

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2024-0002

**FOR THE CONSIDERATION OF
COUNCIL**

April 17, 2024

**SUBJECT: ZONING BY-LAW AMENDMENT APPLICATION
PART OF LOT 18, CONCESSION 2 (NG) AND LOT 16, PLAN 77,
BEING PART 1, PLAN 65R-11736
255 LAKE DRIVE NORTH, KESWICK**

1. RECOMMENDATIONS:

- 1. That Council receive Report No. DS-2024-0002 prepared by the Development Planning Division, Development Services Department dated April 17, 2024 respecting a Zoning By-law Amendment application submitted by Michael Smith Planning Consultants; Development Coordinators Ltd. on behalf of the owners of the property municipally addressed as 255 Lake Drive North, Keswick;**
- 2. That Council approve the Zoning By-law Amendment application submitted by Michael Smith Planning Consultants; Development Coordinators Ltd. to rezone the property municipally addressed as 255 Lake Drive North from Residential (R) and Transitional (T) to site-specific Residential (R-83), and that the amending zoning by-law contain the site-specific provisions as outlined in Staff Report DS-2024-0002; and,**
- 3. That Council acknowledges that there have been revisions to the proposed Zoning By-law since the March 28, 2018 public meeting and that in accordance with Section 34(17) of the Planning Act has determined these revisions to be minor and not requiring an additional public meeting.**

2. PURPOSE:

The purpose of this report is to provide Staff's analysis and recommendations and to outline comments received with respect to the Zoning By-law Amendment (ZBA) application submitted by Michael Smith Planning Consultants; Development Coordinators Ltd. on behalf of the owners of 255 Lake Drive North to permit an accessory dwelling unit in an existing detached structure.

3. **BACKGROUND:**

Owners / Applicants: Kenneth Bruce Craine and Marianne Ellis

Agent: Michael Smith Planning Consultants; Development Coordinators Ltd.

Description: (refer to Attachments 1 and 2)
255 Lake Drive North, Keswick
Part of Lot 18, Concession 2 (NG) and Lot 16, Plan 77,
further described as Part 1, Plan 65R-11736
Roll No. 098-043

File Number: 03.1121

3.1 **SURROUNDING LAND USES**

The subject property is located on the east side of Lake Drive North between Clarlyn Drive and Elmtree Lane in Keswick. Attachment 1 is a location map of the subject property. Surrounding land uses include:

North: Low Density Residential Uses

South: Low Density Residential Uses

East: Low Density Residential Uses

West: Low Density Residential Uses and Lake Simcoe

Staff note that since the initial public meeting in 2018, two additional accessory structures (carports) have been erected on the site. Photographs of the subject property are included as Attachment 2.

3.2 **PROPOSAL**

Referring to the submitted Site Plan and Floor Plans in Attachments 3 and 4 respectively, the applicants are proposing to convert an existing dwelling in the rear yard into accessory storage, and relocate the existing dwelling unit to the second storey of an existing two-storey detached garage in the rear yard. Should the ZBA application be approved, the subject property will continue to have two dwellings, one located in the building immediately fronting onto Lake Drive North and the second located on the second storey of the detached garage.

The original submission materials can be found at the following link: [Submission Materials](#)

3.3 **MINOR VARIANCE APPLICATION P410933**

On November 16, 2009, the Committee of Adjustment refused Minor Variance Application P410933, which requested permission to expand the legal non-conforming

residential use of the property by constructing a detached garage with a height of 10.67 metres and a ground floor area of 280 square metres (refer to Attachment 5). The Committee's decision was subsequently appealed to the Ontario Municipal Board (OMB) and the appeal was allowed based on a settlement of the issues (refer to Attachment 5). The OMB did not contemplate a residential use for the garage at the time the decision was made, and the Minutes of Settlement provided that the detached garage would not be used as a dwelling unit unless permitted by law.

The detached garage was subsequently constructed on the subject property and is now the subject of the current ZBA application.

