



City of
Peterborough

To: **Members of the General Committee**

From: **Jasbir Raina, Commissioner of Infrastructure and Planning Services**

Meeting Date: **July 4, 2022**

Subject: **Habitat for Humanity, Request for Minor Variance Consideration within Two Years of a Zoning By-law Amendment for 246 Parkhill Road East and 21, 31 and 33 Leahy's Lane, Report IPSPL22-015**

Purpose

A report to evaluate the planning merits of proceeding with a Minor Variance Application within two years of a Zoning By-law Amendment to address a Zoning By-law deficiency for a proposed 12-unit affordable row housing development at 246 Parkhill Road East and 21, 31 and 33 Leahy's Lane

Recommendation

That Council approve the Recommendation outlined in Report IPSPL22-015 dated July 4, 2022, of the Commissioner of Infrastructure and Planning Services, as follows:

That a Minor Variance Application to address a variance request as described in Report IPSPL22-015 be permitted to proceed to the City of Peterborough Committee of Adjustment within two years of the passing of Zoning By-law Amendment No. 21-093 for the properties known as 246 Parkhill Road East and 21, 31 and 33 Leahy's Lane.

Budget and Financial Implications

There are no direct budget or financial implications arising from this recommendation.

Background

On September 27, 2021, Council approved By-law No. 21-093 to amend the Zoning By-law for the properties at 246 Parkhill Road East and 21, 31 and 33 Leahy's Lane. The By-law was intended to permit a second phase of development on the property by creating 12 affordable row dwelling units.

The subject properties were collectively re-zoned in 2014 to R.4-287 to permit a multiple-unit residential development containing up to 42 units. In 2020-2021, Habitat for Humanity Peterborough and District constructed a 41-unit residential apartment building on the north portion of the site.

In 2020, Habitat for Humanity proposed to develop an additional 12 row dwelling units on the south portion of the site. To support the proposal, Habitat for Humanity filed an application to amend the Zoning By-law (File Z2012) that requested Exception .287 (Section 3.9.287) be amended to:

- Increase the total number of units permitted on the site from 42 to 53;
- Reduce the minimum lot area per dwelling unit from 210 square metres to 155 square metres; and,
- Reduce the minimum distance from a parking area/driveway to the window of a habitable room from 6 metres to 4.5 metres.

As part of the application, a concept site plan showing the proposed row dwellings was provided that indicated the overall proposed building coverage for the site would be 28.3% and that the overall lot coverage in the proposed development for parking, driveways and vehicle movement areas would be 24%. Both of these proposed coverages were within the limit permitted by the Zoning By-law.

Presently, Habitat for Humanity is seeking site plan approval (File SPC-947B) for the proposed 12-unit row dwelling. Through the detailed review of that application, it was discovered that By-law 21-093 inadvertently reduced the maximum allowable building coverage for the site from 35% to 24% (Regulation 3.9.287 iv.). This reduction was made without a request from the Applicant and despite the Applicant having provided a concept site plan with the 2020 Zoning By-law Amendment application proposing an ultimate building coverage of 28.3% for the site.

To date, the drawings submitted for site plan approval continue to show an ultimate site building coverage of 28.3%. However, in order for Habitat for Humanity to receive site plan approval, relief is needed from the amended regulation 3.9.287 iv. of the Zoning By-law to allow the proposed building coverage exceed 24%. Such relief can be achieved by way of a minor variance from the Committee of Adjustment.

Subsection 45(1.3) of the Ontario Planning Act, R.S.O. c.P.13 prohibits applicants from applying for a Minor Variance within two years from the adoption of a Zoning Amendment that was privately initiated on the same property, unless the Council of the municipality passes a resolution to allow it to be considered. The intent of the legislation is to give greater control to municipalities and provides stability by preventing zoning provisions that Council deems to be appropriate from being reversed within 2 years.

Minor Variance Request

Habitat for Humanity is seeking a Council Resolution to allow them to proceed with an application for Minor Variance to address an error in By-law 21-093 that reduced the maximum permitted building coverage from 35% to 24% thereby causing a Zoning conflict with Habitat for Humanity's proposed site plan. Because the property was subject to a privately initiated Zoning Amendment application within the two-year window as set out in the Planning Act, Council must pass a resolution if it wishes to allow the Committee of Adjustment to consider the matter.

The site plan for which Habitat for Humanity is seeking approval is attached hereto as Exhibit A. The site plan is consistent with the plan considered during the review of Zoning By-law Amendment Application Z2012 proposed reflects the existing site condition and is consistent with the plan considered through the rezoning process. Based on the documentation that was submitted with Zoning By-law Amendment Application Z2012, it is staff's opinion that the amendment made in By-law 21-093 to regulation 3.9.287 iv. to reduce the maximum building area from 35% to 24% was inadvertent and inconsistent with the application that was filed. Accordingly, to allow for Habitat for Humanity's affordable housing development at the subject properties to proceed, it is staff's opinion that it is appropriate to allow Habitat for Humanity to seek a minor variance from the Committee of Adjustment for relief from Zoning By-law regulation 3.9.287 iv.

Subject to a Council Resolution, the Committee of Adjustment is able to proceed with reviewing a minor variance. Based on a recommendation from General Committee on July 4, 2022 and a Council Resolution dated July 25, 2022, the application for Minor Variance could be considered by Committee of Adjustment on August 16, 2022.

Summary

In staff's opinion, the proposed minor variance request is in keeping with the general intent and purpose of the zoning of the subject lands as approved by Council in September 2021 and is simply intended to address an error in By-law 21-093. Deviations from the recently approved zoning require a Council Resolution to allow their consideration via the minor variance approval process through the City's Committee of Adjustment.

Submitted by,

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Commissioner of Infrastructure and Planning Services

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Attachment

Exhibit A – Proposed Site Plan

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Proposed Site Plan

