

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: A-36/18
LOCATION: 73 Bagot Street
DATE AND TIME OF HEARING: May 10, 2018
OWNER: Eric and Denise Bitton
AGENT: N/A
OFFICIAL PLAN DESIGNATION: Low Density Residential
ZONING: Residential Single Detached (R.1B)

REQUEST:	<p>The applicant is seeking relief from the By-law requirements to permit:</p> <ul style="list-style-type: none"> a) a front yard setback of 2.6 metres for the proposed second storey addition; and b) a side yard setback of 0.84 metres for the proposed second storey addition.
BY-LAW REQUIREMENTS:	<p>The By-law requires:</p> <ul style="list-style-type: none"> a) a minimum front yard setback of 6 metres or the average of the setbacks of the adjacent properties, being 0.6 metres; and b) a minimum side yard setback of 1.5 metres.
STAFF RECOMMENDATION:	Approval with conditions
CONDITIONS RECOMMENDED:	
<u>PLANNING SERVICES</u>	<p>1. That the 0.8 metre setback shall only apply to the side yard as shown in general accordance with the Public Notice sketch.</p>
<u>GUELPH HYDRO</u>	<p>2. That prior to issuance of a building permit, the applicant makes arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the relocation of the existing hydro service. This would be at the applicant's expense.</p>

COMMENTS

PLANNING SERVICES:

The subject property is designated "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 that are predominantly residential in character. The "Low Density Residential" land use designation permits a range of housing types including: single, semi-detached, duplex and

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townhouse residential dwellings and multiple unit residential buildings. The requested variances are for a single detached residential dwelling which is a permissible use in the Official Plan. The requested variances are considered to 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. The applicant is proposing to construct a 90.1 square metre second storey addition to the existing residential dwelling. Two variances are required to facilitate this addition.

The first variance requested is to permit a front yard setback of 2.6 metres for the proposed second storey addition, whereas Table 5.1.2, Row 6 of the Zoning By-law requires a minimum front yard setback of 6 metres or the average of the setbacks of adjacent properties. The general intent in requiring a front yard setback of a minimum of 6 metres or the average of the setbacks of adjacent properties is to ensure new development is compatible with the existing streetscape.

The second variance requested is to permit a minimum side yard setback of 0.84 metres for the proposed second storey addition, whereas Table 5.1.2, Row 7, requires a minimum side yard setback of 1.5 metres. The general intent of requiring setbacks is to provide adequate separation from buildings on adjacent properties in proportion to the building's height, maintain access, ensure safety, and where necessary, to accommodate services, and to allow for proper lot grading and drainage. The existing house predates the current Zoning By-law and has legal non-complying setbacks. The proposed second storey addition will match the side yard setback and front yard setback of the existing house. The proposed addition is not expected to negatively affect the streetscape. If the applicant were to construct the addition at the required setbacks, it could create a disconnected floor plan. The requested variances are considered to meet the general intent and purpose of the Zoning By-law, are considered to be desirable for the appropriate development of the land and are considered to be minor in nature.

The subject property is less than 0.2 hectares in size and therefore is not regulated by the Private Tree Protection By-law. Staff encourage the applicant to consult with an arborist in order to retain and protect as many trees as possible on the subject property. Trees and shrubs within the City's right-of-way need to be appropriately considered and protected. The applicant should contact the Manager of Parks, Operations and Forestry to determine if there are any trees within the City's right-of-way that may be impacted by the proposed addition.

Staff recommend approval of the application subject to the above noted condition.

ENGINEERING SERVICES:

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit a front yard setback of 2.6 metres for the proposed second storey addition; and a side yard setback of 0.84 metres for the proposed second storey addition, from an engineering perspective.

We agree with recommendations made by Planning and Zoning staff.

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BUILDING SERVICES:

The property is located in the Residential Single Detached (R.1B) Zone. The applicant is proposing to construct a 90.1 square metre second storey addition to the existing dwelling. Variances from Table 5.1.2 Rows 6 and 7 of Zoning By-law (1995)-14864, as amended, is being requested.

Building Services has no objections to this application to permit a front yard setback of 2.6 metres and a side yard setback of 0.84 metres for the proposed second storey addition.

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

GUELPH HYDRO:

See above noted condition.

