



## STAFF REPORT

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**FUNCTION:** Committee of Adjustment

**CHAIR:** Cindy Tremblay

**DATE:** September 4, 2018

**REPORT NO.:** **PL-2018-68**  
**A.19/2018 – 409 Manly Street**  
**Minor Variance Application**

### **RECOMMENDATION:**

The Planning and Building Services Department supports the approval of Minor Variance Application A.19/2018 respecting 409 Manly Street for the following Variances:

- To increase the Lot Coverage for an Accessory Building from 5% to 6.9%
- To increase the building height of an Accessory building from 4.0 metres to 5.0 metres

To permit a Rear Yard detached garage subject to the following Condition:

1. That a Building Permit be obtained within one (1) year.
2. That approval of the Variance is granted and fixed to the setbacks of the proposed garage as shown on Attachment #2 to Staff Report PL-2018-68, dated September 4, 2018

### **BACKGROUND:**

#### **Site and Surrounding Area**

The Town received an application for a Minor Variance from William Sunday on August 17, 2018, for the property known as 409 Manly Street. The subject property is legally described as Part Lot 6 on Registered Plan 509, more particularly described as Part 1 of Reference Plan 51R13012 (See Attachment 1 – Location Map). The subject land is located near the east intersection between Manly Street and Hannah Street.

The property has a frontage of 15.24 metres, a depth of 33.53 metres and a lot area of

approximately 511 square metres. There is an existing Single Detached Dwelling with a footprint of approximately 79.57 square metres. There was previously a garage on the property that has since then been taken down with only the foundation remaining. The Applicant intends to construct a new garage on the same foundation which has triggered this Application.

Surrounding Land Uses:

North: Residential

South: Residential

West: Residential

East: Residential

**Proposed Development and Application Request**

The Applicant is proposing a new 36.33 (7.37 metres x 4.93 metres) square metre rear yard detached garage with a height of 5.0 metres on the foundation of a previous detached garage. The garage will have a rear yard setback of 3.66 metres and an interior side yard setback of 1.83 metres. The proposed garage is shown on Attachment #2. To accommodate the garage, the Applicant is requesting an increase of the permitted Lot Coverage for an Accessory Building from 5% to 6.9%, a Variance of 1.9% and an increase in the permitted Building Height of an Accessory Building from 4.0 metres to 5.0 metres, a Variance of 1.0 metre.

**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 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.

**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 permitted uses of the 'R3' Zone include Accessory Building, Detached Dwelling Unit, Duplex Dwelling Unit, Home Occupation, Public Use, Secondary Unit and Semi-Detached Dwelling Unit. The proposed detached garage meets all R3 Zoning provision, except for coverage and height.

Section 3.8 of the Zoning By-Law sets out Zoning provisions for Accessory Uses. The maximum Lot Coverage for an Accessory Building is 5% and the Maximum Building Height in a Residential Zone is 4.0 metres.

### **Departmental and Agency Comments**

, 2018 – Director of Engineering, Water and Wastewater

1. No concern.

### **ANALYSIS:**

The Applicant is proposing a new 7.37 metres x 4.93 metres detached garage for a total of 36.33 square metres in the rear yard with a height of 5.0 metres on the foundation of a previous detached garage. The proposed garage does not comply with the maximum coverage and height as of By-Law 2004-90. To permit the garage, the Applicant is requesting an increase of the permitted Lot Coverage for an Accessory Building from 5% to 6.9%, a Variance of 1.9% and an increase in the permitted Building Height of an Accessory Building from 4.0 metres to 5.0 metres, a Variance of 1.0 metre.

As set out by section 45 (i) of the *Planning Act*, a Variance should only be approved based on whether it meets all four 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?

#### ***Is the Variance Minor?***

The Applicant is requesting an increase in accessory building lot coverage from 5.0% to 6.9%. The 1.9% increase is required only for the accessory building coverage and not to the overall lot coverage. The current single detached dwelling on the property does not have a garage and occupies 15.57% of the permitted 33% lot coverage. Given the context that the house is much smaller than the permitted coverage, a 1.9% increase (9.7 square metres) in accessory building coverage is minor in nature.

The increase in height from 4.0 metres to 5.0 metres is a difference of 1.0 metre. Due to the configuration of the lot, the garage will be facing onto the rear yard of the neighboring lots. The garage is being proposed to be setback approximately 33% further than the Zoning requirements on the nearest side and will meet or exceed all other Zoning standards. Given the above, the additional height does not appear to have a foreseeable impact on the neighbouring properties and is therefore considered minor.

#### ***Is the Variance desirable for the appropriate development of the land?***

Currently, the property has a single detached dwelling without a garage. The proposed

garage is desirable for the property owner as it would provide an indoor storage space for vehicles and other residential storage. The lot is also underutilized given the current lot coverage is 15.57% of the permitted 33% lot coverage. The additional height will not result in adverse impacts on the neighbourhood as it is relatively minor due to its location and should not impact the neighbour's ability to enjoy their property. Therefore, Staff finds that the proposed garage is desirable for the development of the land as it will allow the Owners to enjoy their property by providing additional residential storage space.

***Maintains the general intent and purpose of the Zoning By-law?***

The intent of the Zoning By-law for accessory building lot coverage is to ensure the accessory building remains secondary to the primary residential dwelling use and does not become the primary feature of the lot. The requested Variance for lot coverage is minimal and would not cause the garage to become a primary use of the property. The intent of a maximum height for accessory buildings is to minimize negative impacts on the neighboring property. The garage is being proposed to be setback approximately 33% further than the Zoning requirements at the nearest side and will be backing onto rear yards of the neighboring properties. Due to the setback, the additional garage height does not appear to have any impact on the neighboring properties that a standard garage would not also have. Therefore, the proposed garage meets the general intent and purpose of the Zoning By-law.

***Maintains the general 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. Given that the proposed garage is minor in nature, desirable, and meets the intent and purpose of the Zoning By-law, Staff finds that it does not disrupt from the sense of neighbourhood nor is it inappropriate. Therefore, the proposed minor variances meet the general intent and purpose of the Official Plan.

**CONCLUSIONS:**

Based on a review of Minor Variance Application A.19/2018, it is the opinion of the Planning and Building Services Department that the Application satisfies the four tests as set out in Section 45 (i) of the Planning Act. Therefore, Planning and Building Services are supportive of the application, subject to the following Condition:

1. That a Building Permit be obtained within one (1) year.
2. That approval of the Variance is granted and fixed to the setbacks of the proposed garage as shown on Attachment #2 to Staff Report PL-2018-68, dated September 4, 2018

**FINANCIAL IMPACT:**

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

Prepared by: Angela Zhao, Planner

Approved by: Wesley Crown, MCIP, RPP  
Director of Planning & Building Services

Attachments:

- #1 Location Map
- #2 Site Plan

**Attachment #1: Location Map**

**Attachment #2: Site Plan**

