



Memorandum to Committee of Adjustment Members

Minor Variance Application: A23-114/M - 271 Sydney Street

General Description of Application:

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

1. Allow two garages on a lot, whereas only one is permitted (an increase of one garage);
2. Allow a maximum height of 6.1 metres for a detached garage, whereas 4.3 metres is currently permitted (an increase of 1.8 metres);
3. Allow a maximum gross floor area of 126.22 square metres, whereas 85 square metres is currently permitted (an increase of 41.22 square metres);
4. Allow the maximum gross floor area of a detached garage to be 17.64% of the lot area, whereas only 10% is currently permitted (an increase of 7.64%);
5. Allow a maximum lot coverage of 22.72%, whereas 20% is currently permitted (an increase of 2.72%); and,
6. A maximum driveway width of 11 metres, whereas 8 metres is currently permitted (an increase of 3 metres).

The subject property is known municipally as 271 Sydney Street and is legally described as Part of Lots 87 and 88 on Plan 96. Surrounding land uses include low-density residential, along with J.M Denyes Public School and the Milton Fairgrounds.

The owners wish to construct a detached garage with an additional residential unit located on the second floor. The existing dwelling and driveway are to be retained.

Bill 23 - More Homes, Built Faster established provincial direction relating to additional residential units whereby an urban lot with municipal servicing can have up to three units on a lot, including a maximum of one being located in a detached structure. Based on direction provided through Bill 23 and Ontario Regulation 299/19, Planning Staff are of the opinion that the in-effect legislation allowing an additional residential unit to be located within a detached structure supersedes Section 4.10 (i) of the Zoning By-law which requires that an additional residential unit to be located within a primary dwelling.

For additional information, the Committee of Adjustment previously granted provisional approval for Consent to Sever (B22-003/M) on the subject lands - this proposal would result in lot creation to legally establish two lots whereas one currently exists. Should this minor variance be approved, the applicants intend to let the provisional consent approval lapse and forego the original plan of land division. Therefore, if the owners are permitted to establish a detached additional residential unit, there will be no severance.

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

The subject property is designated as Residential on Schedule A - Urban Land Use Plan within the Town of Milton Official Plan. The lands are identified within the Town's Character Area on Schedule D - Urban Area Planning Districts, Character Area and Community Improvement Area.

Section 2.10.3.37 (a) of the Official Plan directs that all development shall be compatible with and sympathetic to existing building forms, including heights, setbacks, scale and architectural features.

Given the detached garage is proposed to replace an existing detached garage, Planning Staff are of the opinion that there is no impact to the character of the property and the architectural features of the structure are sympathetic to the neighbourhood.

Section 3.2.3.9 of the Official Plan requires that additional dwelling units shall be permitted as-of-right in the Residential Area, subject to the following criteria being met:

1. The use is located in an existing single detached dwelling and accessory structures where adequate municipal piped water and waste water services are available and connected;
2. The site is accessible to public transit;
3. There will be no significant changes to the external character of the building or property;
4. All of the requirements of the Zoning By-law, including the provision of adequate parking, of the Ontario Building Code, of the Property Standards By-law and other relevant municipal and provincial regulations can be satisfied; and,
5. The existing dwelling is not within the Regulatory Flood Plain.

Given the unit is proposed within an accessory structure, the site is connected to municipal servicing, not within the Regulatory Flood Plain, is accessible to public transit, and subject to the approval of this application and Building Permit issuance, will comply with all applicable law, including the Zoning By-law and Ontario Building Code.

Therefore, 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 I (RLD1) within the Town of Milton Urban Zoning By-law 016-2014, as amended.

Section 4.10 of the Zoning By-law sets-out the following regulations related to secondary dwelling units:

An accessory dwelling unit is permitted in a single detached dwelling or a semi-link dwelling unit only, provided that:

- (i) Only 1 accessory dwelling unit shall be permitted per lot and shall be located within the main dwelling unit;*
- (ii) A minimum of 1 parking space per accessory dwelling unit is provided in addition to the required parking for the main dwelling unit;*
- (iii) The dwelling must be on full municipal water and wastewater services; and,*
- (iv) The accessory dwelling unit shall not exceed a maximum size of 85 square metres.*

Based on the above-noted provisions and consideration of Bill 23, Planning Staff confirm that the proposal maintains all regulatory provisions associated with additional residential units with the exception of the maximum gross floor area for which this application seeks relief.

The specific provisions for which this proposal requires relief from the Zoning By-law includes the following:

Variance 1: Two Garages on One Lot

Section 4.2.2.1 i) permits a maximum of one garage on a lot, whereas the applicant is proposing two. The intent of this provision is to ensure that the primary dwelling remains the prominent feature and that the site is not over developed.

Variance 2: Height of Detached Garage

Section 4.2.2.2 i) d) permits a maximum height of 4.3 metres for a detached garage, whereas the applicant is proposing 6.1 metres. The intent of this provision is to ensure that the structure does not impact adjacent land owners so far as privacy, maintains the character of the area, and that it remains clearly secondary to the primary dwelling/structure.

Variance 3: Increase in Gross Floor Area of Additional Dwelling Unit

Section 4.10 iv) permits a maximum gross floor area associated with an additional dwelling unit to be 85 square metres, whereas the applicant is proposing 126.22 square metres. The intent of this provision is to ensure that the unit remains subservient to the primary dwelling unit.

