

**THE CORPORATION OF THE TOWNSHIP OF WELLINGTON NORTH  
MEETING MINUTES OF THE COMMITTEE OF ADJUSTMENT  
AUGUST 29, 2022 AT 7:00 P.M.  
HYBRID MEETING WITH IN PERSON AND VIA WEB CONFERENCING**

<b>Members Present:</b>	<b>Chairperson:</b>	<b>Andrew Lennox</b>
	<b>Members:</b>	<b>Sherry Burke</b>
		<b>Lisa Hern</b>
		<b>Steve McCabe</b>
		<b>Dan Yake</b>

<b>Staff Present:</b>		
<b>Interim Chief Administrative Officer/Chief Building Official:</b>		<b>Darren Jones</b>
<b>Interim Chief Administrative Officer/Director of Operations:</b>		<b>Matthew Aston</b>
<b>Director of Legislative Services/Clerk:</b>		<b>Karren Wallace</b>
	<b>Deputy Clerk:</b>	<b>Catherine Conrad</b>
	<b>Director of Finance:</b>	<b>Farhad Hossain</b>
	<b>Human Resources Manager:</b>	<b>Amy Tollefson</b>
<b>Interim Manager Programming &amp; Community Engagement:</b>		<b>Mandy Jones</b>
<b>Incoming Chief Administrative Officer:</b>		<b>Brooke Lambert</b>
	<b>Senior Planner:</b>	<b>Matthieu Daoust</b>

**CALLING TO ORDER - Chairperson Lennox**

Chairperson Lennox called the meeting to order.

**DISCLOSURE OF PECUNIARY INTEREST**

No pecuniary interest declared.

**MINUTES OF PREVIOUS MEETING(S)**

- Committee of Adjustment, July 25, 2022 (A16/22)

RESOLUTION: CoA 2022-019

Moved: Burke

Seconded: Yake

THAT the Committee of Adjustment meeting minutes of July 25, 2022 – A16/22 be adopted as presented.

CARRIED

**APPLICATION**

A17/22 – Green Energy Dispensary Inc.

THE LOCATION OF THE SUBJECT PROPERTY is described as Survey Crown Part Park Lot 2 and is municipally known as 141 Smith St, Arthur. The property is approximately 1,037 m<sup>2</sup> (11,162 ft<sup>2</sup>) in size.

THE PURPOSE AND EFFECT of the application is to permit two additional residential units within the existing legal non conforming single detached dwelling under Section 45 (2) (a) (ii) of the Planning Act. The existing dwelling is located within the C1 Commercial Zone. One additional dwelling unit is proposed on the second floor and another additional dwelling unit is proposed in the basement. Other variances may be considered where deemed appropriate.

## SECRETARY TREASURER

Notices were mailed to property owners within 60 meters of the subject property as well as the applicable agencies and posted on the subject property on August 10, 2022.

## PRESENTATIONS

Matthieu Daoust, Senior Planner, County of Wellington, Township of Wellington North

- Planning Report dated August 29, 2022

Planning Opinion: The variance requested would permit an expansion to a legal conforming residential use in a commercial zone. The applicants are proposing to add two residential units to an existing single detached dwelling.

Planning Staff have no concerns with the expansion to the legal non-conforming residential use. The applicants have indicated the additional units will be a reconfiguration of the existing single detached dwelling. As such, there will be no additions to the existing home. Planning Staff note the proposed use is similar to the existing residential use on the subject lands.

### SUBJECT PROPERTY AND LOCATION

The location of the subject property is described as Survey Crown Part Park Lot 2 and is Municipally known as 141 Smith St. The property is approximately 1,037 m<sup>2</sup> (11,162 ft<sup>2</sup>) in size. The location is shown on Figure 1.

### PROPOSAL

The purpose of this application is to recognize an existing residential use in a commercial zone and permit two additional residential units in a single detached dwelling. The addition requires relief under Subsection 45(2)(a)(i) of the Planning Act, R.S.O. 1990:

Under Subsection 45(2)(a)(i) of the Planning Act, R.S.O. 1990., relief is being requested to permit an expansion of a legal non-conforming residential use to facilitate two additional residential units in a Central Commercial (C1) zone.

