

Subject: Planning Report – A03-22 – 114 Zina Street

Department: Infrastructure Services

Division: Planning

Meeting Date: 2022-03-02

Recommendations

That Planning Report – A03-22 – 114 Zina Street, be received;

And that Minor Variance Application (File No. A03-22) to increase the maximum permitted height of a fence in the front yard, from 0.9 metres to 1.9 metres in order to construct a wood privacy fence, be refused.

Introduction

Legal Description: Plan 237, Block 1, Lot 23

Municipal Address: 114 Zina Street

Applicant(s): Joseph Lauria

Official Plan Designation: Low Density Residential (Schedule 'C')

Zoning (By-law 22-90): Residential First Density (R1) Zone

Purpose: The applicant is requesting a minor variance to increase the maximum permitted height of a fence in the front yard from 0.9 metres to 1.9 metres in order to construct a wood privacy fence.

Background

The subject property is municipally known as 114 Zina Street and is located at the southeast corner of the intersection of Zina Street and Ada Street. The area surrounding the Zina Street and Ada Street intersection consists predominantly of low-rise detached dwellings. The location of the subject property is illustrated on Attachment No. 1.

The subject property is a corner lot of approximately 655 square-metres (7,000 sq.ft) in area, with a lot frontage of approximately 15.24 metres (50.0 ft.) on Zina Street and

exterior side yard flankage of approximately 43.2 metres (141.9 ft.) on Ada Street. A single-storey detached dwelling exists on the property. Although the lot frontage is technically on Zina Street, the dwelling physically faces Ada Street.

In June 2021, By-law Enforcement staff were advised of a complaint concerning a fence constructed in the front yard of the subject property, which encroached within the sight triangle and exceeded the maximum fence height permitted by the Zoning By-law. Compliance notices were issued to the property owner in July and September 2021 which confirmed the applicable Zoning By-law requirements and actions or the owner to pursue in order to obtain compliance with the By-law. This included either:

- i. modifying the existing fence to comply with the By-law requirements, including lowering its height throughout the front yard area and removing any encroachment within the sight triangle; or
- ii. submitting a minor variance application to the Committee of Adjustment to seek relief from any conflicting requirements of the Zoning By-law.

The owner has since made efforts to address the fence encroachment within the sight triangle by reconstructing the fence so it does not encroach within this feature of the Lot. However, the reconstructed fence still exceeds the maximum height permitted. It has been constructed to a height of 1.9 metres, whereas the maximum height permitted by the By-law for any fence constructed within the front yard is 0.9 metres.

In December 2021, the owner requested a pre-submission consultation meeting with staff to discuss a proposed minor variance application to permit the newly constructed fence. Staff advised of concerns with the requested variances being sought and recommended that the owner reconsider modifications to the fence in order to comply with the Zoning By-law. The owner has since filed this minor variance application, which seeks to increase the maximum permitted height of a fence in the front yard, from 0.9 metres (3.0 ft.) to 1.9 metres (6.2 ft). The submission indicates that the basis of this request is due to the orientation of the dwelling with its front-facing entrance and driveway access off Ada Street. The submission suggests that as a result of this orientation, the fencing constructed at the side of the dwelling on Zina Street (i.e. the front yard, as defined by the Zoning By-law) would provide suitable and safe amenity space for their children to play. A site plan illustrating the extent of the 1.9 metre-high fence in relation to the existing site layout is included in Attachment No. 2.

Should the Committee of Adjustment approve the requested variance, the existing fence will be permitted to remain and no further approvals will be required.

Analysis

Section 45(1) of the Planning Act, R.S.O. 1990, as amended, outlines four tests that the Committee of Adjustment must be satisfied have been met when considering an application for a minor variance. Planning Division staff offer the following comments for the Committee's consideration in review of these four tests:

1. Conformity with the Official Plan

The subject property is designated “Low Density Residential” in the Town of Orangeville Official Plan (“OP”). The existing detached dwelling and features accessory thereto are permitted land uses pursuant to the residential policies of the OP.

The OP contains policies with respect to Community Form and Identity (Section D7) and Neighbourhood Design (Section E1.9). These policies provide general direction on built-form and site layout aspects that new development should adhere-to in order to uphold certain objectives with respect to streetscapes and neighbourhood compatibility. Specific direction is given for organizing parking, access, service areas and utilities in a manner that minimizes impacts within the property and towards surrounding lands, while improving the safety and attractiveness of adjacent streets (D7.2.2). Development is to be massed so that it fits harmoniously into its surroundings, respecting and improving local scale and character (D7.2.3).

With respect to neighbourhood design, the policies give particular attention to streetscape attractiveness by minimizing garage protrusion to avoid their visual prominence in the streetscape realm. The basis is that the appearance of bland garage door fronts of dwellings along streets creates less-attractive streetscapes. The policies support bringing other main dwelling elements forward into the streetscape environment. They also encourage reduced front yard setbacks and contemplate encroachments for porches and verandahs. The objective behind these policies is to create attractive neighbourhoods, recognizing that this is achieved by enhancing the visual presence and appeal of dwellings, which contributes to vibrant streetscapes that are stimulating for the pedestrian experience.

