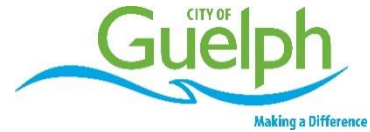


Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: B-11/23, A-50/23 and A-51/23
Location: 239 Kathleen Street
Hearing Date: August 10, 2023
Owner: Dorian239 Holdings Inc.
Agent: Amanda Davids, Ediphique Ltd.
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

Consent Applications: New Lot

Request: The applicant proposes the following:

File B-11/23 – Proposed Lands to be Severed

The applicant proposes to sever a parcel of land with frontage along Kathleen Street of 10.97 metres and an area of 314 square metres. The retained parcel will have frontage along Kathleen Street of 10.98 metres and an area of 314.4 square metres.

Minor Variance Application

File A-50/23 – Proposed Part 1

The applicant is seeking relief from the requirements of Zoning By-law (1995)-14864, as amended, to permit a minimum lot frontage of 10.97 metres for the proposed severed lot.

The applicant is also seeking relief from the requirements of both By-laws, to permit a minimum lot area of 314 square metres for the proposed severed lot.

File A-51/23 – Proposed Part 2

The applicant is seeking relief from the requirements of Zoning By-law (1995)-14864, as amended, to permit a minimum lot frontage of 10.98 metres for the proposed retained lot.

The applicant is also seeking relief from the requirements of both By-laws to permit a minimum lot area of 314.4 square metres for the proposed retained lot.

By-law Requirements:

Zoning By-law (1995)-14864, as amended, requires:

- a) a minimum lot frontage of 15 metres for a property located in the R.1B Zone;
and
- b) a minimum lot area of 460 square metres for a property located in the R.1B Zone.

Zoning By-law (2023)-20790, as amended, requires a minimum lot area of 460 square metres for a property in the RL.1 Zone.

Staff Recommendation

Approval with Conditions

Recommended Conditions

File B-11/23 – Proposed Lands to be Severed

Planning Services

1. That prior to the issuance of the Certificate of Official or removal/injury of any City-owned trees (whichever occurs first), the applicant shall prepare and submit a Tree Inventory and Preservation Plan (TIPP) for any City-owned trees along Kathleen Street that may be impacted by the proposed development to the satisfaction of the General Manager of Parks. If any City-owned trees are to be removed/injured to accommodate the development, the applicant shall provide compensation either in the form of Cash in Lieu or Replacement Trees, or a combination of the two at the discretion of City staff. The applicant must contact Forestry staff to confirm requirements prior to preparing the TIPP.

Engineering Services

2. That prior to the issuance of the Certificate of Official, the Owner(s), shall provide to the City, to the satisfaction of the General Manager/City Engineer, the following studies, plans and reports:
 - i. a stormwater management report and plans certified by a Professional Engineer in accordance with the City's Guidelines and the latest edition of the Ministry of the Environment's "Stormwater Management Practices Planning and Design Manual," which addresses the quantity and quality of stormwater discharge from the Site together with a monitoring and maintenance program for the stormwater management facility to be submitted;
 - ii. Grading / Servicing Plan.
 - iii. Erosion & Sediment Control Plan.

- iv. A composite utility plan (within right-of-way frontage) showing all utilities and proposed servicing to the site will be required for formal submission.
 - v. Site Screening Questionnaire in accordance with the City's environmental guidelines.
 - vi. A cost estimate for the work within the City right-of-way is to be prepared by the consulting Engineer using the City's cost estimate Excel spreadsheet.
3. That prior to the issuance of the Certificate of Official, the Owner(s) agrees to obtain approval from the City's engineering department on the above-listed plans and reports.
4. That prior to the issuance of the Certificate of Official, the Owner(s) shall extend the existing sanitary sewer along the entire frontage of the newly created lots, and all costs associated with the design and construction shall be paid by the Owner(s). Further, the Owner(s) agree to obtain all necessary approvals associated with the sanitary sewer to the satisfaction of the General Manager/City Engineer.
5. That prior to issuance of the Certificate of Official, the Owner(s) agrees to pay 5 percent of the estimated cost of the works as a review fee of the overall design of the sanitary sewer to the satisfaction of the General Manager / City Engineer.
6. That prior to issuance of any building permit or grading on the lands, the Owner shall construct, install and maintain erosion and sediment control facilities satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
7. That prior to the issuance of a building permit, the Owner(s) shall pay the initial estimated cost for all construction works within the City's right of way as approved in the cost estimate to the satisfaction of the General Manager/City Engineer.
8. That the Owner(s) agree to pay the actual cost once the work for the proposed works within the Right of Way are completed, including the restoration costs to the satisfaction of the General Manager/City Engineer.
9. That prior to the issuance of a building permit, the Owner(s) shall construct and service the new proposed dwelling with water/sanitary service to the satisfaction of the General Manager/City Engineer.
10. That the Owner(s) agrees to design and construct the new dwelling at such an elevation that the building's lowest level can be serviced with a gravity connection to the City's sanitary sewer, if the Owner(s) satisfactorily demonstrates to the General Manager/City Engineer that a below-grade gravity connection is not achievable, the building's below-grade level may be allowed to

pump sewage, in accordance with the Ontario Building Code, to the property line, and have a gravity connection from the property line to the City's sanitary sewer.

