



Committee of adjustment report

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| Meeting date: | June 14, 2021 |
| Title: | A14.2021 – PIERCEY, Kim and Rod |
| Prepared by: | Lorelie Spencer, Manager of Planning and Development |
| Reviewed by: | Laura Johnston |

Recommendation

That Committee of Adjustment receives the report from Planner Spencer, A14.2021 – PIERCEY, Kim and Rod and the recommendation for approval of the minor variance and further that a non-service agreement is approved by Council in order for the landowner to assume complete liability for the use of an unopened and unmaintained road allowance.

Executive summary

The subject lands are municipally known as 143 Helena Street within the secondary settlement area of Ayton. The lands are legally described as lot 2, part 2, plan 153 in the geographic township of Normanby.

The purpose of the application is to vary the provisions of subsection 6.10 to permit development on an unopened, unmaintained municipal road. The effect of which would permit the construction of a new single detached dwelling unit on an existing lot of record.

Background and discussion

The property is located along an unopened and unmaintained portion of Helena Street (north). The subject lands are an existing vacant lot of record which is approximately 3,023.46 m² (0.302 ha) in size. The site also presently contains mature vegetation.

The applicant is requesting relief in the form of a minor variance to permit the construction of a single detached dwelling unit on the subject lands despite the absence of road frontage.

Section 45 of the Planning Act gives the Committee of Adjustment the authority to grant relief from a provision(s) of the Comprehensive Zoning By-law provided such relief passes four tests:

1. Does the Minor Variance maintain the intent and purpose of the Official Plan?

The subject lands are identified as a secondary settlement area under the County of Grey Official Plan. Section 3.6 of the county plan defines these settlement areas as having lower density targets and have a limited range of uses and amenities compared to primary settlement areas and have partial or private services. These areas accommodate limited residential growth as well as new community facilities and employment uses.



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Secondary settlement areas, are identified in table 5 and shown on schedule A of the county plan and include existing community areas which may have significant populations and/or a wide range of uses and amenities. Secondary settlement areas are intended to provide a limited opportunity for growth and provide a range of living styles and employment locations.

Permitted uses in the areas designated as secondary settlement areas are residential uses, bed and breakfast establishments, home/rural occupations, commercial and dry industrial uses, public, recreational, and institutional uses intended to support the surrounding agricultural community.

Section 3.6 further defines that where partial services exist in a secondary settlement area, development shall only be permitted to allow for the development of vacant and/or underutilized lots, as well as the creation of lots, subject to satisfying the following requirements:

- a) The development is within the reserve sewage system capacity or reserve water system capacity;
- b) Site conditions are suitable for the long-term provision of such services;
- c) The development is within the existing settlement area;
- d) Allow for infilling and minor rounding out of existing development.

The proposed development on the subject lands is proposed on an existing lot of record. In this capacity, the proposal generally conforms to the policies of the official plan.

2. Does the Minor Variance maintain the intent and purpose of the Zoning By-law?

The intent of provision Section 6.10 is to ensure safe and appropriate access to structures for the purposes of fire and emergency vehicles.

In this respect, the proposal does not conform to the comprehensive zoning by-law in the absence of a non-service agreement with the municipality to assume full responsibility for access purposes by the landowner.

The non-service agreement will stipulate that the landowner assumes all liability for fire, emergency services and maintenance of the access (including snow removal). This agreement will further define that garbage and recycling services in this location will not be provided beyond the point of the open and maintained portion of the roadway.

3. Is the variance minor in nature?

The ability to determine if a variance is minor in nature is relative to the impact the variance would have on adjacent lands. Development of this site would not impact the adjacent lands however, the landowner shall be required to assume full responsibility for access purposes. Snow removal and storage must be maintained within the landowner's site boundary.



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4. Does the minor variance represent an appropriate or desirable use of land and buildings?

The property is presently zoned R1A (unserviced residential zone) which permits single detached dwelling units. However, the construction of the dwelling unit does not conform to the general provisions of the comprehensive zoning By-law under provision section 6.10.

Provision 6.10 states as follows:

No person shall erect any building or structure, or use any lot in a zone, unless the lot upon which such building or structure is to be erected, fronts upon and has direct access to an improved public street open and maintained on a year round basis. The above provision shall not apply to restrict the erection of any building on a lot in a registered plan of subdivision where a subdivision agreement has been entered into but the street will not be assumed until the end of the maintenance period.

The use of the lands for a single detached dwelling unit is considered an appropriate use. However, in my Professional opinion without an executed non-service agreement registered on title development of the property is not considered an appropriate use.

Based on the above, the proposal does not meet the four tests of a minor variance and must be accompanied by a non-service agreement registered on title to the subject lands.

Planning Staff do not support the development of the lands, in absence of this agreement.

Legal and legislated requirements

In the absence of an Agreement and assumption of liability by the landowner for access, the Municipality will be liable for any incidents along this portion of the unmaintained road.

Financial and resource implications

None.

Staffing implications

None.

Consultation

- County of Grey Planning and Development Department
- Saugeen Valley Conservation Authority
- Enbridge Gas

Alignment to strategic vision plan

Pillar: Clear Communication

Goal: Vibrant Community

Strategy: Promote and Market

Attachments

- 1.) Completed application form
- 2.) Application sketch
- 3.) Aerial and official plan mapping
- 4.) Aerial and zoning mapping

5.) Enbridge Gas – review comments

Next steps

That Committee recommend Council (through by-law) enter into a non-service agreement with the landowner for the assumption of complete liability for the use of the unmaintained portion of the road or deny the application.

Respectfully submitted:



Lorelie Spencer, Ba.U.R.Pl. MCIP, RPP
Manager of Planning and Development