

# 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  
519-741-2200 ext. 7765

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

**WARD(S) INVOLVED:** Ward 3

**DATE OF REPORT:** July 20, 2023

**REPORT NO.:** DSD-2023-325

**SUBJECT:** Minor Variance Application A2023-089 - 204 Fifth Avenue

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## RECOMMENDATION:

That Minor Variance Application A2023-089 for 204 Fifth Avenue requesting relief from Section 4.12.2 e) of Zoning By-law 2019-051 to permit a lot width of 10.6 metres instead of the minimum required 13.1 metres, to facilitate an Additional Dwelling Unit (ADU) (Attached) to the existing single detached dwelling with an Additional Dwelling Unit (ADU) (Attached) (a Duplex) to have building with 3 dwelling units in total (a Triplex), generally in accordance with drawings prepared by RT Architects, dated September 2022, BE APPROVED subject to the following conditions:

1. That the Owner modify the existing driveway to provide a driveway and a distinguishable walkway in compliance with Zoning By-law 2019-051, generally in accordance with the proposed site plan submitted with Minor Variance Application A2023-089, by August 15, 2024.
2. There is an existing City-owned street tree located on the boulevard at 204 Fifth Ave that could be impacted by the proposed construction of the new sidewalk/driveway. The sidewalk/ driveway shown on the proposed site layout must be revised to fully protect the existing tree to City standards.
3. Any request for a time extension must be approved in writing by the Manager of Development Review prior to the completion date set out in Condition No. 1. Failure to complete the condition(s) will result in this approval becoming null and void.

## REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to allow for one new Additional Dwelling Unit (ADU) (Attached) in existing single detached dwelling with Additional Dwelling Unit (ADU) (Attached) to have 3 dwelling units in the existing building on the subject property.
- 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 Wilson Avenue and west of Fairway Road South. It currently contains a two-story single detached dwelling with an Additional Dwelling Unit (ADU) (Attached) and an attached garage. The purpose of this application is to allow for a second Additional Dwelling Unit (ADU) (Attached).