11. That prior to the issuance of a building permits on the proposed severed lands, the Owner(s) shall pay the flat rate charge established by the City for tree planting for the proposed severed lands.
12. That prior to the issuance of a building permit, provide a lot grading plan for the new proposed dwellings. Demonstrating that existing drainage patterns are not adversely impacting adjacent lands.

Building Services

13. That prior to the issuance of the Certificate Official, the existing dwelling be demolished to the satisfaction of the Chief Building Official.

Alectra Utilities

14. That prior to issuance of a building permit, the applicant makes arrangement for provision of hydro servicing to the severed parcel, satisfactory to the ICI and Layouts Department of Alectra Utilities. The servicing costs would be at the applicant's expense.
15. That prior to issuance of a building permit, the applicant makes arrangement for provision of hydro servicing to the retained parcel, satisfactory to the ICI and Layouts Department of Alectra Utilities. The servicing costs would be at the applicant's expense.

Committee of Adjustment Administration

16. That prior to the issuance of the Certificate of Official, the Owner shall enter into an agreement with the City, registered on title, agreeing to satisfy the above noted conditions and to develop the site in accordance with the approved plans.
17. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the issuance of the Certificate of Official.
18. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to the issuance of the Certificate of Official, that he/she will provide a copy of the registered instrument as registered in the Land Registry Office within two years of issuance of the Certificate of Official, or prior to the issuance of a building permit (if applicable), whichever occurs first.
19. That prior to the issuance of the Certificate of Official, a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the deposited

Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca).

20. That upon fulfilling and complying with all of the above-noted conditions, the documents to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for the issuance of the Certificate of Official.

Files A-50/23 and A-51/23 – Minor Variance Applications

Committee of Adjustment Administration

1. That consent application file B-11/23 receives final certification of the Secretary-Treasurer and be registered on title.

Comments

Planning Services

Consent Application

The subject property is designated "Low Density Residential" in the Official Plan. This designation applies to residential areas within the Built-Up Area of the City which are low-density in character. The predominant land use in this designation is residential and includes single detached, semi-detached, duplex dwellings and multiple unit residential buildings, such as townhouses and apartments.

Section 9.3 of the Official Plan establishes several objectives for residential areas within the City. Objective 9.3 (b) highlights that consideration is to be given to the development of a wide range of housing types, affordability and densities to meet a diversity of lifestyles, and the social needs, health and well-being of current and future residents throughout the city. Objective 9.3 (f) emphasizes the importance of maintaining the general character of built form in existing established residential neighbourhoods while accommodating compatible residential infill and intensification. Objectives 9.3 (d), (g) and (k) emphasize the need to provide residential development in areas that are well connected to municipal services and infrastructure and can also achieve transit-supportive and walkable densities.

These objectives, together with policies regarding development within the Built-up Area and Intensification (Section 3.7), encourage the creation of new low density residential lots within the older established areas of the City, provided that the proposed development is compatible with the surrounding residential environment. The Official Plan defines "compatible" as being development or redevelopment which may not necessarily be the same as, or similar to, the existing development, but can co-exist with the surrounding area without an unacceptable adverse impact.

Policy 10.10.1 of the Official Plan provides criteria that is to be considered when evaluating Consent applications and are evaluated below.

i. That all criteria for plans of subdivision are given due consideration.

Staff have reviewed subdivision criteria of the Official Plan and are satisfied that the application conforms to the policies.

ii. That the application is properly before the Committee and that a plan of subdivision has been deemed not to be necessary for the proper and orderly development of the City.

A plan of subdivision is not necessary.

iii. That the land parcels to be created by the Consent will not restrict or hinder the ultimate development of the lands.

The proposed severance does not restrict or hinder the ultimate development of the lands. The severed and retained parcels provide a reasonable and compatible lot layout that and each can accommodate a new single detached dwelling within the Built-up Area.

iv. That the application can be supported if it is reasonable and in the best interest of the community.

The proposed severance is considered by staff to be reasonable and in the best interest of the community. The proposed development can be serviced by existing infrastructure and public and private amenities such as schools, parks, and retail.

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" (RL.1) in the Comprehensive Zoning By-law passed by Council on April 18, 2023. Both zones permit single detached dwellings.

Although the proposed lots would be smaller than the typical lot in the surrounding neighbourhood, the applicant has demonstrated that a single detached dwelling could be situated on the site without requiring reductions in the setbacks or parking requirements required in the RL.1 zone. The proposed lot frontage would conform with the minimum frontage as required in the RL.1 zone and would have a similar street presence to many other single detached dwellings in the neighbourhood.

