

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: Adam Zufferli, Student Planner, 519-741-2200 ext. 7074

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: July 31, 2023

REPORT NO.: DSD-2023-340

SUBJECT: Minor Variance Application A2023-101 – 471 Duke St. W.

RECOMMENDATION:

That Minor Variance Application A2023-101 for 471 Duke Street West requesting relief from Section 4.1 d) of Zoning By-law 2019-051, to permit an accessory structure to have a height to the underside of the fascia of 4.3 metres instead of the maximum permitted 3 metres, generally in accordance with drawings prepared by Menno S. Martin Contracting dated June 15, 2023, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to permit the construction of a detached accessory structure on the property.
- The key finding of this report is that the minor variance meets 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 located on Duke Street West between Bismark Avenue and Stahl Avenue. The property contains an existing single detached dwelling and an accessory structure which will be torn down and replaced with the proposed accessory structure.

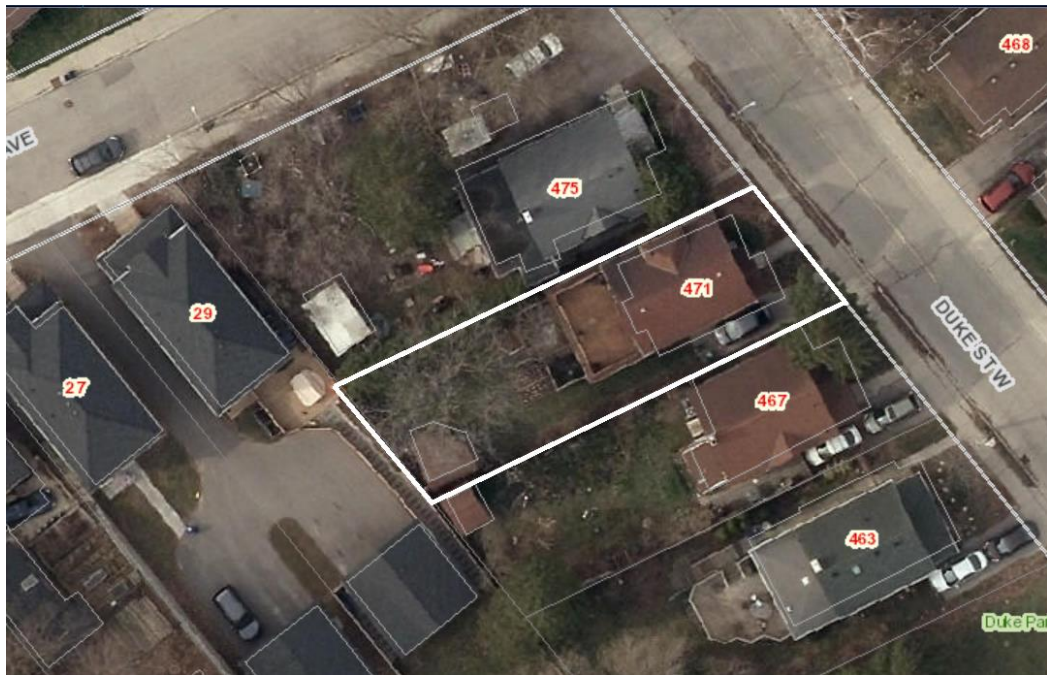


Figure A: Location of 471 Duke Street W



Figure B: Location of proposed accessory structure

The subject property is identified as 'Community Areas' 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.

The application is requesting relief from Section 4.1 d) of Zoning By-law 2019-051 to permit a detached accessory structure to have a maximum height of 4.5 metres to the underside of the fascia instead of the maximum permitted 3 metres. The requested minor variance will facilitate the construction of a detached shed in the rear yard of the property. The variance is needed to construct a shed capable of storing camping equipment and to construct a garden at the location of the existing shed. The variance is required for the height to the underside of the fascia at the front of the shed, which would feature a downward sloping roof towards the rear of the property. This is illustrated in 'Attachment B'.

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' in the City's Official Plan. The intent of this designation is to emphasize the compatibility of building form with respect to massing, scale and design in order to support the successful integration of different building types. It also places emphasis on the relationship of buildings to adjacent properties, streets, and exterior areas. Staff is of the opinion that the requested variance to facilitate the construction of a detached accessory structure meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of Section 4.1 d) of Zoning By-law 2019-051 which limits the height to the underside of the fascia to 3 metres is to ensure that accessory structures are not excessive in height and to ensure that neighbouring properties do not face blank walls. As shown in 'Attachment B', the proposed detached accessory structure has a downward sloping roof which will result in the rear wall height being similar to the height of the fence at the rear of the property. The height of the detached accessory structure is not excessive since it will be less than the 5.5 metre permitted maximum building height. Staff is of the opinion that the requested variance meets the general intent of the Zoning By-law.

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

Staff is of the opinion that the effects of the variance are minor. The detached accessory structure will be set back 2.6 metres from the rear lot line and the interior side lot line, which is greater than the minimum required 0.6 metres. The downward sloping roof will ensure that neighbouring properties will not face blank walls. As shown in Figure A, the shed will be adjacent to the driveway of the neighbouring property, meaning that its visual impact will be minimal. The proposed accessory structure will be compatible with existing buildings on the subject property and will not conflict with the character of the surrounding neighbourhood.

