular portion of the property.
 5. That planter boxes/safety barriers be installed around the patio adjacent to the roads.
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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 allows for a variety of small scale non-residential uses that are complementary to and serve the needs of residential neighbourhoods, such as convenience commercial uses which are limited to a maximum building size of 400 square metres on a property. Convenience Commercial uses are defined as small-scale commercial operations and personal services that have a planning function of serving the day-to-day convenience shopping needs of an immediately surrounding residential population. The requested variances will facilitate a shared outdoor patio for use by the existing commercial uses and are therefore considered to maintain the general intent and purpose of the Official Plan.

In May 2021, the Committee approved a minor variance application to permit: a personal service establishment, a take-out restaurant and a convenience store as additional permitted uses along with a requirement of 0 parking spaces. In August 2022, the Committee approved a minor variance application to permit a licensed establishment and art gallery as additional permitted uses and 0 parking spaces. The Committee approved the 2022 application with conditions 1 and 2 that were recommended by Planning staff and the Committee added condition 3. The three conditions are as follows:

1. That an outdoor patio shall not be permitted for the licensed establishment.
2. That liquor shall not be offered for sale or sold beyond 12:01 a.m.
3. That the licensed establishment is restricted to a maximum of 20 square metres.

The original intent of staff recommending conditions 1 and 2 was to ensure the licensed establishment remained small-scale. The applicant is now proposing to establish a shared outdoor patio use for the existing commercial uses located on the subject property which include the art gallery, licensed establishment and coffee shop. Due to the triangular shape of the property and placement of the existing building, the outdoor patio is limited in size and capacity. Planning staff are recommending that if approved, liquor shall not be offered for sale or sold beyond 12:01 a.m. and are also recommending that the outdoor patio not be used after 11:00 p.m. which coincides with the City's Noise Control By-law.

The applicant is proposing to establish a shared outdoor patio for use by the existing commercial uses located on the subject property. The property is zoned "Specialized Convenience Commercial" (C.1-15) according to Zoning By-law (1995)-14864 as amended. The property is zoned "Convenience Commercial" (CC) according to Zoning By-law (2023)-20790, as amended. Variances to both the 1995 and 2023 Zoning By-laws are required to facilitate the proposal. The following six variances have been requested:

Variance A

The applicant is requesting a variance to both By-laws to permit a licensed establishment with an associated outdoor patio in the C.1-15 Zone and the CC Zone. The subject property is zoned as "Specialized Convenience Commercial" (C.1-15), according to Zoning By-law (1995)-14864, as amended, which only permits a Vehicle Body Shop and Vehicle Service Station. The property's existing uses were recognized and permitted with the creation of the (1995)-14864 Zoning By-law, without permitting all uses within the parent C.1 Zone.

The 2023 Zoning By-law permits limited commercial uses in the CC Zone including a convenience store, day care centre, food vehicle, service establishment, restaurant (take-out) and dwelling units with permitted commercial uses in the same building.

The licensed establishment with an associated outdoor patio is more compatible and desirable to permitted uses in the 1995 Zoning By-law and is compatible with permitted uses in the CC Zone of the 2023 Zoning By-law. The requested variance to both By-laws is considered to meet the general intent and purpose of the Zoning By-law.

Variations B, C, D, E and F

The following variations relate to the outdoor patio and its location on the property:

- B) the proposed outdoor patio to be partially located within the site line triangle of the lot;
- C) a maximum capacity of 100% of the indoor capacity [being 20 persons] for the proposed outdoor patio associated with a licensed establishment;
- D) the proposed outdoor patio to be located in the front yard and exterior side yard, a minimum of 1 metre from the street line;
- E) the proposed outdoor patio to be located outside the building envelope and required setbacks on the site; and
- F) an accessory building or structure (outdoor patio) to be located in the front yard.

