

Staff Report



Development Services Department

www.kitchener.ca

REPORT TO: Committee of Adjustment

DATE OF MEETING: July 18, 2023

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

PREPARED BY: Eric Schneider, Senior Planner, 519-741-2200 ext. 7843

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: July 7, 2023

REPORT NO.: DSD-2023-312

SUBJECT: Minor Variance Application A2023-087 - 30-40 Margaret Avenue
Consent Application B2023-026 - 30-40 Margaret Avenue

RECOMMENDATION:

Minor Variance Application A2023-087

A. That Minor Variance Application A2023-087 for 30-40 Margaret Avenue requesting relief from the following sections of Zoning By-law 85-1:

- i) Section 5.6.1 a) to permit steps with a height of 1.2 metres within 3 metres of a street line, whereas a maximum of height of steps of 0.6 metres within 3 metres of a street line is permitted;
- ii) Section 6.2 a) to permit a parking requirement of 1.14 parking spaces per dwelling unit (54 parking spaces), instead of the minimum required 1.25 parking spaces per unit (59 parking spaces);
- iii) Section 6.2 b) vi) c) to permit a visitor parking rate of 12.9% (7 parking spaces) instead of the minimum required 20% visitor parking rate (11 parking spaces);
- iv) Section 42.6 to permit an interior side yard setback of 3.6 metres instead of the minimum required interior side yard setback of 6 metres;
- v) Special Regulation Provision 551R to permit a front yard setback of 3.4 metres instead of the minimum required front yard setback of 4.5 metres;

to facilitate a multiple residential development in accordance with Site Plan Application SP22/187/M/AP, BE APPROVED.

Consent Application B2023-026

B. That Consent Application B2023-026 requesting consent to sever a parcel of land as a lot addition to 12 Margaret Avenue/116 Queen Street North having a lot width of 1.8 metres, a lot depth of 57.5 metres and a lot area of 103.5 square metres, BE APPROVED subject to the following conditions:

1. 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,

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

if required.

2. 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.
3. 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.
4. That the lands to be severed be added to the abutting lands and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.
5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.
6. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
7. That the Owner shall grant Metrolinx an environmental easement over the Retained Lands for operational emissions, to the satisfaction of Metrolinx.
8. That the Owner shall provide confirmation to Metrolinx for the Retained Lands, 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, to the satisfaction of Metrolinx:

“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 an application for minor variance to facilitate the construction of 47 townhouse units in a multiple residential development, and an application for consent for a lot addition to facilitate a land transfer for an access lane.
- 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 the North side of Margaret Avenue between Victoria Street North and Queen Street North. The lot is irregular in shape and is currently vacant.



Figure 1: Location of Subject Property

Through Site Plan Application SP22/187/M/AP, the applicant is dedicating approximately 0.1 hectares of land for parkland to the City on the eastern side of the subject property as part of parkland dedication requirements (shown in hatched on site plan below). To the east of the proposed park, there is a 1.8 metre strip of land owned by applicant Activa Holdings Inc. that is subject to easement Instrument No. 1411856 which acts as a shared access easement between the subject lands and the adjacent property at 12 Margaret Avenue/116 Queen Street North owned by Church of the Good Shepherd.

The subject property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Medium Density Multiple Residential' on Map 9 – Civic Centre Secondary Plan in the City's Official Plan.

The property is zoned 'Residential Eight Zone (R-8)' with Special Regulation Provision 551R in Zoning By-law 85-1.

The purpose of the application is to facilitate the development of the lands with 47 townhouse units in a multiple dwelling development, and to facilitate the access to adjacent lands through a land transfer.



Figure 4: View of Vacant Site (June 30, 2023)

REPORT:

Planning Comments Minor Variance Application A2023-087:

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 intent of the "Medium Density Multiple Residential" land use designation within the Civic Centre Secondary Plan area is to permit some integrated, medium density redevelopment on Margaret Avenue and Queen Street North while maintaining the overall residential character of the neighbourhood. The design of the townhouse development, including building type and materials,

have been considered through a Heritage Impact Assessment completed as part of the site plan approval process. Staff is of the opinion that the proposed development will provide an opportunity for redevelopment while maintaining the residential character of the neighbourhood, and therefore the requested variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

Front yard setback

The intent of the regulation that requires a front yard setback of 4.5 metres is to allow for sufficient separation of buildings from the street line, and to provide for adequate front yard area. Due to the irregular shape of the rear lot line, the proposed placement of townhouse blocks facing the rear lot line is designed to adequately buffer and separate them from the existing residential lots on Ellen Street West. It is preferred to maintain this buffer from the rear lot lines of Ellen, to provide for adequate separation of buildings. The requested variances are required for Blocks E and H. The two inner blocks (F and G) are meeting the minimum front yard setback requirement. Staff is satisfied that the proposed front yard of 3.4 metres for a portion of the frontage of the lot is adequate for front yard area on this unit typology. The front yards are proposed to be integrated with the streetscape (an additional 2 metres of land between the front lot line and the existing municipal sidewalk) by providing plantings and walkways leading from unit entrances to the municipal sidewalk. Staff is of the opinion that the requested variance for reduction to front yard setback meets the general intent of the Zoning By-law.



