

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: April 18, 2023

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

PREPARED BY: Arwa Alzoor, Planning Technician, 519-741-2200 ext. 7847

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: March 21, 2023

REPORT NO.: DSD-2023-141

SUBJECT: Minor Variance Application A2023-040 – 245 Wellington Street N.

RECOMMENDATION:

Zoning By-law 2019-51

That Minor Variance Application A2023-040 for 245 Wellington Street North requesting relief from Section 7.3, Table 7-6, of Zoning By-law 2019-051 to recognize and permit an existing side yard setback of 2 metres instead of the minimum required 3 metres for a multiple dwelling to facilitate the conversion of an existing Single Detached Dwelling to a Multiple Dwelling containing 4 dwelling units, in accordance with drawings prepared by Simon Wong and MW Drafting and Design Inc., dated February 21, 2023, BE APPROVED subject to the following conditions:

1. That the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property.
2. That the Owner shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:

“Warning: The Applicant is advised that the subject land is located within Metrolinx’s 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion

of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units”.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance to facilitate the conversion of a single detached dwelling to a multiple dwelling with 4 dwelling units.
- The key finding of this report is that the requested minor variance meets the 4 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 north of Victoria Street North and west of Lancaster Street West. It currently contains an existing two-storey single detached dwelling.

The purpose of this application is to allow for an additional 3 units to be developed within the existing single detached dwelling, for a total of 4 dwelling units. The applicant is proposing a parking area in the rear which will provide 5 parking spaces.

The subject property is identified as 'Major Transit Station Area' 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 'RES-4: Low Rise Residential Four Zone' in Zoning By-law 2019-051.

The purpose of the application is to review a minor variance to permit and recognize an existing side yard setback of 2 metres whereas a multiple dwelling requires a minimum side yard setback of 3 metres.

