

**Lawson/Wyse Submission #2 to the Kitchener Committee of Adjustment**

**May 5, 2023**

**Re: Application to sever and minor variance, 709 Glasgow St.**

**Committee of Adjustment Agenda item: B 2023-010 & A 2023-037**

Kate Lawson and Bruce Wyse

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In our initial response to the Application, we did not oppose *in principle* the Applicants' request to sever and minor variance re 709 Glasgow St.

Now, given the lack of any response by the Applicants to the March 21, 2023 recommendations of the Committee of Adjustment, we modify our position:

- **We request that the Committee of Adjustment deny the Applicants' request to sever and the minor variance.**

Our reasons are listed below.

**If, however, the Committee of Adjustment does approve the Application, we request:**

- That the Applicants be required by the City to complete an environmental review to determine the possible presence of protected species (e.g. bats, salamanders, etc.) and take any remedial action before a Building Permit is issued;
- That the city staff be directed to ensure that, before a Building Permit is issued, the Applicants ensure that there will be **no** planned adverse effects to our property immediately to the east (through drainage, grading, excavation, tree cutting on the eastern edge of the subject property by the proposed building envelope site, etc.);
- That city staff be directed to ensure that the Official Plan 8.C.2.6 be followed in all respects before a Building Permit is issued: "The City will ... encourage new development or redevelopment **to incorporate, protect and conserve existing healthy trees and woodlands** in accordance with the Urban Design Policies in Section 11, the Urban Design Manual and the Development Manual."

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## Rationale for our request that the Committee of Adjustment deny the Application:

### 1. Tree cutting:

The lack of response to the March 21, 2023 recommendations of the Committee of Adjustment suggests that largescale tree removal is integral to the Applicants' plan. The Applicants have not provided any written information as to why the front lawn or the graded driveway area are not suitable building sites, which was suggested by the Committee of Adjustment.

The Applicants' representative at the March 21 Committee of Adjustment meeting stated that the choice of the proposed building envelope site was a) to maintain distance from street noise and b) to have privacy screening by trees. This (approximate) alternative site, shown in orange, would achieve both goals, we believe. We estimate privacy screening by 40 trees;<sup>1</sup> the Applicants could also plant new trees at the front of the property to achieve further noise reduction and screening. (We estimate 10 trees would need to be cut for this building site.)



<sup>1</sup> Trees tagged 1763-1798, 1805, 1808, 1810-11 and 1813.

2. The Applicants' proposal will *not* in any meaningful sense "protect and conserve existing healthy trees," minimize tree removals, or "maintain appropriate tree coverage" as required by the Official Plan.

The Applicants quote "Policy 8.C.2.6 [which] speaks to encouraging new development to **protect and conserve existing healthy trees** in accordance with Urban Design policies" (p. 19). They continue: "In this regard, the **tree removals have been minimized as much as possible** ... The plan will be further refined in conjunction with the final grading and drainage plan prior to building permit issuance in order **to protect the balance of trees** and respect existing buffers and **maintain appropriate tree coverage**" (p. 19).

The Applicants enumerate tree loss thus:

- i. "It was determined that **a total of thirty-six (36) trees will require removal** on the proposed severed lands within the area proposed for the building footprint of the new dwelling" (p. 11).
- ii. "**A number of trees** along the easterly property limit in the vicinity of the proposed building envelope **will be removed** to facilitate construction" (p. 11).
- iii. Further, although it is not accounted for in the Report, **trees will have to be cut** to accommodate **the lengthened driveway**.

From a detailed study of the Application, we calculate that 50 out of 69 trees ( $\geq 10$  cm) will be cut from the rear of the proposed severed lot if the application is approved.<sup>2</sup>

This would be **cutting 72% of current tree coverage**.

We are unable to provide photographic evidence to show what cutting 72% of the forest cover would look like.

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<sup>2</sup> Trees from the top of the driveway to the rear of the proposed severed lot are numbered from 1815 to 1890 (p. 30); 6 tagged trees are on our property. This means, we believe, that a total of 69 (larger) trees are tagged on the rear of the proposed severed lot.

The Applicants state that 36 trees are to be cut "within the area proposed for the building footprint of the new dwelling"; an undisclosed number of trees are to be cut "along the easterly property limit in the vicinity of the proposed building envelope"; and an undisclosed number of trees are to be cut for the driveway extension. Our estimate of undisclosed tree removal is that approximately 14 additional trees will be cut. Thus, we estimate that  $(36 + 14 =)$  50 out of 69 trees will be removed from the woodland at the rear of the proposed severed lot.

However, here is one instance; we believe this fine stand of healthy mature maple trees will be entirely cut:



As noted above, the Applicants do not discuss alternative building sites that would in fact allow “tree removals [to be] minimized as much as possible.” They are, as the Committee has already noted, the graded driveway and the flat lawn area (photographs below). They are available for building with minimal tree loss. (Note in the photograph to the left: 5 of the 6 trees to the immediate left of the driveway are on our lot; 1 is, we believe, on the property line.)



