

Filing Date: January 11, 2021
Hearing Date: February 16, 2021

File: A-2021-0001

**Owner/
Applicant:** 1337564 ONTARIO INC.

Address: 1729 Queen Street East

Ward: 7

Contact: Shelby Swinfield, Planner I

Recommendations:

That application A-2021-0001 is supportable, in part, subject to the following conditions being imposed:

1. That the variances be approved from for a temporary period of three (3) years from the final date of the Committee's decision;
 2. That the extent of the variances be generally limited to that shown on the sketch attached to the Public Notice;
 3. That the applicant shall obtain any required building permits prior to the erection of the temporary structures each year, to the satisfaction of the Chief Building Official;
 4. That the requested variances shall only be permitted in association with a permitted garden centre use;
 5. That the permitted outdoor storage shall only include items incidental to a garden centre and an outdoor wine grape sales use;
 6. 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 "Service Commercial – Special Section 386 (SC-386)" according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To vary Schedule "C" Section 386 of the by-law to permit an outside sales area from April 1 to October 31 each year until 2025, while providing 54 parking spaces whereas the by-law requires a minimum of 83 parking spaces;
2. To vary Schedule "C" Section 386 of the by-law to permit an 82.8 sq. m (891.25 sq. ft.) outside storage area at the rear southeast end of the building whereas the by-law does not permit outside storage;
3. To vary Schedule "C" Section 386 of the by-law to permit a 371.62 sq. m. (4000 sq. ft.) shade structure in the east side yard and a 71.35 sq. m. (768 sq. ft.) cashier tent in the front yard from April 1 to October 31 each year until 2025.

Current Situation:

1. Conforms to the Intent of the Official Plan

The property is designated "Central Area" in the Official Plan and "Central Area Mixed Use" in the Queen Street Corridor Secondary Plan (Area 36). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. Subject to the recommended conditions of approval, the requested variances are considered to maintain the general intent of the Official Plan.

2. Conforms to the Intent of the Zoning By-law

The property is zoned "Service Commercial – Special Section 386 (SC-386)" according to By-law 270-2004, as amended. The requested variances relate to a seasonal outdoor sales area that is intended to operate from April 1 to October 31 each year of the approval.

Variance 1 seeks a parking reduction for a temporary portion of the year to allow for space to construct the temporary sales area. The intent of the by-law in requiring a minimum number of parking spaces to be provided is to ensure that sufficient parking is provided for all of the industrial/commercial units on the site. In the case of the subject property, the proposed temporary tents will only impact the parking for a portion of the year and other parking areas are available on the site that will not be impacted by the location of the temporary tents.

Variance 2 is to permit outdoor storage at the rear of the property of materials associated with the seasonal sales area. The intent of the by-law in prohibiting outdoor storage is to ensure that a certain aesthetic quality is maintained for the property. Given that the location of the proposed outdoor storage space is at the rear of the building and will be behind the seasonal sales area, it is not anticipated that this storage area will have negative aesthetic impacts on the property. A condition of approval is recommended that the permitted outdoor storage shall only include items incidental to a garden centre and an outdoor wine grape sales use to ensure this is its only purpose.

Variance 3 is to permit a temporary tent structure to facilitate a seasonal sales area whereas Schedule C does not allow a temporary tent. The intent of the by-law in regulating a property via a Schedule C provision is to provide a visual representation of the building area on the property. This type of regulation is typically associated with older areas of the City. In the case of the subject property, the installation of the temporary tent is not anticipated to impact the overall function of the property given its seasonal nature. A condition of approval is recommended that the applicant shall obtain any required building permits prior to the erection of the temporary structures each year, to the satisfaction of the Chief Building Official to ensure the tents are in compliance with the Ontario Building Code. A further condition is recommended that the requested variances shall only be permitted in association with a permitted garden centre use.

Subject to the recommended conditions of approval, the requested variances are considered to maintain the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The requested variances are intended to facilitate a seasonal outdoor sales area associated with a garden centre and wine grape sales use. The proposed permissions would only be needed for a period of the year and have previously been granted by way of temporary minor variance. This temporary and seasonal use has not demonstrated any issues with regard to compatibility with adjacent properties and does not present concerns with regard to parking demand given that the reduction in parking is only for part of the year. A condition of approval is recommended that the application be approved for a temporary period of three years in accordance with the maximum time staff can recommend as per the *Planning Act*.

Subject to the recommended conditions of approval, the requested variances are considered to be minor in nature.

4. Minor in Nature

The requested variances intend to facilitate a seasonal and temporary outdoor sales area including two tents and a small storage area for incidental items. The outdoor tents are only proposed to be erected for a portion of the year to accommodate seasonal sales that could not otherwise be accommodated within the building. The temporary nature of the request is not anticipated to have significant or lasting impacts on the function of the property. Subject to the recommended conditions of approval, the requested variances are considered to be minor in nature.

Respectfully Submitted,

Shelby Swinfield

Shelby Swinfield, Planner I