

## STAFF REPORT

**TO:** Committee of Adjustment

**FROM:** Cameron Watt, Planner I

**SUBJECT:** **A03824**, Ron Fler on behalf of Arian Turdiu  
92 35th Street North  
PLAN 705 PART LOT 254 RP;51R7866 PART 21  
Minor Variance – Expansion to a Non-Complying Building, Reduced Interior Side Yard Setback(s)

**DATE:** October 9, 2024

---

### LANDS SUBJECT TO THE APPLICATION:

The subject lands are municipally addressed as 92 35th Street North, Town of Wasaga Beach, County of Simcoe, and legally described as PLAN 705 PART LOT 254 RP;51R7866 PART 21 .

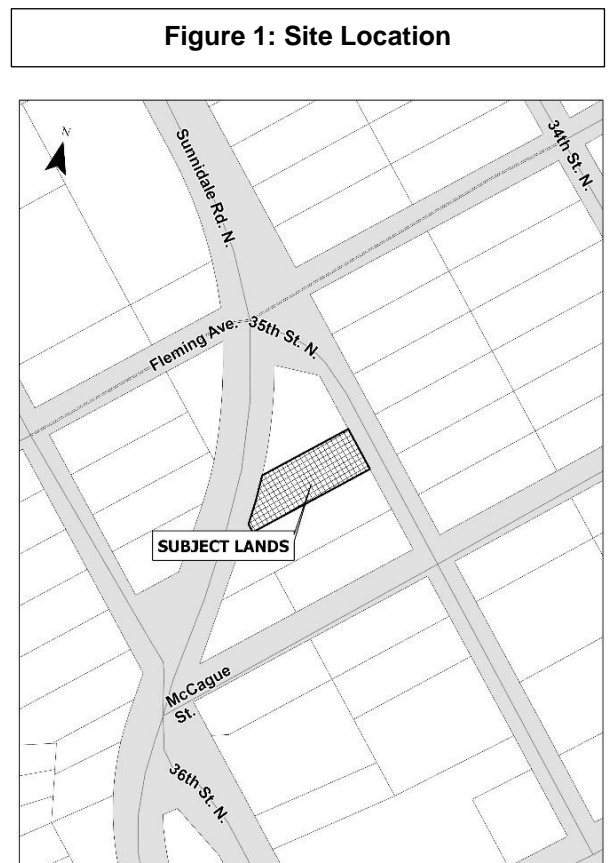
### PURPOSE AND EFFECT:

An application for Minor Variance has been submitted by Ron Fler on behalf of Arian Turdiu, owner of the subject lands.

The applicant requests relief from Section 3.23 “Non-Complying Lots, Buildings or Structures”, of Zoning By-law 2003-60 as amended, specifically:

Section 3.23.3 ii) – To recognize the location of the existing single-detached dwelling with an existing non-complying interior side yard setback of 1.02 metres (3.34 feet) along the southern property boundary, whereas 1.8 metres (5.90 feet) is required. Further, the variance would permit the construction of a 2-storey addition (inclusive of the reconstruction of the existing attached garage with a new 2<sup>nd</sup> storey) along the southern portion of the dwelling, with an interior side yard setback of 1.02 metres (3.34 feet) and 1.2 metres (3.93 feet).

