

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2024-0026

**FOR THE CONSIDERATION OF
COMMITTEE OF ADJUSTMENT**

May 13, 2024

**SUBJECT: MINOR VARIANCE APPLICATION A02-24
443 THE QUEENSWAY SOUTH
LOT 6, CONCESSION 3 (NG), PART 5 PLAN RS65R8344, PARTS 4-8
PLAN RS6545**

1. RECOMMENDATIONS:

1. That the Committee of Adjustment receive Report No. DS-2024-0026 prepared by the Development Planning Division, Development Services Department, dated May 13, 2024, respecting Minor Variance Application A02-24, for the property municipally addressed as 443 The Queensway South; and,
2. That in the event no public or Committee concerns are raised at the meeting warranting investigation and a further meeting, Staff recommend the following:
 - a) That the Committee of Adjustment deny Minor Variance Application A02-24 to permit relief from the following:
 - i) **Section 17.2:** To permit a childcare centre (Day Nursery) with an outdoor playground, a Private School, and a Commercial School, whereas a childcare centre (Day Nursery), Private School and Commercial School are not permitted in the Shopping Centre Commercial zone.

2. PURPOSE:

The purpose of this report is to provide Staff's analysis and recommendations concerning Minor Variance Application A02-24, for the property located at 443 The Queensway South, regarding permitting a day nursery, private school and commercial school.

3. BACKGROUND:

Property Description: (refer to Attachment 1 to 3)
443 The Queensway South

Lot 6, Concession 3 (NG)
 Part 5 Plan RS65R8344
 Part 4-8 Plan RS654512426
 Roll #: 146-659

PROPOSAL

The owner of the subject property is seeking to permit a day nursery, private school, and commercial school on the subject property.

A Minor Variance application has been submitted concerning the proposal, requesting the following relief:

- i) **Section 17.2:** To permit a childcare centre (Day Nursery) with an outdoor fenced playground, a Private School and a Commercial School, whereas a childcare centre (Day Nursery) is not permitted in the Shopping Centre Commercial Zone.

A Site Sketch showing the proposal and the requested relief is included as Attachment 2.

3.1 SUBJECT PROPERTY AND THE SURROUNDING AREA:

The subject property is located at 443 The Queensway South in Keswick. A summary of the characteristics of the property is as follows:

Table 1 – Property, Land Use, Environmental and Servicing Considerations

General Property Information	
Municipal Address	443 The Queensway South
Zoning	Shopping Centre Commercial (C4)
Frontage	319 m
Area	106 m
Official Plan / Secondary Plan Land Use Designation	Glenwood Urban Centre in the Keswick Secondary Plan
Regional Official Plan Land Use Designation	Community Area
Related Applications	NA
Land Use and Environmental Considerations	
Existing Structures	Retail shopping centre, 6 commercial buildings
Proposed Structures	None
Heritage Status	Neither listed nor designated
Regulated by LSRCA	No
Key Natural Heritage Features	None
Natural Hazards	None

Servicing		
	Existing	Proposed
Water	Municipal	NA
Sanitary	Municipal	NA
Access	Existing entrances on The Queensway South and Glenwoods Avenue	NA

4. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

4.1 PUBLIC CIRCULATION

In accordance with the provisions of the Planning Act, the Notice of Hearing for the subject application was sent by mail on April 25, 2024, to all landowners within 60.0 metres of the subject property.

As of the date of writing this report, Town Staff have not received any submissions from the general public.

4.2 EXTERNAL AGENCY AND TOWN DEPARTMENT COMMENTS

All Town department and external agency comments have been consolidated into a chart (Attachment 4).

The Development Engineering Division has indicated (pg 2 Attachment 4) that the Owner is required to enter into a Development Agreement addressing such matters as amending the existing site plan agreement and providing a record of site condition for the change from a commercial parking area to a more sensitive land use.

The Policy Planning Division has indicated (pg 3 Attachment 4) that they are not in support of this application. However, if the Committee approves the application a site plan with a detailed design of the playground area including landscape buffers and access will be required as a condition.

The Regional Municipality of York has indicated no objection but has provided comments related to the location of the proposed fenced playground as it relates to the protected setbacks from The Queensway South. They have also requested that all setbacks must be measured from the 18 meters offset from the centreline of construction of The Queensway South.

The Building Division has indicated (pg 1 Attachment 4) that the Owner is required to submit a building permit for the change of use and a full review of the application will take place at the time of building permit submission.

The following Town departments / divisions and external agencies have indicated no objections to the submitted Minor Variance application:

- Tax and Revenue Division
- Economic Development Division
- Georgina Fire Department
- Municipal Law Enforcement Division

A number of external agencies and Town departments / divisions have not provided comments.

