

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number:	B-51/24, A-92/24, A-93/24
Location:	39 Armstrong Avenue
Hearing Date:	December 12, 2024
Owner:	John-David Sherman, Victoria Sherman, and Frederick Sherman Estate
Agent:	Colin Vanderwoerd, Van Harten Surveying Inc.
Official Plan Designation:	Low Density Residential
Zoning Designation:	RL.2 (Low Density Residential)

Request: The applicant is proposes to do the following:

File B-49/24

The applicant proposes to sever a parcel of land with frontage along Armstrong Avenue of 10.12 metres, a depth of 24.34 metres, and an area of 245 square metres. The retained parcel will have frontage along Armstrong Avenue of 17.3 metres, a depth of 24.35 metres, and an area of 420 square metres.

File A-92/24 (proposed severed parcel)

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

- a) a minimum lot area of 245 square metres;
- b) a minimum front yard setback of 4.35 metres for the proposed detached dwelling;
- c) a minimum interior side yard setback of 1.2 metres on one side of the dwelling unit and 0.6 metres on the other side;
- d) a maximum attached garage width of 50 percent of the lot frontage or 5 metres, whichever is greater, for the proposed single detached dwelling;
- e) a maximum residential driveway width to be 50 percent of the lot frontage or 5 metres, whichever is greater, for the proposed single detached dwelling;
- f) an attached garage to project beyond the main front wall of the first storey containing habitable floor space oriented towards the front lot line abutting a street line, and if a roofed porch is proposed, the attached garage may be located ahead of the main front wall, to a maximum projection of 2 metres; and
- g) a minimum floor area of 20 square metres for the proposed attached garage.

File A-93/24 (proposed retained parcel)

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

- a) a maximum front yard setback of 14.21 metres for the existing detached dwelling;
 - b) to permit a minimum rear yard setback of 0.7 metres for the existing detached dwelling;
 - c) a minimum interior side yard setback of 1.2 metres on one side of the dwelling unit and 0.6 metres on the other side;
 - d) the required parking space to be in front of the front wall of the existing dwelling; and
 - e) a maximum residential driveway width to be 50 percent of the lot frontage or 5 metres, whichever is greater, for the existing single detached dwelling.
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Staff Recommendation

Deferral

Comments

Planning Services

Consent to Sever Application: B-51/24

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 the built-up area of the City and permits a range of housing types including single detached dwellings and associated accessory uses.

The subject property is zoned "Low Density Residential 2" (RL.2), according to Zoning By-law (2023)-20790, as amended. The applicant is proposing to sever the existing lot, to create a one new residential lot and one retained residential lot. Several variances are required for both the severed and retained lots. The proposal is intended to increase the use and function of the lot, as well as increase housing supply while preserving the existing dwelling.

The following seven variances are requested to Zoning By-law (2023)-20790, as amended for the severed parcel:

- a) a minimum lot area of 245 square metres;
- b) a minimum front yard setback of 4.35 metres for the proposed detached dwelling;
- c) a minimum interior side yard setback of 1.2 metres on one side of the dwelling unit and 0.6 metres on the other side;
- d) a maximum attached garage width of 50 percent of the lot frontage or 5 metres, whichever is greater, for the proposed single detached dwelling;

- e) a maximum residential driveway width to be 50 percent of the lot frontage or 5 metres, whichever is greater, for the proposed single detached dwelling;
- f) an attached garage to project beyond the main front wall of the first storey containing habitable floor space oriented towards the front lot line abutting a street line, and if a roofed porch is proposed, the attached garage may be located ahead of the main front wall, to a maximum projection of 2 metres; and
- g) a minimum floor area of 20 square metres for the proposed attached garage

The following five variances are requested to Zoning By-law (2023)-20790, as amended for the retained parcel:

- a) a maximum front yard setback of 14.21 metres for the existing detached dwelling;
- b) to permit a minimum rear yard setback of 0.7 metres for the existing detached dwelling;
- c) a minimum interior side yard setback of 1.2 metres on one side of the dwelling unit and 0.6 metres on the other side;
- d) the required parking space to be in front of the front wall of the existing dwelling; and
- e) a maximum residential driveway width to be 50 percent of the lot frontage or 5 metres, whichever is greater, for the existing single detached dwelling.

