

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

PLANNING REPORT

MEETING DATE: Wednesday, November 18th, 20020 at 5:30 p.m.
TO: Committee of Adjustment
FROM: Maggie Yet – Planner 1
SUBJECT: **MINOR VARIANCE APPLICATION A-13-20 (D13-MAR-20)**
Plan 779, Part Block D, Part Mackenzie St/Mill St,
Being Part 1 on RP 27R9235 and Parts 6 & 7 on RP 27R9384
Pakenham Ward, Municipality of Mississippi Mills
Municipally known as 4839 Kinburn Side Road
OWNER/APPLICANT: Claire Marson & Marson Vita Productions

RECOMMENDATION:

THAT the Municipality of Mississippi Mills Committee of Adjustment approves the Minor Variance for the land legally described as Plan 779, Part Block D, Part Mackenzie St/Mill St, being Part 1 on RP 27R9235 and Parts 6 & 7 on RP 27R9384, Pakenham Ward, Municipality of Mississippi Mills, municipally known as 4839 Kinburn Side Road, to permit the expansion of a legal non-conforming secondary dwelling unit within the Highway Commercial (C3) Zone from 73.5m² (791.5ft²) to 136.0m² (1,464.4ft²), subject to the following conditions:

- 1. That the Minor Variance are approved based on the plans submitted;**
- 2. That the Owner obtain all required building permits and approvals for the secondary dwelling unit; and**
- 3. That the Owner obtain all required permits from the Leeds, Grenville & Lanark District Health Unit.**

PURPOSE AND EFFECT

The owner/applicant is requesting permission to expand a legal non-conforming secondary dwelling unit within the Highway Commercial (C3) Zone from 73.5m² (791.5ft²) to 136.0m² (1,464.4ft²). The existing secondary dwelling unit is located in the second-storey of an accessory structure. The expansion would include a portion of the ground floor that is generally used for commercial purposes and would provide additional living space for the secondary dwelling unit. The Minor Variance request is outlined below.

Table 1 – Requested Relief from Zoning By-law #11-83

Section	Zoning Provision	By-law Requirement	Requested
21.1	Highway Commercial	Residential Uses: Not Permitted	Permit the expansion of a legal non-conforming secondary

	(C3) Zone – Permitted Uses		dwelling unit from 73.5m ² (791.5ft ²) to 136.0m ² (1,464.4ft ²) in an accessory structure to an existing residential/commercial use
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DESCRIPTION OF SUBJECT LANDS

The subject property is located on Kinburn Side Road in the Village of Pakenham within Pakenham Ward. The entire property is ±3.0ha (7.42ac) in size with a frontage of ±274.3m (900ft). The property is presently occupied by a single detached dwelling (known as the “Main House”) and two accessory structures (known as the “Carriage House” and “Promise House”, respectively). The applicant describes the commercial use on the property as a social enterprise that helps caregivers and provides services such as rentals retreats and coaching and support services. The commercial use is primarily hosted within the Main House and the ground floor of the Promise House. A sketch of the site is included in Schedule A.

The site is used for residential and commercial purposes. Residential uses on the property are considered legal non-conforming. The “Promise House” contains a legal non-conforming accessory apartment on the second floor and the ground floor generally provides a multipurpose space that serves the commercial use on the property. The property is generally surrounded by low density residential uses and highway commercial uses. The location of the subject property is depicted in the following aerial photo:

Figure 1 – Aerial Photo of Property (2014)



SERVICING & INFRASTRUCTURE

The subject property is presently serviced by private water and septic services. Private servicing is already connected for the secondary dwelling unit. No changes to the existing private servicing is proposed as part of this application. Municipal infrastructure and parking demands would not change as a result of the application.

COMMENTS FROM CIRCULATION OF THE APPLICATION

COMMENTS FROM INTERNAL CIRCULATION

Comments received based on the circulation of this application have been summarized below:

CAO: No comments received.

Clerk: No comments received.

CBO: 1) No objection to the change from commercial to residential use.

2) A change of use/renovation permit will be required.

3) For building code purposes, the use of the modified architect drawing without permission will not be acceptable.

Fire Chief: No comments received.

Acting Director of Roads and Public Works: Public Works has no objections at this time.

Recreation Coordinator: No concerns.

COMMENTS FROM EXTERNAL AGENCIES

Mississippi Valley Conservation Authority (MVCA): No comments received at the date this report was finalized.

