



Report Committee of Adjustment

Filing Date: September 11, 2023

Hearing Date: October 3, 2023

File: A-2023-0276

**Owner/
Applicant:** 2778830 Ontario Inc
Gagnon Walker Domes Ltd. (Andrew Walker / Anthony Sirianni)

Address: 2548 Embleton Road

Ward: 6

Contact: Megan Fernandes, Planning Technician

Recommendations:

That application A-2023-0276 be refused.

Background:

Existing Zoning:

The property is zoned 'Service Commercial - Special Section 596 (SC-596)' and 'Agricultural – Special Section 597 (A-597)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a banquet hall use, whereas the bylaw does not permit a banquet hall; and
2. To permit landscaping and buildings not as per Schedule C, whereas the bylaw only permits buildings and landscaping as per Schedule C.

Current Situation:

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

The subject property is designated as 'Residential' within the Official Plan and 'Community Centre and Employment Estates' within the Bram West Secondary Plan (Area 40 a).

In relation to the 'Residential' designation, section 4.2.1.1 of the Official Plan states Complementary uses, other than Places of Worship, shall be permitted subject to specific Secondary Plan policies or designations, and may include uses permitted in the Commercial and Institutional and Public Uses designations of this plan, such as schools, libraries, parks, community and recreation centres, health centres, day care centres, local retail centre, neighbourhood retail, convenience retail, or highway and service commercial uses.

The entirety of the subject property is split designated 'Community Centre' for the southern portion of the lands and 'Employment Estates' for the northern portion of the lands within the Bram West Secondary Plan (Area 40 a). The proposed use variance is limited to the area of the subject lands designated as 'Community Centre'. As stated in section 3.2.22 of the Bram West Secondary Plan (Area 40a) the lands designated Community Centre on Schedule SP40(a) shall permit schools, daycare facilities, convenience commercial uses, places of worship, libraries, fire/ police and related community service facilities; small scale office uses, uses permitted within the Employment Estate designation, and health or medical clinics. Low rise multiple dwelling uses and residential care facilities may be permitted within the Community Centre designation provided such uses are accessory to the permitted community service uses.

The requested variance seeks to permit a banquet hall whereas the by-law does not permit the use. Furthermore, staff note that the banquet hall use is requested to be applied to the temporary tent located behind the existing building on the property. The proposed banquet hall use is in conflict with the predominantly residential and small-scale commercial policies set out in Official Plan and Secondary Plan.

The requested variances are considered to have significant impacts within the context of the Official Plan and Secondary Plan policies. The variances do not 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 'Service Commercial - Special Section 596 (SC-596)' and 'Agricultural – Special Section 597 (A-597)', according to By-law 270-2004, as amended.

The Service Commercial - Special Section 596 (SC-596) permits the following uses: (1) a standard, dining room, fast food and take-out restaurant excluding a drive-through; (2) a convenience store; (3) a supermarket; (4) a farm produce stand; (5) a dairy bar; (6) a retail establishment; (7) a garden centre sales establishment; (8) a custom workshop; (9) a parking lot; (10) purposes accessory to the other permitted purposes.

The Agricultural – Special Section 597 (A-597) permits the following uses: (1) an orchard; (2) a single family detached dwelling; (3) a group home; (4) a home occupation; and (5) purposes accessory to other permitted purposes.

Variance 1 is requested to permit a Banquet Hall use whereas the by-law does not permit a Banquet Hall. The intent of the by-law in regulating permitted uses on a property is to ensure complimentary uses to the area. Variance 2 is requested to permit landscaping and buildings not as per Schedule C whereas the by-law only permits buildings and landscaping as per Schedule C. 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.

The subject lands are split zoned and are currently occupied by a single storey commercial building, a detached residential dwelling and several accessory structures towards the south of the lands. The proposed variances are to bring a banquet hall use currently operating on the site without permission. Furthermore, the proposed parking area shed, and tent structure currently located outside of the Schedule C area are utilized to facilitate the Banquet Hall use. Following a review of the zoning by-law permissions, the proposed banquet hall use is not consistent with the permitted uses within the zoning by-law. Allowing the expansion of the uses to include the existing banquet hall is anticipated to generate a nuisance to the surrounding area and adjacent residential properties. City staff have concerns that the use may cause noise and disturbance given that the use is also proposed to operate outdoors under temporary tents. The requested variances are not considered to maintain the general intent and purpose of the Zoning By-law and are in conflict with the established zoning policies, potentially disrupting the intended functions and character of the area.

3. Desirable for the Appropriate Development of the Land

The requested variances are to permit an existing banquet hall which is operating without appropriate zoning and permits. Furthermore, a second variance is requested to permit landscaping and buildings not as per Schedule C whereas the by-law only permits buildings and landscaping as per Schedule C. The banquet hall use is not considered to be desirable for the appropriate development of the lands as it is not compatible with the current residential and commercial uses located within close proximity to the site. Staff advise a technical analysis of the potential impacts generated by the proposed use, such as a Noise Study and Functional Servicing Report would be required to determine if the use is appropriate for the land.

Comments received from the City's Building department has advised that a proposed banquet hall is considered an "assembly" use as defined in the building code, changing from a previous use of "retail" as defined in the Ontario Building Code. Therefore, a permit is required for a change of use prior to the space being occupied. In relation to the tent, building permit is required prior to the erection of the proposed temporary tent. Additionally, City staff have received comments from the Region of Peel stating concerns that the proposal presents a significant intensification of the lands with limited municipal services available. In relation to this application, staff recommend that a Zoning By-law Amendment or a Temporary Use By-law Amendment would be the appropriate applications to evaluate this development. As a result, the variances are not desirable for the appropriate development of the land.

Additionally, staff have been made aware that the existing banquet hall operating on the property has been the subject of several By-law Enforcement actions and investigations. Enforcement officers have undertaken investigations relating to excessive noise, traffic, parking, number of attendees on site, and licensing on the subject property.

4. Minor in Nature

The applicant is requesting variances to permit a banquet hall use and landscaping and buildings which are not as per Schedule C. Planning Staff have been informed that the owner has received various enforcement notices regarding parking and noise disturbance from the site as a result of the illegally operating banquet hall. Permitting a banquet hall to operate from the site represents a significant change from the existing permitted uses, generates negative impacts to surrounding area residents, and requires a further technical review of the subject lands and proposed use to assess its appropriateness. As such, the requested variance is not deemed minor in nature.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Planning Technician

Appendix 1 – Site Visit Photos