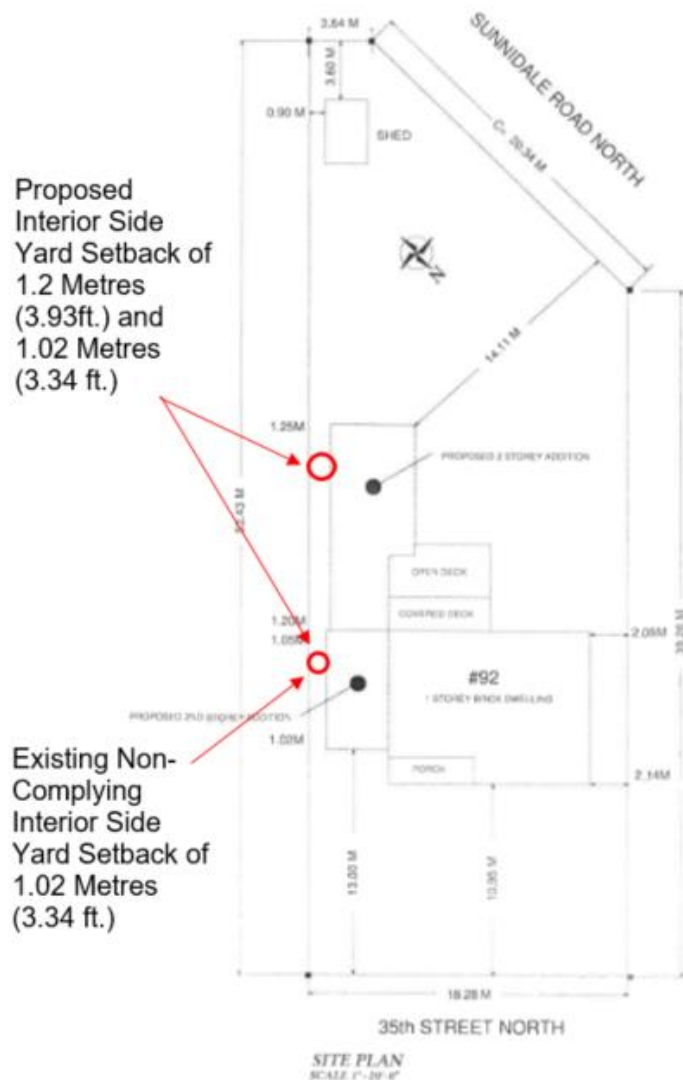
Additionally, the applicant requests relief from Section 4 “Residential Type 1 (R1) Zone” of the Zoning By-law, specifically:



Section 4.3.5 Interior Side Yard Width (Min.) – To permit a reduced interior side yard setback of 1.02 metres (3.34 feet) and 1.2 metres (3.93 feet) along the southern property boundary to permit the construction of a 2-storey addition (inclusive of the reconstruction of the existing attached garage with a new 2<sup>nd</sup> storey), whereas a minimum interior side yard setback of 1.8 metres (5.90 feet) is required.

The variances requested would recognize the location of the existing 124.72 square metre (1,342.47 square foot) single-detached dwelling with an existing non-complying interior side yard setback along the southern property boundary; further, the variances would facilitate the construction of a new 2-storey 51 square metre (548.9 square feet) addition to the southern portion of the existing dwelling and the reconstruction of the existing 24.2 square metre (260.48 square feet) attached garage with a new 2<sup>nd</sup> floor addition, with a reduced interior side yard setback.

**Figure 1: Proposed Site Plan Submission**



**RECOMMENDATION:**

In consideration of the foregoing, the Planning Department supports application **A03824** subject to the following conditions being applied:

1. THAT the development will be substantially consistent with the site plan and drawings provided with the application, contained within "Appendix 1" of this report.

**COMMENTS:**

<b>Submitted From</b>	<b>Comments</b>
Town of Wasaga Beach Public Works/Engineering Department	The Town's Public Works/Engineering department does not oppose the application. Please see 'Appendix 2' for a copy of the formal comments.
Nottawasaga Valley Conservation Authority (NVCA)	The subject lands are not located within the NVCA regulation area.

**SUBJECT SITE:**

The subject lands are located on the west side of 35<sup>th</sup> Street North, north of Mccague Street. The subject lands have a frontage of approximately 18.28 metres (59.97 ft.), a depth of approximately 46.34 metres (152 ft.) and an area of approximately 872.8 square metres (9,394.74 sq. ft.).

The site is currently developed with an existing 124.72 sq. m. (1,342.47 sq. ft.) single-detached dwelling and an 8.9 square metre (95.79 sq. ft.) detached accessory building (shed).

The surrounding neighbourhood is predominantly zoned "Residential Type 1" (R1), along with some commercially-zoned properties along the outlying lands on Mosley Street.

The subject lands are zoned "Residential Type 1" (R1) within the Town's Comprehensive Zoning By-law 2003-60 as amended, and are designated 'Residential' within the Town of Wasaga Beach Official Plan.