3.4 PREVIOUS PUBLIC MEETING

A public meeting concerning the subject rezoning application under the *Planning Act* was held on March 28, 2018, at which time Council received [Report No. DS-2018-0028](#). At the public meeting, concerns were raised by neighbouring residents with respect to matters including drainage, shading and privacy, and the fact that a residential use with the detached garage was not contemplated by the OMB.

Consequently, Council passed Resolution C-2018-0152 receiving Report No. DS-2018-0028 and directing that staff report back to Council following the receipt and assessment of public and Council comments. In an effort to address the issues related to grading and drainage identified at the public meeting, the applicant obtained a [Site Alteration and Entrance Permit](#) to undertake corrective grading and drainage works on the property. The permit has since passed the associated final grading inspection and the file has been closed.

4. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

4.1 PUBLIC CONSULTATION

In accordance with Council Resolution C-2018-0152, two weeks notice was provided to any person or public body that had requested to be notified of any future public meeting(s), as well as to any person or public body that had requested to be notified of Council's decision regarding the approval or refusal of the subject application. To date, 5 written comments in opposition to the proposal have been received (refer to Attachment 6). All of these submissions were received in 2018.

Concerns raised by the public included the location and size of the garage, a reduction in privacy, shadow casting from the garage, general suitability of the proposal in the neighbourhood, potential use of the dwelling as a short-term rental, and concerns that the existing dwelling will continue to be used as a rental rather than being converted into accessory storage space. These concerns are addressed in Section 5 of this report.

4.2 EXTERNAL AGENCY AND TOWN DEPARTMENT COMMENTS

All comments received from internal departments and external agencies at the time of the original report have been consolidated below:

Development Engineering Division

- A final grading inspection of the property was performed on May 11, 2023. At that point, the grading was completed as approved to address the issues and the Site Alteration Permit file was closed out.

Building Division

- Since initial comments were provided in 2018, the permit for the construction of the garage had its final inspection (July 24, 2018) and a final inspection for a site alteration and entrance permit also occurred (May 19, 2023). As part of this permit process a final grading inspection was performed and any outstanding grading and drainage issues were resolved.
- The owner also has an active permit to raise the existing dwelling and construct a new foundation. A building permit is required to change the use of the building from a dwelling to an accessory building.

Georgina Fire Department

- All construction must be done in accordance with the Ontario Building Code.
- Ensure that the property clearly identifies that there are two dwellings on site for emergency purposes.

Lake Simcoe Region Conservation Authority (LSRCA)

- The proposed development is not within a regulated area. However, should there be any proposed site alteration or development within the regulated area, a permit from the LSRCA would be required prior to the issuance of a municipal building permit.

Hydro One

- Hydro One has a single phase primary line that runs through the centre of this property. The existing dwelling as noted on the site plan appears to be encroaching onto the easement for this pole line (refer to Page 3 of Attachment 6).

Staff note that Hydro One's comments will be addressed at the building permit stage for the conversion of the existing dwelling into an accessory structure.

The following departments and agencies had no concerns:

- Enbridge Gas Distribution
- York Region
- Recreation and Culture Department (former)

- Tax and Revenue Division
- Municipal Law Enforcement Division
- Economic Development Division
- Operations and Infrastructure Department

5. **ANALYSIS:**

A thorough review and analysis of the proposal against Town, Region and Provincial policy was undertaken and provided through the March 28, 2018 Staff Report. In this regard, the current analysis will focus on how outstanding issues have been or will be addressed, as well as how changes in provincial planning legislation have affected the proposal.

5.1 **BILL 23 - THE MORE HOMES BUILT FASTER ACT**

On November 28, 2022, Bill 23, the *More Homes Built Faster Act, 2022*, received Royal Assent. Bill 23 amended the existing “Additional Residential Unit” (ARUs) provisions of the *Planning Act* which previously allowed for two (2) dwelling units in a building and now allow for up to three (3) dwelling units in a building or two (2) dwelling units in a primary building and one (1) dwelling unit in an ancillary structure on any parcel of “urban residential land” (i.e. land serviced with municipal water and sanitary sewers). The *Planning Act* now further prevents any Official Plan or Zoning By-law from prohibiting additional residential units, including the imposition of any minimum unit floor area or requiring more than one (1) parking space per ARU. Additionally, these changes have immediate effect and override any provisions of existing or future Zoning By-laws to the contrary.

