

Staff Report



Development Services Department

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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: Arwa Alzoor, Planning Technician (Site Development) 519-741-2200
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WARD(S) INVOLVED: Ward 10

DATE OF REPORT: June 22, 2023

REPORT NO.: DSD-2023-292

SUBJECT: Minor Variance Application A2023-084 - 151 Frederick Street

RECOMMENDATION:

That Minor Variance Application A2023-084 for 151 Frederick Street requesting relief from Section 5.6B a) of Zoning By-law 85-1 to allow a restaurant patio to be located 22 metres from Residentially zoned property instead of the minimum required 30 metres, to facilitate adding an outdoor restaurant patio in the exterior side yard of a building that contains an existing restaurant use, generally in accordance with drawings prepared by Dfy Studio, dated May 12, 2023, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of a minor variance to facilitate adding a restaurant patio in the exterior side yard of an existing building with a restaurant use.
- The key finding of this report is that the requested minor variances meet 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 west of Lancaster Street East on Frederick Street. It currently contains a mixed-use commercial building and a restaurant on the under-ground/ground floor.

The subject property is identified as a 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'High Density Commercial Residential' on Map 20 Central Frederick Neighbourhood Plan - City's Secondary Plan 1994 Official Plan.

The property is zoned 'Commercial Residential Three Zone CR-3 (125U)' in Zoning By-law 85-1

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

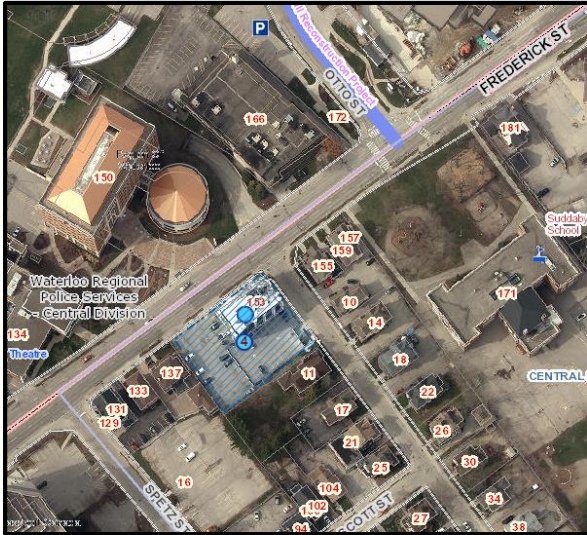


Figure 1 - Aerial image of the subject property

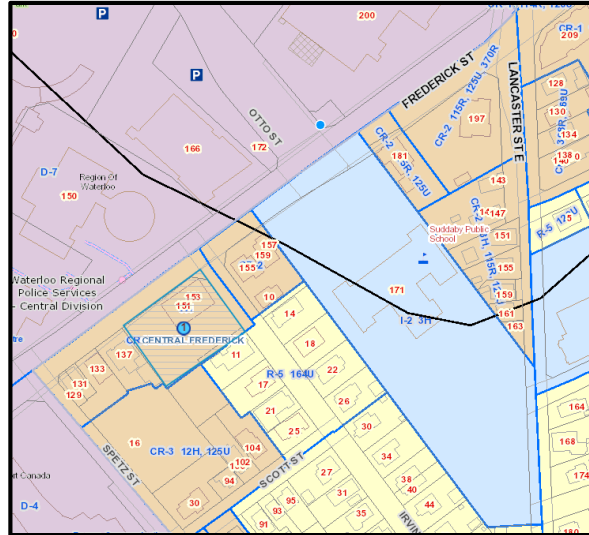
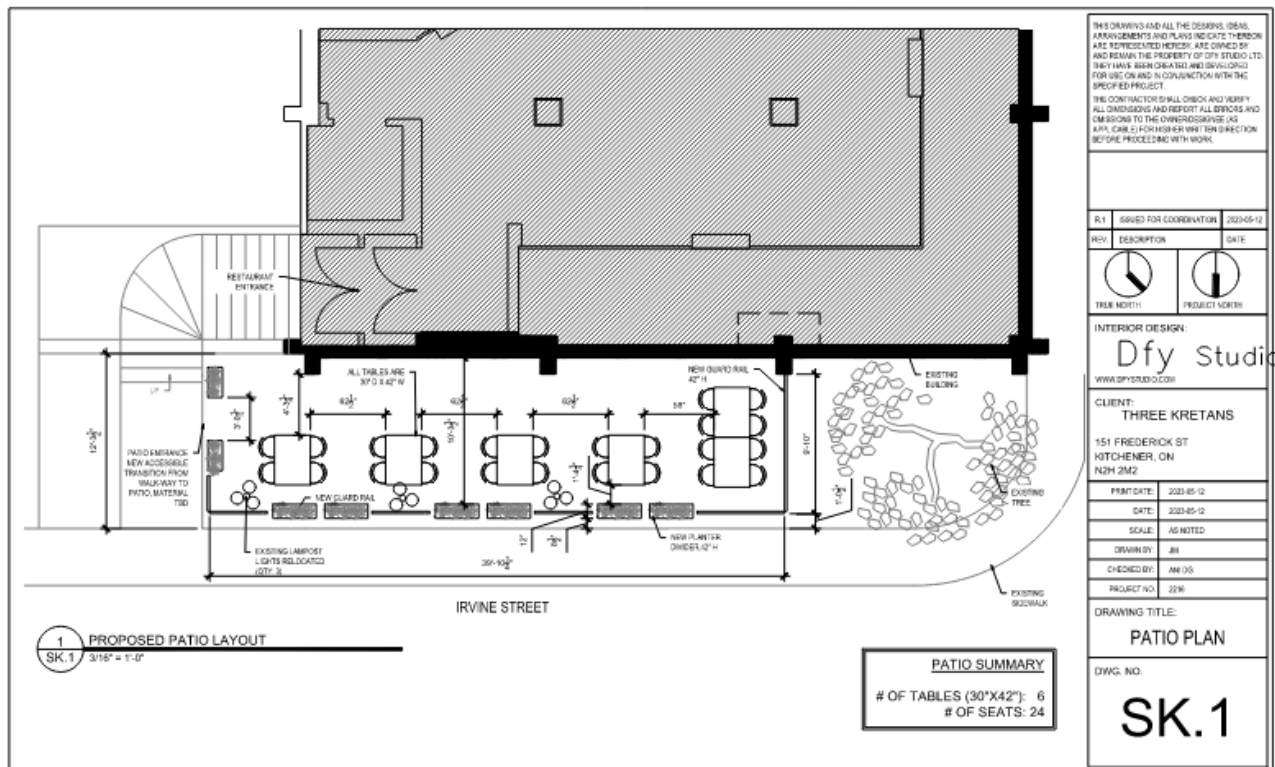


