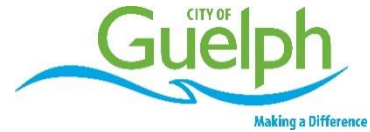


Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-73/22
Location: 191 Kortright Road West
Hearing Date: October 12, 2023
(deferred at the December 8, 2022 hearing)
Owner: SSMW Holding Limited
Agent: Andrea Sinclair, MHBC Planning
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:

- a) permits a maximum of two additional residential dwelling units on a lot, one within the same building as the primary dwelling unit and one located in a separate building on the same lot,
- b) requires that for an additional residential dwelling unit within a primary dwelling unit, the additional residential dwelling unit shall not exceed 45% of the total net floor area of the building, and
- c) requires a minimum of one parking space per additional residential dwelling unit.

Zoning By-Law (2023)-20790 Requirements:

The property is also located in the Low Density Residential 1 (RL.1) Zone within Zoning By-law (2023)-20790, as amended.

Request:

The applicant is seeking relief from the requirements of Zoning By-law (1995)-14864, as amended, to permit:

- a) a maximum of two additional residential dwelling units within the same building as the primary unit,
- b) no cap on the total net floor area of an additional residential dwelling unit on the subject property,
- c) one additional residential dwelling unit on the subject property with no minimum parking requirement [total of 2 parking spaces provided for the 3 units].

Staff Recommendation

Deferral

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 built-up residential areas of the city which are intended to support a range of low-density housing types. Included among these housing types are single-detached, semi-detached, townhouses and apartments. Residential development in this designation is to be to a maximum height of three storeys and have a net density between 15 to 35 units per hectare (9.3.2.2, 9.3.2.3).

The Official Plan through policy 3.7.3(v) encourages the creation of additional residential dwelling units (ARDUs) to achieve the City's intensification targets; so long as the creation of such ARDUs conforms to the policies of the Official Plan and complies with specific regulations established by the Zoning By-law (9.2.1.3).

The subject property currently contains a two-storey single detached dwelling at the northwest corner of Kortright Road West and Edinburgh Road South. The single detached dwelling currently has a double car garage and driveway, accessed from Edinburgh Road North. A building permit was issued by the City in June 2022 for construction of an ARDU within the existing single detached dwelling (located in the basement and partial main floor). The house therefore currently has two dwelling units. The minor variance application is requesting to permit an additional ARDU as a third unit on the subject property. The third unit will be located within a future addition to the rear of the house. With the proposed addition, the lot coverage would be approximately 25%. According to the applicant's concept plan submitted with this application, the proposed rear yard addition meets all minimum yard setbacks. The requested variances meet 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, and is zoned "Low Density Residential" (RL.1) in the Comprehensive Zoning By-law passed by Council on April 18th, 2023.

Variance A

The R.1B Zone permits single detached dwellings as well as ARDUs in a variety of forms. Section 4.15.1.1 of the 1995 Zoning By-law permits a maximum of two (2) ARDUs on a lot, with one ARDU located within the same building as the primary dwelling unit and one ARDU located within a separate building on the same lot. As the building (house) already has permission for an ARDU in the basement and partial main floor, the minor variance is proposing to add a second ARDU as an addition to the house rather than being within a standalone detached building on the same property. Considering the size of the subject property and its location on two designated arterial roads and no further variances required to accommodate

the second ARDU, Planning staff are of the opinion that the minor variance to permit an ARDU as a third unit at the rear of the dwelling meets the general intent and purpose of the Zoning By-law.

Section 4.12.1(a) of the 2023 Zoning By-law permits up to two ARDUs in the main building as of right.

Planning staff are also of the opinion that permitting an ARDU as a third unit to the rear of the dwelling is desirable for the appropriate development of the land and minor in nature. All supporting requirements of the Zoning By-law can be met or exceeded, such as setbacks, lot size, off-street parking, landscaped open space and building height. The addition of a third unit by way of an ARDU can be appropriately accommodated on the subject property and will contribute to a variety of housing options within the built-up area of the City. The subject property is within walking distance to commercial uses and parkland.

Variance B

Section 4.15.1.6.1 of the 1995 Zoning By-law and Section 4.12.1(c)(i) of the 2023 Comprehensive Zoning By-law both limit ARDUs located in the same building as the main dwelling to a maximum size of 45% of the residential floor area of the building. The intent of this provision is to ensure that the ARDUs located on the site remain ancillary in nature to the main dwelling unit. Removing the cap on the floor area of the ARDUs as proposed would allow the ARDUs to be of equal or greater size than the main dwelling unit. This would eliminate the ancillary nature of ARDUs and would not conform with the intent of the Zoning By-law.

