

Staff Report



Development Services Department

www.kitchener.ca

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: Richard, Kelly-Ruetz, Senior Planner, 519-741-2200 ext. 7110

WARD(S) INVOLVED: Ward 1

DATE OF REPORT: April 28, 2023

REPORT NO.: DSD-2023-212

SUBJECT: Minor Variance Application A2023-062 – 27 Sunbridge Crescent

RECOMMENDATION:

Zoning By-law 85-1

That Minor Variance Application A2023-062 for 27 Sunbridge Crescent requesting relief from the following sections of Zoning By-law 85-1:

- i) Section 34.3.2 to permit a single detached dwelling to be constructed on a lot having a lot width of 38.5 metres instead of the minimum required 60 metres;
- ii) Section 34.3.2 to permit a single detached dwelling to be constructed on a lot having a maximum lot area of 3.68 hectares instead of a maximum lot area of 1.2 hectares; and
- iii) Section 34.3.2 to permit a detached accessory structure to have a side yard setback of 5.2 metres instead of the minimum required side yard of 7.5 metres;

to facilitate the construction of a single detached dwelling and accessory structure generally in accordance with the building layout on the topographic sketch, prepared by J.D. Barnes Limited, dated April 17, 2023, and the building drawings prepared by Country Lane Builders, dated March 20, 2023, BE APPROVED subject to the following condition:

1. That a 5-metre-wide easement be secured on title of the property, in favour of the City of Kitchener, for the purposes of drainage, as shown on the Topographic Sketch submitted with the application, prepared by J.D. Barnes Limited, dated April 17, 2023 and attached as Attachment A.

REPORT HIGHLIGHTS:

- The purpose of this report is to consider minor variances to support the proposed construction of a single detached dwelling and accessory structure (a shed) at 27 Sunbridge Crescent.
- The key finding of this report is that the four tests of a minor variance are met and that staff is recommending approval of the report, with a condition to register an easement in favour of the City to facilitate drainage on the subject property.
- There are no financial implications.

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

- 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 3.68 hectares in area and located in the Bridgeport North planning community. The property is vacant and contains natural features including a woodland and wetland. The property is within the regulated area of the Grand River Conservation Authority (GRCA) as it contains a wetland and is partially within the floodplain of the Grand River.



Location Map of Subject Property

In the City's 2014 Official Plan, the subject property is identified as 'Community Area' and 'Green Area' on *Map 2 – Urban Structure* and is designated 'Low Rise Residential' and 'Natural Heritage Conservation' on *Map 3 – Land Use*.

In Zoning By-law 85-1, the property is split-zoned:

- The portion fronting Sunbridge Crescent is zoned 'Agricultural Zone (A-1)'.
- The middle portion of the property located outside of the wetland and floodplain is zoned 'Agricultural Zone (A-1) with Special Regulation Provision 1R'.
- The rear portion of the property is zoned 'Hazard Land Zone (P-3)'.



Photo of Subject Property from Sunbridge Crescent

The subject property is not yet included in new Zoning By-law 2019-051 because Council deferred including this property in the new zoning by-law until technical studies could be completed which would delineate the developable and non-developable portions of the property. The technical studies have been completed as part of this minor variance application; it is anticipated that the subject property will be brought into the new zoning by-law during a future update.

The purpose of the application is to facilitate the construction of a single detached dwelling and detached accessory structure (a shed). Minor variances are needed as the lot width, lot area, and side yard setback differ from the requirements of the Agricultural Zone (A-1).

Prior to supporting construction of a new dwelling on the subject property there were two key areas to explore:

- The extent of protected natural features on the property including the Regionally Significant Woodland, wetland, and floodplain. The 'limit of development' line was not previously studied. Recommendations for mitigation and protection of the natural features were not yet known.
- Addressing drainage flows through Sunbridge Crescent over the subject property and ensuring that existing flows are generally maintained.

To respond to these issues and to support the application, the applicant submitted the following:

- **Scoped Environmental Impact Study (EIS)** prepared by Natural Resource Solutions Inc. dated March 2023. The EIS assessed the impacts of the proposed development on the adjacent environmental features, recommend a 'limit of development', and provided mitigation measures to protect the natural features over the long-term. An addendum to the EIS was submitted on March 28, 2023, to clarify drainage patterns on the subject property.
- **Stormwater Management Report** prepared by K. Smart Associates Limited dated April 18, 2023. The study confirmed that existing general drainage patterns will be maintained, supported by regrading an existing road drainage swale, a new laneway culvert, and a new swale within an easement in favour of the City of Kitchener. Stormwater will flow east towards the Grand River.
- **Water & Storm Servicing Plan** prepared by K. Smart Associates Limited dated March 28, 2023. The plan shows the proposed approach to drainage and water servicing.
- **Topographic Sketch** prepared by J.D. Barnes Limited dated April 17, 2023. The sketch shows the grading of the property and the footprint of the proposed construction.
- **Building drawings** prepared by Country Lane Builders dated March 20, 2023. These drawings show the floor plans and elevations of the proposed single detached dwelling and accessory structure (shed).

