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Town of Aurora
Committee of Adjustment Report
No. MV-2022-40

Subject: Minor Variance Application
Hilsenteger
3 Jarvis Avenue
PLAN 65M2122 LOT 31
File: MV-2022-40

Prepared by: Kenny Ng, Planner

Department: Planning and Development Services

Date: March 9, 2023

Application

The applicant is requesting relief from the Town's Comprehensive Zoning By-law 6000-17, as amended, to facilitate the installation of two Molok garbage and recycling enclosures in the front yard of the property. The Molok enclosures are intended to be screened and would offer the property owner larger capacity garbage and recycling storage with disposal services provided by a private company.

A conceptual site plan, details and rendering of the Molok enclosures are attached as Appendix 'B' to this report, and an independent temperature and odour test report for the Molok system is attached as Appendix 'C'.

Proposed Variance

The following relief is being requested:

- a) Section 4.20 of the Zoning Bylaw does not list garbage enclosures as a permitted encroachment in the front yard. The applicant is proposing a garbage enclosure in the front yard and seeks a variance to recognize it as a permitted encroachment.

Background

Application History

The applicant originally applied for the subject variance on October 21, 2022 and tentatively scheduled for the December 2022 Committee of Adjustment meeting. The applicant requested a deferral of the subject application to address Staff comments. The Applicant resubmitted in January 2023 and was heard by the Committee at the February meeting. At that meeting, the Committee of Adjustment deferred the subject application to provide additional information.

Subject Property and Area Context

The subject lands are municipally known as 3 Jarvis Avenue and are located south of Vandorf Sideroad on the east side of Jarvis Avenue. The subject lands have an approximate lot area of 0.71 hectares (1.76 acres), and an approximate lot frontage of 71.1 m (233.27 ft). The subject lands currently contain a two-storey single-detached dwelling with an approximate gross area of 797.58 square metres (8,582 square feet). The subject property is part of a larger estate neighbourhood and also features rows of mature trees that are present on the property lines.

Surrounding Land Uses

The subject lands are situated within an established estate residential neighbourhood and are surrounded by estate residential single detached dwellings in a low density setting.

Official Plan

The property is designated as “Estate Residential” in the Town of Aurora Official Plan. Single detached dwellings are permitted by the Official Plan, with the Estate Residential designation being an area accommodating low density residential uses.

Zoning

The subject property is zoned “Estate Residential (ER)” by Zoning By-law 6000-17, as amended, which permits single detached dwellings. The Estate Residential Zone requires the greatest lot frontage and setbacks within any residential zone to accommodate the low density character.

Preliminary Zoning Review

A Preliminary Zoning Review (PZR) has been completed by the Town of Aurora's Building Division. The PZR identified the required variances and no other non-compliance was identified.

Applicant's stated reason(s) for not complying with the Zoning By-law

As stated on the application form: *"The property owners would like larger capacity garbage storage and disposal service to be provided by a private company without company vehicles entering property grounds. This calls for concealed 'Molok' storage units to be located in the front yard relative to the primary house location."*

The applicant also provided further reasoning of using Moloks rather than municipal waste collection service in a separate response to staff:

"The property owners like the Molok system because they can keep garbage/recycling items underground and it is more sanitary and a better use of space that way. The primary main garage has been repurposed into a gym, and they have a car charger in the smaller garage. They are a large family of 7 and very often have grandparents and other family members visiting, so they do produce more garbage than a small household. They feel it's a more sensible solution to keep it away from the garage and in an enclosed underground can."

Planning Comments

Planning Staff have evaluated Minor Variance Application MV-2022-40 pursuant to the prescribed tests as set out in Section 45 (1) of the Planning Act, as follows:

a) The proposed variance meets the general intent of the Official Plan

The general intent of the Estate Residential designation is to accommodate low intensity residential uses with dwellings separated from one another in a low density setting. New development shall reflect the established heights, massing and landscape quality found in the area and shall be integrated in a sensitive manner within the natural environment and alongside the established residential fabric.

The neighbourhood is characterized by large single-detached dwellings situated on sizable lots with ample lot frontage, and mature vegetation is present in the interior of the site and along the lot lines of the property. The proposed Moloks will be located in the front yard buffered by existing mature trees, and are also now proposed to be completely screened by a fence enclosure – see Appendix 'B'. There is also a proposed landscape buffer consisting of tall shrubs/hedges with layered landscaping to be provided which

offers screening from public view. It is also noted by the applicant that the height of the enclosures can be installed to be less than 1.0 metres above grade, which can help minimize its exposure and overall visibility. Staff also note that there are no sidewalks on Jarvis Avenue, with proximity or direct exposure to the garbage enclosures not anticipated for pedestrians. The installation of the Moloks do not change the planning use of the property and are acceptable within the low density setting.