REPORT COMPILED BY: L. Cline, Council Committee Assistant

COMMENTS FROM THE PUBLIC RECEIVED: None

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APPLICATION NUMBER: A-37/18
LOCATION: 118 Severn Drive
DATE AND TIME OF HEARING: May 10, 2018
OWNER: Richard Companion and Helen White
AGENT: Ian Chan, Chox Contracting
OFFICIAL PLAN DESIGNATION: Low Density Greenfield Residential
ZONING: Specialized Residential Single Detached (R.1D-12)

REQUEST:	The applicant is seeking relief from the By-law requirements to permit an accessory apartment size of 105.67 square metres, or 28.3% of the total floor area of the building.
BY-LAW REQUIREMENTS:	The By-law requires that an accessory apartment shall not exceed 45% 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
CONDITIONS RECOMMENDED:	N/A

COMMENTS

PLANNING SERVICES:

The subject property is designated "Low Density Greenfield Residential" in the City's Official Plan. The "Low Density Greenfield Residential" land use designation permits a range of housing types including: single, semi-detached, duplex and townhouse residential dwellings and multiple unit residential buildings. The minimum net density of residential developments in the "Low Density Greenfield Residential" designation is 20 units per hectare, and the maximum net density is 60 units per hectare for lands not on designated arterial roads.

The variance requested is for an accessory apartment which is a permissible use in a single detached residential dwelling. In Planning staff's opinion, the requested variance meets the general intent and purpose of the Official Plan.

The subject property is zoned "Specialized Residential Single Detached " (R.1D-12), according to Zoning By-law (1995)-14864, as amended, which permits single detached dwellings. An accessory apartment is also a permitted use in the R.1D-12 zone, subject to meeting the requirements of Section 4.15.1 of the Zoning By-law. Section 4.15.1.5 requires that an accessory apartment not exceed 45% of the total floor area of the building and shall not exceed

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a maximum of 80 m² in floor area, whichever is lesser. The applicant is proposing to construct an accessory apartment in the basement and requires a variance to permit the accessory apartment to have a floor area of 105.67 m². An accessory apartment of this size would occupy 28.3% of the gross floor area of the entire single detached house.

The general intent and purpose of the Zoning By-law in requiring a maximum floor area for an accessory unit is to ensure that the unit is clearly subordinate and accessory to the primary use (host unit in the single detached dwelling). The accessory apartment represents approximately 28.3% of the total floor area of the dwelling (including the basement). Based on floor plans submitted by the applicant, the apartment contains two (2) bedrooms, is interconnected to and is smaller than the host dwelling. Therefore, Planning staff are of the opinion that the accessory apartment is subordinate to the host dwelling unit and maintains the general intent and purpose of the Zoning By-law.

The requested variance is considered desirable and minor in nature because the accessory dwelling unit is wholly contained within the dwelling and does not exceed 45% of the total floor area of the building.

The requested variance maintains the general intent and purpose of the Official Plan and Zoning By-law, is considered desirable for the development of the land and is considered to be minor in nature. Planning staff recommend approval of the application.

ENGINEERING SERVICES:

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit an accessory apartment size of 105.67 square metres, or 28.3% of the total floor area of the building.

We agree with recommendations made by Planning and Zoning staff.

BUILDING SERVICES:

This property is located in the Specialized Residential Single Detached (R.1D-12) Zone. The applicant is proposing to enlarge an existing accessory apartment in the basement of the residential dwelling. A variance from Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, is being requested.

Building Services has no objections to this application to permit an accessory apartment size of 105.67 square metres (28.3% of the total floor area of the building).

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

REPORT COMPILED BY: L. Cline, Council Committee Assistant

COMMENTS FROM THE PUBLIC RECEIVED: None

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APPLICATION NUMBER: B-13/18
LOCATION: 9 Eden Street
DATE AND TIME OF HEARING: May 10, 2018 at 4:00pm
OWNER: Juzef and Stanislaw Kuzyk
AGENT: Jeff Buisman, Van Harten Surveying Inc.
OFFICIAL PLAN DESIGNATION: Low Density Residential
ZONING: Residential Single Detached (R.1B) and Specialized Residential Single Detached (R.1D-49[H])

REQUEST: The applicant proposes to sever a parcel of land with frontage along Eden Street of 5.0 metres and an area of 359 square metres, as a lot addition to the abutting property known as 7 Eden Street. The retained parcel will have frontage along Eden Street of 30.4 square metres and an area of 1,120 square metres.

