



The Corporation of the Town of Milton

Report To: Council

From: Jill Hogan, Commissioner, Development Services

Date: July 18, 2022

Report No: DS-086-22

Subject: Authorization for Submission for a Minor Variance Application on lands municipally known as 382 Broadway Avenue, Milton

Recommendation: THAT Report DS-086-22 entitled “Authorization for Submission of a Minor Variance Application on lands municipally known as 382 Broadway Avenue.”, dated July 18, 2022 be received;

AND THAT in accordance with the provisions of subsections 45(1.4) of the *Planning Act; R.S.O. 1990, c.P.13*, as amended, the Owner shall through this Resolution, be permitted to apply to the Committee of Adjustment for a variance from the provisions of Zoning By-law 077-2021, before the second anniversary of the day on which the by-law was approved by Council.

EXECUTIVE SUMMARY

- On October 19, 2020, as recommended through the Mature Neighbourhoods Character Area Study, Milton Council enacted Town-initiated Official Plan Amendment 60 and Zoning By-law 081-2020.
- The amendments introduced new policies and standards that apply to low-density residential development in the Downtown Character Area to ensure that new development is sympathetic to the existing neighbourhood.
- The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution.

EXECUTIVE SUMMARY

- The intent of the prohibition is to prevent changes to newly approved policies and zoning provisions, but the effect may hinder legitimate applications that do not negatively affect the general intent and purpose of the new provisions.
- This report recommends that the owner of 382 Broadway Avenue be permitted to apply to the Committee of Adjustment, as the proposal is considered minor in nature and maintains the intent of the Mature Neighbourhood Character Area amendments.

REPORT

Background

On December 3, 2015, the Province of Ontario enacted Bill 73 “Smart Growth for Our Communities Act, 2015” which amended the *Planning Act* and *Development Charges Act*, 1997. Several changes to the *Planning Act* came into force on July 1, 2016. One of the changes to the *Planning Act* is the introduction of a two year moratorium (or “freeze”) on three types of amendments, subject to Council’s discretion to provide relief from the prohibition:

1. Amendments of a new Official Plan;
2. Amendments of a new comprehensive Zoning By-law; and
3. Minor variance of a by-law that has already been amended for the land, building or structure.

The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance of a by-law for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution, as detailed below.

Section 45 (1.3)

Subject to subsection (1.4), no person shall apply for a minor variance from the provision of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended. 2015, c.26,s.

The only exception to this rule is where Council has declared by resolution, pursuant to Section 45(1.4) of the *Planning Act* that an application can proceed. Section 45(1.4) of the *Planning Act* allows Council to exempt by resolution a specific application, class of applications, or application generally from the two year moratorium.

Section 45(1.4)

Subsection (1.3) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect

Background

*of a specific application, class of application or in respect of such applications generally.
2015, c.26, s. 29(2)*

Discussion

The Owner of 382 Broadway Avenue has indicated their desire to submit a Minor Variance Application to seek relief from Residential Low Density II (RLD2) zone to facilitate a proposed two-storey single detached dwelling. The following relief is required:

- To permit a lot coverage of 37.7%, whereas 30% is required.
- To permit an interior side yard setback of 1.2 metres, whereas 1.8 metres is required.

Since the enactment of Bill 73, the Development Services Department has implemented an approach that assumes no Minor Variance Applications are permitted before the second anniversary of the day on which the by-law was amended, unless Council has declared by resolution that such an application is permitted.

In this instance, staff recommends that Council authorize the Owner to apply to the Committee of Adjustment for variances from the provisions of Zoning By-law 077-2022 for the following reasons:

- The proposal does not alter the existing front yard and rear yard setbacks, nor exceeds maximum height provisions. Further, the selection of materials and garage design are sympathetic to the neighbourhood character.
- The proposed dwelling introduces increased lot coverage, but is compensated with a respectful design that is sympathetic to the surrounding neighbourhood built form.
- The proposed reduction of the side yard setbacks is compensated by the second storey of the dwelling being further setback than that of the garage. This variation in setbacks contributes to mitigating the impact of the reduced setback in way of design and façade. It balances the massing of the dwelling and is sympathetic to surrounding neighbourhood attributes.

Any Minor Variance Application submitted for the subject lands would go through the standard review process, which involves an evaluation by staff of the appropriateness of the Minor Variance Application, through the lens of the four tests set out by Section 45(1) of the *Planning Act*, and a decision of the Committee of Adjustment.

Financial Impact

There are no financial impacts associated with this report.



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Respectfully submitted,

Jill Hogan, MCIP, RPP
Commissioner, Development Services

For questions, please contact: Rachel Suffern, MSc, MPA Phone: Ext. 2263
Planner

Attachments

Figure 1 Location Map

Figure 2 Proposed Drawings, Elevations and Site Plan

Approved by CAO
Andrew M. Siltala
Chief Administrative Officer

Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.