



Memorandum to Committee of Adjustment Members

Minor Variance Application: A23-120M 959 Cherry Court

General Description of Application:

Under Section 45(1) of the *Planning Act*, the following minor variance to Zoning By-law 016-2014, as amended, has been requested to permit a secondary dwelling unit:

- To allow the width of the residential driveway to be 2.55 metres, a difference of - 0.2 metres per parking space.

The subject property is known municipally as 959 Cherry Court and is located on the south corner of Cherry Court. The subject property contains a single-detached dwelling with an attached two-car garage. Surrounding uses are residential and is primarily comprised of single-detached dwellings.

The applicant is proposing to construct a basement accessory apartment. In order to permit the basement apartment, the Zoning By-law requires a minimum of three parking spaces. The applicant is proposing to provide one parking space in the garage and two parking spaces on the driveway.

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

Within the Official Plan, the subject property is designated Residential Area. This designation establishes that the primary use of land shall be a mix of low, medium and high density residential development. A variety of medium and high density residential uses are permitted. Second Residential Units are permitted, subject to the following criteria as set out in Section 3.2.3.9:

- a) the use shall be located in an existing single detached, semi-detached, row houses, and in accessory structures where adequate municipal piped water and wastewater services are available and connected;
- b) the site is accessible to public transit;
- c) there will be no significant changes to the external character of the building or property;
- d) 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 are satisfied; and
- e) the existing dwelling is not within the Regulatory Flood Plain.

It is Staff's opinion that the proposal is in conformity with the Town of Milton Official Plan. The proposed accessory dwelling unit is located within an existing single detached dwelling on full municipal services. The subject lands are located in close proximity to

municipal transit and no significant changes to the external character of the building or property are being proposed.

Zoning:

The subject lands are zoned Site Specific Residential Medium Density 1 (RMD1*264) under the Town of Milton Zoning By-law 016-2014, as amended. The RMD1*264 zone permits a variety of residential uses, including detached and townhouse dwellings. The by-law permits Accessory Dwelling Units in single detached dwellings or semi-link dwellings, under Section 4.10, subject to the following criteria:

- 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 m².

Zoning staff have confirmed that, with the exception of provision ii), the above noted criteria has been satisfied.

Section 5.6.2 i) of the Zoning By-law states that the minimum size of a required parking space on a residential driveway is 2.75 metres wide and 5.5 metres in length. The applicant is requesting permission to allow a minimum size of a parking space on a residential driveway to be a width of 2.55 metres, a difference of -0.2 metres per parking space, to facilitate the proposal.

Consultation

Public Consultation

Notice for the hearing was provided pursuant to the *Planning Act* on January 10, 2024. As of the writing of this report on January 17, 2024, 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. It's noted that a building permit must be received prior to commencing construction of the accessory dwelling unit.

The Town's Fire & Rescue Services has no objection but did note that the setbacks along the side of the residence are not wide enough to accommodate Emergency Responders during an event at the secondary unit. Planning staff acknowledge the comment however, at this time there is no provisions in the Town's Zoning By-law that require specific setbacks or minimum requirements.

Planning staff are currently working on updating the Town's Zoning By-law to include Accessory Residential Unit provisions and will work with Fire & Rescue Services to ensure they are satisfied.

Planning and Development Department Comments:

The applicant has requested a minor variance to facilitate the construction of an accessory apartment in the basement of an existing single detached dwelling, at the above-noted address. In order for a permit to be issued to construct an accessory apartment, all relevant zoning by-law provisions must be met, including the provision of one parking space, in addition to the two parking spaces required for the primary dwelling unit.

The applicant is requesting permission to reduce the size of a parking size by - 0.2 metres for both of the parking spaces in the driveway, in order to accommodate three required parking spaces.

The minimum parking space size requirement in the zoning by-law ensures that adequate space is available for vehicles to park, and be functional for access. The driveway is proposed to remain in its current state, in which the owner has demonstrated the ability to adequately park two vehicles. And, despite being deficient in the minimum width required by the zoning by-law, the driveway is currently being used to park two vehicles.

It should also be noted that the accessory apartment will be accessed through an entrance in the side yard and the external character of the single-detached dwelling will not be negatively impacted.

Planning Staff have reviewed the request to reduce the size of the parking space and offer no objection to the proposed variance approval. In regards to the proposed driveway reduction, the owner has provided photographs that demonstrate the vehicles can adequately park wholly on the existing driveway and access to the interior of the vehicles can be achieved.

As such, the proposed development is appropriate for the efficient use of the land by providing an accessory dwelling unit which contributes to housing affordability, will not result in overbuilding of the property, will not impact the personal enjoyment of the lands or any neighboring property and will not be of detrimental impact to the lands, the street or surrounding area.

Recommendation:

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

1. That the secondary dwelling unit shall be located and constructed in accordance with the site plan and building elevations, prepared by Blue Prints Permit date stamped by Town Zoning on December 8, 2023.
2. That a building permit application be obtained 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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