

Staff Report



Development Services Department

www.kitchener.ca

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: Arwa Alzoor, Planning Technician, site development, 519-741-2200
ext. 7847

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: February 28, 2023

REPORT NO.: DSD - A2023-033

SUBJECT: Minor Variance Application A2023-033 - 364 Wellington Street North

RECOMMENDATION:

Zoning By-law 2019-051

That Minor Variance Application A2023-033 for 346 Wellington Street North requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.12.2 e) to permit a lot width of 12.1 metres instead of the required 13.1 metres; and
- ii) Section 5.4 f) e) to permit a driveway material that is not consistent throughout the driveway (cement and grass) rather than comprised of a material that is consistent throughout the driveway and that is distinguishable from all other ground cover or surfacing including landscaping or walkways within the front yard, interior side yard and exterior yard

to facilitate an additional dwelling unit to the existing single detached dwelling with an Additional Dwelling Unit (Attached) (Duplex) to have building with 3 dwelling units in total, in accordance with drawings prepared by Mike Reed, dated February 2, 2023, BE APPROVED subject to the following conditions.

1. That the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property.
2. That the Owner shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

“Warning: The Applicant is advised that the subject land is located within Metrolinx’s 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.”

REPORT HIGHLIGHTS:

- The purpose of this report is to review minor variance to allow for one extra additional unit (attached) in existing single detached dwelling with additional unit (attached) (3 units in total) and to allow for inconsistent material driveway to lead to one of the required parking spaces
- The key finding of this report is that the requested minor variances meet the 4 tests of the Planning Act.
- 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 north of Victoria St N and west of Lancaster St W. It currently contains two-storey Single Detached Dwelling with one Additional Unit (attached) with an attached garage and a detached garage in the rear yard. The Notice indicated that the use of the property was a single detached dwelling. It is currently legally being used as a single detached dwelling with one additional unit (attached) (duplex). The purpose of this application is to allow for an additional dwelling unit (attached) (triplex). The intent of the application is the same. To facilitate a building having 3 dwelling units. No further notice is required.

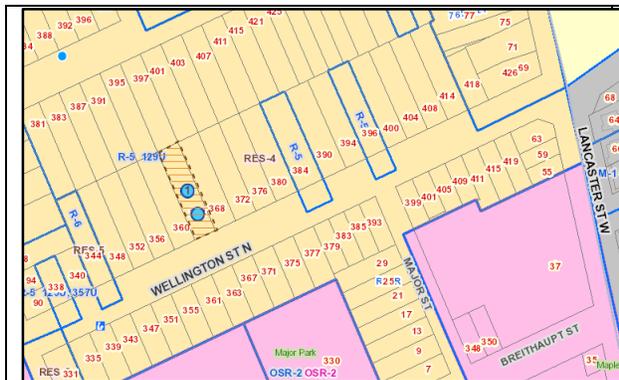


Figure 1- Location on zoning map



Figure 2 - Location on Google earth

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 ‘Low Rise Residential Four Zone (RES-4)’ in Zoning By-law 2019-051.

The purpose of the application is to facilitate two additional units (attached) into existing single detached dwelling with one additional unit (attached) when the minimum lot width does not meet the minimum required in the Zoning By-law and driveway that leads to the third parking does not meet the driveway regulation of the By-law.

- To permit minimum lot width of 12.19 metres instead of 13.1 metres required
- To permit a mixed driveway material of grass and cement instead of comprised of a material that is consistent throughout the driveway, and that is distinguishable from all other ground cover or surfacing including landscaping or walkways within the front yard, interior side yard, and rear yard

The purpose of this application is to support the increase in density as the lot area is more than minimum required and the lot size can accommodate 3 units. In addition, due to the existing driveway that goes along the property, the homeowner would like to reduce the amount of hardscape and add green grass strips to increase the drainage and reduce the water runoff