The subject property is less than 0.2 hectares in size and therefore not regulated by the Private Tree By-law, however, there is a City-owned tree (Norway Maple) fronting Kathleen Street that may be impacted by the proposed development. Consistent with the Official Plan, trees and shrubs within the City's right-of-way need to be appropriately considered and protected during any type of construction/works within the dripline. Protection must be optimized as injury or destroying such a tree may not be granted by the City. Any proposal to injure or

destroy a tree must be accompanied by a Tree Inventory and Preservation Plan, to the satisfaction of the General Manager of Parks A condition has been recommended to this effect.

Staff are satisfied that the proposed severance meets the Consent policies of the Official Plan and subdivision criteria as outlined in Section 51(24) of the Planning Act.

Staff recommend approval of the application subject to the above noted condition.

Minor Variance Applications

The subject property is designated "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation permits single detached residential uses. The applicant has requested a variance for a reduced minimum lot size and a reduced minimum frontage in the 1995 Zoning By-law for both the severed and retained lots. The requested variances facilitate the creation of an infill lot that is compatible with the surrounding residential environment and is in compliance with Official Plan policies. The requested variance conforms to 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" (RL.1) in the Comprehensive Zoning By-law passed by Council on April 18th, 2023.

The applicant is proposing to sever the existing residential lot roughly in half. To facilitate this the following variances are required:

- a) A minimum lot frontage of 15 metres is required in the R.1B zone as per the 1995 Zoning By-law. The proposed severed and retained lots would provide frontages of 10.97 metres and 10.98 metres respectively.
- b) A minimum lot size of 460 square metres is required in both the 1995 and 2023 Zoning By-laws. The proposed severed and retained lots would provide lot areas of 314 square metres and 314.4 square metres respectively.

Variance A

The intent of the minimum frontage requirement is to ensure that lots can maintain an adequate street presence that is not out of character in the neighbourhood and to ensure that all lots have access to a public right of way. The subject lands are in an older neighbourhood that currently accommodates a wide variety of lot sizes and frontages. As demonstrated by the applicant's submitted drawings, the proposed lot frontages of 10.97 metres and 10.98 metres can accommodate the required driveways and maintain an adequate street presence that is compatible with the surrounding neighbourhood.

For comparison, the 2023 Comprehensive Zoning By-law recognizes the smaller nature of lots in the City's older neighbourhoods and permits a reduced minimum lot frontage of 9 metres, which the proposed lots exceed. Staff are satisfied that the proposed frontages conform with the general intent of the 1995 Zoning By-law.

Variance B

The intent of the minimum lot size requirement is to ensure that a dwelling can fit on the lot with sufficient room to maintain all required setbacks and other provisions. Conformity with all required setbacks coupled with a sufficient lot frontage ensures that the new lot will be compatible with and avoid adverse impacts on the surrounding properties.

The applicant's submitted drawings indicate that the proposed lot sizes of 314 square metres and 314.4 square metres can accommodate a reasonably sized single detached dwelling while conforming with the setback and parking requirements of the R.1B and RL.1 Zones. This demonstrates that the proposed minimum lot size reductions would not have a significant adverse impact on the surrounding properties and would allow for sufficient yard and dwelling space for the future occupants of both the severed and retained lots. For these reasons, staff are satisfied that the proposed lot sizes conform with the general intent of both the 1995 Zoning By-law and the 2023 Comprehensive Zoning By-law.

The proposed lot frontage and size for the severed and retained lots would not prevent the lots from complying with the required setbacks and achieving the minimum parking requirements. The proposed lots will not adversely impact the surrounding area in an unacceptable way and the lots can still adequately function and accommodate single detached dwellings. For these reasons the requested variances are considered to be desirable for the appropriate development of the land and are also considered to be minor in nature.

The requested variances meet the general intent and purpose of the Official Plan and Zoning By-law, are desirable for the appropriate development of the land and are minor in nature.

Staff recommend approval of the applications.

Engineering Services

Engineering has reviewed the provided applications. Engineering has no concerns with the consent application (B-11/23) and the variance applications (A-50/23, and A-51/23). We agree with the recommendation 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. The RL.1 Zone also permits a semi-detached dwelling, duplex dwelling and a triplex dwelling.

Minor variances are required to facilitate the severance with proposed reduced lot sizes of 314 square metres, whereas the required minimum lot size for a single detached dwelling is 460 square metres. Also, the minimum lot frontage in the R.1B Zone under the 1995 Zoning By-law is 15 metres. The lots have proposed frontages of 10.98 and 10.97 metres.

Note that a building permit will be required prior to the demolition of the existing dwelling. Building permits will be required for the construction of any new dwellings, at which time requirements under the Ontario Building Code will be reviewed together with zoning compliance of any new buildings.

Building Services supports Planning and Engineering recommendations subject to the recommended condition.

Alectra Utilities

Please see attached correspondence from Alectra Utilities.

Comments from the Public

Yes (See Attached)

Contact Information

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