Variance 4: Increase in Gross Floor Area of a Detached Garage

Section 4.2.2.2 i) e) permits a maximum gross floor area of 10% of the total lot area for a detached garage, whereas the applicant is requesting 17.64%. The intent of this provision is to ensure that the garage remains subservient to the principle structure, being the primary dwelling, and further that it does not result in over-development of the lot.

Variance 5: Increase in Lot Coverage

Section 6.2 Table 6B (l) allows a maximum lot coverage of 20% for lots with an area greater than 830 square metres, whereas the applicant is proposing 22.72%. The intent of this provision is to ensure that the site is not over-developed and there is adequate permeable surface for various engineering considerations.

Variance 6: Increased Driveway Width

Section 5.6.2 iv) d) e) allows a maximum driveway width of 8.0 metres for lots with a frontage greater than 11.5 metres, whereas the applicant is requesting 11.0 metres. This provision is to ensure that the driveway is not the dominant feature of the lot and further, to protect for permeable area and landscaped open space.

Consultation

Public Consultation

Notice for the hearing was provided pursuant to the *Planning Act* on, November 29, 2023. As of the writing of this report, on December 6, 2023, 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.

Town Building Staff requested information pertaining to the proposed distance separation, soil reports, and mechanical design; this information will be provided as part of the subsequent Building Permit application. A Demolition Permit will be required prior to the removal of the existing detached garage.

Town Development Engineering Staff requested that a Stormwater Management Brief be submitted, to their satisfaction, as part of the subsequent Building Permit application.

Planning and Development Department Comments:

The applicant has requested a minor variance to construct a detached garage containing an additional residential unit. In order to construct the proposed structure, the existing detached garage will be removed; there are no physical changes proposed to existing dwelling.

Variance 1: Two Garages on One Lot

In seeking relief to accommodate two garages on one lot, the proposal is maintaining existing conditions as the site already has an attached one-car garage and a detached one-car garage. Through this proposal, the applicant would demolish the existing detached garage and replace it with the two-car detached garage being presented. Planning Staff are of the opinion that this variance is minor and any impact of the second garage itself is negligible given existing conditions on site.

Variance 2: Height of a Detached Garage

To accommodate the proposed detached garage and additional residential unit, the applicant is seeking an increase in height for the built form of the garage. While higher than what is permitted in the Zoning By-law, the proposal maintains the intent of the provision in that the garage remains accessory to the primary principle structure, being the main dwelling. Due to the grade transition on site, the principle structure itself has a perceived height of 6.68 metres (at the lowest grade point). From a streetscape perspective, the garage is clearly accessory to the primary structure and does not exceed the height of the same. Finally, the garage maintains a generous setback from shared lot lines in an effort to enhance privacy and minimize the increase in height.

Variance 3, 4 and 5: Increase Gross Floor Area and Lot Coverage

The increase in gross floor area associated with the additional residential unit is minor in nature as it is based on the footprint of the proposed two-car garage. Further, the unit itself will remain clearly secondary to the primary unit located on site, being the principle structure.

The increase in gross floor area associated with the detached garage is minor in nature as the lot is generous in size and does not result in over-development of the lot; the garage remains accessory to the principle structure.

Similarly, the additional lot coverage is minor in nature based on the lot size and will not result in over-development of the lot. Through the Building Permit application, Development Engineering will require that a Stormwater Management Brief be submitted, to their satisfaction, prior to permit issuance.

Variance 6: Increased Driveway Width

The proposed increase in driveway width is minor in nature as it only applies to the rear portion of the driveway, directly in front of the detached garage; the added width accommodates the double door being proposed for vehicular access to the garage. From a streetscape perspective, the driveway is not being widened at the throat, nor is there curb cutting proposed. Further, the front yard is generous in size thereby minimizing the impact of any expansion. Therefore, the expansion of the driveway directly in front of the detached garage is minor in nature and any impact beyond what is existing is negligible. The added impervious surface is expected to have minimal impact on the site and will be thoroughly reviewed through the Stormwater Management Brief.

Based on the foregoing, Planning Staff offer no objection to the approval of this application as the lot is generous in size, the structure maintains neighbourhood character, and the additional residential unit contributes to housing availability. Planning Staff are of the opinion that the relief being requested is minor in nature, desirable for the development of the subject lands, maintains the intent of the Zoning By-law and conforms to the Official Plan.

Recommendation:

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

1. That the detached garage and additional dwelling unit shall be located and constructed in accordance with the site plan and building elevations, prepared by Care Engineering and Design Services Inc., date stamped by Town Zoning on November 9, 2023.
2. That prior to removing the existing detached garage, a Demolition Permit be obtained.
3. That prior to Building Permit issuance, a Stormwater Management Brief be submitted, to the satisfaction of Town Development Engineering.
4. That prior to Building Permit issuance, the property owners obtain a "Certificate of Cancellation" under Section 53 (45) for B22-003/M.
5. That a Building Permit be issued within two (2) years from the date of this decision.
6. 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.

Rachel Suffern

Rachel Suffern, MPA, M.Sc. (PI), MCIP, RPP
Planner, Development Review

December 6, 2023