Due to the triangular shape of the property and location of the existing building, the outdoor patio can only be located where it is proposed, partially within the site line triangle and in the front and exterior yard of the property. It is not possible for the outdoor patio to comply with the By-law requirements regarding location and setbacks. As per comments provided by Building Services, the total capacity as per the Ontario Building Code of the property including the patio is limited to 30 persons, and that is tied to the number of washroom facilities in the building. Variance C is supported by staff, however, the owner/operators will need to manage the property to maintain the total maximum 30 person capacity. The height of the patio and planters will allow for the continued visibility through the site and at the corner of Arthur St. and Ontario St. which maintains the general intent of setbacks and visibility triangles. The requested variations to both By-laws are considered to meet the general intent and purpose of the Zoning By-law.

The requested licensed establishment with outdoor patio is substantially more compatible with the surrounding residential properties than the permitted uses in the 1995 Zoning By-law (Vehicle Body Shop and Vehicle Service Station) and the property is located in a highly walkable and bikeable area. The proposed variances will facilitate the addition of shared patio space for all three uses on the property whereby patrons can intermingle. The patio will serve as an extension of the existing uses and will support all three businesses that are currently on-site. Having guests outside will provide more activation of the street and contribute to an attractive street block. The requested variances are considered to be desirable for the appropriate development of the land and minor in nature.

The requested variances maintain the general intent and purpose of the Official Plan and Zoning By-law, are considered desirable for the appropriate development of the land and are considered to be minor in nature. Staff recommend approval of the variances subject to the conditions noted above.

Engineering Services

Engineering has no concerns with the requested variances. We agree with the recommendation made by Building and Planning staff.

Building Services

The subject property is zoned Specialized Convenience Commercial (C.1-15) under Zoning By-law (1995)-14864, as amended and Convenience Commercial (CC) under council approved Comprehensive Zoning By-law (2023)-2079, as amended. The applicant is proposing an outdoor patio to serve the all the business uses on the property.

The 1995 ZBL specialized zone only permits a vehicle body shop and service station and previous minor variances have been approved to permit a restaurant (take-out), personal service establishment, art gallery and licensed establishment. Minor variance decision A-38/22 to permit the licensed establishment included a condition that an outdoor patio shall not be permitted for the licensed establishment. Since the patio condition is tied to the licensed establishment use, the use and patio are requiring Committee approval for the licensed establishment to be able to use the outdoor patio.

The 2023 ZBL permits limited commercial uses in the CC Zone including a convenience store, day care centre, food vehicle, service establishment, restaurant (take-out) and dwelling units with permitted commercial uses in the same building.

The number of variances required to permit the location of the patio are due to the unique and limiting triangular shape of the property together with the existing building location.

Building Services notes that the total capacity as per the Ontario Building Code of the property/3 businesses including the patio is limited to 30 persons, and that is tied to the number of washroom facilities in the building. The Committee does not have any powers to allow additional capacity on the property as it is regulated by

the Ontario Building Code. The owner/operators will need to manage the property to maintain the total maximum 30 person capacity.

Staff recommends that a condition to prohibit parking on the property, with the exception of temporary loading, be imposed on the application to ensure there is no parking within the sightline triangle beyond the front of the proposed patio. Staff is also recommending a condition to permit the post location of the accessory structure to not be within a 6.5m x 6.5m sightline triangle measured from the tip of the triangle. 6.5m is the length of a parallel parking space, which together with the road allowance that extends beyond the property limits, allows for more than 2 car lengths, approximately 14 metres of visibility, from the stop sign along Arthur St S. There is no objection for the deck portion of the patio to extend within the 6.5 m x 6.5m proposed sightline to tie into the planter boxes on the property that provide the safety barrier.

The applicant has noted that the planter boxes/safety barriers will be contained within the property limits. If any planter boxes/safety barriers encroach onto City lands, a licensing/encroachment agreement will need to be entered into with the City.

Note that a building permit is required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed. Building Services has no objection to the application requests subject to the recommended conditions.

Grand River Conservation Authority (GRCA)

The Grand River Conservation Authority (GRCA) has no objection to the proposed minor variance application. See attached letter.

Comments from the Public

Yes (See Attached)

Contact Information

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