A number of provisions within the 2023 Zoning By-law are currently under appeal and therefore not in effect. These requested variances will be identical to the under-appeal provisions approved by Council in 2023 but will not be subject to the appeal, allowing the proposed development to proceed before the appeals are resolved.

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 (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 severances will create one new single-detached lot. The proposed dwellings and lots conform with the "Low Density Residential" land use designation and will maintain the low-density character of the neighbourhood while also allowing for gentle intensification.

The City's Official Plan also outlines 11 criteria for intensification proposals such as this one in section 9.3.1.1. Below is an evaluation of each of the 11 criteria:

1. Building form, scale, height, setbacks, massing, appearance and siting are compatible in design, character and orientation with buildings in the immediate vicinity.

“Compatible” development does not mean identical or even necessarily similar to the existing development in the immediate vicinity. “Compatible” development should fit into the area without having a significant impact on the neighbouring properties that would impact their ability to use their property.

The proposed severed conforms with all the setback and height requirements of the RL.2 zone as approved by City Council with the exception of the proposed lot area of 245 square metres and the proposed front yard setback of 4.35 metres. The proposed lot area and front yard setbacks are similar to that of the rest of the dwellings along Armstrong Avenue, and would contribute to a built form that is compatible with the surrounding neighbourhood.

Variances are also required for the retained lot to recognize the setbacks of the existing dwelling. As the existing dwelling is the original farmhouse in this area, the existing front and rear yard setbacks differ from most other dwellings on Armstrong Avenue. No changes to the existing dwelling are proposed.

Staff believe that the anticipated building form, scale, height, setbacks, massing, appearance, and siting of the proposed development are compatible in design, character, and orientation with the buildings in the immediate vicinity.

2. Proposals for residential lot infill will be compatible with the general frontage of lots in the immediate vicinity.

The interior lots located on this specific block of Armstrong Avenue have lot widths ranging from approximately 10.1 metres to 20.2 metres. The proposed severance would split a lot with a width of approximately 27.42 metres into two lots, with the retained parcel being 17.3 metres wide, and the severed parcel being 10.12 metres wide. As there are already many neighbouring lots with a similar frontage to that of the proposed frontage of the retained and severed lands, staff are satisfied that the proposed development is compatible with lots in the immediate vicinity.

3. The residential development can be adequately served by local convenience and neighbourhood shopping facilities, schools, trails, parks, recreation facilities and public transit.

The proposed development is located within 500 metres of local parks, recreation centres and various commercial areas. The nearest bus stops are located along York Road, the closest being less than 250 metres away.

4. Vehicular traffic generated from the proposed development will not have an unacceptable impact on the planned function of the adjacent roads and intersections.

Engineering staff have reviewed the proposal and have not identified any concerns with the potential traffic generated by the proposed development.

5. Vehicular access, parking and circulation can be adequately provided and impacts mitigated.

The proposed development meets the minimum parking requirements of a minimum of one space per unit, as outlined in the 2023 Zoning By-law and approved by City Council on April 18th, 2023.

6. That adequate municipal infrastructure, services and amenity areas for residents can be provided.

Engineering staff have identified potential servicing concerns that would need to be rectified prior to approval of the application. Please see engineering comments for more information. The proposed severance provides sufficient amenity areas for residents.

7. Surface parking and driveways shall be minimized.

The proposed development conforms with the maximum driveway width provisions in the 2023 Zoning By-law, as passed by City Council on April 18th, 2023.

8. Development shall extend, establish or reinforce a publicly accessible street grid network to ensure appropriate connectivity for pedestrians, cyclist and vehicular traffic, where applicable.

The development does not alter the existing street grid network.

9. Impacts on adjacent properties are minimized in relation to grading, drainage, location of service areas and microclimatic conditions, such as wind and shadowing.

