

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

STAFF REPORT

MEETING DATE: December 5, 2023

TO: Committee of the Whole

FROM: Melanie Knight, Senior Planner

SUBJECT: **Request for Encroachment Agreement
Lot 190 and Part of Lot 110, Plan 6262
Almonte Ward, Municipality of Mississippi Mills
Municipally Known as 81 Union St N**

OWNER: Adam Cholewa and Zoey Patricia Arbour

RECOMMENDATION:

THAT Committee of the Whole recommend that Council approve the request for an encroachment agreement to rebuild the stairs and porch on the subject lands which are municipally known as 81 Union S. N., Almonte Ward, Municipality of Mississippi Mills, and authorize the Mayor and Clerk to sign the encroachment agreement.

BACKGROUND:

The Owners are requesting permission for a 1.26 m porch stair encroachment within the municipal right of way on Union Street North. The Owners submitted a building permit application (A23-1184) for the above noted property. As part of the zoning review of the building permit application, it was identified that the existing stairs and a portion of the existing porch encroaches into the municipal right-of-way.

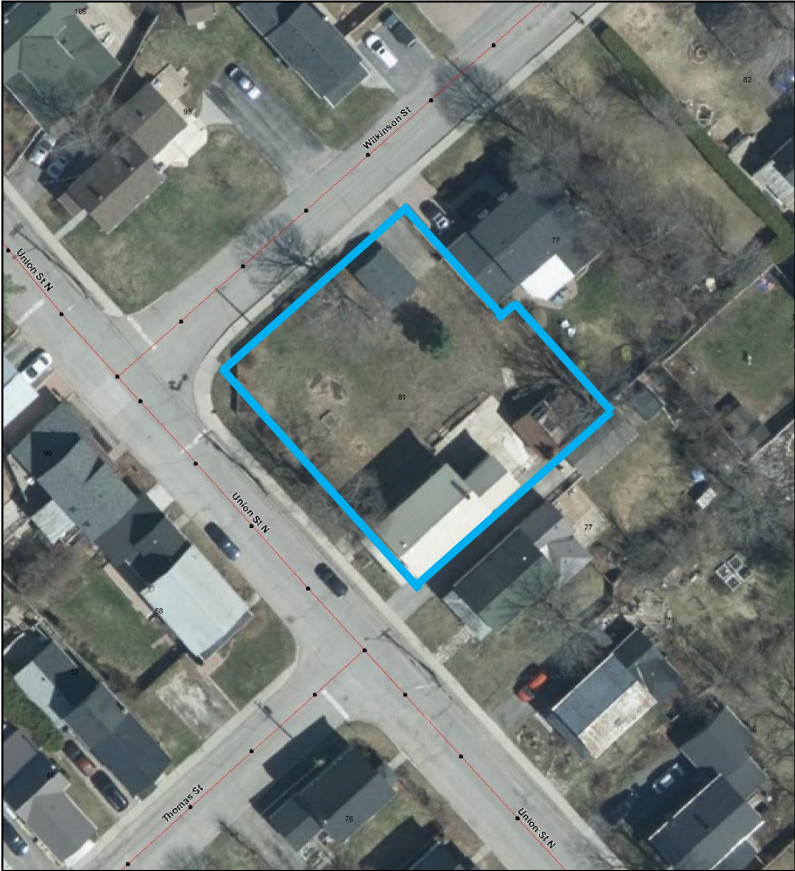
Encroachment agreements that are a result of a Planning Act applications, do not need approval of Council as the planning application process provides the Mayor and Clerk the authority to enter into an encroachment agreement. In absence of a planning application, such as with this existing encroachment, the Mayor and Clerk do not have delegated authority to sign encroachment agreements without approval of Council.

DESCRIPTION OF PROPERTY AND SURROUNDING LAND USES:

The subject property is a corner lot located at the east corner of the intersection of Union Street North and Wilkinson Street. Surrounding land uses consist of low-rise residential uses.

The subject property measures approximately 981 m² in size and features approximately 30 m of frontage along Union Street North. The subject property is currently occupied by a single detached dwelling with a detached garage. According to the Municipality's records, the existing house was constructed in 1900, and the garage built in 2007.

Figure 1: Subject Lands



 81 Union Street North (Subject Property)

PROPOSED DEVELOPMENT:

The Owners are seeking to replace the existing front porch and stairs to improve the overall safety of the porch and to reduce the encroachment of existing stairs into the right of way. The proposed stairs will consist of four steps and will extend from the proposed porch by 1.07 m, with a width of 2.06 m. The existing stairs are currently encroaching by 1.74 m, the new stairs will be built on the same footprint but will reduce the encroachment of the existing stairs by 0.48 m.

The new stairs and porch require a building permit and as previously mentioned, as part of the zoning review of the building permit identified the encroachment. When encroachments such as these are identified, staff work with the property owner to

establish a legal encroachment agreement so that the property owner has municipal approval for the encroachment and both parties are protected, from a legal standpoint, to address any issues that may arise with the encroachment. As a result, the encroachment agreement is a prerequisite prior to the Planning Department providing zoning approval for the building permit.

SERVICING & INFRASTRUCTURE:

The subject property is currently serviced by municipal services and no servicing changes have been proposed. Staff are of the opinion that all servicing or infrastructure concerns resulting from the subject encroachment have been adequately addressed.

COMMUNITY OFFICIAL PLAN (COP):

The subject property is designated as Residential. Staff are of the opinion that the subject request is generally consistent with the applicable COP policies.

ZONING BY-LAW #11-83:

The subject property is zoned as Residential Second Density (R2). Section 6.14 of Zoning By-law #11-83 permits the rebuilding, repairing and renovating of existing non-complying uses. Staff are of the opinion that the subject request is consistent with the applicable provisions of the Zoning By-law.

TECHNICAL COMMENTS RECEIVED:

No concerns were raised with respect to the existing encroachment. Staff note that Union Street is planned for reconstruction in 2024. The Owner is aware of this planned construction and has been advised by staff that the rebuilding of the porch and stairs will not conflict with the planned reconstruction of the porch.

EVALUATION:

Staff evaluated the characteristics of the subject property and the existing encroaching porch, the applicable COP policies, the applicable Zoning By-law provisions, the environmental impacts, and the right-of-way impacts of the proposed porch stair encroachment. Staff are of the opinion that the replacement of the porch stairs is an acceptable request with minimal environmental impacts and minimal impacts to the municipal right-of-way. The subject request represents an opportunity for the Municipality to formally register an encroachment agreement. The encroachment agreement will also cover any private landscaping that currently exists within the municipal right-of-way and include maintenance and liability clauses which reduces the risks borne by the Municipality associated with the private use of lands affected by the encroachment.

Staff are of the opinion that the approval of the encroachment request is desirable, and that the approval of the request is consistent with previous Council approvals for similar encroachment requests.

SUMMARY:

Having reviewed and assessed the proposed encroachment request, conforms to all applicable policies based on the analysis included herein, staff have no concerns regarding the subject encroachment request.

All of which is respectfully submitted by,

Approved by,



Gillian Bentley
Planner

Melanie Knight, MCIP, RPP
A/Director of Development Services and
Engineering