

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** October 18, 2022

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

**PREPARED BY:** Tara Zhang, Planner 519-741-2200 ext. 7760

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

**DATE OF REPORT:** October 5, 2022

**REPORT NO.:** DSD-2022-459

**SUBJECT:** Minor Variance Application A2022-120  
77 Lancaster Street West  
Owner: 2720676 Ontario Inc  
Applicant: Alex Josic

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**RECOMMENDATION:**

**Zoning By-law 85-1**

A. That Minor Variance Application A2022-120 for 77 Lancaster Street West requesting relief from:

- 1) Section 6.2.1 a) to permit a parking requirement of 1.15 parking spaces per dwelling unit (8 spaces) instead of the minimum required 1.25 spaces per dwelling unit (9 spaces);
- 2) Section 6.2.1 b) vi) to permit 1 visitor parking space instead of the minimum required 2 visitor spaces; and
- 3) Section 6.1.1.1 d) i) to permit required parking to be located between the façade and the front lot line and be located 1.5 metres from the street line instead of the minimum 3 metres;

to recognize the existing parking configuration for a multiple dwelling having 7 dwelling units, in accordance with Site Plan 91/18/VL, dated June 22, 1999, to be updated with the correct number of dwelling units and Visitor Parking space location, BE APPROVED subject to the following condition:

1. That the applicant obtain and register an environmental easement for operational noise and vibration emissions in favour of Canadian National Railway (CN) at the sole discretion and to the satisfaction of CN.

**Zoning By-law 2019-051**

B. That Minor Variance Application A2022-120 for 77 Lancaster Street West requesting relief from Section 5.3.3 c) i) to permit required parking spaces to be located within the

front yard and to be located 3 metres of the front lot line, to recognize the existing parking configuration for a multiple dwelling having 7 dwelling units, in accordance with Site Plan 91/18/VL, dated June 22, 1999, to be updated with the correct number of dwelling units and Visitor Parking space location, BE APPROVED subject to the following condition:

1. That the applicant obtain and register an environmental easement for operational noise and vibration emissions in favour of Canadian National Railway (CN) at the sole discretion and to the satisfaction of CN.

And subject to the following:

This minor variance shall become effective only at such time as Zoning By-law 2022-040 comes into force, pursuant to section 34 (30) of the Planning Act, R.S.O. 1990, c. P 13, as amended, at such time the variance shall be deemed to have come into force as of the final date of this decision.

#### **REPORT HIGHLIGHTS:**

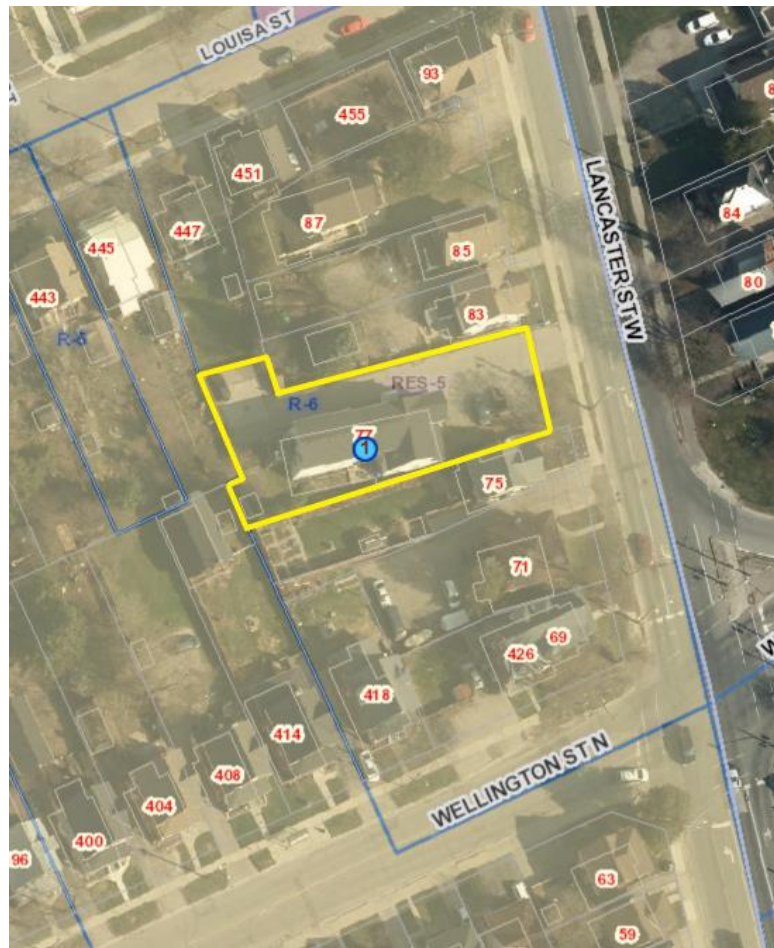
- The purpose of this report is to review and provide a recommendation for Minor Variance Application A2022-120.
- There are no financial implications.
- This report supports the delivery of core services.