STAFF RECOMMENDATION: Approval with conditions

CONDITIONS RECOMMENDED:

COMMITTEE OF ADJUSTMENT ADMINISTRATION:

1. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the issuance of the Certificate of Official.
2. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to the issuance of the Certificate of Official, that he/she will provide a copy of the registered instrument as registered in the Land Registry Office within two years of issuance of the Certificate of Official, or prior to the issuance of a building permit (if applicable), whichever occurs first.
3. That prior to the issuance of the Certificate of Official, a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the deposited Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca).
4. That upon fulfilling and complying with all of the above-noted conditions, the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for the issuance of the Certificate of Official. The Transfer documents for the

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severed parcel shall contain a statement to ensure that Section 50(3) or Section 50(5) of the Planning Act, R.S.O. 1990, as amended, shall apply to any subsequent conveyance or transaction with respect to the land described herein; and a statement that the severed parcel and the abutting lands to which this severed parcel is to be added shall be dealt with contemporaneously in any future conveyances or transactions unless further consent is granted under the Planning Act or other lawful order.

5. That the Owner shall consolidate the severed parcel with the abutting lands to which the severed parcel is to be added as a single parcel ("the consolidation") and that the Owner's solicitor shall provide a firm undertaking in writing to the Secretary-Treasurer of the Committee of Adjustment for the City of Guelph that the solicitor will attend to the consolidation and will provide within 30 days of the date of registration in the Land Registry Office for Wellington (No. 61), or prior to the issuance of a building permit [if applicable], whichever occurs first, a copy of the registered electronic Transfer document including the Certificate of Official and the registered application Consolidation Parcels document.
6. That the Transferee take title of the severed lands in the same manner and capacity as he or she holds his or her abutting lands; and that Section 50(3) or Section 50(5) of the Planning Act, R.S.O. 1990, as amended, shall apply to any subsequent conveyance or any transaction involving the parcel of land that is subject of this consent.

COMMENTS

PLANNING SERVICES:

The subject property is designated "Low Density Residential" in the Official Plan and zoned "Specialized Residential Single Detached with Holding Provisions" (R.1 B-49(H)), according to Zoning By-law (1995)-14864, as amended.

A Zoning By-law Amendment Application (City File#ZC1618) was approved by Council on March 19, 2018 for the subject property. The Zoning By-law was amended from the "Residential Single Detached" (R.1B) Zone to a "Specialized Residential Single Detached with Holding Provisions" (R.1 B-49(H)) Zone to permit a coach house. Prior to the removal of the Holding ('H') Symbol, the two following conditions must be complete to the satisfaction of the City:

1. The Owner shall submit to the City, a site plan for the Coach House in accordance with Section 41 of the Planning Act. The site plan shall include: elevations, landscaping, parking, grading, drainage and servicing information for the Coach House to the satisfaction of the General Manager of Planning, Urban Design and Building Services and the City Engineer.
2. The Consent application (lot line adjustment with 9 Eden Street) shall be submitted and finalized (Certificate of Official issued) to ensure that parking for the main Dwelling Unit and Accessory Apartment can be accommodated on the subject property.

The applicant has submitted this application to sever a portion of 9 Eden Street and add it to 7 Eden Street as a lot addition to complete condition #2 of the Holding provision conditions. Since

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the applicant will be submitting a site plan application in accordance with Section 41 of the Planning Act, staff are not recommending any conditions of approval through the subject application.

The proposed severance and lot addition to 7 Eden Street results in a total lot size of 0.2 hectares. Therefore, 7 Eden Street is regulated by the Private Tree Protection By-law. Trees are also afforded protection under the Urban Forest policies of the City of Guelph Official Plan. Potential impacts and opportunities for protection of on-site and off-site trees will be reviewed through the site plan application.

Policy 10.10.1 of the Official Plan provides criteria to consider when evaluating Consent applications. Below is an evaluation of these policies as it relates to the subject application:

a) 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.

a) 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 for the lot addition. The severance represents orderly development of the lands.

b) That the land parcels to be created by the Consent will not restrict or hinder the ultimate development of the lands.

The proposed lot addition will facilitate the ultimate development of the lands.

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

The proposed severance is considered to be appropriate and supportable

Staff are satisfied that the proposed lot addition meets the Consent policies of the Official Plan and subdivision criteria as outlined in section 51(24) of the Ontario Planning Act. Staff recommend approval of the application.

ENGINEERING SERVICES:

The applicant is proposing to sever a portion of 9 Eden Street as a lot addition to 7 Eden Street to be used for additional yard space and a parking area for the existing dwelling at 7 Eden Street. A Zoning By-law Amendment (File ZC1618) was approved by Council in March 2018 to rezone 7 Eden Street and a portion of 9 Eden Street to permit a coach house in the existing detached garage located on 7 Eden Street. The applicant proposes to sever a parcel of land with frontage along Eden Street of 5.0 metres and an area of 359 square metres, as a lot addition to the abutting property known as 7 Eden Street. The retained parcel will have frontage along Eden Street of 30.4 metres and an area of 1,120 square metres.

