

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** March 21, 2023

**SUBMITTED BY:** Tina Malone-Wright, Interim Manager, Development Review  
519-741-2200 ext. 7765

**PREPARED BY:** Kieran Luckhai, Student Planner, 519-741-2200 ext. 7078

**WARD(S) INVOLVED:** Ward 7

**DATE OF REPORT:** March 8, 2023

**REPORT NO.:** DSD-2023-100

**SUBJECT:** Minor Variance Application A2023-031 – 299 Newbury Drive

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## RECOMMENDATION:

### Zoning By-law 2019-051

That Minor Variance Application A2023-031 for 299 Newbury Drive requesting relief from Section 5.3.3 a) i) of Zoning By-law 2019-051, to permit the required parking space to be located 2.1 metres from the street (property) line instead of the minimum required 6 metres to facilitate the conversion of the existing single detached dwelling into a duplex, in accordance with the site plan prepared by Peter Ciuciura, dated January 31, 2023, BE APPROVED

## REPORT HIGHLIGHTS:

- The purpose of this report is that the applicant is requesting relief from Section 5.3.3 a) i) of Zoning By-law 2019-051 to permit the required parking space to be located 2.1 metres from the street (property) line instead of the minimum required 6 metres.
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application has been received, notice of the application was mailed to all property owners within 30 metres of the subject property and this report was posted to the City's website with the agenda in advance of the Committee of Adjustment meeting.
- This report supports the delivery of core services.

## BACKGROUND:

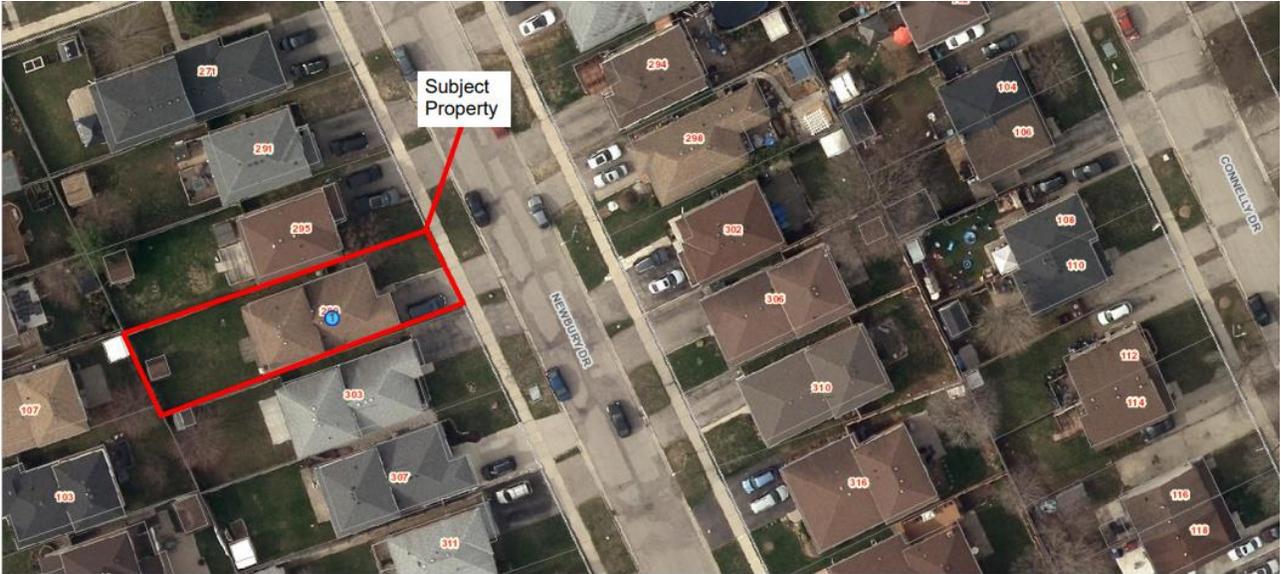
The subject property is located on the west side of Newbury Drive, within the Forest Heights neighbourhood. The surrounding context of the subject property is primarily comprised of low rise residential uses.