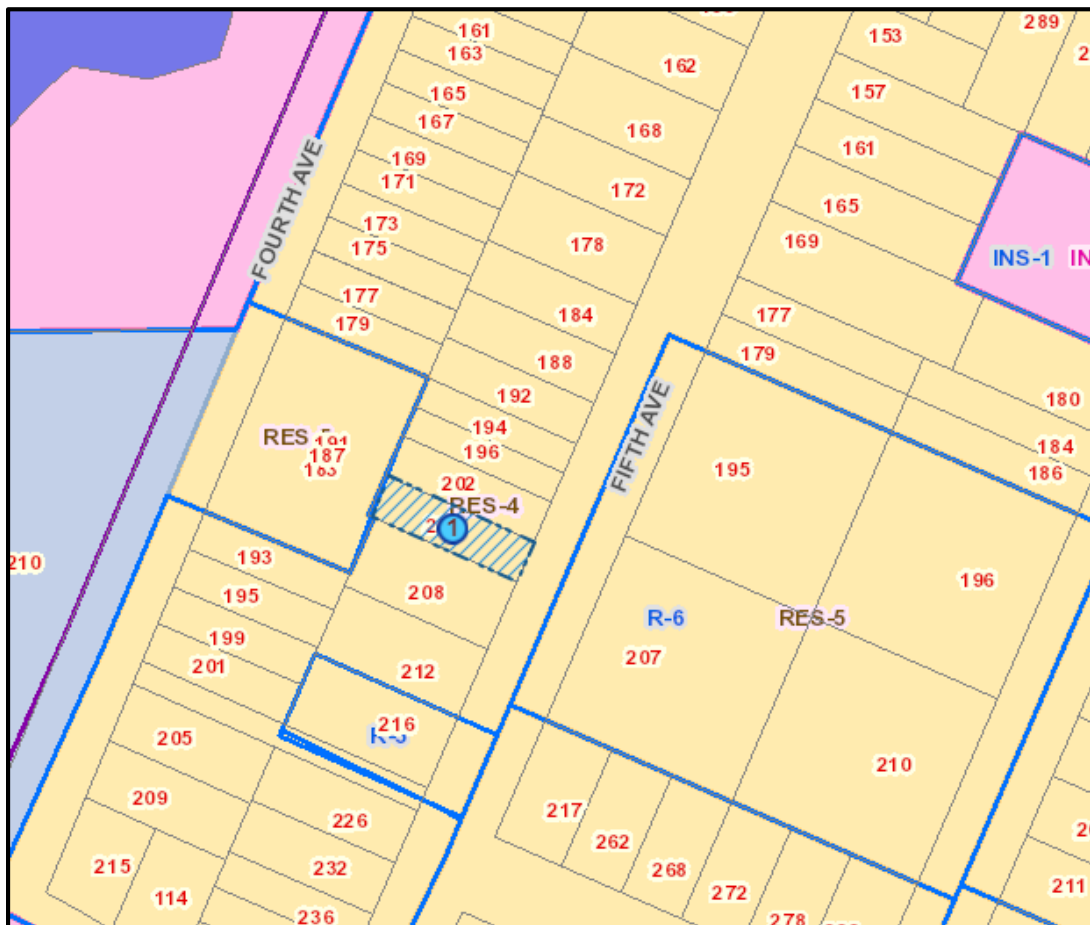


Figure 1: The proposed property on the Zoning Map



**Figure 2: The proposed property on an aerial view**

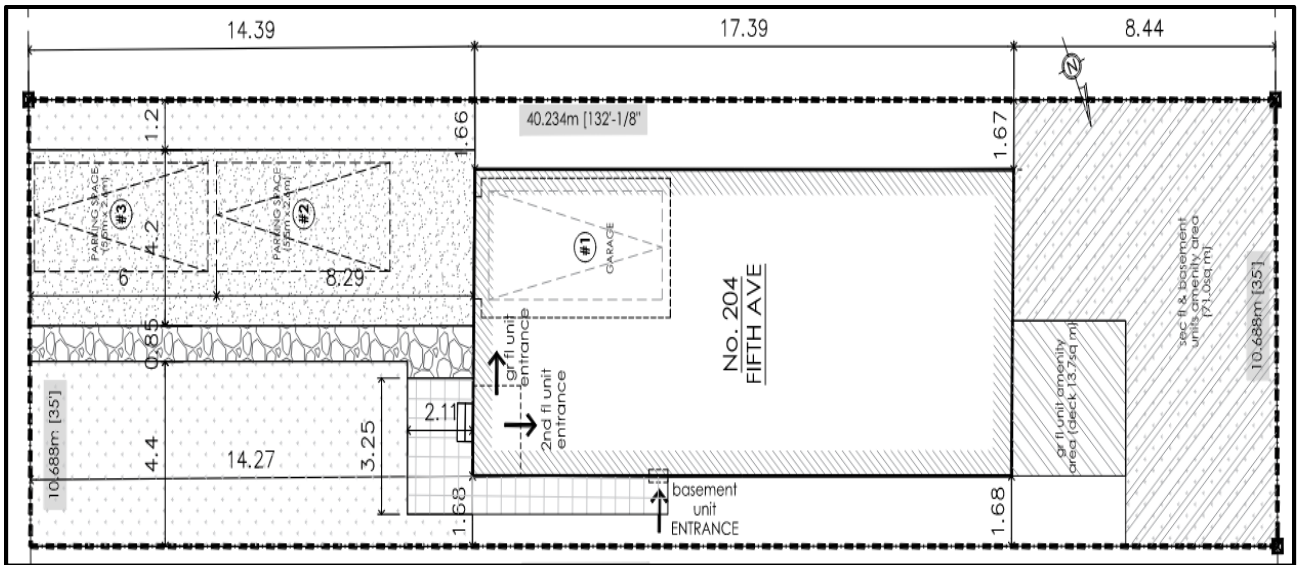
The subject property is identified as a 'Community Area' on Map 2 – Urban Structure and is designated as a 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051.

