

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-56/23
Location: 13 Kensington Street
Hearing Date: August 10, 2023
Owner: Paul Tonizzo
Agent: N/A
Official Plan Designation: Low Density Residential
Zoning Designation (1995)-14864: Residential Single Detached (R.1B) Zone
Zoning Designation (2023)-20790: Low Density Residential 1 (RL.1) Zone

Zoning By-Law (1995)-14864 Requirements:

The By-law requires:

- a) an accessory building or structure to occupy a yard other than a front yard or required exterior side yard on a lot provided that such accessory building or structure is not located within 0.6 metres of any lot line, except that two adjoining property owners may erect an accessory building with a common party wall; and
- b) an accessory building or structure to occupy a yard other than a front yard or required exterior side yard on a lot provided that, in a residential zone, the total ground floor area of all accessory buildings or structures shall not exceed 70 square metres.

Zoning By-Law (2023)-20790 Requirements:

The By-law:

- a) permits an accessory building or structure may be located in a yard other than a front yard or required exterior side yard on a lot provided that such accessory building or structure is setback 0.6 metres from any lot line, except that two adjoining property owners may erect an accessory building or structure with a common party wall; and
- b) requires that the maximum total ground floor area of all accessory buildings or structures is 70 square metres.

Request:

The applicant is seeking relief from the requirements of both By-Laws to permit:

- a) the proposed addition to the existing accessory building (detached garage) to be located a minimum of 0.3 metres from the right side lot line; and
 - b) the total ground floor area of all accessory buildings or structures on the subject property to be a maximum of 83 square metres.
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Staff Recommendation**Approval with Condition**

Recommended Conditions**Building Services**

1. That an Access and Maintenance Agreement be registered on title of the neighbouring property (11 Kensington Street) to the satisfaction of the Chief Building Official. The agreement shall contain provisions to permit access for the owner of 13 Kensington Street onto 11 Kensington Street, to allow for maintenance and construction of the right side of the accessory building.
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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 and additional residential dwelling units (ARDUs) and associated accessory structures. The requested variances would facilitate the addition to a one-storey detached garage, which is a permitted use. Staff are satisfied that the proposal conforms with the general intent and purpose of the Official Plan.

The subject property is zoned "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended; and is zoned "Low Density Residential 1" (RL.1) in the Comprehensive Zoning By-law passed by Council on April 18th, 2023. The proposed detached garage would be located within 0.6m of the side lot line and would exceed the maximum total ground floor area of 70 square metres for all accessory buildings or structures, necessitating the proposed variances.

Variance A

Section 4.5.1.4 of the 1995 Zoning By-law and Section 4.5.2(a) of the 2023 Zoning By-law limit the ground floor area of all accessory buildings and structures to 70 square metre in residential zones. The intention of this provision is to prevent the overdevelopment of residential properties and to ensure there is adequate space for infiltration of rainwater into the soil. Considering an addition of a similar size could

be constructed attached to the main dwelling staff are of the opinion that the proposed garage size meets the intent and purpose of the Zoning By-law. Further the existing garage and proposed addition are less than 70 square metre, but the total area of all the accessory structures including the vinyl clad shed and open metal gazebo exceeds the maximum size permitted.

Variance B

Section 4.5.1.2 of the 1995 Zoning By-law and Section 4.5.1(b)(ii) of the 2023 Zoning By-law specifies that an accessory building or structure is not located within 0.6m of a lot line. The intent of this provision is to ensure that adequate setbacks allow for access and maintenance around accessory structures and do not have significant impact on neighbouring properties. Since the existing structure does not meet the 0.6m from lot line, it is reasonable to allow the proposed addition in a similar setback and consistent foundation line. The existing structure and property line are not perfectly parallel, so the addition creates a slightly more reduced setback. Staff are of the opinion that the proposed setback would conform with the general intent and purpose of the Zoning By-law.

The proposed garage size and reduced setback would allow for increased storage space for the applicant. The increased impact on the neighbouring properties compared to a detached garage that complies with the maximum 70 square metre floor area and 0.6m setback requirement would be minimal. Staff are of the opinion that the proposal is desirable for the appropriate development of the lands.

The proposed garage size is less than the maximum ground floor area of 70 square metre, however, the total area of all accessory structures on the property is 83 square metre. This represents an 18% increase in total area. Considering an addition could be built of a similar size and would not require a variance if it were attached to the main dwelling and the existing structure does not meet the required setbacks for accessory structures staff are of the opinion that the proposal is minor in nature.

In the opinion of planning staff, the requested variances meet the general intent and purpose of the Official Plan, meet the general intent and purpose of the Zoning By-law, are desirable for the appropriate development of the lands and are minor in nature.

Staff recommend approval of the application.

Engineering Services

Engineering has no concerns with the requested variance seeking relief from the requirements of both Zoning By-laws, to permit:

- a) the proposed addition to the existing accessory building (detached garage) to be located a minimum of 0.3 metres from the right side lot line; and
- b) the total ground floor area of all accessory buildings or structures on the subject property to be a maximum of 83 square metres.

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

Building Services

The subject property is zoned Residential Single Detached (R.1B) under Zoning By-law (1995)-14864, as amended and Low Density Residential 1 (RL.1) under council approved Comprehensive Zoning By-law (2023)-2079, as amended. Both zones permit a single detached dwelling and accessory buildings. The applicant is proposing an addition to the existing detached garage that will have a minimum setback of 0.3m to the right side property line and will exceed the permitted 70 square metre maximum total ground floor area of accessory buildings or structures on a property.

As the proposed accessory building setback is less than 0.6 metres and has a proposed length of 12.8 metres, an Access Agreement registered on title of the neighbouring property owner (11 Kensington St) will be required with the building permit submission. The agreement shall contain provisions to permit access for the owner of 13 Kensington St onto 11 Kensington St to allow for maintenance and construction of the right side of the accessory structure.

The Building Department requires the above Access Agreement for Minor Variance applications and any subsequent Building Permit application where large structures are closer than 0.6m to the property line because an individual needs to construct and maintain the side of a building. When there is a setback to the property line of less than 0.6m, a person could not walk down the side of the building without walking over a neighbours property. It could be for mowing lawn, the construction of the addition, placing a ladder at the side of the building, etc.

Any eaves cannot cross the property line. Unprotected openings are also not permitted on the accessory building closer than 1.2 metres to the property line. Walls less than 0.6 metres 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 condition for an Access Agreement.

Comments from the Public

None

Contact Information

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