



Report Committee of Adjustment

Filing Date: February 23, 2023
Hearing Date: March 28, 2023

File: A-2023-0062

**Owner/
Applicant:** DAVID CLOUTIER

Address: 31 Links Lane

Ward: WARD 4

Contact: Rajvi Patel, Assistant Development Planner

Recommendations:

That application A-2023-0062 is supportable, subject to the following conditions being imposed:

1. That the extent of the variances be limited to that shown on the sketch attached to the Notice of Decision;
 2. That the accessory structure (gazebo) shall not be used as a separate dwelling unit and that the permission for habitable space in the accessory structure shall be limited to the provision of one washroom.
 3. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:

Existing Zoning:

The property is zoned 'Residential Single Detached A (R1A-909)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit an accessory structure (gazebo) having a gross floor area of 40.26 sq. m (433.36 sq. ft.), whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure;

2. To permit habitable space (installation of a washroom), whereas the by-law does not permit habitable space within an accessory structure.

Current Situation:

1. Maintains the General Intent and Purpose of the Official Plan

The subject lands are designated 'Residential' in the Official Plan and 'Executive Residential' in the Creditvalley Secondary Plan (Area 45). The requested variance is not considered to have significant impacts within the context of the Official Plan and Secondary Plan policies, and is considered to maintain the general intent and purpose of the Official Plan.

2. Maintains the General Intent and Purpose of the Zoning By-law

The subject lands are currently zoned 'Residential Single Detached A,' Special Section 909 (R1A-909), according to By-law 270-2004, as amended.

Variance 1 is requested to permit an accessory structure (gazebo) having a gross floor area of 40.26 sq. m (433.36 sq. ft.), whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure. The intent of the by-law in regulating the maximum permitted gross floor area of an accessory structure is to ensure that the property is not dominated by structures and that they do not negatively impact the provision of outdoor amenity space or adjacent properties.

The accessory structure is intended to enhance the outdoor amenity space in the rear yard. While the size of the proposed gazebo is 25.26 sq. m (271.90 sq. ft.) is larger than what the by-law permits, the size of the subject property is large enough to accommodate an accessory structure of this size without the property being dominated by the accessory structure. Given the size of the property, the accessory structure is not considered to negatively impact the provision of outdoor amenity space for the property. The requested variance is considered to maintain the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit habitable space (installation of a washroom), whereas the by-law does not permit habitable space within an accessory structure. The intent of the by-law in prohibiting habitable space within accessory structures is to ensure that the structures are not used for human habitation and remain accessory to the primary residential dwelling.

The accessory structure contains plumbing for a washroom which according to the Zoning By-law, is classified as habitable space within the accessory structure. The gazebo is intended to remain accessory to the primary residential dwelling. A condition of approval is recommended that the accessory structure (gazebo) shall not be used as a separate dwelling unit and that the permission for habitable space in the accessory structure shall be limited to the provision of one washroom. Subject to the recommended conditions of approval, the requested variance maintains the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The applicant is requesting variances to facilitate the construction of a proposed gazebo in the rear yard of the property. An additional variance is requested to allow plumbing for the washroom. The subject property is located on a large lot that has sufficient separation between adjacent properties. Given the size of the lot and rear yard, the overall size of the gazebo is not anticipated to cause negative visual impacts or limit the overall provision of amenity space. There is sufficient separation between the proposed gazebo and the adjacent properties as the accessory structure maintains the setbacks as set out in the Zoning By-law. The rear yard abuts a golf course and provides ample screening through existing landscaping and trees and therefore, the location and scale of the accessory structure does not generate privacy or shadowing impacts. A condition of approval is recommended that the owner shall obtain a building permit for the accessory structure within 60 days of the decision of approval or as extended at the discretion of the Chief Building Official. Subject to the recommended conditions of approval, the variances are deemed desirable for the appropriate development of the land.

4. Minor in Nature

The subject lands are located within a residential area with relatively large lot sizes. Considering the size and conditions of the property, the existing accessory structure is not anticipated to detract outdoor amenity space or create adverse impacts on-site or off-site. The location and scale of the accessory structure in relation to the surrounding land context does not generate privacy or shadowing impacts. The gazebo enhances the use of outdoor amenity space and is intended to remain accessory to the primary residential dwelling. Subject to the recommended conditions of approval, the requested variance is considered to be minor in nature.

Respectfully Submitted,

Rajvi Patel

Rajvi Patel, Assistant Development Planner

Appendix A – Existing Site Conditions

