



# The Corporation of the Town of Milton

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Report To:	Committee of Adjustment and Consent
From:	Rachel Suffern, MPA, M.Sc., MCIP, RPP
Date:	July 17, 2024
File No:	A22-023M (Canadian Tire), A24-031M (Walmart Canada) and A24-032M (First Gulf/Calloway Reit)
Subject:	Milton Crossroads
Recommendation:	<p><b>A22-023M: THAT the application for Minor Variance BE APPROVED.</b></p> <p><b>A24-031M: THAT the application for Minor Variance BE APPROVED.</b></p> <p><b>A24-032M: THAT the application for Minor Variance BE APPROVED; AND THAT the application for an expansion of a legal non-conforming use under Section 45(2) of the Planning Act BE APPROVED.</b></p>

## General Description of Application

Under Section 45(1) of the Planning Act, the following minor variances to Zoning By-law 016-2014, as amended, have been requested to:

1. Allow a maximum gross floor area of 43,500 square metres for all buildings, whereas the Zoning By-law currently permits 39,000 square metres (an increase of 4,500 square metres).
2. Allow a maximum cumulative gross floor area of 13,935 square metres for all retail stores, excluding Department Stores, Home Improvement Stores, Specialty Food Stores, and Home and Auto Supply Store whereas the Zoning By-law doesn't currently exclude a Home and Auto Supply Store.
3. Remove the minimum gross floor area requirement for all Retail Stores, whereas the Zoning By-law imposes a minimum gross floor area of 465 square metres for stand-alone Retail Stores and 280 square metres for Retail Stores within a multi-unit building (with a collective maximum gross floor area for all units of 1,395 square metres).
4. Allow a minimum parking requirement of one space per 27 square metres of gross floor area, whereas the Zoning By-law requires one space per 20 square metres of gross floor area.
5. Allow a free-standing light fixture to be mounted at a maximum height of 12.2 metres, whereas the Zoning By-law permits a maximum of 9.5 metres (an increase of 2.7 metres).
6. Allow fencing as an enclosure around Garden Centres, where as the Zoning By-law only permits fencing as an entry feature, land feature in a landscape buffer, or to screen loading/service areas.
7. Allow a maximum fence height of 3.5 metres, whereas the Zoning By-law permits a maximum of 3 metres in non-residential zones (an increase of 0.5 metres).

## General Description of Application

8. Allow a minimum front yard setback of 2 metres for the proposed addition and Garden Centre affecting Building 'B' (a reduction of 3 metres). *Only applies to Canadian Tire Properties Inc.*
9. Allow a minimum landscape buffer of 1.2 metres between the street line abutting Steeles Avenue East and the proposed expansion and Garden Centre affecting Building 'B', whereas the Zoning By-law requires 4.5 metres (a reduction of 3.3 metres). *Only applies to Canadian Tire Properties Inc.*
10. Allow a landing above grade accessing a principal building to be setback a minimum of 1.2 metres from the front lot line whereas the Zoning By-law requires 1.5 metres (a reduction of 0.3 metres). *Only applies to Canadian Tire Properties Inc.*
11. Allow a parking area, excluding parking spaces, to be setback 0 metres from the expansion on the west side of Building 'B', whereas the Zoning By-law requires 1.5 metres (a reduction of 1.5 metres). *Only applies to Canadian Tire Properties Inc.*
12. Allow parking spaces within a parking area to be setback a minimum of 1.2 metres from the expansion on the west side of Building 'B', whereas the Zoning By-law requires a 2.2 metre setback (a reduction of 1.0 metres). *Only applies to Canadian Tire Properties Inc.*

Under Section 45(2) of the Planning Act, the following request to expand a legal non-conforming use has been requested:

13. To expand the Personal Service Shop permission within multi-unit buildings on lands identified as Property Information Number (PIN) 250730174, as shown on Schedule A. *Only applies to First Gulf Milton Centres Limited / Calloway REIT (Milton) Inc.*

The subject lands are municipally known as 1210, 1220, 1230, 1240, 1250, 1280 and 1290 Steeles Avenue East and commonly identified as the Milton Crossroads plaza. The lands are located immediately north of Highway 401 abutting James Snow Parkway and Steeles Avenue East. Access to the plaza is located at James Snow Parkway, Steeles Avenue East, and a private access at the west of the site abutting the adjacent commercial plaza.