**APPLICATION:**

The applicant is requesting relief from Section 3 of the Town's Zoning By-law, as summarized in the table below:

## 3.23.3 "Non-Complying Lots, Buildings and Structures":

<b>Section 3.23.3 Provision/Requirement:</b>	<b>Proposed Development:</b>
<p>Section 3.23.3 - No person shall replace or make <b>an addition</b> to any existing building or structure <b>which does not comply with the required yards of the Zone in which it is located.</b></p> <p>However, the said building or structure may be <b>replaced</b>, repaired and/or renovated provided that:</p> <p>i) the deterioration or damage was beyond the control of the owner;</p> <p>ii) Such replacement repair or renovation does not increase the height, <b>area</b> or <b>volume</b> of the original building or structure. Foundations are permitted provided that same does not allow for human habitation and that same foundation does not exceed 1.8 metres in total height, and;</p> <p>iii) all other applicable Zone and general provisions are complied with.</p>	<p>-The existing dwelling does not comply with the required interior side yard setback requirement in the Residential Type One (R1) zone. The existing single-detached dwelling has an existing non-complying interior side yard setback of 1.02 metres (3.34 feet), whereas 1.8 metres (5.90 feet) is required.</p> <p>-The variance would recognize the existing non-complying interior side yard setback of the existing building to permit the applicant to make addition(s) in the form of a proposed two-storey 51 square metre (548.9 square feet) addition to the existing single-detached dwelling and the reconstruction of the existing 24.2 square metre (260.48 square feet) attached garage with a new 2<sup>nd</sup> floor addition.</p>

The applicant is requesting relief from Section 4 of the Town's Zoning By-law, as summarized in the table below:

**Section 4.3.5 Interior Side Yard Width/Setback (Min.)**

<b>Permitted</b>	<b>Proposed</b>	<b>Difference</b>
1.8 metres (5.90 feet)	1.02 metres (3.34 feet) and 1.2 metres (3.93 feet)	0.78 metres (2.56 ft.) and 0.6 metres (1.96 feet)

## **ANALYSIS:**

### **Planning Act, R.S.O. 1990, c. P.13**

The Ontario *Planning Act* requires that in making planning decisions, the Committee must have regard for matters of Provincial Interest, as outlined by Section 2 of the Act, and the *Provincial Policy Statement*, as outlined by Section 3 of the Act. Based on review of the pertinent policies, Staff have no concerns with respect to the provisions of Section 2 of the Ontario *Planning Act*.

### **Provincial Policy Statement (2020)**

Section 3(5) of the *Planning Act, R.S.O. 1990, c. P.13*, as amended, provides that the Council of a municipality, or a Committee of Adjustment, in exercising any authority that affects a planning matter, shall be consistent with the policy statements issued by the Province. Upon review of the policies outlined in the *Provincial Policy Statement (2020)*, it is the opinion of Planning staff that the Minor Variance, if granted, will be consistent with this subsection of the *Planning Act*.

### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020**

Section 14(1) of the *Places to Grow Act, S.O. 2005, c.13*, as amended, provides that a decision under the *Planning Act* that relates to a growth plan area shall conform with a growth plan that applies to that growth area. Planning Services staff are of the opinion that the Minor Variance, if granted, will conform to *A Place to Grow: Growth Plan for the Greater Golden Horseshoe (August 2020)*.

### **County of Simcoe Official Plan**

The subject lands are designated "Settlement" in the Official Plan for the County of Simcoe. The County of Simcoe Official Plan contains policies relating to the orderly development of those areas that are designated as Settlement. The County of Simcoe has provided no comments with respect to this application. However, it is the opinion of Planning Services staff that the Minor Variance, if granted, will conform to the County of Simcoe Official Plan.

### **Maintains the General Intent of the Official Plan**

The subject property is designated 'Residential' within the Town of Wasaga Beach Official Plan. The existing single-detached dwelling is permitted use within the 'Residential' designation. The proposal maintains the general intent of the Official Plan.

