1.0 BACKGROUND

On July 26, 2006, the Committee of Adjustment (C. of A.) considered and denied an application submitted by Aaron Dubeau to permit the conversion of a portion of the garage to living space resulting in all required parking being located on a driveway in the front yard and a reduced parking space width of 2.6 metres (8.5 ft.) for each parking space on the driveway. Zoning By-law No. 60-94 requires: each single detached dwelling to have a minimum of 2 parking spaces; one of these parking spaces to be located in either a garage, side yard or rear yard; and each parking space must be at least 2.75 metres (9 ft.) wide for a single detached dwelling in a R1-C (Residential) Zone.

The applicant has appealed the C. of A. decision. The purpose of this report is to establish a Council position on this matter at the Ontario Municipal Board (OMB).

The following items are attached as background:

(a) Exhibit No. 1 shows the location of the subject site and zoning in the area;
(b) Attachment No. 1 is a copy of the Development Services Department report dated June 23, 2006;
(c) Attachment No. 2 is a copy of the minutes of the C. of A. meeting held on June 28, 2006;
(d) Attachment No. 3 is a copy of the Development Services Department report dated July 21, 2006;
(e) Attachment No. 4 is a copy of the minutes of the C. of A. meeting held on July 26, 2006;
(f) Attachment No. 5 is a copy of the decision of the C. of A. on the subject application; and
(g) Attachment No. 6 is a copy of the letter of appeal to the OMB from Aaron Dubeau.

2.0 INPUT FROM OTHER SOURCES

Three area residents submitted letters objecting to the C. of A. application.

The Director of Legal Services has reviewed this report and agrees with the recommended action.
3.0 ANALYSIS

The subject site is located on the west side of Wilson Road North, south of Hillcroft Street. Single detached dwellings are located to the north and south of the subject site. A branch of the Harmony Creek is located to the west of the property and the Sir Albert Love separate elementary school is located to the east of the subject site across Wilson Road North. The subject site is designated as Residential in the Oshawa Official Plan and is zoned R1-C (Residential) in Zoning By-law No. 60-94. The R1-C Zone permits a single detached dwelling.

Before the C. of A. made any decision on the application, the C. of A. tabled the application to allow City staff to investigate the concerns of neighbouring property owners who believed that the property was being used as a two-unit dwelling instead of a single detached dwelling. Planning staff and By-law Enforcement staff inspected the dwelling and confirmed the property is only being used as a single detached dwelling.

This Department has no objection to the subject application for the following reasons:

(a) The subject site is a large lot with 15 metres (50 ft.) of frontage and a double width driveway.

(b) Zoning By-law No. 60-94 only requires a minimum of 2 parking spaces to be provided for a single detached dwelling. The applicant can provide two functional parking spaces in the driveway.

(c) The applicant has four children and provides living accommodation for a young autistic woman through arrangements with the Oshawa/Clarington Association for Community Living. The applicant does not use the garage to park a vehicle but requires additional living space for the family.

(d) The C. of A. has approved other applications in the past to permit all required parking spaces in the front yard similar to the subject proposal. In all of these previous applications, the garages were converted to living space, eliminating the required parking space in the garage.

Some area residents oppose the subject application. Their opposition relates, in part, to the belief that the property is used as a two unit dwelling. City staff have confirmed that the property is used as a single detached dwelling. Two neighbours believe the cars parked in the driveway create a safety hazard. Cars can be parked in the driveway whether the garage exists or not.

In cases such as this, this Department typically recommends that City Council take no position on the appeal so that Council is not seen as supporting one side over another or expending time, effort and money to prepare for and attend this OMB hearing at the expense of the general taxpayer.

The OMB has the authority, pursuant to the provisions of the Ontario Municipal Board Act, to require certain individuals, such as the City’s planning staff, to give evidence to the OMB at the
hearing, notwithstanding Council’s direction. In addition, other persons such as the applicant or any member of the public who has an interest in the matter, may summons a member of City staff to give evidence at a hearing in support of their position.

4.0 RESPONSE TO COMMUNITY STRATEGIC PLAN

N/A

5.0 FINANCIAL IMPLICATIONS

There will be certain costs related to staff time to appear at the OMB hearing, if requested by the OMB.

6.0 RECOMMENDED ACTION

It is recommended that the Ontario Municipal Board be advised that City Council takes no position with respect the decision of the Committee of Adjustment denying the application A041/2006 to permit the conversion of a portion of the garage to living space resulting in all required parking spaces being located on a driveway in the front yard and a reduced parking space width of 2.6 metres at 400 Wilson Road North and the City does not intend to lead evidence on the appeal.

