

# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number: A-8/24  
Location: 93 Hayes Avenue  
Hearing Date: February 8, 2024  
(deferred at the January 11, 2024 hearing)  
Owner: David Ing  
Agent: Bill Birdsell, J. William Birdsell, Architect  
Official Plan Designation: Low Density Residential  
Zoning Designation (1995)-14864: Specialized Low Density Residential (R.1C-3) Zone  
Zoning Designation (2023)-20790: Low Density Residential 2 (RL.2) Zone

### Zoning By-Law (1995)-14864 Requirements:

The property is located in the Specialized Residential Single Detached (R.1C-3) Zone. Variances from Table 5.1.2 Row 7 and Table 4.7 Row 12 of Zoning By-law (1995)-14864, as amended, are being requested. The By-law requires:

- a) a minimum side yard setback of 1.2 metres; and
- b) that exterior stairs have a maximum projection of 1.5 metres into the required rear yard [being 6.2 metres].

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

The property is also located in the Low Density Residential 2 (RL.2) Zone. Variances from Table 6.3 and Table 4.1 Row 7 of Zoning By-law (2023)-20790, as amended, are being requested. The By-law requires:

- a) a minimum interior side yard setback of 1.2 metres on one side of the dwelling unit and a minimum of 0.6 metres on the other side; and
- b) that exterior stairs have a maximum projection of 1.5 metres into the required rear yard [being 6.2 metres].

### Request:

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

- a) a minimum left side yard setback of 0.6 metres for the proposed new detached dwelling,

- b) a minimum right side yard setback of 0.92 metres for the proposed new detached dwelling; and
- c) a maximum projection of 3.91 metres into the required rear yard for the proposed exterior stairs.

The applicant is also seeking relief from the requirements of Zoning By-law (2023)-20790, as amended, to permit:

- a) a minimum right side yard setback of 0.92 metres for the proposed new detached dwelling; and
- b) a maximum projection of 3.91 metres into the required rear yard for the proposed exterior stairs.

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## **Staff Recommendation**

### **Approval with Conditions**

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## **Recommended Conditions**

### **Planning Services**

1. That the proposed dwelling be constructed in general accordance with the public notice sketch.

### **Alectra Utilities**

2. That prior to issuance of a building permit, the applicant makes arrangement for provision of hydro servicing to the parcel, satisfactory to the ICI and Layouts Department of Alectra Utilities. The servicing costs would be at the applicant's expense.

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## **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). As the proposed use is permitted, staff are satisfied that the proposal conforms with the intent of the Official Plan.

The subject property is zoned "Specialized Residential Single Detached" (R.1C-3) according to Zoning By-law (1995)-14864, as amended; and is zoned "Low Density Residential" (RL.2) in the Comprehensive Zoning By-law passed by Council on April 18th, 2023. The proposal requires variances from both by-laws to permit a south side yard setback of 0.6 metres and a north side yard setback of 0.92 metres, whereas the 1995 Zoning By-law requires an interior side yard setback of 1.2 metres on both sides, and the 2023 Zoning By-law requires a side yard setback of 1.2 metres on one side and 0.6 metres on the other side. Variances from both by-

laws are also required to permit exterior stairs to project 3.91 metres into the required rear yard, whereas both by-laws permit a maximum encroachment of 1.5 metres into the required rear yard setback.

### **Interior side yard setbacks**

Table 5.1.2 Row 7 of the 1995 Zoning By-law requires a minimum side yard setback of 1.2 metres on each side for single detached dwellings in the R.1C-3 Zone. Table 6.3 Row C of the 2023 Zoning By-law requires an interior side yard setback of 1.2 metres on one side, and 0.6 metres on the other side in the RL.2 Zone. As the side yard setbacks for the proposed detached dwelling are 0.92 metres on the north side and 0.6 metres on the south side, a variance to reduce the minimum required north side yard setback is required in the 1995 and 2023 Zoning By-laws, and variances to reduce the minimum required south side yard setback is required for the 1995 Zoning By-law only.

The intent of the required side yard setback provisions is to ensure there is adequate separation between dwellings, and to provide reasonable privacy for the occupant and neighbouring properties. The subject lands are in an older neighbourhood where historically buildings have been constructed closer to the side lot line than the required 1.2 metres. The impacts of the proposed north side yard setback would be mitigated, as no windows facing the neighbouring property are proposed. The impacts of the proposed south side yard setback are mitigated, as the neighbouring property to the south is a vacant City-owned lot for existing servicing infrastructure located below grade. The lot to the south remains undevelopable as long as the existing servicing infrastructure remains in use. For these reasons staff are satisfied that the proposed side yard setbacks conform with the intent of both the 1995 and 2023 Zoning By-laws.

The subject lot has a narrow frontage of 7.62 metres and has existed as a vacant lot for many years. The proposed side yard setbacks would allow for a modestly sized detached dwelling to be constructed on the site while mitigating the impacts on the neighbouring properties. Staff are of the opinion that the proposed side yard setbacks are desirable for the development of the property and are minor in nature.

### **Exterior stair projection**

Table 4.7 row 12 of the 1995 Zoning By-law and Table 4.1 row 7 of the 2023 Zoning By-law permits exterior stairs to have a maximum projection of 1.5 metres into the required rear yard setback of 6.2 metres for this site. The proposed basement stairs have a projection of 3.91 metres into the required rear yard setback, resulting in a 2.29 metre setback from the rear lot line. The intention of these provisions is to ensure that exterior stairs do not have a significant impact on neighbouring properties. As the proposed stairs are below grade rather than above grade stairs, the impact of the stairs on the rear yard of the neighbouring properties would be minimal. For this reason staff are satisfied that the proposal maintains the intent of both the 1995 and 2023 Zoning By-laws.

Although the proposed projection is more than double the permitted 1.5 metre encroachment into the rear yard, the proposed basement stairs would have less visual impact on neighbouring properties than the proposed uncovered deck that

requires no variance. Staff are satisfied that the proposed basements stairs are desirable for the appropriate development of the land and are minor in nature.

In the opinion of planning staff, the requested variances meet the general intent and purpose of the Official Plan and both Zoning By-laws, are desirable for the appropriate development of the lands and are minor in nature. Staff recommend approval of the application subject to the above noted condition.

### **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 Specialized Residential Single Detached (R.1C-3) under Zoning By-law (1995)-14864, as amended and Low Density Residential 2 (RL.2) under Council approved Comprehensive Zoning By-law (2023)-2079, as amended. Both zones permit a single detached dwelling. The applicant is proposing a new dwelling on an existing lot with a 7.62 metre frontage and an area of 236 square metres. Left and right side yard variances and a rear yard star projection variance are being requested for the dwelling.

Any Limiting Distance Agreement requested by the applicant to permit windows on the side of the building adjacent to the City lands can be completed during the Building Permit Application process. 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 1.2 metres to the property line require a 45 minute fire resistance rating and walls closer than 0.6 metres to the property line shall have non-combustible cladding. A building permit is required prior to the construction of the new dwelling, at which time requirements under the Ontario Building Code will be reviewed.

Building Services has no objection to the requested variances and supports Planning and Engineering recommendations.

### **Alectra Utilities**

Please see attached correspondence from Alectra Utilities.

### **Grand River Conservation Authority (GRCA)**

GRCA provided the attached comments for this file for the January 11, 2024 hearing and has indicated that these comments are still valid. The GRCA has no additional comments for the February 8, 2024 Committee of Adjustment hearing.

### **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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