Leeds, Grenville & Lanark District Health Unit: Please be advised that our comments will follow once a maintenance inspection of the property has been completed. We have notified the property owner of the need to complete and submit to our office a Sewage System Maintenance Inspection Application.

COMMENTS FROM THE PUBLIC

No comments were received from the public at the date this report was finalized.

EVALUATION

FOUR TESTS

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. In properly evaluating such requests, the Committee needs to be satisfied that the proposal meets the four (4) tests set out in the *Planning Act*. Staff comments concerning the application of the four (4) tests to this Minor Variance request are as follows:

1. Does the proposal maintain the intent of the Official Plan?

The subject property is designated 'Highway Commercial' in the Municipality's Community Official Plan (COP). Generally, Highway Commercial areas contain uses that are largely automobile-oriented and serves uses dependent on high traffic volumes or are heavily transportation oriented (Policies 3.7.3 and 3.7.1).

Section 3.7.3 Highway Commercial

3.7.3.1 Permitted Uses

On lands designated as "Highway Commercial" permitted uses include:

- (i) Uses dependent upon high volumes of traffic or which are heavily transportation oriented. The scope of uses include, but not be limited to, restaurants, recreational and automotive sales, repair and services establishments, building contractors, building supply and home furnishing retail and wholesale outlets, farm machinery, hotel/motel, lodging facilities, garden centres and nurseries, warehousing and distribution centres.

The subject property is used for residential and tourist commercial uses. Within the Highway Commercial designation, residential uses are not contemplated. Given that the residential use on the property was legally established prior to the passage of the Zoning By-law, the residential use is considered legal non-conforming and may continue to exist.

The following provides an analysis of the proposed variances against the relevant policies of the COP:

Section 5.3.8 Legal Non-Conforming Uses

- (i) *The proposed addition, expansion or change of use shall not add to the non-conforming nature of the property;*

As the existing uses are both residential and tourist commercial, the proposed variance to expand an existing secondary dwelling unit would maintain the residential use of the subject property and would not add to the non-conforming nature of the property.

- (ii) *The features of the non-conforming use and proposed extension and/or enlargement are considered to be compatible with adjacent uses;*

The proposed secondary dwelling unit would be compatible with surrounding land uses which are primarily low density residential uses and highway commercial uses.

- (iii) *The proposed addition, expansion or change of use shall be consistent with the environmental policies of this plan;*

No environmental and natural heritage features are present on the subject property and as such, the proposed expansion is consistent with the environmental policies of the OP.

- (iv) *The proposed addition, expansion or change of use shall not represent an unreasonable increase to the size or intensity of the existing use;*

The proposal involves the expansion of an established secondary dwelling unit within an accessory structure from 73.5m² to 136.0m², constituting a total relief of 62.5m² (672.7ft²). The expansion would incorporate a portion of the ground floor of the structure for additional living space. As such, Staff do not believe the proposed variances represent an unreasonable increase in the size or intensity of the existing use.

- (v) *The proposed addition, expansion or change of use shall have minimal impact on the surrounding built environments in terms of projected levels of noise,*

vibration, fumes, smoke, dust, odours, lighting, outdoor storage and traffic generation;

The expansion of the secondary dwelling unit would incorporate a portion of the ground floor of the existing structure as part of the unit. No other changes to the use or structure are proposed as part of this application. As such, the expansion is expected to have negligible impacts on existing noise, vibration, fumes, smoke, dust, odours, lighting, outdoor storage and traffic conditions.

(vi) *The proposed addition, expansion or change of use shall include the protection of surrounding uses through the provision of landscaping, buffering or screening, appropriate setbacks for buildings and structures or other measures which improve compatibility with the surrounding area;*

The existing secondary dwelling unit is presently setback by an approximate distance of 41m from the dwelling on the adjacent property. No expansion to the footprint of the building is proposed. As such, the proposed variance would have minimal impact on adjacent properties and is compatible with the surrounding area.

(vii) *That traffic and parking conditions not be adversely affected by the proposed addition, expansion or change of use;*

The proposed variances are expected to have minimal effects on existing traffic conditions along Kinburn Side Road given that the site is designated for Highway Commercial uses which are largely automobile-oriented. The provision of parking for a secondary dwelling unit is not required by the Comprehensive Zoning By-law #11-83.

