

**COMMITTEE OF ADJUSTMENT  
PLANNING REPORT**

**Application:** A9/24  
**Related Application(s):** Permits No. 2024-0076/0077/0184  
**Owner(s):** David Head  
**Meeting Date:** September 27<sup>th</sup>, 2024  
**Prepared by:** Owen Curnew, Development Planner

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**PROPERTY INFORMATION:**

<b>Municipal Address</b>	1 & 3 Fraser Street
<b>Legal Description</b>	PLAN 160A PT LOT 17
<b>Roll No.</b>	4321-010-010-11700
<b>Official Plan</b>	Commercial
<b>Zoning By-law</b>	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 enters into a development agreement establishing proposed uses ensuring that a minimum of two (2) reserved parking spaces for each of the four (4) residential units are provided, and a minimum of four (4) parking spaces 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, as well as commit to planting full shade canopy trees as shown on the revised site plan.
4. That a Deeming By-law is registered removing Lots 16 and 17 East Side of Fraser Street of Plan 160A from the provisions of Section 50 (3) and (5) of the Planning Act, R.S.O., 1990, c.P.13.
5. Any outstanding penalties associated with the Building Permits be paid by the applicant.
6. All external costs associated with the application be borne by the applicant at no cost to the municipality.
7. Lots 1 & 3 Fraser Street are confirmed consolidated to the satisfaction of the Township.



REVISED PROPOSAL



**DATE OF SITE INSPECTION**

August 16<sup>th</sup>, 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:**

<b>North</b>	The properties abut Fraser Street Northern of the property and 5 Fraser Street on the Northeastern portion. 5 Fraser Street contains a commercial building.
<b>East</b>	The eastern portion of the lots abut 63 Curtis Street, and 9 Margaret Street, which contain a Single-Family Dwelling, and Commercial Building, respectively.
<b>South</b>	The subject property abuts Margaret Street to the South.
<b>West</b>	The western portion of the property fronts Mill 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 a 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 36m<sup>2</sup> whereas the By-law requires a minimum floor area of 56m<sup>2</sup>
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. The Township Solicitor has had a chance to review the status of the parcels and has confirmed that, while the parcels have not yet been consolidated by Land Registry Ontario (LRO), a Consolidation Application (SC2075707) has been registered. Staff confirmed with the Solicitor if this would be appropriate to include as a condition of approval to which the Solicitor confirmed that it would be appropriate.

**Therefore, staff recommends the following condition of approval: That Lots 1 & 3 Fraser Street are confirmed consolidated to the satisfaction of the Township.**

Furthermore, the Township Solicitor provided the recommendation that the Township pass a By-law Deeming Lots 16 and 17 on the East Side of Fraser Street, Plan 160A to no longer to be parts of a Registered Plan of Subdivision (attachment 2) for purposes of Section 50 (3) and (5) of the Planning Act. Staff confirmed with the Solicitor if this would be appropriate to include as a condition of approval to which the Solicitor confirmed that it would be appropriate. To include that we put it to Council.

- 1. Therefore, staff recommends the following condition of approval: That a Deeming By-law is registered removing Lots 16 and 17 East Side of Fraser Street of Plan 160A from the provisions of Section 50 (3) and (5) of the Planning Act, R.S.O., 1990, c.P.13.**

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.

The Committee of Adjustment heard the application (A9/24 – 1-3 Fraser Street) for the first time on August 30<sup>th</sup>, 2024. The Committee reached a decision to defer the application until the

Township Solicitor had a chance to review the consolidation status of the subject properties, as well as, to provide a Revised Site Plan to include Landscaping features (e.g., trees, amenity spaces, etc.). The applicant has provided a Revised Site Plan which staff believes to have incorporated the suggested revisions of the Committee (attachment 3).

**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 36m<sup>2</sup> whereas the By-law requires a minimum floor area of 56m<sup>2</sup>
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 originally proposed 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 28.0m<sup>2</sup> of the floor area of the business. The applicant’s existing floor space for the existing commercial businesses is approximately 99m<sup>2</sup>, cumulatively. Thus, the applicant would require a minimum of 3.53 (~4) parking spaces.

The applicant has provided a Revised Site Plan demonstrating the twelve (12) required parking spaces, and landscaping features, as requested by the Committee of Adjustment. The applicant has proposed fourteen (14) parking spaces, exceeding the minimum number of parking spaces. Therefore, staff has no concerns regarding the number of parking spaces.

**Staff recommends the following conditions of approval:**

**The applicant enters into a development agreement establishing proposed uses ensuring that a minimum of two (2) reserved parking spaces for each of the four (4) residential units are provided, and a minimum of four (4) parking spaces 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, as well as commit to planting the full shade canopy trees identified on the revised site plan.**

**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 statement above and believes the approval of the requested variance would be acceptable upon confirmation of the consolidation status of the two (2) parcels. Staff believes if condition #7 is satisfied, the approval of the variance should be considered 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 ensure that any future changes to the existing commercial businesses that would result in a change of use (e.g. 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,

A handwritten signature in black ink, appearing to read 'Owen Curnew', with a long horizontal flourish extending to the right.

**Owen Curnew**  
Development Planner  
Township of Essa