

# Staff Report



Development Services Department

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**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:** Ben Brummelhuis, Student Planner, 519-741-2200 ext. 7074

**WARD(S) INVOLVED:** Ward 10

**DATE OF REPORT:** May 10, 2023

**REPORT NO.:** DSD-2023-206

**SUBJECT:** Minor Variance Application A2023-055 – 152 Weber Street East

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## RECOMMENDATION:

### Zoning By-law 85-1

That Minor Variance Application A2023-055 for 152 Weber Street East requesting relief from the following Sections of Zoning By-law 85-1:

- i) Section 5.22 b) to permit a lot area of 375 square metres instead of the minimum required 395 square metres; and
- ii) Section 39.2.1 a) to permit a 0.4 metre right side yard setback instead of the minimum required 1.2 metres;

to facilitate the construction and conversion of an existing duplex dwelling to a three (3) unit residential building in accordance with a Site Plan, prepared by Rob Sajkunovic, dated June 2021, BE APPROVED.

## REPORT HIGHLIGHTS:

- The purpose of this report is to review minor variances requesting a reduction of the minimum lot area requirement and the right side yard setback to facilitate the construction of a 2<sup>nd</sup> storey addition and the conversion of an existing duplex dwelling to a three (3) unit residential building.
- The key finding of this report is that the application meets the four 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 at 152 Weber Street East on the north side of Weber Street near the intersection of Weber Street East and Cameron Street North.

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



**Figure 1: Aerial Photo of Subject Site**

The subject property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Low Density Commercial Residential' on Map 10 – King Street East Neighbourhood Plan for Land Use in the City's 2014 Official Plan.

The property is zoned 'Commercial Residential One Zone (CR-1)' in Zoning By-law 85-1.

The application is requesting variances for a reduction in the minimum lot area and right side yard setback requirements to facilitate the construction and conversion of an existing duplex to a three (3) unit residential building, a single detached dwelling with two Additional Dwelling Units (ADUs)(Attached).

A Building Permit was issued on November 12, 2021, to permit the construction a second-storey addition on the rear of the of the principal dwelling. Recently, the applicant inquired about use of the addition for an additional dwelling unit. Upon further review staff recognized deficiencies in lot area