The lands are legally comprised of three separate properties (see Figure 1 - Preliminary Site Plan and Ownership):

1. Canadian Tire Properties
2. Walmart Canada Corporation
3. First Gulf Milton Centres Limited & Calloway REIT (Milton) Inc.

At the time of initial development, the lands were under one ownership. Following subsequent consent applications, the site-specific zoning was amended to ensure that the lands would continue to be zoned as one, rather than three separate parcels. As such, the majority of variances being requested apply to the entirety of Milton Crossroads as the three parcels function as a single property. However, there are a number of variances/legal non-conforming expansions only affecting Canadian Tire Properties Inc. and First Gulf / Calloway REIT, respectively. The site-specific relief does not impact the overall function of the site and therefore, is considered within the legal boundaries of each affected property.

The landowners of Milton Crossroads intend to construct two buildings (identified as 'O' and 'N') and additions to the Building 'B'. The landowners intend to each independently apply for Site Plan

### **General Description of Application**

Approval following the approval of this application. Given how the Zoning By-law is administered across the three parcels (effectively reviewed as one lot), the landowners elected to apply to the Committee of Adjustment to have the files reviewed in context of one another.

### **Official Plan Designation (including any applicable Secondary Plan designations)**

The subject property is designated as Major Commercial Centre on Schedule B - Urban Land Use Plan and Schedule C.2.B - Milton 401 Industrial Business Park Secondary Plan within the Town of Milton Official Plan and Milton 401 Industrial Secondary Plan.

The Major Commercial Centre designation intends to accommodate a major concentration of commercial facilities servicing the broader regional community. Permitted uses include department, food and retail commercial stores, along with a range of retail, entertainment and recreational uses.

Section 3.4.2.9 of the Official Plan requires that a Market Impact Analysis be provided if new commercial development exceeds 10,000 square metres in size. Given the proposed gross floor area of 4,500 square metres, a Market Impact Analysis is not required and the policies of the Official Plan in this respect are satisfied.

Regarding the request under Section 45 (2) of the Planning Act, Section 5.8.3.4 sets out criteria that must be met when evaluating an application to expand a legal non-conforming use:

“In accordance with the provisions of the Planning Act, Council may amend a by-law passed under Section 34 to permit the extension or enlargement of any land, building or structure prohibited by the Zoning By-law provided the following requirements are met.

- (a) It is not possible to relocate such a use to a place where it will conform to the By-law;
- (b) The proposed extension or enlargement will not unduly aggravate the situation already created by the existence of the use and should, if possible, be designed to alleviate adverse effects of the use such as outside storage;
- (c) The abutting uses will be afforded reasonable protection by the provision of appropriate buffering and setbacks;
- (d) The proposed extension or enlargement should be in appropriate proportion to the size of the non-conforming use;
- (e) Adequate provision will be made for safe access and adequate off-street parking and loading facilities; and
- (f) All services, including private sewage disposal and water supply systems, shall be or can be made adequate.

Section 5.8.3.5: The Town shall not be obligated to grant permission to extend or enlarge a non-conforming use under any circumstances.”

The proposed Personal Service Shop use cannot be re-located to another area of the lands as it is not an as-of-right permission within the applicable zone. However, the Official Plan contemplates select service commercial uses within the Major Commercial Centre designation



## Official Plan Designation (including any applicable Secondary Plan designations)

and therefore, the use is deemed appropriate as part of Official Plan's vision for this area. It is not anticipated that the expansion of this use will negatively impact the lands nor create a land-use conflict. Given the unit size and configuration of existing buildings, any tenant considered as a Personal Service Shop would be in appropriate proportion to the existing legal non-conforming use. Finally, the plaza provides for adequate off-street parking and pedestrian circulation while having sufficient servicing capacity.

Based on the aforementioned, it is Staff's opinion that the proposal is in conformity with the Town of Milton Official Plan.

