



The Corporation of the Town of Milton

Report To:	Council
From:	Jill Hogan, Acting Commissioner, Development Services
Date:	March 21, 2022
Report No:	DS-016-22
Subject:	Authorization for Submission of a Minor Variance Application on lands municipally known as 271 Sydney Street, Milton

Recommendation: THAT Report DS-016-22 entitled “Authorization for Submission of a Minor Variance Application on lands municipally known as 271 Sydney Street.”, dated January 17, 2022 be received;

AND THAT in accordance with the provisions of subsections 45(1.4) of the *Planning Act; R.S.O. 1990, c.P. 13*, as amended, the Owner shall through this Resolution, be permitted to apply to the Committee of Adjustment for a variance from the provisions of Zoning By-law 081-2020, before the second anniversary of the day on which the by-law was approved by Council.

EXECUTIVE SUMMARY

- On October 19, 2020, as recommended through the Mature Neighbourhoods Character Area Study, Milton Council enacted Town-initiated Official Plan Amendment 60 and Zoning By-law 081-2020.
- The amendments introduced new policies and standards that apply to low-density residential development in the Downtown Character Area to ensure that new development is sympathetic to the existing neighbourhood.
- The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution.
- The intent of the prohibition is to prevent changes to newly approved policies and zoning provisions, but the effect may hinder legitimate applications that do not negatively affect the general intent and purpose of the new provisions.
- This report recommends that the owner of 271 Sydney Street be permitted to apply to the Committee of Adjustment, as the proposed relief is considered minor in nature and maintains the intent of the Mature Neighbourhood Character Area amendments.

REPORT

Background

On December 3, 2015, the Province of Ontario enacted Bill 73 “Smart Growth for Our Communities Act, 2015” which amended the *Planning Act* and *Development Charges Act, 1997*. Several changes to the *Planning Act* came into force on July 1, 2016. One of the changes to the *Planning Act* is the introduction of a two year moratorium (or “freeze”) on three types of amendments, subject to Council’s discretion to provide relief from the prohibition:

1. Amendments of a new Official Plan;
2. Amendments of a new comprehensive Zoning By-law; and
3. Minor variance of a by-law that has already been amended for the land, building or structure.

The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance of a by-law for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution, as detailed below.

Section 45 (1.3)

Subject to subsection (1.4), no person shall apply for a minor variance from the provision of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended. 2015, c.26,s.

The only exception to this rule is where Council has declared by resolution, pursuant to Section 45(1.4) of the *Planning Act* that an application can proceed. Section 45(1.4) of the *Planning Act* allows Council to exempt by resolution a specific application, class of applications, or application generally from the two year moratorium.

Section 45(1.4)

Subsection (1.3) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, class of application or in respect of such applications generally. 2015, c.26, s. 29(2)

Discussion

The Owner of 271 Sydney Street has indicated their desire to submit a Minor Variance Application to seek relief from the rear yard setback provision of the Residential Low Density 1 (RLD1) Zone (i.e. to allow a rear yard setback of 6.51 metres, whereas the by-law allows a minimum of 7.5 metres). The Minor Variance is the result of a proposed Consent Application which proposes to sever the subject property and create an additional building lot to construct a single-detached dwelling. The Minor Variance Application will be a condition of development approval for the proposed Consent Application. It should



Discussion

also be noted that a Site Plan Application will be required to facilitate the construction of the proposed single-detached dwelling on the newly created lot.

Since the enactment of Bill 73, the Development Services Department has implemented an approach that assumes no Minor Variance Applications are permitted before the second anniversary of the day on which the by-law was amended, unless Council has declared by resolution that such an application is permitted.

In this instance, staff recommends that Council authorize the Owner to apply to the Committee of Adjustment for a variance from the provisions of Zoning By-law 081-2020 for the following reasons:

- The rear yard setback provision was not revised or made more restrictive through the recent Character Area zoning by-law amendment and therefore, the proposal does not contradict the purpose or intent of the new zoning provisions.
- The existing dwelling is currently facing and accessed through Sydney Street and no additions are proposed, which will ensure the perception from the public right-of-way and streetscape are maintained.
- A Site Plan Application will be required and involve Town Staff to ensure the proposed single-detached dwelling maintains the surrounding character and the streetscape is not altered.