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The Zoning By-law was amended from the "Residential Single Detached" (R.1B) Zone to a "Specialized Residential Single Detached with Holding Provisions" (R.1 B-49(H)) Zone to permit a coach house. To remove the Holding ('H') Symbol, the owner is required to submit to the City, a site plan for the coach house in accordance with Section 41 of the Planning Act.

Since the subject site will be required to submit a site plan application, engineering review will be completed under the site plan application. Therefore, engineering has no concerns with the consent application.

BUILDING SERVICES:

This property is located in the Residential Single Detached (R.1B) and Specialized Residential Single Detached (R.1B-49[H]) Zones. The applicant proposes to sever a parcel of land with frontage along Eden Street of 5.0 metres and an area of 359 square metres, as a lot addition to the abutting property known as 7 Eden Street. The retained parcel will have frontage along Eden Street of 30.4 metres and an area of 1,120 square metres.

Building Services has no objections to this application.

REPORT COMPILED BY: L. Cline, Council Committee Assistant

COMMENTS FROM THE PUBLIC RECEIVED: None

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APPLICATION NUMBER: A-38/18
LOCATION: 65 Suffolk Street West
DATE AND TIME OF HEARING: May 10, 2018
OWNER: Tyler McIntyre and Cynthia Lennon
AGENT: N/A
OFFICIAL PLAN DESIGNATION: Low Density Residential
ZONING: Residential Single Detached (R.1B)

REQUEST:	<p>The applicant is requesting the following:</p> <ul style="list-style-type: none">a) permission to extend/enlarge the legal non-conforming use to permit a 60 square metre, two-storey addition to the rear of the existing semi-detached dwelling;b) a variance to permit the existing play structure to be located 0.0 metres from the left lot line;c) a variance to permit the proposed rear deck to be setback 0.0 metres from the left lot line; andd) a variance to permit the proposed rear addition to be setback 0.0 metres from the left lot line.
BY-LAW REQUIREMENTS:	<p>The property contains a semi-detached dwelling, which is considered to be legal non-conforming in the R.1B Zone. Any additions or changes to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment.</p> <p>In addition, the By-law requires:</p> <ul style="list-style-type: none">a) that an accessory building or structure is not located within 0.6 metres of any lot line;b) that an uncovered porch not more than 1.2 metres above finished grade to be setback 0.6 metres from the side lot line; andc) a side yard setback of 1.5 metres.
STAFF RECOMMENDATION:	Approval with conditions for request a), c) and d); refusal of request b)
CONDITIONS RECOMMENDED:	
<u>PLANNING SERVICES</u>	
	1. That the 0.0 metre setback for the rear deck and addition shall only apply to the side yard

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as shown in general accordance with the Public Notice sketch.

BUILDING SERVICES

2. That prior to the issuance of a building permit, the accessory structure labelled "Play House" on the submitted site plan be relocated to comply with the City of Guelph Zoning Bylaw, as amended.

COMMENTS

PLANNING SERVICES:

The subject property is designated "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation applies to residential areas within the existing built-up area of the City that are predominantly residential in character. The "Low Density Residential" land use designation permits a range of housing types including: single, semi-detached, duplex and townhouse residential dwellings and multiple unit residential buildings. The requested variances and expansion to a legal non-conforming use are for a rear yard addition to a semi-detached residential dwelling which is a permissible use in the Official Plan. The requested variances are considered to 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. The subject property currently contains a legal non-complying semi-detached dwelling.

The applicant is proposing to construct an addition to the rear of the semi-detached dwelling. The addition will be shared and be constructed at the same time with a similar adjoining addition to the other (left) half of the semi-detached dwelling (67 Suffolk Street West – See A-39/18). The proposed 60 square metre, two-storey addition will extend the semi-detached dwelling further into the rear yard at a similar side yard setback and massing to the existing building.

The two lots associated with the semi are deeper than average (approximately 55.5 metres). The legal non-conforming use of the subject property as a semi-detached dwelling has been continuous on the property since the passing of the Zoning By-law. In Planning staff's opinion, the proposed additions will not significantly expand or enlarge the proposed uses beyond what would reasonably be expected with a semi-detached dwelling. Further, with the rear yard addition, the usability of the property is not increasing beyond that of a conventional semi-detached dwelling.

