



# Memorandum to Committee of Adjustment Members

## Minor Variance Application: A22-076/M (750 Whitlock Avenue)

### 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 facilitate the construction of six residential apartment buildings (four eight-storey and two seven-storey) and one three-storey amenity building:

No.	Zoning By-law Regulation	Variance Request
1.	<b>Zoning: RHD*266 Section: 3</b> The By-law states that The definition of Lot “means a parcel or contiguous parcels of land in one ownership which is capable of being legally conveyed in accordance with the Planning Act or is described in accordance with a Registered Plan of Condominium”	Requesting permission for the definition of Lot to mean the following: “for the purposes of administering the zoning by-law, the Lot shall constitute Block 586 on the revised approved draft plan of subdivision dated May 16, 2019”.
2.	<b>Zoning: RHD*266 Section: 6.2 Table 6E</b> The By-law states that the minimum required rear yard setback for Buildings B and C is 13.83 metres.	To permit a minimum required rear yard setback of 12.9 metres for Building B (a difference of 0.93 metres) and 11.3 metres (a difference of -2.53 metres) for Building C.
3.	<b>Zoning: RHD*266 Section 6.2 Table 6E</b> The By-law states that required interior side yard setback for Building F is 12.58 metres.	To permit minimum interior side yard setback of 11.1 metres (a difference of -1.48 metres) for Building F.
4.	<b>Zoning: RHD*266 Section 4.19.5 i) Table 4H</b> The By-law states for apartment buildings, balconies are permitted to encroach a maximum of 1.5 metres into a required front, rear, exterior side, or interior side yard.	To permit balconies to encroach a maximum of 2.6 metres (a difference of 1.1 metre encroachment) into a required rear or interior side yard.
5.	<b>Zoning: RHD*266 Section 4.2.1 Table 4A</b> The By-law states that the maximum height permitted for accessory buildings and structures is 3.7 metres.	To permit a maximum height of 12.8 metres (a difference of 9.1 metres) for an amenity building.
6.	<b>Zoning: RHD*266 Section 4.2.1 Table 4A</b> The By-law states that the total aggregate gross floor area permitted for all accessory buildings and structures on the lot is 25 square metres.	To permit a maximum gross floor area of 48.5 square metres for a shade structure and 530 square metres for an amenity building, excluding the covered canopy areas (a difference of 578.5 square metres total).
7.	<b>Zoning: RHD*266 Section 5.8.1 a) Table 5E</b> The By-law states the minimum parking requirement for apartment buildings is 1.5 spaces per unit plus 0.25 spaces per unit for visitors.	To permit a minimum parking requirement for apartment buildings of 1.2 spaces per unit plus 0.25 spaces per unit for visitors (a difference of -0.3 spaces per unit).
8.	<b>Zoning: RHD*266 Section 5.14.1</b> The By-law states Parking structures below grade or up to a height of 1.6 m above established grade are required to be setback a minimum of 3 metres from a lot line.	To permit a minimum rear yard setback of 0 metre (-3 metres) for a parking structure
9.	<b>Zoning: RHD*266 Section 5.14.2</b> The By-law states parking structures that project 1.61 metres or more above established grade are subject to the yard requirements for the principal building on the lot	To permit a minimum rear yard setback of 0 metres (a difference of -10.5 metres) for a parking structure.
10.	<b>Zoning: RHD*266 Section 5.8 i) Table 5D</b> The By-law states that the minimum dimensions required for a bicycle parking space is 0.6 m wide, 1.8 metres long, and a minimum vertical clearance of 1.9 metres.	To permit vertical bicycle spaces with minimum dimensions of 0.6 metres wide, 1.5 metres long, and a minimum vertical clearance of 1.9 metres (a difference of -0.3 metres in length).

The subject property is located on the east side of the Sixteen Mile Creek Valley, south of Whitlock Avenue and is known municipally as 750 Whitlock Avenue. The subject property is located in the Boyne Survey Secondary Plan Area and is also referred to as Block 586 on the Mattamy Martin East draft approved plan of subdivision (24T-17002/M). Surrounding land uses include medium density residential to the north, a future neighbourhood park to the east, a future trail, woodlot and the Sixteen Mile Creek Valley lands along with associated buffers to the south and the west. Mattamy is currently working towards registration of the remaining blocks in the draft plan of subdivision which includes the subject lands as well as the surrounding trail, Sixteen Mile Creek Valley and environmental and woodlot buffer blocks.

