

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-2023-327

SUBJECT: Minor Variance Application A2023-094 - 39 Third Avenue

RECOMMENDATION:

That Minor Variance Application A2023-094 for 39 Third Avenue requesting relief from the following sections of Zoning By-law 2019-051, and as amended by By-law 2023-101:

- i) Section 5.3 e) i) to allow for a parking lot to be 0.5 metres from the rear lot line instead of the minimum required 1.5 metres;
- ii) Section 7.3, Table 7-6, to permit an addition to have an interior side yard setback of 1.6 metres for Multiple Dwellings instead of the minimum required 3.0 metres; and
- iii) Section 7.3, Table 7-6, to permit a Floor Space Ratio of 0.63 for Multiple Dwellings instead of the maximum permitted 0.6;

to facilitate an addition to the existing single detached with two Additional Dwelling Units (ADU) (Attached) to convert it into 4-unit Multiple Dwelling, in accordance with drawings prepared by BOBICON LTD. Custom Home Design and Construction Management Services, dated June 29, 2023, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review minor variances to allow for an addition to an existing single detached with two Additional Dwelling Units (ADU) (Attached) to accommodate a 4-unit Multiple Dwelling with a reduced side yard setback, an increased Floor Space Ratio and for the parking lot to be closer to the rear lot line from the minimum required.
- 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.

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

- 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 south of King Street East and East of Conestoga Parkway (Highway 8). It currently contains a single detached dwelling with two Additional Dwelling Units (ADU) (Attached) (existing triplex) and a detached garage in the rear yard.

The subject property is identified as a ‘Community 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 ‘Low Rise Residential Four Zone (RES-4)’ in Zoning By-law 2019-051.

By-law 2023-101, approved by Council on June 26, 2023, proposed amendments to Zoning By-law 2019-051 to incorporate certain modifications to the text of the Zoning By-law to meet the new requirements of the Planning Act enacted under Bill 23, to support the delivery of Housing, to add new regulations for developments no longer subject to site plan control relating to design and site functionality requirements, and to align with new permissions for Additional Dwelling Units. The amendments to Zoning By-law 2019-051 will be effective June 26, 2023, once Official Plan Amendment No. 29 is approved by the Region of Waterloo and comes into effect.