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Residential Three Zone (RES-3)' in Zoning By-law 2019-051.

The applicant is requesting relief from Section 5.3.3 a) i) of Zoning By-law 2019-051 to permit the required parking space to be located 2.1 metres from the street (property) line instead of the minimum required 6 metres to facilitate the conversion of the existing single detached dwelling into a duplex. The required parking space in the existing attached garage does not comply with the minimum length requirement for a parking space in a building in Zoning By-law 85-1.

City Planning staff conducted a site inspection on March 3, 2023.



**Figure 1: Location Map: 299 Newbury Drive**



**Figure 2: Front view of 299 Newbury Drive**

## **REPORT:**

### **Planning Comments:**

In considering the four tests for the minor variances as outlined in Section 45(1) of the Planning Act, R.S.O, 1990 Chap. P 13, as amended, Planning staff offers the following comments:

#### General Intent of the Official Plan

The subject lands are designated 'Community Areas' on Map 2 – Urban Structure and designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan. The intent of the Low Rise Residential designation is to accommodate a variety of low-density residential uses. Official Plan Policy 4.C.1.8 details criteria that should be considered where a minor variance is requested. Subsection 'e' is of relevance to the requested variance and specifies that the variance should be reviewed to ensure that "the lands can function appropriately and not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on the site". The use of the property will still function appropriately while providing adequate landscaped area, meeting the general intent of the Official Plan.

#### General Intent of the Zoning By-law

The intent of the 6 metre setback from the street line for the first required off-street parking space in Zoning By-law 2019-051 is to ensure a vehicle can be safely parked on the driveway without affecting the City right-of-way and abutting properties. The required setback also ensures clear visibility lines when exiting the driveway. The property will still be able to function appropriately and accommodate up to two (2) parking spaces, side by side, with sufficient width, with the 0.4 metre minor driveway widening. Staff are of the opinion that the requested variance to allow the required parking space to be located 2.1 metres from the street (property) line instead of the minimum required 6 metres meets the general intent of the Zoning By-law.

#### Is/Are the Effects of the Variance(s) Minor?

The requested variance is considered minor as the required off-street parking spaces can be accommodated subject to a minor driveway widening of 0.4 metres. The setback of 2.1 metres from the street line is deemed safe manner. The property will be able to provide two (2) parking spaces. There are no anticipated impacts to the pedestrian right-of-way, the parking requirements, or neighbouring properties. Staff are of the opinion that the requested variance is minor in nature.

#### Is/Are the Variance(s) Desirable For The Appropriate Development or Use of the Land, Building and/or Structure?

Planning staff is of the opinion that the proposed variance is desirable and appropriate as it will support gentle intensification and create additional housing on the subject lands.

### **Environmental Planning Comments:**

No natural heritage concerns or tree management concerns.

### **Heritage Planning Comments:**

No concerns.

### **Building Division Comments:**

The Building Division has no objections to the proposed variance provided building permit for the change of use to a duplex is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

No concerns.

**Parks/Operations Division Comments:**

There is an existing City owned tree within the boulevard and the proposed driveway widening will impact this tree. The driveway could be widened on private property to accommodate required parking but the driveway apron on City lands should remain as it currently exists to protect available soil volume and tree roots. A Tree Protection and Enhancement Plan should be submitted if the driveway *apron* is to be widened.

**Transportation Planning Comments:**

No concerns.

**STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

**FINANCIAL IMPLICATIONS:**

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

**COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information on the City's website or by emailing the Planning Division. A notice of the application was mailed to all property owners within 30 metres of the subject property.

**PREVIOUS REPORTS/AUTHORITIES:**

- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*

**ATTACHMENTS:**

Attachment A – [Site Plan]

Attachment B – [Site Survey]