



The Corporation of the Town of Milton

Report To: Council

From: Jill Hogan, Commissioner, Development Services

Date: June 20, 2022

Report No: DS-052-22

Subject: Authorization for Submission of a Minor Variance Application on lands municipally known as 792 Secord Court, Milton

Recommendation: THAT Report DS-052-22 entitled “Authorization for Submission of a Minor Variance Application on lands municipally known as 792 Secord Street.”, dated June 20, 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 007-2022, 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.
- 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.

EXECUTIVE SUMMARY

- This report recommends that the owner of 792 Second Court be permitted to apply to the Committee of Adjustment, as the proposed relief 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 of a specific application, class of application or in respect of such applications generally. 2015, c.26, s. 29(2)



Discussion

The Owner of 792 Secord Court has indicated their desire to submit a Minor Variance Application to see relief from the following provisions of the Residential Low Density 7 (RLD7) Zone to facilitate construction of a proposed one-storey addition to the rear of the existing dwelling:

1. To allow 31.62% lot coverage, whereas 30% is permitted
2. To allow an interior side yard of 2.13 m, whereas 2.4 m 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 a variance from the provisions of Zoning By-law 007-2022 for the following reasons:

1. The proposed addition is at the rear and does not introduce any changes to the front of the existing dwelling, therefore resulting in no negative impact or changes to the streetscape. The proposed façade materials are consistent with the original structure.
2. The current side yard setbacks are to be retained and contribute to an appropriate transition in massing between the existing and new structure. Further, the height and number of storeys is not increased which ensures there is no impact caused to adjacent properties.

Any Minor Variance Application submitted for the subject lands would continue to be subject to 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 implications associated with this report.

Respectfully submitted,

Jill Hogan, MCIP, RPP
Commissioner, Development Services

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



The Corporation of the Town of Milton

Report DS-052-
22
792 Second Court
MV Exemption
Page 4 of 4

Attachments

Figure 1 Location Map
Figure 2 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.