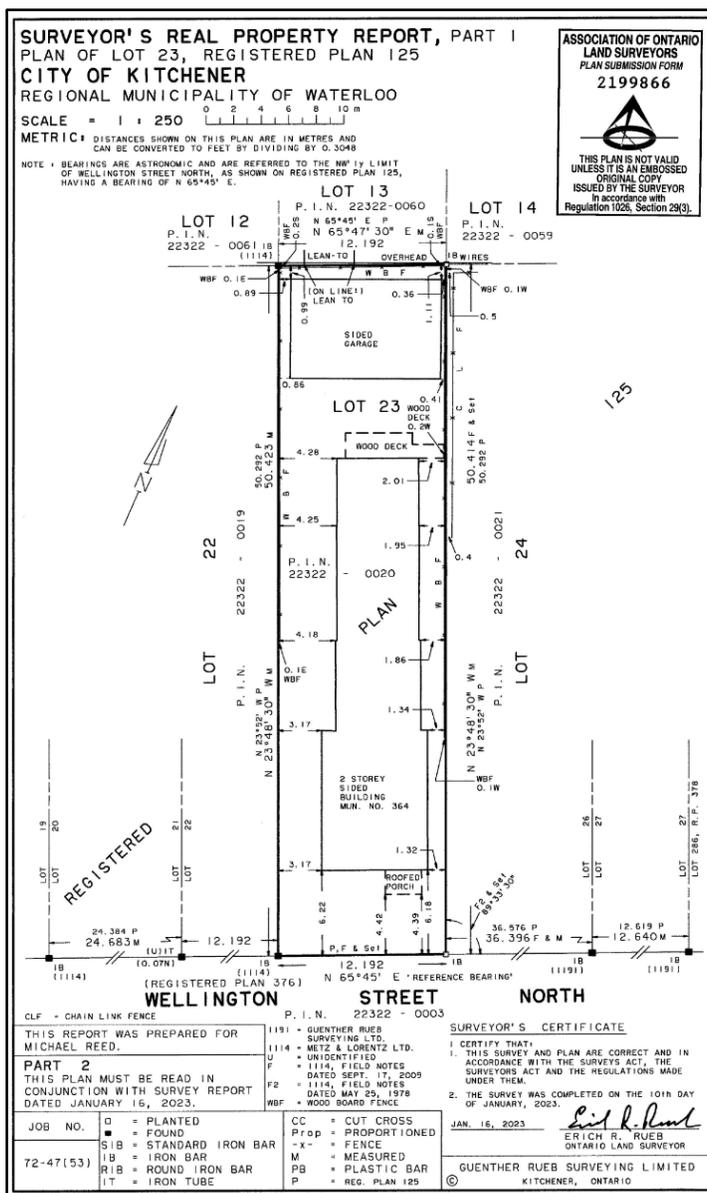


Figure 3 - Existing survey

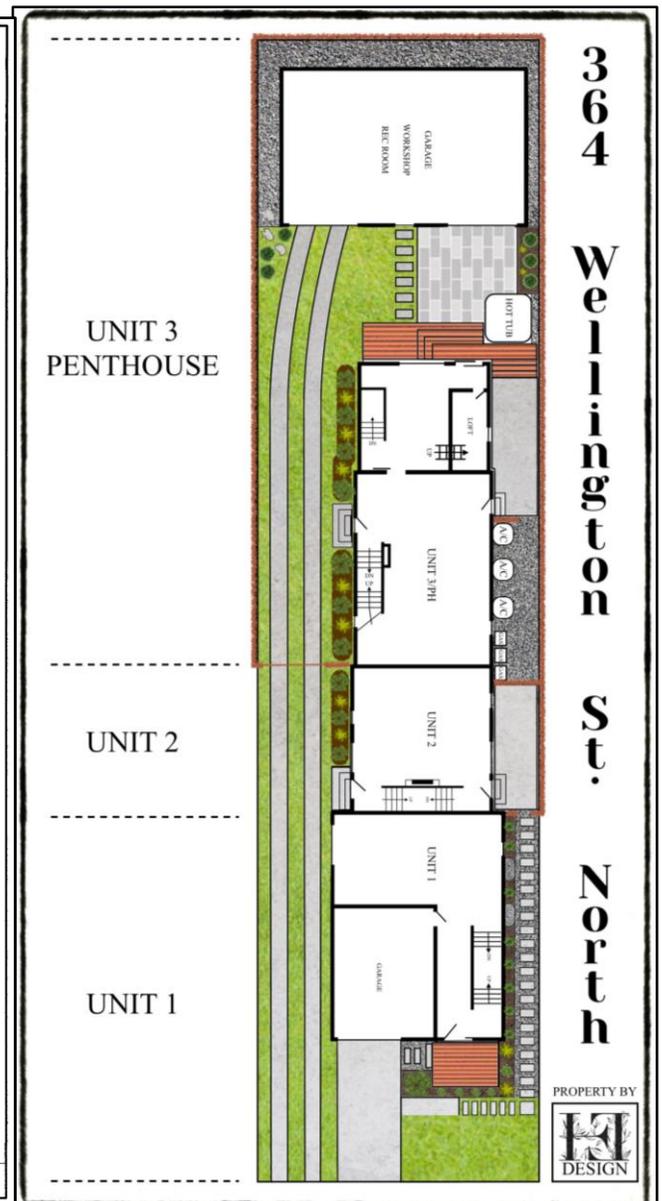


Figure 4 - Site plan design provided by the owner



Figure 3 - Rendering provided by the owner

Planning staff conducted a site inspection on Friday March 03rd, 2023

Pictures from the site visit from the front and the side yard



Figure 4 - Front of the house showing the full driveway



Figure 5 - The side of the house showing the additional unit access



Figure 6 - The front of the house with the COA sign

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 property is designated 'Low Rise Residential'. This designation places emphasis on accommodating a full range of low density housing type which includes single detach dwelling with additional units attached. The city will encourage and support the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form.

The City's Official Plan also states that: The City will support the addition of an additional dwelling unit(s), attached, within a residential unit, where desirable and appropriate unless otherwise limited by the policies of this Plan, and in accordance with the City's Zoning By-law, in order to provide another housing option to Kitchener homeowners and residents.

Therefore, the proposed variance meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the lot width regulation is to ensure the use has sufficient amenity space, landscaped area, fire emergency access, and parking. The subject property has a lot area of 614.6 square metres which is 219.6 square metres greater than the minimum required 395 square metres. The additional lot area supports the use of the property for a building having 3 dwelling units.

The proposed change in existing driveway material will provide more drainage and greenery space on the lot as the driveway goes long way throughout the length of the property which will lower the hardscape on the lot. The intent of the regulation is to ensure that vehicles are not parking on sidewalks and the front lawn. The variance to permit this type of driveway meets the intent of the zoning by-law.

It is of staff's opinion that the variances meet the general intent of the Zoning By-law.

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

The proposed additional dwelling unit is proposed to be accommodated in the existing building and the driveway to the rear of the property currently exists.

The minimum required lot width is 13.1 metres, and the requested difference is only 0.91 metres less than the required width.

