



STAFF REPORT

FUNCTION: Committee of Adjustment
CHAIR: Cindy Tremblay
DATE: July 31, 2019
REPORT NO.: **PL-2019-67**
A.17/2019 – 1002 Yonge Street
Minor Variance Application

RECOMMENDATION:

The Planning and Building Services Department supports the approval of Minor Variance Application A.17/2019 respecting 1002 Yonge Street for the following Variance:

- A reduction in the Minimum Interior Side Yard Setback from 1.22 metres to 0.15 metres, a Variance of 1.07 metres

To permit a 3.71 square metre landing deck and stairs subject to the following Conditions:

1. That Approval is granted only to the proposed 3.71 square metre landing deck and stairs as shown in Attachment #2 of Staff Report PL-2019-67, dated July 31, 2019.

BACKGROUND:

Site and Surrounding Area

The Town received an application for a Minor Variance for the property located at 1002 Yonge Street. The subject property is legally described as Part Lot 5 on Registered Plan 904, more particularly described as Part 2 on Reference Plan 51R-38600. The subject property is located on the north side of Yonge Street, approximately 300 metres east of the Yonge Street and County Road 93 intersection (See Attachment #1: Location Map).

The property has a frontage of approximately 7.6 metres on Yonge Street, a depth of 42.61 metres, and a lot area of approximately 324.69 square metres. There is currently a Semi-Detached Dwelling under construction on the subject property.

Proposed Development and Application Request

The Applicant is proposing a 3.71 square metre landing deck with stairs to provide access to the basement unit on the east side of the dwelling. The proposed landing deck will have an interior side yard setback of 0.15 metres, whereas 1.22 metres is required in the Zoning By-law. The following variance is requested: a reduction in the interior side yard setback from 1.22 metres to 0.15 metres, a variance of 1.07 metres (See Attachment #2: Site Plan).

Provincial Policy Statement, Provincial Plans and County Official Plan

Section 3 of the *Planning Act* states that all planning applications must be consistent with the Provincial Policy Statement. The PPS contains a number of policies regarding intensification and redevelopment in fully serviced settlement areas. Section 14(1) of the *Places to Grow Act*, 2005 requires that all decisions under the *Planning Act* shall conform to the Growth Plan for the Greater Golden Horseshoe (GGH) area. Generally, the Growth Plan 2017 and the County of Simcoe Official Plan directs growth to built-up areas within communities that have the capacities to accommodate the growth and development. This requires intensification of development and greater densities within communities to create more compact, vibrant and complete communities.

Town of Midland Official Plan

The property is designated as **RESIDENTIAL DISTRICT** in the Town of Midland's Official Plan. The objectives of the designation stated in Section 3.3.1 (a) are to create, maintain and enhance residential areas, which foster a sense of neighbourhood, character and belonging and to protect these areas from inappropriate development.

Town of Midland Zoning By-law 2004-90, as amended

The subject property is zoned **Residential Zone – R3**, in the Town's Zoning By-law 2004-90, as amended. The Minimum Side Yard setback for the R3 zone is 1.22 metres. The proposed landing deck and stairs meet all other performance standards of Section 5.3 of By-law 2004-90 except for the Interior Yard Setback.

Departmental and Agency Comments

July 29, 2019 – Director of Engineering, Water and Wastewater

1. Drainage needs to be maintained from the front yard to the rear yard and cannot be impeded by the stairs.

ANALYSIS:

The Applicant is proposing a landing deck and stairs with an area of 3.71 square metres (3.04 metres x 1.22 metres). The proposed landing deck and stairs complies with all the relevant Zoning By-law standards, save and except for the proposed interior side yard setback of 0.15 metres. The Applicant is requesting a Variance to the Minimum Interior Side Yard Setback from 1.22 metres to 0.15 metres, a difference of 1.07 metres to

accommodate the landing and stairs that will provide access to the basement unit within the dwelling.

As set out by section 45 of the *Planning Act*, Minor Variances should only be approved based on whether it meets all four of the following “tests”:

- Is the application minor in nature?
- Is it desirable for the appropriate development or use of the land, building or structure?
- Is it in keeping with the general intent and purpose of the Zoning By-law?
- Is it in keeping with the general intent and purpose of the Official Plan?

Minor in Nature

The requested variance to the interior side yard setback from the required 1.22 metres to 0.15 metres is for the purpose of a landing deck and stairs that will provide access to the basement unit within the dwelling. The resultant setback, at 0.15 metres, represents only 12% of the standard requirement. As the Committee is aware, the determination of “minor” is not simply a numerical calculation and many qualitative factors go into determining “minor” as well. Given that the proposed landing deck is very small, it would not require a building permit. The deck represents only 1.14% of the lot area and has been constructed with a design that would have no impacts on the adjacent lot (See Attachment #3). Given that there is no foreseeable negative impact on the surrounding properties or the streetscape, it is the position of the Staff that the requested variance is minor in nature.