Figure 5: Rendering of proposed buildings along Margaret Avenue (Martin Simmons Sweers)

Interior side yard setback

The intent of the regulation that requires an interior side yard setback of 6 metres is to provide an adequate separation of buildings, address privacy concerns, and provide for site functionality. The proposed side yard setback of 3.6 metres is caused by the land conveyance of parkland to the City on the Eastern side of the subject property. The 3.6 metre setback is calculated post conveyance of land. Prior to the conveyance of parkland, the building setback to the side property line is approximately 26 metres. Staff acknowledge that the interior side yard requirement when abutting an integrated park feature is different in nature than if it were to be abutting another potential development lot. Staff are satisfied that the proposed 3.6 metre interior side yard setback to the new interior lot line abutting the parklands is adequate to provide building separation, address privacy

concerns, and provide for site functionality. Therefore, Staff is of the opinion that the requested variance for reduction to interior side yard setback meets the general intent of the Zoning By-law.

Parking Reduction (Overall and Visitor)

The intent of the regulations for minimum parking and visitor parking is to provide for adequate vehicle storage on site. The subject lands are zoned under By-law 85-1, which has parking rates that were established prior to the construction and operation of the region's light rail transit system. The subject lands are now located within a Major Transit Station Area and are approximately 600 metres walking distance from the Kitchener City Hall Ion Station Stop. Lands within an MTSA are appropriate for consideration of reductions to overall and visitor parking rates as greater transit options and active transportation options can facilitate a more diverse modal split of transportation for future residents. In addition, cycling lanes are currently being constructed on Margaret Avenue across the street from the subject lands. Staff is of the opinion that the proposed rate of 1.1 spaces per unit for overall parking (54 parking) and 12.9% (7 visitor spaces) will provide adequate vehicle storage for the proposed 47 residential units based on the location of the site and the building typology. Therefore, Staff is of the opinion that the requested variances for parking reduction meets the general intent of the Zoning By-law.

Access Steps

The intent of the regulation that restricts the height of steps to 0.6 metres within 3 metres of a street line is to maintain visibility for pedestrians, cyclists and motorists and to maintain an adequate separation between private property and the public realm. The access design on the subject lands allows for an adequate Driveway Visibility Triangle, and ample separation of the access steps/unit entrances from the two proposed vehicular access aisles. Staff is satisfied that the requested variance will not cause visibility concerns. Therefore, Staff is of the opinion that the requested variance for an increase in height of access steps within 3 metres of a street line meets the general intent of the Zoning By-law.

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

The effects of the requested variances are not expected to cause adverse impacts to the abutting lands or surrounding neighbourhood. Staff are of the opinion that effects of the variances are minor.

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

The proposed development makes use of the existing vacant lands within an established neighbourhood and is appropriate for the use of the lands based on the land use and designation in the Civic Centre Secondary Plan area. The requested variances to facilitate this development are appropriate when considering the site context, features, and location within the central part of the City. Staff are of the opinion that the requested variances are desirable for the appropriate development and use of the lands.

