



A People Place, A Change of Pace
SHELBURNE
ONTARIO, CANADA

Meeting Date: Monday, June 14, 2021

To: Jennifer Willoughby, Secretary-Treasurer,
Committee of Adjustment

From: Steve Wever, Town Planner

Report: P2021-22

Subject: **Application for Minor Variance A21/03**
Erica Osborne
741 Halbert Drive, Shelburne

Recommendation

Be it Resolved that the Committee of Adjustment receive Report P2021-22 as information.

Be it resolved that, the Committee of Adjustment grant approval of Minor Variance Application A21/03 for the property municipally known as 741 Halbert Drive and legally described as Lot 20 on Plan 7M-55 to permit a converted dwelling with the second dwelling unit located in the lower level of the existing dwelling, notwithstanding that the Zoning By-law does not permit a dwelling unit within a "cellar" as defined in the by-law, subject to the following conditions:

- 1) That the owner shall obtain confirmation of sufficient reserve servicing capacity by the Town Engineer for the Stage 1 area and allocation of servicing for the additional residential unit prior to Municipal Approval of a building permit; and,
- 2) That the owner shall obtain a building permit for the additional residential unit within one (1) year of satisfying condition #1, failing which the servicing allocation shall be revoked and this Minor Variance shall lapse unless the Committee grants an extension prior to expiry.

Background

An overview of this application was provided to the Committee in Report P2021-14 presented at the public meeting held on May 31, 2021. The Committee deferred the application due to concerns about the limited remaining unallocated servicing capacity and the numerous requests for servicing allocation which exceed the remaining capacity of the WPCP.

The purpose of the minor variance application is to request relief from Zoning By-law 30-2007, Sections 3.4.1 (ii) and 5.68 in order to construct a second dwelling unit within the existing single-detached dwelling. The application is seeking relief from the definition of a converted dwelling and a related regulation of the by-law which prohibits dwelling units within the cellar.

Analysis

As summarized in the previous report on this application (P2021-14), the application was reviewed under Section 45(1) of the Planning Act and it was concluded that the application is minor in nature, desirable for the appropriate development of the lands in question, and conforms to the general intent of the Official Plan and Zoning By-law.

Regarding servicing capacity, as noted in the previous report:

- the subject property is within the Stage 1 area for servicing, in the Official Plan;
- the additional residential unit proposed will not have any significant servicing impacts, but the cumulative impact of the conversion of existing homes must be considered and all residential development and intensification is subject to the availability of uncommitted reserve capacity;
- the proposed additional residential unit is in keeping with criteria for determining preferred development proposals for servicing allocation, as it optimizes the use of existing infrastructure, and contributes to a complete community development with additional rental housing options, and supports compact development;
- the additional residential unit may also contribute to housing affordability;
- conditions are recommended to require the owner to obtain confirmation of servicing capacity from the Town Engineer, prior to Municipal Approval of a building permit, and to require the owner to obtain a building permit for the additional residential units within one (1) year.

Report DO2021-03 regarding Sewage Capacity Allocation was received by Town Council on May 31, 2021, and Council resolved to establish a servicing reserve of 10m³/day for residential and mixed-use infill and intensification in the Stage 1 and 2 area. As noted in Report DO2021-03, this reserve will provide the equivalent of approximately 12 to 30 residential units of capacity for the Stage 1 and 2 areas depending on the types of housing and/or mixed use development.

Currently, there are 4 units which are requested for consideration of approval through related planning applications, including the proposed additional residential unit at 741 Halbert Drive. All of the proposed units are apartments within or accessory to existing single detached homes. As the additional residential units have relatively small floor areas and fewer bedrooms, they generally have smaller household sizes and require less servicing capacity than new single detached, semi-detached or townhouse dwellings. On this basis, the upper limit of the reserve for Stage 1 and 2 would be reduced from approximately 30 units to 26 units if all 4 units are approved, allocated and built.

Financial Impact

The applicant has paid the required application fee to cover the costs of processing this application. As per the Development Charges Act, development charges are not applicable to the additional residential unit proposed.

Policies & Implications (if any) Affecting Proposal

Town of Shelburne Official Plan
Town of Shelburne Zoning By-law 38-2007

Consultation and Communications

As summarized in the previous report (P2021-14) and as presented at the public meeting held on May 31, 2021. Responses have been provided to the two (2) submissions indicating concerns to summarize the following:

- The Planning Act of Ontario requires municipalities to permit an additional residential unit in existing and new homes through Official Plans and Zoning By-laws and to apply appropriate and fair standards and regulations to address matters such as parking (municipalities can require a maximum of 1 parking space for an additional residential unit) and servicing.
- It is not within the scope of municipal powers through a Zoning By-law to regulate additional residential units due to concerns about who may

live in the unit (“people zoning” is not permitted – access to housing is a matter of human rights).

- Provincial regulations do not permit the Town to regulate whether the owner resides in the dwelling or not and whether there are renters or not, additional residential units are permitted regardless of where the homeowner resides.
- It is not within the scope of municipal powers under a Zoning By-law to regulate additional residential units based on concerns or perceptions about behaviours or property maintenance considerations (property standards are regulated via separate by-laws under the Municipal Act).
- The Planning Act applies to all municipalities in Ontario and the provincial regulations for additional residential units apply equally to small towns and larger cities.
- The application meets the parking requirements of the Zoning By-law. On-street parking is regulated and enforced through separate laws, and is not within the purview of the Zoning By-law or the Minor Variance application.
- The applicant has been made aware of the concern about a home occupation, and that certain types of home occupations are not permitted if there is an additional residential unit within the home and that there are parking standards that apply to certain home occupations. Further, the applicant was been advised that the Minor Variance application would need to be amended to include a home occupation if a business exists or is proposed beyond what is permitted in the Zoning By-law for a dwelling that also contains an additional residential unit. The applicant advised that a home occupation is not operating from the home and did not propose an amendment to the application to permit a home occupation.

Supporting Documentation

N/A

Prepared by:

Steve Weber, Town Planner