### WELLINGTON COUNTY OFFICIAL PLAN

The subject property is designated CENTRAL BUSINESS DISTRICT. Section 13.7 of the Plan provides consideration for minor variances provided the general intent of the Official Plan and Zoning By-law are maintained and the variance is minor and desirable for the appropriate development of the land. Consideration shall be given as to whether compliance with the by-law would be unreasonable, undesirable or would pose an undue hardship on the applicant.

Section 13.8 of the Plan indicates that non-conforming uses are legally established uses of land which do not conform to the Official Plan or Zoning By-law. Non-conforming status can impose serious hardship on a property owner and it is often appropriate to consider relief to recognize, extend or enlarge non-conforming uses in a rational manner.

Further, the Official Plan provides matters that must be considered to allow an expansion of a legal non-conforming use, including: the need for the extension, impacts, compatibility with surrounding uses, need for landscaping and screening, traffic impacts and parking, adequacy of services, and impacts on the natural environment.

## TOWNSHIP OF WELLINGTON NORTH ZONING BY-LAW

The subject property is zoned Central Commercial Zone (C1). The applicant is proposing to add two accessory residential units to an existing residential use in a commercial zone.

Both the applicant and municipal staff have confirmed the property has primarily been used as a residential dwelling. Planning Staff understand that a small barber shop operated in the basement, however the main floor has not been used as a commercial use. The C1 zone permits residential uses as accessory uses to the main commercial use, generally on the main floor and above. The existing dwelling is considered a legal non conforming use. A minor variance application is required to alter the residential use.

This type of variance is slightly different from a typical variance, in that it is referenced in a different section of the Planning Act and have different tests that must be applied. Whereas a typical minor variance has four tests that must be met to approve an application, a variance for expansion of a legal non-conforming use only needs to satisfy one of the criteria below for an approval to be granted by the committee.

- 1) Is the proposal similar to the current usage of the land, building or structure?;  
or
- 2) Is the proposal more compatible with uses permitted by the current zoning by-law?

Section 6.21c of the Zoning By-law permits the restoration of a non-conforming use provided said alterations do not alter the height, area, size or volume of the building. Planning Staff have no concerns with the proposed addition as there are no additions proposed and restoration will be limited to the reconfiguration of the existing single detached dwelling. Planning Staff note the use will remain similar to the current residential use in the single detached dwelling, and adverse impacts to neighboring properties are not anticipated.

Planning Staff note that there is proposed parking at the rear of the subject property. The provided sketch notes an easement on the neighboring property to access said parking, however this easement will need to be confirmed by the owner. A condition is recommended that an easement be provided on the adjacent property, municipally known as 171 Smith St for access to the rear parking area.

### **CORRESPONDENCE FOR COMMITTEE'S REVIEW**

Andrew Herreman, CPT, Resource Planning Technician, Grand River Conservation Authority

- Email dated August 11, 2022 (No Objection)

Scott Edwards, Owner 211 Smith Street, Arthur

- Email dated August 16, 2022 (No Objection)

### **REQUEST FOR NOTICE OF DECISION**

Persons wishing to be notified of the decision must submit a written request to the Secretary-Treasurer.

### **CHAIRPERSON OPENS FLOOR FOR ANY COMMENTS/QUESTIONS**

John Vanderwoerd, Applicant's Agent, was available to answer questions regarding the application.

## COMMENTS/QUESTIONS FROM THE COMMITTEE

Chair Lennox commented that this is a non-conforming use and asked how it would be different if they were wanting to change the footprint of the building. Mr. Daoust explained that the non-conforming section of the Zoning By-law states that an addition to the dwelling would not constitute a non-conforming use. Making the additions within the confinements of the existing home it would encapsulate the non-conforming use.

## DECISION

CALL FOR VOTE: SHOW OF HANDS

THAT the minor variance applied for in Application A17/22, for the property described as Survey Crown Part Park Lot 2 and municipally known as 141 Smith St, Arthur, to provide the following relief;

1. **THAT under Subsection 45(2)(a)(i) of the Planning Act, R.S.O. 1990; relief be permitted to allow expansion of a legal non-conforming residential use to facilitate two additional residential units in a Central Commercial (C1) zone.**

APPROVED

## ADJOURNMENT

RESOLUTION: CoA 2022-020

Moved: McCabe

Seconded: Yake

THAT the committee of adjustment meeting of August 29, 2022 be adjourned at 7:12 p.m.

CARRIED

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Secretary Treasurer

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Chair