



Memorandum to Committee of Adjustment Members

Minor Variance Application: A-22/068/M - 539 Beaver Court

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:

- Permit stairs and landings above grade to encroach into the interior side yard with a side yard setback of 1.14 metres.

The subject property is known municipally as 539 Beaver Court and is legally described as Lot 84 on Registered Plan M193. The property is located west side of Beaver Court in a low density residential neighbourhood.

The applicant is proposing to construct an accessory apartment with an entrance to the apartment in the interior side yard. As the entrance requires a landing as per the Building Code, a minor variance is being requested to permit the landing in the interior side yard.

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

The subject property is designated as Residential Area in the Town of Milton Official Plan on Schedule B 'Urban Area Land Use Plan'. This designation permits single detached dwellings and accessory structures.

The property is also subject to the Mature Neighbourhood Area policies of the Official Plan. Mature Neighbourhood Areas are intended to remain relative stable however, infill and development that is compatible with and respectful of the existing neighbourhood character is permitted. As the requested landing is small in size and will not be highly visible from the street, it will not impact the character of the neighbourhood.

It is Staff's opinion that the proposal is in conformity with the Town of Milton Official Plan, as amended.

Zoning:

The subject lands are zoned as Residential Low Density 5 (RLD5) in the Town of Milton Urban Zoning By-law 016-2014, as amended. In this zone, single detached dwellings, semi-detached dwellings and accessory structures are permitted.

On February 7, 2022, the Town of Milton enacted a Zoning By-law Amendment for the lands within the Timberlea neighbourhood, which introduced the new Residential Low Density 5 (RLD5) and implemented new zoning standards for the neighbourhood. These zoning provisions however, only relate to the permitted uses, lot standards and primary building standards, and not to landings. The subject application does not require any variances to the RLD5 zone.

In order to permit the proposed landing in the interior side yard, a variance is required from section 4.19.5 Table 4H of the Zoning By-law. This section only permits stairs and landings above grade that access a principle building to encroach into the front setback, rear setback, or exterior side yard setback. Stairs are not permitted to encroach into the interior yard setback. The intention of this Zoning By-law provision, is to ensure that adequate access to the rear yard is provided through the interior side yard.

The RLD5 zone requires a minimum interior side yard setback of 1.2 metres in the subject side yard. As the stairs and landing are located within 1.14 metres of the interior side yard, a variance is required. The stairs and landing will encroach 6 centimeters into the interior side yard setback.

Consultation

Public Consultation

Notice for the hearing was provided pursuant to the Planning Act on, October 14, 2022. As of the writing of this report on, October 19, 2022, 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.

Planning and Development Department Comments:

Planning Staff have reviewed the proposal and do not object to the location and size of the stairs and landing in the interior side yard. The subject interior side yard would range in width from 2.05 metres at the widest point to 1.14 metres at the narrowest point, adjacent to the stairs and landing. This setback would be sufficient to continue to access the rear yard and to maintain the side of the dwelling. The stairs and landing would create a small encumbrance in the side yard, however it would be relatively easy to maneuver around this obstetrical and the vast majority of the side yard would remain unencumbered.

Based on the aforementioned, Planning Staff do not object to the approval the variance. Staff is of the opinion that the requested variance is minor in nature, conforms to the general intent of both the Official Plan and Zoning By-law and is desirable 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 stairs and landing shall be located and constructed generally in accordance with the site plan prepared by RnH Designs, date stamped by Town Zoning on September 30, 2022.
2. That a building permit be obtained for the accessory apartment within two (2) years from the date of this decision.
3. 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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October 19, 2022