The change to the driveway material will improve the water runoff on site and reduce the hard surface on the property. Staff is of the opinion that requested variances are minor as they will not present any significant impacts to adjacent properties or the overall neighbourhood.

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

The proposed variances for a reduced lot width and driveway material are desirable and appropriate for the development and use of the land as it will facilitate a gentle intensification of the existing residential use and support an environmentally-supportive driveway.

Environmental Planning Comments:

No comments.

Heritage Planning Comments:

There are no heritage concerns. The Kitchener Cultural Heritage Landscape Study (CHLS) dated December 2014 and prepared by The Landplan Collaborative Ltd. was approved by Council in 2015. The CHLS serves to establish an inventory and was the first step of a phased Cultural Heritage Landscape (CHL) conservation process. The property municipally addressed as 364 Wellington St N. is located within the Mt Hope/Breithaupt Neighbourhood CHL. The owner and the public will be consulted as the City considers listing CHLs on the Municipal Heritage Register, identifying CHLs in the Official Plan, and preparing action plans for each CHL with specific conservation options.

Building Division Comments:

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

Engineering Division Comments:

No comments

Parks/Operations Division Comments:

No concerns, no requirements

Transportation Planning Comments:

Transportation Services does not have any concerns with the proposed application

Region of Waterloo Comments:

No concerns

GRCA Comments:

GRCA has no objection to the approval of the above applications

Metrolinx Comments:

- The subject property is located within 300 meters of Metrolinx's Guelph Subdivision which carries Metrolinx's Kitchener GO Train service.
- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact Derek.Brunelle@metrolinx.com with questions and to initiate the registration process.
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor

“Warning: The Applicant is advised that the subject land is located within Metrolinx’s 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or

other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.”

Ministry of Transportation Comments:

The Ministry of Transportation (MTO) has no requirement for this application. The subject property is located beyond MTO limits of permit control and therefore MTO review, acceptance, and permits will not be required.

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*