The 2024 Development Services Department work program includes the preparation of an amendment to Zoning By-law 500 to include regulations to address the provisions of Bill 23 related to ARUs. Until those amending by-law regulations are developed and approved by Council, individual applications involving ARUs are being evaluated on their own merits and being processed according to Bill 23 and the current zoning regulations. In this regard, a Zoning By-law Amendment application is no longer required to permit the proposed accessory dwelling unit in the second storey of the existing detached garage.

5.2 **ZONING BY-LAW NO. 500**

The subject property is currently split-zoned Residential (R) on the portion abutting Lake Drive North and Transitional (T) on the balance of the property. Both zones permit one single family dwelling on a single lot. The two existing dwellings on the subject property were constructed prior to May 9, 1977, and have been historically considered “legal non-conforming”.

A dwelling unit in a free-standing accessory building is now permitted by recent changes to the *Planning Act* introduced by Bill 23, as noted above. However, ARUs

must still adhere to the Accessory Structure provisions outlined in Section 5 of Zoning By-law 500. In this regard, Section 5.1 f) permits accessory structures to have a maximum height of 4.5 metres for lots with an area greater than 600 square metres. Staff note that at the time the OMB allowed the appeal of Minor Variance Application P410933, Condition 1.4 of the Minutes of Settlement prohibited a residential use within the garage unless permitted by law (refer to Attachment 5). The new provisions of the *Planning Act* override any prohibition of an ARU use in an accessory structure.

The conversion of the existing dwelling into an accessory structure will increase the overall lot coverage for all accessory structures to 13.5%, which is greater than the 10% permitted by Section 5.1 e) of the Zoning By-law, as amended. Staff note that while the lot coverage for all accessory structures will exceed that permitted, the property is still significantly under the total lot coverage permitted for the entire lot.

The applicants are proposing to rezone the property to a site-specific Residential (R-83) zone, which will recognize the permission for a dwelling unit in an accessory structure with a height of 11 metres on the property, as well as permit a lot coverage increase from 10% to 13.5% for accessory structures. Staff note that the accessory building in which the proposed dwelling unit is to be located is situated such that it exceeds the setback requirements in Zoning By-law 500 for both accessory structures and a single family dwelling. A minimum interior side yard setback of 1.2 metres is required for accessory structures with a height greater than 4.5 metres.

For two storey single family dwellings on lots under 4,000 square metres in size on municipal services and without an attached garage, a minimum interior side yard setback of 1.2 metres on one side and 2.5 metres on the other side is required. Furthermore, for single family dwellings on lots under 4,000 square metres in size, a front yard setback of 6 metres is required. As the existing detached garage has a western setback of 8 metres and a southern setback of 3 metres, the building exceeds the setbacks that would otherwise be required for either a detached dwelling or an accessory structure in this zone.

Staff note that a building permit for the new dwelling above the detached garage cannot be issued until the existing dwelling unit is removed as Zoning By-law 500 does not permit three dwelling units in separate structures on a lot, nor is this enabled by Bill 23. This will consequently be addressed at the building permit stage.

Staff are of the opinion that the only relief required for this application is in relation to accessory building lot coverage from 10% to 13.5%. The applicant's proposed Zoning By-law Amendment recommended for passage has been amended to remove the unnecessary relief associated with the permitted ADR and is included for passage at the April 17, 2024 Council meeting.

5.3 CONCERNS RAISED AT PREVIOUS PUBLIC MEETING AND BY MEMBERS OF THE PUBLIC

Staff note that at the March 28, 2018 public meeting, concerns were raised by several members of the public and Council. More specifically, concerns arose surrounding lot grading and drainage, particularly regarding the effects onto neighbouring properties. Concerns related to privacy due to the location and placement of windows also arose during the meeting.

5.3.1 LOT GRADING AND DRAINAGE

Concerns were raised regarding a lack of suitable drainage on the property, and neighbours voiced concerns that their properties were being negatively impacted by runoff. The applicant has since received and acted upon a Site Alteration Permit, and Town Staff have confirmed that there are no outstanding grading and drainage issues present on the property.

