

Staff Report

Report To: Committee of Adjustment
Report From: Sabine Robart, Manager of Planning & Heritage
Meeting Date: January 28, 2025
Report Code: CS-25-010
Subject: Minor Variance A03-2025 for 2261 9th Avenue East
(Hedera)

Recommendations:

THAT in consideration of Staff Report CS-25-010 respecting Minor Variance A03-2025 by AGW Properties Inc (Rob Wylie) through Murphy Home and Design Inc (Matt Murphy) for the property known as 2261 9th Avenue East, the Committee of Adjustment approves the minor variance as the Committee concludes that the requested variance maintains the general intent and purpose of the City's Official Plan and Zoning By-law, is minor in nature, and desirable for the appropriate development and use of the lands.

Highlights:

- An application for a Minor Variance for a reduced rear yard setback has been received from AGW Properties Inc (Rob Wylie) through Murphy Home and Design Inc (Matt Murphy) for the property known as 2261 9th Avenue East.
- To facilitate the location of the SWM pond, the application requests a reduced yard setback of 2.3 metres for Building L, the northernmost building in the development. The minimum rear yard setback is 7.0 m. A variance of 4.7 metres is being requested from the minimum required rear yard setback.
- The applicant is proposing the construction of Phase 2 of the cluster townhouse development at 2261 9th Ave E. Phase 1 of the Hedera has been generally completed and includes eight (8) cluster

townhouse buildings with 36 residential units. Phase 2 of the development will include three (3) cluster townhouse buildings with a total of 13 residential units. Once complete, the development will provide 49 residential units in 11 buildings serviced by an internal drive aisle network.

- Staff recommend approval of the application.

Strategic Plan Alignment:

The subject application represents a legislated review process.

Climate and Environmental Implications:

This supports the City's Climate Mitigation Plan objective to reduce community greenhouse gas emissions.

Previous Report/Authority:

[Owen Sound Official Plan \(2021\)](#)

[Owen Sound Zoning By-law 2010-078, as amended](#)

Background & Proposal:

The subject property is located south and east of the 9th Ave E and 23rd St E intersection, directly east of the Odawa Heights residential development. The site is generally triangular in shape, with 228 metres of frontage on 9th Ave, 155 metres of depth, and an approximate size of 22,253 square metres (2.2 ha). The development has two (2) points of access to 9th Ave E and the townhouse units within the development are located on a private internal road with sidewalks on either side of the internal road.

Surrounding land uses include:

North:	Residential, including low and medium-density residential developments & institutional use (schools)
East:	Employment – industrial park
South:	Employment - industrial park
West:	Residential, including low and medium-density residential developments

The subject lands are designated 'Residential' in the City's Official Plan (OP) and are zoned 'General Residential' (R5) in the City's Zoning By-law (2010-078, as amended). For location context and surrounding land uses, please see the Orthophoto in Schedule 'A'. For the planning policy context, please see the Official Plan and Zoning Map in Schedule 'B'. A full description of the property is included in Schedule 'C'.

Phase 1 of the development was detailed through [ST2020-010](#) (Staff Report CS-20-114 dated November 30, 2020). Phase 2 will require an amendment to the approved Site Plan for the subject property.

Phase 1 of the Hedera has been generally completed and includes eight (8) cluster townhouse buildings with 36 residential units. Phase 2 of the development will include three (3) cluster townhouse buildings with a total of 13 residential units. Once complete, the development will provide 49 residential units across 11 buildings serviced by an internal drive aisle network.

The applicant is proposing the construction of Phase 2 of the cluster townhouse development at 2261 9th Ave E. Phase 2 includes 13 townhouse units in three buildings. To facilitate the proposal, a variance of 4.7 metres is being requested to the minimum required rear yard setback. The minimum rear yard setback is 7.0 m. The proposed rear yard setback for Building L is 2.3 m.

A sketch of the proposal is attached for information.

A fulsome review and analysis of the proposed minor variance is outlined below.

Analysis:

As stipulated in the *Planning Act* (Sec. 45(1)), a minor variance may be authorized by the Committee of Adjustment, provided that the four tests of a variance are met. All decisions with respect to a planning matter must also be consistent with the Provincial Policy Statement.

Provincial Policy Statement

The Provincial Planning Statement (PPS, 2024) has been reviewed with regard to the proposed application. The PPS promotes a mix of land uses within settlement areas that efficiently use land and resources, infrastructure and public services while encouraging intensification and regeneration on

lands with existing servicing. Settlement areas shall be the focus for growth and their vitality and regeneration shall be promoted.