It is Planning Staff's opinion that the proposed variance will not result in negative impact on the character and streetscape of the existing estate residential neighbourhood, and as such, Staff are of the opinion that the requested variance meets the general intent of the Official Plan.

b) The proposed variance meets the general intent of the Zoning By-law

The general intent of regulating the front yard encroachment is to ensure that there is no negative impact to the character of an area or streetscape.

Although the installation of a garbage enclosure is not permitted as a front yard encroachment in the Zoning By-law, there are other listed/permitted encroachments including flagpoles, clothes lines, and even retaining walls. The intent of the Zoning By-law provision is again focused on maintaining a high quality public realm, and although it does not list every instance or item of potential encroachment, so long as there are no negative visual, noise, or odour impacts, the intent of the Zoning By-law is met.

The Moloks are modest in their overall massing, scale and height thus resulting in minimal visual obstruction and impact. The proposed Moloks are not intended for large scale commercial/industrial uses and therefore the footprint is significantly reduced from a standard industrial/commercial sized Molok. The requested variance will result in minimal visual impacts as there is ample building separation and front yard area. The Moloks will be buffered by existing trees, fencing, and planned landscaping and there is ample distance (more than 12 metres) from the Moloks to the south property line, as well as sufficient separation to the west (over 20 metres to the property line across the road). Existing mature trees are also present on site to provide further screening, with a fencing enclosure also provided as well as hedging.

The applicant has also submitted an independent study of the Molok in-ground waste and organics storage system (attached as Appendix 'C') conducted by the Earth Rangers Centre for Sustainable Technology (ERC), to evaluate its ability to buffer changes in outdoor temperature and control odours. The study was conducted over two years, and findings of the study conclude that temperatures are kept low within the Molok system, and that the low temperature results in minimal to no odour.

Staff are of the opinion that the requested variance meets the general intent of the Zoning By-law.

c) The proposed variance is considered desirable for the appropriate development of the land

The requested minor variance to accommodate the installation of two Moloks has been considered in the context of the site and the adjacent neighbourhood.

It is in the opinion of staff that even with the addition of the two Moloks in the front yard, the property will continue to be in keeping with the other surrounding estate properties of the neighbourhood area. The proposed Moloks are of moderate size and height and are strategically located to reduce visual obstruction and impact to the public realm. Staff do not anticipate that the variance as requested will result in significant negative impacts and that the appearance of the property will remain compatible with the surrounding neighbourhood.

Commercial activities are not planned on the property, and as such, the Moloks are not intended to assist any commercial/business purpose. The Moloks are significantly reduced in its overall footprint and size as compared to Moloks intended for commercial/multi-unit residential use. Any unpermitted commercial use would be strictly enforced.

The collection will be completed through a private company service. As noted by the applicant, Molok garbage is planned to be collected biweekly, and the collection times will be during regular business hours between 7 a.m. and 6 p.m. As confirmed by Town Public Works staff, the Molok garbage truck would result in similar noise level as a regular GFL garbage truck, while the length of time for a Molok garbage collection would be slightly longer than municipal garbage collection process, requiring approximately 2 ½ minutes to pickup and reinstall the waste container. The garbage collection truck will park on the driveway's entrance portion in front of the proposed gate and is not anticipated to disrupt the public realm or local traffic during the collection process. In conclusion, the collection process is very similar to municipal curbside garbage pickup with comparable noise level and would only require slightly longer pickup duration.

As noted in a third party study of Molok system submitted as part of the application (attached as Appendix 'C'), Molok units can control temperature by allowing a cool climate within its system, thus able to keep waste and organics at lower temperatures to slow decomposition and reduce odours emanating from within the containers. No odour impacts are anticipated.

Staff are of the opinion that the requested variance is considered desirable for the appropriate development of the property.

d) The proposed variance is considered minor in nature

In considering the scale and size of the proposed Moloks there is minimal impact resulting from their installation in the front yard. The streetscape will largely remain unaltered as the Moloks will be positioned behind existing mature trees and enclosed entirely by decorative fencing. Additionally, landscaping (perennials/shrubs measured 1.2 metres or higher) will also be planted around the Moloks. These measures will help mitigate the visual impacts of the Moloks by effectively screening the proposed structures for the abutting properties and from public view. Furthermore, abundant front yard space lessens the visual impedance of the proposal. The character of the neighbourhood is maintained and there will also be no anticipated odour impacts. The operation of garbage pickup is similar to regular municipal pickup process and the usage of Moloks is not anticipated to result in any public nuisances or inconveniences.

