



Memorandum to Committee of Adjustment Members

Minor Variance Application: A24-001M - 35 Hugh Street

General Description of Application:

Under Section 45(2) of the *Planning Act*, the following has been requested to:

- Allow an expansion of a Legal Non-Conforming Use, being an office use within the Residential Low Density I (RLD1) Zone.

The subject property is known municipally as 35 Hugh Street and is legally described as Part of Lots 1 and 2, Block 11 on Foster Survey. The property is located at the south-east corner of Mary Street and Hugh Street. Surrounding land uses include low-density residential and commercial.

The applicant intends to expand the existing office use (accounting) on site by adding a one-storey addition to the existing structure. The existing detached garage is proposed to be removed and the parking area re-configured to accommodate the required parking spaces.

The existing office use is considered legal non-conforming as it existed before the date on which the current Zoning By-law took effect; as such, the current Zoning By-law provisions do not apply to the site and any expansion or alteration is considered through the Section 45 (2) (a) (i) of the Planning Act.

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

The subject property is designated as Central Business District (CBD) on Schedule B - Urban Land Use Plan and further designated as Low Density Residential Sub-Area on Schedule C - Central Business District Land Use Plan. Permitted uses within the Low Density Residential Sub-Area designation include a range of low-density housing types and local commercial uses (including office), subject to Section 3.2.3.6.

Section 5.8.3.4 sets out criteria that must be met when evaluating an application to expand a legal non-conforming use:

“In accordance with the provisions of the Planning Act, Council may amend a by-law passed under Section 34 to permit the extension or enlargement of any land, building or structure prohibited by the Zoning By-law provided the following requirements are met.

- (a) It is not possible to relocate such a use to a place where it will conform to the By-law;
- (b) The proposed extension or enlargement will not unduly aggravate the situation already created by the existence of the use and should, if possible, be designed to alleviate adverse effects of the use such as outside storage;

- (c) The abutting uses will be afforded reasonable protection by the provision of appropriate buffering and setbacks;
- (d) The proposed extension or enlargement should be in appropriate proportion to the size of the non-conforming use;
- (e) Adequate provision will be made for safe access and adequate off-street parking and loading facilities; and
- (f) All services, including private sewage disposal and water supply systems, shall be or can be made adequate.

Section 5.8.3.5: The Town shall not be obligated to grant permission to extend or enlarge a non-conforming use under any circumstances.”

With respect to the Official Plan policies above, Planning Staff are of the opinion that the expansion of the office use will not further aggravate an existing situation given it doesn't intensify a land-use compatibility conflict and the physical addition is sympathetic to the existing built form and residential neighbourhood. Further, the structure maintains adequate setbacks from shared lot lines and the applicant is committed to enhancing landscape features in an effort to minimize the impact of the expansion, particularly where the parking area is proposed. Finally, the lot is municipally serviced, provides adequate on-site parking for the proposed gross floor area, and the addition is in proportion to what currently exists.

It is Staff's opinion that the proposal is in conformity with the Town of Milton Official Plan, as amended, and further, meets the tests set-out in Section 5.8.3.4.

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. This zone permits a range of housing types (i.e. semi-detached and single detached), along with accessory uses.

Given that the office use was established prior to the date that the current Zoning By-law took effect, the permission is considered a legal non-conforming use. Section 4.15 of the Zoning By-law speaks to Legal Non-Conforming Uses and notes that:

“No land, building or structure shall be used except in conformity with the provisions of the By-law unless such use legally existed prior to the date of passing of this By-law and provided that it continues to be used uninterrupted for such purpose, and that such use, when originally established, was not contrary to a By-law passed under Section 34 of the Planning Act, R.S.O 1990, cP. 13 or a predecessor thereof that was in force at that time.”

Based on records, Planning Staff are satisfied that the use was existing prior to the date Urban Zoning By-law 016-2014, as amended, took effect.

Consultation

Public Consultation

Notice for the hearing was provided pursuant to the *Planning Act* on, February 07, 2024. As of the writing of this report on, February 14, 2024, staff have received correspondence from one member of the public. The individual requested additional information on the

application and what constitutes a legal non-conforming use, along with requests that there be no negative drainage impacts.

Agency Consultation

No objections were filed with respect to the variance application from Town staff or external agencies.

The structure is a listed property on the Town's Heritage Register. As such, the Town's Heritage Planner reviewed the proposal at time of Site Plan Approval and offered no objection to the addition.

Similarly, Development Engineering was satisfied at time of Site Plan Approval with the Grading Plan and Stormwater Management Plan.

Planning and Development Department Comments:

The subject lands currently contain a single detached dwelling that is used as an accounting office and a detached garage (to be removed). The owner is seeking to expand their operations by providing additional office space, along with a dedicated parking area. A one-storey addition is proposed with a gross floor area of 59.1 square metres.

Planning Staff have evaluated the proposal through Section 45(2) (a) (i) of the Planning Act, in tandem with Section 5.8.3.4 of the Town's Official Plan, and offer no objection to the proposal. The proposed addition is sympathetic to the existing built-form of the heritage structure and surrounding residential area. Further, being as the addition is proposed to be a single-storey, the impact on adjacent lands so far as sightline is minimized.

The re-configuration of the parking area provides functional and safe parking for employees and clients while also adding enhanced landscaping along lot lines shared with adjacent residential properties in an effort to minimize disruption and sustain privacy. No tree removal is required to facilitate this proposal.

The addition is not expected to unduly aggravate the existing situation or create further impacts beyond what currently exists today.

Based on the aforementioned, Planning Staff are of the opinion that the proposal is consistent with the direction of Section 45(2) of the Planning Act and therefore offer no objection to the proposal.

Recommendation:

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

1. That a building permit application be obtained within two (2) years from the date of this decision.
2. 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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