The current development is subject to Site Plan Control. An application for Site Plan Control (SP-07/21) was submitted in April 2021 and is currently under review. The Site Plan has reached a satisfactory stage to consider the proposed minor variances.

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

The subject property is designated “Residential Area” as shown on Schedule B - Urban Area Land Use Plan and Schedule C.10.C. - Boyne Survey Secondary Plan Land Use Plan. The Residential Area designation permits a full range of residential uses and densities. Complementary, non-residential uses that are necessary to create a residential neighbourhood environment are also contemplated. Section C.10.5.1.1. c) of the Boyne Survey Secondary Plan states that high density residential uses consisting of apartment buildings shall have a density range of greater than 100 to 200 units per net hectare. Section 3.2.3.3, subsections i) and ii) of the parent plan states that residential uses in the High Density Residential Use category shall not exceed eight-storeys in height and the height or bulk of the proposed development shall not unduly overshadow any adjacent low and medium residential uses.

It is Staff’s opinion that the proposal is in conformity with the Town’s Official Plan and the Boyne Survey Secondary Plan.

**Zoning:**

The subject lands are zoned a site-specific Residential High Density 266 (RHD\*266) under Zoning By-law 016-2014, as amended. The general Residential High Density (RHD) Zone permits multi-unit residential developments including retirement homes, long term care facilities and apartment buildings. The site-specific provisions speak to additional permitted uses (i.e. townhouse and multiple dwellings) and the provisions that relate to these uses, special site provisions relating to access, minimum front yard setbacks, parking area setbacks from property lines and private street lines, and requires that for apartment buildings, the minimum height shall be 4 storeys to a maximum height of 8 storeys (up to 29 metres).

Through the review of the related site plan application (File SP 07/21), a number of technical zoning deficiencies have been identified by zoning staff (as listed above) to accommodate the proposed development, and the applicant has subsequently applied for relief through this application. Staff will examine these further in the Planning Comments section of this memo.

## Consultation

### *Public Consultation*

Notice for the hearing was provided pursuant to the *Planning Act* on September 8, 2022. As of the writing of this report on September 22, 2022 staff did receive a number of email and telephone inquiries from residents living on the north side of Whitlock Avenue, directly across from the subject site. The majority of the inquiries related to the proposed high density development overall as purchasers stated that they were not aware that multiple apartment buildings with a height of up to eight-storeys could be built on the subject lands. The residents noted that at time of purchase, it was their understanding based on the materials available to them, that the block would contain a medium density development that may contain a building that could be four to six storeys in height. In addition, concerns relating to potential environmental impact, privacy, lack of nearby commercial and amenity uses within walking distance, and anticipated traffic impacts on the existing neighbourhood were raised.

Staff did speak with one property owner that lives on Aspen Terrace (north of the subject site) about the following:

- the policy framework that the subject development was evaluated against at the provincial, regional and local levels, encourages a range of dwelling types and densities;
- the zoning for the subject lands (i.e. high density residential block up to eight-storeys) was approved by Council in 2019 prior to draft plan approval of the Martin East subdivision (i.e. the point at which sales can begin);
- warning clauses were to be included in the purchase and sale agreements within the subdivision indicating that this development could be high density in nature;
- technical studies relating to environmental matters, stormwater management and traffic impacts were submitted in support of the subdivision application and updated and provided in support of the more recent site plan application;
- the purpose of the Committee of Adjustment hearing is to evaluate proposed technical variances (outlined in the public notice) to the zoning by-law to accommodate the proposed development currently under site plan review. Further, that there is no mechanism under the Planning Act to further discuss the zoning approved by Council for the subject property; and,
- planning staff would contact Mattamy directly for information regarding the notification provided at the sales centre, on site, and in agreements at time of purchase.

### *Agency Consultation*

No objections were filed with respect to the variance application from Town staff or external agencies. However, building staff did note that separate building permits are required for each building including the underground parking garage, and construction shall not commence prior to obtaining such building permits. Building staff also reminded the applicant that spatial separation and exposure requirements set out in the Building Code must be adhered to where proposing a 0 metre setback.

Development Engineering staff indicated that they had no issues with the proposed setback reductions from a drainage/engineering standpoint. In addition, transportation

staff noted that they support the proposed variances subject to specific TDM measures being added as a condition of approval. See Variance 7 in the comments section below.