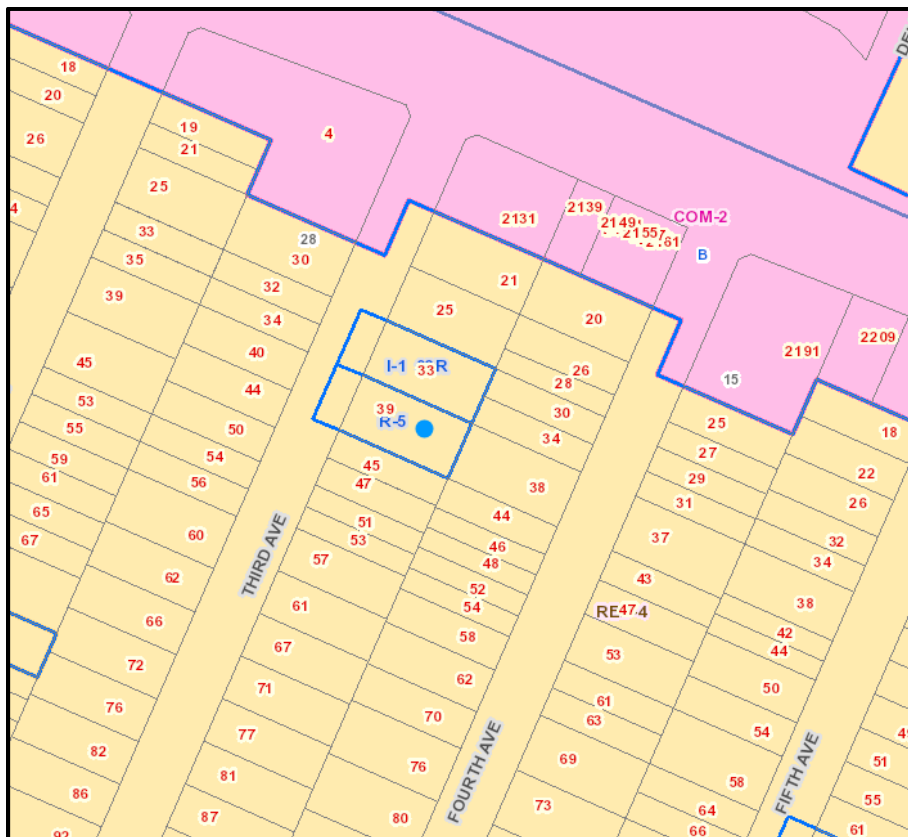


Figure 1: The proposed property on the Zoning map

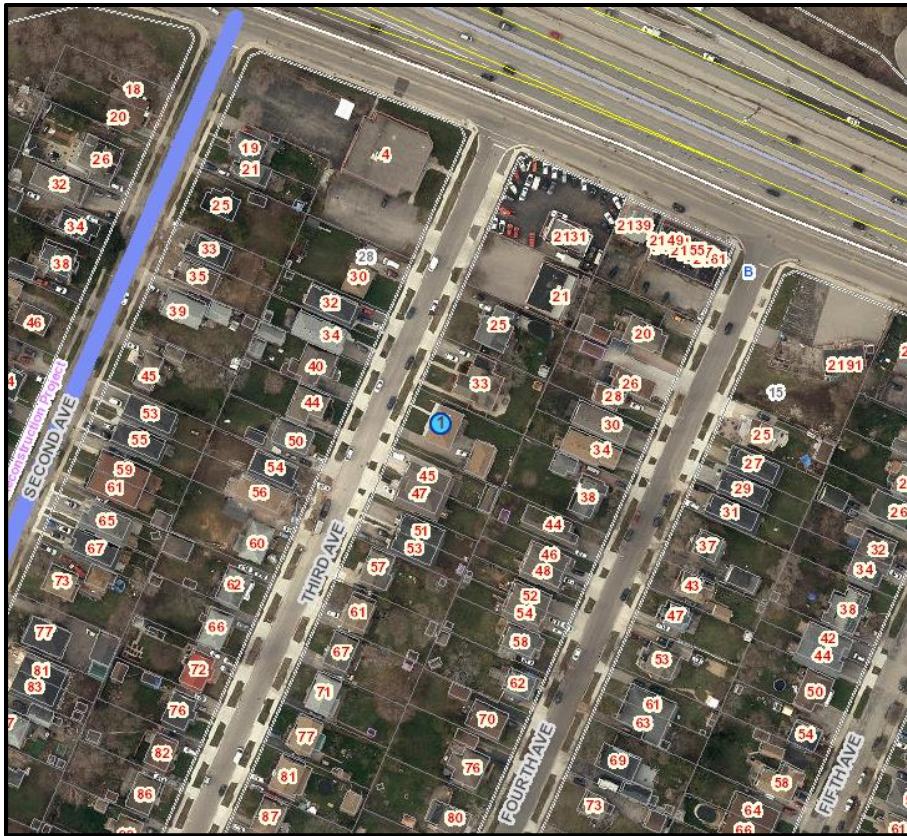


Figure 2: The proposed property on an aerial view

The purpose of the application is to demolish the existing detached garage in the rear yard and add an addition to the rear of the existing building to accommodate a 4-unit Multiple Dwelling with an attached garage and a parking lot in the rear yard. The required variances to the Zoning By-law include:

- Permitting a side yard setback of 1.6 metres rather than the minimum 3.0 metres required for Multiple Dwelling.
- Permitting a Floor Space Ratio of 0.63 rather than the maximum permitted 0.60.
- Permitting a rear yard setback for the parking lot of 0.5 metres rather than the minimum required 1.5 metres.

