

February 27, 2023

City of Kitchener
Planning Division
200 King Street West
Kitchener, Ontario
N2G 4G7

Attn: Tim Seyler
Planner

Tina Malone-Wright
Interim Manager, Development Review

Dear Mr. Seyler and Ms. Malone-Wright:

**RE: Minor Variance Application A2022-126 – 44 Rusholme Road – Krystal & Curtis Darling
OUR FILE 22400A**

As noted previously, MHBC was retained by the owners of 44 Rusholme Road to assist them with the minor variance application referenced above.

The application seeks to reduce the interior side yard setback from 3.0 metres to 1.5 metres along the easterly property line to facilitate the construction of an addition to the existing single detached dwelling. The application was submitted by the Darlings in September 2022 and was heard by the Committee of Adjustment on October 18, 2022.

The staff report recommended approval of the application subject to the preparation and approval of a Tree Preservation and Enhancement Plan prior to issuance of a Building Permit. At the Committee meeting, there were concerns raised by an abutting landowner who was represented by GSP Group. These concerns related to potential drainage issues, impact on existing trees and views between the two properties. In light of these concerns, the Committee determined that additional detail with respect to these matters would be helpful and subsequently voted to defer the application until January 17, 2023.

I attended the January 17th Committee meeting to request a further deferral of this application as the plans and supporting information were not yet complete. I outlined to the Committee the various steps undertaken by the owners as summarized below:

- Retained MHBC Planning to provide planning advice and to facilitate the application to completion;
- Retained Gren Weis & Associates Architects to explore and develop alternative building and site plans in response to comments raised at the Committee meeting;

- Retained JK Consulting Arborists to undertake site investigations and prepare a Tree Preservation and Enhancement Plan and to co-ordinate with the architect and engineers on final site and building plans;
- Retained MTE Consultants to review existing grading and drainage conditions and to work in consultation with the architects and arborist on the final site and building plans;

Following numerous site visits and consultation between the various professionals, a revised building design was developed. This was used to inform the site grading and drainage strategy along with the tree management plan. We believe the preparation of these documents rectifies the concerns identified at the October meeting and will allow the Committee to make an informed decision on the minor variance.

The following summarizes the key issues discussed at the October 2022 Committee Meeting and how they have been satisfactorily addressed.

Site Grading and Drainage

The site poses some unique challenges, as there is considerable grade change from the rear yard to the front yard as well as a number of existing trees throughout the property. Nonetheless, the lot grading and drainage plan was modified to redirect the majority of the rear drainage to the westerly side of the lot where there is sufficient room to accept it. Along the easterly side of the property, a limited amount of drainage will be directed to a contained overland flow route and a new underground drainage system to direct storm water directly to the street and city storm sewer. Further, the redesign of the building addition occurred to create a greater setback to the east property line and increase the distance between the new addition and several of the large trees along the eastern edge of the lot.

Through site investigations, it was determined that the existing underground drainage system consisting of rear lot catch basins and storm sewers out to the street were not functioning properly as they had become clogged with silt. The owners retained a company to flush the private storm sewers so that proper drainage could be maintained through this system. This underground drainage system will be augmented with a controlled overland flow design to ensure positive drainage from rear to front and minimize any impact on neighbouring properties.

MTE Consultants have worked closely with the architect and arborist to ensure that the revised design will result in a functional plan for the homeowners while limiting impacts on existing trees and perimeter grades.

Tree Preservation and Enhancement Plan

JK Consulting Arborists undertook several site visits to document all existing vegetation on site and to confirm locations relative to property lines in order to determine if any of the trees were considered boundary trees. Based on their review, several trees along the west property line were identified as boundary trees as well as the large mature tree in front of the house alongside the driveway. The large tree further back and closest to the proposed addition was not identified as a boundary tree in accordance with the definition contained in the Forestry Act.

The submission by GSP referenced several large trees on the Levene property line and showed the estimated property line running through the trunks. The actual property line is further to the east such that neither trunk is located on the property line and are wholly contained on the subject lands. The most southerly tree in the front yard has part of the root flare crossing the property line but the images in the GSP letter are not an accurate representation of the actual property line. Most importantly though, all efforts are being made to minimize impacts on these mature trees and there are no plans for removal.

As part of their assessment, the arborist noted that both of the large trees along the east property line are in good health and can tolerate encroachment of construction/ impact on their root zone. This situation exists today with the driveway currently encroaching onto a significant portion of the root zone. The new design of the garage addition will be further away from the rear tree than previously proposed and the extent of the building foundation is smaller thereby further minimizing impact on the root zone.

