

**DATE:** September 25, 2024

**REPORT NO:** COA-32-2024

**SUBJECT:** **Recommendation Report – Application for Minor Variance-**

**CONTACT:** Stephanie Pouliot, Secretary Treasurer of the Committee of Adjustment

**OVERVIEW:**

- A Minor Variance application has been submitted by Richard and Rebecca Vanmil for the property municipally known as 1 Tara Place.
- 1 Tara Place has a total lot size of 0.15 acres (611 square metres) and is zoned Residential Low Density ‘R1B’. The subject property contains one single detached dwelling on a corner lot.
- The Minor Variance application has been applied for to permit a 40.8 square metre residential accessory building to be located within the required exterior side yard, with a side yard setback of 1 metre whereas the existing single detached dwelling is located 2 metres from the exterior side lot line.
- Table 1-2 of the Townships Zoning By-law states that an accessory building in a Residential Low Density Zone shall not be located closer to the exterior side lot line than the main building.
- A second variance identified by Township staff is also required as Section 3.12.7 states that a private garage shall not be located closer than 6 meters to a public street. The applicants are proposing the private garage to be located 1 metre from the property line.
- The proposed accessory building will be used for vehicle storage space and a driveway area for additional parking.
- An entrance alteration permit will be additionally required.
- After reviewing the four tests of a minor variance, planning staff recommend denial of the requested variance for the reduction to the exterior side yard setback, but recommend approval of a reduced setback for a proposed garage to a public street of 2 metres setback, whereas 6 metres is required.

**RECOMMENDATION:**

**That, the application for Minor Variance, submitted by Richard and Rebecca Vanmil,**

**as outlined in Report COA-32-2024, to permit an accessory building (private garage) to be located within the exterior side yard with a setback of 1 metre, BE DENIED, AND recommend APPROVAL of an amended setback for a proposed garage to a public street of a 2 metres, whereas 6 metres is required.**

**BACKGROUND:**

The subject lands, being 1 Tara Place are located on a corner lot on the north side of Rock Street, West of Tara Place. The property is approximately 0.15 acres (611 square metres) in size and contains a single detached dwelling. The subject property is zoned 'R1B' Residential Low Density in the Townships Current Zoning Bylaw.

The applicants are proposing a 40.8 square metre (20 ft by 22 ft) residential accessory building for the storage of personal vehicles. The building is proposed to be located with an exterior side yard setback of 1 metre whereas the existing dwelling has a side yard setback of 2 metres. Table 1-2 of the Townships Zoning By-law states that an accessory building in a Residential Low Density Zone shall not be located closer to the exterior side lot line than the main building. The applicants have indicated that they would like to reduce the 2 metre setback to maximize amenity space in their backyard. The applicants are also seeking additional parking space for family vehicles with the additional entrance off of Tara Place.

Planning Staff have completed an analysis of the proposed Minor Variance application and can provide the following evaluation:

**Does the Proposal Maintain the General Intent of the Official Plan? No**

The subject property is designated as Low Density Residential in the Townships Official Plan. Section 6 of the Official Plan outlines policies stating that the intent of these residential neighbourhoods are to be protected from significant redevelopment while at the same time permitting ongoing evolution and rejuvenation.

The proposed 40.8 square metre accessory building (private garage) is for personal storage of vehicles as well as more driveway parking space. As the building is being proposed as a detached garage, it additionally requires a 6 metres setback from the property line. This is to accommodate room for a vehicle on private property and not to have vehicle parking solely on the publicly owned boulevard. As such, Planning staff do not believe that it is appropriate to allow a detached garage so close to the exterior side property line, as vehicles would need to park entirely on the boulevard. Staff are recommending that the detached garage maintains the required exterior side yard setback providing for at least 2 metres of parking on private property.

**Does the proposal maintain the general intent and purpose of the Zoning Bylaw? No**

The subject property is designated as 'R1B' Residential Low Density in the Townships Zoning By-law 2017-70. Accessory buildings are permitted in the Low Density Residential Zone. Other than being deficient by 1 metre for the minimum exterior side yard setback provision for an accessory building in an R1B zone, the building meets all other zoning provisions outlined in the table below.

R1B Zoning Provisions		
Max Ground Floor Area	50 m <sup>2</sup>	40.8 m <sup>2</sup>
Max Number of Acc. Building	2	2
Permitted Yards	Interior Side/Rear Yards	Rear Yard
Front Yard Setback	No closer than main building	No closer than main building
Exterior Side Yard Setback	No closer than main building	Variance Required
Interior Side Yard Setback	1.2 metres	13 metres
Rear Yard Setback	1.2 metres	1.8 metres
Maximum Height	5 metres	3.9 metres
Lot Coverage	8% of lot area	6.6% lot area
Setback from Main Building	1.5 metres	4 metres
Setback for Private Garage	6 metres from street line	1 metre

Planning staff note that the proposed accessory building would have been able to be pushed back to be in line with the exterior side wall of the dwelling, however in doing so, it would take up more of the amenity space in the backyard and they have requested to have some amenity space left to utilize.

