

# Committee of Adjustment Comments from Staff, Public and Agencies

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## Application Details

Application Number: A-38/20  
Location: 104 Winston Crescent  
Hearing Date: August 13, 2020  
Owner: Donnette Harnett and Sheryl Harnett  
Agent: Phill McFadden, Sutcliffe Homes Inc.  
Official Plan Designation: Low Density Residential  
Zoning: Residential Single Detached (R.1B) Zone

## Request:

The applicant is seeking relief from the By-Law requirements to permit:

- a) a minimum left side yard setback of 1.2 metres for the proposed attached garage and two-storey addition to the existing detached dwelling;
- b) a minimum rear yard setback of 4.38 metres for the proposed two-storey addition to the existing detached dwelling; and
- c) an accessory apartment size of 95.5 square metres, or 30.4 percent of the total floor area of the detached dwelling (including proposed addition).

## By-Law Requirements:

The By-law requires:

- a) a minimum side yard setback of 1.5 metres for a property in an R.1B zone of 1 to 2 storeys;
  - b) a minimum rear yard setback of 7.5 metres or 20 percent of the lot depth [being 6.1 metres], whichever is lesser; and
  - c) 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.
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## Staff Recommendation

### Approval of the following variances with conditions:

- a) a minimum left side yard setback of 1.2 metres for the proposed attached garage and two-storey addition to the existing detached dwelling; and
- c) an accessory apartment size of 95.5 square metres, or 30.4 percent of the total floor area of the detached dwelling (including proposed addition).

## **Refusal of the following variance:**

- b) a minimum rear yard setback of 4.38 metres for the proposed two-storey addition to the existing detached dwelling.
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## **Recommended Conditions**

### **Building Services**

1. Prior to the issuance of a building permit for the modifications to the accessory building, the owner provides written documentation, including drawings, that no encroachment is proposed or provides a copy of an agreement between the two owners that has been executed recognizing the encroachment.
  2. That prior to the issuance of a building permit, the owner confirms and provides written confirmation that an access agreement for the purposes of maintenance of the accessory building at 102 Winston Crescent has been registered on title.
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## **Comments**

### **Planning Services**

The province of Ontario, by way of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019), has mandated that the City of Guelph plan to the 2041 horizon to accommodate a population of 191,000 within the existing City boundary. Residential population growth targets need to be accommodated by way of both Greenfield development and appropriate redevelopment of infill and existing residential parcels. The City of Guelph is currently in the process of creating a new Comprehensive Zoning By-law which is publicly proposing options to permit a various range housing types, as-of-right with related zoning requirements, within the Low Density Residential designations including single detached dwellings, semi-detached dwellings and on-street townhomes. Additional dwelling units (currently called accessory apartments) are proposed to be permitted within the range of housing types as well. Existing residential neighbourhoods will evolve with newly developed residential dwelling types, while protecting valuable designated heritage structures, properties and neighbourhood characteristics. The Winston Crescent neighbourhood and surrounding streets were mainly developed with wartime houses that are all consistently within permitted lot setbacks and do not contain many legal non-complying setbacks or non-conforming structures.

The subject property is designated "Low Density Residential" in the City's Official Plan. The "Low Density Residential" land use designation permits a range of housing types including single detached and semi-detached dwellings. 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, as amended, which permits a single detached dwelling and accessory apartment. The applicant is proposing a two storey addition to the existing one storey dwelling that will increase the footprint of the dwelling and include an accessory apartment and an attached garage. The existing semi-detached garage in the rear yard, which shares a lot line with 102 Winston

Crescent, is proposed to be demolished only on the owner's property of 104 Winston. Three variances are being requested to facilitate the proposed development on the property:

- a) a minimum left side yard setback of 1.2 metres; whereas the zoning by-law requires a minimum side yard setback of 1.5 metres for a 2 storey dwelling;
- b) a minimum rear yard of 4.3 metres; whereas the zoning by-law requires minimum rear yard setback of 6.1 metres (7.5 metres or 20 percent of the lot depth [being 6.1 metres], whichever is lesser); and
- c) an accessory apartment size of 95.5 square metres, or 30.4 percent of the total floor area of the detached dwelling (including proposed addition); whereas the zoning by-law indicates 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.