Consultation with the engineer and architects has occurred to devise a plan that will minimize impact on existing trees. Appropriate tree protection measures have been recommended and prior to construction protective fencing will be installed. We are confident that all measures have been taken to minimize impacts on the perimeter trees along the east and west property lines. As recommended trees that have been noted as being in poor health will also be removed. This is documented in the Tree Preservation and Enhancement Plan.

Neighbourhood Character

It was noted by GSP that the Rusholme Road neighbourhood consists of large lots with significant front yards setbacks and wide side yards, which maintain the character of the neighbourhood. They expressed concern that a reduced side yard setback of 1.5 metres would not be appropriate for the neighbourhood. It is accurate to say that the lots along Rusholme Road are large and in most cases have homes well set back from the street. For the most part, the residential dwellings have double garages adjacent to the main house with the driveways leading directly to the street. There are very few houses where the garage is located in the rear yard. The proposed addition will provide a front façade that is more in character with the existing streetscape than the previous layout. There will still be a substantial side yard setback along both sides of the main residence except for a small section adjacent to the new garage where the setback will be 1.5 metres. The reduced site yard setback runs approximately 6.5 metres in length over a total lot depth of 79.5 metres. The front of the house will retain the established front yard setback and the existing front yard landscaping will not be impacted by the addition. We have provided a 'snap shot' of the existing homes along both sides of Rusholme Road and note there are several properties where the garage is less than 3 metres to the side lot line. It is our opinion that the proposed addition is in keeping with the neighbourhood character and will not detract from the established streetscape.

Size and Scale of Garage

Questions were raised as to the size and height of the garage and whether there would be any habitable floor space above the garage that may affect the abutting property. In particular, it was noted that views from the Levene's residence would be negatively impacted by the addition. As noted above, the length of the garage is approximately 6.5 metres in length. This has been shortened from the original design. In addition, the garage has been shifted so that the exterior wall is aligned with the solid exterior wall of the neighbour's house as much as possible. The setback between the Levene residence and the garage will be 4.5 metres, which is still ample separation distance. Further, there are no windows proposed on the exterior façade of the garage and no habitable space is proposed above the garage. The architectural plans show an attractive design that respects the traditional style of both houses and will blend in harmoniously. Efforts have been made to limit the extent of the reduced setback to a small portion of the side yard between both properties. The side yard on the abutting property does not contain active outdoor use and while the views from the interior of the neighbouring house will be altered, the garage addition is not adjacent to an active outdoor space and should have little impact on the use or enjoyment of their property. The size of the garage is at the minimum required to accommodate two vehicles and is similar to the majority of homes in this neighbourhood.

Summary

The owners of the property have made considerable efforts to modify the design of the addition to ensure minimal impact on the abutting properties. The concerns related to run off have been addressed through the grading and drainage plan. The concerns related to the existing trees have been addressed through the redesign of the garage along with the changes to the grading plan. The Tree Preservation and Enhancement Plan provides clear direction on appropriate measures to minimize impact before and during construction. The concerns related to views and privacy have been addressed through the redesign of the garage.

The proposed building addition encroaches into the 3 metre side yard for a short distance and is positioned on the lot to minimize impact of views from the abutting property as well as the use and enjoyment of the outdoor amenity space. As was noted by the applicants and in the staff report, the previous zoning regulations permitted a side yard setback of 1.2 metres and based on our site visits and observations along the street, there are instances where the residential dwellings are located closer than 3 metres to the side yard. The variance to reduce the side yard setback from 3 metres to 1.5 metres only applies to the garage addition and the majority of the dwelling will be in excess of the required side yard setback.

In our opinion, the changes outlined above have demonstrated that the variance is appropriate and represents good planning. The extent of the building that encroaches within the setback is minor and will not have a negative impact on surrounding properties. As evidenced by the site photos of the neighbourhood, the proposed addition is in keeping with the character and style of many homes along the street. We trust that this additional information will be of assistance to staff and the Committee and will be pleased to respond to any questions at the March meeting.

