



COMMITTEE OF ADJUSTMENT

Planning and Development Services Department
3540 Schmon Parkway, P.O. Box 1044
Thorold, ON L2V 4A7
905-227-6613

October 19, 2021

TO: Chairperson and Members of the Committee of Adjustment

SUBJECT: Minor Variance Application D13-24-2021
43 Carl Street, Thorold, Ontario

PLAN M9 PT LOT 4 RP 59R4521

RECOMMENDATION:

That the request under Section 45(2)(a)(ii) be APPROVED.

PROPOSAL:

The subject lands are designated PRW Existing Residential in the City of Thorold Official Plan and are zoned Future Development (FD) in accordance with Comprehensive Zoning Bylaw 60-2019. The current use of the property is residential with an existing single detached dwelling. The applicant is proposing the construction of an accessory building/structure (148 square metres) as shown on the drawing submitted. In order to facilitate the development, the applicant is requesting that the following use be considered similar to the existing use under Section 45(2)(a)(ii) of the *Planning Act*:

Figure 1: Location of Subject Lands



1. An accessory building/structure (148 square metres) for the existing single detached dwelling as shown on the drawing submitted.

The subject property is located in the community known as Port Robinson and has frontage on both Carl Street and Hill Street (see Figure 1). There is an existing single detached dwelling on the property.

To facilitate the proposed use, an application to the Committee of Adjustment is required to allow the establishment of a use that is similar to the use currently operating on the property.

Where any land, building or structure, on the day a zoning by-law was passed, was lawfully used for a purpose prohibited by the by-law, Section 45(2)(a)(ii) of the Planning Act allows the Committee of Adjustment to permit a use that is similar to the purpose for

which it was used on the day the by-law was passed or that is more compatible with the uses permitted by the by-law.

CITY OF THOROLD OFFICIAL PLAN:

The subject property is designated as 'Port Robinson West Residential' in the City's Official Plan.

COMPREHENSIVE ZONING BY-LAW 60-2019 (PARTIALLY UNDER APPEAL):

The subject property is zoned 'FD' (Future Development) under Zoning By-law (60) 2019. The subject property is also within the Natural Heritage Feature Buffer Area. An environmental impact study (EIS) is not required to facilitate the development of the proposed accessory structure as the proposal meets the waiving criteria identified in the Region's EIS Guidelines document.

PLANNING ANALYSIS:

Unlike a typical Minor Variance application, the subject application is not evaluated under the four tests specified in Section 45(1) of the Planning Act. The Committee of Adjustment must decide if the application facilitates a use that is:

- similar to the purpose for which the subject land, building, or structure was lawfully used for when the new zoning by-law came into effect; or
- more compatible with the new permitted uses.

The subject lands contain an existing single detached dwelling that was in existence when the City's new Comprehensive Zoning Bylaw 60 (2019) came partially in effect on March 16, 2021. The applicant is proposing to construct an accessory structure to support the residential use of the property. The accessory structure is similar to the existing residential use as it is intended to support the dwelling.

In the opinion of staff, the proposed accessory building meets the applicable test under Section 45(2)(a)(ii) of the Planning Act.

CIRCULATION COMMENTS:

The application was circulated to internal departments and external agencies for review and comment. Only department and agencies that had comments are provided below. If a department or agency is not identified below, then the department or agency did not provide comments or no concerns were raised.

Engineering Department

Engineering requests a lot grading plan for the driveway and the new garage including downspouts, foundation corners and ground elevations. This plan must satisfy the City of Thorold Engineering Department that the garage and driveway will not impact any adjacent properties.

A lot grading plan will be required to be submitted and approved by the Engineering Department at the building permit stage.

Niagara Region

A Special Request Permit is required to be completed and approved prior to the issuance of a building permit. The owner will need to provide a replacement septic system design prepared by a licensed septic contractor or designer to confirm if there is sufficient room for a replacement septic system in the year yard.

The Special Request Permit as indicated by the Niagara Region will be required to be submitted and approved prior to the issuance of a building permit.

Members of the Public

The following are concerns identified by members of the public:

- The grading of the property as a result of the proposed garage and parking area/ driveway will cause drainage onto the adjacent properties;
- Gravel/ posts are encroaching onto 53 Carl Street; and
- That the new garage will be used for non-residential purposes, such as for storing large construction equipment for business purposes.

The drainage and grading of the property will be assessed as part of the building permit application process, if the Committee of Adjustment supports the application.

The drawing submitted with the application does not identify the proposed building encroaching onto neighbouring properties.

The owner intends on using the accessory building to store equipment for the upkeep of the property. Although the owner only intends on storing the aforementioned equipment, there is nothing prohibiting the owner from storing construction equipment in the accessory structure as long as the proposed building and property are not being used to operate a business or any other use not permitted by the zoning bylaw.

CONCLUSION:

It is the opinion of Planning staff that the application facilitates a similar use to the current use of the subject property and should be approved by the Committee of Adjustment.

Respectfully prepared and submitted by:

ELECTRONICALLY SIGNED

Denise Landry, MCIP, RPP
Manager, Planning Services