The proposed garage also has zoning provisions that fall within Section 3.12.7 Private Garages in the Township's Zoning By-law. Section 3.12.7 f) states that the front of a private garage in a Residential zone shall be located no closer than 6 metres to a public street line. The purpose of this by-law is to ensure any future development of sidewalks in the area could be constructed and to ensure vehicles are parked on the owner's property and not solely on the Townships boulevard. This provision would locate the garage doors of the proposed detached garage 6 metres behind the eastern lot line taking up more of the properties amenity space. However, Planning staff support a variance to allow the setback for a private garage to be located 2 metres from the exterior side lot line whereas 6 metres is required.

Planning staff also note there is an existing tree within the boulevard between the proposed accessory building and the road located to the east of the subject property known as Tara Place. The applicants have stated that the existing tree is located where the proposed driveway will be located. The application was circulated to the Township's Public Works Department who have previously commented on this proposal and have noted that there is an existing healthy tree that looks like it will be located in the proposed driveway location. If the boulevard tree would need to be removed due to the size of this tree, two trees would need to be provided as a replacement. The proponent would be responsible for the cost of the tree removal and would need to provide the Township with a cash deposit of \$1,400 (\$750/tree) for the planting of two trees at a future date in locations selected by Township staff. An entrance permit would also be required to review the driveway location for approval.

**Is the Proposal desirable for the appropriate development or use of the land? Yes**

The subject property, being 1 Tara Place contains a single detached dwelling. The applicants are proposing to add a 40.8 square metre accessory building to the east side of the property with an additional driveway access off Tara Place Road. This accessory building will be used for personal storage.

Within this area of Smithville, it is surrounded by single detached dwellings and their associated accessory buildings, therefore staff feel that this is appropriate development of the land.

There appears to be a Township owned tree located in the boulevard between the proposed accessory building and Tara Place Road. The newly proposed driveway for the accessory building will be located in the same place as the existing tree.

Public Works staff have visited the site and note that there is a healthy, mature boulevard tree where the driveway would need to be located. If the proponent chooses to move forward, the tree would need to be removed and due to the size of this tree, two trees would need to be provided as a replacement. The proponent would be responsible for the cost of the tree removal and would need to provide the Township with a cash deposit of \$1,400 (\$750/tree) for the planting of two trees at a future date.

**Is the proposal minor in nature? No**

The accessory building is proposed to be located closer to the exterior side lot line than the main dwelling. The garage is proposed to be located with an exterior side yard setback of 1 metre whereas the east wall of the existing dwelling is located with an exterior side yard setback of 2 metres.

The second variance that has been identified by staff is a proposed 1 metre setback to a public street line whereas the Townships Zoning by-law states that a 6 metre setback is required. Planning staff recommend allowing a reduction to the required setback to 2 metres from the exterior property line. Planning Staff believe that this will provide for a portion of vehicle parking on private property and can consider that minor in nature.

**INTER-DEPARTMENTAL & AGENCY COMMENTS:**

Notification was mailed to all applicable agencies, departments on September 9<sup>th</sup> 2024.

Planning Staff received comments from the NPCA on September 16<sup>th</sup> stating the subject property does not contain, and is not impacted by NPCA regulated features and therefore has no objections to the application.

The Niagara Region have provided comments which state they have no objections to the proposed application.

The Townships Public Works Department has provided comments which state Public Works staff have visited the site and note that there is a healthy, mature boulevard tree where the driveway would need to be located. If the proponent chooses to move forward, the tree would need to be removed and due to the size of this tree, two trees would need to be provided as a replacement. The proponent would be responsible for the cost of the tree removal and would need to provide the Township with a cash deposit of \$1400 (\$750/tree) for the planting of two trees at a future date. These comments are provided in Attachment 3 to this report.

**PUBLIC COMMENTS:**

Notification was mailed to all applicable agencies, departments and members of the public within 60 metres of the subject property on September 9<sup>th</sup> 2024. Staff have received one public comment from the neighbour located at 7 Tara place with full support of the Minor Variance application.

**CONCLUSION:**

A Minor Variance Application has been submitted by Richard and Rebecca Vanmil for the property located at 1 Tara Place. The minor variance is to permit a proposed accessory building to be constructed in the exterior side yard with a side yard setback of 1 metre whereas 2 meters is the required minimum as this is the setback to the existing dwelling. The Table 1-2 of the Townships Zoning By-law states that an accessory building in a Residential Low Density Zone shall not be located closer to the exterior side lot line than the main building. After reviewing the four tests of a minor variance, planning staff recommend denial of the requested variance but can recommend approval of an amended setback for a proposed garage to a public street of a 2 metres setback, whereas 6 metres is required.

**ATTACHMENTS:**

1. Site Sketch
2. Public Comments
3. Agency Comments

**Prepared & Submitted by:**



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**Madyson Etzl**  
**Senior Planner**

**Approved by:**



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**Gerrit Boerema, RPP, MCIP**  
**Manager of Planning**