The zoning By-law implements the aforementioned policy direction by stipulating zone standards that will achieve this desired built form, such as front yard setbacks and restrictions of certain elements (i.e. accessory structures, fence heights, etc.) within a front yard. A more restrictive height requirement for fences within a front yard is based on this policy objective: to create an attractive and pedestrian-friendly streetscape by enhancing the active presence of a dwelling on the street and minimizing or eliminating other non-essential elements that would detract from this presence. The requested variance to permit a fence height increase to 1.9 metres conflicts with this policy objective. It would allow a sizeable fence height that is unconventional for a front yard and would create a bland, obstructive wall element that conflicts with the traditional streetscape environment. To the contrary, the Official Plan policies intend to create a vibrant and visually interesting neighbourhood streetscape. For this reason, staff are of the opinion that the requested variance does not conform to the intent of the Official Plan.

2. General Intent of the Zoning By-law is Maintained

The subject lands are zoned Residential First Density (R1) Zone on Schedule 'A' of Zoning By-law 22-90, as amended. Single detached dwellings are the only permitted dwelling type in the R1 Zone.

The Zoning By-law contains different standards for various yard areas of a residential property, recognizing that the different yard areas serve different functions for the dwelling lot. For instance, rear-yard setbacks are provided to ensure that there is suitable private amenity space, whereas different front (and exterior side yard) setbacks are stipulated to support the different function of these yard spaces for both the property itself and its contribution to the character of the neighbourhood. Not only are these external yard spaces also amenity spaces for the property, they also serve an important purpose in defining the physical attributes of the property and ultimately the built-form character of the overall streetscape and neighbourhood.

In addition to different setbacks, different restrictions are also placed on front yard areas in comparison to external yard spaces of a residential lot. For instance, accessory structures are prohibited in the front yard of a property (Section 5.2.2). Fence heights are restricted to 0.9 metres in the front yard, whereas in rear or side yards, fences may be 2.1 metres in height, or to a maximum of 2.7 metres if the additional height portion consists of a trellis or lattice design (Section 5.11). The requested variance would essentially transform what the By-law intends to be a front yard of the property into a second private rear-yard amenity space (the property already contains a rear-yard amenity area on the south side of the dwelling). In staff's opinion, this does not meet the general purpose and intent of the Zoning By-law.

3. Desirable Development or Use of the Land, Building or Structure

The application submission indicates that the variance is requested on the basis that an increased fence height would provide suitable and safe amenity space for children to play on the property. While the dwelling on the property faces onto Ada Street, an adequate rear-yard amenity area currently exists on the south side of the dwelling. This condition is typical of many residential corner-lots throughout the Town. The requested variance would create a second private rear yard amenity space for the property, on what is intended to function as a front or exterior yard space for the dwelling. It is important that this portion of the property be maintained as such, and remain subject to the same front yard restrictions and provisions that apply to all other residential lots in the neighbourhood. Deviating from this requirement for this property would create inconsistency with the overall streetscape and would detract from the established built-form character of the neighbourhood. The requested variance would not result in a desirable development or use of the subject land.

4. Minor in Nature

The requested variance seeks to increase the maximum permitted front yard fence height by more than double the existing requirement. A 1.9 metre-high front-yard fence

is sought, whereas a maximum of 0.9 metres is permitted. The variance would facilitate a private amenity area on a front yard part of the property that is more appropriate and typical for a rear-yard condition. It would enable a wood privacy fence that creates a visual disruption to the physical streetscape environment, given its more prominent corner lot location in the neighbourhood. This is a significant departure from the functional layout intended for the property, as well as the physical character of the immediately surrounding neighbourhood. For these reasons, staff are of the opinion that the requested variance is not minor in nature.

Infrastructure Services – Transportation & Development Comments:

Infrastructure Services has reviewed the Notice of Hearing for a minor variance, Application No. A-03/22 for the property described as Lot 23, Block 1, Registered Plan 237, municipally known as 114 Zina Street, in the Town of Orangeville. The minor variance is to increase the maximum permitted height of a fence in the front yard, from 0.9 metres to 1.9 metres in order to construct a wood privacy fence.

Infrastructure Services is not aware of any grading, drainage or servicing issues that would preclude the granting of this minor variance. Concluding, Infrastructure Services, Transportation & Development Division does not object to granting the minor variance to increase the maximum permitted height of a fence in the front yard, from 0.9 metres to 1.9 metres in order to construct a wood privacy fence.

Strategic Alignment

Orangeville Forward – Strategic Plan

Priority Area: Sustainable Infrastructure

Objective: Plan for Growth

Sustainable Neighbourhood Action Plan

Theme: Land Use and Planning

Strategy: Co-ordinate land use and infrastructure planning to promote healthy, liveable and safe communities

Prepared by

Brandon Ward, MCIP, RPP
Manager of Planning, Infrastructure Services

Attachment(s): 1. Location Map
 2. Site Plan