**We argue that cutting 72% of current tree cover *cannot reasonably* be said to “protect and conserve existing healthy trees” or that “tree removals have been minimized as much as possible.”**

**We argue that, if a planning process is to be credible and align with relevant City policy, words such as “protect and conserve” trees and “minimize” tree loss must have meanings. The Applicants’ proposal does not use these terms in any meaningful sense.**

3. The Application will nullify current City of Kitchener Tree Bylaw protections for properties ≥1 acre that apply to the unsevered lot:

**To approve the application for severance removes the tree protections that currently apply to the unsevered property, that is, the City of Kitchener Tree Bylaw protections for properties of ≥1 acre.**

As POLICY: 1-1160 SUBJECT: TREE MANAGEMENT POLICY states, preserving such woodlands in the city performs many important functions and adds to the quality of life in the community

2.0 INTRODUCTION The attitude towards the importance of trees has changed to where they are now appreciated not only because of their aesthetics, but also because of the functions they perform such as **atmosphere purification, acoustical control, privacy control, recreational use and historical features. They add to the quality of life within the community and, in some cases, represent the attempt to save the environment.**

If the lot is severed, we believe the Applicants *could clear-cut the woodland in its entirety* and frustrate the goals and objectives of the City Policy.

4. The Applicants have not provided clear and detailed information with regard to tree loss.

The Applicants' Report states: "Figure 2 illustrates the proposed severance sketch as well as **the trees that are proposed to be removed** to accommodate the new single-detached dwelling" (p. 11).

However, Figure 2 is not aligned/overlaid with the Tree Mapping plan (p. 30) and thus does not illustrate "the trees that are proposed to be removed," but only provides the general outline of a treed area to be cut.

Further, as noted above, tree loss to accommodate the lengthened driveway is not mentioned or accounted for.

5. Neighbourhood compatibility

**The proposed site development and building envelope site are *not* compatible with the immediate and the broader Westmount neighbourhood.** The Applicants claim:

"The proposed severance will result in severed and retained lots that will be compatible with other residential lots in the Westmount Area. The retained and severed lots will have lot widths, areas, depths and front yard setbacks that **fall within the range of the other lots within the Westmount Area.** In addition, **the proposed larger front yard setback from Glasgow Street** is in keeping with the existing homes fronting the **south** side of Glasgow Street." (p. 5)

## Front Yard Setback

The “**front yard setback**” of the proposed severed lot is **exceptionally large**. We could not find an exact measurement in the Applicants’ report but calculate it at approximately 83 meters.

- i. Even the dwelling on the retained lot has a smaller setback, we believe approximately 79 meters;
- ii. 715 Glasgow St. (the house on the south side of Glasgow St with the next largest setback) appears to have a 70 meter setback;
- iii. Other houses on the *south* side of Glasgow St. typically have a 30-40 meter setback.
- iv. Existing homes on the *north* side of Glasgow St. have even smaller “front yard setbacks,” in the range of 15-30 meters.
- v. No evidence is offered of “other residential lots in the Westmount Area” that have a similarly large front yard setback.

## Rear Yard Setback

No mention is made by the Applicants of the **rear yard setback** in the proposed severed lot. It will be **exceptionally small** compared to any other “existing homes fronting the south side of Glasgow Street.” Further, it will be **exceptionally small** compared to any other existing homes fronting the *north* side of Glasgow Street. (See Applicants’ Figure 1.)

## Neighbourhood Compatibility

Please note that the Kitchener “Urban Design Manual” offers these relevant statements on neighbourhood “Compatibility”:

01.2.7 COMPATIBILITY “New Development in Existing Neighbourhoods”:

“New buildings should respect planned and **established** heights and **setbacks** in the **neighbourhood**. ... maintain the rhythm **of existing building separations and other spatial relationships.**”

12.2.0 BUILT FORM, 12.2.1 COMPATIBILITY:

“Ensure the building **is compatible with the existing or planned context and provide appropriate transitions to neighbouring properties.**”

The proposed building envelope site does *not* maintain “established ... setbacks,” “existing building separations and other spatial relationship” with houses on either side of Glasgow St.

It does *not* provide an “appropriate transition” to our “neighbouring” property to the east.

We conclude that insufficient evidence has been provided to support the Applicants’ claim that the “future residential dwelling will be compatible with the other lots and dwellings within the Westmount Area, and would be in keeping with the existing lot fabric.”



#### 6. Damage to our property: Inadequate Tree mapping

The tree mapping on p. 30 does not adequately represent trees on our property to the east and thus does not adequately represent the possible adverse effects to our property caused by grading, excavation, drainage, and tree cutting.

As required, only larger trees are tagged and mapped; smaller ones are not, as they do not meet the mandatory tree size. But smaller trees and saplings are nonetheless significant in our forest. We want to ensure they are protected as well.

For example, in the photograph to the *left*, of these three trees on our property, only *one* is tagged and mapped by the Applicants, due to size. (Note, we have tried to approximate the property line with the reflective stake; the proposed severed lot is to the right).

In the photograph to the *right*, only one of our trees in this area is tagged and mapped by the Applicants. None of the many saplings are mapped.



We thus argue that using the current tree mapping as the basis for a Building Permit is inadequate. Many trees on our property may be damaged by the Applicants' plans to grade, excavate, and cut trees, and no official record of actual tree loss will be available.



7. Damage to our property: Inadequate accounting for grade/slope

Our property slopes *upwards towards* and the slope *continues on* the proposed severed lot. This slope has not been accounted for adequately in the plans for the proposed building envelope site. We believe that grading, excavation, drainage, tree cutting, and building activity will damage our property.

The grade is difficult to capture photographically, but here are some photos of our property to try to illustrate it. Looking down from the top of the ridge on our property:

Foreground: tree tag # 1872



Foreground: tree tag # 1873



*Photograph to the left:* the fence marks the property line at the rear of our respective lots.

*Photograph to the right:* the reflective stakes are to show the grade (*not* the property line); the top stake is in the proposed severed lot.



We thus conclude that the slope of the subject property and of our adjoining property has not been adequately accounted for in the plans for the proposed building envelope site.