Due to the nature of the imposing parking garage structures in proximity to the adjacent trails, Forestry and Operations staff recommended that the applicant consider adding a veneer (brick or stone to match the buildings) on the parking structure walls facing the trail. Operations staff is of the opinion that the veneer and/or stone materials will humanize the imposing concrete walls where they are close to the lot line abutting the trail. Examples of enhanced walls were provided to the applicant. In addition to the aforementioned, staff also noted that there may be an opportunity to provide meshed openings in the parking structure walls in these locations that would allow for natural light to penetrate into the parking garages. As a condition of approval, Forestry and Operations staff will require detailed drawings showing the proposed wall treatments to the satisfaction of the Town.

Both engineering and operations staff noted that trail elevations can be adjusted slightly if there should be an impact on stormwater capture along the interface.

Corporate Services staff stated that among other financial requirements, a letter from the Trustee is required confirming that the landowner is in good standing with the applicable Landowners Group.

Halton Region and Conservation Halton offered no objection to the application as the proposed variances are contained within the development block and the grading plans provided in the associated Site Plan Application (SP-07/21) are in keeping with the approved limits of development and grading identified in the Subwatershed Impact Study (SIS) completed for Boyne Area 5A, 5B, and 6.

The aforementioned items as well as other technical matters will continue to be reviewed through the Site Plan Approval process.

#### **Planning & Development Department Comments:**

The proposed development of six residential apartment buildings (four eight-storey and two seven-storey), containing a total of 612 residential units, and a three-storey amenity building, along with surface and underground parking, is currently being reviewed through Site Plan Application SP-07/21. Site Plan staff have identified that the site plan has reached a satisfactory stage to consider the requested minor variances.

#### Variance 1

Section 3 of the Zoning By-law states that the definition of Lot means a parcel or contiguous parcels of land in one ownership which is capable of being legally conveyed in accordance with the Planning Act or is described in accordance with a registered Plan of Condominium. The subject property through the site plan application process, is being reviewed comprehensively as one parcel of land. Since the applicant intends to construct the buildings in phases (e.g. Buildings A and B, the amenity building, and a portion of the underground parking garage as part of the first phase), it is unknown whether the plan of condominium will apply to the entire site or be separated into multiple condominium plans, and to avoid tedious minor variances in the future, staff has suggested that no matter what the scenario, the property should be viewed as a single lot for the purposes of administering the Zoning By-law.

To ensure that the zoning is applied consistently through the site plan, building permit and plan of condominium applications, planning staff do not object to variance 1.

#### Variance 2 & 3

Section 6.2, Table 5E sets out the minimum required yard setbacks to ensure that adequate distance is provided between taller buildings and adjacent land uses. Due to the irregular shape of the lot (as it aligns with the natural edges of the woodlot and the Sixteen Mile Creek valley), small components of three straight edged buildings (i.e. Building B, C and F) encroach into the required rear yard and westerly interior side yard. Given that only small segments of the buildings encroach into the required setbacks, the encroachments are slight, and there is no negative impact on grading, drainage or the natural features that surround the subject property, staff does not object to variances 2 and 3.

#### Variance 4

Section 4.19.5 i), Table 4H of the Zoning By-law states that for apartment buildings, balconies are permitted to encroach a maximum of 1.5 metres into a required front, rear, exterior side, or interior side yard. The intent of this provision is to allow for some flexibility and variation in the building elevations, but at the same time ensure that the balconies do not protrude so far into a required yard that they negatively impact neighbouring properties or infrastructure such as hydro lines, street lights, etc.

As noted by the applicant, deeper balconies (terraces) have been introduced for the first three-storeys of Buildings B, C and E to address urban design comments provided by Town staff. All three of these buildings are located at the rear of the property adjacent to the woodlot. While there are variations in the building setbacks due to the irregular lot line at the rear, the additional encroachment will not appear significant and does not negatively impact any neighbouring properties or infrastructure.

For these reasons, planning staff does not object to variances 4.

#### Variance 5 & 6

Section 4.2.1, Table 4A sets out provisions relating to accessory buildings and structures located within Residential and Future Development Zones, including the maximum total aggregate gross floor area of all accessory buildings and structures and the maximum height. Buildings and structures that we typically see within amenity areas in an apartment complex include shade structures, gazebos, maintenance sheds and storage buildings. Often times, amenity buildings such as the proposed are attached to the adjacent apartment buildings. Where they are attached, the amenity buildings are considered part of the principal building and are therefore subject to the requirements that apply to such principal buildings on the lot.

