

REPORT TO: Committee of Adjustment

DATE OF MEETING: May 16, 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 3

DATE OF REPORT: May 3, 2023

REPORT NO.: DSD-2023-207

SUBJECT: Minor Variance Application A2023-054 – 133 Manitou Drive

RECOMMENDATION:

Zoning By-law 2019-051

That Minor Variance Application A2023-054 for 133 Manitou Drive requesting Permission under section 45(2)(a)(i) of the Planning Act to permit the enlargement or extension of a legal non-conforming use into vacant space in the existing building of approximately 325 square metres (3,500 square foot), for a health clinic use related to a home health care business, in the “General Industrial Employment Zone (EMP-2)” in Zoning By-law 2019-051, in accordance with Site Plan Application SP23/016/M/TZ, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for Permission to permit the enlargement or extension of a legal non-conforming use, a health clinic use related to a home health care business at 133 Manitou Drive.
- 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 Manitou Drive, within the Trillium Industrial Park area. The surrounding lands are characterised by a mix of office, commercial and light industrial uses.

The subject property is identified as ‘Industrial Employment Areas’ on Map 2 – Urban Structure and is designated ‘General Industrial Employment’ on Map 3 – Land Use in the City’s 2014 Official Plan.

The property is zoned 'General Industrial Employment Zone (EMP-2)' in Zoning By-law 2019-051.

The purpose of this report is to review an application to permit the enlargement or extension of a legal non-conforming use, a health clinic use related to a home health care business, into one of the vacant units in the building located at 133 Manitou Drive.

The Subject Property is currently occupied by a building having ~14,000 square feet (1,301 square metres) of building floor are and contains offices/clinic for a home healthcare provider (ParaMed, occupying ~9,500 square feet (883 square metres)) and a land development company (Oak Bridge Properties, occupying ~1,000 square feet (93 square metres)) while the balance of the building (~3,500 square feet (325 square metres)) is currently vacant. ParaMed would like to expand their business into the vacant 3,500 square feet portion of the existing building.

The site has operated with Health Clinic and Office use since 2013 when Zoning By-law 85-1 was in effect. Given that the current uses have operated within the building since 2013, the existing office uses on the subject property are legal non-complying uses.

A Zoning Occupancy Certificate has been issued to recognize the existing use of the building established under Zoning By-law 85-1. Site Plan Application SP23/016/M/TZ is currently under review to recognize the existing parking configuration.

City Planning staff conducted a site visit on April 19, 2023.



