



Community Planning

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Our File: **A10-24t**

APPLICATION FOR MINOR VARIANCE

TO: Town of Tillsonburg Committee of Adjustment
MEETING: October 21, 2024
REPORT NUMBER: 2024-xxx

OWNER: Perovich Holdings and M & J Property Holdings Inc.
55 Broadway Street, Tillsonburg, ON, N4G 3P4

APPLICANT: Ella Agranov, OBO Objective Engineering
A-151 Oxford Street, Ingersol, ON, N5V 2V8

REQUESTED VARIANCES:

1. Relief from **Section 5.24.2.1 – Off-Street Parking Required – Table 5.24.2.1: Parking Standards and Section 5.24.5(b) – Exceptions – Parking Space Requirements**, to reduce the minimum required vehicle parking spaces from two (2) parking spaces to zero (0) parking spaces;
2. Relief from **Section 13.2 – Zone Provisions – Table 13.2 Zone Provisions – Rear Yard, Minimum Depth**, to reduce the minimum required rear yard depth from 6.0 metres (19.7 feet) to 0.1 metres (0.4 feet); and
3. Relief from **Section 13.2.6 – Location of Public Garages**, to allow for the enlargement of a non-permitted use on the subject property.

LOCATION:

The subject lands are described as Lots 1475 and 1476, Plan 500, Town of Tillsonburg. The property is located on the west side of Broadway, south of Baldwin/Oxford Streets and north of London Street East and West and known municipally as 55 Broadway.

COUNTY OF OXFORD OFFICIAL PLAN:

Schedule 'T-1'- Town of Tillsonburg Land Use Plan Central Business District

TOWN OF TILLSONBURG ZONING BY-LAW No. 3295:

Existing Zoning: Central Commercial (CC)

PLANNING REVIEW:(a) Purpose of the Application:

The applicant is proposing relief from the above-noted provisions of the Town's Zoning By-law to facilitate the construction of an addition comprising approximately 123.46 m² (1,328.91 ft²) to the existing commercial use, which will consist of additional retail space.

The subject property is approximately 1,805.09 m² (19430 ft²) in area and contains an existing tire shop (constructed circa 1951). The existing building presently extends to almost the entirety of the property along the south lot line (forming a reverse 'L' shaped pattern). The intent of this application is to extend the legal non-conforming setback to the north to facilitate the proposed addition. If approved, the structure would be modified to be rectangular in shape.

In order to facilitate the proposed addition there are three (3) variances that are required:

- Relief from Section 5.24.2.1 (Parking Provisions). This relief is required as the Owners cannot provide the additional two (2) parking spaces that are required as a result of the proposed addition;
- Relief from Section 13.2 (Zone Provisions) to permit a rear yard setback of 0.1 metres (0.4 feet) whereas 6.0 metres (19.7 feet) are required. This relief proposes to extend the existing legal non-conforming setback for the proposed addition to the structure; and
- Relief from Section 13.2.6 (Location of Public Garages) which requests to allow for the enlargement of a non-permitted use on the subject property.

For Committee's information, the subject property will be proceeding through a future rezoning application to permit a vehicle sales establishment on the site. In addition, the proponents are presently proceeding through the Site Plan Control process for the proposed addition. This route was chosen by the Applicant in order to expedite the building permit process.

Plate 1, Location Map with Existing Zoning, shows the location of the subject property and the zoning in the immediate vicinity.

Plate 2, Arial Map 2020, provides an aerial view of the subject lands and surrounding properties.

Plate 3, Applicant's Sketch, shows the location, size and setbacks of the existing structure, as submitted by the applicant.

(b) Agency Comments:

The application was circulated to a number of public agencies considered to have an interest in the proposal. All of the comments received through the circulation process are summarized below.

Town of Tillsonburg Building Services Department, Town of Tillsonburg Development Commissioner, Oxford County Public Works, and Tillsonburg Hydro indicated that they do not have any comments or concerns.

(c) Public Consultation

Notice was provided to surrounding property owners on October 11, 2024, in accordance with the requirements of the Planning Act. As of the writing of this report, no comments or concerns had been received from the public.

(d) Intent and Purpose of the Official Plan:

The subject lands are located within the 'Central Business District' designation according to the Town of Tillsonburg Land Use Plan, as contained in Schedule T-1 of the Official Plan.

Central Business Districts are those lands that are intended to be the most intensive functionally diverse business, cultural and administrative centre in the Town. This designation permits a full range of commercial, office, administrative, cultural, entertainment, recreation, institutional, open space and multiple residential uses.

The use of the subject lands will remain commercial. The use of the lands for commercial purposes is supported by the policies of the Official Plan for the Central Business District and based on the applicant's submission, Planning staff are generally satisfied that the proposed addition will have minimal impact on surrounding properties in terms of compatibility and form.

(e) Intent and Purpose of the Zoning By-law:

Section 45(2) of the Planning Act provides that the Committee of Adjustment may, where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit 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, continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed.

