

**COMMITTEE OF ADJUSTMENT
PLANNING REPORT**

Application: A9/24
Related Application(s): Permits No. 2024-0076/0077/0184
Owner(s): David Head
Meeting Date: August 30th, 2024
Prepared by: Owen Curnew, Development Planner

PROPERTY INFORMATION:

Municipal Address	1 & 3 Fraser Street
Legal Description	PLAN 160A PT LOT 17
Roll No.	4321-010-010-11700
Official Plan	Commercial
Zoning By-law	Core Commercial (C2)

RECOMMENDATION:

Staff recommends **APPROVAL** of Application **A9/24** based on Planning Policy and all considerations, with the following conditions:

1. That all municipal taxes be paid and up to date.
2. That the applicant satisfies concerns from the NVCA.
3. The applicant provides an update site plan demarcating the twelve (12) parking spaces
4. The applicant enters into a development agreement establishing proposed uses ensuring that two (2) reserved parking spaces for each of the four (4) residential units are provided, and four (4) for the commercial units are provided. The applicant will also agree to commit to line painting, demarcating the spaces for each residential unit and the commercial units.
5. The applicant provides staff with a \$2,000 legal deposit for the Township Solicitor to review the state of ownership of both lots and to confirm that the two (2) parcels have been merged.

DATE OF SITE INSPECTION

August 16th, 2024.

REASON FOR THE APPLICATION:

The applicant is seeking relief from Section 30, Section 20.2r), Section 4.35a), and Section 4.35d) of Essa Township’s Zoning By-law 2003-50 for relief regarding setbacks, a residential unit being located on the first-storey of a commercial building, the minimum floor area of a residential unit in a commercial building, and the maximum allowable portion of a commercial building that can be dedicated to residential uses.

SURROUNDING LANDS:

North	The properties abut Fraser Street Northern of the property and 5 Fraser Street on the Northeastern portion. 5 Fraser Street contains a commercial building.
East	The eastern portion of the lots abut 63 Curtis Street, and 9 Margaret Street, which contain a Single-Family Dwelling, and Commercial Building, respectively.
South	The subject property abuts Margaret Street to the South.
West	The western portion of the property fronts Fraser Street.

BACKGROUND:

The subject lands are municipally known as 1 & 3 Fraser Street. The property is zoned Core Commercial (C2) as per Schedule “B” of Essa Township’s Zoning By-law 2003-50. The applicant has submitted three (3) building permit applications: one (1) demolition permit, one (1) interior alteration permit, and one (1) sign permit.

The applicant began construction prior to receiving building permits and demolished the interior of the allegedly ‘existing’ ground-floor residential unit. Planning Staff has not been able to confirm that the ground-floor residential unit was ever permitted; however, there were building permits issued for interior renovation within no defined scope of what the use of the interior would be. As per Section 20.2r) of Zoning By-law (ZBL) 2003-50, apartments are permitted *above* any permitted commercial use in lands zoned C2, meaning that the apartment is not currently permitted use.

It is the Planning Staffs’ understanding that the relevant penalties for construction without a permit are being considered by the Building Department, and Planning Staff will be recommending that any penalties be incorporated as conditions of approval for the Minor Variance.

The applicant is seeking more than three (3) forms of relief from ZBL 2003-50; thus, the variance is considered a *Complex Minor Variance*. The applicant has applied for five (5) forms of relief:

1. Section 4.35a): to permit the dwelling unit to have a minimum floor area of 36m² whereas the By-law requires a minimum floor area of 56m²
2. Section 4.35d): to permit the residential portion of a non-residential building to be 60% of the building whereas the By-law permits a maximum of 50%.
3. Section 20.2r): to permit a residential unit to be located on the bottom floor of the non-residential building.
4. Section 30: to permit an exterior side yard setback of 5.9m whereas the By-law requires a minimum side yard setback of 6.0m.
5. Section 30: to permit a rear yard setback of 5.3m whereas the By-law requires a minimum rear yard setback of 6.0m.