5. **ANALYSIS:**

The following evaluation of Minor Variance Application A29-23 is based on the four (4) prescribed tests as set out in Section 45(1) of the Planning Act:

i. Is the general intent and purpose of the Official Plan maintained? – Yes

The subject property is designated Glenwoods Urban Centre in the Keswick Secondary Plan. Institutional and Community uses are permitted in this designation, including private schools and childcare facilities.

Staff are of the opinion that the proposal maintains the general intent and purpose of the Official Plan.

ii. Is the general intent and purpose of the Zoning By-law maintained? – No

The subject property is zoned Shopping Centre Commercial (C4) on Map 2 (pg. 2), of Schedules 'A' to Zoning By-law No. 500. Day Nurseries, Private Schools and Commercial Schools are not permitted in the zone.

Staff note that Section 45 (2) (b) of the Planning Act enables the Committee of Adjustment to add a permitted use which is similar to the uses already permitted in the zone:

“where the uses of land, buildings or structures permitted in the by-law are defined in general terms, [the committee] may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.”.

Zoning By-law 500 lists the following permitted non-residential uses in the Shopping Centre Commercial (C4) zone:

- Bakery or bakeshop
- Bank
- Bowling alley

- Business or professional office
- Catering establishment
- Church
- Clinic, health care
- Club, commercial or private
- Dry cleaning establishment
- Golf course, miniature - hawker or pedlar use
- Hotel
- Kennel
- Laundromat
- Motel or motor hotel
- Motor vehicle fuel bar
- Place of amusement
- Police station
- Printing shop
- Refreshment vehicle, bicycle unit or cart
- Restaurant
- Retail store
- Retail store, supermarket
- Service shop, personal or light
- Studio
- Taxi stand
- Theatre
- Tourist information centre
- Wholesale establishment within a building of which at least 25% is used for retail sales
- Accessory buildings, structures and uses to any permitted use

Staff are of the opinion that the addition of a day nursery, private school and commercial school does not conform to the existing uses permitted in the by-law.

A Zoning By-law Amendment is the appropriate application to add a day nursery, private school and commercial school as a permitted use to the Shopping Centre Commercial (C4) zone.

Staff acknowledge that the completion of Phase 2 – Comprehensive Zoning By-law Review for the urban areas is included in Council's 2023-2027 Corporate Strategic Plan as a work program in 2025. This review of Zoning By-law No. 500, as amended, will modernize the zoning by-law and bring the by-law into conformity with the new Keswick Secondary Plan which is currently under appeal at the Ontario Land Tribunal (OLT). The Glenwoods Urban Centre designation in the new Keswick Secondary Plan would permit institutional and community uses and mid-rise residential development.

Based on the above, staff are of the opinion that the proposed minor variance does not maintain the general intent and purpose of Zoning By-law 500, as amended.

iii. Is the Minor Variance desirable for the appropriate development of the property or use of land, building or structure? – Yes

The proposal is in keeping with the existing physical character of the neighbourhood as the surrounding area includes residential housing and several schools. The addition of childcare centre (day nursery), private school and commercial school as a permitted use in the commercial plaza will create more convenience for the surrounding neighbourhood who are seeking childcare.

The commercial plaza is subject to an existing Site Plan Agreement (File S.5.9), any exterior changes to the property such as the reconfiguration of parking areas or the addition of an outdoor play area will require an amendment to this agreement and updates to the site plan schedules. Additional studies to support proposed changes to the site plan may be required.

Staff have discussed with the applicant the relocation of the proposed outdoor fenced play area to increase the separation distance from a busy arterial road, The Queensway South. This is reflected in the proposed playground area shown in yellow on Attachment 2.

Staff are satisfied that the proposal is desirable for the appropriate development of the subject land pending the approval of an amendment to the existing Site Plan Agreement S.5.9.

iv. Is the relief sought minor in nature? – No

In considering whether the relief sought is minor, Staff note that this test is not simply a question of numerical value. The principal consideration is that of potential impact the variances may have, and whether those impacts are minor or acceptable. In light of the above evaluation of the application, Staff are of the opinion that the requested variance is not minor in nature.

6. CONCLUSION:

Subject to the recommendations in Section 1 of this report, Staff are of the opinion that Minor Variance Application A02-24, as it pertains to permitting a day nursery, private school and commercial school, does not meet the four (4) prescribed tests as set out in Section 45(1) of the *Planning Act*, R.S.O. 1990.

Staff are of the opinion that a Zoning By-law Amendment is the appropriate application to request the proposed additional permitted uses in the Shopping Centre Commercial (C4) zone.

APPROVALS

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 Planner I

Approved By: Janet Porter, MCIP, RPP
 Manager of Development Planning

Attachments:

Attachment 1 – Location Map

Attachment 2 – Site Plans

Attachment 3 – Site Photos

Attachment 4 – Comments