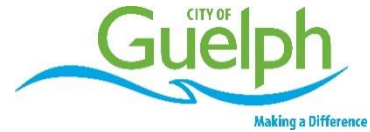


# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number:	A-79/23
Location:	37 Manor Park Crescent
Hearing Date:	November 9, 2023
Owner:	James and Kimberley Cochrane
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 that, when an additional residential dwelling unit is located above a detached garage, the maximum total building height shall be 6.1 metres, and shall not exceed the overall building height of the primary dwelling [5.97 metres].

### **Zoning By-Law (2023)-20790 Requirements:**

The By-law requires:

- a) that when an additional residential dwelling unit is located above a detached garage containing a vehicle parking space, the maximum total building height is 6.1 metres, and shall not exceed the building height of the primary dwelling unit [5.97 metres]; and
- b) that a balcony (applicable to floors above main floor/entry level) has a minimum setback from a lot line of 2 metres.

**Request:** The applicant is seeking relief from the requirements of both Zoning By-laws to permit a maximum height for the proposed accessory building (detached garage and second story additional residential dwelling unit) of 6.1 metres and to exceed the overall height of the primary dwelling. The applicant is also seeking relief from the requirements of Zoning By-law (2023)- 20790, as amended, to permit a balcony located above the main floor/entry level to have a minimum right side yard setback of 1.5 metres.

# Staff Recommendation

## Refusal

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### 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 residential areas within built-up areas of the City. This designation permits a broad range of housing types, including single detached dwellings and Additional Residential Dwelling Units (ARDUs). The requested variances are to permit a detached ARDU located above a detached garage. As the uses are permitted, 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 1" (RL.1) according to Zoning By-law (2023)-20790, as amended. The applicant is proposing to construct a detached garage with an ARDU above. The applicant has identified two variances that are needed to facilitate the proposal. Staff note that an additional variance to Section 4.15.1.7.1 of the 1995 Zoning By-law for maximum ARDU GFA was missed. The applicant is proposing approximately 85 square metres of GFA whereas the 1995 Zoning By-law requires 45% of the total net floor area of the primary building to a maximum of 80 square metres. This would be flagged at the building permit stage if this application were to be approved.

#### Variance A

The applicant is requesting a variance to permit a height of 6.1 metres for an ARDU above a detached garage whereas Section 4.15.1.7.4.1 of the Zoning By-law (1995)-14864, as amended and Section 4.12.1(d)(iii)(A) of the Zoning By-law (2023)-20790, as amended requires a maximum total building height of 6.1 metres and shall not exceed the height of the primary dwelling unit, which is 5.97 metres in this case.

The general intent and purpose of both Zoning By-laws regarding maximum ARDU heights above a detached garage is to ensure that the ARDU remains subordinate to the main dwelling and has minimal impacts on surrounding properties. Council approved zoning regulations for detached ARDUS in December 2020, including the regulation requiring detached ARDUs to not exceed the height of the main dwelling. For these reasons, staff are of the opinion that the requested variances do not meet the general intent and purpose of both the 1995 and 2023 Zoning By-law.

The proposed height for the ARDU above the detached garage does not align with the character of the existing neighbourhood. Manor Park Crescent is predominately one-storey single detached dwellings. The height of the proposed ARDU above the detached garage, that is taller than the main dwelling, would be one of the tallest structures in the neighbourhood and one of the only structures with two storeys.

For these reasons, staff are of the opinion that the requested variances are not minor in nature or appropriate development for the lands.

Staff recommend refusal of variance A.

### **Variance B**

The applicant is requesting a variance to permit a balcony above the main floor/entry level to have a minimum right side yard setback of 1.5 metres whereas Section Table 4.7.2 of the 2023 Zoning By-law requires a minimum setback of 2 metres from the lot line.

The general purpose and intent of the Zoning By-law in minimum setbacks for balconies above the main floor/entry level is to ensure privacy on both the balcony and for neighbouring properties. The proposed balcony would have direct sightlines with the rear yard of the neighbouring property. In staff's opinion, the requested setback of 1.5 metres would contribute to a lack of privacy for both the resident of the ARDU and the occupant of the neighbouring property. Therefore, in staff's opinion the requested variance does not meet the general intent and purpose of the Zoning By-law.

The proposed right side yard setback of 1.5 metres would not provide adequate privacy for both the resident of the ARDU and the neighbouring property. For this reason, staff are of the opinion that the requested variance is not minor in nature or desirable for the appropriate development of the lands.

Staff recommend refusal of variance B.

In the opinion of Planning staff, requested variances A and B 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 minor in nature, and are not desirable for the appropriate development of the lands.

Staff recommend refusal of the application.

### **Engineering Services**

Engineering has no concerns with the requested variance.

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

### **Building Services**

The subject property is zoned Residential Single Detached (R.1B) under to Zoning By-law (1995)-14864, and Low Density Residential 1 (RL.1) according to Zoning By-law (2023)-20790, as amended. The applicant is proposing a detached ARDU over a garage with a balcony.

Detached ARDU's are required to have an overall height that is less than the overall height of the main dwelling, to ensure the structure is accessory to the main dwelling. Balconies are required to have a 2 metre side yard setback from an adjacent property to prevent overlook.

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

Building Services supports Planning recommendations.

## **Comments from the Public**

Yes (See Attached)

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## **Contact Information**

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

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