



Memorandum to Committee of Adjustment Members

Minor Variance Application: A23-002/M - 943 Stearn Place

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 permit:

- Allow a maximum gross floor area of 40.86 square metres for Accessory Buildings and Structures, whereas the Zoning By-law permits a maximum of 10 square metres (an increase of 30.85 square metres).
- Allow a maximum height of 4.17 metres for an Accessory Structure, whereas the Zoning By-law permits a maximum of 3 metres (an increase of 1.17 metres).

The subject property is known municipally as 943 Stearn Place and is legally described as Lot 37 on Plan 20R-893. The property is generally located north of Louis St. Laurent Avenue and west of Fourth Line. Surrounding land uses are primarily residential consisting of single detached dwellings.

The applicant is proposing to construct a gazebo in the rear yard for personal amenity use.

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

The subject property is designated as 'Residential Area' on Schedule B- Urban Land Use Plan within the Town of Milton Official Plan. The property is further designated as 'Residential Area' on Schedule C.6.D - Bristol Survey Secondary Plan Land Use Plan. Both designations generally permit low to medium density residential dwellings, as well as additional uses necessary to create a residential neighbourhood environment.

It is Staff's opinion that the proposal is in conformity with the Town of Milton Official Plan, as amended. The proposal is a permitted residential use and contributes to creating a residential neighbourhood environment.

Zoning:

The subject lands are zoned as Residential Medium Density I * 25 (RMD1*35) within the Town of Milton Zoning By-law 016-2014, as amended.

Variance One: Increase in Gross Floor Area

Section 4.2 Table 4A permits a total maximum gross floor area of 10 m² for all accessory structures located on the lot. The intent of this provision is to ensure that the structures do not result in over development of the subject property and that they remain secondary to the primary residential use.

The applicant is seeking relief in regard to this provision to accommodate a total gross floor area of 40.86 m² (an increase of 30.86 m²) for the proposed gazebo and existing shed.

Variance Two: Increased Height

Section 4.2 Table 4A permits a maximum height of 3 metres for Accessory Structures. The intent of this provision is to ensure that the structure does not negatively impact adjacent land owners in way of view or sightline and further, that it remains subservient to the primary residential structure.

The applicant is seeking relief in respect to this provision to accommodate a total height of 4.17 metres (an increase of 1.17 metres) for the proposed gazebo.

Consultation

Public Consultation

Notice for the hearing was provided pursuant to the Planning Act on, January 13, 2023. As of the writing of this report on, January 18, 2023, there has been one public objection. An adjacent property owner expressed concern regarding the proposal in relation to the increased gross floor area and height. They also noted the proposed patio and other site features, which were of concern. Planning Staff have reviewed and noted these concerns when writing this report and a copy has been provided to the Committee in advance of the hearing.

For additional clarity, the gazebo and existing shed are the only elements of the proposal subject to this application. All other features, including the patio and hardscaping, either comply with the Zoning By-law or are not regulated under such provisions. Engineering Staff will review during the Building Permit process to further confirm.

Further to the above, Minor Variance Applications are not precedent setting and each application is reviewed on its own merits.

Agency Consultation

No objections were filed with respect to the variance application from Town staff or external agencies. Building Staff note that should the development proceed, a Building Permit would be required for the gazebo.

Planning and Development Department Comments:

The applicant has requested a minor variance to facilitate the construction of a gazebo in the rear yard. The subject property is approximately 1,007 square meters in size and currently has a single detached dwelling and a garden shed.

Variance One: Increase in Gross Floor Area

Given the existing garden shed (approximately 9.5 square metres), the total gross floor area being requested is 40.86 square metres. The proposed gazebo is 31.36 square metres.

The siting of the gazebo proposes generous setbacks from the side and rear lot lines, with the smallest setback being 1.3 metres - the Zoning By-law currently requires 0.6 metres at minimum. Further to, the lot is generous in size and the additional gross floor area will not result in over development as there remains significant amenity space and

landscaped open space. Development Engineering expressed no concerns with the increased gross floor area. There is no tree removal associated with the construction of this property. Further to, based on the design of the structure, the gazebo will remain clearly accessory to the primary residential dwelling.

Variance Two: Increased Height

The proposed gazebo has a height of 4.17 metres, which represents an increase of 1.17 metres from that which is currently permitted under the Zoning By-law. While the height does exceed the maximum, the increased setbacks and roof design minimizes the impact on adjacent properties. Should the applicant have elected to maintain the permitted height, it is noted that the structure would remain visible by adjacent landowners. There are currently cedar trees along the easterly side lot line that add screening from neighbouring properties.

Based on the considerations noted above, Planning Staff are of the opinion that the variances being requested are minor. However, to further ensure that any impact on adjacent property owners in way of sightlines and personal enjoyment is minimized, the applicant has agreed to include enhanced landscaping and screening along the side and rear lot line - should this application be approved, a condition has been added to ensure that the landscaping be included as part of the project, to the satisfaction of the Planner on file.

Considering the aforementioned, Planning Staff are of the opinion that the variances being requested are minor in nature, maintain the intent of the Zoning By-law, are desirable for the development of the subject lands and conform to the Official Plan. As such, Planning Staff offer no objection to the approval of this application.

Recommendation:

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

1. That the gazebo shall be located and constructed in accordance with the site plan and building elevations, prepared by Betz Pools, date stamped by Town Zoning on November 30, 2023.
2. That a building permit application be obtained within two (2) years from the date of this decision.
3. That prior to building permit issuance, the applicant provide a landscape plan, to the satisfaction of the Planner, that includes enhanced screening along the side and rear lot lines.
4. 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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January 18, 2023