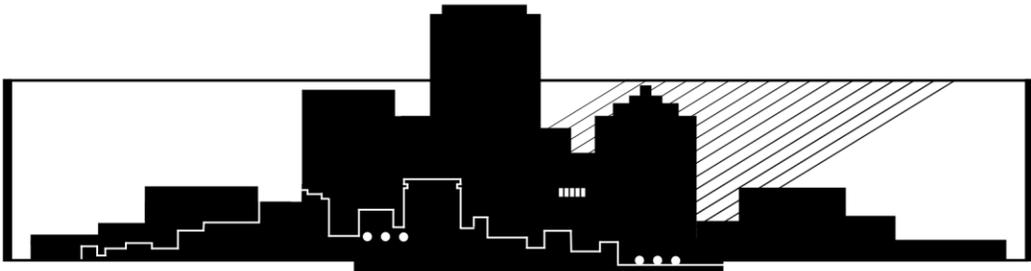


**Addendum No. 1
Hearing No. 4 at 304 Delaware Avenue
File No. A-045/2021**

**Committee of Adjustment
Virtual Meeting
October 20, 2021
5:30 pm**

AGENDA



Site Planning Comments

Site Planning

The subject property is located on the west side of Delaware Avenue, south of First Street and north of Lakeshore Road. The applicant is proposing to recognize the partially constructed two-storey, 69.6m² accessory building. The following variances are required to facilitate the proposed development:

1. To permit a rear yard setback of 0.4m instead of the minimum required 1.2m for the proposed two-storey, 69.6m² accessory building.
2. To permit a north west side yard setback of 1m instead of the minimum required 1.2m for the proposed two-storey, 69.6m² accessory building.
3. To permit a north west side yard roof overhang encroachment of 0.6m instead of the maximum permitted 0.5m for the proposed two-storey, 69.6m² accessory building.
4. To permit a total floor area of 69.6m² instead of the maximum permitted 50m² for the proposed two-storey, 69.6m² accessory building.
5. To permit a two-storey accessory building instead of the maximum permitted one-storey for the proposed two-storey, 69.6 m² accessory building.
6. To permit a height of 6.2m instead of the maximum permitted 4.6m for the proposed two-storey, 69.6m² accessory building.

The applicant has advised that the new two-storey accessory building is being constructed on the same foundation, to the same size, height and in the same location as a previously existing accessory building. However, the Community Planning Department does not have any record of approvals for the original accessory building in the defined location and were unable to locate assessment information to formally confirm the existence of an existing accessory building on this property. As such, the proposed accessory building is assessed as new development and required to comply with the zoning regulations that are in force within Zoning By-law 2020.

1) Official Plan Designation:

Does the proposed minor variance from the Zoning By-law maintain the general intent and purpose of the Official Plan?

Yes - Variance #2 and #3

No – Variances #1 and #4 - #6

The subject property is designated as “Residential – Low Density” under the City’s Official Plan (OP). This designation permits single detached dwellings to a maximum

density of 25 units per net hectare given that development is compatible with the scale, urban design and community features of the neighbourhood. Part III, Section 2.2.1 g) of the City's Official Plan requires new residential development to be compatible with surrounding properties. Additionally, Part II, Section 6.5 a) of the Official Plan provides that the density, form, bulk, height, setbacks, spacing and materials of development are to be compatible with its surrounding area.

In addition to the Official Plan 1997, as of December 22, 2020 the City's new Official Plan is to be consulted for information only, as it is not yet in full force and effect. Development applications continue to be subject to the policies outlined in the Official Plan 1997, with policies from the Official Plan 2020 providing guidance and more current expectations from Council on development throughout the City. Under the new Official Plan 2020, the subject property is also designated low-density residential which maintains consistent policies as the current Official Plan 1997.

Although the Official Plan does not include any specific policies that apply to accessory buildings or structures, the Plan requires new residential development to be compatible with surrounding properties. The *Design Guidelines for Detached Garages* may be referred to with regards to the appropriateness of the built form. According to these guidelines, detached garages on residential lots are to be subordinate in scale and size to the dwelling; complement the architectural character of the principal residence; be compatible with the neighbourhood character; maintain the quality and continuity of the streetscape; relate to a use which is accessory to the principal residence; not compromise the livability and quality of amenity space on the lot; and not be obtrusive to abutting properties.

Staff have reviewed the materials submitted in support of the subject application and have concerns regarding the overall size and height of the proposed accessory building, particularly as it relates to impacts to the site, adjacent properties and to the neighbourhood character. While the building is smaller in size than the principal dwelling, staff has concerns that the upper level massing still challenges the one-storey dwelling's prominence on this property. Staff notes that detached accessory buildings of the size and height proposed are not a common architectural feature or building form in the surrounding area. In this case, staff is of the opinion that that the proposed accessory building does not demonstrate architectural compatibility or building size consistency with properties in the surrounding area. The size and height of the accessory building is such that overall compatibility is compromised and rear yard open space is negatively impacted. Staff also notes that the rear wall of the accessory building comes unusually close to the rear property line. Outside access is somewhat constrained and given the proposed height and size of the building, the spatial relationship with the adjoining lot is compromised as a result. Staff recommend that this new structure be designed to more closely reflect the design objectives as set out in the Official Plan.