Since the proposed amenity building is detached, it falls into the category of an accessory building. In addition, a larger shade structure is proposed. While the aggregate size of the proposed accessory buildings and structures on the lot may seem extensive on their own, they are not out of scale with the size of the site or the overall development proposal. In addition, while the amenity building will have a larger presence due to its size and the increase in height, it will not be overwhelming in the context of its surroundings and still appear secondary to the main built form (i.e. apartment buildings).

It should be noted that staff worked with the applicant to consider placing the amenity building in its current location so that it creates a focal point from the entrance to the development (at the roundabout) to the woodlot at the rear.

For the reasons noted above, staff does not object to variances 5 and 6.

#### Variance 7

For the proposed buildings on the subject site, the Zoning By-law states that residential parking shall be provided at a rate of 1.5 parking spaces per dwelling unit for apartment buildings. The intent of the required rate is to capture those situations where organized transit or walkability is not as prevalent.

Given the focus on transit and the proximity of the proposed development to the major intersections of Whitlock and Regional Road 25, and Whitlock and Thompson Road, and nearby schools, parks and trails within the immediate area, the applicant has proposed a parking rate of 1.2 parking spaces per dwelling unit for this development.

To support the requested reduction in parking spaces, the applicant provided a Parking Assessment for the Martin East Valley Residential Development, dated August 24, 2022, by GHD as part of this minor variance application. The rationale for the reduction in parking considered existing and proposed transit routes, various transportation demand management (TDM) measures available for the site, as well as existing parking demand statistics at the Varga Soleil development located at the southeast corner of Tremaine Road and Gordon Krantz Avenue on west side of Town. The study also noted that the proposed reduction is also consistent with the Town of Milton's Official Plan which seeks to promote and support traffic movement by walking, cycling and public transit.

Transportation staff reviewed the Traffic Impact Study associated with the site plan application as well as the rationale provided in the aforementioned Parking Assessment that supports the reduction in parking rate for this minor variance application. Transportation staff noted that they had no concerns with approval of the minor variance application, subject to the following conditions of approval:

1. The Owner must demonstrate to the satisfaction of the Town of Milton that they will be able to achieve all proposed TDM measures outlined in the Parking Assessment dated August 24 2022 by GHD including any ongoing programming or management that may be required for program success. All costs associated with the implementation of the TDM measures are the responsibility of the Owner. The required TDM measures are as follows:
  - The Owner agrees to provide a minimum of 455 long-term secure bicycle parking spaces and 123 short-term visitor bicycle parking spaces. The long-term bicycle parking areas must be locked and have access permitted to residents only. The bicycle parking facilities must comply with the Town of Ajax and /or City of Toronto Bicycle Parking Guidelines. The bicycle parking spaces must be shown on the plans including details of the lockers/racks.
  - The Owner agrees to provide active uses at-grade along street frontages via sidewalk connectivity (i.e. pedestrian connections from the building entrances to municipal sidewalks/paths along the frontage of the site, to the property line

of 750 Whitlock Ave). The sidewalks must to be designed and built to Town of Milton specifications and must be shown on the appropriate plans.

- The Owner agrees to charge for parking as a separate cost to occupants. All units are to be unbundled from parking spaces. The condo/rental agreement between the occupant and the property owner must be provided noting the cost of a parking space and the ability for occupants to opt in or out of having a parking space. The monthly cost of parking should be greater than the cost of a monthly transit pass.
- The Owner agrees to provide a bicycle service station equipped with tools for repair and maintenance on site. The bicycle service station must be shown on the plans in an area which is convenient and functional, and a detail must be provided.

Staff recommends that the aforementioned TDM requirements be added as a condition of approval in relation to the minor variance.

With the above noted condition and considering that:

- transit routes are established on Regional Road 25 and Thompson Road and Whitlock Avenue is a designated collector road where future transit services are planned;
- Whitlock Avenue will be used as a significant pedestrian and cycling route that will provide excellent connectivity to future multi-use paths and cycling lanes along Regional Road 25 and Thompson Road. Whitlock Avenue is planned to include a sidewalk on the north side, a multi-use path on the south side, and on-street bike lanes that will provide connections to a lit asphalt trail that will be constructed adjacent to the Sixteen Mile Creek Valley and woodlot surrounding the subject lands;
- a neighbourhood park is located immediately to the east, and two schools are within walking distance of the subject lands;
- additional commercial development is nearing site plan approval at the southeast corner of Thompson Road and Louis St. Laurent;
- this assessment along with a full Transportation Impact Study (TIS) has been reviewed as part of the site plan application; and,
- all required visitor and bicycle parking requirements have been met or exceeded

planning staff does not object to Variance 7.