Staff from agencies including the City of Kitchener, Region of Waterloo, and GRCA have reviewed each of the above submissions and confirmed that all requirements have been satisfied for the purposes of supporting the minor variance application. As such, the applicant is proceeding with the minor variance application to permit the development of a single detached dwelling and detached accessory structure (shed).

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' and 'Natural Heritage Conservation' on *Map 3 – Land Use*. The general intent of the Natural Heritage Conservation designation is to protect and/or conserve natural heritage features and their ecological functions. The intent of the Low Rise

Residential designation is to accommodate a variety of low-density residential uses. Staff is satisfied that the general intent of both designations is maintained with the requested variances. An Environmental Impact Study was completed to ensure the natural heritage features are protected on the property, and the proposed development of a single detached dwelling is in keeping with the range of uses contemplated by the Low Rise Residential designation. The variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

The requested variance to permit a single detached dwelling to be constructed on a lot with a minimum lot width of 38.56 metres rather than the required minimum of 60 metres meets the general intent of the Zoning By-law. The purpose of the minimum lot width of 60 metres is to ensure that A-1 lots are large in size, which is in keeping with the general lot fabric of dwellings in this zone. The Subject Property is 'pie-shaped' and the majority of the lot is well over 80 metres in width. Lot width is measured at the required front yard setback (10 metres in the A-1 zone) and because the lot is narrower at the front, it is for this reason that the minimum lot width is not met. As most of the lot is significantly wider than the minimum of 60 metres, staff is satisfied that the general intent of the Zoning By-law is maintained. Staff notes that it is anticipated that the Subject Property will be brought from the 'A-1' zone of Zoning By-law 85-1 to the 'RES-1' zone of Zoning By-law 2019-051, which has a minimum lot width of 24 metres.

The requested variance to permit a single detached dwelling to be constructed on a lot with a maximum lot area of 3.68 hectares rather than the required maximum lot area of 1.2 hectares meets the general intent of the Zoning By-law. The purpose of the maximum lot area of 1.2 hectares is to limit the maximum lot size of A-1 lots with a Single Detached Dwelling to theoretically preserve the remnant land for agricultural purposes. The Subject Property is not currently used for agricultural and a significant portion of the property contains non-developable natural features. As such, there is no concern with exceeding the maximum lot area of 1.2 hectares. Staff is satisfied that the general intent of the Zoning By-law is met.

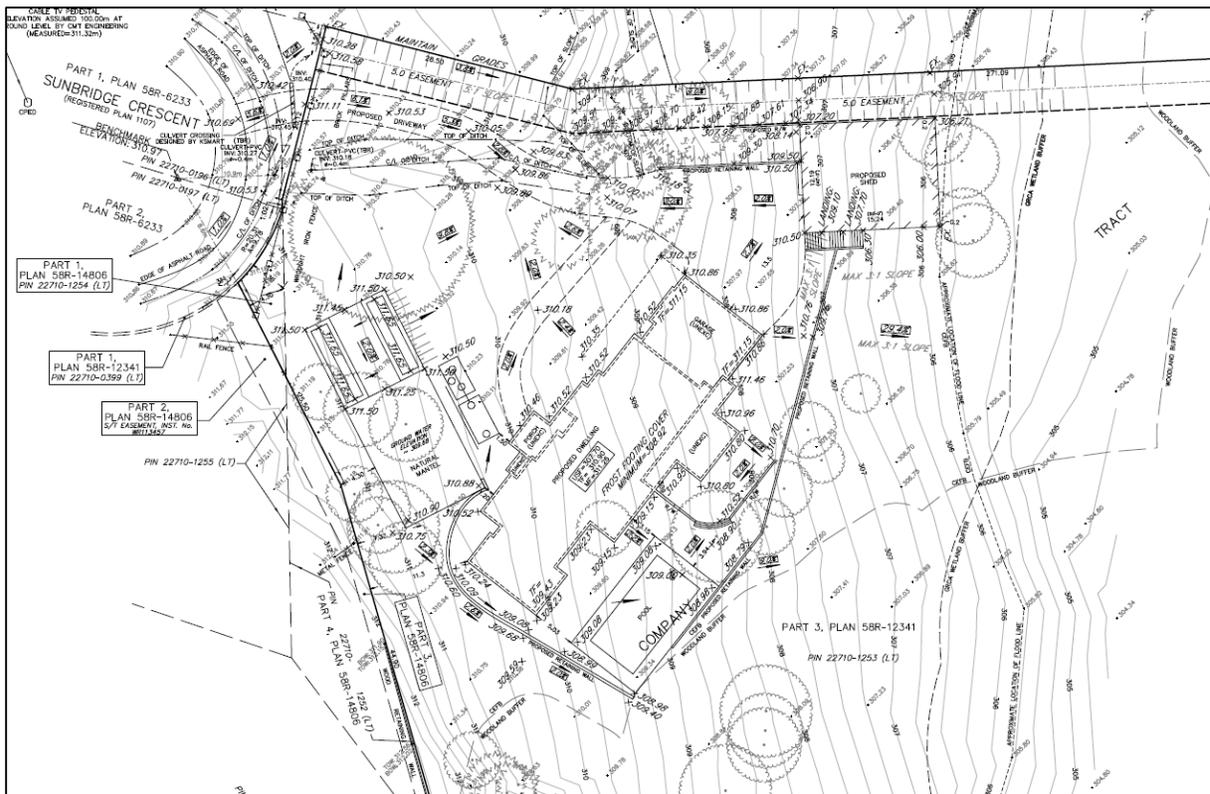
The requested variance to permit a detached accessory structure to be constructed with a side yard setback of 5.2 metres rather than the required 7.5 metres meets the general intent of the Zoning By-law. The purpose of the 7.5 metre side yard setback is to maintain a generous setback between structures and property lines on lots zoned A-1 which are typically larger in size. The proposed 5.2 metre setback is for a detached structure that is smaller than the single detached dwelling. The single detached dwelling meets the required setbacks. A 5.2 metre setback for a detached structure on this lot is reasonable and maintains a large side yard setback for the structure.

