

City of Mississauga Department Comments

Date Finalized: 2024-01-10	File(s): A298.23 Ward: 1
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date:2024-01-18 1:00:00 PM

Consolidated Recommendation

The City has no objections to variances #1, #3-6 and #8, as amended, however recommend variances #2 and #7 be refused.

Application Details

The applicant requests the Committee to approve a minor variance to allow an accessory structure proposing:

1. A detached ARU with a height of 2 storeys whereas By-law 0225-2007, as amended, permits a detached ARU with a height of 1 storey in this instance;
2. An accessory structure area of 25.30sq m (approx. 272.33sq ft) whereas By-law 0225-2007, as amended, permits a maximum accessory structure area of 10.00sq m (approx. 107.64sq ft) in this instance;
3. A garden suite height of 6.24m (approx. 20.47ft) whereas By-law 0225-2007, as amended, permits a garden suite height of 4.60m (approx. 15.09ft) in this instance;
4. A garden suite with a floor area of 88.69 sq.m (approx. 954.65sq.ft) whereas By-law 0225-2007, as amended, permits a garden suite with a floor area of 70.78 sq.m (approx. 761.86sq.ft) in this instance;
5. An accessory dwelling unit outside the main dwelling whereas By-law 0225-2007, as amended, does not permit an accessory dwelling unit outside the main dwelling in this instance;
6. An interior side yard setback of 1.76m (approx. 5.77ft) for a garden suite whereas By-law 0225-2007, as amended, requires an interior side yard setback of 1.80m (approx. 5.90ft) for a garden suite in this instance;
7. A rear yard setback of 0.94m (approx. 3.08ft) for a garden suite whereas By-law 0225-2007, as amended, requires a rear yard setback of 1.80m (approx. 5.90ft) for a garden suite in this instance;
8. A garden suite including a porch with an area of 76.63 sq.m (approx. 824.83 sq.ft) whereas By-law 0225-2007, as amended, permits a garden suite including a porch with an area of 10 sq.m (approx. 107.63sq.ft) in this instance;
9. A shed height of 5.61m (approx. 18.41ft) whereas By-law 0225-2007, as amended, permits a maximum shed height of 3.00m (approx. 9.84ft) in this instance;

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10. A garden suite with a porch and shed with a combined area of 102.01 sq.m (approx. 1098.02 sq.ft) whereas By-law 0225-2007, as amended, permits a garden suite with a porch and shed with a combined area of 30 sq.m (approx. 322.91 sq.ft) in this instance.

11. A driveway width of 8.54m (approx. 28.01ft) whereas By-law 0225-2007, as amended, permits a driveway width of 6.0m (approx. 19.68ft) in this instance; and,

12. A maximum permitted height of 6.24m (approx. 20.47ft) to the highest point of the accessory structure whereas By-law 0225-2007, as amended, permits a maximum permitted height of 3.0m (approx. 9.84ft) to the highest point of the accessory structure in this instance.

Amendments

The Building Department is processing Building Permit application BP 9NEW 23-5560. Based on review of the information available in this application, Zoning staff advise that following amendment(s) is/are required to address By-Law 0174-2023; which amended By-law Number 0225-2007,:

1. A detached ARU with a height of 2 storeys whereas By-law 0225-2007, as amended, permits a detached ARU with a height of 1 storey in this instance;

2. An accessory structure area of 25.30sq m (approx. 272.33sq ft) whereas By-law 0225-2007, as amended, permits a maximum accessory structure area of 10.00sq m (approx. 107.64sq ft) in this instance;

3. A detached ARU height of 6.24m (approx. 20.47ft) whereas By-law 0225-2007, as amended, permits a detached ARU height of 4.60m (approx. 15.09ft) in this instance;

4. A detached ARU with a floor area of 88.69 sq.m (approx. 954.65sq.ft) whereas By-law 0225-2007, as amended, permits a detached ARU with a floor area of 70.78 sq.m (approx. 761.86sq.ft) in this instance;

5. An interior side yard setback of 1.76m (approx. 5.77ft) for a detached ARU whereas By-law 0225-2007, as amended, requires an interior side yard setback of 1.80m (approx. 5.90ft) for a detached ARU in this instance;

6. A rear yard setback of 0.94m (approx. 3.08ft) for a detached ARU whereas By-law 0225-2007, as amended, requires a rear yard setback of 1.80m (approx. 5.90ft) for a detached ARU in this instance;

7. An accessory structure height of 5.61m (approx. 18.41ft) whereas By-law 0225-2007, as amended, permits a maximum accessory structure of 3.00m (approx. 9.84ft) in this instance; and,

8. A driveway width of 8.54m (approx. 28.01ft) whereas By-law 0225-2007, as amended, permits a driveway width of 6.0m (approx. 19.68ft) in this instance;

Background

Property Address: 1515 Applewood Road

Mississauga Official Plan

Character Area: Lakeview Neighbourhood
Designation: Residential Low Density I

Zoning By-law 0225-2007

Zoning: R3-75- Residential

Other Applications: Building Permit File BP 9NEW-23/5560.