Bruce Hunt, MCIP, RPP, Director, Planning Services
Development Services Department

Original Signed By

Thomas B. Hodgins, B.E.S., M.A., RPP, Commissioner
Development Services Department

RB/c
Attachments
Exhibit No. 1

DEVELOPMENT SERVICES DEPARTMENT

Item No.: DS-06-350
Application Type: Direction on City Staff Involvement respecting an Appeal to the Ontario Municipal Board
Address: 400 Wilson Road North
File No.: A041/2006
To: Committee of Adjustment  
From: Planning Services  
Subject: Application for relief from the provisions of Zoning By-law No. 60-94 to permit the conversion of a portion of the garage to living space having all required parking in the front yard and reduced parking space width

<table>
<thead>
<tr>
<th>Item:</th>
<th>Date of Report:</th>
<th>File:</th>
<th>Date of Meeting:</th>
<th>Ward: 5</th>
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<tbody>
<tr>
<td></td>
<td>June 23, 2006</td>
<td>A041/06</td>
<td>June 28, 2006</td>
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The comments from this Department are as indicated below:

- We have no objection to the approval of this application.
- We have no objection to the approval of this application subject to the comments/conditions which are "attached"/"listed" below.
- We request that this application be tabled for the reasons which are "attached"/"listed" below.
- We recommend that this application be denied for the reasons which are "attached"/"listed" below.

This department has no objection to the approval of this application subject to the following advisory comment:

Advisory:

The owner will be required to obtain a change of use permit for the conversion of the garage to living space.

Original signed by

Robert Bedic, Planner  
Development and Urban Design  
RB/jm  
c: K. Staunton, Engineering Services  
Aaron Dubeau  
400 Wilson Road North  
Oshawa, Ontario  
L1G 6E5
Committee of Adjustment

MINUTES UNDER THE PLANNING ACT

Committee of Adjustment Application for 400 Wilson Road North

An application has been submitted by Aaron Dubeau for a variance from the City’s Zoning By-law No. 60-94.

The application relates to 400 Wilson Road North, being Plan 886, Lot 1, Oshawa, Ontario.

The purpose and effect of the application is to permit the conversion of a portion of the garage to living space having the dimensions in Col. I below instead of the dimensions in Col. II below as required by Zoning By-law No. 60-94 for a single detached dwelling in a R1-C (Residential) Zone.

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A meeting of the Oshawa Committee of Adjustment was held on June 28, 2006 at 5:30 p.m. in Committee Meeting Room, Second Floor, City Hall, Oshawa, Ontario.

Present: B. Rusk, K. Nicholson, J. Marion, R. Bedic

Absent: G. Weisz

Also Present: Aaron Dubeau, 400 Wilson Road North
Bob Puntari, 418 Wilson Road North
Deanna Taylor, 406 Wilson Road North
Robert Essex, 406 Wilson Road North

A report received from the Department of Development Services stated no objection to the approval of this application.

B. Rusk asked the applicant to briefly describe the application. A. Dubeau stated that he lives in the house and wants to build a room that his wife could use for scrapbooking and he could use as a work room.

K. Nicholson asked A. Dubeau if there was a bathroom in the basement when he purchased the property. A. Dubeau stated that there was a bathroom but no kitchen in the basement.

In response to a question from K. Nicholson, A. Dubeau stated that he and his wife own two cars. K. Nicholson asked A. Dubeau if the garage is being used for parking. A. Dubeau stated that the cars are parked on the driveway and the garage is being used for storage.

In response to a question from B. Rusk, D. Taylor stated that she had been in the house and the basement has a bedroom and a kitchen. D. Taylor stated that the house was being used as a two unit dwelling and not a single detached dwelling.

K. Nicholson asked R. Bedic if staff was aware of the possibility that the dwelling was being used a two-unit dwelling. R. Bedic stated that the issue was raised by residents who had telephoned the City regarding the application and that By-law Enforcement staff had conducted an inspection of the site. R. Bedic stated that By-law Enforcement staff had advised him that the subject property is a single detached dwelling and not a two-unit dwelling as believed by neighbours.

K. Nicholson noted that By-law Enforcement staff were not present at the Committee of Adjustment meeting to answer questions about the 2-unit status of the property. K. Nicholson moved that the application be tabled until the next scheduled Committee of Adjustment meeting in order to allow Planning staff an opportunity to conduct a site inspection of the interior of the dwelling so that they can respond to questions regarding the interior of the dwelling.
Moved by K. Nicholson, seconded by J. Marion, “THAT the application by Aaron Dubeau for 400 Wilson Road North, Oshawa, Ontario, be tabled until the next regular meeting of the Committee of Adjustment.” The Chair declared that the application BE TABLED.