Figure 1: Location Map: 133 Manitou Drive



Figure 2: Front View of 133 Manitou Drive

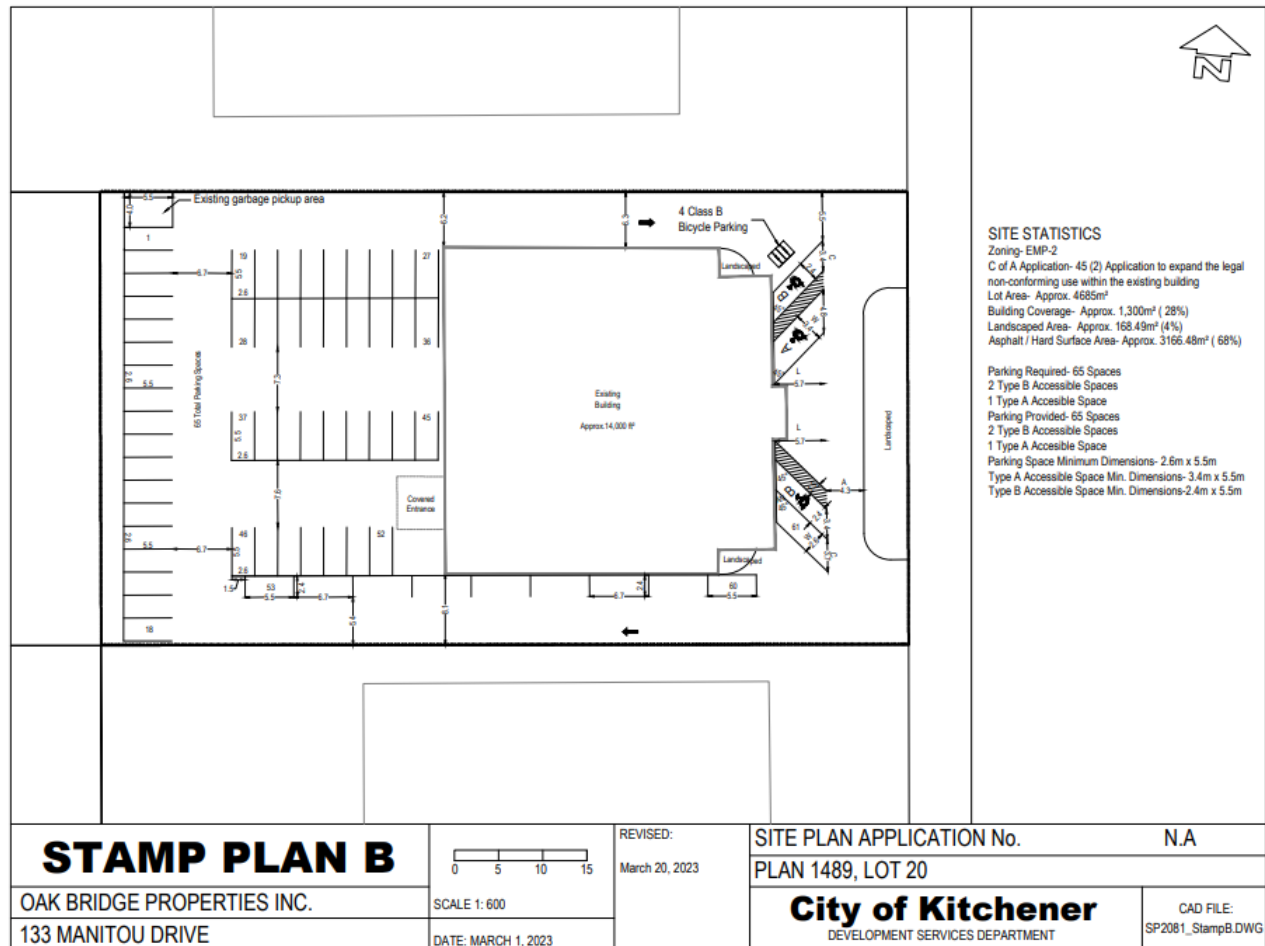


Figure 3: Site Plan Drawing

REPORT:

Planning Comments:

Case law sets out the tests to be applied by the Committee of Adjustment in considering applications under Section 45(2)(a)(i). It should be noted that the test to be applied is not the four-part test for minor variances under Section 45(1) but rather whether the approval of the application:

1. Is in the public interest; and
2. Creates unacceptable or adverse impact upon abutting properties.

Is Approval in the Public Interest?

Policies 17.E.20.8 and 17.E.20.9 of the Official Plan reiterate that the Committee of Adjustment may grant permission under the Planning Act to consider an enlargement or an extension of a legal non-conforming use subject to the enlargement/extension being in the public interest, representing good planning and not creating unacceptable adverse impacts upon abutting properties.

ParaMed has existed in the building on the subject property since 2013. The use of the property by the office/clinic use is compatible with the surrounding area which is currently comprised of office, commercial and light industrial uses.

The City's Official Plan permits certain compatible complementary service commercial uses such as restaurants, print shops, computer service facilities, financial establishments, personal services, fitness centres, recreational facilities, day care facilities, health offices and clinics in our Business Park land use designation. Although the property is not located in a Business Park land use designation, the planned function of this industrial area on Manitou Drive has historically developed in this way under previous uses permitted by Zoning By-law 85-1.

Further, the existing health clinic with the expansion into vacant building space offers a necessary service for the community. Additionally, with no change to the exterior of the building ParaMed is able to expand their operations internally and continue to function without impact on the planned function of the industrial area.

Any Adverse or Unacceptable Impacts?

The application does not impose any impacts upon abutting properties, as it will not introduce any noxious uses. Further, the use will not change the building footprint removing any potential for physical or visual impact.

The proposed expansion of the use on the property required an update to the site plan to ensure that sufficient parking and loading areas and circulation on the site for the office/clinic use operated accordingly without adversely impacting abutting properties and the planned function of the industrial employment area.

The subject property provides 65 parking spaces, which is more than adequate for the building and the proposed uses.

Planning Staff do not have any concerns with the proposed enlargement/expansion of the legal non-conforming use with the allocation of the current vacant space to health clinic use. Planning staff are of the opinion that the additional health clinic space within the existing building will not cause any adverse or unacceptable impacts.

Environmental Planning Comments:

No natural heritage concerns, tree management will be addressed through Site Plan Application.

Heritage Planning Comments:

No concerns.

Building Division Comments:

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

Engineering Division Comments:

No concerns

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

Transportation Services does not have any concerns with the proposed application.

NOTE: Transportation Services did have concerns with the existing parking lot and potential encroachment on to the adjacent property (149 Manitou) from parking spaces along that property line. Via the site plan application (SP23/016/M/TZ), the applicant has revised the parking lot on there and there are no longer any concerns with encroachment.

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 – Notice of Source Protection Plan Compliance