Staff are of the opinion that the requested variance is minor in nature.

Additional Comments

The minor variance application was circulated to Town Department/Divisions and to external agencies for review and comment. The following comments were provided:

Department or Agency	Comments
Building Division	Preliminary Zoning Review was completed on December 7, 2022 to confirm the variance required for the proposed development.
Engineering Division	Comments provided stating no comments/concerns with proposed application (dated December 20, 2022).
Operational Services (Parks)	Comments provided stating no comments/concerns with proposed application (dated November 28, 2022).
Operational Services (Public Works)	No comments received at the time of writing this report.
Central York Fire Services	No comments received at the time of writing this report.

Department or Agency	Comments
York Region	Comments provided stating no comments/concerns with proposed application (dated December 13, 2022).
LSRCA	Comments provided stating no comments/concerns with proposed application (dated December 13, 2022).
Alectra	Comments provided stating no objections to its approval, subject to comments in letter (dated December 14, 2022)

Public Correspondence

Three (3) written submissions were received at the time of writing of this report. The written submissions express similar concerns to one another and are summarized below including staff's responses to the comments:

Concern with the appropriateness of Moloks that are commercial/industrial in nature in an estate residential neighbourhood	<p>The proposed Moloks are designed to be much smaller scale than Moloks intended for commercial or industrial uses, to accommodate for the residential use purpose. The height of the Moloks are comparable to a regular large sized garbage bin, which ranges from 1 - 1.15 metres, while the diameter of 1.3 metres only slightly exceeds most conventional garbage bin sizes which have a diagonal range from 1 – 1.15 metres. The Moloks will be a shorter, and only slightly wider version of a regular large size garbage container. The exterior of the Moloks will be wood panel with metal rim and matte black plastic lid. The design can help mitigate its physical presence and the wood panel exterior can help to imitate the surrounding landscaped environment.</p> <p>In short, the Moloks are partially screened and strategically placed to be out of public view. Its overall mass, bulk and height is not too egregious that it would result in incompatibility with the general neighbourhood at-large.</p> <p>Despite being an alternative form of garbage storage and collection, the pickup method is similar to that of</p>
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	<p>curbside garbage pickup. The resulting noise level and duration of pickup is not anticipated to be deemed as a public nuisance.</p> <p>Based on a third party study of Moloks performance (attached as Appendix 'C'), the Moloks are found to be able to effectively control temperature within the containers, thereby eliminating the emission of unpleasant odour or result in waste leakage.</p>
Concern with the location and lack of buffering/screening	<p>The proposed location is partially screened by existing mature trees adjacent to the driveway entrance. Additional landscaping measures and fencing are also now proposed to provide added screening to the Moloks from public view. There is also abundant separation distance from the Moloks to any adjoining lands preventing it from direct exposure to neighbouring residents.</p> <p>The garbage pickup truck will be parking on the driveway during collection process, which minimizes any disruption to the public realm and adjoining property owners.</p> <p>To account for this concern, staff have also recommended a condition of approval being to ensure landscape screening as shown in Appendix 'B' is provided to buffer the Moloks.</p>
Concern with overall aesthetics and appeal of the property	<p>The Moloks are limited in size and height, and are also now further screened to prevent them from being physically imposing to the public realm.</p> <p>As mentioned, a condition to require the landscaping and screening is also included.</p>

Conclusion

Planning staff have reviewed the application with respect to the Section 45(1) of the Planning Act, R.S.O, 1990, c.P.13, as amended, and are of the opinion that the requested variance meets the four tests of the Planning Act for the granting of minor variances. Staff recommend approval of the requested variances subject to the conditions outlined in Appendix 'A'.

Attachments

Appendix 'A' – Recommended Conditions of Approval

Appendix 'B' – Site Plan

Appendix 'C' – Molok temperature and odour study

Appendix 'A' – Recommended Conditions of Approval

The following conditions are required to be satisfied should application MV-2022-40 be approved by the Committee of Adjustment:

1. That the variance only applies to the subject property, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report, to the satisfaction of the Director of Planning and Development Services or designate; and,
2. That the Owner shall provide and maintain appropriate screening to screen the proposed Moloks, which includes, but not limited to: a landscaped buffer strip containing shrubs, hedges, plantings or other ground cover, fencing enclosure, and any other additional screening measures, as shown in Appendix 'B' and to the satisfaction of the Director of Planning and Development Services or designate.