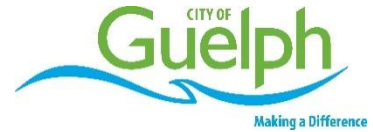


Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-63/23
Location: 535 Woolwich Street
Hearing Date: September 14, 2023
Owner: Angela and Luigina Menegotto
Agent: Jesse Merrill, Polestar Hearth Bakery Inc.
Official Plan Designation: Low Density Residential
Zoning Designation (1995)-14864: Specialized Office-Residential (OR-36) Zone
Zoning Designation (2023)-20790: Convenience Commercial (CC) Zone

Zoning By-Law (1995)-14864 Requirements:

The By-law requires 1 parking space per 16.5 square metres of gross floor area for the legal non-complying bakery use [total of 12 spaces required].

Also, permission to change the legal non-conforming use is being requested. The property contains a bakery, which is considered to be legal non-conforming in the OR-36 Zone. File A-26/16 permitted a change to the legal non-conforming use to allow for a bakery use within a 146 square metre area of the existing building. Any additions or changes to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment.

Zoning By-Law (2023)-20790 Requirements:

The property is also located in the Convenience Commercial (CC) Zone. The bakery use is a permitted use in the CC Zone.

Request:

The applicant is seeking:

- a) relief from the requirements of Zoning By-law (1995)-14864, as amended, to permit a minimum of 5 parking spaces on the subject property; and
 - b) permission to enlarge/extend the legal non-conforming bakery use into the 40 square metre neighbouring unit within the existing building.
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Staff Recommendation

Approval

Comments

Planning Services

The subject property is designated as "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation applies to predominately residential areas within the built-up area of the City and permits residential uses and small-scale non-residential uses that are complementary to and serve the needs of residential neighbourhoods. Such non-residential uses include schools, places of worship, childcare centres, municipal parks, and convenience commercial uses limited to a maximum gross floor area of 400 square metres on a property. Convenience commercial uses are defined in the Official Plan as "a small-scale commercial operation and personal service that has a planning function of serving the day-to-day convenience shopping needs of an immediately surrounding residential population. Examples of uses include a convenience food store, a dry cleaner or a small-scale restaurant." The requested parking variance will facilitate the expansion of a small-scale non-residential use in conformity with the Official Plan. The requested variance is considered to meet the general intent and purpose of the Official Plan.

The property is located in the Specialized Office-Residential (OR-36) Zone. The applicant is requesting a variance from Section 4.13.4.2 of Zoning By-law (1995)-14864, as amended, to permit a minimum of 5 parking spaces, whereas, the By-law requires 1 parking space per 16.5 square metres of gross floor area for the legal non-complying bakery use [total of 12 spaces required].

The general intent and purpose of the Zoning By-law in requiring parking standards is to ensure that sufficient area and spaces are provided so that parking demand can be met on site and potential spillover of parking on adjacent streets does not occur. The applicant has advised that because the nature of the business results in a quick customer turnover time, these parking spaces can be easily shared between patrons throughout the day. Customers will mostly be picking up food items and very minimal seating space will be provided. Furthermore, the subject property is located in a residential neighborhood with adequate pedestrian and cyclist infrastructure, which allows customers to access the site without needing vehicle parking. Planning staff believe that 5 parking spaces is an adequate supply for the subject site that will not result in spillover of parking on adjacent streets.

The requested variance meets the general intent and purpose of the Official Plan and Zoning By-law, is desirable for the appropriate development of the land and is minor in nature. Staff recommend approval of the requested variance.

The existing bakery is considered to be legal non-conforming in the OR-36 Zone. File A-26/16 permitted a change to the legal non-conforming use to allow for a bakery use within a 146 square metre area of the existing building. Any additions

or changes to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment. The applicant is seeking permission to enlarge/extend the legal non-conforming bakery use into the 40 square metre neighbouring unit within the existing building. No variances are required to the 2023 Zoning By-law as this property is zoned Convenience Commercial (CC), according to Zoning By-law (2023)-20790, as amended, which permits a bakery use.

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

a) where any land, building or structure, on the day the By-law was passed, was lawfully used for a purpose prohibited by the By-law, may permit,

- (i) 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, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or,
- (ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is 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, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee.

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:

- 1) that the use has been continuous;
- 2) that the extension/enlargement is situated only on the property owned by the development proponent;
- 3) that no new separate buildings will be permitted; and,
- 4) that the proposed use is similar or more compatible with the uses permitted by the Zoning By-law in effect."

Staff have reviewed the above and are satisfied that the proposal meets the criteria of Policy 10.10.3(2). The extension of the bakery to the adjacent unit will result in a mere 40 square metres of added bakery space. This space will accommodate a small café which caters to quick pick-up visits, with minimal customer seating. The extension of the bakery is considered to be appropriate for the development of the

land and will not significantly alter the existing uses beyond what would reasonably be expected.

Staff recommend approval of the application.

Engineering Services

Engineering has no concerns with the requested variance seeking relief from the requirements of Zoning By-law (1995)-14864, as amended, to enlarge/extend legal non-conforming use (bakery) and variance to permit reduced parking spaces.

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

Building Services

The subject property is zoned Specialized Office-Residential (OR-36) under Zoning By-law (1995)-14864, as amended and Convenience Commercial (CC) under Council approved Comprehensive Zoning By-law (2023)-2079, as amended. The bake shop use falls under restaurant, take-out under Council approved Zoning by-law (2023)-2079 which is permitted within the CC Zone. The parking is existing legal non-complying for permitted uses and no variances are required.

Under the 1995 Zoning by-law the bake shop use was permitted by way of a minor variance. The personal service establishment which the bake shop is proposing to expand into is legal non-conforming, therefore an extension of a legal non-conforming use is being requested to permit the expansion of the bake shop. Since the use is not permitted as of right under the 1995 Zoning by-law, parking regulations are triggered, requiring the parking space variance.

Building Services notes that a Building permit will be required for the renovations, at which time requirements under the Ontario Building Code will be reviewed.

Building Services has no concerns and supports Planning and Engineering recommendations.

Comments from the Public

None

Contact Information

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