



STAFF REPORT

FUNCTION: Committee of Adjustment

CHAIR: Cindy Tremblay

DATE: May 30, 2019

REPORT NO.: **PL-2019-44**
Permission to Expand a Legal Non-Conforming Use
A.11/2019 – 413 Yonge Street

RECOMMENDATION:

The Planning and Building Services Department supports approval of Permission to Expand Application A.11/2019 regarding 413 Yonge Street requesting an expansion of a legal non-conforming residential use to permit a unit in the basement, subject to the following conditions:

1. That a Building Permit be obtained within one (1) year.
2. That the Applicant obtain Site Plan Approval, if necessary.

BACKGROUND:

The Town received an application for a Permission to Expand from on May 21, 2019 for the property located at 413 Yonge Street. The property is legally described as East Part Lot 101 on Plan 504 located in the Town of Midland. The property is located on the south west side of the intersection between Yonge Street and Manly Street. See Attachment #1 for the Location Map.

The property is a corner lot with a frontage of 15.8 metres on Manly Street and a frontage of 30.5 metres on Yonge Street for an area of 482 square metres. Currently the property has a two-storey building with a laundromat on the first floor and two residential dwellings on the second floor.

Surrounding Land Uses:

North: Residential
South: Residential
East: Residential
West: Residential

The Applicant requests permission to expand the legal non-conforming residential use on the subject property with respect to the construction of a basement dwelling unit. The current

zoning for the subject property under Zoning By-law 2004-90 is **NEIGHBOURHOOD COMMERCIAL EXCEPTION – NC-2**, which does not permit residential uses. The property is considered a legal non-conforming use as the building was constructed with full site plan and building permit approval in 1998, under Zoning By-law 79-40, where residential use was permitted on the subject property. To create a new dwelling unit on the lot, an expansion to the legal non-conforming use is required. The proposed construction will be internal to the building and no changes to the building footprint is being proposed. See Attachment #2 for the Site Plan.

Provincial Policy Statement, 2014

Section 3 of the Planning Act states that all planning applications must be consistent with the Provincial Policy Statement. The Provincial Policy Statement states that settlement areas are to be the focus of growth and development. Intensification is encouraged and infilling is a form of intensification.

Growth Plan for the Greater Golden Horseshoe

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. A new Growth Plan, released on May 18, 2017, came into full force and effect on July 1, 2017. Generally, the Growth Plan 2017 directs growth to built-up areas within communities that have the capacities to accommodate the growth and development and requires intensification of development and greater densities within communities to create more compact, vibrant and complete communities.

County of Simcoe Official Plan

The Town of Midland is designated as a “SETTLEMENT AREA” in the County’s Official Plan. The County Official Plan generally indicates that settlements should be the focus of growth and that compact form that provides efficient use of land on full services should be promoted.

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. Neighbourhood-oriented commercial uses may be permitted. Section 8.6.3 specifically addresses existing non-conforming land uses and states that non-conforming uses “should cease to exist in the long run. In special instances it may be desirable to permit the extension or enlargement of such a non-conforming use in order to avoid unnecessary hardship. It is intended that extension and enlargements shall be subject to the provisions of the Planning Act.”

Zoning By-law 2004-90, as amended

The property is zoned **NEIGHBOURHOOD COMMERCIAL EXCEPTION – NC-2** in Zoning By-law 2004-90. The Neighbourhood Commercial zone permits a range of commercial uses including a laundromat. As previously described, the subject property has two legal-non-conforming residential units on the second floor.

Departmental and Agency Comments

June 6, 2019 - Director of Engineering, Water and Wastewater

1. No comment.

June 7, 2019 - Director of Operations, Parks and Facilities

1. On-site parking concerns should be addressed.

ANALYSIS:

The Application requests permission to expand a legal non-conforming use (residential) on the subject property for the construction of a basement dwelling unit. No changes to the building footprint are being proposed.

Section 45 of the *Planning Act* sets out the powers of the Committee of Adjustment which includes the power to grant permissions for the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the By-law was passed and if the use has continued until the date of the application to the Committee. As previously described, the two residential dwellings on the second floor of the subject property were legally established and still exist today. The Committee of Adjustment is therefore permitted by the *Act* to consider the Application.

Applications for permission to expand pursuant to Section 45 (2) (i) of the *Planning Act* are evaluated with respect to whether the expansion will have an “adverse impact”. The test of “adverse impact” has been established and enunciated in many OMB (now LPAT) hearings and Court decisions. The test of “adverse impact” can be further broken down into the following component elements: Environmental Impact, Visual Character, Neighbourhood Character Impact, Impacts on Neighbouring Complying Uses, and the Intensity of the Expansion.

