



The Corporation of the Town of Milton

Report To: Council

From: Jill Hogan, Acting Commissioner, Development Services

Date: December 13, 2021

Report No: DS-097-21

Subject: Authorization for Submission of a Minor Variance Application on lands municipally known as 311 Bell Street, Milton

Recommendation: THAT Report DS-097-21 entitled “Authorization for Submission of a Minor Variance Application on lands municipally known as 311 Bell Street.”, dated December 13, 2021 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 311 Bell 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 311 Bell Street has indicated their desire to submit a Minor Variance Application to seek relief from the interior side yard setback provision of the site specific Residential Low Density III (RLD3*300) Zone (to allow a setback for 1.28 m, whereas 1.80 m is required), to facilitate construction of an addition to the existing single-story dwelling.

Since the enactment of Bill 73, the Development Services Department has implemented an approach that assumes no Minor Variance Applications are permitted before the



Discussion

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 proposed addition is compatible with and sympathetic to the existing built form in the neighbourhood in terms of height, front yard setback and architectural design; and
- The proposed addition is respectful of and consistent with the character of the surrounding neighbourhood. The addition and façade materials contribute to preserving neighbourhood character; and
- The proposed addition introduces a moderate increase in height (proposed height of 5.2m, whereas the maximum permitted is 9.0m) and utilizes the existing roof slope, which ensures the look and appearance of the dwelling from the right of way is maintained.

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: Rachel Suffern, MSc, MPA Phone: Ext. 2263
Planner

Attachments

Figure 1 Location Map
Figure 2 Proposed Drawings & Elevations
Figure 3 Site Plan

CAO Approval
Andrew M. Siltala
Chief Administrative Officer



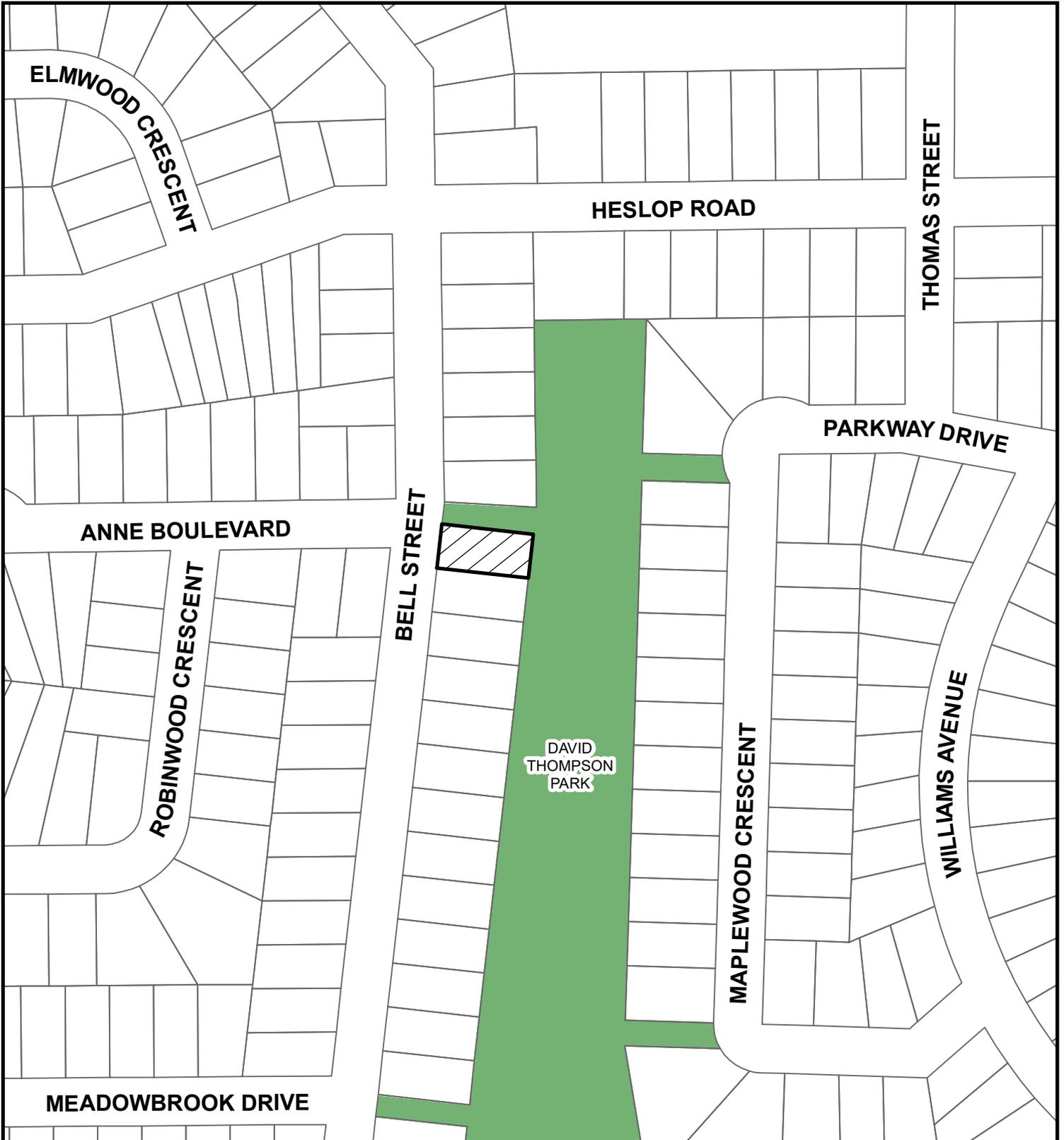
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Recognition of Traditional Lands

