

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: B-12/23 and A-64/23
Location: 37 McCrae Boulevard
Hearing Date: September 14, 2023
Owner: The Estate of Elizabeth Ann Piper, and Zachary Fischer
Agent: Jeff Buisman, Van Harten Surveying Inc.
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

Request: The applicant proposes the following:

File B-12/23 – Proposed Lands to be Severed

The applicant proposes to sever a parcel of land with frontage along James Street West of 17.7 metres, a depth of 26.1 metres, and an area of 461 square metres. The retained parcel is proposed to have frontage along James Street West of 20.4 metres, a depth of 26.1 metres and an area of 532 square metres.

File A-64/23 – Proposed Retained Parcel

The applicant is seeking relief from the requirements of both By-laws to permit minimum rear yard setback of 2.0 metres for the existing residential dwelling located on the proposed retained lot.

By-law Requirements:

Zoning By-law (1995)-14864, as amended, requires that the minimum rear yard setback be 7.5 metres, or 20% of the lot depth [5.2 metres], whichever is less, for a property located in the R.1B Zone.

Zoning By-law (2023)-20790, as amended, requires the minimum rear yard setback be 7.5 metres, or 20% of the lot depth [5.2 metres], whichever is less, for a property located in the RL.1 Zone.

Staff Recommendation

Approval with Conditions

Recommended Conditions

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 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. A grading and drainage plan for the severed and retained lands. The grading/drainage plan must be designed in accordance with the City of Guelph's Development Engineering Manual.
3. 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. A stormwater management brief for the severed and retained lands that has been designed in accordance with the City of Guelph's Development Engineering Manual.
4. That prior to the issuance of the Certificate of Official, the Owner(s) shall provide a servicing plan, showing the lateral service connections to the City's infrastructure for review and approval for both the severed lands and the retained lands, to the satisfaction of the General Manager/City Engineer.
5. That the owner constructs the new dwelling at such an elevation that the lowest level of the building can be serviced with a gravity connection to the 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.
6. That prior to the issuance of Certificate of Official, the Owner(s) shall submit all environmental reports (SSQ, Phase 1 ESA, Phase 2 ESA) as per Appendix A of City's Guidelines for Development of Contaminated or Potentially Contaminated Sites to the satisfaction of the General Manager/ City Engineer.
7. That prior to the issuance of a building permit on the proposed severed lands, the Owner agrees to pay the estimated cost of all proposed works within the city's right-of-way to the severed and retained lands to the satisfaction of the General Manager/City Engineer. The Owner further agrees

to pay the actual costs of all proposed works within the city's right-of-way to the severed and retained lands to the satisfaction of the General Manager/City Engineer.

8. That prior to the issuance of the Certificate of Official, the Owner(s) shall design the extension of the existing municipal sanitary sewer, to the satisfaction of the General Manager/City Engineer. 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.
9. 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:
 - a) Grading/Servicing Plan and erosion and Sediment Control Plan.
 - b) Plan and profile drawings for the new sewer.
 - c) Design Sheets to be provided for the new sanitary sewer.
 - d) 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.
 - e) Geotechnical report
 - f) Sanitary sewer drainage area plan
 - g) Composite Utilities Plan
10. That the owner(s) pay the estimated cost of all proposed works necessary to extend the city's municipal sanitary sewer as determined by the General Manager/City Engineer, prior to the issuance of the Certificate of Official.
11. That prior to the issuance of the Certificate of Official, the Owner(s) agree to pay 5% of the estimated cost of the works as a review fee of the overall design.
12. That prior to the issuance of any building permits on the proposed severed lands, the owner shall pay the flat rate charge established by the City for tree planting for the proposed severed lands.
13. That prior to the issuance of a building permit, the Owner shall construct, install, and maintain erosion and sediment control facilities satisfactory to the General Manager/City Engineer, according to a plan submitted to and approved by the General Manager/City Engineer.

Building Services

14. That prior to the issuance of the Certificate of Official, the existing dwelling shall be reconstructed by way of an approved building permit so that it meets the minimum 1.5 metre setback from the proposed interior side yard lot line to the satisfaction of the Chief Building Official.

Alectra Utilities

15. That prior to the 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.

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.

File A-64/23 – Minor Variance Application

Committee of Adjustment Administration

1. That consent application file B-12/23 receives final certification of the Secretary-Treasurer and be registered on title.
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Comments

Planning Services

Consent Application

The subject property is designated "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation applies to residential areas within the built-up areas of the City which are low-density in character. This designation permits a broad range of low-density residential uses, including single detached dwellings, semi-detached dwellings, duplex dwellings and multiple unit residential buildings, such as townhouses and apartments.