The proposed expansion is wholly contained within the existing building footprint and is not anticipated to have an impact on the environment, the visual character of the existing building, the neighbourhood character or the neighbourhood complying use. The addition of one residential unit is minimal and is not anticipated to be intensive. The proposed basement dwelling unit will not have an impact on the complying laundromat on the subject property as it is not being proposed to be altered as a result of this Application. The additional basement unit will not interfere with the regular operations of the laundromat. Should the Applicant request to expand the residential use into the first-floor commercial use, a Zoning By-law Amendment Application will be required. Therefore, the Planning Department is supportive of the Application.

CONCLUSIONS:

Based on a review of the Application, it is the opinion of Planning and Building Services that the Application will not cause an adverse impact and is a reasonable Application to expand a legal non-conforming use. Any issues internal to the building regarding the proposed residential unit will be dealt with through the Building Permit process while external issues can be dealt with through the site plan process. Therefore, Planning and Building Services

are supportive of the Application, subject to the following conditions:

1. That a Building Permit be obtained within one (1) year.
2. That the Applicant obtain Site Plan Approval, if necessary.

FINANCIAL IMPACT:

There is no direct financial impact of this report.

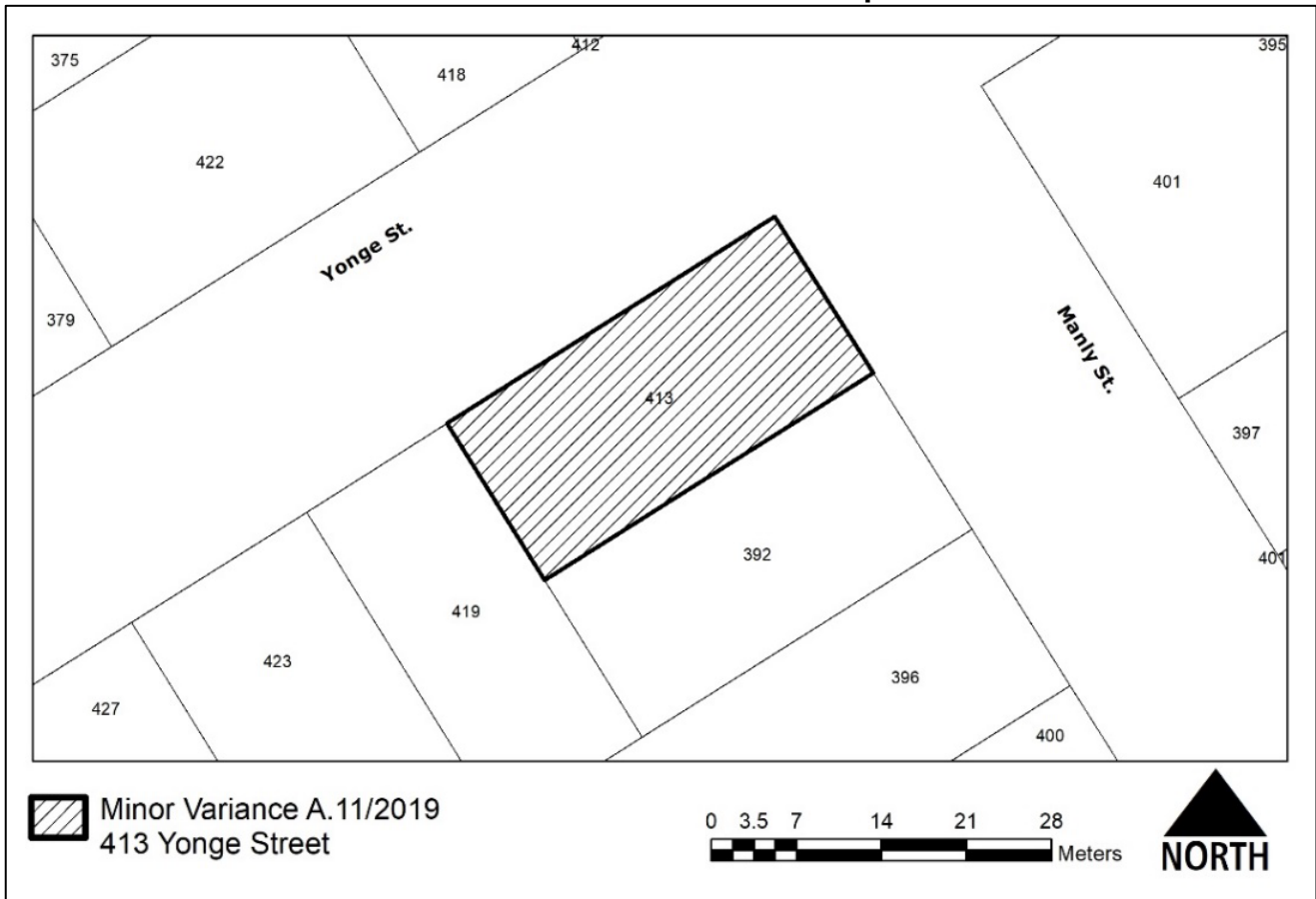
Prepared by: Angela Zhao, Planner

Attachments

#1: Location Map

#2: Proposed Site Plan

Attachment #1: Location Map



Attachment #2: Applicant Sketch