Additionally, the applicant has suggested that the two (2) lots known as 1 & 3 Fraser Street have merged and should be considered one (1) lot. Staff has asked for proof, and that the Township Solicitor be able to review the document to address staff's concerns regarding the proposed parking area which looks to take place on a separate lot from the commercial businesses and proposed residential units.

Staff recommends the following condition of approval: the applicant provides staff with a \$2,000 legal deposit for the Township Solicitor to review the state of ownership of both lots and to confirm that the two (2) parcels were merged.

The applicant has provided a Planning Justification Report (PJR) which further explains the forms of relief and provides justification as to how they generally maintain the intent and purpose of each of the four tests for a Minor Variance

Township Planning Staff generally agrees with the policy analyses provided within the PJR and have added it as an attachment (1) to the report for reference.

COMMENTS:

Test 1.

Does the minor variance maintain the general intent and purpose of the Township Official Plan (OP)? Yes

Essa Townships Official Plan:

Section 14.2 of the Township's Official Plan states that that the Commercial - General classification shall mean that the predominant use of land in areas so designated shall be for the buying and selling of goods and services or business offices. Compatible institutional or industrial uses may also be permitted as an integral part or accessory to a

permitted commercial use.

The Official Plan allows for accessory uses to commercial uses, and in this instance, the residential uses can be considered accessory to the commercial uses.

Therefore, the Minor Variance generally maintains the intent and purpose of the Township's Official Plan.

Test 2.

Does the minor variance maintain the general intent and purpose of the By-law? Yes

Essa Township Zoning By-law (2003-50):

The following forms of relief are being requested:

1. Section 4.35a): to permit the dwelling unit to have a minimum floor area of 36m² whereas the By-law requires a minimum floor area of 56m²
2. Section 4.35d): to permit the residential portion of a non-residential building to be 60% of the building whereas the By-law permits a maximum of 50%.
3. Section 20.2r): to permit a residential unit to be located on the bottom floor of the non-residential building.
4. Section 30: to permit an exterior side yard setback of 5.9m whereas the By-law requires a minimum side yard setback of 6.0m.
5. Section 30: to permit a rear yard setback of 5.3m whereas the By-law requires a minimum rear yard setback of 6.0m.

Township Planning Staff would like to refer to the statement made in the PJR which states the following:

"The proposed interior renovations do not exacerbate the existing conditions, and these variances are only requested to address the current condition of the site. Therefore, the proposed variances meet the general intent of the Zoning By-law" (Attachment 1 - Planning Justification Report, Tang, Page 5).

Staff agrees with the statement as it pertains to the forms of relief in Section 30, as they merely aim to address the existing condition of the site; however, relief from Section 4.35a), 4.35d), and Section 20.2r) would result in exterior changes in the form of increased parking.

The applicant is proposing ten (10) parking spaces; Section 4.28.5e) outlines the parking requirements for mixed use buildings as: where a building or structure accommodates more than one type of use the parking requirements for the whole building shall be the sum of the requirements for the separate parts of the building occupied by the separate

types of uses.

The applicant has proposed four (4) residential units: the minimum parking requirement for Residential Units in any zone aside from R5 as per Section 4.28.4 is two (2) parking spaces per unit (i.e. 8 parking spaces). As well, the minimum parking spaces for commercial businesses is one parking space per 28.0m² of the floor area of the business. The applicant's existing floor space for the existing commercial businesses is approximately 99m², cumulatively. Thus, the applicant would require a minimum of 3.53 (~4) parking spaces.

To conclude, the applicant would be required to provide twelve (12) parking spaces.