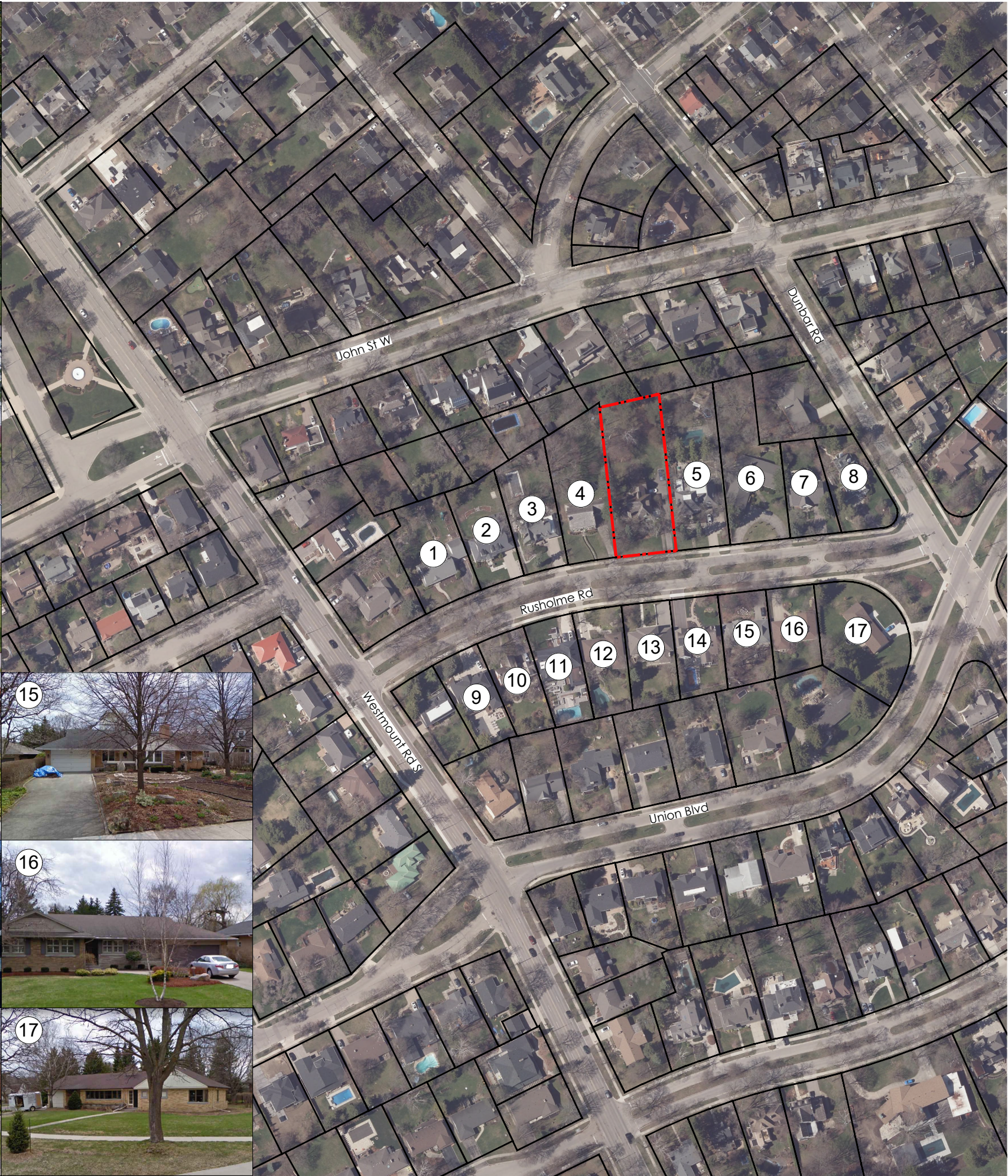
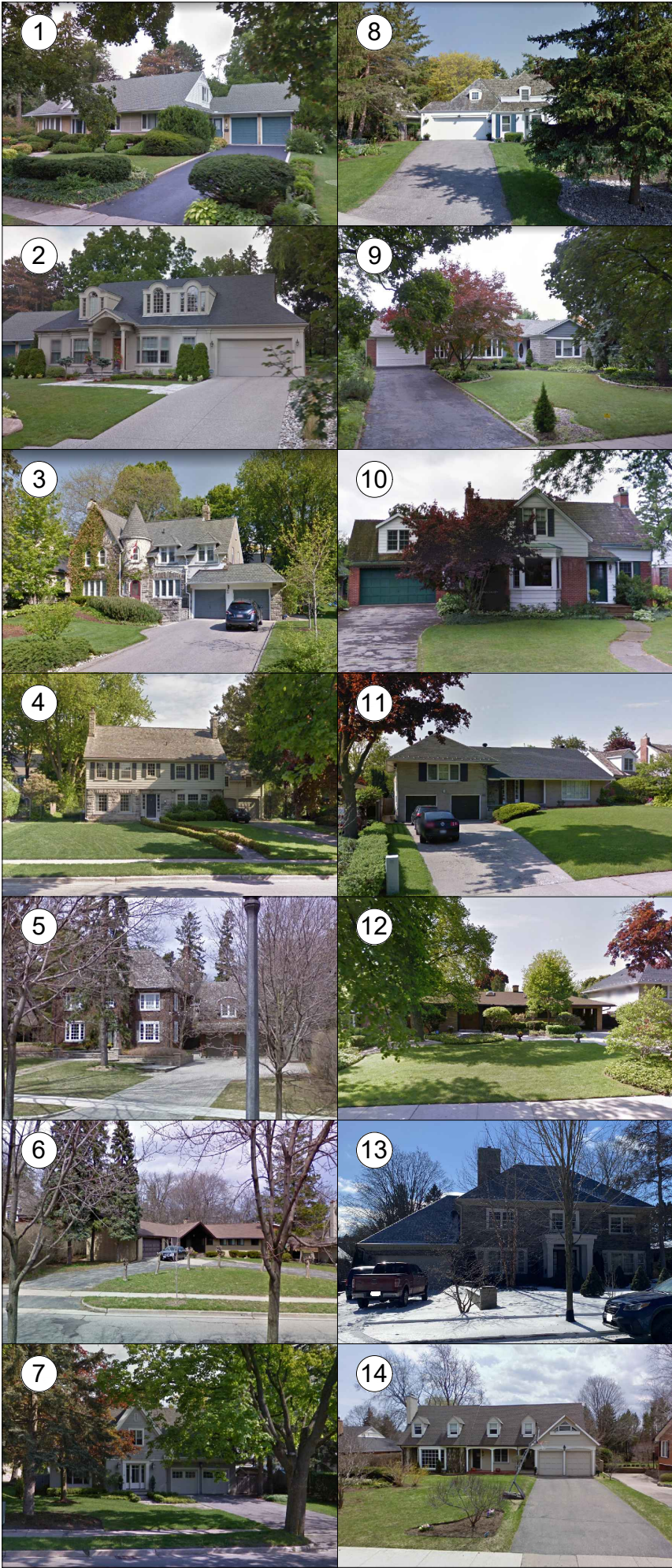
Yours truly,

