

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: A-24/16
LOCATION: 1 Chillico Drive
DATE AND TIME OF HEARING: March 24, 2016 at 4:00 pm
OWNER: Elavalakanar Kanakaratham
AGENT: N/A
OFFICIAL PLAN DESIGNATION: General Residential
ZONING: Residential Single Detached (R1.B)

REQUEST: The applicant is seeking relief from the By-law requirements to permit the accessory apartment to have an area of 103.2 square metres, being 30.3% of the total floor area.

BY-LAW REQUIREMENTS: The By-law requires that an accessory apartment 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:

PERMIT AND ZONING ADMINISTRATOR

1. That the owner meets all other zoning requirements to the satisfaction of the Chief Building Official or designate and that the required building permit be issued within 6 months of this decision.

COMMENTS

ENGINEERING SERVICES:

Engineering staff have no concerns with the requested accessory apartment size variance from an Engineering perspective. Accordingly, upon examining Planning staffs comments and recommendations and Zoning staffs comments and recommendation, Engineering staff can support their comments and recommendations for approval.

PLANNING SERVICES:

The subject property is designated "General Residential" in the Official Plan. The requested variance does not conflict with Official Plan policies and can therefore be considered to meet the intent of the Official Plan.

The subject property is zoned Residential Single Detached (R.1B) according to the Zoning By-law. An accessory apartment is a permitted use in the R.1B zone subject to 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 a maximum of 80 square metres in floor area, whichever is lesser. The applicant is seeking relief from the By-law

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

requirements to permit an accessory apartment to have an area of 103.2 square metres or 30.3% of the gross floor area. 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 dwelling). The accessory apartment represents approximately 30.3% of the total floor area of the dwelling. The accessory apartment is clearly subordinate to the main dwelling unit and meets the intent 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 existing dwelling and does not exceed 45% of the total gross floor area of the building.

Planning staff recommend approval of this application.

PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Residential Single Detached (R.1B) Zone. This property came to the attention of Building Services as a result of a complaint. The applicant has an existing accessory apartment with an enlarged floor area in the basement of the existing dwelling. The By-law requires that an accessory apartment 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. A variance from Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, is being requested.

Building Services does not object to this variance request to permit an accessory apartment with an area of 103.2 square metres in lieu of the permitted 80 square metres. The intent of the regulation is to keep the accessory unit subordinate to the main unit. It has been indicated that proposed accessory apartment will make up 30.3% of the total floor area. Therefore the accessory apartment does appear to remain subordinate to the host dwelling and in compliance with the secondary size check (which does not permit the accessory apartment to exceed 45% of the total floor area of the building).

A building permit for the accessory apartment has been received.

REPORT COMPILED BY: D. McMahon, Council Committee Assistant

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: A-25/16
LOCATION: 20 Cowan Place
DATE AND TIME OF HEARING: March 24, 2016 at 4:00 pm
OWNER: Major Wolfe Holdings Inc.
AGENT: Nancy Shoemaker, Black, Shoemaker, Robinson
and Donaldson Limited
OFFICIAL PLAN DESIGNATION: Service Commercial
ZONING: Specialized Service Commercial (SC.1-35)

REQUEST: The applicant is seeking relief from the By-law requirements:
a) to permit a 24 person maximum for the outdoor patio, being 60% of the indoor licensed capacity of the associated restaurant; and
b) to permit an outdoor patio to be situated 0.0 metres from a parking aisle.

BY-LAW REQUIREMENTS: The By-law requires:
a) that the total number of persons permitted on outdoor patios associated with a restaurant or licensed establishment shall not exceed 50% of the indoor licensed capacity, or 70 persons, whichever is less [licensed capacity of existing restaurant is 40 persons]; and
b) that every outdoor patio shall be located a minimum of 3 metres away from any loading space, parking space, parking aisle or driveway.