Policy 9.3 of the Official Plan provides several objectives to be achieved in the residential designations in the City. In providing new housing, consideration is to be given to the development of a full range of housing types, affordability and densities to meet a variety of lifestyles and diversity (9.3(b)). Further, several objectives emphasize the need to ensure compatibility of new development in residential areas, including maintaining the general character of built form in existing established residential neighbourhoods while accommodating compatible residential infill and intensification (9.3(f)). New development is also to be compatible with and preserve the general character of established neighbourhoods (9.3(i) and (m)).

The proposed severance will result in one "retained" lot and one "severed" lot that will be developed with a new single detached dwelling in accordance with the Low Density Residential land use designation. Official Plan policy 9.3.1.1 outlines development criteria for intensification proposals within existing residential neighbourhoods. Planning staff have evaluated the severance against this criteria and are satisfied that the proposed new residential lot can accommodate a new dwelling that is compatible in form, scale, height, setbacks, massing, appearance, parking layout and siting with buildings in the immediate vicinity. The proposed development will not have an adverse impact on the operation of adjacent roads.

The above policies, criteria and 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 older established areas of the City, providing 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 unacceptable adverse impact.

Policy 10.10.1 of the Official Plan provides criteria to consider when evaluating Consent applications. Below is an evaluation of these policies as it relates to the subject application:

- i. That all of the 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 can provide a reasonable and compatible lot layout that can each accommodate a 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 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 1" (RL.1) in the Comprehensive Zoning By-law passed by Council on April 18th, 2023.

The subject property is less than 0.2 hectares in size and therefore not regulated by the Private Tree By-law, however, there may be City-owned trees fronting McCrae Boulevard and James 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 conditions.

Minor Variance Application

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 reduced minimum rear yard setback in the 1995 Zoning By-law and 2023 Comprehensive Zoning By-Law for the retained lot. 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 approximately in half. To facilitate this the following variances are required:

To permit a minimum rear yard setback of 2.0 metres for the existing dwelling on the retained lot whereas Table 5.1.2 Row 8 of the 1995 Zoning By-law requires a side yard setback of 5.2 metres and Table 6.3 d) of the 2023 Comprehensive Zoning By-law requires a minimum rear yard setback of 5.2 metres.

The general intent of the minimum rear yard setback is to provide adequate separation between adjacent dwellings to allow for privacy and adequate rear yard amenity area. The technical rear yard of this property is the functional side yard. Legal side yards have a minimum setback requirement of 1.5 metres, which would have been met. Further, the dwelling that requires the reduced side yard setback is existing, meaning this reduced rear yard has already been in place. Therefore, there will be no additional impact on the adjacent property.

The requested variance will facilitate the creation of a new residential lot, which should have little impact on streetscape and neighboring properties as there is adequate landscaping buffers. There will be sufficient outdoor amenity space within the exterior and front yards of the property as they both exceed the required setback minimums.

The requested variances to both By-laws 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 application.

Engineering Services

Engineering Staff have reviewed the application and can support the severance application at 37 McCrae Boulevard subject to the above noted conditions. Please note during the review of this application staff discovered that there is no municipal sanitary abutting the proposed lot. As such, engineering will require the applicant to extend the sanitary sewer to ensure compliance with the zoning bylaw.

Engineering has no concerns with the requested variance seeking relief from the requirements of Zoning By-law (1995)-14864, as amended, variance to permit reduced rear yard setback for proposed retained lot.

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. The applicant is proposing to sever the parcel to create a total of two lots. Both lots meets the minimum lot size of 460 square metres and minimum frontage of 15 metres.

The retained lot with the existing house to be partially demolished proposes a rear yard setback of 2 metres whereas both Zoning by-laws require a minimum rear yard setback of 5.2 metres, which is 20% of the lot depth.

With any approval of the consent application, Building Services requires the existing house to be partially demolished as shown on the site sketch, with the 1.5 m interior side yard setback achieved, prior to the Certificate of Official being issued so that no portion of the existing dwelling crosses any future lot line. A building permit will be required prior to any construction/demolition/renovation of the existing dwelling.

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

Alectra Utilities

Please see attached correspondence from Alectra Utilities.

Comments from the Public

None

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