The applicant has requested two (2) variances to permit the building rear yard addition and a new deck to be constructed to the rear of the new addition, both at a 0 m setback from the central (side) lot line. Considering the continued use of the property as a semi-detached dwelling, Planning staff are of the opinion that these two (2) variances are minor, desirable and meet the general intent and purpose of the Official Plan and Zoning By-law.

The applicant has requested a further variance to recognize an existing accessory structure (shed marked as a 'play structure' on the sketch) that straddles the side (central) lot line. The variance requests a 0 metre setback for this accessory structure, when the Zoning By-law

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requires accessory structures in the R.1B zone to be setback 0.6 metres from the lot line to ensure an adequate setback. Planning staff do not support having an accessory structure in a low rise residential zone with a lot line dividing and intersecting the middle of the structure. Planning staff are of the opinion that this variance is not desirable or meeting the general intent and purpose of the Zoning By-law to maintain an adequate side yard setback. For a semi-detached dwelling, it would not be unreasonable to have a shared deck with privacy screening along the lot line between the two (2) rear yards. It is Planning staff's understanding that Zoning staff have recommended a condition to relocate or remove this shed as a solution and alternative.

Considering the above, Planning staff recommend the variance to permit the existing play structure to be located 0.0 metres from the left lot line be refused as it does not meet the tests as per Section 45(1) of the *Planning Act*:

Planning staff recommend that the expansion to the legal non-conforming use and the remaining variances noted below be approved, subject to the condition noted above.

- a) A variance to permit the proposed rear deck to be setback 0.0 metres from the left lot line.
- b) A variance to permit the proposed rear addition to be setback 0.0 metres from the left lot line.

ENGINEERING SERVICES:

Grading information was provided by Van Harten in March of 2018 and was reviewed by staff. Engineering has no concerns with the applicant's request of the following:

- a) permission to enlarge/extend the legal non-conforming use to permit a 60 square metre, two-storey addition to the rear of the existing semi-detached dwelling;
- b) a variance to permit the existing play structure to be located 0.0 metres from the left lot line;
- c) a variance to permit the proposed rear deck to be setback 0.0 metres from the left lot line; and
- d) a variance to permit the proposed rear addition to be setback 0.0 metres from the left lot line.

We agree with recommendations made by Planning and Zoning staff.

BUILDING SERVICES:

This property is located in the Residential Single Detached (R.1B) Zone. The property contains a semi-detached dwelling, which is considered to be legal non-conforming in the R.1B Zone. Any additions or a change to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment. The applicant is proposing to construct a two storey addition and an uncovered deck to the rear of the existing semi-detached dwelling.

Building Services does not object for the variances to:

- enlarge/extend the legal non-conforming use to permit a 60 square metre, two-storey addition to the rear of the existing semi-detached dwelling;

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- a variance to permit the proposed rear deck to be setback 0.0 metres from the left lot line; and
- a variance to permit the proposed rear addition to be setback 0.0 metres from the left lot line.

Building Services has concerns with the location of the accessory structure labelled “play house”. From a zoning perspective this is an accessory structure. There is no party wall existing within the accessory structure. Building Services recommends refusal of this portion of the variance application (a variance from Section 4.5.1.2) and further recommends the above noted as a condition of approval for the other requested variances.

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

REPORT COMPILED BY: L. Cline, Council Committee Assistant

COMMENTS FROM THE PUBLIC RECEIVED: None

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APPLICATION NUMBER: A-39/18
LOCATION: 67 Suffolk Street West
DATE AND TIME OF HEARING: May 10, 2018
OWNER: Matthew Shacklady and Jennifer McCreedy
AGENT: N/A
OFFICIAL PLAN DESIGNATION: Low Density Residential
ZONING: Residential Single Detached (R.1B)

REQUEST:	<p>The applicant is requesting the following:</p> <ul style="list-style-type: none">a) permission to extend/enlarge the legal non-conforming use to permit a 60 square metre, two-storey addition to the rear of the existing semi-detached dwelling;b) a variance to permit the existing play structure to be located 0.0 metres from the right lot line;c) a variance to permit the existing rear shed to be located 0.29 metres from the left lot line;d) a variance to permit the proposed rear deck to be setback 0.1 metres from the right lot line;e) a variance to permit the exterior stairs for the rear deck to be located 0.0 metres from the right lot line;f) a variance to permit the proposed rear addition to be setback 0.9 metres from the left lot line; andg) a variance to permit the proposed rear addition to be setback 0.0 metres from the right lot line.
BY-LAW REQUIREMENTS:	<p>The property contains a semi-detached dwelling, which is considered to be legal non-conforming in the R.1B Zone. Any additions or changes to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment.</p> <p>In addition, the By-law requires:</p> <ul style="list-style-type: none">a) that an accessory building or structure is not located within 0.6 metres of any lot line;b) that an uncovered porch not more than 1.2 metres above finished grade to be setback 0.6 metres from the side lot line;c) that exterior stairs are setback 0.6 metres from the side

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lot line; and

d) a side yard setback of 1.5 metres.