#### **BACKGROUND:**

The subject property is located near the intersection of Lancaster Street West and Wellington St North. The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan. The property is zoned 'Residential Six Zone (R-6)' in Zoning By-law 85-1 and 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051, which is currently under appeal.

The application is requesting the variances to permit a reduction in the required parking from 9 to 8 parking spaces, a reduction in the number of visitor parking spaces from 2 to 1, and to recognize the location of parking in order to recognize the existing conditions of the subject property for a multiple dwelling containing 7 dwelling units.

City Staff conducted a site inspection of the property on September 30<sup>th</sup>, 2022.



**Figure 1: Location Map: 77 Lancaster Street West**



**Figure 2: Front view of 77 Lancaster Street West**

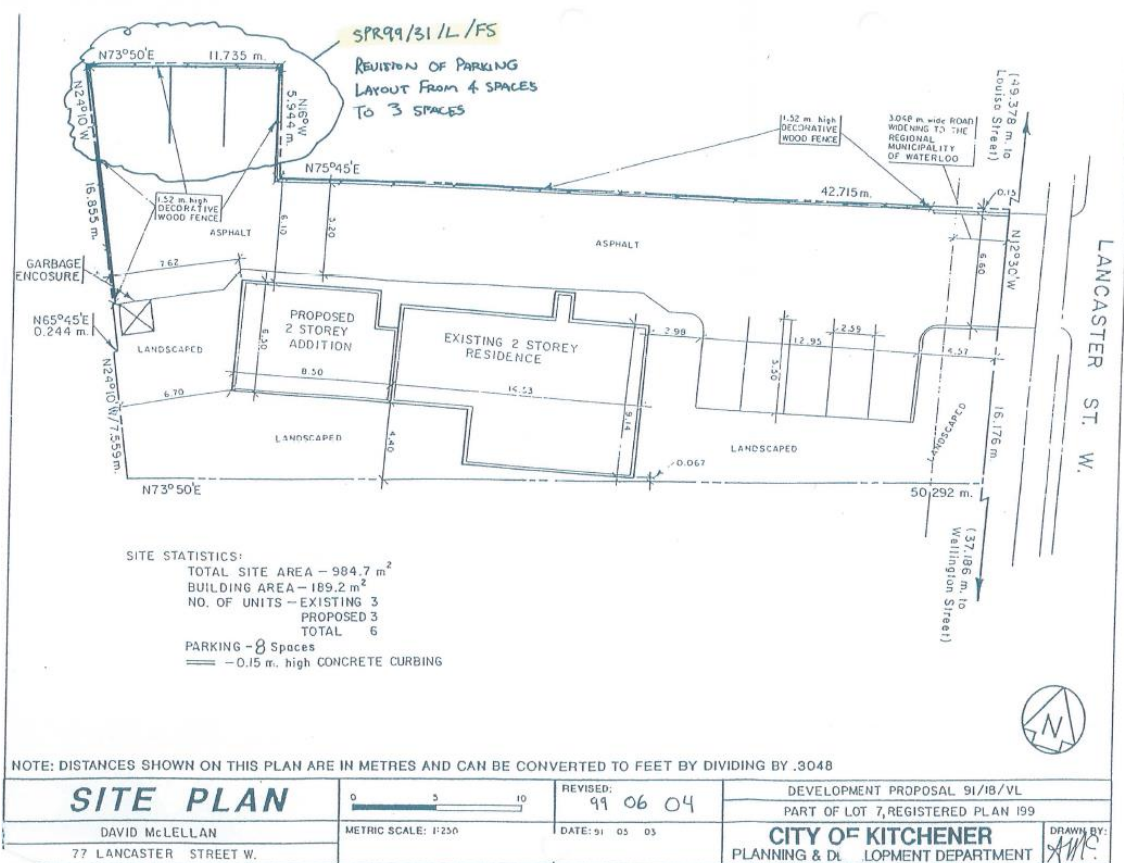


Figure 3: Site Plan

## 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 identified as 'Community Areas' on Map 2 - Urban Structure and is designated 'Low Rise Residential' on Map 3 - Land Use in the City's 2014 Official Plan. The intent of the Low Rise Residential designation is to accommodate a diverse range of low rise housing types while maintaining the character of the neighbourhood.

