

Haldimand County Committee of Adjustment



Minor Variance

File Number: PLA-2025-040

Property Roll Number: 2180-331-002-03300-0000

Applicant: Arnold Eising and Karen Eising

Agent: Kim Hessels

Property Location: Jarvis Plan 1650 Part Lot 2 East, Dennis Street Part Lot 1 North Davis, Street Part J McMickens Block, Known Municipally as 2013 Main Street South, Jarvis

For consideration on: April 22, 2025

Summary

The application proposes relief from the Exterior Side Yard, Front Yard, Rear Yard and the Gross Leasable Floor Area provisions of the 'Downtown Commercial "(CD)"' Zone of Zoning By-law HC 1-2020 to permit the replacement of a legal, non-conforming detached dwelling. The proposed new dwelling will have a larger footprint than the previous one on site. This application is to be considered under Section 45(2) of the *Planning Act*, which allows for the enlargement or extension of a legal, non-conforming building or structure. Planning staff recommend approval of this application as it is considered appropriate and compatible development.

Recommendation

THAT application PLA-2025-040 be APPROVED subject to the attached conditions. The application meets the four tests of a Minor Variance and is considered appropriate and compatible development.

- 1) Receipt of a letter from the Planning & Development Division indicating that their requirements, regarding a lot grading plan to address surface drainage of the property, have been satisfied. Please note that the owner/developer is responsible to have the grading plans prepared/stamped/signed by a qualified Professional Engineer as per Haldimand County Design Criteria. Contact the Development & Design Technologist at 905-318-5932, ext. 6253, if further clarification required. Please allow approximately six (6) to eight (8) weeks for completion of this process.

Prepared by: Chris Tang, MCIP, RPP, Planner, Planning and Development

Reviewed by: Mark Andrews, M.A., MCIP, RPP, Senior Planner, Planning and Development

Reviewed by: Krystina Wheatley, Acting Supervisor, Planning and Development

Details of the Submission

Proposal: Relief is requested from the exterior side yard set back, front and rear yard set back and gross leasable floor area provisions of the ‘Downtown Commercial “(CD)”’ Zone of Zoning By-law HC 1-2020 as follows:

Development Standard(s)	Required	Proposed	Deficiency
Exterior Side Yard (corner lot)	Exterior Side Yard (West Side) 32.81 metres (107.6 feet)	Exterior Side Yard (West Side) 14.21 metres (46.6 feet)	Exterior Side Yard (West Side) 18.6 metres (61 feet)
Front Yard	22.98 metres (75.4 feet)	16.41 metres (53.8 feet)	6.57 metres (21.5 feet)
Rear Yard	8.66 metres (28.4 feet)	5.80 metres (19 feet)	2.86 metres (9.4 feet)
Gross Leasable Floor Area, as per section 4.41.1.	152.45 sq. metres (1,641 sq. feet)	290.43 sq. metres (3,126.2 sq. feet)	137.98 sq. metres (1,485.2 sq. feet)

The relief is requested to permit the replacement of a legal, non-conforming detached dwelling with a larger footprint than the previously existing dwelling. The subject application is to address the above noted development standards within the ‘Downtown Commercial “(CD)”’ Zone for a legal, non-conforming building. Given that the original structure is considered to be legal, non-conforming (i.e., was established prior to the passing of Zoning By-law HC 1-2020), the minimum development standards, or the required development standards, are considered to be the baseline and the deficiencies are based on the differences between what was existing and what is now proposed through the subject application.

Site Features and Land Use:

The subject lands are located in the Urban Area of Jarvis, in the geographic township of Walpole and fronts onto the west side of Main Street South. The subject lands are currently vacant as the former building has been recently demolished. A demolition permit was issued on February 4, 2025 to remove the existing single detached dwelling and accessory structure. The surrounding land uses are generally downtown commercial, residential and community institutional in nature.

The subject lands are designated “Community Commercial” on Schedule “B.5” (Jarvis Urban Area Land Use Plan) in the Haldimand County Official Plan and zoned ‘Downtown Commercial “(CD)”’ in accordance with Haldimand County Zoning By-law HC 1-2020.

Existing Intensive Livestock Operations:

Not applicable.