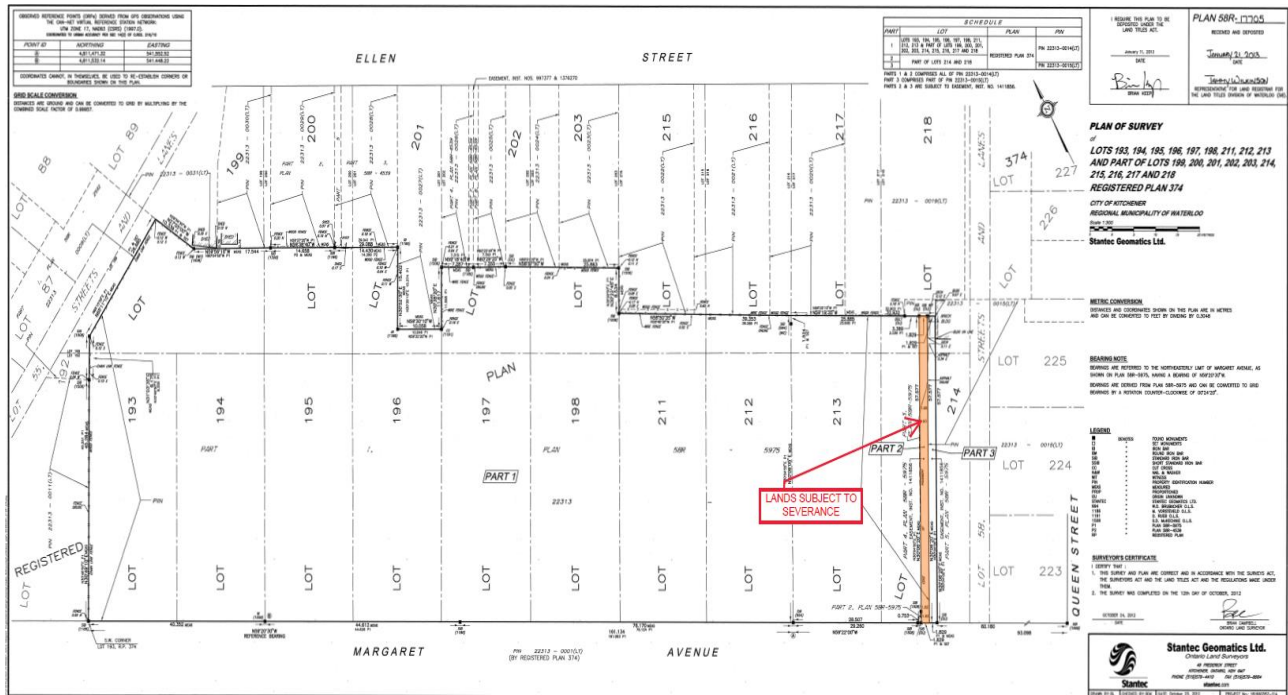


Figure 6: Severance Sketch (Stantec Geomatics Ltd.)

Planning Comments Consent Application B2023-026:

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

Provincial Policy Statement (PPS 2014)

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 accommodate an appropriate mix of residential dwelling types by providing a townhouse multiple dwelling building typology. This type of development is compatible with the surrounding community and will make use of the existing infrastructure. No new public roads would be required for the proposed development. 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 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 proposed development represents intensification and will contribute towards achieving the City's intensification density targets. The severance application will help make efficient use of existing infrastructure, parks, roads, trails and transit. Planning staff is of the opinion that the development proposal conforms to 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 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Medium Density Multiple Dwelling' on Map 9 – Civic Centre Secondary Plan in the City's Official Plan.

Section 17.E.20.4 of the Official Plan discusses consent applications for boundary adjustments.

"17.E.20.4 Consents may be permitted for the creation of a new lot, boundary adjustments, rights of-way, easements, long-term leases and to convey additional lands to an abutting lot provided an undersized lot is not created.

No new development lot will be created for this boundary adjustment. Staff are of the opinion that the proposed consent conforms to the City's Official Plan.

Zoning By-law 85-1

The subject property is zoned as 'Residential Eight Zone (R-8)' with Special Regulation Provision 551R in Zoning By-law 85-1. The proposed boundary adjustment for lands to be conveyed to the church property at 12 Margaret Avenue/116 Queen Street North of 1.8 metres in width does not result in a noncompliance of the minimum lot width or lot area requirements in effect on the subject lands. Staff are of the opinion that the proposed boundary adjustment conforms to the City's Zoning By-law.

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 proposed boundary adjustment is desirable and appropriate.

Environmental Planning Comments:

No natural heritage issues.

Heritage Planning Comments:

The subject properties are designated under Part V of the Ontario Heritage Act and are located within the Civic Centre Neighbourhood Heritage Conservation District. There are no concerns with the proposed variances to parking, the side yard setback, or the maximum height of access steps.

There are no concerns with the proposed variance to the front yard setback provided that the front streetscape layout can still support an appropriate level of landscaping in order to ensure the new development established a strong relationship to the street, per the requirements of the Civic Centre Neighbourhood Heritage Conservation District Plan. Other heritage concerns and requirements are being addressed through SP22/187/M/AP.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permits for the townhouses are obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions. The Building Division has no objections to the proposed consent.

Engineering Division Comments:

As this is a land transfer between two existing properties Engineering has no concerns.

Parks/Operations Division Comments:

Parks and Cemeteries concerns and requirements have been addressed through SP22/187/M/AP.

Transportation Planning Comments:

Minor Variance: Based on the 54 parking spaces being provided for 47 units (1.14 spaces per unit), of which 7 (12.9%) parking spaces are allocated to visitor parking, Transportation Services are supportive of these parking rates.

Consent: Transportation Services have no concerns with the proposed application.

Region of Waterloo Comments:

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

1. That prior to final approval, the owner/applicant submit the Regional consent review fee of \$350.00

Metrolinx Comments:

Metrolinx is in receipt of the consent and minor variance application for 30-40 Margaret Ave, Kitchener. Metrolinx understands the consent application is for a proposed lot addition (1.82 m by 0.01 hectares) to 12 Margaret Ave, from the adjacent parcel, in order to allow the entirety of the existing access lane to be under ownership of the Church of the Good Shepard. We understand the minor variance application is to facilitate reductions as they relate to parking, front yard setback, side yard setback and access step projections for the proposed townhouse development. Metrolinx's comments on the subject application are noted below:

The subject property is located within 300m 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 Farah.Faroque@metrolinx.com with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).

Metrolinx notes that they are a stakeholder that has provided comments on the comprehensive application including Site Plan Application. If the easement has not yet been initiated,

please do so by contacting the above. If the easement has already been initiated, the lot lines may need to be adjusted according to the proposed consent.

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: 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.”

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 85-1*

ATTACHMENTS:

No attachments.