

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: May 4, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
519-741-2200 ext. 7765

PREPARED BY: Brian Bateman, Senior Planner, 519-741-2200 ext. 7869

WARD(S) INVOLVED: Ward 8

DATE OF REPORT: May 16, 2023

REPORT NO.: DSD-2023-230

SUBJECT: Minor Variance Application A2023-037
Consent Application B2023-010
709 Glasgow Street

RECOMMENDATION:

- A. That Minor Variance Application A2023-037 for 709 Glasgow Street requesting relief from Section 7.3, Table 7-1 of Zoning By-law 2019-051, to permit a minimum lot width of 20 metres instead of the minimum required 24 metres, in accordance with drawings prepared by Van Harten Survey Inc, dated January 18, 2023, BE APPROVED.
- B. That Consent Application B2023-010 for 709 Glasgow Street requesting consent to sever a parcel of land having a lot width on Glasgow Street of 20 metres, a lot depth of 126 metres, and a lot area of 2851 square metres, generally in accordance with Plans prepared by MHBC Planning, dated May 3, 2023, BE APPROVED subject to the following conditions:
 1. That Minor Variance Application A2023-037 receive final approval.
 2. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
 3. That the property owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
 4. That the property owner shall provide a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.

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

5. That the Owner shall:
 - a) Remove all structures including the shed, the driveway, and the amour and stone retaining walls from the Severed lands to the satisfaction of the City's Supervisor, Development Applications.
 - b) That a Curb Cut Permit is obtained, and a new driveway is installed to provide vehicular access to the existing dwelling on the Retained lands.
 - c) Prior to any site alteration, any removals of structures on the Severed lands in accordance with 5. a) above, and the installation of a new driveway on the Retained lands in accordance with 5. b) above, that the property owner shall prepare a Tree Preservation and Enhancement Plan for the Severed and Retained lands, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed driveway location, existing building, and/or proposed work zone, a landscaped area and the vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.
 - d) That the property owner shall implement the Tree Preservation and Enhancement Plan, prior to any tree removal, grading, servicing, or installation of the driveway, the issuance of any demolition, building permits, and/or curb cut permit to the satisfaction of the City's Supervisor, Site Plans.
6. That at the sole option of the City's Director of Planning, the Owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Director of Planning, which shall include the following:
 - a) That the owner shall prepare a Tree Preservation Plan for the Severed and Retained lands, in accordance with the City's Tree Management Policy, to be approved by the City's Supervisor, Site Plans, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone (which may require approval of Minor Variance(s)), a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.
 - b) The owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.
7. That the property owner shall:
 - a) Complete a Building Code Assessment for the existing dwelling proposed to be retained on the parcel of land, prepared by a qualified person, to confirm that the proposed property line and any of the building adjacent to this new property line complies with the Ontario Building Code, to the satisfaction of the City's Chief Building Official. The assessment shall address items such as, but not limited to, spatial separation of existing buildings' wall face, and shall include recommendations such as closing in of openings pending spatial separation calculation results.

- b) A Building Permit shall be obtained for any remedial work/ upgrades required by the Building Code Assessment.
8. That the property owner shall make financial arrangements to the City of Kitchener a cash-in-lieu contribution for park dedication equal to \$11,862.00 of the value of the lands to be severed.
 9. That the property owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
 10. That the property owner submits a Development Asset Drawing (digital AutoCAD) for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.
 11. That the property owner makes financial arrangements for the installation of any new service connections to the severed and/or retained lands to the satisfaction of the City's Director of Engineering Services.
 12. That any new driveways are to be built to City of Kitchener standards at the Owner's expense prior to occupancy of the building to the satisfaction of the City's Director of Engineering Services.
 13. That the property owner provides confirmation that the basement elevation can be drained by gravity to the street sewers to the satisfaction of the City's Director of Engineering Services. If this is not the case, then the owner will need to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street to the satisfaction of the City's Director of Engineering Services.
 14. That, prior to deed endorsement, the property owner shall make financial arrangements for the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
 15. That prior to deed endorsement, the owner/applicant shall submit a valid Section 59 notice.
 16. That prior to final approval, an agreement between the Owner/Applicant and the City of Kitchener, to the satisfaction of the Region of Waterloo, must be registered on title for both the severed and retained lands that includes the requirement for the following noise mitigation and warning clauses in all agreements of Offers of Purchase and Sale, deeds, and lease/rental agreements:

Severed Lot:

- A) The dwelling/building will be installed with a suitably sized and designed forced air-ducted heating and ventilation system with the provision of central air-conditioning at the occupant's discretion.
- B) The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

"This unit has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MOECP)."

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future, including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

- C) The Owner shall ensure that all noise attenuation measures required pursuant to this Agreement are implemented and completed to the satisfaction of The Regional Municipality of Waterloo and where applicable, incorporated in the building plans for the dwelling unit on the Severed Lands prior to the Owner requesting the issuance of any building permits. The Owner further agrees to construct the dwelling unit on the Severed Lands in accordance with approved plan(s) which incorporate all such required noise attenuation measures.