### **Maintains the General Intent of the Zoning By-law**

The subject lands are zoned "Residential Type 1" (R1) within the Town's Zoning By-law 2003-60, as amended. The existing single-detached dwelling (with the inclusion of the proposed additions) is a permitted use within this zone category.

The applicant has requested relief from Section 3.23.3 of the Town's Zoning By-Law, to permit an expansion to the existing 124.72 square metre (1,342.47 square foot) non-complying single-detached dwelling. The existing single-detached dwelling has a non-complying interior side yard setback of 1.02 metres (3.34 feet) along the southern property boundary, whereas 1.8 metres (5.90 feet) is required. The variance would permit the construction of a proposed two-storey 51 square metre (548.9 square feet) addition, and the reconstruction of the existing 24.2 square metre (260.48 square feet) attached garage with a new 2<sup>nd</sup> floor addition.

The intent of Section 3.23.3 of the Town's Zoning By-Law is to limit additions and expansions to non-complying buildings, to ensure that the existing non-complying situation is not worsened, and to ensure that the proposed addition/extension will comply with all other provisions of the Zoning By-law.

The proposed expansion of the single-detached dwelling will not worsen the existing non-complying situation. The existing deficient 1.02 metre (3.34 feet) interior side yard setback (south side) will remain unchanged for the proposed reconstruction of the attached garage. Further, the new two-storey 51 square metre (548.9 square feet) addition will have a proposed interior side yard setback of 1.2 metres (3.93 feet), which represents an improved setback from that of the existing non-complying dwelling. Pending the approval of the requested relief from Section 4.3.5 to reduce the interior side yard setback(s) along the southern property boundary, the proposed additions will comply with all other provisions of the Town's Zoning By-law.

The applicant has requested further relief from Section 4.3.5 of the Zoning By-Law to permit a reduced interior side yard setback of 1.02 metres (3.34 feet) and 1.2 metres (3.93 feet) along the southern property boundary to permit the construction of the new two-storey 51 square metre (548.9 square feet) addition to the existing single-detached dwelling and the reconstruction of the existing 24.2 square metre (260.48 square feet) attached garage with a new 2<sup>nd</sup> floor addition, whereas a minimum interior side yard setback of 1.8 metres (5.90 feet) is required.

The intent of the minimum required interior side yard setback requirement is to ensure adequate separation between properties, and to allow enough space for drainage, maintenance, and access purposes.

The Town's Public Works/Engineering department does not oppose the applicant's request to decrease the minimum required interior side yard setback requirement from 1.8 metres (5.9 ft.) to 1.02 metres (3.34 feet) and 1.2 metres (3.93 feet) along the southern property boundary, to permit the construction of new proposed additions. Additionally, the reduced interior side yard setback(s) demonstrate the ability to accommodate adequate space for property maintenance and access to the rear yard, and maintain a sufficient separation distance from the neighboring property.

Planning staff submit that the requested relief generally meets the intent of the Town's Zoning By-law.

### **Desirable for the Appropriate Development of the Land**

Planning staff recommend that the variance(s) requested to permit an expansion to a non-complying building and to permit reduced interior side yard setbacks are not anticipated to impact the proper use of the land, the neighbourhood, nor the municipality. Planning staff suggest that the variances are considered desirable and appropriate for the development of the land.

### **Considered Minor in Nature**

Planning staff recommend that the variances applied for are considered minor in nature, and would result in minimal impact relative to a form of development that would comply with existing provisions of the Zoning By-law.

**CONCLUSION:**

In consideration of the above, the Planning Department supports application **A03824** for the lands municipally addressed as 92 35th Street North. Should the Committee choose to approve application **A03824**, Planning staff recommend this approval also be subject to the above noted conditions.

Respectfully Submitted,



Cameron Watt  
Planner I

Appendix 1: Applicant's Site Plan Submission and Drawings

Appendix 2: Town of Wasaga Beach Public Works/Engineering Department Comments

Site Photo 1 – Existing Attached Garage





Site Photo 2 – Existing Non-Complying Interior Side Yard Setback (South Side)



Site Photo 3 – Proposed Building Envelope

