

Staff Report PL2021-34

Title of Report: PL2021-34-A3-21 Billy Martins

Department: Planning Department

Date: April 28, 2021

Application: Minor Variance Application A3-21 – Billy Martins

Location: Plan 480 BLK Z Pt lot 4 and Pt Lot 5 (Geographic Village of Dundalk) in the Township of Southgate

Recommendation:

Be it resolved that the Committee approve Minor Variance Application A3-21 subject to the following conditions:

1. That the interior side yard setback is reduced to 0.75m; and
2. That all outstanding taxes, fees and charges are paid, if any.

Subject Property 111 Young Street West, Dundalk



Application Brief

The Variance is to vary the provisions of section 9.2(f) for a interior side yard setback from 1.5m to 0.75m. All other provisions of the bylaw shall apply.

The owner of the subject lands replaced the existing garage on the property without the benefit of a building permit. As a result, the new garage was made approximately 1ft wider and further reduces an already significantly reduced side yard setback. The required setback in the R2 zone is 1.5m the actual setback from the legal nonconforming garage was 1.05m. The new garage that has been constructed is now 0.75m from the lot line.

To the owner's credit, the pitch of the roof has been changed to slope to the rear of his lot rather than toward the side lot line and the neighbour's lot. Because of the oversight in enlarging the garage beyond what was previously existing a variance to the by-law is required before a building permit can be issued.

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 is to permit a reduction of a side yard setback from 1.5m to 0.75m. The proposed garage which is attached to a residence is within a settlement area which is in keeping with policies directing growth to settlement areas. The proposed variance is consistent with the Provincial Policy Statement.

Minor Variance

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

1. The variance must be minor in nature.

The replacement of a garage is a relatively minor issue as is the reduction of a side yard setback by 0.75m or 30cm (1ft) from the previously existing garage.

It is the opinion of staff that the proposal is minor in nature and meets this test.

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

The construction of an attached garage is appropriate and desirable for the area. Reduction of 1ft of setback from the previous garage that was torn down will be very difficult to see from the street.

The changing of the pitch of the garage is a benefit to the neighbour as the rain will now drain to the back of the lot instead of toward the side lot line. For this reason, the new construction would be more desirable. The proposal meets this test.

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

The subject lands are designated 'as Neighbourhood area' within the Township Official plan which permits residential development such as this.

The Official Plan generally requires that drainage be addressed so that it is not directed toward a neighbouring property. The altering of the pitch of the roof should have a significant impact on improving the drainage away from the neighbouring property.

The proposal is consistent with the intent of the Official Plan and meets this test.

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

The subject lands are zoned 'R2' within the Township of Southgate Zoning By-law No. 19-2002, as amended. The R2 zone permits an attached garage provided that it is setback a minimum of 1.5m from the lot line to allow for access and drainage.

The previous garage that existing pre-dated the bylaw and was only 1.05m from the property line making it a legal non conforming use. Had the owner stayed within that foot print the garage would have been able to continue without a variance to the by-law as it is permitted to repair existing structures.

The issue arises as a result of the increase in size by 1ft (30cm) making the side yard setback that is already reduced only 0.75m(2.46ft). In staff's opinion, the further reduction by 1ft will still allow for access to that side of the garage. It is not ideal as it is only about 30inches wide, but it is still possible. 30 inches is about the same width of many interior doors in homes.

The other reason for a setback is to limit the overshadowing or massing immediately next to a lot line. It is staff's opinion that there was a garage wall there before and this one is only slightly closer making very little difference in the view of the wall from the side.

In my opinion the proposal still meets the intent of the bylaw and passes this test.

The Bylaw section 5.1 e (ii) requires that accessory structures over 14m² to have a setback of 7m. This is to reduce their impact on neighbouring properties.

With the neighbouring property being commercial and the use of a fence or tree planting it is anticipated that the proposal will have a minimal visual impact on the Commercial property to the east. The reasoning for the setback reduction is to

allow the containers to be placed next to the existing shed so that at least one container is partially screened from view reducing the “massing” affect of the containers.

Comments from Public and Agencies

OPG has no concerns. We do not own any properties in the Township of Southgate.

The County of Grey has no concerns.

Historic Saugeen Metis have no concern with this application.

The Building Department has no concerns and indicates a building permit is required.

Summary

The comments received to date support the proposal and the application passes the four tests required by the Planning Act. Provided that there are no negative comments received from members of the public it is recommended that the minor variance application be approved.

Respectfully submitted,

Dept Approval: **Original Signed By**

Clinton Stredwick, BES MCIP RPP
Township Planner

CAO Approval: **Original Signed By**

Dave Milliner, CAO