

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: June 20th, 2023

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 3

DATE OF REPORT: June 7th, 2023

REPORT NO.: DSD-2023-282

SUBJECT: Minor Variance Applications A2023-071 and A2023-072 and
Consent Application B2023-022 – 228 Connaught Street

RECOMMENDATION:

Minor Variance Application A2023-071 (Retained Lot)

A. That Minor Variance Application A2023-071 for 228 Connaught Street requesting relief from Section 5.3.3 c) i) of Zoning By-law 2019-051, to permit parking spaces to be located within the exterior side yard and within 3 metres of the exterior side lot line to support the parking requirement for the existing multiple dwelling (3 units), BE APPROVED.

Minor Variance Application A2023-072 (Severed Lot)

B. That Minor Variance Application A2023-072 for 228 Connaught Street requesting relief from Section 7.3, Table 7-2, (3) of Zoning By-law 2019-051 to permit a minimum front yard setback of 4.5 metres instead of the minimum required 7.25 metres to facilitate the construction of a single detached dwelling on a proposed severed parcel of land, BE APPROVED.

Consent Application B2023-022

C. That Consent Application B2023-022 for 228 Connaught Street requesting consent to sever a parcel of land having a lot width of 11.5 metres, a lot depth of 20.1 metres and a lot area of 235 square metres, BE APPROVED subject to the following conditions:

1. That Minor Variance Applications A2023-071 and A2023-072 receive final approval.
2. That the 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 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.

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

4. That the owner provides 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.
5. 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 prior to any grading, servicing or the application or issuance of a building permit, the owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Supervisor of Site Plans showing:
 - (i) the proposed location of all buildings (including accessory buildings and structures), decks and driveways;
 - (ii) the location of any existing buildings or structures to be removed or relocated;
 - (iii) the proposed grades and drainage;
 - (iv) the location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition;
 - (v) justification for any trees to be removed; and
 - (vi) outline tree protection measures for trees to be preserved; and
 - (vii) building elevation drawings.
 - (viii) If necessary, the plan shall include required mitigation and or compensation measures.
 - (ix) That the approved elevation drawings shall be implemented as approved or be substantively similar to the approved elevations as part of issuance of the building permit.
 - b) Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any changes or revisions to the plan require the approval of the City's Supervisor of Site Plans.
6. That the owner shall:
 - a) complete a Building Code Assessment for the existing dwelling proposed to be retained on the retained 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.
7. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.

8. That the Owner submit 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.
9. That the 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.
10. 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.
11. That the 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.
12. a) The Owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title of the severed and retained lands, which shall include the following:
 - i) That the owner shall prepare a Tree Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
 - ii) The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.
 - iii) The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life the development. OR
- b) Make arrangements regarding financial compensation for the tree(s) to be removed to the satisfaction of the City's Director of Parks & Cemeteries.
13. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.
14. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

REPORT HIGHLIGHTS:

- The purpose of this report is to review applications for minor variances and consent for the creation of a new single detached dwelling.
- 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 at the intersection of Fourth Avenue and Connaught Street in the Vanier neighbourhood. It is also within an Established Neighbourhoods Area (Appendix D). The surrounding area is characterized predominately by low-density residential uses in the form of single-detached housing and low-rise multiple dwellings. The land is currently a multiple dwelling containing three units. 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 approve the minor variances and the consent for the creation of a new single detached dwelling on the severed land.

City staff conducted a site visit on June 2nd, 2023.

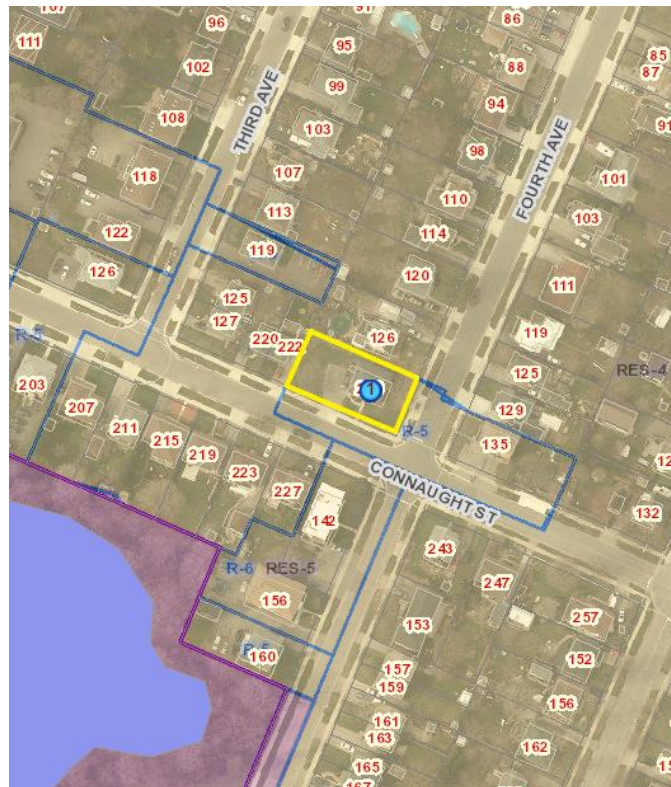


Figure 1: Aerial view of 228 Connaught Street



Figure 2: Street side yard view (location of severed parcel and rear yard)



