

Subject: Planning Report – A15-22 – 19 Glengarry Road

Department: Infrastructure Services

Division: Planning

Meeting Date: 2022-12-07

Recommendations

That Planning Report A15-22 – 19 Glengarry Road be received;

And that the minor variance to reduce the interior side yard setback from 1.2 metres to 0 metres in order to legalize an existing non-complying deck, be refused.

Introduction

Legal Description: Lot 28, Registered Plan 7M-2

Municipal Address: 19 Glengarry Road

Applicant(s): Barbara Cezilio

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

Zoning (By-law 22-90): Residential Fourth Density (R4) Zone

Purpose: The applicant is requesting a minor variance to reduce the interior side yard setback from 1.2 metres to 0 metres in order to legalize an existing non-complying deck.

Background

The subject property is municipally known as 19 Glengarry Road and is located on the east side of Glengarry Road, opposite to the intersection of Saxon Street. The surrounding area consists predominantly of single-detached dwellings, with Princess of Wales Park and Spencer Avenue Elementary School located nearby, southwest of the property. The location of the subject property is illustrated on Attachment No. 1.

The subject property is approximately 427 square metres (4,596 sq.ft.) in area, with a lot frontage of 12.2 metres (40 ft.). A detached dwelling exists on the property, which was

constructed in 1998. The dwelling contains an exterior sliding glass patio door on the south side of the dwelling. An existing deck has been constructed next to the side patio door of the dwelling, which extends from the dwelling wall to the shared fence along the side property line. The deck surface is approximately 0.6 metres above the ground. Attachment No. 2 includes a Lot Survey excerpt showing the existing deck location, as well as a Deck Plan sketch of the existing deck layout.

In June 2022, By-law enforcement staff received a complaint regarding the side yard deck constructed directly abutting the property/fence line. The Zoning By-law requires that for decks up to a maximum height of 1.2m above grade, they must maintain a minimum interior side yard setback of 1.2 metres to the property line. For decks exceeding this height, they cannot extend into a side yard beyond the exterior side wall of the dwelling, i.e., their setback to the side lot line must maintain the “established side yard” of the dwelling, which is the distance between the exterior side wall of the existing dwelling and the lot line.

By-law enforcement staff issued a notice to the property owner describing the conflicting Zoning By-law requirements, along with options for the owner to pursue within certain timeframes to obtain compliance with the By-law. Options included either:

- 1) modifying the existing deck to comply with the By-law requirements, so that it achieves the minimum 1.2m setback from the property line; or
- 2) submitting a minor variance application to the Committee of Adjustment to seek relief from any conflicting requirements of the Zoning By-law.

The owner subsequently pursued pre-submission consultation discussions with Town staff to explore the option of proceeding with an application submission to the Committee. The owner also kept By-law enforcement staff apprised of their contemplation of the option to modify the deck to achieve By-law compliance. Notwithstanding this, By-law enforcement staff received further complaints about the deck abutment to the fence line. Complaints expressed concerns regarding adverse impacts related to privacy, overlook and disturbances associated with the deck amenity area directly abutting the shared fence line. Complaints also noted new privacy screening elements that had been subsequently installed by the property owner.

On October 28, 2022, the owner attended a pre-submission consultation meeting with Town staff, to discuss a potential minor variance application submission. Pre-submission consultation meetings are held with proponents to allow staff to review the subject matter and advise of any concerns that may exist, and to specify any information needed to supplement an application submission. This process intends to assist the proponent in pursuing their application and ensures all necessary information is provided upon submission, so that the Committee can make an informed decision on the application.

For this matter, staff advised the proponent of concerns regarding impacts of the deck structure abutting the shared property line and its departure from a detached dwelling

lot condition, whereby buildings and structures must maintain a level of physical separation from property boundaries, as prescribed through minimum setback requirements of the Zoning By-law. Staff also advised of concerns with impacts to the intended side-yard drainage functions due to the deck encroachment within. Side yard areas between detached dwellings are often planned through the subdivision design process to serve an important stormwater management function, such as drainage conveyance between the rear and front yard areas of the dwelling lot, as well as providing additional infiltration area. Staff expressed concern that where a deck consumes a side yard area of this extent, it could impact the intended drainage functions of this area between the lots.

The owner has chosen to proceed with this minor variance application submission to obtain relief from the conflicting Zoning By-law requirements. Should the requested variance be approved, the owner will still need to obtain Building Permit approvals for the existing deck. This is necessary to bring the matter into full compliance with the Zoning By-law and Ontario Building Code.

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"). This designation permits single detached and two-unit dwellings to a maximum density of 25 units per net hectare. The existing detached dwelling and features accessory thereto, such as decks, accessory structures, etc. are permitted uses pursuant to the residential policies of the OP.

The OP contains policies with respect to Community Form and Identity (Section D7), which describe general objectives for new development to fit with its neighbours or planned context, maintain compatibility with surroundings and contribute positively to the visual quality and character of the Town. Specific direction is given for development to be massed so that it fits harmoniously into its surroundings, respecting and improving local scale and character and minimizing the impact on neighbouring buildings (D7.2.3).

The requested variance to essentially eliminate a setback requirement to permit a deck structure extending to the lot line departs from the above policy objectives. With a structure of this nature abutting a shared fence line, it creates a condition that is uncharacteristic for a single-detached dwelling setting. This can result in compatibility challenges related to privacy and overlook conditions. It is not a circumstance that fits harmoniously into its surroundings, nor does it minimize impact on neighbouring

properties. Staff are therefore of the opinion that the requested variance does not conform to the intent of the Town's Official Plan.