Retained Lot:

- A) The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

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REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of a consent application and associated minor variance applications to permit the creation of a new lot for a single detached dwelling that was deferred to the May 16, 2023, meeting.
- The applicant has considered the request by Committee and wishes to proceed with the original application with revisions to the conceptual plan that shifts the available building footprint and re-locate the driveway on the retained lands in an effort to improve tree savings.
- The key finding of this report is that staff supports the applications and recommends approval with conditions as outlined in staff report DSD-2023-107 and this report.
- There are no financial implications.
- As the applications were deferred to the May 16, 2023, meeting, there was no need to re-advertise.
- This report supports the delivery of core services.

REPORT:

Applications A2023-073 and B-2023-010 were originally heard at the March 16, 2023 Committee of Adjustment meeting. The decision of the Committee was to defer these applications until May 16, 2023, to allow an opportunity for the applicant to explore alternatives to the lot configuration and the location of the proposed building envelope on the severed parcel.

In response to the Deferral, MHBC Planning has submitted a letter dated May 3, 2023 (see Attachment A). It outlines continued support of the minor variance and consent applications as originally submitted but has modified the conceptual plan to now show a revised building envelope to meet zoning requirements and a re-located driveway on the retained parcel to improve tree-saving (see Figure 1 below). Staff supports the refinements and will work with the applicant to enhance any tree saving opportunities through detailed plan submissions required by the conditions of approval outlined in this report.

Updated Regional comments were received post the finalization of the Planning Staff report for the March 16, 2023, Committee meeting and were not included in their entirety in DSD-2023-107.

REGIONAL COMMENTS

The applicant is proposing to sever a parcel of land having a lot width of 20 metres along Glasgow Street, a lot depth of 126 metres and a lot area of 2,581 square metres for a new single detached dwelling. The lands to be retained will have a lot width of 26 metres along Glasgow Street, a lot depth of 125 metres and a lot area of 4,043 square metres and will contain an existing single detached dwelling addressed as 709 Glasgow Street.

Regional Fee:

The owner/applicant is required to submit the Regional consent review fee of \$350.00 per consent application prior to final approval of the consent.

Source Protection Plan Compliance (Section 59 Notice):

The subject lands are located in a Source Protection Area where Risk Management Plan policies implemented by the Region of Waterloo may apply. The owner/applicant must complete the questionnaire on <https://taps.regionofwaterloo.ca/> to obtain a valid Section 59 Notice.

Corridor Planning:

Environmental Noise:

The proposed severed and the retained lots are located within 200 metres (roughly 180m) of the CN Railway and is anticipated to have impacts from transportation noise sources in the vicinity. Therefore, in the absence of a detailed environmental noise study, the Region agrees to the following noise attenuation measures implemented through a registered agreement with the City of Kitchener for the severed and the retained lot:

Severed Lot:

- A) The dwelling/building will be installed with a suitably sized and designed forced air-ducted heating and ventilation system with the provision of central air-conditioning at the occupant's discretion.
- B) The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

"This unit has been designed with the provision of adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MOECP)."

"Warning: Canadian National Railway Company or its assigns or successors in interest has or have rights-of-way within 300 metres from the land the subject thereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future, including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any

complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

Retained Lot:

- A) The following noise warning clauses will be included in the development agreements, purchase and tenancy agreements and offers of purchase and sale for the dwelling units:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

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The Region has no objection to the proposed application, subject to the following conditions:

- 1) That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00 per consent application.
- 2) That prior to final approval, the owner/applicant submit a valid Section 59 notice.
- 3) That prior to final approval, an agreement between the Owner/Applicant and the City of Kitchener, to the satisfaction of the Region of Waterloo, must be registered on title for both the severed and retained lands that includes the requirement for the following noise mitigation and warning clauses in all agreements of Offers of Purchase and Sale, deeds, and lease/rental agreements:

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City Planning Comments:

City staff recommends that the following clause also be inserted into the agreement, to apply to the Severed Lot, to advise that where noise attenuation measures are required through building permit application, that the Owner is responsible to ensure these are implemented where Ontario Building Code cannot require noise attenuation measures.

“The Owner shall ensure that all noise attenuation measures required pursuant to this Agreement are implemented and completed to the satisfaction of The Regional Municipality of Waterloo and where applicable, incorporated in the building plans for the dwelling unit on the Severed Lands prior to the Owner requesting the issuance of any building permits. The Owner further agrees to construct the dwelling unit on the Severed Lands in accordance with approved plan(s) which incorporate all such required noise attenuation measures.”

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 council / committee meeting.

PREVIOUS REPORTS/AUTHORITIES:

- *DSD-2023-107*
- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*

ATTACHMENTS:

Attachment A – MHBC Letter of May 3, 2023