Figure 3: Front view of the subject property

REPORT:

Planning Comments Minor Variance Application A2023-071 (Retained)

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

In the City's Official Plan, the intent of the Low-Rise Residential land use designation is to permit a variety of low-density residential uses, including single detached dwellings and low-rise multiple dwellings. Regarding the parking spaces located in the exterior side yard, Policy 4.C.1.8 e) supports the proposal as it will ensure the appropriate function of the lands and not create unacceptable adverse impacts for adjacent properties. The variance will support the continued use of the property for a multiple dwelling. Staff is of the opinion that the proposed minor variances maintain the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of the Zoning By-law of not locating parking spaces within the exterior side yard and within 3 metres of the exterior side lot line of a multiple dwelling is to maintain the neighbourhood aesthetics. As the driveway is currently existing and there are no proposed changes to the development or landscaping, staff is of the opinion that the location of the parking spaces will meet the general intent of the Zoning By-law.

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

The driveway is currently functioning for the existing three-unit multiple dwelling at the subject property. Staff is of the opinion that the requested variance is minor due to the existing conditions of the site.

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

Staff is of the opinion that the variance is desirable for the use of the land and building. The requested variance will result having 1 parking space per dwelling unit on the Retained Lot which will support the continued use on the site.

Planning Comments Minor Variance Application A2023-072 (Severed)

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

In the City's Official Plan, the general intent is to accommodate a full range of low density housing types which includes single detached dwellings. Policy 4.C.1.8 b) supports front yard setback reductions for new buildings in established neighbourhoods similar to adjacent properties and supports and maintain the character of the streetscape and neighbourhood. The proposed development is a single detached dwelling in an established neighbourhood of similar low-rise dwellings to the adjacent properties. The adjacent properties include housing types consisting of semi-detached dwellings, single detached dwellings, and low-rise multiple dwellings. Staff is of the opinion that the proposed variance meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of the Zoning By-law of the required front yard setback is to support the existing conditions of the neighbourhood and provide sufficient parking space for the development. According to Appendix 'D', the front yard setback is calculated to be minimum 7.25 metres, the proposed development of 4.5 metres setback remains the general intent of the Zoning By-law as the development transitions from the adjacent semi-detached property located on the West and the retained lands on the East. The new single detached dwelling is proposing an attached garage as a part of the development, which will allow sufficient off-street parking. Staff is of the opinion that the proposed variance meets the general intent of the Zoning By-law.

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

The location of the proposed single detached dwelling will not have any unwanted adverse impacts to the adjacent properties or the neighbourhood and maintain the setback pattern and character of the streetscape.

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

Staff is of the opinion that the variance is appropriate for the use of land and building as it will still maintain the streetscape while supporting a gentle intensification in the established neighbourhood.

Planning Comments Consent Application B2023-022:

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

Provincial Policy Statement (PPS 2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Section 1.4.3(b) of the PPS promotes all types of residential intensification, and sets out a policy framework for sustainable healthy, liveable and safe communities. The PPS promotes efficient development and land use patterns, as well as accommodating an appropriate mix of affordable and market-based residential dwelling types with other land uses, while supporting the environment, public health and safety. Provincial policies promote the integration of land use planning, growth management, transit-supportive development, intensification, and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.

Planning staff is of the opinion that the proposed application will facilitate a form of gentle intensification of the subject property with the creation of new lot for a future single detached dwelling that is compatible with the surrounding community and will make use of the existing infrastructure. Planning staff is of the opinion that this proposal is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

The Growth Plan supports the development of complete and compact communities that are designed to support healthy and active living, make efficient use of land and infrastructure, provide for a range and mix of housing types, jobs, and services, at densities and in locations which support transit viability and active transportation. The subject lands are in close proximity to high order transit and the subject lands are in closer proximity to trails and parks.

Policy 2.2.6.1(a) Municipalities will support housing choice through the achievement of the minimum intensification and targets in this plan by identifying a diverse range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents.

The subject lands are located within the City's delineated built-up area. The consent application to sever the multiple dwelling to create a single detached dwelling, is consistent with the Growth Plan.

Regional Official Plan (ROP):

Urban Area policies of the ROP identify that the focus of the Region's future growth will be within the Urban Area. The subject lands are designated Built-Up Area in the ROP. The proposed development conforms to Policy 2.D.1 of the ROP as this neighbourhood provides for the physical infrastructure and community infrastructure to support the proposed residential development, including transportation networks, municipal drinking-water supply and wastewater systems, and a broad range of social and public health services. Regional policies require Area Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical,

social, economic and personal support needs of current and future residents. Planning staff are of the opinion that the severance application conforms to the Regional Official Plan.

