

REPORT TO: Committee of Adjustment

DATE OF MEETING: May 16, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
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WARD(S) INVOLVED: Ward 9

DATE OF REPORT: April 25, 2023

REPORT NO.: DSD-2023-211

SUBJECT: Minor Variance Application A2023-058 – 202 Courtland Avenue East

RECOMMENDATION:

Zoning By-law 85-1

That Minor Variance Application A2023-058 for 202 Courtland Avenue East requesting relief from the following sections of Zoning By-law 85-1:

- i) Section 5.22 c) to permit a minimum lot width of 12.3 metres instead of the minimum required lot width of 13.1 metres; and
- ii) Section 5.22 j) to permit a rear yard setback for an Additional Dwelling Unit (ADU) (Detached) of 0.46 metres instead of the minimum required rear yard setback of 0.6 metres;

to facilitate the conversion of an existing detached garage and workshop to an Additional Dwelling Unit (ADU) (Detached) in the rear yard of the subject property, in accordance with drawings prepared by Tri City Builders, Project Number 23-02, submitted with Minor Variance Application A2023-058, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of minor variances to facilitate the conversion of existing detached garage and workshop to an Additional Dwelling Unit (ADU) (Detached) in the rear yard of the subject property.
- 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 Stirling Avenue South on Courtland Avenue East. It currently contains a two-storey single detached dwelling with one Additional Dwelling Unit (ADU) (Attached), a duplex, and a detached garage and workshop accessory structure in the rear yard.

The subject property is identified as a 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Low Rise Conservation' on Map 12 – of the Secondary Plan of 1994 Official Plan.

The property is zoned 'Residential Five Zone (R-5)' in Zoning By-law 85-1.



Figure 1: Aerial view of the subject property

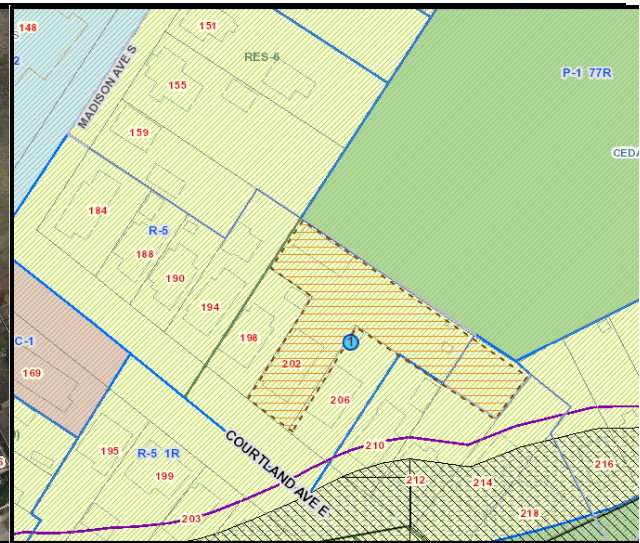


Figure 2: The subject property on the Zoning map

The applicant intends to convert the rear yard's detached garage and workshop accessory structure, which is 69.8 square metres in area, into an Additional Dwelling Unit (ADU) (Detached). The following minor variances are required.

- A lot width of 12.3 metres instead of the required minimum lot width of 13.1 metres
- A rear yard setback for the Additional Dwelling Unit (ADU) (Detached) of 0.46 metres instead of the minimum required rear yard setback of 0.6 metres.