The general intent and purpose of the Zoning By-law relating to side yard setbacks is to ensure there is an appropriate separation between the building and property lot line, adequate room for maintenance of the dwelling and proper stormwater drainage. Planning staff is of the opinion the requested reduced side yard setback is a minor setback reduction and proper maintenance access and drainage can be maintained.

Planning staff recommend approval of a 1.2 metre left side yard setback.

The general intent and purpose of the Zoning By-law in limiting the floor area of an accessory apartment is to ensure that the unit is clearly subordinate and accessory to the primary use and to maintain the appearance of the built form, which in this case is a proposed two storey addition to a single detached dwelling. The proposed accessory apartment represents 30.4 percent of the total floor area of the dwelling. Based on floor plans submitted by the applicant, the apartment contains two bedrooms on the second storey and a living space and kitchen on the main floor. Planning staff are of the opinion that the accessory apartment is subordinate to the host dwelling unit in size.

Planning staff recommend approval of a 95.5 square metre (30.4 percent of the total floor area) accessory apartment.

The general intent and purpose of the Zoning By-law relating to rear yard setbacks is to ensure a rear yard amenity space is maintained and to ensure the property is not overdeveloped. Planning staff is of the opinion that a reduced rear yard setback of 4.3 metres is not minor in context with the existing development of the surrounding residential properties and is not desirable development of the property. There is adequate space within the required rear yard setback for the proposed addition of the accessory apartment to be redesigned to fit within the building envelope.

Planning staff recommend refusal of a 4.3 metre rear yard setback.

Planning staff have become aware that the applicant did not consult with the owners of 102 Winston Crescent about the proposed demolition of the detached garage. The garage is attached to the neighbour's garage at the property line and

more information is needed on how a partial demolition of the structure can be achieved.

For this reason, Planning Staff also support deferral of the application to give the applicant time to resolve the issues identified by the Building department.

### **Engineering Services**

Engineering has no concerns with the request of seeking relief from the Zoning By-law requirements to permit:

- a) a minimum left side yard setback of 1.2 metres for the proposed attached garage and two-storey addition to the existing detached dwelling;
- b) a minimum rear yard setback of 4.38 metres for the proposed two-storey addition to the existing detached dwelling; and
- c) an accessory apartment size of 95.5 square metres, or 30.4 percent of the total floor area of the detached dwelling (including proposed addition).

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

### **Building Services**

The property is located in the Residential Single Detached (R.1B) Zone. The applicant is proposing to construct a second storey on the existing single storey detached dwelling. The addition also includes a single car attached garage and a two-storey accessory apartment. The existing detached garage and shed are proposed to be removed.

Building Services has concerns with this application. Building agrees with Planning's recommendation of refusal of the rear yard variance. Subsequent information regarding this application has been provided and if deferral is recommended, Building Services supports that as well.

Building Services has concerns with the partial demolition of one half of the accessory building that may result in encroachment issues. A building permit is required for the partial demolition and reconstruction of the accessory building exterior wall and roof to comply with the Ontario Building Code and this may result in portions of the structure extending over the property line. Building Services recommends the above noted conditions if the Committee approves the application.

Please note the following for the remaining portion of the structure: Windows may be restricted in walls located closer than 1.2m to the property lines and the walls may require a fire rating on the inside face. Walls located closer than 0.6m may also require an exterior grade fire rated material (drywall) installed on the exterior face of the wall behind any combustible cladding.

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

### **Upper Grand District School Board (UGDSB)**

The UGDSB's Planning Department does not object to the proposed application. However, the UGDSB would like to advise that there are students walking to school

in this area and therefore request that the sidewalk in front of the proposed development remain available to pedestrians and clear of construction equipment during the construction period (see attached letter).

## **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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