The PPS requires that the development of complete communities be supported by accommodating an appropriate range and mix of land uses and housing options and facilitating all types of residential intensification.

Section 2.2 of the PPS notes that new housing shall be promoted, which efficiently uses land, resources, infrastructure and public service facilities and supports active transportation. Policy 2.3 identifies that settlement areas shall be the focus of growth and development and that planning authorities shall support general intensification and redevelopment to support the achievement of complete communities.

The subject lands are within an existing settlement area and have access to full municipal services, public transit, and various public services and retail amenities within the City's East City Commercial area to the south of the subject lands.

The minor variance will facilitate a proposal for the residential intensification and continued development of an existing serviced residential property, consistent with the direction provided by the PPS.

County of Grey Official Plan

The entire City of Owen Sound is designated as a 'Primary Settlement Area' in the 2019 County of Grey Official Plan (County OP). The County OP promotes a full range of residential, commercial, industrial, recreational, and institutional land uses within a Primary Settlement Area. Land use policies and development standards are to be in accordance with the local Official Plan.

The application is in conformity with the County of Grey Plan.

Test 1: Conformity with the Official Plan

Schedule 'A' of the Owen Sound Official Plan (OP, 2021) designates the subject property as 'Residential'. The Residential designation permits a wide range of dwelling types and densities, including cluster townhouse units and multi-unit buildings on private roads.

The property is located within the East Bluffs Planning Area and is designated as 'Residential – Medium Density' (Schedule 'A1'). The East Bluffs Planning Area shall primarily accommodate residential land uses together with

compatible institutional, commercial and open space uses to support and service the local residential area. The OP generally supports site revitalization, redevelopment and intensification.

The 'Residential – Medium Density' designation permits a maximum density of 50 units per hectare. The final buildout (Phase I and II) of the site will result in a density of 22 units per hectare incorporating a range of housing types and sizes. The policies of the East Bluffs Planning Area provide that in areas designated for medium-density residential, low-density residential uses shall also be permitted. The final proposed density for the site meets the general intent of the Official Plan density provisions. The East Bluffs planning area includes developments such as Odawa and 10th Ave E Estates, which are being developed at a higher range of densities. Across the entire planning area, residential development will occur at medium and low densities, with approximately 55 hectares of land providing for an area population of approximately 2,119 persons (Section 4.1.1.5).

Section 8 of the OP provides urban design direction and seeks to achieve well-coordinated and designed streetscapes and compatible built form. Within a residential area, heights and setbacks should be consistent with the general form of existing development (Sec.8.6.1.3).

Phase 2 of the Hedera development will generally continue the streetscape established by Phase 1 with the exception of Building L which will be slightly recessed to allow the location of the SWM pond. The streetscape of 9th Ave E in the surrounding area has changed significantly in the last 3-4 years with the development of the Odawa apartment building on the west side of 9th Ave E and the buildout of existing vacant lots on both sides of the road. The streetscape, as proposed in Phase 2, is consistent with the general form of existing development and maintains the residential character of the established neighbourhood and streetscape.

The proposal conforms with the City's Official Plan.

Test 2: Conformity with the Intent and Purpose of the Zoning By-law

The property is zoned 'General Residential' (R5) in the City's Zoning By-law (2010-078, as amended). Permitted uses in the R5 zone include 'Dwelling, Townhouse', which is defined as a residential building divided vertically into three or more attached dwelling units by common walls, which prevent internal access between the attached dwelling units.

To facilitate the location of the SWM pond, the application requests that Building L, the northernmost building in the development, be permitted a reduced rear yard setback of 2.3 metres. The minimum rear yard setback is 7.0 m. A variance of 4.7 metres is being requested to the minimum required rear yard setback.

The intent of the rear yard setback is to provide on-site amenity space and to allow for stormwater management by appropriately grading and managing the flow of water onsite. Comments from Engineering Services provide that the SWM system will be detailed in the future Site Plan Approval process. The overall grading, drainage and stormwater management plans for the Site Plan Approval must conform to Section 2.2.2 of By-law 1999-030, the City of Owen Sound Property Standards By-law, and the approved grading plan as per Site Plan Approval ST2020-010.

The proposed rear yard provided sufficient space to access the northern side of the building and to locate a fence along the eastern and northern property boundary.

The development provides amenity space through covered porches at the front and rear of each unit and an outdoor common space at the centre. The development is intended for persons who are looking for smaller residential units with less amenity space to maintain.

All other zone provisions, including parking, are either met or exceeded.

The proposal maintains the general intent and purpose of the City's Zoning By-law.