## Zoning

### Section 45 (1) - Minor Variances

The subject lands are zoned site-specific Major Commercial (MC\*103) within the Town's Zoning By-law 016-2014, as amended. In order to facilitate the proposed development, the landowner is seeking relief from the following provisions:

#### Variance 1: Increase in Maximum Gross Floor Area

Section 13.1.1.103 ii) b) of the Zoning By-law permits a maximum gross floor area of 39,000 square metres for all buildings. The applicants are seeking permission to allow a maximum gross floor area of 43,500 square metres for all buildings on the lands.

#### Variance 2: Exclusion of Home and Auto Supply Store from Gross Floor Area Calculation

Section 13.1.1.103 ii) b) ii) of the Zoning By-law permits a maximum gross floor area of 13,935 square metres for all retail stores, excluding department stores, home improvement centers and specialty food stores. The applicants are seeking permission to add Auto Supply Store from the maximum gross floor area calculations (a reduction of 11,553 square metres).

#### Variance 3: Removal of Retail Store Minimum GFA Restrictions

Section 13.1.1.103 iii) b) ii) & iii) of the Zoning By-law requires a minimum gross floor area of 465 square metres for stand-alone Retail Stores and 280 square metres for Retail Stores located within a multi-unit building (with a collective maximum gross floor area for all units of 1,395 square metres in multi-unit buildings). The applicants are seeking to remove the minimum gross floor area requirements for Retail Stores.

#### Variance 4: Parking Reduction

Section 5.8.2 i) Table 5F of the Zoning By-law requires a parking ratio of one space per 20 square metres of gross floor area on lands within the Major Commercial Zone. The applicants are seeking to reduce the parking rate to one space per 27 square metres.

#### Variance 5: Height of Free-Standing Light Fixtures

Section 13.1.1.103 iv) d) of the Zoning By-law states that the maximum permitted height for all free-standing and wall mounted lighting fixtures is 9.5 metres. The applicants are requesting permission to allow free-standing light fixtures to be mounted at a height of 12.2 metres (an increase of 2.7 metres).



## Zoning

### Variance 6: Garden Centre Fencing

Section 13.1.1.103 iv) a) of the Zoning By-law only permits fencing as part of an entry feature, land feature in a required landscape buffer, or to screen loading/service areas. The applicants are seeking to allow fencing as an enclosure around garden centres.

### Variance 7: Maximum Height Fence

Section 4.8.2 i) of the Zoning By-law permits a maximum fence height of 3 metres in non-residential zones. The applicants are requesting a maximum height of 3.5 metres (an increase of 0.5 metres).

### Variance 8: Front Yard Setback *(Only applies to Canadian Tire Properties Inc.)*

Section 7.2 Table 7D of the Zoning By-law states that the minimum required front yard setback is 5 metres. The applicants are requesting permission to allow minimum front yard setback of 1.8 metres (a difference of - 3.2 metres).

### Variance 9: Landscape Buffer *(Only applies to Canadian Tire Properties Inc.)*

Section 13.1.1.103 ii) d) of the Zoning By-law states that a minimum 4.5 metres landscape buffer is required for abutting a street line. The applicants are requesting permission to allow for a minimum 1.2 metres landscape buffer abutting the street line (a reduction of 3.3 metres).

### Variance 10: Stairs and Landing from Front Lot Line *(Only applies to Canadian Tire Properties Inc.)*

Section 4.19.5 i) Table 4H of the Zoning By-law states stairs and landings above grade, accessing a principal building as permitted to encroach into a required front yard to a minimum of 1 metre for stairs and 1.5 metres for landings from the front lot line. The applicants are requesting permission to allow minimum setback of 1.2 metres for stairs and landings from the front lot line (a reduction of 0.3 metres).

### Variance 11: Minimum Setback from Parking Area to a Building *(Only applies to Canadian Tire Properties Inc.)*

Section 13.1.1.103 v) a) of the Zoning By-law states that parking areas shall be setback a minimum of 1.5 metres from a building. The applicants are requesting a setback of 0 metres on the west side of Building B's proposed expansion (a reduction of 1.5 metres).

