



Report Committee of Adjustment

Filing Date: August 17th, 2024
Hearing Date: September 17th, 2024

File: A-2024-0174

**Owner/
Applicant:** GHULAM JOWIA

Address: 2611 Embleton Road

Ward: WARD 6

Contact: Paul Brioux, Assistant Development Planner

Recommendations:

That application A-2024-0174 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 temporary use home occupation to include a landscape business with outdoor storage be limited to a period of 6 months;
 3. That drainage on adjacent properties should not be adversely affected;
 4. That the applicant obtain a building permit for the existing equipment storage shed within 60 days of the final date of the Committee's decision, or within an extended period of time at the discretion of the Chief Building Official; and
 5. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:

In 2020, the Committee of Adjustment approved a three-year temporary permission for a landscaping business with outdoor storage as a home occupation under application A-2020-0016. These temporary minor variance approvals are intended to allow monitoring of operations and further assessment of potential impacts. The approval has since expired and the applicant is proposing to extend the permissions.

The new application was initially reviewed at the June 18th, 2024, Committee of Adjustment hearing, where Planning staff recommended approval of the variances with conditions. However, neighboring residents raised concerns about noise from trucks and heavy equipment, as well as the visual impact on the property. In response, the Committee deferred the application for further evaluation. Upon review, staff determined that the current use is generating negative impacts and is not complementary to the area and does not align with the intent of a home occupation. As a result, conditions are now recommended to limit the business's operation to a six-month period extension, during which the applicant must wind down operations and remove outdoor storage and landscaping-related materials from the site.

Existing Zoning:

The property is zoned 'Agricultural', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a temporary use home occupation to include a landscape business with outdoor storage, whereas the by-law does not permit the use;
2. To permit a combined gross floor area of 121 square metres for two accessory structures, whereas the by-law permits a maximum combined gross floor area of 40 square metres; and
3. To permit two accessory structures having a gross floor area of 60 square metres and 61 square metres in size, whereas the by-law permits a maximum gross floor area of 23 square metres for an individual accessory structure.

Current Situation:

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

The property is designated 'Residential' in the Official Plan and 'Employment Estates' in the Bram West Secondary Plan (Area 40a). The Employment Estates designation permits small scale, "home based" and free standing employment uses, including but not limited to greenhouses, nurseries, garden centres, and specialty agricultural uses. The proposed landscaping business as a home occupation is consistent with the types of free standing, "home based" employment uses permitted by this designation. Given the temporary nature of the development, the requested variance is not considered to have significant impacts within the context of the Official Plan policies.

Variances 2 and 3 relate to existing accessory structures. The requested variances are considered to maintain the general intent and purpose of the Official Plan. The nature and extent of the proposed variances are 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 property is zoned "Agricultural (A)" according to By-law 270-2004, as amended. The Agricultural zone permits a home occupation, however a landscaping business with associated outdoor storage is not permitted as a home occupation. The intent of the by-law in not allowing landscaping businesses as a home occupation with associated outdoor storage is to ensure that the primary function of the residence where the home occupation is located is residential purposes and that the home occupation remain accessory as a landscaping business and outdoor storage associated therewith is a larger operation than, for example, a lawyer's office, which is a permitted home occupation. The existing landscaping business exceeds the intent of the previous permissions to permit a home occupation for a temporary use on the site. While the use is complementary to the agricultural zone, staff have concerns with the current compatibility of the site with neighbouring residential properties with potential for increased noise and general heavy equipment. A condition of approval is recommended that the temporary use home occupation to include a landscape business with outdoor storage be limited to a period of 6 months.

Variance 2 is requested to permit a combined gross floor area of 121 square metres for two accessory structures, whereas the by-law permits a maximum combined gross floor area of 40 square metres. Variance 3 is requested to permit two accessory structures having a gross floor area of 60 square metres and 61 square metres in size, whereas the by-law permits a maximum gross floor area of 23 square metres for an individual accessory structure. The intent of the by-law in regulating the maximum permitted gross floor areas of accessory structures is to ensure that the property is not dominated by additional structures that would limit the provision of outdoor recreational space. Staff are of the opinion that this relief does not generate a sense of the property being dominated by accessory structures. Subject to the conditions of approval, Variances 2 and 3 are considered to maintain the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 is requested to permit a temporary use home occupation to include a landscape business with outdoor storage. Staff have concerns with the impact of the operations on adjacent residential properties due to its proximity and limited ability to mitigate noise and visual impacts. As a result, conditions are now recommended to limit the business's operation to a six-month period extension, during which the applicant can wind down operations and remove outdoor storage and landscaping-related materials from the site.

Variance 2 is requests to permit a combined gross floor area of 121 square metres for two accessory structures and Variance 3 is requests to permit two accessory structures having a gross floor area of 60 square metres and 61 square metres in size. As the height of the structures are within the limit set out in the Zoning By-law, Staff do not have concerns in regard to massing or the impact to sightlines. Due to the large size of the backyard, the size of the two accessory structures rear yard do not create negative visual massing impacts and a sufficient amount of space is still provided for recreational activity in the rear yard. Conditions have been included to the applicant obtain a building permit for the existing equipment storage shed within 60 days of the final date of the Committee's decision, or within an extended period of time at the discretion of the Chief Building Official. Subject to the recommended conditions of approval, the variances are considered desirable for the appropriate development of the land.

4. Minor in Nature

The proposed variances seek to permit the use of a temporary use for a home occupation to include a landscape business with outdoor storage, to permit a combined gross floor area of 121 square metres for two accessory structures, and to permit two accessory structures having a gross floor area of 60 square metres and 61 square metres in size. Staff have concerns with the impacts of the use and it is recommended that a limited temporary approval be granted to facilitate the relocation of the use elsewhere. The variances tied to the accessory structures are not considered to negatively impact the functionality of the site or adjacent properties. Subject to the recommended conditions of approval, the requested variances are considered minor in nature.

Respectfully Submitted,

Paul Brioux

Paul Brioux, Assistant Development Planner

Appendix 1