MHBC

A handwritten signature in black ink, appearing to read 'C. Wiebe', written in a cursive style.


Carol Wiebe
Partner

Cc. *Krystal Darling, Curtis Darling*



Rusholme Road Google Street View

44 Rusholme Road
City of Kitchener
Region of Waterloo

 Subject Lands

No.	Address
1	76 Rusholme Road
2	70 Rusholme Road
3	62 Rusholme Road
4	54 Rusholme Road
5	36 Rusholme Road
6	24 Rusholme Road
7	14 Rusholme Road
8	773 Dunbar Road
9	79 Rusholme Road
10	71 Rusholme Road
11	63 Rusholme Road
12	53 Rusholme Road
13	45 Rusholme Road
14	37 Rusholme Road
15	29 Rusholme Road
16	21 Rusholme Road
17	5 Rusholme Road

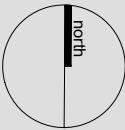
Notes:
• For information purposes only
• 2020 Aerial Imagery (Region of Waterloo)

DATE: February, 2023

FILE: 22400A

SCALE 1: 1,500

DRAWN: GC



K:\22400A- 44 RUSHOLME\RP\T\STREET VIEW 5 NO SUBJECT LANDS.DWG

From Sidewalk Looking North



From Backyard Looking South



Estimated Property Boundary

44 Rusholme Road
City of Kitchener
Region of Waterloo

LEGEND

- GSP Estimated Property Line
- Property Line

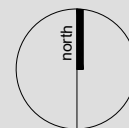
Source:
Property Line Location approximate- based on Topographic Survey by
Van Harten (January 14, 2022)

DATE: February, 2023

SCALE: NTS

FILE: 22400A

DRAWN: GC



K:\22400A- 44 RUSHOLME\RP\ESTIMATED_PROPERTY_BOUNDARY.DWG

MHBC PLANNING
URBAN DESIGN
& LANDSCAPE
ARCHITECTURE
200-540 BINGEMANS CENTRE DR. KITCHENER, ON, N2B 3X9
P: 519.576.3650 F: 519.576.0121 | WWW.MHBCPLAN.COM