Engineering staff have included conditions for the consent applications to ensure grading and drainage concerns are adequately addressed. Should this application be approved, conditions recommended by engineering staff regarding grading and drainage would have to be addressed to the satisfaction of the City Engineer prior to the severance being finalized and the certificate of official being issued.

10. The development addresses public safety, identified public views and accessibility to open space, parks, trails and the Natural Heritage System, where applicable.

There are no public safety concerns or accessibility to natural heritage concerns with the proposal.

11. The conservation and integration of cultural heritage resources, including identified key public views can be achieved subject to the provisions of the Cultural Heritage Resources Section of this Plan.

The proposal preserves the existing farmhouse building on the retained lot.

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 the older established areas of the City.

Policy 10.9.1 of the Official Plan provides additional 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 of the subject property facilitates the ultimate development of the lands. The proposed development represents a logical and compatible layout of lots that are appropriate to accommodate the proposed dwellings within the Built-up Area and match the character of the surrounding neighbourhood.

iv. That the application can be supported if it is reasonable and in the best interest of the community.

The proposed severance is reasonable and is in the best interest of the community. The proposed development creates a lot area and front yard setback similar to that

of other dwellings on Armstrong Avenue and maintains all other zoning requirements in the 2023 Zoning By-law.

With the exception of the potential servicing concerns raised by engineering staff, planning 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 deferral of the application until engineering's concerns are adequately addressed.

Minor Variance Applications:

A-92/24 (Severed Parcel)

The proposed severed parcel conforms in with the RL.2 zone as approved by City Council apart from the reduced lot area of 245 square metres and the reduced front yard setback of 4.35 metres.

The intention of minimum lot sizes is to ensure that newly created lots will be compatible with existing lots in the surrounding area, and to ensure that an adequately sized dwelling can be located on the lot while adhering to all other required zoning provisions, including setbacks.

The proposed lot size of 245 square metres would be roughly 11 percent smaller than the minimum permitted lot size as per the Zoning By-law. Several lots along this block of Armstrong Avenue have a similar lot size to the proposed lots (11, 13, 17, 19 and 33 Armstrong Avenue). As lots of a similar size already exist in the nearby area, Staff believe that the proposed lot size would not be out of character in the neighbourhood.

The intention of front yard setbacks is to maintain a safe and desirable street scape, while also ensuring adequate privacy for neighbouring properties. Several adjacent properties (20 and 33 Armstrong) are located similarly in relation to or closer to the front lot line, with no significant impact on the streetscape appearance. Staff believe the proposed front yard setback would not negatively impact on the privacy of the neighbouring lots.

As demonstrated in the submitted site plan, the proposed lot could accommodate a new single detached dwelling of a reasonable size that would comply with all other required zoning provisions and setbacks.

As the proposed lot size and front yard setback would not be out of place in the surrounding neighbourhood and can accommodate an adequately sized dwelling while complying with all other zoning provisions, staff are of the opinion that the proposed lot size and front yard setback conforms with the intent of the Official Plan and Zoning By-law, is minor in nature, and is desirable for the appropriate development of the lands.

A-93/24 (Retained Parcel)

The proposed retained parcel conforms with the RL.2 zone as approved by City Council apart from the increased front yard of 14.21 metres, and the reduced rear

yad setback of 0.7 metres, both of which are necessary to recognize the existing dwelling. Additionally, a variance is required to permit the required parking space to be located in front of the front wall of the dwelling.

The increased maximum front setback of 14.21 metres and the reduced rear yard setback of 0.7 metres for the retained parcel are currently existing. The single detached dwelling on the existing parcel is an older, original farmhouse and was developed during an era where deeper front yard setbacks were the standard. Therefore, Staff believe the variances for the front and rear yard setbacks are required to bring the existing structure into compliance and demonstrate no changes to the existing character of the surrounding area.

The property as it stands currently has the required parking space in front of the existing dwelling. The proposed driveway for the retained lot is located in front of the front wall of the dwelling, due to the deep, existing front yard setback of the dwelling as a result of the original farmhouse building style. Staff believe it is unreasonable to locate the required parking space behind the front wall of the building. The proposed location of the driveway is not any more impactful than the existing driveway and poses negligible impact to the surrounding streetscape.