Site and Area Context

The subject property is located within the Lakeview Neighbourhood Character Area, southeast of the Haig Boulevard and South Service Road intersection. The neighbourhood is primarily residential, consisting of one and two-storey detached dwellings on lots with mature vegetation in the front yards. The subject property contains a one-storey detached dwelling with mature vegetation in the front yard.

The applicant is proposing an accessory structure and a detached additional residential unit (ARU) requiring variances for building heights, areas, setbacks, and driveway width.



Comments

Planning

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. Approval of applications must meet the requirements set out under 45(1) and/or 45(2) (a) or (b) in the *Planning Act*.

Staff comments concerning the application of the four tests to this minor variance request are as follows:

City Council passed By-Law 0174-2023, on November 10, 2023, amending the City's parent zoning By-Law 0225-2007, to introduce and regulate Accessory Residential Units (ARU).

This application was previously deferred on August 24, 2023 to allow the applicant an opportunity to redesign the proposed ARU and to address staff concerns regarding its height and area. Further, staff had raised concerns regarding the proposed 2-car garage on the first storey of the proposed ARU. Concerns were also noted with the existing accessory structure's massing impacts due to its height and area.

The applicant has worked with staff to revise the proposed ARU to address concerns raised during the first submission. Discussions between the applicant and staff were held prior to the passing of the new by-law regulating ARUs. Furthermore, the application was revised prior to the passing of the new by-law.

Staff note that the applicant has redesigned the ARU, revising the ARU area, reducing the height of the ARU from 8.16m (26.77ft) to 6.24m (20.47ft), thereby eliminating variances to permit 2 garages, an increase in the ARU's eaves height, and to permit a deck and balcony.

No changes have been made to the variance requests for the existing two-storey shed or rear yard driveway.

Does the proposal maintain the general intent and purpose of the Official Plan?

The subject property is designated Residential Low Density I on Schedule 10 of the Mississauga Official Plan (MOP). This designation permits detached, semi-detached and duplex dwellings. Section 9 of MOP promotes development with appropriate urban form and site design, regulating that such development is compatible with the existing site conditions, the surrounding context, and the landscape of the character area. Bill 23, *More Homes Built Faster Act*, 2022, requires official plans and zoning by-laws to permit "as of right" small-scale residential uses of up to three units per lot in areas where municipal services are available.

The City is undertaking its ten year review and update of the Mississauga Official Plan (MOP). Amendments are proposed that will implement the Province's legislative requirements and prioritize providing a broader range of gentle infill housing options within low-rise residential neighbourhoods.

Planning staff are of the opinion that the proposed built form of the ARU is appropriate for the subject property and that it will not negatively impact the streetscape. Further, staff are satisfied that the proposal respects the designated and surrounding land uses. Therefore, planning staff are of the opinion that Variances #1, #3-6 and #8, pertaining to the ARU and the driveway, maintain the general intent and purpose of the official plan.

Section 16.18.1 of the MOP discourages large accessory structures and promotes minimal impact on adjacent neighbours with respect to overshadowing and overlook. The existing shed has a height of 5.61m (18.41ft) and an area of 25.30sq m (272.33sq ft), providing significant structural massing of an accessory structure that is 0.89m (2.11ft) off of the lot line resulting impacts such as overlook on the neighbouring property. It is also important to note that the structure not compatible with the character of the area as accessory structures are limited to one storey in height.

As such, staff are of the opinion that Variance #2 and 7, pertaining to the existing accessory structure (shed), do not meet the intent and purpose of the official plan.

Does the proposal maintain the general intent and purpose of the Zoning By-law?

Zoning staff advise that the requested variances must be amended to reflect new zoning by-law regulations for ARUs. As such, staff's review of the application is reflective of the variances as amended.

Variance #1 and #3 pertain to ARU height and the number of permissible storeys, respectively. Variance #4 pertains to ARU floor area. The intent of the zoning by-law provisions regarding the size of the ARU is to ensure that the structure is proportional to the lot and dwelling while not presenting any massing concerns to neighbouring lots.