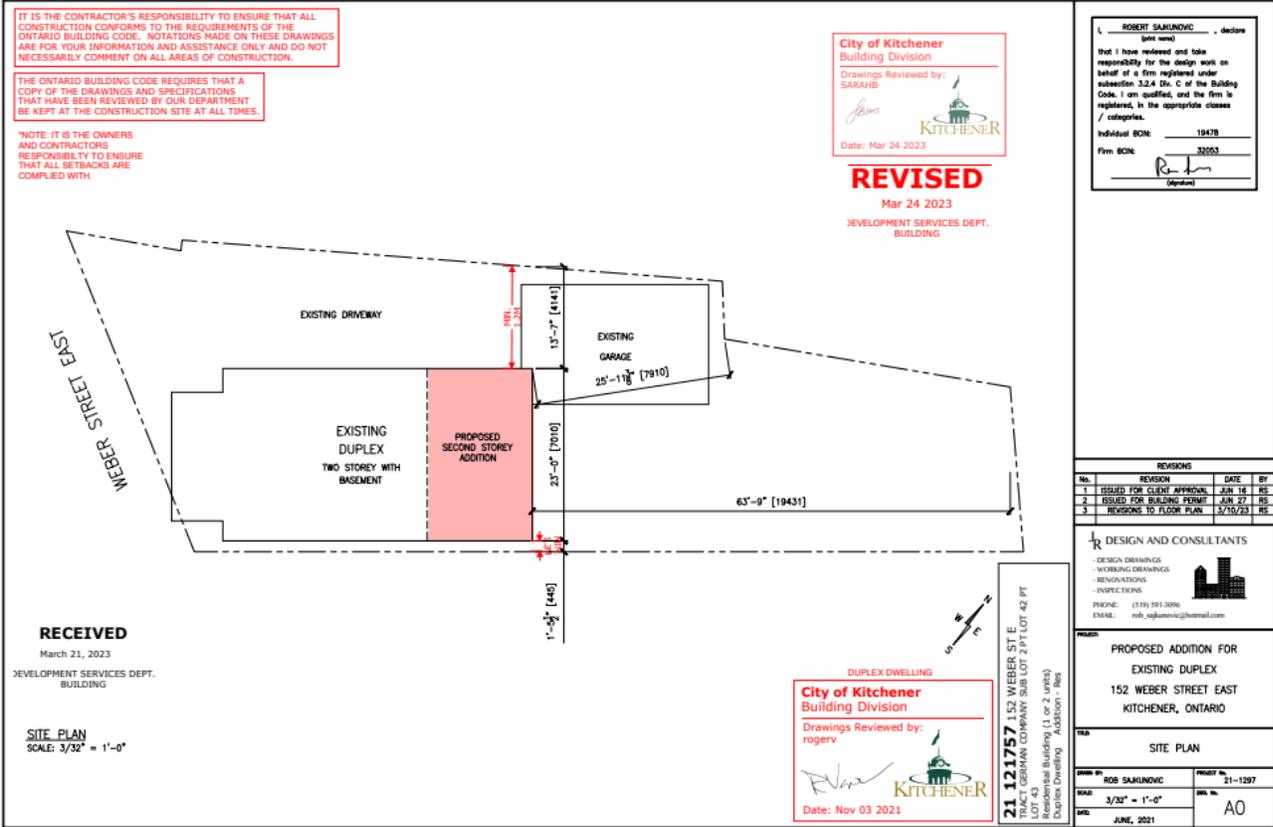


Figure 4: Site Plan

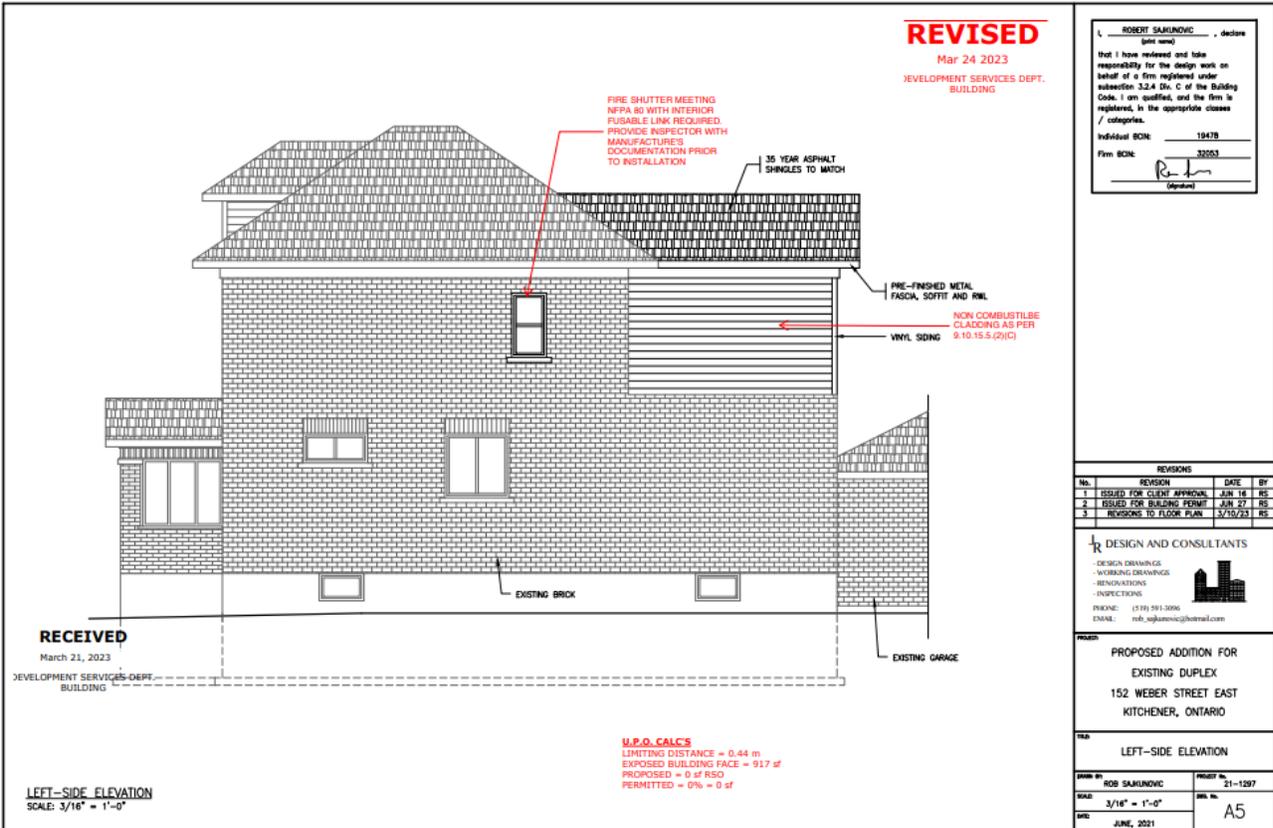


Figure 5: Left Side Elevation

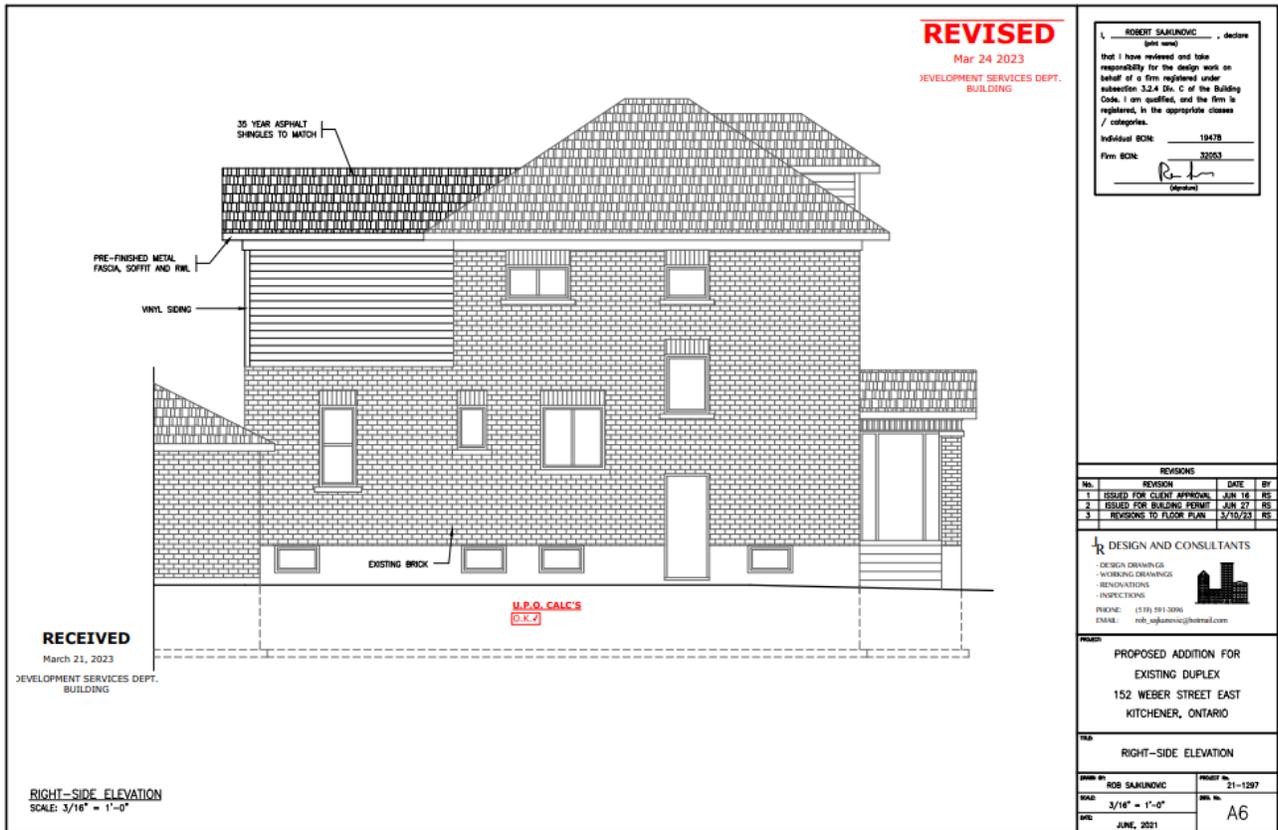


Figure 6: Right Side Elevation

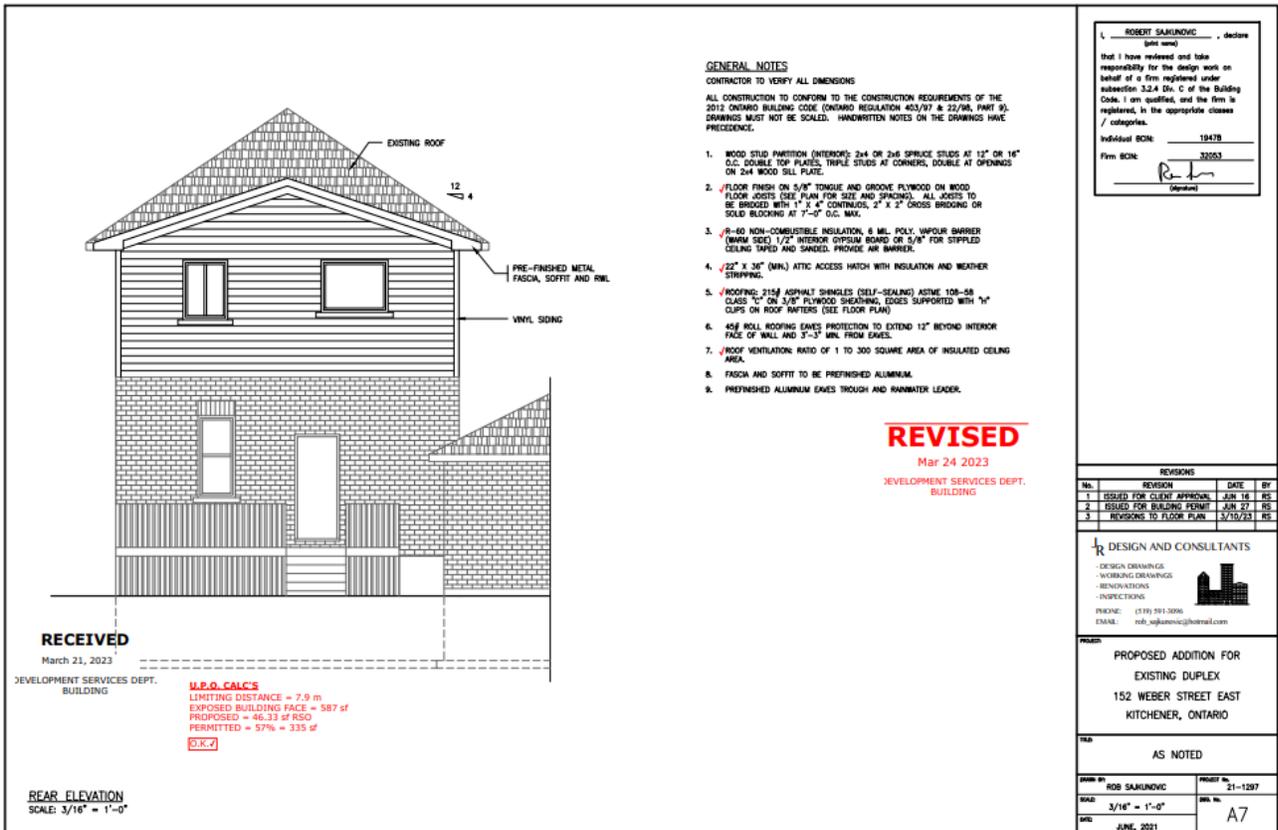


Figure 7: Rear Elevation

## **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 Density Commercial Residential' in the King Street East Secondary Plan. The intent of Low Density Commercial Residential is to permit a variety of low rise residential uses such as single detached dwellings and a variety of commercial uses with access to Weber Street, and to ensure there is an adequate buffer between Low Rise Multiple Residential and Low Rise Conservation designated areas. The proposed use of the property will meet the general intent of the Official Plan.

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

##### **Lot Area**

The intent of the required minimum 395 square metre lot area for an Additional Dwelling Unit (ADU) (Attached) is to ensure that there is adequate space to accommodate an appropriate buildable area, ability to meet regulatory functions such as a front yard setback, the provision of adequate amenity space and required parking. The reduction in the minimum lot area will not impact the functionality or ability of the site to accommodate an additional dwelling unit, as the addition