



Staff Report

Planning & Development Services – Planning Division

Report To: Committee of Adjustment
Meeting Date: April 17, 2024
Report Number: PDS.24.063
Title: Recommendation Report – Minor Variance File A15-2024 – 145 Carmichael Crescent (Hageman and Fotheringham)
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A. Recommendations

THAT the Committee of Adjustment receive Staff Report PDS.24.063, entitled “Recommendation Report – Minor Variance File A16-2024 – 145 Carmichael Crescent (Hageman and Fotheringham)”;

AND THAT the Committee of Adjustment GRANT a minor variance for A16-2024 subject to the following conditions:

1. That the development be constructed in a manner substantially in accordance with the submitted site plan and elevations; and
2. This variance to the Zoning By-law is for the purpose of obtaining a building permit and is only valid for a period of two (2) years from the date of decision. This variance shall expire on April 17, 2026.

B. Background

The subject lands are located at 145 Carmichael Crescent, east of Gord Canning Drive and south of Blue Mountain Village. The surrounding area is characterized by single detached dwellings along Carmichael Crescent and further north is the Blue Mountain Village and Ski Resort. The lands are approximately 636 square metres (0.16 acres) in size. A two storey single detached dwelling currently exist on the lands and the use has continued for 49 years.

The owner wishes to demolish and reconstruct the existing two storey dwelling that currently sits on the subject lands. There is also an existing legal non-conforming second storey deck which encroaches into the rear yard and is proposed to encroach further after the rebuild. The rear deck is currently located 4.23 metres from the rear lot line and 1.05 metres from the east side lot line. The owner also wishes to construct a new attached garage in the front yard and requires relief from lot coverage requirements but meets all other zoning standards within the Zoning By-law.

The proposed application requires permission to expand a legal non-conforming deck which existed before the passing of the current Zoning By-law and is proposed to further encroach into the rear yard by 0.73 metres but result in a reduction of 0.17 metres from the east side lot line.

In addition to the approval for enlargement of a legal non-conforming deck under Section 45(2) of the Planning Act, one variance is required to the Zoning By-law to permit an increase in lot coverage under 45(1) of the Planning Act.

The effect of this application is to permit the rebuild of an existing single detached dwelling, expand a second storey deck, and the addition of an attached garage. The proposed site plan of the rebuild on the subject lands are shown on **Figure 1**.

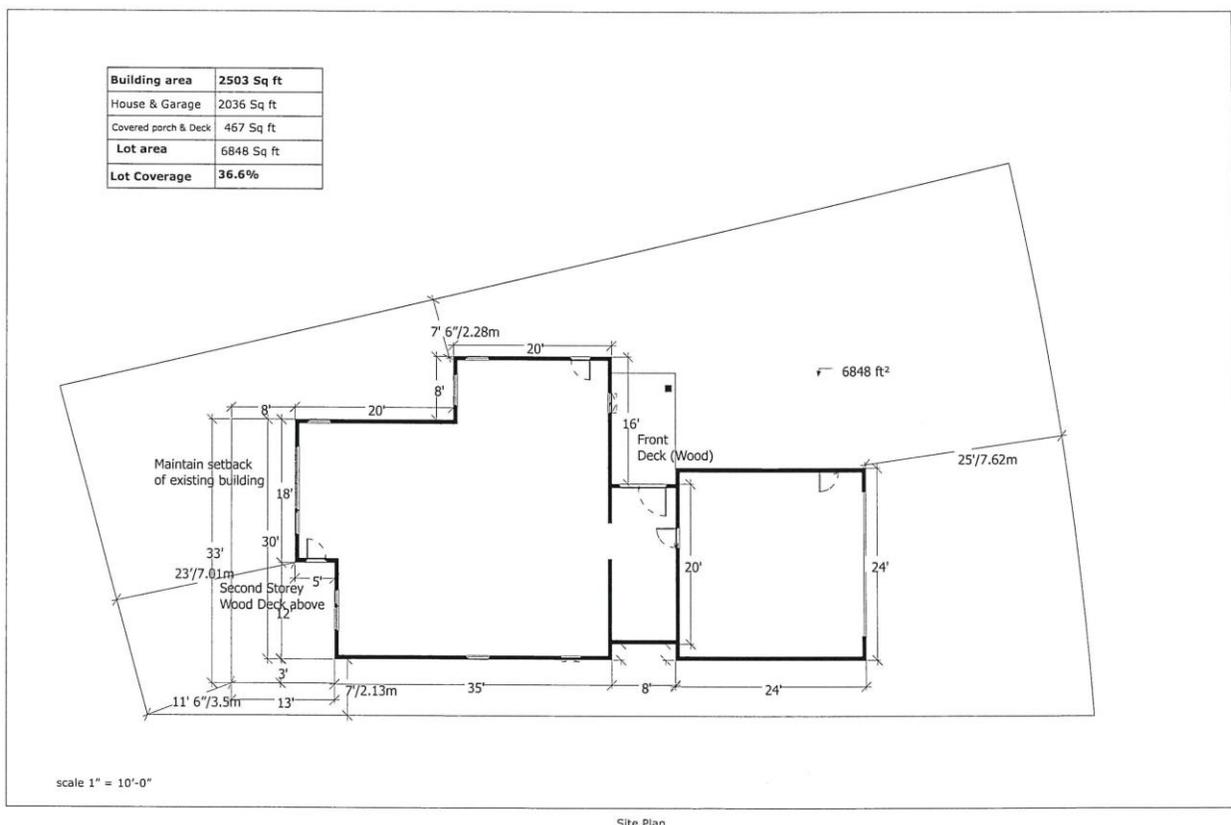


Figure 1: Proposed Site Plan

The purpose of this application is to request a minor variance to subsection 6.2.1 of the Zoning By-law to permit:

1. A maximum lot coverage of 36.6%, whereas the R1-1 Zone permits a maximum lot coverage of 30%; and

Permission to expand a legal non-conforming deck under Section 45(2) of the Planning Act to permit:

2. A deck to be located 3.5 metres from the rear lot line, whereas the existing deck is located 4.23 metres from the rear lot line.