Section 10.3.5 (Zoning By-law and Non-Conforming Uses) of the Official Plan states that the Committee of Adjustment may permit the extension, enlargement or change of use of a legally established land use that does not conform to the Official Plan and the local area municipal Zoning By-law. In evaluating such applications, the Committee shall consider the following criteria:

- the use has been continuous from the day the Zoning By-law came into effect;
- there will be no extension of the site or building beyond the limits of land owned and used from the effective date of the By-law;
- permission for the extension, enlargement or change in the non-conforming use is in keeping with the general intent of the Official Plan and will not aggravate those aspects of the use that do not conform to the Official Plan or Zoning By-law;
- that existing municipal services such as water, sewers, stormwater management facilities and roads will be adequate;
- that there are adequate parking and loading facilities to accommodate the proposed use;
- that the proposed extension, enlargement or change in use would include measures to reduce nuisances, protect adjacent properties and improve the compatibility of the use with surrounding areas; and,
- that the extension, enlargement or change in use is necessary to avoid undue hardship on the applicant, provided that all other criteria have been met, there are no negative

effects on environmental resources and the proposed use is more compatible than the existing use relative to the relevant Official Plan policies.

In considering such applications for permission, the policies also state that the Committee of Adjustment may attach such conditions as it deems appropriate to the approval of an application within its jurisdiction to extend, enlarge or change a legal non-conforming use.

The subject property is zoned 'Central Commercial (CC)' in the Town of Tillsonburg Zoning By-law, which permits a public garage, a public library, a public use, a retail food store, a retail nursery and garden centre, a retail pet store, a retail store, a service shop, a shopping centre, a studio, a taxi stand or station, a veterinary clinic (excluding kennel facilities), a video rental establishment and a wholesale outlet. With regard to the permitted uses, as noted above, relief from Section 13.2.6 is required as this provision does not allow a public garage on lands fronting or flanking onto Broadway. As also noted above, the existing use is presently in operation, as such a variance for the extension of the legal non-conforming is being requested for the proposed addition.

The intent of the rear yard depth provisions in the Central Commercial zone are to provide adequate setbacks and ensure that opportunities exist for servicing (specifically storm water) on the site. In this regard, staff notes that the Public Works Department has reviewed the application and has noted no concerns with the proposed addition. Once again, the existing structure presently has a legal non-conforming setback of 0.1 metres (0.4 feet). The applicants are requesting to extend this legal non-conforming setback.

Finally, Section 5.24.2.1(Parking Space Requirements) requires that the proposed addition provide an additional two (2) parking spaces on site. The proposed structure will make the inclusion of any parking spaces impossible to achieve. However, staff notes that the existing site does have a parking lot which presently has seventeen (17) spaces. In addition, there is a municipal parking lot situated immediately west of Fox Alley, which will provide additional parking opportunities near the site.

(f) Desirable Development/Use:

Planning staff have reviewed the applicants' request and are of the opinion that the applicants' request can be considered minor and desirable for the development of the subject property. Specifically, the proposed addition will increase the usability of the subject lands while remaining within the maximum allowable coverage. Furthermore, the addition will be generally compatible with the surrounding neighbourhood. The Applicant will proceed through a rezoning application to propose a vehicle sales operation on the subject lands. In addition, the site is presently proceeding through a Site Plan Control application.

In light of the foregoing, it is the opinion of this Office that the requested relief is in keeping with the general intent and purpose of the Official Plan and Town Zoning By-law and can be given favourable consideration.

RECOMMENDATION:

That the Town of Tillsonburg Committee of Adjustment **approve** Application File A10-24t, submitted by Ella Agranov on behalf of Perovich Holdings Inc. and M & J Property Holdings Inc, for lands described as Lots 1475 and 1476, Plan 500, 50 Broadway, Town of Tillsonburg, as it relates to:

1. Relief from **Section 5.24.2.1 – Off-Street Parking Required – Table 5.24.2.1: Parking Standards and Section 5.24.5(b) – Exceptions – Parking Space Requirements**, to reduce the minimum required vehicle parking spaces from two (2) parking spaces to zero (0) parking spaces;
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3. Relief from **Section 13.2.6 – Location of Public Garages**, to allow for the enlargement of a non-permitted use on the subject property.

The requested variances meet the four tests of a minor variance as set out in Section 45(1) of the Planning Act as follows:

1. The proposed relief represents minor variances from the provisions of the Town's Zoning By-law in that the reduced provisions permit the expansion of a legal non-conforming setback and recognize a deficiency in parking spaces, is compatible with surrounding land uses, is minor and is desirable for the development of the lands.
2. The proposed relief maintains the general intent and purpose of the Town's Zoning By-law, and no negative impacts are anticipated associated the reduced zone provisions.
3. The relief is desirable for the use of the land as the said relief will allow for development that is permitted by the Zoning By-law, the use is compatible with planned development and is complimentary to proposed development in the area.
4. The relief maintains the intent and purpose of the Official Plan as the proposed relief will facilitate development that is contemplated within the Central Business District designation.

Authored by:

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Reviewed by:

Eric Gilbert, RPP, MCIP
Manager of Development Planning