Staff recommends the following conditions of approval:

- 1. The applicant provides an update site plan demarcating the twelve (12) parking spaces**
- 2. The applicant enters into a development agreement establishing proposed uses ensuring that two (2) reserved parking spaces for each of the four (4) residential units are provided, and four (4) for the commercial units are provided. The applicant will also agree to commit to line painting, demarcating the spaces for each residential unit and the commercial units.**

Thus, the Minor Variance would generally maintain the intent and purpose of Essa Township's Zoning By-law (2003-50).

Test 3.

Is the minor variance desirable for the appropriate development or use of the land, building or structure? Yes

Township Planning Staff would like to refer to the following excerpts from the PJR:

"The Subject property is currently developed with an existing mixed-use building. The proposal is to undergo interior renovations and to intensify the existing residential use by increasing the number of residential units. The parcel on which the existing building is located has now been merged with the parcel to the south which has resulted in greater setbacks for the existing building to the southern lot lines. There is a privacy fence along the north line by the existing paved area, which separates the existing mixed-use building from the commercial building on the adjacent property to the north. The proposed variances are desirable for the appropriate development of the land as it only seeks to recognize existing conditions." (ibid).

"Although the proposed intensification of the existing residential use results in smaller residential units than permitted by the By-law, the new residential units have been

designed for bachelor units with affordability in mind. The Province of Ontario has been facing a housing crisis with the lack of affordable housing and it is widely understood that this housing supply issue is becoming increasingly important. The proposed smaller units provide a more affordable opportunity for residents of the Township to rent and addresses the direction of the current provincial government.” (Attachment 1 - Planning Justification Report, Tang, Page 6).

Township Planning Staff generally agrees with the statements above and believes the approval of the requested variance to be good planning.

Therefore, the Minor Variance should be considered appropriate use of the land and building.

Test 4.

Is the requested variance minor in nature? Yes

Township Planning Staff would like to refer to the following excerpts from the PJR:

“The proposed variances are to recognize the existing residential unit on the ground floor, the existing portions of the residential units in the non-residential building, and to permit a reduced minimum floor area for the residential units. The proposed variance to permit 60% of the building to be the residential portion is an increase of 10% from the permitted maximum of 50% which is minor when taking the existing conditions into account. The proposed minimum residential units and the direction of the provincial government, this variance is minor in nature.” (Attachment 1 - Planning Justification Report, Tang, Page 5).

Township Planning Staff generally agrees with the statements above and believes the approval of the requested variance to be good planning.

Thus, the Minor Variance should be considered ‘minor’ in nature.

AGENCY & DEPARTMENT COMMENTS:

The NVCA provided comments stating that they had no concerns with the proposed Minor Variance.

PUBLIC COMMENTS:

The following comments were received from members of the public:

“The building is fully contained on #3 Fraser St Lot, however the drawing circulated with the notice indicated that 6 of the provided parking spots would be on the #1 Fraser St Lot: should the

lots be merged in to one lot to achieve that, or, what is stopping the #1 lot from being sold to a different owner in the future and leaving the #3 building with 3 parking spots for 5 units?"

"The ground floor residential unit in question was, over the past few months, substantially demolished and rebuilt: why would a building permit have been issues to rebuild the residential unit prior to these zoning approvals being put in place?"

"While we have no concern with the back, ground floor unit continuing to be used as residential: will appropriate wording be used in the relief from 20.2r & 4.35d to retain the 2 current ground floor commercial units and not have them become residential units as well in the future (without another application being required)? I.e.: retain the building as two 2 commercial & 3 residential units vs becoming 5 residential units."

Township Planning Staff would like to assure that any future changes to the existing commercial businesses that would result in a change of use (i.e. commercial to residential) would require a Planning application and would not be permitted at this time.

Township Planning Staff believes that the report has answered and addressed the above-mentioned concerns.

CONCLUSION:

For the above reasons, Staff recommends **APPROVAL** of this application.

Staff advises that:

The applicant be **GRANTED** the minor variance with conditions.

Respectfully submitted,



Owen Curnew
Development Planner
Township of Essa