C. Analysis

Pursuant to Section 45(1) of the Planning Act, the Committee of Adjustment is authorized to grant minor variances to by-laws enacted by the Town which are established to implement the Official Plan. Staff have reviewed the proposal against the relevant planning documents, including the four tests of a minor variance, as outlined in the following section.

Does the proposal maintain the general intent and purpose of the Official Plan?

The subject lands are designated Blue Mountain Village Residential Area – Low Density Residential in the 2016 Town of the Blue Mountains Official Plan. This land use designation is established to recognize existing development and permit residential development, predominantly single detached residential dwellings.

There is an existing single detached dwelling on the subject lands and the proposal seeks to expand the existing rear yard deck and create an attached garage for the continued use of the residential dwelling while maintaining all zoning provisions with the exception of lot coverage.

We are therefore satisfied that the proposal maintains the general intent and purpose of the Official Plan.

Does the proposal maintain the general intent and purpose of the Zoning By-law?

The subject lands are zoned R1-1 in the Town of the Blue Mountains Comprehensive Zoning By-law 2018-65. Permitted uses in the R1 zone include accessory apartment, group home, home child care, home business and single detached dwelling. Accessory buildings, structures and uses are permitted in all zones subject to subsection 4.3 of the Zoning By-law.

We note that although the applicant is requesting a maximum lot coverage of 36.6%, the actual proposed lot coverage is 32%. The applicant has included the area of the second storey deck into the calculation of lot coverage whereas the definition for lot coverage in the Zoning By-law does not include decks. The creation of the covered porch and attached garage increases the total lot coverage to 32% whereas the Zoning By-law requires a maximum lot coverage of 30%. The increase in lot coverage is minimal and is not expected to impact the open space nature of the lot.

We are satisfied that the proposal maintains the general intent and purpose of the Zoning By-law.

Is the proposal Minor in nature?

A variance may be considered “minor” where the scale of the request is marginal and the proposed relief will not result in a greater than minor adverse impact on adjacent properties, uses, or area.

A slight increase to the maximum lot coverage is proposed to facilitate the addition of an attached garage and a covered porch to the applicant's rebuild of their dwelling. These additions are not expected to create any adverse impacts to surrounding dwellings.

We are satisfied that the increase in lot coverage is minor in nature.

Is the proposal desirable for the development and use of the lands?

The proposed addition of a covered porch and garage enhances the existing single detached dwelling and allows for the continued use of this home in a primarily seasonal and permanent residential neighbourhood.

We are satisfied that the proposal is desirable for the development and use of the lands.

Based on the above comments, we are therefore satisfied that the proposal can meet all four tests for minor variance.

Section 45(2) of the Planning Act outlines powers of the Committee of Adjustment distinct from those for granting minor variances. Under this section, and clarified through existing case law, the Committee of Adjustment may grant expansions to legal non-conforming buildings, structures, and uses provided the change does not result in undue adverse impacts to the surrounding neighbourhood and is desirable for the development and use of the lands. This type of request is not beholden to the four tests of minor variance.

Will the proposal result in undue adverse impacts to the surrounding neighbourhood?

The expansion of the legal non-conforming deck will not result in any changes to the building's existing setbacks from the front, rear or side property lines. The proposed building height of the rebuild is also below the maximum height requirement of the Zoning By-law. The existing second storey deck located 3.5 metres from the rear lot line existed prior to the passing of the current Zoning By-law which requires a rear yard setback of 9.0 metres and is an existing condition.

The rear yard deck is proposed to encroach further by 0.73 metres from the rear lot line but will result in a reduction of 0.17 metres from the east side lot line after the rebuild of the dwelling. The proposed expansion is fairly minor in length and is not expected to create any impacts on the surrounding neighbourhood, particularly the adjacent dwellings. The existing building is setback further west than its adjacent dwellings to the west and east due to the nature of the lot layout and the dwellings to the west are well set back from the rear lot line, away from the deck.

Therefore, we are satisfied the proposal will not result in undue adverse impacts to the surrounding neighbourhood.

Is the proposal desirable for the development and use of the lands?

The proposal represents an improvement to an existing condition of the second storey deck, allowing for the continued use of the existing single detached dwelling in a primarily seasonal and permanent residential neighbourhood. Although the deck expansion will encroach closer to the rear lot line by 0.73 metres, the deck will also be reduced by 0.17 metres from the east side lot line to provide greater separation from the adjacent dwelling to the east and improve an existing reduced interior side yard setback. The Zoning By-law requires a 2.0 metres interior side yard setback whereas the existing deck is setback 1.05 metres from the side lot line. The new proposed east side yard setback would be 1.22 metres (0.17 metres increase).

Therefore, we are satisfied that the proposal is desirable for the development and use of the lands.

Based on the above commentary, we recommend that the application for expansion to the legal-conforming building be granted.

D. Attached

1. Draft Decision

Respectfully submitted,

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For more information, please contact:

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