CARRIED.

______________________________
Robert Bedic, Assistant Secretary - Treasurer
To: Committee of Adjustment

Item: 

Date of Report: July 21, 2006

From: Development Services

File: A041/06

Date of Meeting: July 26, 2006

Subject: Application for relief from the provisions of Zoning By-law No. 60-94 to permit the conversion of a portion of the garage to living space having all required parking in the front yard and reduced parking space width

Address: 400 Wilson Road North

Owner: Aaron Dubeau

Ward: 5

The comments from this Department are as indicated below:

☐ We have no objection to the approval of this application.

☒ We have no objection to the approval of this application subject to the comments/conditions which are ☐ attached / ☒ listed below.

☐ We request that this application be tabled for the reasons which are ☐ attached/ ☐ listed below.

☐ We recommend that this application be denied for the reasons which are ☐ attached/ ☐ listed below.

On June 28, 2006, the Committee of Adjustment tabled the subject application until their next regularly scheduled meeting in order for staff to conduct an inspection of the subject dwelling to examine the existing use of the property, specifically to confirm whether the dwelling is being used as a single dwelling or a two-unit dwelling. City staff conducted an inspection of the dwelling on July 20, 2006 and concluded that the subject property is being used as a single detached dwelling as permitted by Zoning By-law No. 60-94.

This department has no objection to the approval of this application subject to the following advisory comment:

Advisory:

The owner will be required to obtain a change of use permit for the conversion of the garage to living space.

Original signed by

Robert Bedic, Planner
Development and Urban Design

RB/jm

c: K. Staunton, Engineering Services
Aaron Dubeau
400 Wilson Road North
Oshawa, Ontario
L1G 6E5
Committee of Adjustment

MINUTES UNDER THE PLANNING ACT

Committee of Adjustment Application for 400 Wilson Road North

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The application relates to 400 Wilson Road North, being Plan 886, Lot 1, Oshawa, Ontario.

The purpose and effect of the application is to permit the conversion of a portion of the garage to living space having the dimensions in Col. I below instead of the dimensions in Col. II below as required by Zoning By-law No. 60-94 for a single detached dwelling in a R1-C (Residential) Zone.

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A meeting of the Oshawa Committee of Adjustment was held on July 26, 2006 at 5:30 p.m. in Committee Meeting Room, Second Floor, City Hall, Oshawa, Ontario.

Present: B. Rusk, G. Weisz, K. Nicholson, J. Marion, A. Visconti
R. Bedic

Also Present: Aaron Dubeau, 400 Wilson Road North
Debbie Gails, 573 Charington Avenue

A report received from the Department of Development Services stated no objection to the approval of this application.

B. Rusk gave a brief overview of the previous Committee of Adjustment meeting on June 28, 2006, when the subject application was originally tabled. B. Rusk explained that the application was originally tabled so that staff could conduct an inspection of the interior of the subject dwelling to determine if the subject dwelling is a single detached dwelling or a duplex as contended by neighbours.

R. Bedic explained that he had conducted an inspection of the interior of the subject dwelling on July 20, 2006. R. Bedic stated that the subject dwelling is a single detached dwelling based on the definitions contained in Zoning By-law No. 60-94.

In response to a question from G. Weiss, R. Bedic stated that cooking facilities would need to be installed in the basement in addition to the existing refrigerator and sink to convert the existing single detached dwelling into a duplex. R. Bedic stated that a duplex is not a permitted use in a R1-C (Residential) Zone.

Referencing letters received in opposition to the application, K. Nicholson asked A. Dubeau if there is a special needs individual living in the basement. A. Dubeau stated that a special needs woman with autism was living with his family in a foster-family type situation. A. Dubeau explained the living arrangements in the dwelling.

In response to a question from K. Nicholson, A. Dubeau stated that his brother-in-law had also lived with his family for a period of time and that one of the vehicles parked on the driveway in the photos submitted by a neighbour was his brother-in-law’s vehicle. His brother-in-law has since moved out.

In response to a question from A. Visconti, A. Dubeau explained that seven people current live in the house - himself, his wife, their four children and the special needs woman.

The Committee briefly discussed the general use of garages for parking vehicles. The Committee agreed that although many people do not use their garages for parking, the garages are generally available for parking if the owners wish to park in the garage.
K. Nicholson stated that the Committee has approved garage conversions in the past but the majority of those have been to provide living space for individuals with health problems. K. Nicholson stated that she would not support a variance to permit the conversion of the garage to living space since in her opinion the owners have not demonstrated a need for additional living space.