Any Minor Variance Application submitted for the subject lands would continue to be subject to the standard review process, which involves an evaluation by staff of the appropriateness of the Minor Variance Application, through the lens of the four tests set out by Section 45(1) of the *Planning Act*, and a decision of the Committee of Adjustment.

Financial Impact

There are no financial implications associated with this report.

Respectfully submitted,

Jill Hogan, MCIP, RPP
Acting Commissioner, Development Services

For questions, please contact: Taylor Wellings, MCIP, RPP Phone: Ext. 2311
Planner

Attachments

Figure 1 Location Map
Figure 2 Proposed Drawing



The Corporation of the Town of Milton

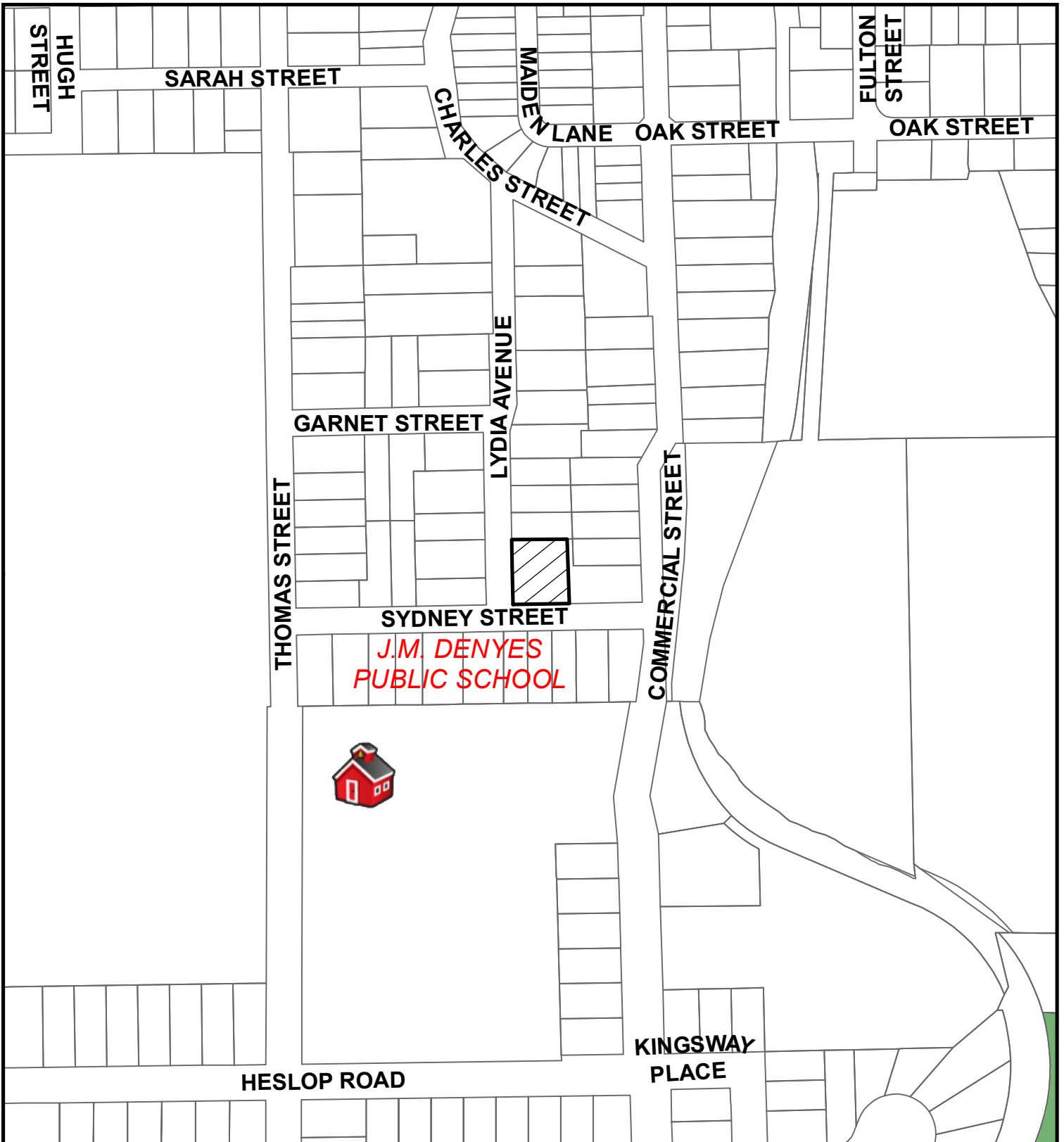
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CAO Approval
Andrew M. Siltala
Chief Administrative Officer

Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.

FIGURE 1 LOCATION MAP



Council Meeting Date:
March 21, 2022

Scale: 1: 3,000

Development Services Department



Subject Property

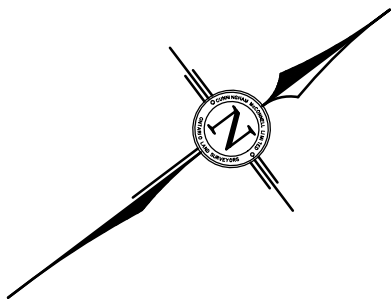
LAND DIVISION SKETCH
PART OF LOTS 87 AND 88
REGISTERED PLAN NO. 96
TOWN OF MILTON
REGIONAL MUNICIPALITY OF HALTON

SCALE 1:300

6 0 6 12 metres

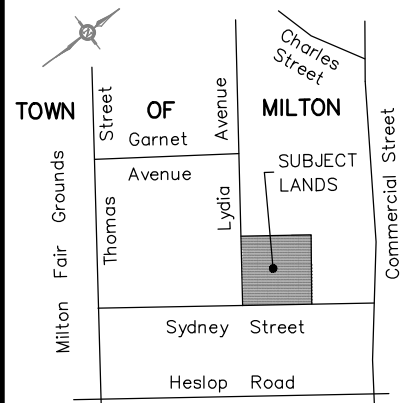
GRAPHIC SCALE

CUNNINGHAM McCONNELL LIMITED
 ONTARIO LAND SURVEYORS



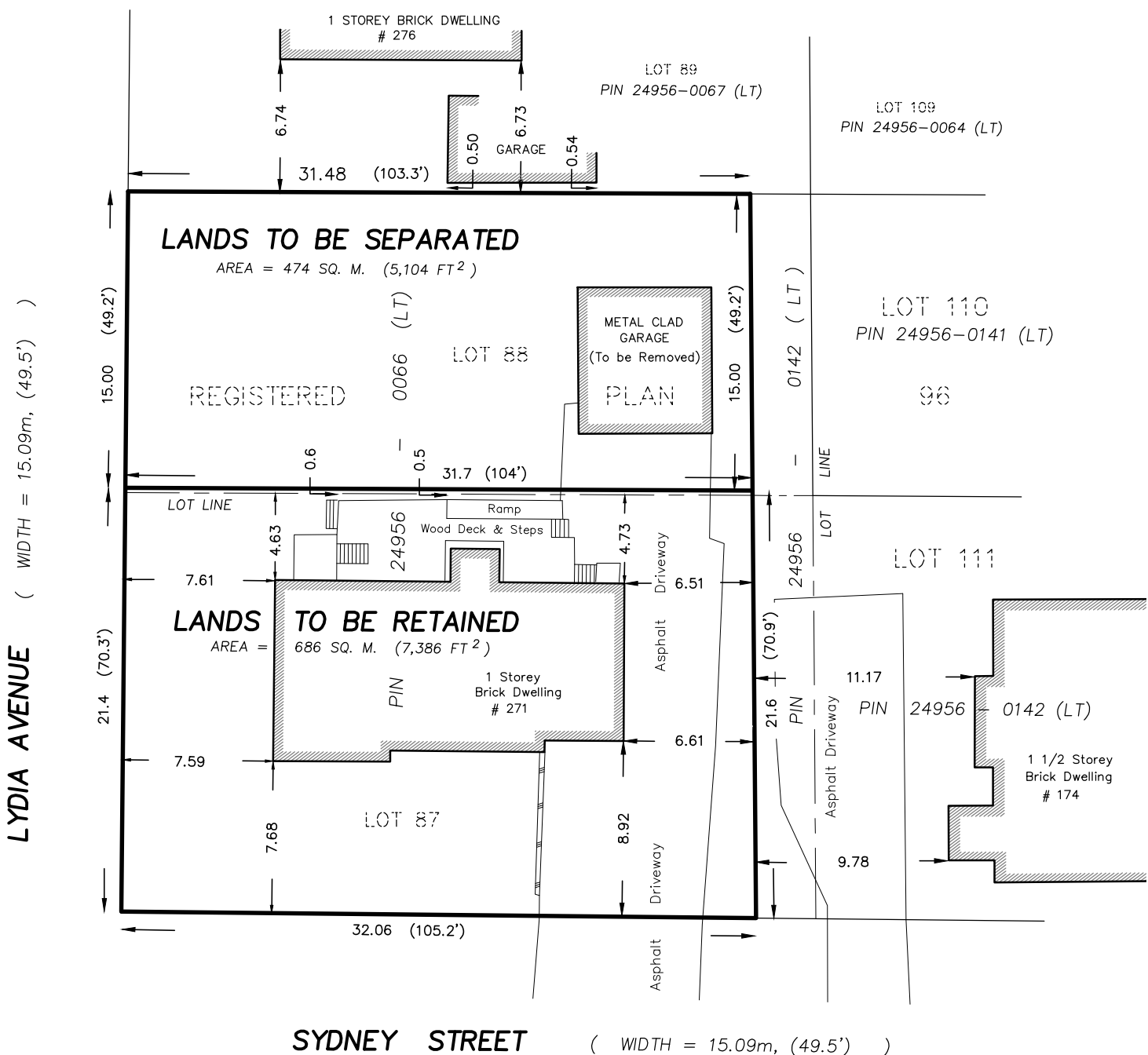
ZONING = RLD1

	LANDS TO BE RETAINED	LANDS TO BE SEPARATED
LOT FRONTAGE (15.0m REQUIRED)	21.4m (PROPOSED)	15.0m (PROPOSED)
LOT DEPTH (30.0m REQUIRED)	31.89m (PROPOSED)	31.58m (PROPOSED)
LOT AREA	686m ² (PROPOSED)	474m ² (PROPOSED)
LOT COVERAGE	23% (PROPOSED) (25% PERMITTED)	VACANT (30% PERMITTED)
FRONT YARD SETBACK	7.59m (Existing) (4.0m Required)	(4.0m Required)
INTERIOR SIDEYARD	4.63m (PROPOSED) (1.2m Required)	(1.2m Required)
EXTERIOR SIDEYARD	7.68m (Existing) (4.0m Required)	N/A
REAR YARD SETBACK	6.51m (Existing) (7.5m Required)	(7.5m Required)



KEY PLAN
 Not to Scale

NOTE: A MINOR VARIANCE WILL BE REQUIRED FOR THE REAR YARD SET BACK ON THE LANDS TO BE RETAINED



METRIC NOTE

ALL DISTANCES SHOWN HEREON ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

CAUTION:

THIS IS NOT A PLAN OF SURVEY AND CANNOT BE USED FOR TRANSACTION OR MORTGAGE PURPOSES.

NOTE:

THIS SKETCH IS PREPARED FROM COMPILED REGISTRY OFFICE, DOCUMENTS, CALCULATED INFORMATION AND THE DISTANCES SHOWN HAVE BEEN VERIFIED BY FIELD SURVEY.



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O.L.S. FILE # 113-21 DATE: JANUARY 28, 2022 CLIENT: DEVRIES