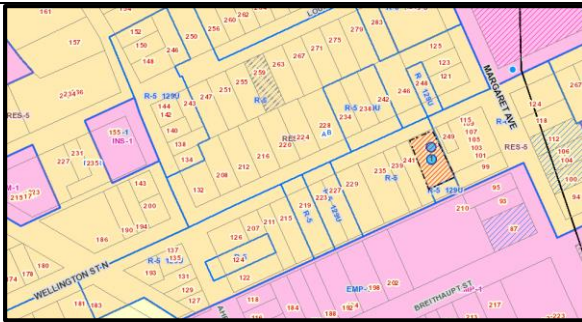


Figure 1- Location of the subject property on the City Zoning Map

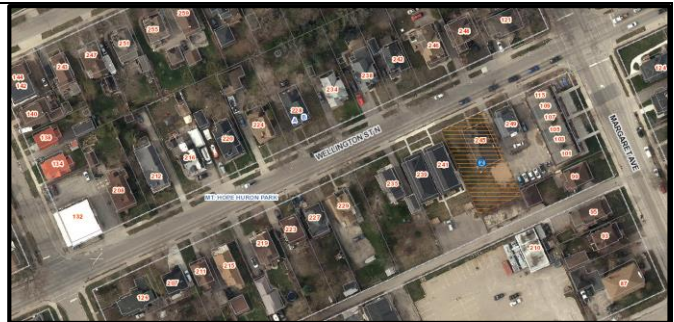


Figure 2- Location of the subject property on Google Earth view

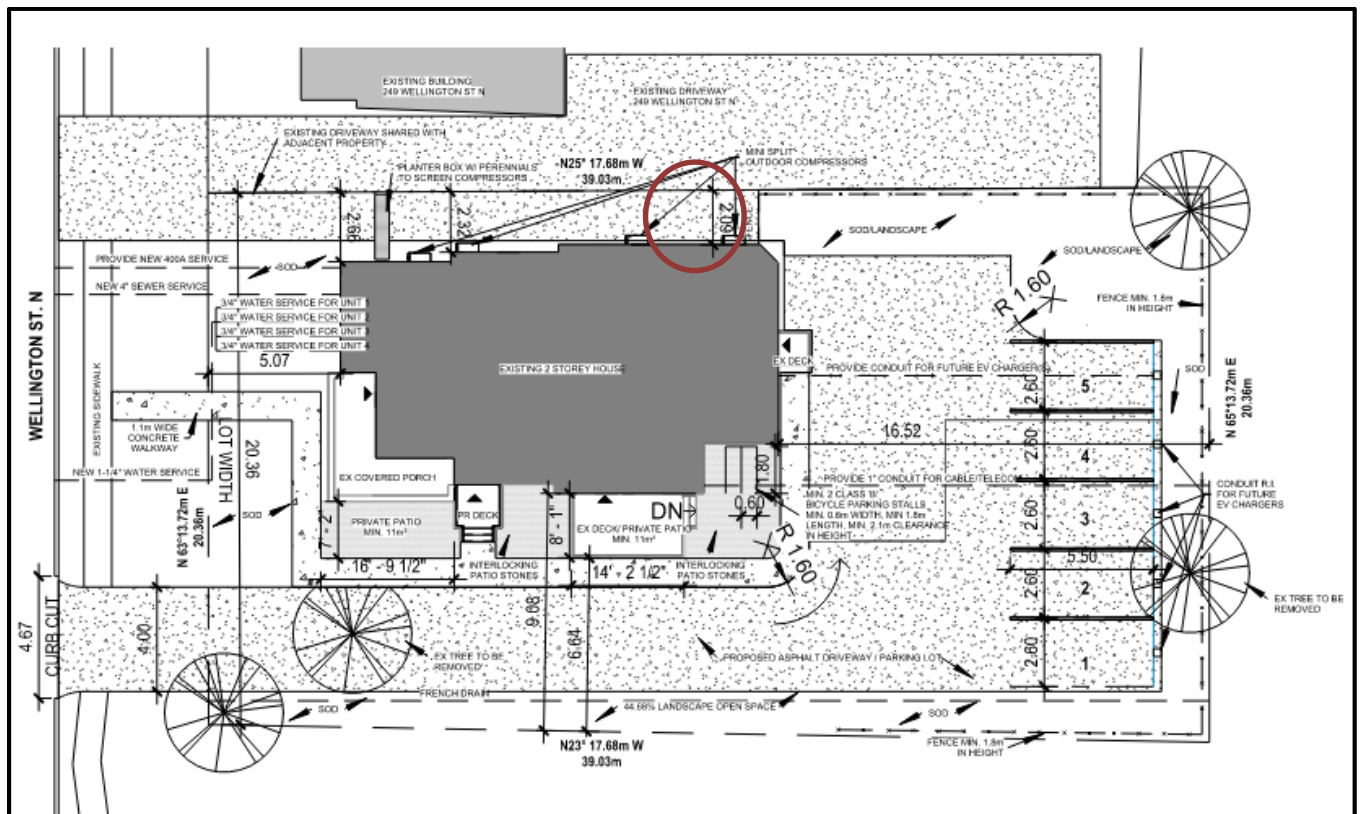


Figure 3 – Proposed Site Plan

Planning staff conducted a site inspection on Friday March 31st, 2023



Figure 4 - Front view of the existing house



Figure 5 - Front and side view of the existing house



Figure 6 - Rear view of the existing house



Figure 7 - Existing rear yard where the proposed parking lot will be located



Figure 8 - Rear view of the 2.09 m side yard



Figure 9 - Front view of the 2.09 m side yard

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'. This designation accommodates a full range of low density housing types which may include single detached dwellings, additional dwelling units, attached and detached, low-rise multiple dwellings, and other forms of low-rise housing. The City encourages and supports the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form.

A low-rise multiple dwelling is a permitted use in this land use designation and would be compatible with the various housing forms in the area. Accordingly, it is Planning staff's opinion that the general intent of the Official Plan is maintained.

General Intent of the Zoning By-law

The intent of the side yard setback regulation is to ensure that the dwelling has sufficient separation from abutting properties, some amenity space and to provide for access to the rear yard. The existing building has a side yard setback of about 9.0 metres on the other side of the building which will accommodate vehicular and pedestrian access to the rear yard and amenity space and also accommodate some decks and steps. In addition, the existing 2 metre side yard setback is a sufficient setback in this location to also provide appropriate access to the rear yard while providing space for any air conditioning units or other outdoor equipment.

Based on the above, staff is of the opinion that the general intent of the zoning by-law is being maintained.

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

The 3 additional dwelling units are proposed to be accommodated within the existing building and as the built form and general appearance of the building will be maintained, and all other zoning requirements will be met, the effects of the variance to facilitate additional dwelling units will be minor.

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

The variance to allow a reduced side yard setback is desirable and appropriate as it allow for gentle intensification of the subject property and support the City's Housing Pledge.

Environmental Planning Comments:

The subject property does have some trees at the rear lot line, and possibly in shared ownership, being on or very close to the property line.

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 245 Wellington Street North 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:

The Building Division has no objections to the proposed variance. A Building Permit Application has been made to change the use to a fourplex and it is currently under review.

Engineering Division Comments:

No comments.

Parks/Operations Division Comments:

Parkland Dedication will be required for the **fourth** residential unit to be paid prior to the issuance of the Building Permit.

There are existing City-owned street trees at the front of the property that will be impacted by the proposed development and suitable arrangements – either to protect the existing tree or provide full financial compensation – will be required to the satisfaction of Parks and Cemeteries prior to the issuance of the Building Permit.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application.

Region of Waterloo Comments:

No Concerns.

Ministry of Transportation Operations (MTO) Comments:

No requirements.

Metrolinx Comments:

Metrolinx is in receipt of the minor variance application for 245 Wellington St North to construct a multiple dwelling with 4 units. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300 meters of Metrolinx's Guelph Subdivision which carries Metrolinx's Kitchener GO Train service.
- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact <Derek.Brunelle@metrolinx.com> with questions and to initiate the registration process.
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor :
 - Warning: Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. There may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Grand River Conservation Authority (GRCA) Comments:

GRCA has no objection to the approval of the above application. The subject property does not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The property is not subject to Ontario Regulation 150/06 and, therefore, a permission from GRCA is not required.

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 2019-051*