As the front and rear yard setbacks are already existing, and the required parking space does not disrupt the streetscape or character of the surrounding area, Staff are of the opinion that the requested variances align with the intent of the Official Plan and Zoning By-law, is minor in nature, and is desirable for the appropriate development of the lands.

Technical Variances

As a number of provisions are currently under appeal and therefore not in effect, variances to several other provisions have been requested. These requested variances will be identical to the under-appeal provisions approved by Council last year but will not be subject to the appeal, allowing the proposed development to proceed before the appeals are resolved.

These provisions were appealed to the Ontario Land Tribunal by the Guelph Wellington Development Association on the grounds that they are too restrictive on development. For this reason, city staff are of the opinion that it is fair to consider the proposed variances, as they would not undermine the intent of the ongoing appeal.

Staff have reviewed the proposed under-appeal provisions and consulted with legal staff about their necessity. Staff have determined that variances D through G are not required for the severed parcel. A single detached dwelling was permitted on the property under the 1995 ZBL, and these are new regulations, so if they are met for the single detached dwelling use, they are not required to have a variance to bring them into effect.

Additionally, variance E for the retained parcel is not required as it is a new, more restrictive regulation. If it is met for the single detached dwelling use it is not required to have a variance to bring it into effect.

Staff are of the opinion that the proposed variances A, B, and C for the severed parcel, as well as variances A, B, C, and D for the retained parcel conform with the general intent of the City's Official Plan and Zoning By-law, are desirable for the appropriate development of the land and are considered to be minor in nature. Staff are of the opinion that proposed variances D through G for the severed parcel and variance E for the retained are not required to facilitate the proposed development.

As engineering staff have identified potential servicing constraints that should be addressed prior to approval, staff recommend deferral of applications A-92/24, A-93/24 and B-51/24.

Engineering Services

Engineering has reviewed the requested severance application and recommends the application be deferred until the applicant can demonstrate that the proposed severed parcel will have adequate and available servicing.

The proposed severed parcel has frontage for both municipal sanitary and water infrastructure, however due to the size and location of the municipal watermain(38mm), engineering requires further information from the applicant before being able to support this severance.

Engineering staff have no concerns with the requested variances. We agree with the recommendations made by Planning and Building staff.

Building Services

The subject property is zoned Low Density Residential 2 (RL.2) and is within the Older Built-up Area Overlay under Council approved Comprehensive Zoning By-law (2023)-2079, as amended. The RL.2 zone permissions include a single detached dwelling. The applicant is proposing to sever the lot to create one new vacant lot and the retained lot with the existing dwelling.

Variances are required for requests a) and b) on the severed vacant lot as they do not meet the 2023 CZBL by-law requirements. The severed vacant lot is proposed to have an area of 245 square metres whereas the RL.2 zone requires a minimum lot area of 275 square metres.

Variance c) for the severed vacant parcel is required to bring the regulation into effect as the previous R.1C-3 Zone under the 1995 Zoning By-law required a minimum side yard setback of 1.2m for a 1-2 storey building. As the 1.2m on one side and 0.6m on the other side yard setback is more permissive and is a regulation under appeal in the RL.2 zone, a variance is required to bring it into effect.

Variances d) e) f) and g) are not required for the severed vacant parcel for a proposed single detached dwelling because a single detached dwelling was permitted on the property under the 1995 Zoning By-law, and these are new regulations, so if they are met for the single detached dwelling use they are not required to have a variance to bring them into effect.

The retained parcel requires variances a) to d) as they do not meet the requirements of the 2023 Comprehensive Zoning By-law. Variance e) is not required because it is a new more restrictive regulation, so if it is met for the single detached dwelling use it is not required to have a variance to bring it into effect.

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 (but greater than 0.6 metres) to the property line require a 45 minute fire resistance rating. 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 and Engineering recommendations.

Alectra Utilities

See attached correspondence from Alectra Utilities.

Comments from the Public

None

Contact Information

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