

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: Raida Chowdhury, Student Planner, 519-741-2200 ext. 7078

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: July 31, 2023

REPORT NO.: DSD-2023-343

SUBJECT: Minor Variance Application A2023-097 - 68 Betzner Ave. N.

RECOMMENDATION:

That Minor Variance Application A2023-097 for 68 Betzner Avenue North requesting relief from Sections 5.22 b) and c) of Zoning By-law 85-1, and 5.22.2 e) and f) of Zoning By-law 85-1, as amended by By-law 2023-102, to permit a lot area of 310.8 square metres instead of the minimum required 395 square metres, and to permit a lot width of 11.6 metres instead of the minimum required 13.1 metres, to facilitate the conversion of the existing duplex into a triplex, generally in accordance with drawings prepared by Denali Home Design, dated June, 2023, **BE APPROVED**,

And further, that Minor Variance Application A2023-097 for 68 Betzner Avenue North requesting relief from Sections 6.1.1.1 b) iii) and 6.1.1.2 d) of Zoning By-law 85-1 to permit and recognize an existing second driveway, and for the second driveway to lead to a required parking space having a length of 4.3 metres instead of the minimum required 5.5 metres, **BE REFUSED**.

REPORT HIGHLIGHTS:

- The purpose of this report is to review minor variances to facilitate the conversion of an existing duplex property into a triplex, and to permit a second driveway on the subject property.
- The key findings of this report are:
 - The minor variances to permit the conversion of the duplex dwelling on the subject property into a triplex unit meet the four tests of the Planning Act, and;
 - The minor variances to permit a second driveway and a reduced length of a parking space on the subject property do not 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 rectangular lot located near the intersection of Betzner Avenue North and Weber Street East.

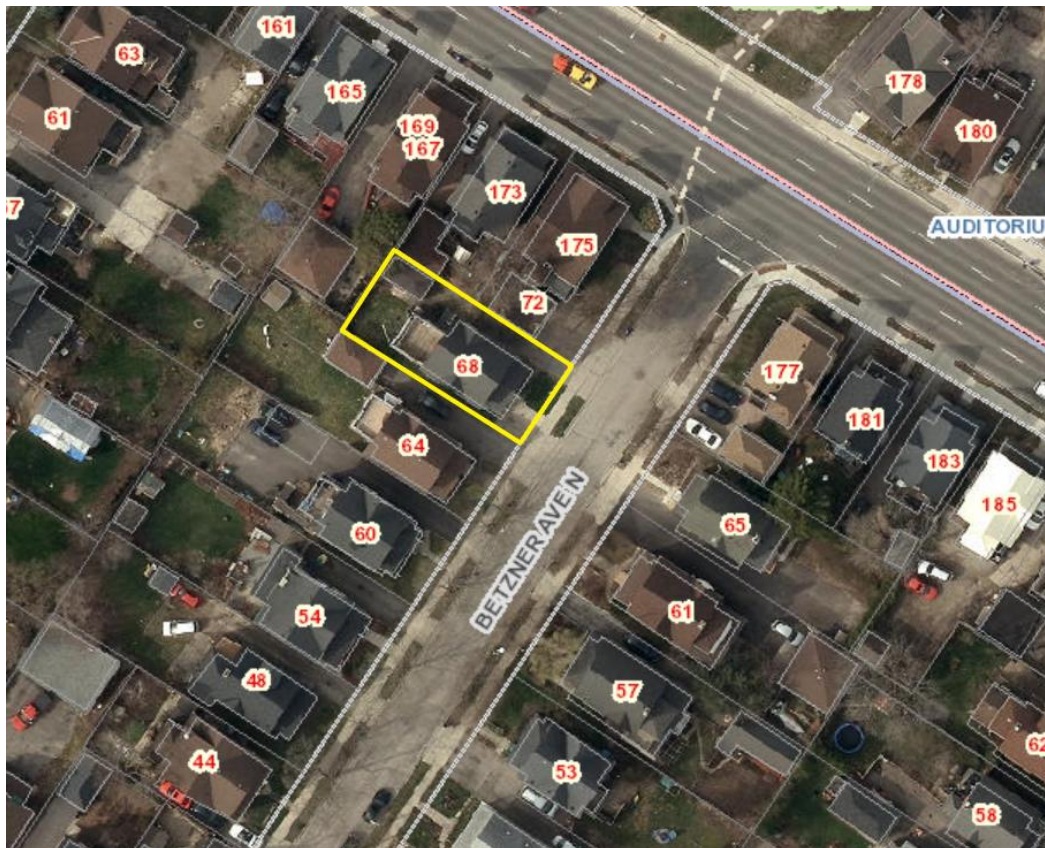


Figure 1 – Aerial Photo of Subject Property

The subject property is identified as ‘Major Transit Station Area’ on Map 2 – Urban Structure and is designated ‘Low Density Commercial Residential’ in the King Street East Secondary Plan.