(viii) *That adequate provisions be made for off-street parking, loading and unloading facilities; and*

The Zoning By-law does not require additional parking spaces for secondary dwelling units. The applicant has indicated 30 parking spaces are available on the subject property. As such, adequate space is available on the subject property to provide off-street parking in excess of the Zoning By-law provisions for parking for secondary dwelling units.

(ix) *That applicable municipal service, such as storm drainage, water supply, sanitary sewers and roads are available or can be made available through the conditions of approval.*

The dwelling is presently connected to private well and septic services. Municipal services are not available nor expected to be available in this area.

Given the above analysis, Staff is of the opinion that the requested permission to permit a secondary dwelling unit in a non-conforming residential dwelling is an appropriate and reasonable expansion of the existing use and maintains the general intent of the COP.

2. Does the proposal maintain the intent of the Zoning By-law?

The subject lands are zoned "Highway Commercial (C3)" by the Comprehensive Zoning By-law #11-83. The C3 Zone accommodates a broad range of automobile-oriented commercial uses and imposes development standards to improve the visual image of highway commercial areas and to develop them as a gateway to the urban community. The owner/applicant is

requesting permission to expand a non-conforming secondary dwelling unit accessory to the residential and commercial uses on the subject property.

The Zoning By-law does not provide provisions regarding residential uses and secondary dwellings within the C3 Zone. The present residential and commercial uses on the property have been established since 1985 when the milk farm on the site ceased operations. The expansion of the secondary dwelling unit would be limited to internal changes within the existing accessory structure and no changes to the footprint of the structure are anticipated.

The intent of the secondary dwelling unit provisions is to ensure that secondary dwelling units remain secondary in nature to a principal use and have limited visual impact on the streetscape from development. Given that the secondary dwelling unit is already established on the site and the expansion of the unit is limited internally within the existing accessory structure, no additional impacts are anticipated as a result of this application.

Given the above, Staff is of the opinion the requested relief maintains the general intent of Zoning By-law #11-83.

3. Is the proposal desirable for the appropriate development of the lands in question?

The proposed variance would permit the expansion of non-conforming secondary dwelling unit within an accessory structure in the C3 Zone from 73.5m² to 136.0m². The expansion of the secondary dwelling unit would increase living space for residents of the dwelling unit. The expansion would not increase the intensity of the residential use on the property and would be located wholly within the footprint of the existing structure. While the expansion would remove 62.5m² of space for the commercial operation on the property, the proposed expansion space is only used occasionally (once a month for half a day, according to the Owner) to serve the commercial use. The Owner has indicated that the Main House and remaining meditation room within the Promise House can accommodate the existing level of commercial activity. As such, the expansion of the existing secondary dwelling unit as proposed is considered an appropriate and logical form of development.

4. Is the proposal minor?

The subject lands are surrounded primarily by low density residential and highway commercial uses. The requested relief would permit the expansion of a non-conforming secondary dwelling unit within an accessory structure in the C3 Zone, secondary to the commercial and non-conforming residential uses on the property. The expansion would increase the living space within the dwelling unit from 73.5m² (791.5ft²) to 136.0m² (1,464.4ft²), constituting a total relief of 62.5m². Analysis of the proposal has concluded that the proposal is unlikely to present adverse impacts on the adjacent properties or visual impacts on the streetscape. As such, Staff consider the qualitative value of the requested reliefs to be minor in nature.

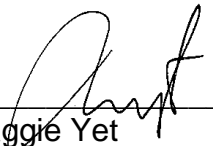
CONCLUSION

Overall, Staff supports the Minor Variance application. The variances would allow the owners to maximize the use and enjoyment of their property with no foreseeable impacts to any other stakeholders. Staff believes that Minor Variance Application A-13-20 meets the four (4) tests for evaluating a Minor Variance as established under the *Planning Act*. Planning Staff therefore recommends that the Minor Variance be granted, provided the Committee is satisfied that any

issues raised at the public hearing do not require additional Staff evaluation and comment, the submission of additional information, or the application of conditions other than as follows:

- 1. That the Minor Variance are approved based on the plans submitted;**
- 2. That the Owner obtain all required building permits and approvals for the secondary dwelling unit; and**
- 3. That the Owner obtain all required permits from the Leeds, Grenville & Lanark District Health Unit.**

