

# 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:** Craig Dumart, Senior Planner, 519-741-2200 ext. 7073

**WARD(S) INVOLVED:** Ward 10

**DATE OF REPORT:** August 2, 2023

**REPORT NO.:** DSD-2023-349

**SUBJECT:** Minor Variance Application A2023-098 - 134-152 Shanley St.

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## RECOMMENDATION:

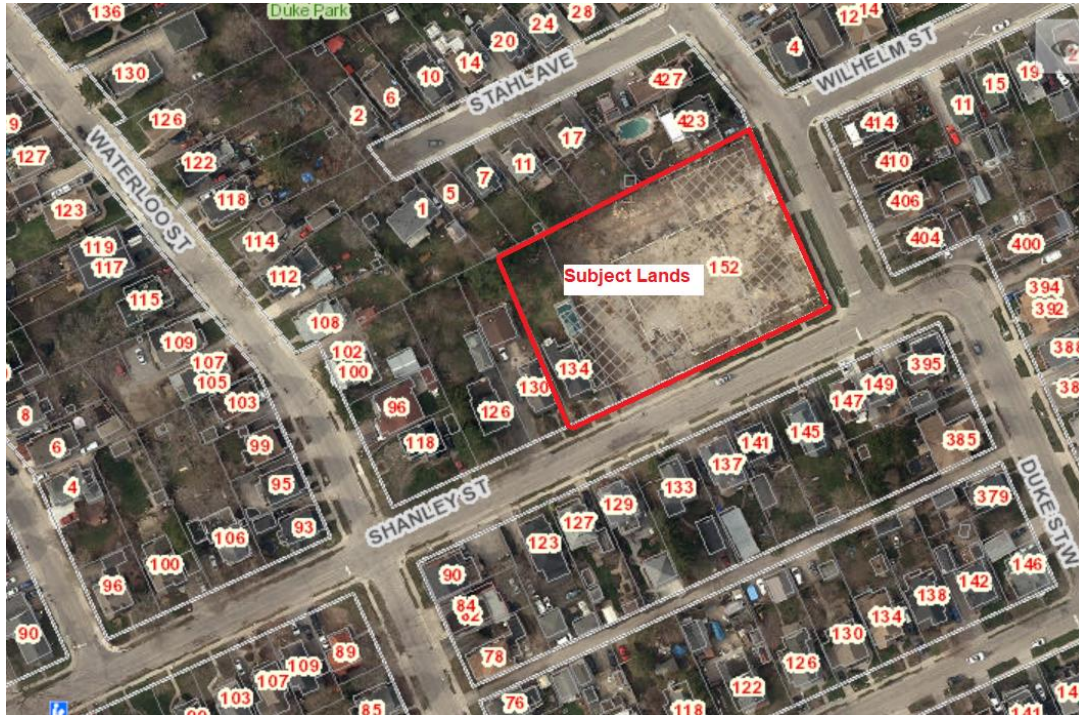
That Minor Variance Application A2023-098 for 134-152 Shanley Street requesting relief from Section 19, Site-Specific Provision 189 a) and f) in Zoning By-law 2019-051 to permit a parking requirement of 0.64 parking spaces and 0.1 visitor parking spaces per dwelling unit (127 parking spaces) instead of the minimum required 0.7 parking spaces and 0.1 visitor parking spaces per dwelling unit (137 parking spaces) and to permit an exterior side yard setback of 5 metres instead of the minimum required 5.8 metres to facilitate the development of a 8-storey multiple dwelling having 171 dwelling units, in accordance with Site Plan Application SP21/105/S/CD, BE APPROVED.

## REPORT HIGHLIGHTS:

- The purpose of this report is to review and recommend approval of minor variances to facilitate the development of 171-unit, 8-storey multiple dwelling 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 Shanley Street and Duke Street West that is currently in the early stages of construction for the development of an 8 storey multiple dwelling. The subject lands have frontage on Shanley Street, which is considered the exterior side yard and Duke Street West which is considered the front yard. The neighbourhood is comprised of a mix of low residential uses, commercial, industrial, and institutional uses.