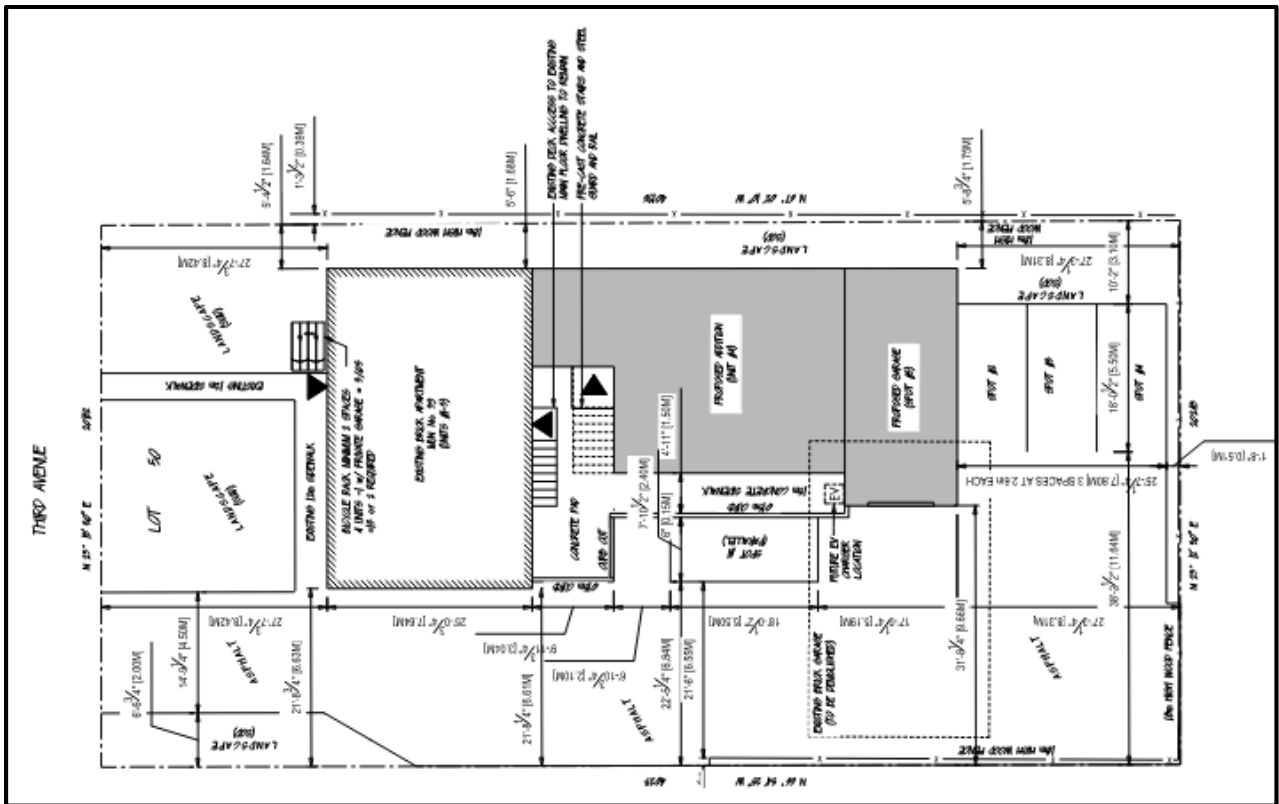


Figure 3: The proposed site plan drawing

Planning staff conducted a site inspection on Friday, July 28th, 2023



Figure 4: The existing building with the left side yard setback



Figure 5: The existing rear elevation where the proposed addition will be attached



Figure 6: The rear yard amenity space

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 the Planning Staff's opinion that the general intent of the Official Plan is maintained.

General Intent of the Zoning By-law

Side Yard Setback: The intent of the side yard setback regulation is to ensure that the dwelling has sufficient separation from abutting properties and some amenity space and to provide access to the rear yard. The existing building has a side yard setback of about 6.6 metres on the other side of the building, which will accommodate vehicular and pedestrian access to the rear yard, amenity space and accommodate some decks and steps. In addition, the existing 1.6 metre side yard setback is a sufficient setback in this location to provide appropriate access to the rear yard while providing space for any air conditioning units or other outdoor equipment. Therefore, Staff are of the opinion that the requested variance for the side yard setback meets the general intent of the Zoning By-law.

Floor Space Ratio: The intent of the regulation that restricts Floor Space Ratio (FSR) to 0.6 is to maintain an overall low intensity of use and a low-rise scale on the lands. The proposed 4-unit Multiple Dwelling will maintain a low-rise scale as the proposal will be less than 9.0 metres in height. It will also not have a major front elevation that will increase the building's scale or massing. Planning Staff are of the opinion that the proposed addition to permit four (4) units maintains a low-rise scale and low intensity of use on the lands; therefore, meets the general intent of the Zoning By-law.

Parking Lot Setback: The intent of the regulation for parking lot setback is to regulate the placement and configuration of parking to provide a landscape buffer to mitigate visual, aesthetic, noise and air quality concerns of an abutting parking lot. The Zoning By-law will require a visual barrier (fence) to be installed between the parking lot and the abutting lot. In addition, the 0.5 metres setback will still be able to provide some landscape buffer with sodding in this location on the site. Planning Staff are of the opinion that the proposed parking lot setback will still meet the general intent of the Zoning By-law.

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

The requested variances for the side yard setback, increase in FSR, and parking lot setback are considered minor as they represent small changes that are not expected to result in adverse impacts to neighbouring properties or the surrounding area.

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

Planning Staff are of the opinion that the requested variances will maintain the low density and low rise intended use of the land, and it will facilitate a gentle intensification of the existing residential use; therefore, they are considered desirable and appropriate.

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 addition to the existing triplex is obtained prior to construction. Please contact the Building Division at 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 39 Third Ave that may be impacted by proposed construction. The existing City-owned tree should 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 Building Permit application, please see Urban Design Manual Part C, Section 13 and www.kitchener.ca/treemanagement

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

Transportation Planning Comments:

Transportation Services have no concerns with this application. It should be noted, at times the door swing of a vehicle in parking space No. 2 may be difficult as the entire parking space is flanked by the vertical deflection of the proposed garage.

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*