

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-10/23
Location: 265 Edinburgh Road South
Hearing Date: June 8, 2023
(Deferred at the March 9, 2023 hearing)
Owner: Chester Peter Carere
Agent: Patrick Casey, GSP Group Inc.
Official Plan Designation: Low Density Residential
Zoning Designation (1995)-14864: Convenience Commercial (C.1) Zone
Zoning Designation (2023)-20790: Convenience Commercial (CC) Zone

Zoning By-Law (1995)-14864 Requirements:

The property is located in the Convenience Commercial (C.1) Zone, as per Zoning By-law (1995)-14864, as amended. The C.1 Zone permits a variety of uses, including an artisan studio, convenience store, day care centre, food vehicle, group home, personal service establishment, restaurant (take-out), dwelling units with permitted commercial uses in the same building, as well as accessory and occasional uses.

Zoning By-Law (2023)-20790 Requirements:

The property is also located in the Convenience Commercial (CC) Zone, as per Zoning By-law (2023)-20790, as amended. The CC Zone permits a variety of uses, including a convenience store, day care centre, food vehicle, restaurant, take out, service establishment, residential uses including live-work unit and mixed-use building uses, as well as accessory and outdoor display and sales area uses. Any changes to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment. The Committee may permit a use that is similar to the purpose of the existing legal non-conforming use, or that is more compatible with the uses permitted in the By-law than the original legal nonconforming use is.

Request:

The applicant is seeking permission to change the legal non-conforming use to permit the following uses on the subject property: medical office, medical clinic, office, and rental outlet.

Staff Recommendation

Refusal

Comments

Planning Services

This application was deferred at the March 9, 2023 Hearing to allow the applicant time to discuss concerns regarding the proposed uses, parking and access and revise the application accordingly. The applicant and staff did meet in March to discuss the application and the applicant has reduced the number of uses requested, however, staff still have concerns with the requested uses, specifically the medical office and medical clinic uses.

The subject property is zoned "Convenience Commercial" (C.1), according to Zoning By-law (1995)-14864, as amended. The C.1 Zone permits a variety of uses, including an artisan studio, convenience store, day care centre, food vehicle, group home, personal service establishment, restaurant (take-out), dwelling units with permitted commercial uses in the same building, as well as accessory and occasional uses. The property is also zoned Convenience Commercial (CC) Zone, according to Zoning By-law (2023)-20790, as amended. The CC Zone permits a variety of uses, including a convenience store, day care centre, food vehicle, restaurant, take out, service establishment, residential uses including live-work unit and mixed-use building uses, as well as accessory and outdoor display and sales area uses. The property also is recognized to have the legal non-conforming use of retail sales and repair of appliances, electronics and audio-visual equipment.

The applicant is seeking permission to change the legal non-conforming use to permit the following uses on the subject property: medical office, medical clinic, office, and rental outlet. The applicant is requesting permission under Section 45 (2)(a)(ii) of the Planning Act to use the subject property for a purpose that is similar to the existing legal non-conforming use or more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, with the uses permitted by the Zoning By-law.

Planning staff do have concerns with the request and suggested to the applicant that the requested uses would be more appropriately addressed through an Official Plan and Zoning By-law Amendment. This suggestion was not made to say the Committee did not have the authority, but rather the requested uses and their potential impacts would be more appropriately addressed through an Official Plan and Zoning By-law Amendment. In staff's opinion, the requested uses would intensify the site beyond what it can support given its size, legal non-complying parking layout and access. Official Plan and Zoning By-law amendment applications could assess the uses comprehensively in terms of impacts with traffic, parking, garbage, etc. The parking lot on the subject property is considered to be legal non-complying and does not provide any buffers or landscape strips and the introduction of new uses could create nuisance concerns for neighbours beyond what would be expected from the permitted uses. Staff do not believe the justification provided by

the applicant demonstrates that impacts to neighbours will be similar to what would be expected from a permitted use. The applicant focuses their justification on traffic and parking.

Both the 1995 Zoning By-law and 2023 Zoning By-law define medical clinic and office as two separate distinct uses and do not define them as commercial uses as they do not operate as commercial uses. Staff also do not believe the uses are more compatible with the uses permitted in the Zoning By-law. Uses permitted in the Convenience Commercial Zone are small-scale and meant to serve the day-to-day convenience shopping needs of an immediately surrounding residential population.

For Committee's reference, the following definitions are provided:

A medical clinic is defined as "a premises where Provincially licensed medical professionals provide consultative, diagnostic or treatment services for persons on an out-patient basis including physicians, dentists, chiropractors, opticians and drugless professionals and which may include an accessory administrative office, laboratory, dispensary or other similar use, but does not include a medical treatment facility, hospital or other facility in which is provided overnight patient accommodation."

A medical professional is defined as "medical professional means an individual who practices any of the health disciplines regulated under a Provincial Act, including physicians, dentists, optometrists, pharmacists, physiotherapists, chiropractors and psychologists."

Office means a premises in which a business is conducted or a profession is practised including associated clerical, administrative, consulting, advisory or training services and includes a social service establishment, but does not include a medical clinic, medical treatment facility or veterinary service.

Staff recommend refusal of the application as the requested uses are not similar or more compatible under Section 45 (2)(a)(ii) of the Planning Act.

Engineering Services

Engineering has no concerns with the applicant's request of seeking permission to change the legal non-conforming use to permit the following uses on the subject property: medical office, medical clinic, office, and rental outlet.

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

Building Services

The subject property is zoned Convenience Commercial (C.1) under Zoning By-law (1995)-14864, as amended and Convenience Commercial (CC) under council approved Comprehensive Zoning By-law (2023)-2079, as amended. Both zonings permit limited commercial uses 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 property also is recognized to

have the legal non-conforming use of retail sales and repair of appliances, electronics and audio-visual equipment.

The application has not accounted for the fact that the introduction of new uses outside of the permitted uses will trigger parking requirements. Under Zoning By-law (1995)-14864, as amended, in the C.1 Zone any new use outside of what is permitted as-of-right will require the property to accommodate the required parking ratio for the use when it becomes active in the building, as there is no commercial mall parking ratio for C.1 zoned properties. Comprehensive Zoning By-law (2023)-2079, as amended does include a parking provision for commercial multi-unit buildings. Introducing new uses to the building outside of what is permitted as-of-right in the CC Zone will trigger the required parking for commercial multi-unit buildings to be met. Legal parking spaces are to be fully within the property limits. The property also has a legal non-complying parking area location and parking space locations. There is no buffer as required under the 1995 and 2023 zoning by-laws between the commercial and residential land use on Oriole Crescent. Medical uses will likely have the effect of increasing parking demand on the property.

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

Building Services supports Planning and Engineering recommendations.

Comments from the Public

Yes (See Attached)

Contact Information

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