**Figure 1: Location Map – 134-152 Shanley Street**

The subject property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Medium Rise Residential with Specific Policy Area No. 18' on Map 3 – Land Use in the City's 2014 Official Plan. The property is zoned 'Medium Rise Residential Six Zone (RES-6) with Site-Specific Provision 189' in Zoning By-law 2019-051

The purpose of the application is to permit the construction of a 171-unit, 8-storey multiple dwelling development with an exterior side yard setback of 5.0 metres instead of the minimum required 5.8 metres and to permit a parking requirement of 0.64 parking spaces per dwelling unit and 0.1 visitor spaces per dwelling unit (127 parking spaces) instead of the minimum required 0.7 parking spaces per dwelling unit and 0.1 visitor parking spaces per dwelling unit (137 parking spaces). The requested variance for the parking reduction is required as an additional five (5) dwelling units have been added to the 8 storey multiple dwelling development. The overall on-site parking provision and configuration which was conditionally approved by Site Plan Application SP21/105/S/CD is not proposed to change.



**Figure 2: Existing site conditions at 134-152 Shanley Street**

## **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 'Medium Rise Residential with Specific Policy Area No. 18' in the City of Kitchener's Official Plan. The Medium Rise Residential designation together with Special Policy Area No. 18 permits medium density housing types including townhouse dwellings in a cluster development, multiple dwellings up to 8 storeys in height with a maximum Floor Space Ratio (FSR) of 3.0 and a maximum building height of 28 metres. The proposed 8 storey multiple dwelling development is a compatible built form, offers a range of unit types, bachelor, 1, 2 and 3 bedroom units, 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 5.8 metre exterior side setback requirement is to ensure the proposed building setback along Shanley Street provides for adequate landscaping, patio space(s) and provides for a consistent street wall with the nearby low-rise residential dwellings on Shanley Street. Staff is of the opinion that the proposed 5.0 metre exterior side yard setback will provide for sufficient landscaping, patio space(s) and is consistent with nearby low-rise residential dwellings along Shanley Street that contain building setbacks that range from approximately 1.0 metres to 6.1 metres to Shanley Street.

The intent of 0.7 parking space per unit plus 0.1 visitor space per unit requirement is to ensure there is adequate on-site parking for residents. Through the recent approved Official Plan Amendment and Zoning By-law Amendment Applications (DSD-2022-033) the applicant provided a parking justification report in support of a reduced parking rate that was supported by staff as the subject lands are in an MTSA, have good access to public transit and rapid transit, pedestrian and cycling facilities. Planning and Transportation Services staff is of the opinion that the parking rate is still appropriate for the subject lands with the 5 additional units. The reduced parking rate promotes active transportation and alternative modes of transportation and limits reliance on vehicles. Therefore, staff is of the opinion that the reduction in the exterior side yard setback and the decrease in the minimum parking requirement meets the general intent of the zoning by-law.

#### Is the Effects of the Variance Minor?

The requested variance to allow for an exterior side yard setback of 5 metres and a reduced minimum parking requirement of 0.64 parking spaces per dwelling unit and 0.1 visitor spaces per dwelling unit is minor in nature. Staff is of the opinion that the requested reduction in the exterior side yard setback and decrease in the minimum parking requirement will allow for the development of an 8 storey, 171 residential unit multiple dwelling development with adequate on-site parking and building setbacks that are 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 multiple dwelling development. The proposed scale, massing, and building setbacks are compatible on the property and will not negatively impact the subject lands, planned vision or character of the streetscape or the surrounding neighbourhood.

#### **Environmental Planning Comments:**

Environmental Planning Staff have no concerns to the proposed variances.

#### **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 134-152 Shanley St. is located within the Mount Hope/Breithaupt 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.

#### **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:**

Transportation Services can support the proposed parking rate reduction from 0.70 to 0.64 parking spaces per dwelling unit, to facilitate an additional five (5) dwelling units, as this reduction is minor in nature and should not impact the functionality of the site access or surrounding road network.

**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*
- *DSD-2022-033*

**ATTACHMENTS:**

Attachment A – SP21/105/S/CD