Staff note that the ARU area regulations are based on a property's lot size. The proposed ARU floor area exceeds the maximum permissible floor area for an ARU by 17.91 m² (192.79 ft²). Staff note the significant modifications have been made to the original design of the ARU addressing staff's concerns regarding massing and height. Staff note the proposed ARU has been designed in a manner that conceals the second storey and its floor area within the roofline, minimizing its massing impact. Staff also note that this application was filed prior to the ARU regulations coming into force and effect. Staff are satisfied the revised height and area of the proposed ARU is proportional to the lot and respects the existing main dwelling's size.

Variances #5 and #6 are required for reduced interior side yard and rear yard setbacks. These variances are to accommodate the proposed ARU. The general intent of this portion of the by-law is to ensure that an adequate buffer exists between the massing of structures on adjoining properties, and that maintenance can be performed on the structures. Staff note the proposed decrease in the interior side yard setback is 0.04m (0.13ft) which represents an exceedingly minor deviation from the by-law requirement. Staff are of the opinion that the positioning of the dwelling allows for long term access and maintenance of the structure thereby providing an adequate buffer between the structures.

Variance #8 requests an increase in driveway width. The intent of the zoning regulations regarding driveway width is to allow a driveway width large enough to accommodate the parking requirements of the dwelling, with the remainder of the lands being used as soft landscaping. Staff note that the portion of the driveway that requires the variance is located in the rear yard of the property to provide access to the proposed ARU. This is made possible as the existing garage has a garage door in its front and rear facade. The portion of the driveway that provides direct access to the main dwelling from the street is 4.95m (16.2ft) wide and does not require a variance.

Staff note that the majority of the driveway in the rear yard measures 6.27m (20.6ft) wide, with only a small portion measuring 8.54m (28ft). While the zoning by-law does not regulate soft landscaping in the rear yard, the by-law regulates minimum soft landscaping in the yard containing the driveway, which in this case, is the rear yard. Staff note that while significant hardscaping is proposed in the rear yard in the form of the driveway, no variance is required for minimum landscaped soft area in the yard containing the driveway. Staff are of the opinion that in providing access and facilitating parking for a permitted additional unit, the applicant's request meets the intent of the zoning by-law, however, note that access and function issues may arise due to the unique driveway configuration proposed.

Given the above, staff are satisfied that variances #1, #3-6 and #8, as amended, meet the general intent and purpose of the zoning by-law.

Variances #2 and #7 pertain to the existing accessory structure (shed). Planning staff note that no changes have been made to these variances since the last submission. Staff remain of the opinion that shed's height and areas present a structure that is not proportional to the lot or dwelling and negatively impacts adjacent properties from a massing perspective. As such, staff comments remain the same that these variances do not meet the general intent and purpose of the zoning by-law.

Is the proposal desirable for the appropriate development of the subject lands and minor in nature?

Staff are of the opinion that the proposed ARU and the associated variances #1, #3-6 and #8 represent appropriate development of the lands and modest intensification. Staff are satisfied that these variances respect the surrounding context and that the impacts of the requested variances are minor and will not cause undue impacts on adjacent properties.

However, staff are of the opinion that the existing shed does not represent appropriate or desirable development of the subject lands and that variances #2 and #7 are not minor in nature.

Comments Prepared by: Shivani Chopra, Planner in Training

Appendices

Appendix 1 – Transportation and Works Comments

We are noting for Committee's information that any Transportation and Works Department concerns/requirements for the proposed accessory structure and detached garage are being addressed by our Development Construction Section through the Building Permit process, File BP 9NEW-23/5560.

Comments Prepared by: John Salvino, Development Engineering Technologist

Appendix 2 – Zoning Comments

The Building Department is processing Building Permit application BP 9NEW 23-5560. Based on review of the information available in this application, we advise that following amendment(s) is/are required to address By-Law 0174-2023; which amended By-law Number 0225-2007,:

1. A detached ARU with a height of 2 storeys whereas By-law 0225-2007, as amended, permits a detached ARU with a height of 1 storey in this instance;
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8. A driveway width of 8.54m (approx. 28.01ft) whereas By-law 0225-2007, as amended, permits a driveway width of 6.0m (approx. 19.68ft) in this instance;

Please note that comments reflect those provided through the above application. These comments may no longer be valid should there be changes contained within this Committee of Adjustment application that have not been submitted and reviewed through the application

noted above. The applicant must submit any changes and/or updates to information and/or drawings separately through the above application in order to receive updated comments.

Comments Prepared by: Gary Gagnier; Zoning Examiner

Appendix 3 – Region of Peel

Please apply previous comments.

Comments Prepared by: Ayooluwa Ayoola, Junior Planner