

2024-08-15



PERMISSION APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 2

PLANNING, DEVELOPMENT AND BUILDING SERVICES DEPARTMENT

Site Address: 1542 Chatelain Avenue
Legal Description: Lots 95 to 116, 191 to 212, Registered Plan 346
File No.: D08-02-24/A-00160
Report Date: August 15, 2024
Hearing Date: August 20, 2024
Planner: Penelope Horn
Official Plan Designation: Inner Urban Transect, Neighbourhood Overlay
Zoning: R4UC & R5B [1195] H(18)

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns with** the application.

DISCUSSION AND RATIONALE

Adjourned from July 16, 2024, in order for the applicant to assemble a list of past and current uses. The list has since been submitted to Staff. The *Planning Act* subsection 45 (2) (a) permits the Committee to grant permission to either (i) “enlarge or extend” a legal non-conforming building, structure or (ii) change the legal non-conforming use of the land, building or structure to a similar and equally- or more-compatible use. This application would allow the unit at 1542 Chatelain to be leased to an automobile service station, the unit is currently a legal non-conforming warehouse and office.

The “warehouse and office” use has been permitted on the site as a legal non-conforming use since 1990 when the Ontario Municipal Board granted the permission to change one legal non-conforming use to another legal non-conforming use. When considering applications for permission to expand the legal non-complying rights, case law has considered issues such as desirability for development of the property and impact on the surrounding area.

Based on the evidence provided in the list of previous and current uses and tenants and past building permits for the building, the warehouse use has been continuous since the change in zone. The site was previously zoned M1 under Z-2K 1984, which permitted a public garage. The definition of a public garage was, “a building other than a private

garage, used for the care, repair, painting, servicing, sale of gasoline, oil or lubricants, washing, or equipping of motor vehicles, or where such vehicles are stored for hire or sale.” This aligns with the definition of an automobile service station in the current Zoning By-law. The proposed use will not require changes to the building footprint and is similar in intensity to the existing warehouse, where the use of heavy vehicles is common. In contrast, the automobile service station does not allow work on heavy vehicles.

When considering an application under s. 45(2)(a)(i) to expand/extend a legally non-conforming use, the Committee should consider whether what is intended is desirable for the appropriate development or use of the land, building or structure. The effect of any expansion made must always be weighed against the impact it could have upon neighbouring properties enjoying a different land use classification. The other side of the street is in the General Industrial 1 Subzone, which permits a range of light industrial uses, including an automobile service station. 1542 Chatelain Avenue faces the lands in the General Industrial 1 Subzone, rather than McBride Street, which is characterized by primarily residential uses. Staff have no concerns about the expansion of the legal non-conforming use to include an automobile service station contained within the building given this site context.



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