STAFF RECOMMENDATION: Approval with conditions for request a), c), d), e), f) and g); refusal of request b)

CONDITIONS RECOMMENDED:

PLANNING SERVICES

1. That the reduced setbacks for the rear deck and addition shall only apply to the side yards as shown in general accordance with the Public Notice sketch.
2. That the reduced 0.29 metre left (west) side yard setback for the shed apply to the location as shown in general accordance with the Public Notice sketch.

BUILDING SERVICES

3. That prior to the issuance of a building permit, the accessory structure labelled "Play House" on the submitted site plan be relocated to comply with the City of Guelph Zoning Bylaw, as amended.

COMMENTS

PLANNING SERVICES:

The subject property is designated "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation applies to residential areas within the existing built-up area of the City that are predominantly residential in character. The "Low Density Residential" land use designation permits a range of housing types including: single, semi-detached, duplex and townhouse residential dwellings and multiple unit residential buildings. The requested variances and expansion to a legal non-conforming use are for a rear yard addition to a semi-detached residential dwelling which is a permissible use in the Official Plan. The requested variances are considered to 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. The subject property currently contains a legal non-complying semi-detached dwelling.

The applicant is proposing to construct an addition to the rear of the semi-detached dwelling. The addition will be shared and be constructed at the same time with a similar conjoining addition to the other (right) half of the semi-detached dwelling (65 Suffolk Street West – See A-38/18). The proposed 59 square metre, two-storey addition will extend the semi-detached dwelling further into the rear yard at a similar side yard setback and massing to the existing building.

The two lots associated with the semi-detached dwelling are deeper than average (approximately 55.5 metres). The legal non-conforming use of the subject property as a semi-detached dwelling has been continuous on the property since the passing of the Zoning By-law.

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In Planning staff's opinion, the proposed additions will not significantly expand or enlarge the proposed uses beyond what would reasonably be expected with a semi-detached dwelling. Further, with the rear yard addition, the usability of the property is not increasing beyond that of a conventional semi-detached dwelling.

The applicant has requested five (5) minor variances to permit the building rear yard addition, recognize an existing storage shed on the westerly portion of the rear yard and to add a new deck to be constructed to the rear of the new addition. The variances for the proposed rear yard addition is to be at a 0 m setback from the central (side) lot line and to be 0.9 metres from the left (side) lot line. The variances for the deck include for the deck itself to be 0.1 metres from the central (side) lot line, for the deck stairs to be 0.0 metres from the central (side) lot line. The remaining variance is to recognize an existing shed on the western portion of the property being 0.9 metres from the left (side) lot line. Considering the continued use of the property as a semi-detached dwelling, Planning staff are of the opinion that these five (5) variances are minor, desirable and meet the general intent and purpose of the Official Plan and Zoning By-law. For a semi-detached dwelling, it would not be unreasonable to have a shared deck with privacy screening along the lot line between the two (2) rear yards.

The applicant has requested a further variance to recognize an existing accessory structure (shed – marked as a 'play structure' on the sketch) that straddles the side (central) lot line. The variance requests a 0 metre setback for this accessory structure, when the Zoning By-law requires accessory structures in the R.1B zone to be setback 0.6 metres from the lot line to ensure an adequate setback. Planning staff do not support having an accessory structure in a low rise residential zone with a lot line dividing and intersecting the middle of the structure. Planning staff are of the opinion that this variance is not desirable or meeting the general intent and purpose of the Zoning By-law to maintain an adequate side yard setback. It is Planning staff's understanding that Zoning staff have recommended a condition to relocate or remove this shed as a solution and alternative.

Considering the above, Planning staff recommend that the variance to permit the existing play structure to be located 0.0 metres from the left lot line be refused as it does not meet the tests as per Section 45(1) of the *Planning Act*:

Planning staff recommend that the expansion to the legal non-conforming use and the remaining variances noted below be approved, subject to the conditions noted above.