The purpose of the application is to facilitate one Additional Dwelling Unit (ADU) (Attached) (to create a Triplex) in an existing single detached dwelling with one Additional Dwelling Unit (ADU) (Attached) (Duplex) where the minimum lot width does not meet the minimum required in Zoning By-law 2019-051.

- To permit minimum lot width of 10.6 metres instead of the minimum required 13.1 metres.

The maximum driveway width, in this case, is 40% of the lot width, which is 4.2 metres. No increase in driveway width is proposed or supported in this proposal. The existing driveway will need to be modified in order to comply with Zoning By-law 2019-051.



**Figure 1: The proposed Site Plan drawing**

Planning staff conducted a site inspection on Friday, July 28<sup>th</sup>, 2023



**Figure 4: The front elevation showing the left side yard**



Figure 5: The front elevation showing the right side yard.



Figure 6: Aerial view showing the amenity space in the rear 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 places emphasis on accommodating a full range of low density housing type which includes single detach dwelling with additional units attached. The city will encourage and support the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form.

The City's Official Plan also states that: The City will support the addition of an additional dwelling unit(s), attached, within a residential unit, where desirable and appropriate unless otherwise limited by the policies of this Plan, and in accordance with the City's Zoning By-law, in order to provide another housing option to Kitchener homeowners and residents.

Therefore, the proposed variance meets the general intent of the Official Plan.

#### General Intent of the Zoning By-law

The intent of the lot width regulation is to ensure the use of the property for additional dwelling units has sufficient amenity space, landscaped area, fire emergency access, and parking. The subject property has a lot area of 430 square metres, which is 35 square metres greater than the minimum required 395 square metres. Also, as the lot and proposed use can accommodate a sufficient amenity area, fire emergency access and parking. Planning staff are satisfied that the width of the lot meets the general intent of the Zoning By-law.

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

The additional dwelling unit is proposed to be accommodated in the existing building on an existing lot. The existing property is 2.4 metres less than the required lot width, but the lot area is larger than the minimum required 395 square metres. As the required rear yard (amenity area), the required side yards (access) and 3 required parking spaces can be met and accommodated on the lot, the effects of the minor variance for a reduced lot width can be considered minor.

Planning staff are aware that a tandem parking for 3 required parking spaces may cause impacts to the functioning of the parking arrangement on the subject property, its residents/tenants and the neighbourhood; however, this is a parking arrangement that is permitted by the Planning Act. The provision of parking and its arrangement/configuration on the property is not the subject of the minor variance application.

The maximum permitted driveway width for this property is 40% of the lot width, which is 4.2 metres. A 5.2 metre wide driveway, that can provide side by side parking, is not permitted by the Zoning By-law. Modifications to the existing driveway will need to occur in order for it to be in compliance with Zoning By-law 2019-051.

Staff is of the opinion that the effects of the requested variance to permit a reduced lot width are minor; however, note that in practicality the parking arrangement of 3 tandem parking spaces may impact existing/future residents/tenants.

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

The variance to allow a reduction in lot width is desirable and appropriate as it allows for a gentle intensification of the subject property, will make use of existing infrastructure, and supports the City's Housing Pledge.

**Environmental Planning Comments:**

No concerns.

**Heritage Planning Comments:**

No heritage concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided building permit for the change of use to a triplex is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

No comments.

**Parks/Operations Division Comments:**

There is an existing City-owned street tree located on the boulevard at 204 Fifth Ave that will be impacted by the proposed construction of the new sidewalk/driveway. The sidewalk/driveway shown on the proposed site layout should be revised to fully protect the existing tree to City standards. If the tree cannot be protected to City standards throughout construction as per Chapter 690 of the current Property Maintenance By-law, full compensation and replacement is expected. A Tree Protection and Enhancement Plan (TPEP) will be required as part of a Curb Cut Permit and/or Building Permit application, please see Urban Design Manual Part C, Section 13 and [www.kitchener.ca/treemanagement](http://www.kitchener.ca/treemanagement)

**Transportation Planning Comments:**

Transportation Services have no concerns with this application.

**Region of Waterloo Comments:**

No comments.

**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)*
- *Zoning By-law 2019-051*