and conversion are contained within the existing building footprint. Sufficient amenity exists and the required parking can be accommodated on the existing driveway. Accordingly, this variance meets the intent of the Zoning By-law.

##### **Right Side Yard Setback**

The intent of a 1.2 metre minimum side yard setback is to ensure that there is adequate space for maintenance and privacy to occur without disrupting the abutting property. The existing right side yard setback of 0.44 metres is legal non-conforming and currently allows adequate space for maintenance. The proposed second-storey addition will not include additional glazing adjacent to this lot line. Staff are of the opinion that this variance meets the intent of the Zoning By-law.

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

The effects of the variances are minor in nature. The reductions in lot area and side yard setback requirements will not inhibit the ability of the lot to meet other zoning regulations. The requested variances are not expected to impact any of the adjacent properties or the surrounding neighbourhood. The ADU (attached) will be developed with the construction of a second-storey addition and conversion of the existing duplex dwelling and will be compatible with the built form on adjacent properties.

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

The variances are desirable and appropriate for the development and use of the land as they will support a gentle intensification of housing by facilitating the construction and use of a second-storey addition for a new residential dwelling unit. The conversion of the existing duplex to a triplex will make use of existing infrastructure.

### **Environmental Planning Comments:**

No natural heritage or tree management concerns.

### **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 152 Weber Street East is located within the Central Frederick 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. A building permit application has been made for the change of use and it is currently under review.

**Engineering Division Comments:**

No comments.

**Parks/Operations Division Comments:**

No concerns / no comments.

**Transportation Planning Comments:**

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

**Grand River Conservation Authority:**

No objection.

**Region of Waterloo:**

No concerns to the application. However, the applicants are advised that the existing building is partially encroaching into Regional road right-of-way. A future development application may require road widening and/or encroachment agreement.

**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 (1994/2014) - King Street East Secondary Plan*
- *Zoning By-law 85-1*