Staff is of the opinion that the minor variances to recognize the existing parking number of parking spaces in their current configuration to recognize a multiple dwelling, having 7 dwelling units, is consistent with the land use designation and the intent of the Official Plan.

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

The intent of the minimum parking and visitor parking requirements is to ensure the site provides enough parking spaces for both residents and visitors to the site. Residents are becoming less car-dependent and the existing parking spaces can accommodate the current needs of the site. Also, as the parking requirement of 1.14 parking spaces per dwelling unit, inclusive of visitor parking, will be very close to the parking requirement of 1.15 parking spaces per dwelling unit, inclusive of visitor

**CITY OF KITCHENER**  
 DEPARTMENT OF  
 BUSINESS AND PLANNING SERVICES

**SITE PLAN APPROVAL**  
 PURSUANT TO SECTION 41  
 OF THE PLANNING ACT

SIGNATURE: *[Signature]*  
 DATE: 1999 06 22

APPROVED PURSUANT TO CLAUSE  
 NO. 1.1(a) IN DEVELOPMENT AGREEMENT  
 REGISTERED AGAINST TITLE UNDER  
 INSTRUMENT NO. 199.3.2.6.4...  
 PERMITTING MINOR CHANGES TO THE  
 ORIGINAL SITE PLAN.

THE OWNER AGREES TO  
 DEVELOP AND MAINTAIN THE  
 SITE IN COMPLIANCE WITH  
 THE APPROVED SITE PLAN  
 AND ACKNOWLEDGES  
 RECEIPT OF ONE COPY OF  
 THE APPROVED SITE PLAN.

SIGNATURE: *[Signature]*  
 DATE: 07/06/99

parking, in new Zoning By-law 2019-051, staff is of the opinion that the minor variances to recognize the existing parking number and layout meets the intent of new Zoning By-law 2019-051.

The intent of locating the parking behind the building façade and a minimum 3 metres from the street line is to increase the aesthetics of the property in the neighbourhood. The current parking spaces in the front yard have existed, as indicated in the approved site plan, since 1999 without a history of complaint. Staff is of the opinion that it meets the intent of both Zoning By-law 85-1 and 2019-051.

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

Staff is of the opinion that the effects of the requested variances are minor as the reduced parking requirement, the reduction in the number of visitor parking spaces, and the location of the parking will not affect the neighbouring properties or negatively impact the functioning of the site.

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

The requested variances are desirable for the appropriate development and the use of land as they will recognize the existing parking configuration on the lot for the existing multiple dwelling which has intensified by an additional dwelling unit since the site plan was originally approved in 1999. The variances are desirable as they will recognize the gentle intensification of the existing building which has occurred within the existing structure and without major site alterations to the parking area.

**Environmental Planning Comments:**

No 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 77 Lancaster St W is located within the Mt Hope/Breithaupt 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:**

No concerns.

**Engineering Division Comments:**

No concerns.

**Parks/Operations Division Comments:**

No comments.

**Transportation Planning Comments:**

The applicant is unable to meet the parking requirements in either Zoning By-law 85-1 (1.25 spaces per unit) or new Zoning By-law 2019-051 (1.15 spaces per unit). The site currently has an existing parking ratio of 1.14 space per unit (8 spaces/7 units). Transportation Services can support the current 1.14 parking ratio and support the reduction in visitor parking from two to one parking space. Visitor parking space to be signed on site and noted on the site plan.

**CN Rail (CN Proximity) Comments:**

Thank you for circulating CN. It is noted that the subject site is located in proximity to the CN railway corridor. CN recommends that the following be implemented as a condition of approval:



- Registration of an environmental easement for operational noise and vibration emissions, in favor of CN.

Planning staff received comments CN Rail with respect to the proposed minor variance. CN has requested registration of an environmental easement for operational noise and vibration emissions given the proximity of the subject property to a Principal Branch Line, instead of the standard noise warning clauses in all development agreements, offers of purchase, agreements of purchase and sale or lease for each dwelling unit within 300 metres. Planning staff have followed up by email with CN Rail to obtain more information and details surrounding the condition. i.e. the reason for requesting this condition (residential uses are currently permitted); to whom should this condition be satisfied; details of the preparation and cost of the registration of the easement.

At the time of finalizing this staff report, Planning staff had not heard back from CN. In the interest of addressing CN Rail interest, staff propose the following condition:

*“That the applicant obtain and register an environmental easement for operational noise and vibration emissions in favour of Canadian National Railway (CN) at the sole discretion and to the satisfaction of CN.”*

### **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 2014)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-laws 85-1 and 2019-051*