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:
December 13, 2021

Scale: 1: 2,000

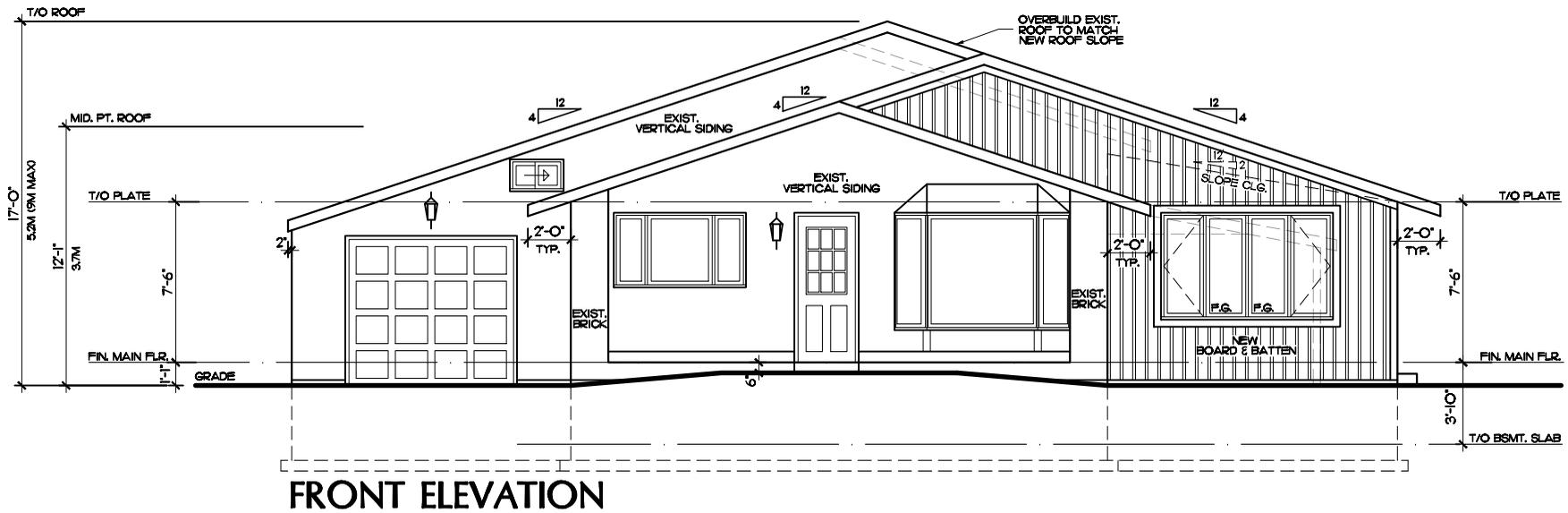
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Development Services Department



Subject Property

FIGURE 2 DS-097-21



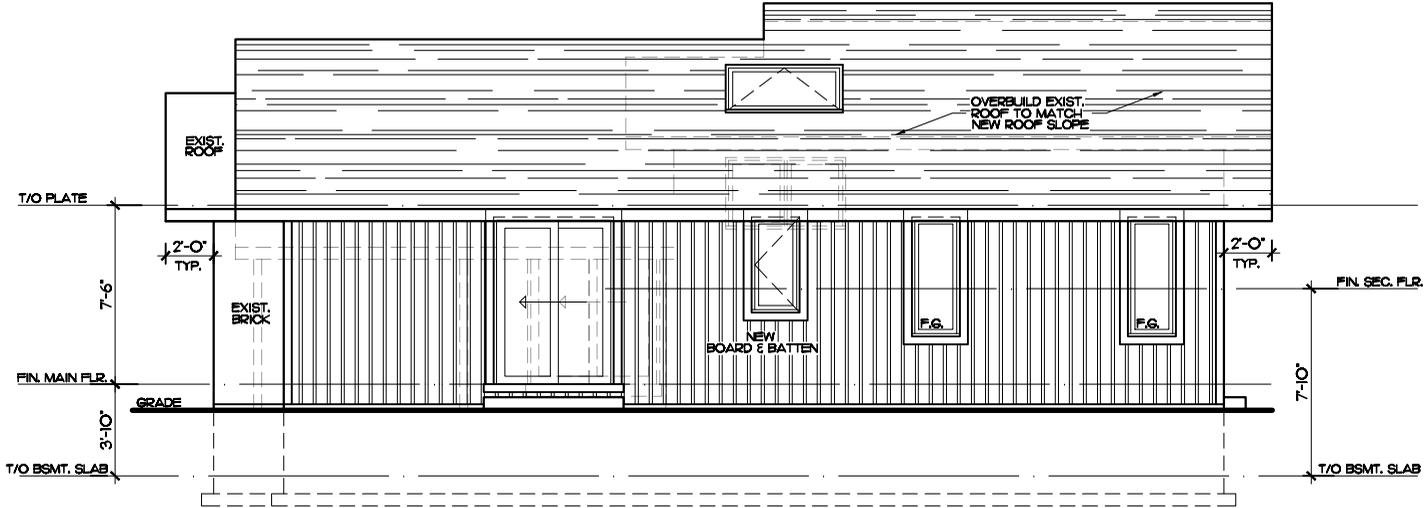
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RIGHT ELEVATION

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