Desirability

The Applicant is requesting the Variance for the purpose of permitting a landing deck and stairs in the interior yard in a location that permits access to the basement unit of the dwelling. The proposed landing deck and stairs will maintain private access to the basement unit, as well as provide feasible and safe access to the unit’s door as the deck and stairs will include a handrail. There is no foreseeable negative impact on the neighbourhood with the proposed landing deck given its small size and design. As such, the proposed variance does not set an undesirable precedent that would significantly deviate from the existing neighbourhood patterns. The variance is therefore desirable for the development of the subject property.

Intent and Purpose of the Zoning By-law

The intent of the Zoning By-law regulations as it relates to interior side yard setbacks for decks and accessory structures is to provide for appropriate separation between the structure and property line. The applicant is proposing a very small landing deck with stairs, one that does not require a building permit. The purpose of the deck is for access to the basement unit within the dwelling. As the deck is not meant for habitable or recreational use, the proposed setback of 0.15 metres is an appropriate separation. The landing deck will still be distanced from the neighbouring dwelling and will only be used

for access. With these design restrictions, the intent and purpose of the Zoning By-law is maintained.

Intent and Purpose of the Official Plan

The property is designated as **RESIDENTIAL DISTRICT** in the Town of Midland's Official Plan. The intent of the designation is to foster a sense of neighbourhood and protect areas from inappropriate development. It is the position of the Staff that the proposed variance, based on the location, size and design, would not disrupt the sense of neighbourhood nor is it inappropriate for the area or property. Therefore, Staff have concluded that the application meets the general intent and purpose of the Official Plan.

CONCLUSIONS:

Based on a review and analysis of Minor Variance Application A.17/2019, it is the opinion of the Planning and Building Services Department that the Application satisfies the four tests for Minor Variances as set out in Section 45 of the *Planning Act*. Therefore, Planning and Building Services are supportive of the application, subject to the following Conditions:

1. That Approval is granted only to the proposed 3.71 square metre landing deck and stairs as shown in Attachment #2 of Staff Report PL-2019-67, dated July 31, 2019.
2. That the Applicant satisfy the Town that the approved lot grading plan detailing lot grading from the front to rear of the lot will be maintained.

FINANCIAL IMPACT:

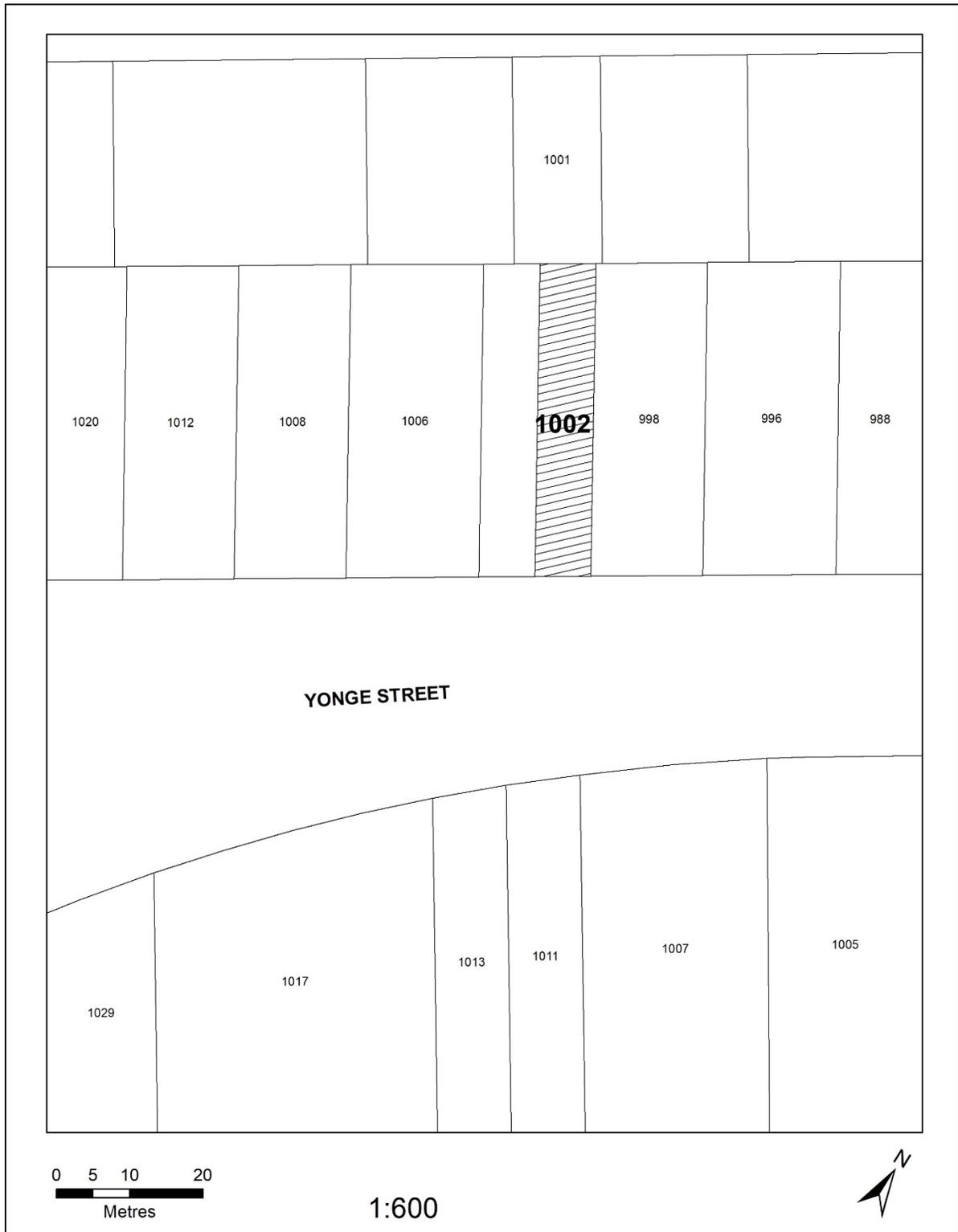
There are no financial impacts as a result of this application.