With respect to the proposed west side yard setback and overhang encroachment (assessed independently), staff does not anticipate adverse impacts to the subject property or to the rear yard of adjacent properties. The proposed west side yard setback and overhang encroachment do not come unusually close to the west

property line, and adequate spatial separation is provided between lots, and outside access for maintenance purposes is maintained.

2) Zoning By-law Designation:

Does the proposed minor variance from the Zoning By-law maintain the general intent and purpose of the Zoning By-law?

Variance #1

No

By-law 2020 establishes a rear yard setback for accessory buildings to ensure a suitable spatial separation to any adjoining rear yard and also to require space for passage around the building for maintenance purposes. Staff notes that the proposed rear yard setback results in the accessory building coming unusually close to the rear property line where outside access is somewhat constrained as a result. In addition, the height and size of the accessory building do not comply with the zoning by-law further impacting the spatial relationship with the adjoining lot. As such, staff is of the opinion that the intent of the Zoning By-law will not be met.

Variance #2 and #3

Yes

The applicant is requesting a west side yard setback of 1m instead of the 1.2m permitted. The intent of the side yard setback regulation is to ensure consistent and appropriate separation between structures on adjacent lots. In this case, staff is of the opinion that sufficient spatial separation is maintained between lots, and the proposed development is not anticipated to impact outside access to the rear yard of the subject property.

The applicant also requires a variance to permit a west side yard roof overhang of encroachment of 0.6 m instead of the maximum permitted 0.5 m for a proposed overhang. The intent of this regulation is to avoid these features coming unusually close to common lot lines and adjacent properties, where they could interfere with the use of that adjacent site. This also provides for on-site access for maintenance purposes. The proposed overhang would project 0.1m (10 cm) over the maximum permitted amount. In this case, staff is of the opinion that the proposed overhang would pose no issue and would not appear out of keeping with surrounding built form.

Given the above, and when assessed independently, staff is of the opinion that variances #2 and #3 maintain the general intent and purpose of the City's Zoning By-Law.

Variances #4 -#6

No

To ensure that accessory buildings remain subordinate and accessory to the dwelling on a subject property, the Zoning By-law regulates the maximum height, floor area, and number of storeys. The size limit also controls the visual impact of massing to adjacent properties. These limits strive to ensure that an accessory building remains secondary in appearance to the primary residential structure. In

this case, the upper level massing of the proposed accessory building would generate an adverse impact to adjacent properties and challenge the one-storey residential structure for on-site prominence.

The compatibility of accessory structures is managed by way of siting and limits on overall massing (height and floor area) to ensure that these types of structures remain compatible and subordinate to dwellings in the surrounding area. In this case, the proposed height and floor area (overall massing) exceed that which can be reasonably accommodated within this zoning designation. While the proposed accessory building is smaller than the principle dwelling, the differential is considered to be insufficient to avoid impacts to the site, adjacent properties and the neighbourhood character overall. With a reconstruction, it is anticipated that the accessory building would be designed to comply with zoning requirements or where it is appropriate to do so, meet the intent of these regulations. Staff are not satisfied that this has occurred in this case.

As such, the requested variances do not meet the general intent and purpose of the Zoning By-law.

3) Desirability:

Is the proposed minor variance from the Zoning By-law desirable for the appropriate development or use of the land, building or structure?

Yes - Variance #2 and #3

No – Variances #1 and #4-#6

Staff is of the opinion that variances #2 and #3 are desirable to accommodate a new accessory building in the rear yard. Assessed independently, adverse impacts to the site, adjacent properties or surrounding neighbourhood are not anticipated.

Staff is of the opinion that variances #1 and #4 to #6 do not facilitate development that is deemed compatible with site development, adjacent properties or surrounding neighbourhood. As such, siting the accessory building unusually close to the rear lot line and increasing the size and height of the building facilitates a built form that is deemed to be incompatible with the surrounding neighbourhood. The requested variances are not considered desirable to allow for the integration of this proposed structure within the neighbourhood.

4) Minor in Nature:

Is the proposed minor variance from the Zoning By-law considered minor in nature?

Yes - Variance #2 and #3

No – Variances #1 and #4-#6

Staff is of the opinion that variances #2 and #3 represents a minor deviation from the zoning regulations and is satisfied that relief of such will not negatively impact the functionality or compatibility with the surrounding properties.

Staff is of the opinion that variances #1 and #4 to #6 are not considered minor in nature as the proposed development proposes a building siting and size (overall massing) that is incompatible with the site and surrounding neighbourhood.

Cumulative Effects of Multiple Variances and Other Planning Matters:

The cumulative impact of variances #1, #4 to #6 would facilitate an incompatible development with adverse impacts to the site, adjacent properties and surrounding neighbourhood.

Recommendation:

Staff has reviewed the proposed variances in accordance with the Planning Act, the policies of the Official Plan and the requirements of the Zoning By-law and has no objection to variances # 2 and #3, but objects to variances #1, #4, #5 and #6.

Date: October 15, 2021

Prepared By: Andreas Houlios MCIP RPP