#### Variance 8 & 9

Sections 5.14.1 and 5.14.2 of the Zoning By-law state that parking structures below grade and up to 1.6 metres above established grade are required to be setback a minimum of 3.0 m from a lot line, and those parking structures that project 1.61 metres above established grade are subject to the yard requirements for the principal building on the lot. The intent of this provision is to ensure that Regional and Town infrastructure is not compromised while work is being done on private property.

The applicant is requesting permission to decrease the rear yard setback in both instances to 0 metres in order to recognize the location of the proposed underground garage established through the site plan approval process thus far. While all efforts are made to meet the required setbacks, there are instances where adjustments are required to accommodate parking and infrastructure that is needed on site. Town Engineering and Operations staff have indicated that they have no objection to the requested variances as it relates to the proposed underground garage and its relationship to the lot line abutting the future trail located to the south, so long as the parking structure walls protruding above the ground are enhanced with appropriate design materials. This requirement will be a condition of approval.

For these reasons, planning staff does not object to variances 8 and 9.

#### Variance 10

Section 5.8 i), Table 5D states that the minimum dimensions required for a bicycle parking space is 0.6 metres wide by 1.8 metres long, with a vertical clearance of 1.9 metres. This provision assumes that the bicycle has two wheels on the ground. Since the proposed bicycle parking will be vertical in nature, the applicant is requesting a reduction in the length.

It should be noted that an amendment is underway to add provisions for vertical bicycle parking spaces in the zoning by-law. However, at the current time, the by-law does not have requirements relating to this orientation.

Given that the requested bicycle size is appropriate for the vertical orientation proposed, planning staff does not object to variance 10.

Planning staff have reviewed the requested variances and offer no objection to their approval as the proposal makes efficient use of the land, will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties, and will not be of a detrimental impact to the subject lands, the street, or the surrounding area.

Based on the foregoing, staff is of the opinion that the requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law, and is appropriate for the development and use of the land.

#### **Recommendation:**

**THAT** the application for minor variance **BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. That the apartment buildings and amenity building shall be located and constructed in accordance with the site plan and building elevations, prepared by KNYMH, date stamped by Town Zoning on August 30, 2022 and August 31, 2022, respectively.
2. That all required building permits be applied for and received prior to construction of all buildings and the underground parking structure.
3. That enhanced wall treatment/finishing details be provided on the exposed underground parking structure walls to the satisfaction of Engineering and

Operations staff and the wall treatment/finishing details be included on the final drawing set of the associated site plan application.

4. The Owner must demonstrate to the satisfaction of the Town of Milton that they will be able to achieve all proposed TDM measures outlined in the Parking Assessment dated August 24 2022 by GHD including any ongoing programming or management that may be required for program success. All costs associated with the implementation of the TDM measures are the responsibility of the Owner. The required TDM measures are as follows:
  - The Owner agrees to provide a minimum of 455 long-term secure bicycle parking spaces and 123 short-term visitor bicycle parking spaces. The long-term bicycle parking areas must be locked and have access permitted to residents only. The bicycle parking facilities must comply with the Town of Ajax and /or City of Toronto Bicycle Parking Guidelines. The bicycle parking spaces must be shown on the plans including details of the lockers/racks.
  - The Owner agrees to provide active uses at-grade along street frontages via sidewalk connectivity (i.e. pedestrian connections from the building entrances to municipal sidewalks/paths along the frontage of the site, to the property line of 750 Whitlock Ave). The sidewalks must to be designed and built to Town of Milton specifications and must be shown on the appropriate plans.
  - The Owner agrees to charge for parking as a separate cost to occupants. All units are to be unbundled from parking spaces. The condo/rental agreement between the occupant and the property owner must be provided noting the cost of a parking space and the ability for occupants to opt in or out of having a parking space. The monthly cost of parking should be greater than the cost of a monthly transit pass.
  - The Owner agrees to provide a bicycle service station equipped with tools for repair and maintenance on site. The bicycle service station must be shown on the plans in an area which is convenient and functional, and a detail must be provided.
5. That the approval be subject to an expiry of two (2) years from the date of decision if the conditions are not met, if the proposed development does not proceed and/or a building permit is not secured.

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