### Variance 12: Minimum Setback from a Parking Area *(Only applies to Canadian Tire Properties Inc.)*

Section 13.1.1.103 v) b) of the Zoning By-law states that the minimum required setback from parking spaces within a parking area from a building is 2.2 metres. The applicant is requesting permission to allow a minimum setback from parking spaces to a building of 1.2 metres on the west side of Building 'B' (a reduction of 1 metre).

## Section 45 (2) - Expansion of Legal Non-Conforming Condition

The existing Personal Service Shop use located in Building 'C' is considered legal non-conforming as the use was legally established before the date on which the current Zoning By-law took effect; as such, the current Zoning By-law provisions do not apply to the site and any expansion or alteration is considered through the Section 45 (2) (a) (i) of the Planning Act.



## Zoning

Section 4.15 of the Zoning By-law speaks to Legal Non-Conforming Uses and notes that:

“No land, building or structure shall be used except in conformity with the provisions of the By-law unless such use legally existed prior to the date of passing of this By-law and provided that it continues to be used uninterrupted for such purpose, and that such use, when originally established, was not contrary to a By-law passed under Section 34 of the Planning Act, R.S.O 1990, cP. 13 or a predecessor thereof that was in force at that time.”

Based on records, Planning Staff are satisfied that the use was existing prior to the date Zoning By-law 016-2014 took effect. As such, it is appropriate to consider the expansion under Section 45 (2) (a) (i) of the Planning Act.

## Consultation

### *Public Consultation*

Notice for the hearing was provided pursuant to the Planning Act on July 10, 2024. Signage was posted along each entrance to the lands, including Steeles Avenue East, James Snow Parkway, and the shared access with the abutting plaza to the west. As of the writing of this report on July 18, 2024, Staff have not received any comments from members of the public.

### *Agency Consultation*

No objections were filed with respect to the variance application from Town staff or external agencies.

Halton Region identified a number of requirements that the application must provide prior to development taking place. These requirements are deferred to Site Plan Approval and will be reviewed at such time.

## Development Services Comments

The applicants are seeking minor variances and an expansion of a legal non-conforming use to facilitate: a proposed addition to Building 'B' being Canadian Tire, a proposed restaurant identified as Building 'O', and a proposed multi-unit retail building identified as Building 'N'. Physical development will not proceed until such time that Site Plan Approval is granted and Building Permits are secured.

### Section 45 (1) - Minor Variances

The subject lands are zoned site-specific Major Commercial (MC\*103) within the Town's Zoning By-law 016-2014, as amended. In order to facilitate the proposed development, the applicants are seeking relief from the following provisions:

#### Variance 1: Increase in Maximum Gross Floor Area

With the proposed addition of Buildings 'O' and 'N', along with the proposed additions on Building 'B', the applicant exceeds the maximum gross floor area set-out in the site specific zone permissions. Through the preliminary site plan, the applicant has demonstrated that the additional gross floor area does not result in over-development of the site and remains functional so far as



## Consultation

circulation and functionality. As such, Planning Staff offer no objection as the increase is both minor and appropriate for the lands.

### Variance 2 and 3: Gross Floor Area Calculation and Minimum Restrictions

The maximum gross floor area permissions were initially imposed through the 2003 development applications and were based on a Market Impact Analysis. The intent of the market review at that time was to ensure that the retail uses locating at Milton Crossroads would not impact the downtown core and its economic viability. By limiting the gross floor area associated with specific retail uses, the intent was to attract regional-level commercial opportunities and limit the re-location of smaller retail uses from the downtown core to this site. Since that time, the market study that informed the initial policies has become outdated and the development's lifespan has demonstrated that the plaza (and the various commercial uses within) does not impact the downtown core's economic viability and sense of place. As such, Planning Staff are of the opinion that both variances are minor in nature and are desirable for the site as the original intent of both the Official Plan and Zoning By-law are maintained.

