

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: June 20, 2023

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

PREPARED BY: Adam Zufferli, Student Planner, 519-741-2200 ext. 7074

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: June 14, 2020

REPORT NO.: DSD-2023-269

SUBJECT: Minor Variance Application A2023-066 – 82 South Drive

RECOMMENDATION:

That Minor Variance Application A2023-066 for 82 South Drive requesting relief from the following sections of Zoning By-Law 2019-051:

- i) Section 4.12.3 i) to permit a lot width of 12.3 metres instead of the minimum required 13.1 metres;
- ii) Section 4.12.3 j) to permit a rear yard building setback of 0.45 metres instead of the minimum required 0.6 metres; and
- iii) Section 4.12.3 l) to permit a maximum building height of 5.0 metres instead of the maximum required 4.5 metres;

to facilitate the construction of an Additional Dwelling Unit (ADU) (Detached) in the rear yard of the property generally in accordance with drawings prepared by Ducon Contractors Ltd., dated May 2, 2023, **BE APPROVED.**

REPORT HIGHLIGHTS:

- The purpose of this report to review minor variances to permit the construction of an ADU (detached).
- The key finding of this report is that the minor variances meet 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 on South Drive between Glen Road and Perth Road and is near Lakeside Park.



Figure 1 - Subject Site – 82 South Dr



Figures 2 and 3 Front of Subject Site (Left) and Location of Future Additional Dwelling Unit (Right)

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 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051.

The purpose of the application is to review minor variances to permit the construction of an ADU (Detached). The subject property contains a primary dwelling, a single detached house, and a

detached accessory building currently used as an entertainment/storage space by the property owner. The ADU would replace the existing detached accessory building and construct an additional story of living space and a patio space. As a result, the building height of the ADU will be 5.0 metres instead of the maximum required 4.5 metres. The rear yard setback of the ADU will be 0.45 metres, which is an increase from the 0.31 metres setback of the existing detached accessory building.

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' in the City's Official Plan. This designation places emphasis on compatibility of building form with respect to massing, scale and design in order to support the successful integration of different housing types. It also places emphasis on the relationship of housing to adjacent buildings, streets and exterior areas. The ADU is similar in height, scale, and design to the primary dwelling and neighbouring properties. Staff is of the opinion that the ADU meets the general intent of the official plan.

General Intent of the Zoning By-law

Minimum Lot Width:

The intent of section 4.12.3 i) requiring a minimum lot width of 13.1 metres is to ensure that there are adequate side yard setbacks for the principal dwelling and the provision of access to the ADU. The minimum required side yard setback for an ADU of 0.6 metres is provided, and a walkway meeting the minimum width of 1.1 metres is also provided. The width of the ADU is 4.0 metres, leaving 7.72 metres of lot width for patio and yard space. It is the opinion of staff that the requested variance to permit a lot width of 12.35 metres instead of the minimum required 13.1 metres meets the general intent of the Zoning By-Law.

Minimum Rear Yard Setback:

The intent of section 4.12.3 j) requiring a minimum rear yard setback of 0.6 metres is to ensure minimal impact on neighbouring properties. Due to the slanted nature of the rear lot line, the rear yard setback reaches a minimum of 0.45 metres at one corner of the ADU and increases to 1.5 metres at the adjacent corner (See Attachment 1 – Site Plan). This rear yard setback is also an increase from the 0.31 metre setback of the existing accessory structure. It is the opinion of staff that the requested variance to permit a 0.45 metre rear yard setback instead of the minimum required 0.6 metres meets the general intent of the Zoning By-Law.

Maximum Height of ADU (Detached):

The intent of section 4.12.3 l) requiring a maximum height of 4.5 metres for a detached ADU is to ensure that additional dwelling units are not excessive in height and to ensure that neighbouring properties do not face walls. The ADU is similar in height to the primary dwelling and is a lesser height than primary dwellings of neighbouring properties. There are no neighbours that would directly face the ADU, and the minimum side yard setback of 0.6 metres is provided. It is the opinion of staff that the requested variance to permit a building height of 5.0 metres for the ADU instead of the maximum required 4.5 metres meets the general intent of the Zoning By-Law.

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

The variances can be considered minor as it is the opinion of staff that the requested variances will not present any significant impacts to neighbouring properties and the overall neighborhood. The lot is wide enough to accommodate an ADU, and the minimum walkway width of 1.1 metres is provided. The rear yard setback is calculated on a lot line that is slanted, so only a small portion the ADU

would only be in violation of the minimum required 0.6 metres (See Attachment 1 – Site Plan). The building height of 5.0 metres does not present any significant impacts to adjacent properties and is similar to the height of the primary dwelling.

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

The variances are appropriate for the development and use of the land as they will facilitate a gentle form of intensification of the subject property and assist in supporting the City's Housing Pledge.

Environmental Planning Comments:

No environmental planning concerns.

Heritage Planning Comments:

No heritage planning concerns.

Building Division Comments:

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

Engineering Division Comments:

No Comments.

Parks/Operations Division Comments:

No concerns or comments.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application.

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 2019-051*

ATTACHMENTS:

Attachment 'A' – Site Plan

