

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: A-12/20
Location: 49 Wells Street
Hearing Date: March 12, 2020
Owner: Jasdeep Sahni and Tejdeep Sahni
Agent: N/A
Official Plan Designation: Industrial
Zoning: Industrial (B.4) Zone

Request: The applicant is requesting permission to enlarge/extend the legal non-conforming use to permit the existing accessory basement apartment in the existing detached dwelling.

In addition, the applicant is seeking relief from the By-Law requirements to permit an accessory apartment size of 83.1 square metres, or 29.93 percent of the total floor area of the existing detached dwelling.

By-Law Requirements: The property contains a detached dwelling, which is considered to be legal nonconforming in the Industrial (B.4) Zone. Any additions or changes to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment.

In addition, the By-Law requires that an accessory apartment shall not exceed 45 percent of the total floor area of the building and shall not exceed a maximum of 80 square metres in floor area, whichever is lesser.

Staff Recommendation

Approval

Recommended Conditions

None

Comments

Planning Services

The subject property is designated "Industrial" in the City's Official Plan and is zoned "Industrial" (B.4) according to Zoning By-law (1995)-14864, as amended.

The existing single detached dwelling and accessory building are considered to be legal non-conforming in the B.4 zone as the residential use of the property predates the zoning by-law. The applicant is requesting two variances:

1. permission to enlarge/extend the legal non-conforming use to permit an existing accessory apartment in the existing detached dwelling (29.93% of the total floor area of the dwelling);
2. permission for an accessory apartment to have a size of 83.1 square metres.

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.

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.”

Policy 10.10.3(4) of the Official Plan further states that “In certain circumstances, it may be desirable to permit the extension or enlargement to a building or structure for a legal non-conforming use in order to avoid unnecessary hardship.” In this situation if the enlargement/extension was not granted, the owners could face unnecessary hardship as they would be unable to make changes to the existing dwelling on the property. The residential use of the property predates the B.4 zone of the Zoning By-law.

The proposed enlargement/extension of the legal non-conforming use is considered minor in nature, meets the intent and purpose of the Zoning By-law and the Official Plan and is desirable for the appropriate development and use of the land. The requested variance for accessory apartment size is considered desirable and minor in nature as the accessory dwelling unit is wholly contained within the dwelling and does not exceed 45% of the total floor area of the building.

Planning staff recommend approval of the requested variances to permit an 83.1 square metre accessory apartment in the single detached dwelling.

Engineering Services

Engineering has no concerns with granting permission to enlarge/extend the legal non-conforming use to permit the existing accessory basement in the existing detached dwelling.

Further, engineering has no concerns with the request of seeking relief from the By-Law requirements to permit an accessory apartment size of 83.1 square metres, or 29.93 percent of the total floor area of the existing detached dwelling.

We agree with recommendations made by Planning and Building staff.

Building Services

This property is located in the Industrial (B.4) Zone. The applicant is proposing to maintain the existing basement apartment with an area of 83.1 square metres, or 29.93 percent of the total gross floor area, in the existing legal non-conforming detached dwelling.

A variance from Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, is being requested.

Building Services does not object to this application to enlarge/extend the legal non-conforming use to permit the existing accessory basement with a size of 83.1 square metres, being 29.93 percent of the total floor area in the detached dwelling.

Comments from the Public

None

Contact Information

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