Test 3: Minor in Nature

The request for relief from the Zoning By-law to facilitate the construction of Building L can be considered minor in nature for a number of reasons, as follows:

- The property is designated and zoned to permit the proposed uses.
- Sufficient off-street parking and adequate amenity space, as well as space for on-site stormwater management, is provided on-site
- The residential character of the streetscape along 9th Ave E will be maintained.
- No negative impact on adjacent property is anticipated as a result of the reduced rear yard setback.

- The Site Plan Approval process will provide for the continuation of fencing along the eastern and northern property boundary, providing buffering between adjacent uses.

The proposal is deemed to be minor in nature.

Test 4: Desirable for the Development and Use of the Lands

The proposed development is desirable and appropriate for the development of the lands as it is consistent with and supports the property's residential function of the neighbourhood, represents an efficient use of the lands, and will contribute to increasing the housing supply in the City.

A future Site Plan Approval application will ensure that drainage and stormwater are managed appropriately onsite.

The proposal is deemed to be desirable for the development and use of the lands.

Comments Received:

In accordance with the requirements of the *Planning Act* (Sec. 45, O. Reg. 200/96), Notice of the subject application was provided on January 14, 2025 to the public and prescribed bodies. Comments received by the Secretary-Treasurer as of the writing of this report are described below and included in Schedule 'F'.

City of Owen Sound Engineering & Public Works Department

Comment has been received from the City's Engineering & Public Works Department recommending approval provided that construction occur substantially in accordance with the sketch provided.

Public Comments

One comment was received from a member of the public.

1. They are proposing to create a retention pond. Will this contain water year round? Could this potentially become stagnant water? Will they be dumping snow into this pond? Will the pond be fenced off like a swimming pool?

Staff Comment: The applicant will be required to meet the City's Site Development Engineering Standards in regard to the Stormwater Management Pond proposed as a part of Phase 2 of the development. There

was a SWM pond constructed at the development as part of Phase 1, located near the southwest property line, for reference, which appears to be a dry pond. However, the City does not have civil drawings for the SWM pond proposed as a part of Phase 2 at this time. The SWM pond will be detailed in a future Site Plan Approval application which is anticipated after the Committee of Adjustment process.

2. I notice that all of phase one has fences dividing the development from their surrounding neighbours. Will there be a fence along the property line that separates our two properties? If yes, do I have any say in how high this fence will be? What about drainage between our two properties along the property line? Is Hedra obligated to ensure that my property is restored to good condition from any damage caused by the construction of a fence?

Staff Comment: The Developer is responsible for managing surface water on their property so as not to discharge it across private property, in accordance with Section 2.2.2 of the City's Property Standards By-law 1999-030, as amended. Fencing will be required as part of the Site Plan Approval process along the northern property boundary. Standard fencing provides for a 1.5 m high wooden board fence.

3. It is my understanding that the elevation of building G is approximately 14 inches higher than building B. This apparently had to do with the construction of 22nd St A. What elevation can I expect building L to be in comparison to my home. Meaning will water run onto my property from Hedra's proposed development?

Staff Comment: As noted above, the Developer is required to manage the stormwater generated on their property in accordance with the By-law listed above. The developer has not requested a minor variance for building height. City staff assume that Building L will generally be the same design and height as the other buildings in the development.

4. When the gas line was extended south from in front of my home to Hedra's development, the well kept lawn I had was torn up. Even though the gas line is on city property, it is now overrun with invasive plants that normal lawn care cannot control. Will Hedra be responsible for removing all invasive plants and restoring the lawn back to its original state?

Staff Comment: The Developer will be responsible for landscaping the lands fronting their development, however, the claim referenced above appears to be associated with Enbridge/Enbridge's sub-contractor. The City can follow up with this complaint in the Spring to determine if the repair/reinstatement is satisfactory, or if additional repairs are in order by Enbridge

Financial Implications:

None to the City.

Communication Strategy:

Notice of the minor variance application was given in accordance with Section 45(5) of the *Planning Act* and Ontario Regulation 200/96.

Consultation:

The application was circulated to various City Departments and our commenting agencies as part of the consultation process.

Attachments:

- Schedule 'A': Orthophoto
- Schedule 'B': Official Plan and Zoning Map
- Schedule 'C': Property Details
- Schedule 'D': Site Plan
- Schedule 'E': Agency and Public Comments

Recommended by:

Sabine Robart, MSC. (PL)., MCIP, RPP, Manager of Planning & Heritage

Submission approved by:

Pam Coulter, BA, RPP, Director of Community Services

For more information on this report, please contact Sabine Robart, Manager of Planning & Heritage, at srobart@owensound.ca or 519-376-4440 ext. 1236.