STAFF RECOMMENDATION: Approval

CONDITIONS RECOMMENDED:

ENGINEERING SERVICES

1. That prior to the use of the patio, the owner shall provide certification from a Professional Engineer, which states that adequate safety features have been constructed to prevent vehicles from leaving the parking space, parking aisle or driveway and hitting any person or persons on the patio.

GUELPH HYDRO

2. That prior to the issuance of a building permit, the owner make satisfactory arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. with maintaining a 3m clearance around all sides of the transformer that services the building.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

COMMENTS

ENGINEERING SERVICES:

One of the purposes of the regulation that requires patios to be located 3-metres from any parking space, parking aisle or driveway is to protect patrons on the patio from moving vehicles. Although the applicant's site plan shows some decorative aluminum fence and concrete box planters to protect patrons, we do not have sufficient information or the expertise to judge whether or not the decorative aluminum fence and concrete box planters are adequate.

Engineering staff have no objection to the capacity variance to permit a twenty-four (24) person maximum for the outdoor patio; and the patio location variance to allow the patio to be located 0-metres from any parking space, parking aisle or driveway, provided the above condition is imposed.

PLANNING SERVICES:

The property is designated "Service Commercial" within the Official Plan. The requested variances do not conflict with, and can be considered to meet the general intent of the Official Plan.

The Site is zoned "Specialized Service Commercial" (SC.1-35) by the Zoning By-law. The general intent of the Zoning By-law restricting patios within 3 metres of a parking space, loading space, driveway or drive aisle is to provide for patio patron safety. The potential impact of allowing a 0 metre separation will be minor in nature provided the Engineering staff recommended conditions regarding the establishment of a barrier are imposed. As noted by the applicant, a patio could not be established if the 3 metre separation were established. Therefore, the requested variance is desirable for the appropriate use of the building and land for a restaurant with patio.

The general intent of restricting patio capacity to 50% of the indoor licenced capacity is to ensure the patio remains subordinate the indoor restaurant. The requested capacity is only four persons more than that permitted by the By-law. Furthermore, the restaurant is a small portion of a large mall building and will not constitute a significant portion of the development of the site. The proposed patio is clearly subordinate to the indoor restaurant use. For these reasons, the requested patio capacity variance meets the general intent of the By-law. The additional capacity of four persons is small compared to the large site. Furthermore, no residential uses that are sensitive to noise are nearby, and the potential impact of the requested variance is minor in nature. As noted above, the 24 person patio is small scale and appropriate for the lands, and the requested variance is desirable.

The requested variances meet the four tests and staff recommend approval subject to the conditions recommended by Engineering staff.

PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Specialized Service Commercial (SC.1-35) Zone. The By-law requires that the total number of persons permitted on outdoor patios associated with a restaurant or licensed establishment shall not exceed 50% of the indoor licensed capacity, or 70 persons, whichever is less. Further, the By-law requires that every outdoor patio shall be located a minimum of 3 metres away from any loading space, parking space, parking aisle or driveway.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

Building Services has no concerns with this application to permit a maximum 24 person outdoor patio (60% of the indoor licensed capacity of the associated restaurant) and to permit an outdoor patio to be situated 0.0 metres from a parking aisle.

Total capacity will be determined by the building department during the required permit process.

Building Services supports the conditions recommended by Engineering Services.

REPORT COMPILED BY: D. McMahon, Council Committee Assistant

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: A-26/16
LOCATION: 535 Woolwich Street
DATE AND TIME OF HEARING: March 24, 2016 at 4:00 pm
OWNER: Angelo & Luigina Menegotto
AGENT: Jesse Merrill
OFFICIAL PLAN DESIGNATION: General Residential
ZONING: OR-36

REQUEST:	The applicant is seeking permission to change the legal non-conforming use to allow for a bakery use within a 146 square metre area of the existing building.
BY-LAW REQUIREMENTS:	The property is currently occupied by a legal non-conforming laundromat, as well as a personal service establishment (barber). As a result of a previous Committee of Adjustment decision (File A-123/94), permission was given to allow a dry cleaning establishment and laundromat. Any addition or change to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment.
STAFF RECOMMENDATION:	Approval
CONDITIONS RECOMMENDED:	
<u>ENGINEERING SERVICES</u>	
1. That the owner develops the property in accordance with the approved site plan (dated January 4, 1993), prior to June 30, 2016.	