The property is zoned ‘Commercial Residential One Zone (CR-1)’ in Zoning By-law 85-1.

The purpose of the application to review minor variances to facilitate the conversion of an existing duplex into a triplex, and to permit a second driveway on the subject property. The subject property currently contains a two-storey building with two dwelling units. The basement is proposed to be converted into a third dwelling unit. The existing lot area of the subject property is 310.8 square metres, and the lot width is 11.6 metres. Zoning By-law 85-1 Sections 5.22 b) and c) and Sections 5.22.2 e) and f), as amended by By-law 2023-102, requires that the minimum lot area for a property with three dwelling units be 395

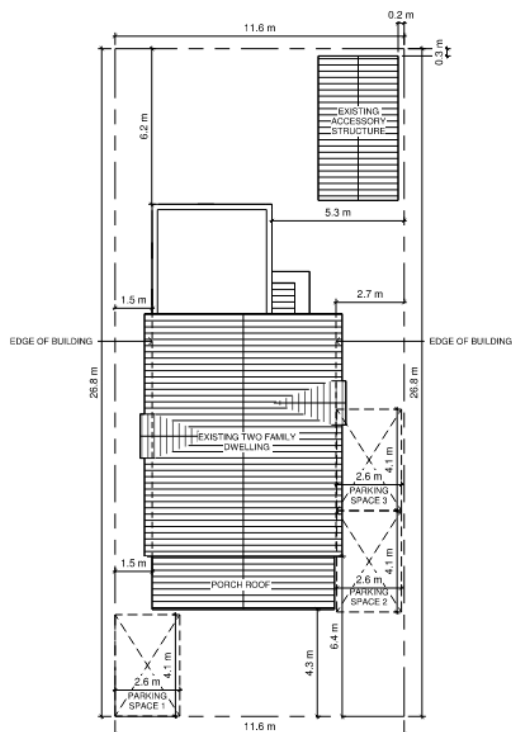
square metres, and that the minimum lot width be 13.1 metres. Accordingly, minor variances are requested to permit a lot area of 310.8 square metres, and a lot width of 11.6 metres, for the proposed Single Detached Dwelling with two (2) Additional Dwelling Units (ADU) (Attached) (a Triplex dwelling).

Further, the property currently contains two driveways. One driveway is abutting the front yard of the property, and the subsequent driveway is located to the right of the building. The driveway abutting the front yard has a length of 4.3 metres. Zoning By-law 85-1 Section 6.1.1.1 b) iii) allows a maximum of one driveway (barring exceptions, which do not apply to the existing subject property), and Section 6.1.1.2 d) requires a minimum length of 5.5 metres for a parking space. Accordingly, minor variances are requested to permit an additional driveway, with a length of 4.3 metres for a parking space.

The subject property has setbacks which exceed the minimum requirements in Zoning By-law 85-1 Section 5.22 i). The left side yard setback is 1.5 metres, and the right side yard setback is 2.3 metres.

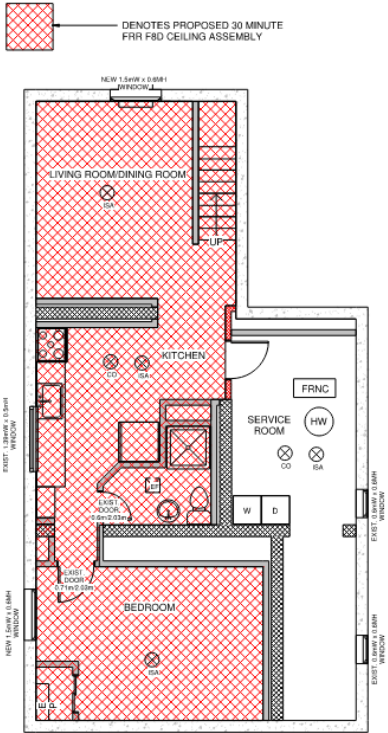
By-law 2023-102, approved by Council on June 26, 2023, proposed amendments to Zoning By-law 85-1 to incorporate certain modifications to the text of the Zoning By-law to meet the new requirements of the Planning Act enacted under Bill 23, to support the delivery of Housing, to add new regulations for 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 85-1 will be effective June 26, 2023, once Official Plan Amendment No. 29 is approved by the Region of Waterloo and comes into effect.

Staff visited the subject property on July 26, 2023.