All of which is respectfully submitted by,

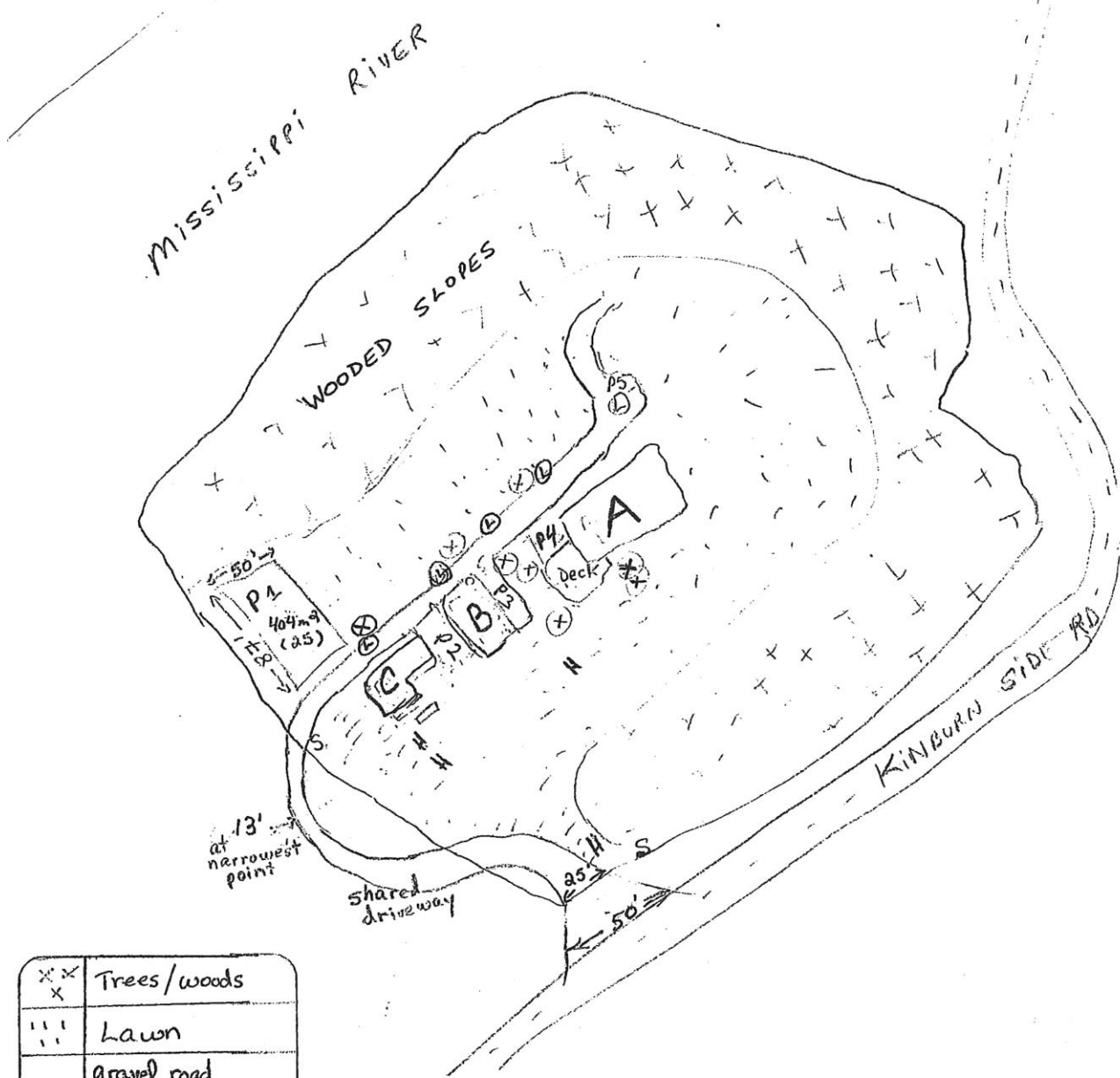


Maggie Yet
Planner 1

ATTACHMENTS:

SCHEDULE A – Site Plan Sketch, Elevations & Floor Plans

Schedule A Site Plan Sketch & Floor Plans



xx x	Trees/woods
	Lawn
	gravel road
P	Parking (small) areas
L	street lights
H	Hydro poles
x	individual trees
S	Signage locations

3 BUILDINGS	
Main house	A
Carriage house	B
Promise house	C

Plan NOT to scale.

Stonebridge Haven

4839 KINBURN SIDE RD.

[illegible]

Remaining Commercial