



Staff Report PL2020-032

Title of Report: PL2020-032-A3-20- Luciano Serafini
Department: Clerks
Branch: Planning Services
Committee Date: August 26, 2020

Recommendation:

Be it resolved that the Committee of Adjustment receive Staff Report PL2020-032 for information; and

That the minor variances be approved.

- 1. That** a survey be provided; and
- 2. That** all outstanding taxes, fees and charges are paid, if any.

Property Location: 7 Wilson Crescent in Dundalk



Application Brief:

Mr Serafini would like to enlarge his deck. He plans to build approximately a 3.61m (11.8ft) X 12.7m (41.66ft) new deck. The area of this new deck would be 45.85m² (491.59ft²). The issue is that with a deck this large, relief is required from both the rear yard setback and the total lot coverage.

The current rear yard setback in the by-law is 7.6m (24.9ft) and the proposal would reduce that setback by 3.16m(10.3ft) to 4.44m (14.5ft). Similarly, the total lot coverage is 35% and the addition of the deck would increase that lot coverage by 11% to approximately 46%.

Background:

To obtain a building permit to build the deck, a variance to the by-law provisions is required. Applications for a variance to the Zoning By-law must be consistent with the Provincial Policy Statement and satisfy Section 45 (1) of the Planning Act.

Provincial Policy Statement (PPS)

The PPS provides guidance for comprehensive planning decisions at the Provincial, County and local levels but does not address specific development provisions at the local level. The intent of the PPS as it applies to the Township of Southgate is to encourage growth and development that is suitable to the area. The proposed minor variance will create a situation where the deck will be larger than others in the area and a back yard that is smaller than others.

The PPS does not speak directly to variances and decks for residential uses. As long as a deck is a permitted use and does not create a safety hazard or is constructed in a Hazard area, it can be broadly interpreted that the proposed variance is consistent with the Provincial Policy Statement. The details of the use are further refined in the by-law which will be examined further in this report.

Minor Variance

For a successful variance, the following four tests of Section 45(1) of the Planning Act must all be satisfied:

1. The variance must be minor in nature

The subject lands are approximately 549m² (6000 ft²) in lot area with 18.3m (60ft) of frontage along Wilson Crescent in the former Village of Dundalk. The property is currently developed with a House. The purpose of the variance request is to allow for a deck that is 3.6m (11.7ft) X 12.7m (41.66m) to be constructed within the rear yard setback and to increase the total lot coverage from 35% to 46%. The addition of a deck to a home can usually be considered minor in nature, however, if the deck that is constructed becomes too large or reduces the rear or side yard too much, then it will look out of place and actually become an eyesore to the neighbours. The key to assessing this proposal is to determine what is considered minor. In staff's opinion minor is relative to a situation or neighbourhood.

The proposed deck is approximately 24% of the ground floor area of the house and increases the lot coverage by approximately 11%. If we based our evaluation purely on size then the proposal might not be considered minor on its own. When we look at the lot coverages of other homes in the neighbourhood there are others that have increased lot coverages as a result of either decks, pools or sheds. This is largely because some of the houses are built to the maximum lot coverage for the R1 zone which is 35%. Based on the above and the fact that the variance for lot

coverage would be required for any size deck the variance for lot coverage is minor in nature.

Similarly with the rear yard setback there are other structures that appear to encroach on the rear yard setback for the R1 zone. The reduction of the rear yard setback by 9.5ft in staff's opinion is minor in nature, in this context, as it will be similar to some other lots in the neighbourhood and will still provide for a significant amount of amenity space for the home owner.

The proposal can be considered minor in nature. The proposal meets this test

2. It must be desirable for the appropriate development or use of the land, building or structure

There is no proposed change in use of the subject lands. It is proposed to be used for residential purposes. The construction of a deck on a residential property is an appropriate use and is considered a desirable accessory use.

The location and size of the deck are the issue in terms of appropriate development. Given that there are other properties in the neighbourhood with similar reduced setbacks and increased lot coverages the proposed variance is consistent with other development and therefore appropriate. The deck is in a rear yard and will no impact on the streetscape and character of the area from the road. The application is considered appropriate development on the subject lands.

3. It must maintain the general intent and purpose of the Official Plan

The subject lands are designated 'Neighbourhood Area' within the Township Official plan and Settlement Area within the County of Grey Official Plan. The intent of this designation is allow for a variety of residential uses including single detached dwellings and their accessory uses and structures.

The proposal would limit future development of the property and any new development would require further relief from the by-law for lot coverage. The Official Plan does not speak to the size or setbacks of primary or accessory structures within the neighbourhood area as this is addressed in the Township Zoning By-law. The proposal is a permitted use and therefore, the proposal for the subject lands is appropriate and meets the intent and purpose of the County of Grey and Township Official Plans.

4. It must maintain the general intent and purpose of the zoning by-law

The subject lands are zoned 'R1' Residential in the Township of Southgate Zoning By-law No. 19-2002, as amended. The R1 zone permits a single detached dwelling on a lot, as well as uses, buildings and structures accessory to a permitted residential use. Based on the site sketch provided, size of the lot and size of the house it would not be possible to build any deck without a variance to the by-law for lot coverage. Staff do not believe that it was the intent of the by-law to prohibit

a deck on the subject lands and for that reason some relief from the lot coverage is justified. Notwithstanding the lot coverage, the maximum depth of the deck could only be 7.67ft in order to meet with the current rear yard setback. Staff believe that a deck that is 12 ft deep is not unreasonable and therefore the requested relief is justifiable and in- keeping with other lots within the subdivision.

The intent of lot coverage in a by-law is provide sufficient amenity space as well as infiltration area for stormwater. A deck is an amenity space and therefore there would be no net loss of amenity space on the property. Also provided the entire understory of the deck is not concreted in, there is still open area for water to infiltrate the ground and accommodate stormwater. The proposed drawings shows that the deck is on piers which would indicate otherwise. The proposal therefore conforms to the intent of the lot coverage provision of the by-law

The intent of the rear yard setback is to provide sufficient amenity space on a lot for outdoor activities as well as separation from neighbours. The addition of a deck does not diminish the amount of amenity space on the lot. There is still a 14.5 ft rear yard setback from the rear yard fence. Given that an accessory structure can be placed 2m from the rear fence it 14.5ft is still an acceptable rear yard setback for this lot. Based on the above it is my opinion the proposal still meets the intent of the by-law to preserve amenity space and provide some separation from neighbouring properties.

Based on the above, in my opinion the proposed variance would maintain the general purpose and intent of the Zoning By-law.

Comments from Agencies and the Public

Building Department No concerns or objections with the application.

The County of Grey planning staff have no concerns with the subject application. The Historic Saugeen Metis have no objection to the proposed development. Township Public Works indicate a safe access can be provided, the area is within wellhead protection area "D". The is applicable to dense non aqueous phase liquids(DNAPL's) products. This is managed by education and outreach programs. Public works have no concerns with the application.

The Grand River Conservation Authority have no objection to the proposal.

No comments where received from the public as of the writing of this report.

SUMMARY

This application to vary Section 8.2(d) and 8.2(h) of the Comprehensive Zoning By-law to permit the erection of a deck that increases the overall lot coverage and rear yard setback **passes** the four tests of a minor variance as required by the *Planning Act*.

The planning department therefore recommends the variances to the by-law be approved, if no negative comments are received from the public.

Respectfully Submitted,

Municipal Planner: *Original Signed By*
Clinton Stredwick, BES, MCIP, RPP



CAO Approval: *Original Signed By*
Dave Milliner, CAO

Attachments: