

Staff Report

Development Services Department



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REPORT TO: Committee of Adjustment

DATE OF MEETING: August 15, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
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PREPARED BY: Craig Dumart, Senior Planner, 519-741-2200 ext. 7073

WARD(S) INVOLVED: Ward 5

DATE OF REPORT: August 2, 2023

REPORT NO.: DSD-2023-348

SUBJECT: Minor Variance Application A2023-090 – 2-56 Benninger Drive

RECOMMENDATION:

That Minor Variance Application A2023-090 for 2-56 Benninger Drive requesting relief from Section 5.6, Table 5-5, of Zoning By-law 2019-051 to permit a maximum parking requirement, including Visitor Parking, of 1.6 parking spaces per dwelling unit (45 parking spaces) instead of the maximum permitted 1.4 parking spaces per dwelling unit (40 parking spaces) and relief from Site-Specific Provision 303 of Zoning By-law 2019-051 to permit a rear yard setback of 1.2 metres instead of the minimum required rear yard setback of 7 metres, to facilitate a multiple residential development having 28 dwelling units in accordance with Site Plan Application SP22/138/B/CD, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review and recommend approval of minor variances to facilitate the development of 28-unit stacked townhouse development on the subject property.
- 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 a vacant parcel of land located at the intersection of Ottawa Street South and Benninger Drive. The neighbourhood is developed with a mix of low rise and institutional uses that are at various stages of development in the plan of subdivision.



Figure 1: Location Map – 2-56 Benninger Drive

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) with Site-Specific Provisions 297, 301 and 303' in Zoning By-law 2019-051

The purpose of the minor variance application is to facilitate the construction of a 28-unit stacked townhouse development with a rear yard setback of 1.2 metres instead of the minimum required 7.0 metres and to permit a maximum parking requirement, including Visitor Parking, of 1.6 parking spaces per dwelling unit (45 parking spaces) instead of the maximum permitted 1.4 parking spaces per dwelling unit (40 parking spaces).



Figure 2: Existing site conditions at 2-56 Benninger Drive

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 of Kitchener's Official Plan. The intent of the Low-Rise Residential land use designation is to permit a variety of low-density residential uses with up to a maximum Floor Space Ratio (FSR) of 0.75. Within this designation, emphasis is placed on compatibility of built form with respect to massing, scale, and design to ensure a cohesive relationship with adjacent buildings, streets, and exterior areas. The proposed 28-unit stacked town house development is a compatible built form and is an appropriate use on the residential property and compatible with the surrounding neighbourhood. Therefore, planning staff is of the opinion that the requested variances meet the general intent of the City's Official Plan.

General Intent of the Zoning By-law

The intent of the 7.0 metre rear yard setback requirement for stacked townhouse dwellings (multiple dwellings) is to ensure there is an adequate rear yard for amenity space, parking, landscaping and a buffer provided to adjacent properties. The subject lands have frontage on both Benninger Drive and Ottawa Street South. Ottawa Street South is the front yard while Benninger Drive is an exterior side yard (side yard abutting a street) The requested variance is to reduce the rear yard (which is the opposite yard from Ottawa Street) from 7.0 metres to 1.2 metres as the rear yard functions as a side yard, and the side yard

(opposite yard from Benninger Drive) functions as a rear yard that provides a 15 metre setback. The 15 metre side yard setback that functions as a rear yard provides for parking, landscaping, and a retaining wall.

The intent of the maximum 1.4 parking spaces per dwelling unit requirement including visitor parking is to promote the use of active transportation and alternative modes of transportation and limit the reliance on vehicles. Furthermore, the maximum parking rate ensures that developments are not dominated by vehicular parking and surplus parking when alternative modes of transportation are available. The subject lands are not located within close proximity to transit or bike lanes/trails and the increase from 1.4 to 1.6 parking spaces per unit will not result in a development dominated by parking as adequate on-site amenity space and landscaping have been provided on the site plan which has received 'Conditional Site Plan Approval'.

Therefore, staff is of the opinion that the reduction in the minimum rear yard setback and the increase in the maximum permitted parking requirement meets the general intent of the Zoning By-law.

Is the Effects of the Variance Minor?

The requested variance to allow for a rear yard setback of 1.2 metres and an increase in the maximum parking requirement of 1.6 parking spaces per dwelling unit is minor in nature. Staff is of the opinion that the requested reduction in the rear yard setback and increase in maximum parking requirement will allow for the development of a 28-unit stacked townhouse development with adequate landscaping, and amenity space that is compatible and appropriate for the use of the subject property and will not negatively impact any of the adjacent properties or surrounding neighbourhood.

Is the Variance Desirable For The Appropriate Development or Use of the Land?

The variances are desirable and appropriate for the development and use of the land as they will facilitate the development of a stacked townhouse development. The proposed scale, massing, and setbacks of the proposed buildings are compatible and will support the planned vision of the subdivision and the surrounding area assisting in the provision of a variety of dwelling types.

Environmental Planning Comments:

Environmental Planning Staff have no concerns to the proposed variances.

Heritage Planning Comments:

Heritage Planning Staff have no concerns to the proposed variances.

Building Division Comments:

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

Engineering Division Comments:

Engineering staff have no concerns to the proposed variances.

Parks/Operations Division Comments:

Park and Operations staff have no concerns to the proposed variances.

Transportation Planning Comments:

As part of this minor variance application, MHBC submitted justification for the requested parking variance which Transportation Services have reviewed and support.

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*

ATTACHMENTS:

Attachment A – Site Plan SP22/185/B/CD