Prepared by: Riley Anderson, Student Planner
Reviewed by: Angela Zhao, Planner
Approved by: Wesley Crown, MCIP, RPP
Director of Planning and Building Services

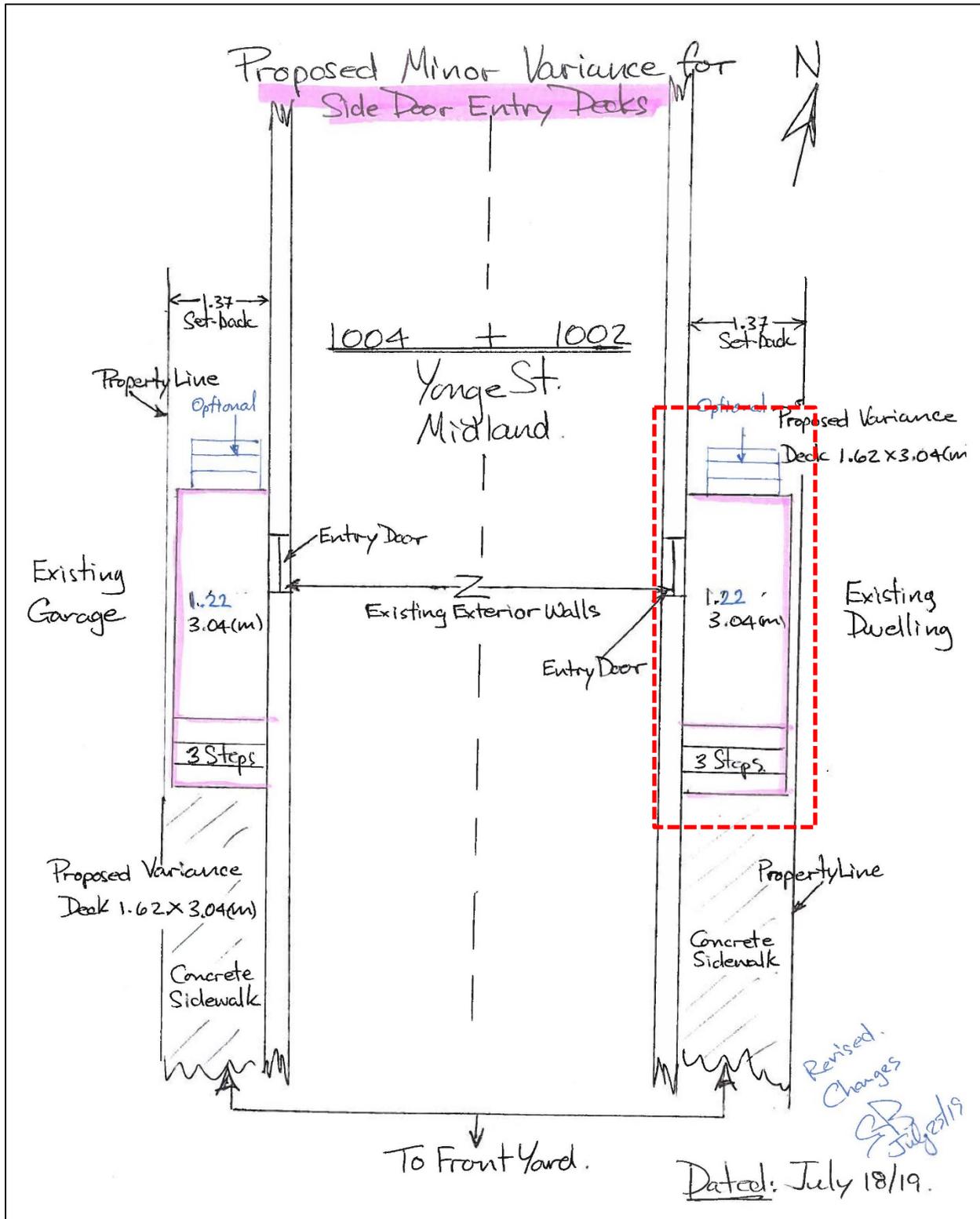
Attachments:

- #1 Location Map
- #2 Site Plan
- #3 Photo of the Proposed Deck

Attachment #1: Location Map



Attachment #2: Site Plan



Attachment #3: Photo of Proposed Deck