1 SITE PLAN
1:100

Figure 2 – Existing Site Plan



2 PROPOSED BASEMENT FRR
1 : 50

Figure 3 – Proposed Basement Dwelling Unit



Figure 4 – Front View Photo from Site Visit



Figure 5 – Driveway Abutting the Front 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 Density Commercial Residential' in the King Street East Secondary Plan. The intent of this designation is to recognize the existing presence of mixed-use residential and commercial spaces in the neighbourhood, and to allow for low density redevelopment, including multiple residential uses. It is the opinion of staff that the proposed variances meet the intent of the Secondary Plan, as they support multiple residential uses.

General Intent of the Zoning By-law

Minimum Lot Width

The general intent of the minimum lot width requirement of 13.1 metres is to ensure that there is adequate space for required parking, emergency access, appropriate side yard setbacks and amenity space on the lot. Staff is of the opinion that the proposed use meets the general intent of the By-law, and that this size lot will continue to function appropriately as a triplex unit, as 3 parking spaces can be accommodated in tandem, the side yard setbacks exceed the minimum 1.2 metre requirement, and the landscaped area exceeds the 20% minimum requirement.

Minimum Lot Area

The general intent of the minimum lot area requirement of 395 square metres is to ensure the use can function accordingly on the lot including providing required parking and an adequate amenity space for residents/tenants. Staff is of the opinion that the variance to permit a reduced lot area meets the general intent of the By-law, as 310.8 square metres is still an appropriate lot area as required parking and sufficient amenity area can still be provided on site. The current lot coverage of 42%, is lower than the maximum permitted 55% lot coverage; there are no new structures proposed which would minimize the lot area further; and the landscaped area exceeds the 20% minimum requirement.

Maximum Permitted One Driveway

The general intent of only permitting a maximum of one driveway on a lot of this size is to minimize the amount of asphalt and the presence of parked vehicles in the front yard and to ensure that there is adequate landscaped area fronting the street. Staff are of the opinion that the existing driveway reduces the amount of landscaped and walkable areas of the subject property, and as such, a second driveway does not meet the general intent of the Zoning By-law.

Minimum Parking Space Length

The general intent of requiring a parking space with a minimum length of 5.5 metres is to ensure that there is adequate space to accommodate a vehicle on a driveway without impacting or impeding pedestrian use of the sidewalk right-of-way. Staff is of the opinion that the proposed variance does not meet the general intent of the Zoning By-law as there

will not be an adequate parking space on the driveway without negatively impacting the use of the sidewalk right-of-way.

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

The variances to facilitate conversion to a triplex can be considered minor, as the dwelling unit is proposed for an existing basement, and there are no new structures proposed.

It is the opinion of staff that the variances to permit a second driveway with a length of 4.3 metres cannot be considered minor, as there is not enough space to accommodate a vehicle without impacting the use of the sidewalk by pedestrians.

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

The variances to facilitate the conversion of the building on the subject property into a triplex are appropriate for the development and use of the land as they will support a gentle intensification of the property with the creation of a dwelling unit in the basement, will make use of existing infrastructure, and support the City's Housing Pledge.

It is the opinion of staff that the variances to permit a second driveway with a parking space length of 4.3 metres are not appropriate for the development and use of the land, as they will support a streetscape dominated by vehicles in a Major Transit Station Area and a parking space which will negatively impact pedestrian use of the sidewalk.

Environmental Planning Comments:

Environmental Planning has 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 68 Betzner Ave. N. 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 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 with any questions.

Engineering Division Comments:

A 4.3 metres parking space means the car will overlap onto sidewalk in right-of-way and applicant would need an encroachment agreement for this.

Parks/Operations Division Comments:

Parks/Operations Division have no concerns with this application.

Transportation Planning Comments:

Transportation Services contacted By-law Enforcement regarding any complaints received about the proposed second access and By-law notified Transportation Services that there had been an infraction and a ticket issued in November 2022 for vehicle overhanging onto the municipal sidewalk. The photo below illustrates that pedestrian walkability is significantly obstructed by the parked vehicle due to the substandard parking space length of 4.3 metres. It should be noted that the City of Kitchener cannot dictate the size of vehicles that would utilize the proposed substandard parking space. Therefore, Transportation Services does not support the second driveway or the proposed parking space length of 4.3 metres.



Photo provided by City of Kitchener by-law enforcement

Grand River Conservation Authority Comments:

The GRCA have no concerns with this application.

Region of Waterloo Comments:

There are no requirements/concerns to this application. However, the staff note that dwellings on the subject lands may have environmental noise impacts from traffic on Weber Street East (RR #08).

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 85-1*
- *King Street East Secondary Plan*