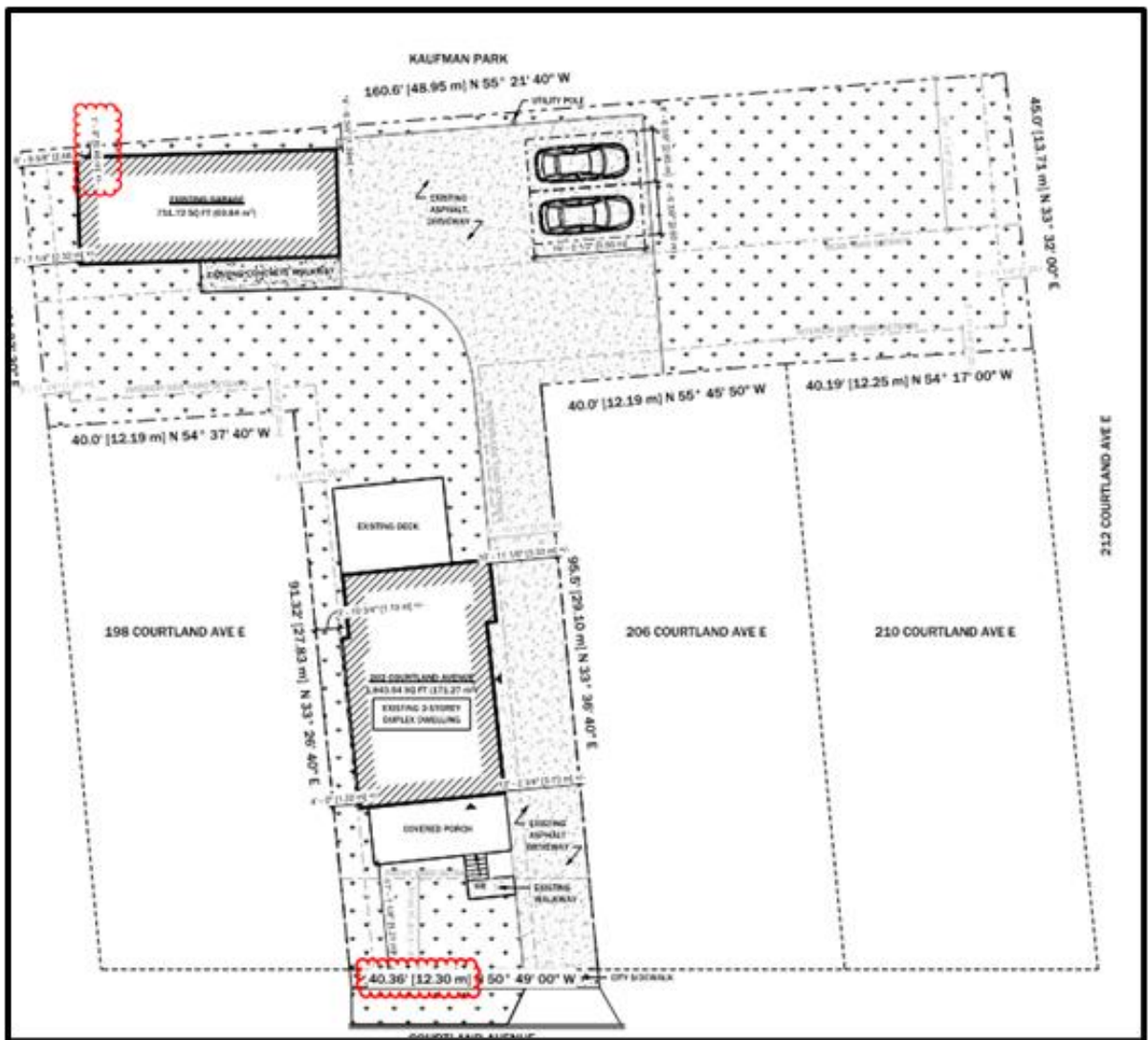


Figure 3: Draft Site Plan

City Planning staff conducted a site visit on April 28th 2022



Figure 4: The front view of the existing house showing the lot width



Figure 5: The rear view of the existing house and the entrance to the current additional dwelling unit (attached)



Figure 6: The existing garage/ workshop that will be converted to an additional dwelling unit



Figure 7: A picture showing the roof projection over the closest rear yard setback



Figure 8: The rear yard parking area



Figure 9: The remaining part of the rear yard from the right side

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 as 'Low Rise Conservation' on Mill Courtland Woodside Park Secondary Plan (Map 12) in the 1994 Official Plan. The intent of the Low Rise Conservation designation is to retain the existing low rise, low density, primarily detached housing stock while simultaneously allowing a slight density increases by permitting conversion or redevelopment to a maximum of three dwelling units. Permitted uses are restricted to single detached dwellings, semi-detached dwellings, duplex dwellings, and multiple dwellings to a maximum of three dwelling units. The requested variances will maintain the intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the lot width regulation is to ensure that ADUs are constructed on properties with an appropriate area in order to provide a sufficient amount of amenity space, fire emergency access, and the required parking. The subject property is very large in lot area due to its irregular shape, being 1,002.4 square metres in lot area. The lot area exceeds the minimum required and provides lots of room for the amenity space, emergency access and the required parking.

The required 0.6 metres rear yard setback for Additional Dwelling Units (Detached) is intended to ensure adequate separation from abutting properties and maintenance access. A deficiency of 0.14 metres is not discernible, and access to the north side wall will still be provided from each side as the 0.46 metres is from the closest portion of the wall to the lot line. Staff note that the existing structure does not abut any structures on the neighbouring property and that the renovation to convert it to an ADU removes all the windows from the north side wall; therefore, an adequate level of separation and privacy will be maintained. Staff also indicates that encroachment over the lot line is not permitted.

Staff is of the opinion that the requested variances meet the intent of the zoning by-law.

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

The requested variance to facilitate the conversion of a detached garage into an additional Dwelling Unit, on a lot with a width of 12.3 metres, instead of 13.1 metres is considered minor as the structure already exists and will not be increasing the building footprint through the renovations. The requested variance is only 0.80 metres, while the lot area exceeds the minimum lot area requirement by 607.45 square metres.

The request variance for the rear yard setback of the additional dwelling unit is also considered minor as it is deficient by only 0.14 metres. It is an existing setback and will not adversely impact the adjacent properties or neighbourhood.

Staff is of the opinion that the effects of the variances will be minor.

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

The planning staff is of the opinion that the proposed variances are desirable and appropriate as they will facilitate a form of gentle intensification of the subject property with the development of an additional dwelling within the existing detached garage/accessory structure. The structure and new use are compatible with the neighbourhood and will make use of existing infrastructure.

Environmental Planning Comments:

No natural heritage concerns or tree management concerns.

Heritage Planning Comments:

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 202 Courtland Avenue East is located within the Cedar Hill Neighbourhood CHL. The City has undertaken additional work on examining the CHL significance of the CHL area through its work on drafting a new Secondary Plan for the Cedar Hill / Schneider Creek area. For more information on the outcome of this CHL analysis and the specific recommendations which may impact properties located within the Cedar Hill Neighbourhood CHL, please visit the following link: www.kitchener.ca/npr.

Building Division Comments:

The Building Division has no objections to the proposed variance, provided a building permit to convert the garage structure into an ADU unit 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 comments.

Transportation Planning Comments:

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

Ministry of Transportation Operations (MTO) Comments:

MTO has no requirements.

Regional Comments:

No Concerns for the application. The applicants are advised that a future development application on the subject lands may require approximately 4.0 metres (up to 13.106 metres from the road centerline) of dedicated road widening. Any additional dwelling units/building elements should be located accordingly to avoid any encroachment on Regional road right-of-way in future

Grand River Conservation Authority (GRCA) comments:

GRCA has no objection to the approval of the above applications. The subject properties do not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The properties are not subject to Ontario Regulation 150/06 and, therefore, permission from GRCA is not 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:

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 (1994/2014) - Mill Courtland Woodside Park Secondary Plan*
- *Zoning By-law 85-1*