- a) A variance to permit the existing rear shed to be located 0.29 metres from the left lot line.
- b) A variance to permit the proposed rear deck to be setback 0.1 metres from the right lot line.
- c) A variance to permit the proposed exterior stairs for the rear deck to be located 0.0 metres from the right lot line.
- d) A variance to permit the proposed rear addition to be setback 0.9 metres from the left lot line.
- e) A variance to permit the proposed rear addition to be setback 0.0 metres from the right lot line.

ENGINEERING SERVICES:

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

Grading information was provided by Van Harten in March of 2018 and was reviewed by staff. Engineering has no concerns with the applicant's request of the following:

- a) permission to enlarge/extend the legal non-conforming use to permit a 59 square metre, two-storey addition to the rear of the existing semi-detached dwelling;
- b) a variance to permit the existing play structure to be located 0.0 metres from the right lot line;
- c) a variance to permit the existing rear shed to be located 0.29 metres from the left lot line;
- d) a variance to permit the proposed rear deck to be setback 0.1 metres from the right lot line;
- e) a variance to permit the proposed exterior stairs for the rear deck to be located 0.0 metres from the right lot line;
- f) a variance to permit the proposed rear addition to be setback 0.9 metres from the left lot line; and
- g) a variance to permit the proposed rear addition to be setback 0.0 metres from the right lot line.

We agree with recommendations made by Planning and Zoning staff.

BUILDING SERVICES:

This property is located in the Residential Single Detached (R.1B) Zone. The property contains a semi-detached dwelling, which is considered to be legal non-conforming in the R.1B Zone. Any additions or a change to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment. The applicant is proposing to construct a two storey addition and an uncovered deck to the rear of the existing semi-detached dwelling.

Building Services does not object to the following:

- to enlarge/extend the legal non-conforming use to permit a 59 square metre, two-storey addition to the rear of the existing semi-detached dwelling;
- a variance to permit the existing rear shed to be located 0.29 metres from the left lot line;
- a variance to permit the proposed rear deck to be setback 0.1 metres from the right lot line;
- a variance to permit the proposed exterior stairs for the rear deck to be located 0.0 metres from the right lot line;
- a variance to permit the proposed rear addition to be setback 0.9 metres from the left lot line; and
- a variance to permit the proposed rear addition to be setback 0.0 metres from the right lot line.

Building Services has concerns with the location of the accessory structure labelled "play house". From a zoning perspective this is an accessory structure. There is no party wall existing within the accessory structure. Building Services recommends refusal of this portion of the variance application (a variance from Section 4.5.1.2) and further recommends the above noted as a condition of approval for the other requested variances.

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

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

REPORT COMPILED BY: L. Cline, Council Committee Assistant

COMMENTS FROM THE PUBLIC RECEIVED: None

COMMITTEE OF ADJUSTMENT

COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: B-14/18
LOCATION: 129 Elmira Road South
DATE AND TIME OF HEARING: May 10, 2018 at 4:00pm
OWNER: Armel Corporation
AGENT: N/A
OFFICIAL PLAN DESIGNATION: Community Mixed-use Centre
ZONING: Specialized Community Shopping Centre (CC-24)

REQUEST:

The applicant proposes to sever a parcel of land with an area of 39,462.6 square metres. The applicant is also requesting the following:

- a) an easement in favour of the severed commercial parcel over the retained commercial parcel for municipal services (storm sewer, sanitary sewer, water) to the severed commercial parcel ;
- b) an easement in favour of the severed commercial parcel over the retained commercial parcel for utilities (gas, hydro, phone, cable, etc.) to the severed commercial parcel;
- c) an easement in favour of the retained commercial parcel over the severed commercial parcel to enable hydro looping from the transformer on the severed commercial parcel back out to the retained commercial parcel;
- d) an easement in favour of the retained commercial parcel over the severed commercial parcel to provide for vehicular and pedestrian connection between the adjacent lands and the severed and retained commercial lands;
- e) an access drive easement: (i) in favour of the severed commercial parcel and (ii) in favour of the additional retained lands, in each case over the main driveway on the retained commercial parcel into the site from Elmira Road South to the severed commercial parcel;
- f) mutual driveway access easements between the retained parcel and severed commercial parcels in favour of each other over the proposed shared drive aisle; and
- g) general (blanket) easements: (i) in favour of the severed commercial parcel over the common

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

areas of the retained commercial parcel to provide access from the severed commercial parcel for pedestrian and vehicular ingress and egress, and access to the proposed pylon sign located on the retained commercial parcel; (ii) in favour of the retained commercial parcel over the common areas of the severed commercial parcel to provide an easement for access from the retained commercial parcel across the severed commercial parcel to the retaining wall; and (iii) in favour of the additional retained lands to provide access across the common areas of the severed commercial parcel and retained commercial parcel for pedestrian and vehicular ingress and egress, and access to the drainage swale located behind the severed commercial parcel on the additional retained lands (in the Township of Guelph-Eramosa).