Agency & Public Comments

Haldimand County Building & Municipal Enforcement Services:

Comments for any future residential projects: Any future residential projects such as building a covered porch, home addition, garage extension, sunroom, etc. may require another planning application.

Comments for survey: A survey is required after foundation inspection and before framing inspection to confirm location of proposed dwelling matches with proposed grading plan.

Comments for proposed outbuilding (Southwest Corner of property): The proposed outbuilding requires fire separation to be in compliance with the Ontario Building Code. In the future, if the outbuilding is converted into a secondary suite, fire separation and spatial separation must be in compliance with the Ontario Building Code. Secondary suite must also comply with Section 4.55 In the Haldimand County Zoning By-law.

Haldimand County Planning & Development Services – Development Technologist:

Lot grading plan will be required, or proof of existing accepted lot grading plan.

Haldimand County Emergency Services:

No comments received.

Hydro One:

No concerns with application.

Municipal Property Assessment Corporation:

No comments received.

Mississaugas of the Credit:

No comments received.

Six Nations:

No comments received.

Public:

No comments received.

Planning Analysis

A minor variance is required to meet four tests under Section 45(1) of the Planning Act:

1. Does the application conform to the general intent of the Official Plan?

Planning Staff Comment: The subject lands are designated “Community Commercial” on Schedule “B.5” (Jarvis Urban Area Land Use Plan) in the Haldimand County Official Plan and within an identified Intensification Area/Corridor. Single detached dwellings are generally not permitted in the “Community Commercial” designation, which permits residential uses generally in the form of apartments. While the property is vacant at this time, the property recently contained a single detached dwelling with accessory structure and the proposed use is considered to be the same.

Further, the OP, specifically Section 8.E.4 permits the enlargement or extension of legally non-conforming uses subject to conditions which generally require that such proposals do not negatively impact surrounding properties. Low density dwellings are located west and south of the subject lands. Replacement of the previously existing dwelling with a dwelling with larger footprint is not expected to have negative impacts on the surrounding properties and is expected to continue to be compatible and appropriate development for the subject lands and area.

Accordingly, it is staff’s opinion that the subject application has regard for and meets the general intent and purpose of the Official Plan.

2. Does the application conform to the general intent of the Zoning By-law?

Planning Staff Comment: The subject lands are zoned 'Downtown Commercial "(CD)" Zone in the Haldimand County Zoning By-law. While new single detached dwellings are not permitted in the "(CD)" Zone, the Zoning By-law permits the replacement of a legally established, non-conforming use provided the replacement will not significantly increase the original gross usable floor area or volume of the building, the use of the building is not altered to another use, and the yards are not reduced except in accordance with the provisions of the Zoning By-law.

The subject lands conform to the lot frontage and area provisions of the "(CD)" Zone, however, the new dwelling does not conform to the current setback provisions compared to those previously established when the former structure was constructed. The intent of setback provisions is to ensure adequate space for light, air, privacy, safety and emergency access while also contributing to the overall aesthetic and functional quality of a neighbourhood. Considering that the proposal contemplates the replacement of a legal non-conforming residential dwelling, the impact is considered to be minor and meets the general intent and purpose of the Zoning By-law.

Therefore, it is the opinion of Planning staff that the proposal meets the general intent of the Zoning By-law.

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

Planning Staff Comment: Given that the purpose of the subject application is to replace and enlarge a legal, non-conforming use (i.e., single detached dwelling) and the proposal does not increase the intensity or useability of the site, staff are of the opinion that the proposed development permitted by the subject Minor Variance application continues to be desirable for the appropriate development of the subject lands.

4. Is the application minor?

Planning Staff Comment: The subject application is to permit the enlargement of a legal, non-conforming use, specifically, to replace the pre-existing single detached dwelling with a larger single detached dwelling. The variance will also address a number of deficiencies, namely setbacks from lot lines and gross floor area that are based on the pre-existing, non-conforming structure with minor deviations from those figures, As such, this will not result in an increase in intensity or useability of the site and it is the opinion of Planning staff that the application is minor.

Notice Sign and Applicant Discussion

A public notice sign was posted in accordance with the Planning Act, R.S.O. 1990, c. P.13 on March 14, 2025.

A copy of the staff report has been provided to the applicant.

Attachments:

1. Location Map
2. Owner's Sketch