Figure 2 - Location on the zoning map

The purpose of the application is to add a restaurant patio in the exterior yard of an existing building for use by an existing restaurant. The restaurant patio is proposed to be located 22 metres from Residentially zoned property rather than the required 30.0 metres in Zoning By-law 85-1.



Planning staff conducted a site inspection on Friday, June 30th, 2023



Figure 3 - The front view of the building, which will contain the proposed restaurant patio



Figure 4 - The location of the proposed patio

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

It is the intent of the High Density Commercial-Residential designation to allow redevelopment for multiple dwellings and limited commercial use at high densities.

Permitted commercial uses are restricted to offices, office support services, restaurants, medical laboratories, funeral homes, financial establishments, day care facilities, health offices, health clinics, parking facility, club facilities, tourist homes, studios, religious institutions, educational establishments, a limited amount of personal services and convenience retail. Land uses may be segregated in separate buildings or integrated in a mixed use development.

Staff is of the opinion that the requested variance maintains the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the Zoning regulation, to regulate the distance a restaurant patio can be located from a residential zone, is to provide protection from noise, increased restaurant traffic and provide privacy protection to the residential area. The proposed patio will be located 22 metres from the residential properties on Irvin Street, which in the opinion of staff be of sufficient distance to provide for noise control and maintain privacy.

Based on the above, the variance will maintain the general intent of the Zoning By-law.

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

The proposed restaurant patio will be located 8.0 metres closer than the required distance to the residential zone (30 metres). The existing parking garage structure to the building will also provide a barrier between the proposed patio and the residentially zoned property and will assist in regulating

the traffic to and from the property. Staff consider the requested variances to be minor as there will be no impact on abutting properties, and the location of the restaurant is existing.

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

Staff consider the variances to be desirable and appropriate as they will facilitate the addition of an outdoor patio for an existing restaurant on the subject property. Staff are satisfied that the location of the patio is in an appropriate location on the subject property.

Environmental Planning Comments:

There are no trees or natural features/functions on site. No concerns.

Heritage Planning Comments:

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 151 Frederick Street is located within the Central Frederick 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. Application has been made for the outdoor patio for a restaurant is currently under review.

Engineering Division Comments:

No comments

Parks/Operations Division Comments:

No concerns, no comments

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application

Region of Waterloo Comments:

There are no conditions for this application.

However, the applicants are advised that they are responsible for ensuring that the proposed development does not have any environmental noise impacts (both on-site and off-site).

Grand River Conservation Authority Comments:

GRCA has no objection to the approval of the above applications. The subject properties do not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The properties are not subject to Ontario Regulation 150/06 and, therefore, 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)*
- *Map 20 Central Frederick Neighbourhood Plan - City’s Secondary Plan 1994 Official Plan*
- *Zoning By-law 85-1*