STAFF RECOMMENDATION:

Approval with conditions

CONDITIONS RECOMMENDED:

PARKS PLANNING

1. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication to the satisfaction of the Deputy CAO of Public Services pursuant to s. 51.1 and s. 53(13) of the *Planning Act* prior to the endorsement of the Transfer (deed).
2. Prior to the endorsement of the Transfer (deed) by the City, the Owner shall provide to the Deputy CAO of Public Services a satisfactory short narrative appraisal report prepared for The Corporation of the City of Guelph for the purposes of calculating the payment of cash-in-lieu of parkland dedication pursuant to s.51.1 and s.53(13) of the Planning Act. The short narrative appraisal report shall be prepared by a qualified appraiser who is a member in good standing of the Appraisal Institute of Canada, and shall be subject to the review and approval of the Deputy CAO of Public Services. Notwithstanding the foregoing, if the short narrative appraisal provided by the applicant is not satisfactory to the Deputy CAO of Public Services, acting reasonably, the City reserves the right to obtain an independent short narrative appraisal for the purposes of calculating the payment of cash-in-lieu of parkland dedication.

COMMITTEE OF ADJUSTMENT ADMINISTRATION:

3. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the issuance of the Certificate of Official.
4. That the Secretary-Treasurer of the Committee of Adjustment be provided with a

Mailing Address:

City Hall, 1 Carden Street, Guelph ON N1H 3A1
Tel: 519-837-5603 Fax: 519-763-1269

Web Site: guelph.ca

Email: cofa@guelph.ca

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

written undertaking from the applicant's solicitor, prior to the issuance of the Certificate of Official, that he/she will provide a copy of the registered instrument as registered in the Land Registry Office within two years of issuance of the Certificate of Official, or prior to the issuance of a building permit (if applicable), whichever occurs first.

5. That prior to the issuance of the Certificate of Official, a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the deposited Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca).
6. That upon fulfilling and complying with all of the above-noted conditions, the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for the issuance of the Certificate of Official.

COMMENTS

PLANNING SERVICES:

The subject property is designated "Community Mixed-use Centre" in the Official Plan and zoned "Specialized Community Shopping Centre" (CC-24), according to Zoning By-law (1995)-14864, as amended.

A Zoning By-law Amendment Application was approved by Council on September 14, 2015 for the subject property to permit the development of a home improvement retail warehouse establishment. A site plan application has been submitted and reviewed by the City's Site Plan Review Committee and the application is in its final stages of approval.

The proposed severance and easements align with the surrounding development to the north (Costco) and will allow the proposed home improvement retail warehouse establishment (Lowe's) to occupy the severed parcel and a future commercial development on the retained parcel. A severability provision was included in the amending By-law to ensure that the provisions of the specialized zone continue to apply collectively to the whole of the subject lands despite any future severance, partition or division for any purpose. The proposed "severed" and "retained" parcels are in compliance with the Zoning By-law.

Policy 10.10.1 of the Official Plan provides criteria to consider when evaluating Consent applications. Below is an evaluation of these policies as it relates to the subject application:

a) 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.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

- b) 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 for the lot addition. The severance represents orderly development of the lands.

- c) That the land parcels to be created by the Consent will not restrict or hinder the ultimate development of the lands.**

The proposed severance and easements will facilitate the ultimate development of the lands.

- d) That the application can be supported if it is reasonable and in the best interest of the community.**

The proposed severance is considered to be appropriate and supportable

Staff are satisfied that the proposed severance and easements meet the Consent policies of the Official Plan and subdivision criteria as outlined in section 51(24) of the Ontario Planning Act. Staff recommend approval of the application.

ENGINEERING SERVICES:

Engineering review was completed under the site plan application SP15C030. Therefore, engineering has no concerns with this application.

PARKS PLANNING:

Open Space Planning has no objection to the proposed severance, subject to the above noted conditions.

BUILDING SERVICES:

This property is located in the Specialized Community Shopping Centre (CC-24) Zone. The applicant is proposing to sever the property to create a new commercial lot in order to facilitate the future development of a home improvement centre. The applicant is also proposing various easements for access, servicing, utilities and maintenance.

Building Services has no objections to this application.

REPORT COMPILED BY: L. Cline, Council Committee Assistant

COMMENTS FROM THE PUBLIC RECEIVED: None