### Variance 4: Parking Reduction

The applicants provided a Parking Justification Report prepared by Dillon Consulting to justify a reduced parking rate of one space per 27 square metres. The consultant underwent a parking occupancy survey at peak hours to determine the overall parking demand. The conclusions of the findings, along with empirical data, demonstrated that the proposed parking rate equates to an adequate supply for the subject lands. Planning Staff further note that the parking provided for the plaza is communal and therefore shared across all three properties (First Gulf/Calloway REIT, Canadian Tire and Walmart). The Town's Transportation Staff have reviewed the Parking Justification Report and offer no objection.

### Variance 5: Height of Free-Standing Light Fixtures

This provision is included in the Town's Zoning By-law to minimize light spillage and to ensure that lighting is controlled and appropriate for the proposed setting. Given the location of the proposed light fixtures, Planning Staff have no concerns with the proposed increase in height as the fixtures will provide sufficient lighting for the commercial area and will not impact adjacent employment land uses.

### Variance 6: Garden Centre Fencing

The proposed garden centre enclosure at Building 'B' is proposed as a fence. Planning Staff are of the opinion that this is an appropriate enclosure structure for this use and offer no concerns in that regard. The permission has been extended to the balance of the subject lands so that in future if other large retailers contemplate a garden centre, fencing could be used as-of-right for the enclosure.

### Variance 7: Maximum Height Fence

The requested increase in height is minor in nature and negligible beyond any impact that the fence would otherwise have should the permitted height be maintained. The additional height does not impact adjacent lands in way of disruption, nor does it create sightline conflicts given the permitted locations.



## Consultation

### Variance 8: Front Yard Setback *(Only applies to Canadian Tire Properties Inc.)*

The applicants are seeking a reduced front yard setback at the north-east corner of the Building 'B' as a result of the addition's proposed siting in relation to the future expansion of Steeles Avenue East. Given the pinch point only exists at this portion of the building, Planning Staff offer no objection to the approval of this variance. The reduction is minor and will only apply to a portion of the building, therefore maintaining the intent of the Zoning By-law and accommodating the future expansion of Steeles Avenue East.

### Variance 9: Landscape Buffer *(Only applies to Canadian Tire Properties Inc.)*

The landscape buffer being proposed, while lower than what is required, will still allow for enhanced plantings and the intent of the landscape buffer will be met. The reduction is a result of the addition to Building 'B' in relation to the Steeles Avenue East expansion. A Landscape Plan will be required as part of a future site plan application through which Planning Staff will ensure the provision of enhanced landscaping is provided.

### Variance 10: Stairs and Landing from Front Lot Line *(Only applies to Canadian Tire Properties Inc.)*

This variance is a result of the proposed expansion of Steeles Avenue East in relation to the siting of the proposed addition to Building 'B'. The stairs and landings are for utility purposes and are not intended for primary access to the building. The primary entrance for patrons remains located at the front of Building 'B' towards the interior of the site, in addition to loading access along the western side of the building. Planning Staff offer no objection to this request.

### Variances 11 and 12: Minimum Setback from Parking Area *(Only applies to Canadian Tire Properties Inc.)*

The proposed parking located at the west side of Building 'B' requires relief with respect to setbacks from a building. The area provides additional overflow parking for the site. Transportation and Planning Staff have no concerns with the requested variances as the pedestrian and vehicular traffic in this area will be limited. Further, pedestrian walkways will remain available for safe circulation to the building's main entrance.

### Section 45 (2) - Expansion of Legal Non-Conforming Condition

A Personal Service Shop is currently located in a unit within Building 'C' and was permitted through the initial zoning applied to the site. The continuation and expansion of such use on the First Gulf / Calloway REIT lands does not impact the overall function of the plaza nor create a land-use conflict. Based on this, Planning Staff offer no objection to expanding the legal non-conforming use being requested as it does not further aggravate an existing situation and complements existing commercial uses.

In conclusion, Planning Staff offer no objection to either requests being made under Section 45 (1) and 45 (2) of the Planning Act, subject to the conditions set forth being fulfilled.

Respectfully submitted,

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# The Corporation of the Town of Milton

File #:  
Milton Crossroads  
Page 9 of 9

For questions, please contact:

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## Attachments

Figure 1 - Preliminary Site Plan and Ownership

Schedule A - First Gulf Milton Centres Limited / Calloway REIT (Milton) Inc. Lands