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

The variances can be considered minor as the reduced lot width, increased maximum lot area, and side yard setback for a detached structure will not present any significant impacts to the subject property, adjacent properties, or the overall neighbourhood. The proposed development is in keeping with the existing context on the surrounding lots which generally contain estate-sized lots with single detached dwellings and accessory structures. Staff is satisfied that the effects of the variances are minor.

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

The variances are desirable for the appropriate development of the land. The proposal has been studied through the Environmental Impact Study and Stormwater Management Report to ensure that any impacts of the development can be mitigated. A "line of development" has been established, and a stormwater management approach will address drainage, including a proposed 5 metre easement on the Subject Property in favour of the City of Kitchener to facilitate drainage. A condition has been added to register the easement on the property prior to obtaining a Building Permit.



Topographic plan of Subject Property; 5 metre easement shown on north edge of property

The EIS included several mitigation measures which the owner has agreed to implement, including installing tree protection fencing prior to construction, minimizing the use of salt during the winter months, avoiding the use of non-native / invasive species, and avoid the creation of new walking paths through the natural area. Staff also notes the applicant is in the process of obtaining a GRCA permit; the GRCA has noted they are in a position to approve the permit.

As such, staff is satisfied that the variance is appropriate for the development of the land as it will facilitate a dwelling and accessory structure while respecting existing natural features and generally maintaining existing drainage patterns.

Environmental Planning Comments:

Staff have reviewed the Environmental Impact Study (NRSI, March 2023) submitted in support of the application. The delineation of the ‘potential building envelope’ and location of environmental features as illustrated in the EIS on Map 3 has been confirmed with the applicable agency (i.e., Region of Waterloo and GRCA). Section 7.0, Impact Analysis and Recommendations, in the EIS include several statements and recommendations under the headings “Mitigation, Protection, and Enhancement”. As this is a minor variance no conditions will be imposed, the “Mitigation, Protection, and Enhancement” will be left to the applicant homeowner to self-impose.

Heritage Planning Comments:

No heritage concerns.

Building Division Comments:

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

Engineering Division Comments:

Engineering has reviewed and approved the plans submitted with the application and have no concerns, provided a 5.0 metre drainage easement for road runoff is secured in favour of the City of Kitchener.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

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

Grand River Conservation Authority Comments (GRCA):

Staff have reviewed the following documents submitted with this application:

- Environmental Impact Study (NRSI, March 2023)
- Stormwater Management Report (K Smart, April 2023)
- Topographic Survey (JD Barnes, revised March 24, 2023)
- Servicing Plan (K Smart, revised April 18, 2023)
- Floor Plans (Country Lane, revised March 20, 2023)

The GRCA has reviewed this application under Ontario Regulation 686/21, acting on behalf of the Province regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020), as well as in accordance with Ontario Regulation 150/06 and GRCA's Board approved policies. Information currently available at our office indicates that the subject lands contain the Grand River, its associated floodplain, and part of the Provincially Significant Melitzer Creek Wetland Complex.

GRCA has received a permit application (45/23) for this proposed residence. The applicant required additional items to process the application: a final environmental impact study, topographic survey, and grading plan. The GRCA is now in receipt of those items, and we are in a position to approve the permit. Therefore, we have no objections to the minor variance.

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 85-1*

ATTACHMENTS:

Attachment A – Topographic Sketch
Attachment B – Building Drawings