The proposed removal of the cap on floor area is not accompanied by any floor plans or figures that illustrate how the proposed third unit would relate to the main dwelling unit or existing ARDU. For this reason, staff cannot accurately evaluate if the proposal is minor in nature or desirable for the appropriate development of the property.

Furthermore, the revised proposal does not request any variance to Section 4.12.1(c)(i) of the 2023 Zoning By-law, and for that reason could not receive a building permit for the second ARDU even if this application were approved, unless a second variance were approved or the proposal conformed to the 45% residential floor area cap.

Variance C

Section 4.13.4.3 of the 1995 Zoning By-law and Table 5.3 in the 2023 Comprehensive Zoning By-law require a minimum of one parking space per ARDU and one parking space per single detached dwelling, resulting in a minimum requirement of 3 parking spaces for the proposed development.

This requirement is currently exceeded on the subject property with four spaces provided in an attached double car garage and driveway. The reduction of minimum parking requirements for this proposal is not necessary unless the applicant is considering removing the existing double car garage. If this is the case, additional variances to Sections 4.13.2.1 of the 1995 Zoning By-law and 5.2.1(a)(i) of the 2023 Comprehensive Zoning By-law would be necessary. These provisions require

that at least one parking space be located at least 6 metres from the front property line and behind the front wall of the dwelling.

As the application does not make it clear what the intent behind the proposed parking reduction is, staff recommend deferral of the application. This will allow the applicant time to clarify the nature of the proposal and include all necessary variances to both the 1995 and 2023 Zoning By-laws.

However, should the Committee wish to make a decision, it is recommended that the Committee refuse the minor variances to remove the cap on the total net floor area of an ARDU, and to permit one ARDU to have no minimum parking requirement (variances B and C) and approve the minor variance to permit a third unit by way of a second attached ARDU (Variance A).

Engineering Services

Engineering has no concerns with the requested variances.

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

Building Services

This 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 additional residential dwelling units (ARDU's).

Provincial Bill 23 and Zoning By-law No. (2023)-20790 allow for newer permissions of three dwelling units as of right on low density residential properties. Bill 23 supersedes zoning by-laws, therefore the variance (a) to permit two additional residential dwelling units within the same building as the primary unit is not required.

The Zoning by-laws permit a maximum of two bedrooms in an ARDU and each ARDU shall be interconnected to the main dwelling unit. Zoning By-law No. (2023)-20790 permits a maximum of 3 bedrooms in an ARDU when the dwelling unit is wholly located in the basement. Each ARDU shall not exceed 45% of the total net floor area of the primary dwelling unit. The applicant notes in the revised cover letter that 4 bedrooms per dwelling unit is requested, but there is no variance request for this. The applicant states in the cover letter that under the new by-law there is no such bedroom restriction for a triplex, therefore limiting bedrooms to 4 per unit (in each ARDU) is more restrictive than the zoning by-law recently passed by Council (for triplexes). Zoning staff do not agree with this statement.

Zoning By-law No. (2023)-20790 does permit a triplex in the RL.1 Zone. There is no cap on bedrooms or unit size and no interconnection is required, but the property would need to be designed to meet zoning while accommodating a parking area for 3 vehicles (one space per dwelling) that have individual access to the street, meaning the parking spaces cannot be stacked or block access to the driveway entrance. Any triplex would need to meet minimum setback requirements of the zone and the maximum three storey height. Larger units within any triplex would likely need larger properties to accommodate the building with the required

parking and minimum landscaped area since triplexes also have the requirement of providing 35% of lot area as landscaped open space.

Zoning includes by-law regulations of maximum net floor area, maximum bedrooms and interconnection for ARDU's to ensure they are accessory to the main dwelling unit on a property. Parking is permitted to be stacked, therefore an owner does not need to alter the property or dwelling to have a driveway with a 3-space parking lot in a location that meets zoning for the 3 dwelling unit building.

Zoning has concerns about the request for a reduction in parking to permit 2 spaces. The property accommodates a minimum of three spaces, at least one space in the garage and two spaces in the driveway. A legal parking space behind the front wall of the dwelling and a minimum of 6 metres from the street line is to be maintained. Two additional legal parking spaces (1 for each ARDU) are located on the driveway within the property limits.

Note that a building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

Building Services has concerns with the application as the requests for variances do not match what is requested in the cover letter. It is unclear why only 2 parking spaces are being requested, other than for perceived convenience of not having stacked spaces, but the legal required parking space for the dwelling is within the garage. Building staff also have concerns about increasing the amount of bedrooms permitted within the ARDU's as the dwelling units are to be subordinate to the main dwelling unit.

Note that a building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

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