5.3.2 BUILDING LOCATION, PRIVACY AND SHADING

The height of the existing two-storey detached garage (10.67 metres) is less than the height of 11 metres permitted for a Single Family Dwelling under Zoning By-law 500. Furthermore, the existing building is set back from neighbouring lot lines, including 8 metres from the property to the west. A hedge also exists between the garage and the neighbouring property to the west, further providing privacy. The garage build respects the provisions in the Zoning By-law for both an accessory building and a single family dwelling.

5.3.3 GENERAL SUITABILITY CONCERNS

Since the March 28, 2018 public meeting, the provisions of the *Planning Act* put in place by Bill 23 now permit an ARU in a detached accessory structure subject to compliance with physical zoning regulations. These provisions of the *Planning Act* now override any provisions of a municipal Zoning By-law to the contrary.

5.3.4 TRAFFIC

Staff note that in order to permit the new dwelling in the detached garage, the existing secondary dwelling will need to be converted into a non-residential storage accessory use and a building permit will need to be issued for same. Consequently, there will not be an increase to the total number of dwelling units located on the site. Given this, no increase in vehicle volume is anticipated to occur as a result of the proposal.

5.3.5 OMB DECISION REGARDING RESIDENTIAL USES

The *Planning Act* now permits a dwelling unit in a detached accessory structure as-of-right on the subject site and renders any zoning provisions to the contrary to be of

no effect. The fact that a residential use in the garage was not permitted at the time of the OMB hearing does not change the effect of the *Planning Act* in permitting the residential use as-of-right.

5.3.6 EXISTING DWELLING TO CONTINUE BEING USED AS A RENTAL

Confirmation will be required that the existing dwelling has been converted into an accessory building prior to the issuance of a building permit for the new dwelling in the detached garage in order to comply with the provisions of the Zoning By-law.

5.3.7 SHORT TERM RENTAL ACCOMMODATION CONCERNS

Concerns arose from members of the public that the dwelling unit in question may be used as a short-term rental accommodation. Staff note that these accommodations are a permitted use in the Residential (R) zone, subject to obtaining a Short Term Rental Accommodation licence and adherence to the [Short- Term Rental Accommodations By-Law](#).

6. RELATIONSHIP TO STRATEGIC PLAN:

This report addresses the following strategic goal:

Ensuring balanced growth

7. FINANCIAL AND BUDGETARY IMPACT:

There are no financial concerns or budgetary impacts on the Town as a result of this application. The owners/applicants will be required to apply for and obtain all necessary approvals associated with building permits, site alteration permits and entrance permits, and to pay the applicable associated costs for same, including the payment of any development charges, if required, (at the prevailing rate at building permit issuance).

8. CONCLUSION:

Changes to the *Planning Act* by Bill 23 have allowed for the as-of-right use of a free-standing accessory building associated with a single detached dwelling subject to the accessory building meeting the regulatory provisions (i.e. setbacks, coverage, height etc.). This changes the circumstances under which the original ZBA application was made. In this respect, the only provision of Zoning By-law 500 for which the proposal now requires relief is an increase in accessory building lot coverage from 10% to 13.5%. Staff are of the opinion that the proposed ZBA application is consistent with the PPS, conforms to applicable Provincial policy and the Keswick Secondary Plan, and represents good planning.

APPROVALS

Prepared By: Brittany Dobrindt
Planner I

Reviewed By: Alan Drozd, MCIP, RPP
Manager of Planning Policy

Recommended By: Denis Beaulieu, MCIP, RPP
Director of Development Services

Approved By: Ryan Cronsberry,
Chief Administrative Officer

Attachments:

Attachment 1 – Location Map

Attachment 2 – Site Photographs

Attachment 3 – Site Plan

Attachment 4 – Floor Plans

Attachment 5 – Minor Variance P410933 Decision (Refusal) and OMB Decision

Attachment 6 – Comments

Attachment 7 – Applicant’s Draft Amending By-law