



Memorandum to Committee of Adjustment Members

Minor Variance Application: A24-011M 1860 Thompson Road South

General Description of Application:

Under Section 45(2) (a) (i) of the *Planning Act*, the following expansion of a legal non-conforming use has been requested:

- To allow the continuation and expansion of a Private Club.

The subject property is known municipally as 1860 Thompson Road South and is generally located south of the intersection of Thompson Road South and Britannia Road. The subject property contains a Private Club (Croatian Club Karlovac) which consists of a hall/event space, soccer fields, a play ground and accessory structures.

The applicant intends to expand the legal non-conforming use site by proposing to demolish and re-build an existing accessory structure with a slightly larger footprint. Therefore, permission of the Committee of Adjustment must be granted prior to Building Permit issuance.

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

The subject property is designated as Agriculture on Schedule A - Rural Land Use Plan within the Town of Milton Official Plan.

The property is also subject to the Greenbelt Natural Heritage System, as identified on Schedule 1.

The objective of the Greenbelt NHS overlay policies seek to protect Key Features - however, the overlay does permit existing uses and accessory structures, provided that the impact on the natural environment will be minimal.

Based on intent of the Greenbelt NHS policies, it is Staff's opinion that the proposal is in conformity with the Town of Milton Official Plan in regard. The proposed development is a replacement of what currently exists and will have minimal impact on the natural environment.

With respect to the legal non-conforming use, Section 5.8.3.5 sets out criteria that must be met when evaluating an application to expand such uses:

“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.

With respect to the Official Plan policies above, Planning Staff are of the opinion that the expansion of the legal non-conforming use will not further aggravate an existing situation given it doesn't intensify a land-use compatibility conflict and simply replaces the existing structure.

Based on the above-noted policy analysis, Planning Staff are of the opinion that the proposal is in conformity with the Official Plan.

Zoning

The subject property is zoned Agriculture (A1) under Comprehensive Rural Zoning By-law 144-2003, as amended. The general A1 Zone permits agricultural operations and single detached dwellings, located on existing lots.

The existing accessory structure is considered legal non-conforming as the 'Private Club' use existed before the date on which the current Zoning By-law took effect. 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 Building Permit 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 March 14, 2024. As of the writing of this report on March 20th, 2024, staff have not received any comments from members of the public

Agency Comments

Town departments provided no objections; however, one objection was received from Halton Region.

Halton Region identified concerns with the proposal as it relates to the proposed garage's proximity to an adjacent Key Feature (Candidate Significant Woodlands).

Town Planning Staff have reviewed the Region's comments and acknowledge their concerns. However, it is Town Planning Staff's professional opinion that the proposed development meets the intent of Halton Region's policies and that the impact of the proposed structure, on the adjacent Key Feature, is minimal. The proposal seeks to replace an existing structure (an already disturbed/developed area) and the proposed expansion is projected away from the Key Feature which would not further aggravate an existing situation. The proposed structure is to be located in the most efficient and logical location on the lands; no tree removal is required.

With respect to the Region's hydrogeological concerns, Planning Staff have confirmed that the proposed structure will not increase the number of outlets from what currently exists and the structure will not have kitchen or washroom facilities.

The lands are regulated by Conservation Halton from which no concerns were raised. A Conservation Halton Permit will be required prior to Building Permit issuance.

Planning and Development Department Comments:

The applicant has requested to expand the legal non-conforming use on the site to permit the demolition and re-construction of an existing accessory structure. The accessory structure will be used for storage and as a gathering area during seasonal events.

Based on the direction of the Official Plan with respect to Legal Non-Conforming uses, Planning Staff have no objection to this application. The Private Club use is established on the lands and the request to continue/expand it will have no impact on the subject property - or those adjacent - beyond what currently exists. Further, the use of the accessory structure itself will not change from its current function.

While Planning Staff acknowledge Halton Region's concerns, the Key Feature will not be impacted based on the structure's current location and no hydrogeological impacts are anticipated given that there are no washroom or kitchen facilities proposed within the structure.

Therefore, Planning Staff have evaluated the proposal through Section 45(2) (a) (i) of the Planning Act, in tandem with Section 5.8.3.5 of the Town's Official Plan, and offer no objection to the proposal as it is consistent with Provincial and Local policies.

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.

Rachel Suffern

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