COMMENTS

ENGINEERING SERVICES:

In 1992, 1993 and 1994, the owner made application to the Committee of Adjustment under Application Numbers A-94/92, A-10/93 and A-123/94 to change the legal non-conforming use on the property to permit a Dry Cleaning Establishment and Laundromat. At the same time, the City had approved a site plan on January 4, 1993 under Section 41 of the Planning Act, R.S.O. 1990 for the property. The 1992 and 1993 applications were approved by the Committee with conditions but were considered null and void because they were not completed within the specified time frame. The 1994 application was approved by the Committee at the November 20, 1994 meeting with a condition "that the owner shall develop the property in accordance with the approved site plan (dated January 4, 1993), prior to June 30, 1995." However, due to the reconstruction of Earl Street and Woolwich Street the owner was unable to demarcate the "Arrow's" and "Entrance Only/Exit Only wording" at the time.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

Engineering staff have no concerns with the requested use variance to change the legal non-conforming use to allow for a Bakery use within one of the units of the existing building, provided the above condition is imposed.

PLANNING SERVICES:

The property is designated "General Residential" in the Official Plan and zoned "Specialized Office Residential" (OR-36) in the Zoning By-law. The proposed bakery meets a convenience commercial need for the residents in the surrounding neighbourhood, is small scale, and is located on an arterial road. The proposed use can generally be supported by Official Plan policy 7.2.26 regarding commercial uses within residential areas.

The building is currently occupied by a barber shop and a laundromat. The barber is permitted in the OR-36 zone as a Personal Service Establishment. A drycleaner was established as a legal non-conforming use at the time of the passing of the By-law. In 1994, the Committee permitted a change in legal non-conforming use to permit the current laundromat use (file #A-123/94).

The application now before the Committee is for a change in legal non-conforming use from a laundromat to a Bakery. Section 45(2.a.ii) of the *Planning Act* provides for the Committee to permit changes in legal non-conforming use provided the proposed use is more compatible with the uses permitted in the By-law than the current legal-non conforming use. The OR-36 zone permits several low-density dwelling forms, an Artisan Studio, Day Care Centre, Home Occupation, Medical Office, Office and Personal Service Establishment uses.

The proposed use is within the existing building and is not expected to pose any compatibility problems with the permitted uses. Parking is one potential impact warranting analysis. The parking required by the Zoning By-law for the Bakery and Personal Service Establishment uses can be provided on site. Furthermore, a Bakery, without onsite consumption, is anticipated to have shorter visiting times, and lower parking demands than a laundromat. Accordingly, the proposed use is anticipated to be more compatible than the laundromat with regards to parking impacts. Staff recommend that the application to change the legal non-conforming use be approved subject to the condition recommended by Engineering Services.

PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Specialized Office Residential (OR-36) Zone. The property is currently occupied by a legal non-conforming laundromat, as well as a personal service establishment (barber). As a result of a previous Committee of Adjustment decision (File A-123/94), permission was given to allow a dry cleaning establishment and laundromat. Any addition or change to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment.

The applicant is proposing to convert one unit of the existing building to a 146 square metre bakery, while maintaining the existing 40 square metre personal service establishment (barber). Building Services has no concerns with this applicant to change the legal non-conforming use to allow for a bakery use within a 146 square metre area of the existing building.

A change of use building permit will be required.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

Building Services supports the conditions recommended by Engineering Services.

REPORT COMPILED BY: D. McMahon, Council Committee Assistant