City's Official Plan (2014)

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 Official Plan.

Section 17.E.20.5 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding infill development and lot creation (Consent Policies). These policies state the following:

- “17.E.20.5 Applications for consent to create new lots will only be granted where:
- a) the lots comply with the policies of this Plan, any Community Plan and/or Secondary Plan, and that the lots are in conformity with the Zoning By-law, or a minor variance has been granted to correct any deficiencies;
 - b) the lots reflect the general scale and character of the established development pattern of surrounding lands by taking into consideration lot frontages, areas, and configurations;
 - c) all of the criteria for plan of subdivision are given due consideration;
 - d) the lot will have frontage on a public street;
 - e) municipal water services are available;
 - f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;
 - g) a Plan of Subdivision or Condominium has been deemed not to be necessary for proper and orderly development; and,
 - h) the lot(s) will not restrict the ultimate development of adjacent properties.”

Zoning By-law 2019-051

The subject property is zoned as 'Residential Four (RES-4)' in Zoning By-law 2019-051. The 'RES-4' zone permits a range of low-density dwelling types such as single detached, semi-detached, multiple dwellings, and duplex dwellings. 'RES-4' Zone for a single detached dwelling requires a minimum lot width of 9 metres and a minimum lot area of 235 square metres. 'RES-4' Zone for a multiple dwelling requires a minimum lot width of 15 metres and a lot area of 495 square metres. The proposed lot width and lot area of the proposed severed and retained lots meet the minimum of 'RES-4' Zone lot width and lot area requirements.

Planning Conclusions/Comments:

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the creation of the severed lot is desirable and appropriate. The uses of both the severed and retained parcels are in conformity with the City's Official Plan and Zoning By-law. Planning staff is of the opinion that the size, dimension, and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. Staff is further of the opinion that the proposal is consistent with the Region of Waterloo Official Plan, the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe and is good planning and in the public interest.

Environmental Planning Comments:

The following condition should be applied:

1. 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 prior to any grading, servicing or the application or issuance of a building permit, the owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Supervisor of Site Plans showing:
 - (i) the proposed location of all buildings (including accessory buildings and structures), decks and driveways;
 - (ii) the location of any existing buildings or structures to be removed or relocated;
 - (iii) the proposed grades and drainage;
 - (iv) the location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition;
 - (v) justification for any trees to be removed; and
 - (vi) outline tree protection measures for trees to be preserved; and
 - (vii) building elevation drawings.
 - (viii) If necessary, the plan shall include required mitigation and or compensation measures.
 - (ix) That the approved elevation drawings shall be implemented as approved or be substantively similar to the approved elevations as part of issuance of the building permit.
 - b) Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any changes or revisions to the plan require the approval of the City's Supervisor of Site Plans.

Heritage Planning Comments:

No concerns.

Building Division Comments:

No concerns, conditions provided.

Engineering Division Comments:

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.
- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate sanitary, storm and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to Katie Wood (katie.wood@kitchener.ca).
- Any new driveways are to be built to City of Kitchener standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
- A Development Asset Drawing (digital AutoCAD) is required for the new site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- The owner must ensure that the basement elevation of the building can be drained by gravity to the street sewers. If this is not the case, then the owner would have 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.

Parks/Operations Division Comments:

Cash-in-lieu of park land dedication will be required on the severed parcel as 1 new development lot will be created. The cash-in-lieu dedication required is **\$11,862.00**. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 11.590.06m at a land value of \$36,080 per frontage meter with a per unit cap of \$11,862.00.

A City-owned tree will be impacted by the proposed development and the owner shall fulfill one of the following options:

1. Enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title of the severed and retained lands, which shall include the following:
 - a. That the owner shall prepare a Tree Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.
 - b. The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.
 - c. The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life the development. **OR**
2. Make arrangements regarding financial compensation for the tree(s) to be removed to the satisfaction of the City's Director of Parks & Cemeteries.

Transportation Planning Comments:

No concerns.

Region of Waterloo Comments:

The purpose of the application is to sever the western portion of the property in order to create one (1) new lot for single-detached dwelling in addition to the existing lot (dwelling to remain).

Airport Zoning Regulations (Advisory Comments)

Although there are no specific concerns for the proposed development from an airport perspective, the owners are advised that the subject lands are within the Airport Zoning Regulated area (AZR), specifically located under the airport take-off/approach runway flight path and are subject to all provisions of the AZR. Residents may be subject to noise and presence from flying aircraft.

Source Water Protection

For information, the property is designated Wellhead Protection Sensitivity Area 8 on Map 6a of the Regional Official Plan (ROP). The purpose of this designation and corresponding policies in Chapter 8 of the ROP, is to protect the Region's long term municipal groundwater supplies. No action is required by the applicant.

Regional Fee

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

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

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

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 (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*