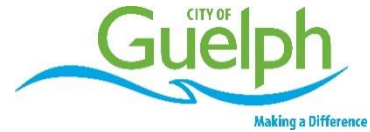


Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-34/23
Location: 204 Alma Street North
Hearing Date: September 14, 2023
(deferred at the June 8, 2023 hearing)
Owner: Debbie, Malcolm and Colin Carter
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) that an additional residential dwelling unit in a separate building on a lot shall have a minimum side and rear yard setback consistent with the side yard setback for the primary dwelling [1.5 metres]; and
- b) that the maximum building height of an additional residential dwelling unit within a separate building on the same lot shall be 5 metres, and shall not exceed an overall building height of primary dwelling [4.775 metres].

Zoning By-Law (2023)-20790 Requirements:

The By-law requires:

- a) that an additional residential dwelling unit in a separate building on a lot shall have a minimum interior side yard and rear yard setback consistent with the interior side yard setback for the primary dwelling unit [1.5 metres] in the RL.1 Zone; and
- b) that the maximum building height for an additional residential dwelling unit is 5 metres, but shall not exceed the overall height of the primary dwelling unit, measured between the average finished grade to the top of such building [4.775 metres].

Request:

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

- a) a minimum left side yard setback of 0.54 metres for the proposed additional residential dwelling unit within a separate building on the lot; and
 - b) a maximum building height of 5 metres for the proposed additional residential dwelling unit within a separate building on the lot.
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Staff Recommendation

Refusal

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). The requested variances would facilitate an ARDU, 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" (RL.1) in the Comprehensive Zoning By-law passed by Council on April 18th, 2023. Both the R.1B and RL.1 zone permit detached ARDUs. The proposed detached ARDU would be a conversion of the existing detached garage located on the property. The ARDU would have a side yard setback of 0.54 m and would not be permitted to exceed the main dwelling height of 4.77 metres. A variance would be required to facilitate the conversion.

Variance A

Section 4.15.1.7.8 of the 1995 Zoning By-law and Section 4.12.1(d)(vii) of the 2023 Zoning By-law require detached ARDUs to have a minimum side yard setback consistent with the side yard setback for the primary dwelling in the applicable Zone. The subject property is zoned R.1B and RL.1 and therefore a minimum side yard setback of 1.5 metres is required. When Council approved the required zoning regulations for detached ARDUs in December 2020 they noted that a side yard setback of 0.6 metres in line with that of detached garages would contribute to a lack of privacy and would make maintenance on the ARDU more difficult. As a result, zoning regulations were passed to ensure that setback requirements for habitable buildings are the same whether they are ARDUs or main dwelling units. In the opinion of staff the proposed side yard setback of 0.54 metres would contribute to a lack of privacy for both the resident of the ARDU and the neighbouring property, and would not conform with the general intent and purpose of the Zoning By-law as described above.

Variance B

Section 4.15.1.7.4 of the 1995 Zoning By-law and Section 4.12.1(d)(iii) of the 2023 Zoning By-law specifies that the height of the detached ARDU may not exceed the height of the main dwelling. The height of the main dwelling is 4.77 metres, with a proposed height of 5 metres indicated on the applicant's minor variance application form. The applicant specified that the existing garage is 3.69 metres in height and would not have any windows facing the side lot line. However, drawings submitted after this application was originally heard in June indicate that the proposed renovations to the garage would result in an ARDU height of 4.76 metres, which would conform with the Zoning By-law.

The intent of the requirement for the main dwelling to be higher than the ARDU is to ensure that the ARDU remains ancillary to the main dwelling and to ensure that the ARDU would have minimal impacts on the surrounding properties. Taking this into consideration along with the proposed reduced side yard setback, staff are of the opinion that the proposed height of 5 metres would not conform with the general intent and purpose of the Zoning By-law.

The proposed side yard setback of 0.54 metres for an ARDU would not provide sufficient privacy for the resident of the ARDU or the neighbouring property and would not provide sufficient space for maintenance of the yard between the ARDU and side lot line. The proposed height variance would further contribute to the privacy concerns for the residents of the ARDU and the neighbouring property. For these reasons staff are of the opinion that the proposed setback is not desirable for the appropriate development of the lands.

Considering there is sufficient space on the property to relocate the structure and comply with the required 1.5 metre setback staff are of the opinion that the proposed setback is not minor in nature.

In the opinion of planning staff, the requested variances do meet the general intent and purpose of the Official Plan, but do not meet the general intent and purpose of the Zoning By-law, are not desirable for the appropriate development of the lands and are not minor in nature.

Staff recommend refusal of the application.

Should the Committee wish to approve the requested side yard setback reduction, staff would recommend removing the requested height variance to ensure the proposed ARDU conforms with the height indicated on the submitted elevation sketches.

Engineering Services

Engineering has no concerns with the requested variances seeking relief from the requirements of Zoning By-law (1995)-14864, as amended, to permit reduced side yard setback and increased height for proposed additional residential dwelling unit within a separate building.

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 an additional residential dwelling unit (ARDU) within a separate building on the same lot. The applicant is proposing to convert the existing detached garage/accessory building to an ARDU in a separate building. The existing building has a minimum 0.54m setback to the left side lot line.

Zoning notes that the proposed height of the ARDU in a separate building as per the elevation sketches meets the zoning by-law regulations, therefore the height variance is not required.

Accessory buildings require a minimum setback of 0.6 metres to the side and rear lot lines and permit a maximum height of 4 metres under council approved Comprehensive Zoning By-law (2023)-2079, as amended.

The required side yard setback for an ARDU in a separate building in the RL.1 Zone is 1.5 metres and permits a maximum one storey height of 5 metres. Height is measured to the midpoint of the roofline. However, the height of the ARDU shall not exceed the overall height of the primary dwelling unit, measured between the average finished grade to the top of such building.

Building Services notes for the applicant that new, unprotected openings are not permitted on the dwelling closer than 1.2 metres to the property line. Walls less than 1.2m to the property line require a 45 minute fire resistance rating and walls closer than 0.6m to the property line shall have non-combustible cladding. A building permit is required prior to the construction/conversion of the new dwelling, at which time requirements under the Ontario Building Code will be reviewed.

As the proposed dwelling left side yard setback is less than 0.6 metres, an Access Agreement registered on title of the neighbouring property owner (202 Alma St N) will be required with the building permit. The agreement shall contain provisions to permit access for the owner of 204 Alma St N onto 202 Alma Street N to allow for maintenance and construction of the right side of the dwelling.

The Building Department requires the above Access Agreement imposed as a condition 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 neighbour's property. It could be for mowing lawn, the construction of the addition, placing a ladder at the side of the building etc.

Building Services supports Planning and Engineering recommendations and request the following condition be recommended for any Committee approval of the application:

That an Access and Maintenance Agreement be registered on title of the neighbouring property (202 Alma St N) to the satisfaction of the Chief Building Official. The agreement shall contain provisions to permit access for the owner of 204 Alma St N onto 202 Alma St N, to allow for maintenance and construction of the right side of the accessory residential dwelling unit in a separate building.

Comments from the Public

Yes (See Attached)

Contact Information

Committee of Adjustment: City Hall, 1 Carden Street, Guelph ON N1H 3A1

519-822-1260 Extension 2524

cofa@guelph.ca

TTY: 519-826-9771

guelph.ca/cofa