Moved by J. Marion, seconded by K. Nicholson, “THAT the application by Aaron Dubeau for 400 Wilson Road North, Oshawa, Ontario, be denied.” The Chair declared that the application BE DENIED, for the following reasons:

1. The Committee is of the opinion that the variance is not minor.

2. The Committee is of the opinion that the granting of the variance would not maintain the general intent and purpose of the Official Plan and Zoning By-law.

3. The Committee is of the opinion that the granting of the variance would not contribute to the proper and orderly development of the municipality.

4. The Committee is of the opinion that the granting of the variance is not desirable for the appropriate development of the subject property.

CARRIED.
DECISION UNDER THE PLANNING ACT
Committee of Adjustment Application for 400 Wilson Road North

An application has been submitted by Aaron Dubeau for a variance from the City’s Zoning By-law No. 60-94. The application relates to 400 Wilson Road North, being Plan 886, Lot 1, Oshawa, Ontario.

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This application was heard by the Committee of Adjustment on July 26, 2006, and with Notice of Hearing having been given as directed by the Committee of Adjustment, THE DECISION OF THE COMMITTEE IS THAT THE APPLICATION BE DENIED.

1. The Committee is of the opinion that the variances are not minor in nature.
2. The Committee is of the opinion that the granting of the variances are not desirable for the appropriate development of the subject property.
3. The Committee is of the opinion that the granting of the variances would not maintain the general intent and purpose of the Official Plan and Zoning By-law.

NOTE: Any appeal from the above decision must be made on or before August 15, 2006.

NOTE: The Planning Act provides for appeals to be filed by “persons”. As groups or associations, such as residents or ratepayers groups which do not have incorporated status, may not be considered “persons” for the purposes of the Act, groups wishing to appeal this decision should do so in the name or names of individual group members, and not in the name of the group.
Notice Of Appeal

Secretary – Treasurer
Oshawa Committee of Adjustment
City Hall
50 Centre Street South
Oshawa, ON
L1H 3Z7

To: Ontario Municipal Board

I would like to appeal the decision made by the Committee of Adjustment for my application for file # A041/06 400 Wilson Road North ward 5. The application was to obtain a minor variance to remove a parking space from my garage so I can build a workroom/scrap booking room in the back half of my garage. I feel my application should be approved for the following reasons:

My wife and I have four young children and we would like a space where we can keep things that our children cannot have access to. The room will not have access through the house. The room is intended to provide a space of respite for my wife (as she is a stay at home mom) and myself.

We are trying to contribute to society, and raise our children with an open mind by having an autistic young lady live with us. Our setup is similar to a foster situation except it is through Oshawa/Clarington Association for Community Living. Our goal is to make her a high functioning person by teaching her life lessons and through interaction with our family. It’s a bit of a pilot project that has so far exceeded expectations. She occupies the only bedroom in our basement.

We own two vehicles and have never used our garage for parking. Our driveway is large and accommodates 6 vehicles. So there is no need to have a parking space in our garage.

A garage is too expensive to heat in the winter and keep cool in the summer, so we wanted to make it into a proper room.

Attached is a copy of the application and the decision by the Committee of adjustments.

Thank you, for reviewing my appeal and feel free to contact me with any questions.

Aaron Dubeau
400 Wilson Rd N
Oshawa On, L1E 2L2
Building Plans for a Work Room within a Garage.

By: Dawn Dublau
Location: 400 Wilson Rd N
Oshawa ON L1G 6E5

Below is a diagram of the garage with the workroom floor framed in.

On the garage floor are seven concrete slabs, which are the base of the floor. On the slabs sit 2'1/2 ft long 4x4 posts to support the floor. The floor is framed with 2x6 joynes, with 24inch centers.
The bottom of the joists are covered with tarpaper and insulated with R20 insulation. The floorboards are 2x8 boards that span the length of the room. The exterior walls and the new wall separating the garage are framed with 2x4's with 16" centers. The interior wall will not be refinished at all. The three new walls will be insulated with R12 insulation and covered with a vapor barrier. The walls will be covered with 1/2 inch drywall.

**Diagram illustrating the framed walls and electrical work**

The existing light switch and outlet will be pulled forward. Two new outlets will be added to the dividing wall in the garage. Which will be powered from the existing outlet. The existing garage ceiling will not be refinished.

Attached is a copy of the land survey.