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

The subject lands are zoned Residential Fourth Density (R4) in the Town's Zoning By-law. The R4 zone permits single-detached and semi-detached dwellings, being consistent with the dwelling types permitted by the low-density residential designation of the Official Plan.

The Zoning By-law prescribes yard setbacks for buildings and similar stipulations on related elements, such as accessory structures, decks, fences, etc., which basically codifies the desired built form and residential density intended for neighbourhoods. In other words, it takes the use permissions, desired built form and neighbourhood character envisioned by the Official Plan and translates this into measurable performance standards.

Decks are permitted accessory structures for residential dwellings and are addressed by specific regulations in the Zoning By-law. For decks that are less than 0.6m in height, they are defined as a "Ground Oriented Amenity Area", which means (in part): " (i) an unroofed, unexcavated deck that, excluding railings or fencing, has a maximum height of 1.2 metres above the average elevation of the finished surface of the ground around the base of the deck".

The General Provisions (Section 5.2 2)A) prescribe setback requirements for ground oriented amenity areas, stating that they must be located to the rear of the front wall of the main building and shall not be located closer than 1.2 metres to any lot line. This ensures that ground oriented amenity areas (i.e. deck structures) maintain a physical separation from neighbouring properties. It implements built form conditions typical for a detached dwelling lot within a low density residential neighbourhood, where a degree of separation is upheld between structures and neighbouring properties.

Regulation 5.2 2)A) goes on to state that for a semi-detached, row-house, etc., where units are separated by a party wall, the ground-oriented amenity area may extend to match the party wall (i.e. shared wall between dwellings), provided that there is a 1.5m high privacy fence. This condition recognizes that where there are multi-dwellings that share a dividing wall, there is an established adjacency of living and amenity space, and it is therefore reasonable to expect that there will be a similar adjacency of ground-oriented amenity space. The same expectation does not apply to a detached building condition, which is afforded a certain yard setback from neighbouring properties and is the reason why the prevailing 1.2 metre setback requirement applies.

For the reasons described above, the requested variance to eliminate this setback requirement and allow an existing deck structure extending to the lot line conflicts with the intent of the Zoning By-law. It creates a built form condition that is not intended for a

single detached dwelling lot. Staff are of the opinion that this variance does not meet the intent of the Zoning By-law.

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

As discussed above, the requested variance will facilitate a built form condition that is not anticipated or appropriate for a single detached dwelling lot. The Zoning By-law regulations require a 1.2 metre setback be maintained between a ground oriented amenity area (i.e. the deck structure in question) and neighbouring properties. For this situation, the setback matter in question relates to an interior side yard. Interior side yards intend to provide adequate physical separation between buildings. For detached residential dwellings in particular, the interior side yard separation assists with maintaining privacy between dwellings and helps ensure there is sufficient means of external access between front and rear yards within the property.

The requested variance to eliminate this setback requirement and permit a deck structure extending to the lot line impacts the intended function and viability of the interior side yard. Infrastructure Services staff have also raised concern with the potential impact this structure could have on the intended drainage functions of the interior side yard space. Moreover, Planning staff have received resident concerns regarding privacy impacts and disturbances resulting from the deck structure extending to property/fence line, which further brings matters of compatibility and impacts to neighbouring lands into question. For these reasons, staff are of the opinion that the requested variance does not facilitate a desirable development or use of the land.

4. Minor in Nature

The requested variance does not a request a reduction to the ground-oriented amenity area setback requirement but instead, seeks to eliminate it altogether. It would permit an existing deck extending to the shared property/fence line in a manner that in staff's opinion, is not consistent with the intended built form and functionality of a detached residential neighbourhood and raises concerns about appropriateness and compatibility. In staff's opinion, the requested variance is not minor in nature.

Infrastructure Services – Transportation & Development Comments:

Infrastructure Services has reviewed the Notice of Hearing, dated November 17th, 2022, for a minor variance, Application No. A-15/22 for the property described as Lot 28, Registered Plan 7M-2, municipally known as 19 Glengarry Road, in the Town of Orangeville, in the County of Dufferin. The minor variance is to reduce the interior side yard setback from 1.2 metres to 0.0 metres in order to legalize an existing non-complying wood deck.

Infrastructure Services is aware of a side yard drainage swale. The side yard swale runs along the southern boundary of Lot 28 and which is a shared swale with the adjacent lot, Lot 29, known municipally as 21 Glengarry Road. The current integrated wood deck,

fence and wooden fascia of the deck impede surface runoff and which flows along this side yard swale in a rear to front yard direction. Accordingly, Infrastructure Services cannot support the proposed minor variance. Infrastructure Services recommends that the wood deck, fence and fascia be modified to ensure the surface drainage and side yard swale is not impeded by any of these structures.

Further to this, Infrastructure Services notes that the existing deck on Lot 28 includes a corrugated roof overhang which in turn collects rainwater and directs it onto the adjacent property, Lot 29. Provisions to collect and direct this water to the drainage swale should be included in the modifications to the deck and fence structure.

Infrastructure Services is not aware of any underground servicing issues pertaining to this application.

Concluding, Infrastructure Services, Transportation and Development Division does not support the minor variance to reduce the interior side yard setback from 1.2 metres to 0.0 metres in order to legalize an existing non-complying wood deck.

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

Respectfully submitted,

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

Attachment(s): 1. Location Map
2. Lot Survey Sketch and Existing Deck Plan