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

Staff is of the opinion that the requested variance is appropriate for the development and use of the land. It will facilitate the construction of a shed that is capable of storing camping equipment while the height, scale, and massing of the proposed detached accessory structure will be compatible with the existing character of the surrounding neighbourhood.

Environmental Planning Comments:

No natural heritage issues. The applicant should ensure that the mature tree that overhangs the shed (increased height proposed) is not in shared ownership. Based on the tree canopy, there does not appear to be concerns however, the canopy may need to be pruned up. This should be done by a professional.

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 471 Duke St. W. 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 provided building permit for the accessory structure for the existing single detached dwelling 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:

No comments.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

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:

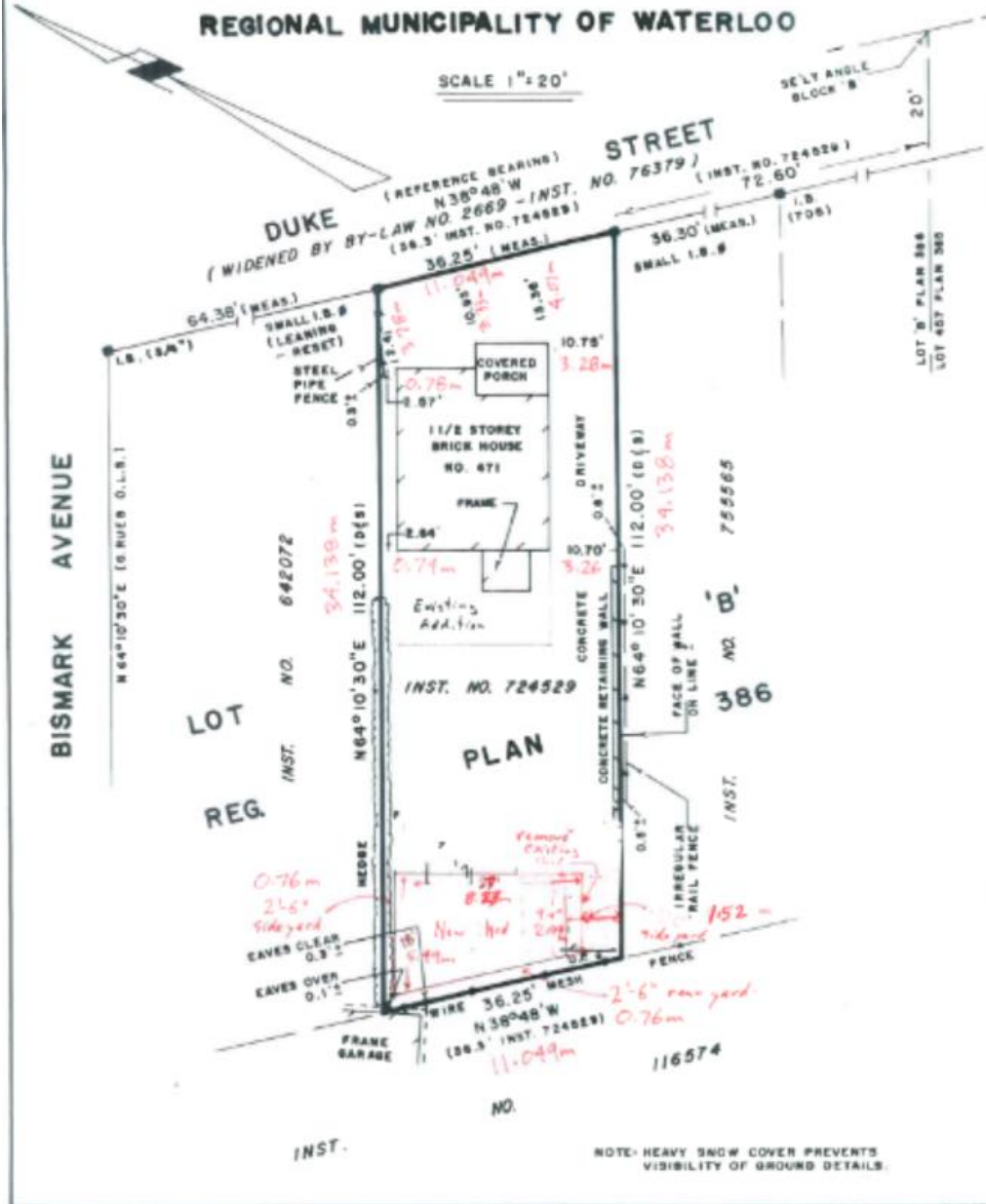
- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*

ATTACHMENTS:

- Attachment A – Site Plan
- Attachment B – Shed Elevations

BUILDING LOCATION SURVEY
OF
PART OF LOT 'B' REGISTERED PLAN 386
CITY OF KITCHENER
REGIONAL MUNICIPALITY OF WATERLOO

SCALE 1" = 20'



LEGEND	
□	DENOTES SURVEY MONUMENT SET
■	FOUND
S.I.B.	STANDARD IRON BAR
I.B.	IRON BAR
L.S.B.	FOUND IRON BAR
I.P.	IRON PIPE
(T06)	D. HOWE, O.L.S.
(U.P.)	UTILITY POLE

NOTE
BEARINGS ARE ARITHMETIC AND ARE REFERRED TO THE S.W. LY. LIMIT OF DUKE STREET HAVING A BEARING OF N38°46'W

SURVEYOR'S CERTIFICATE

I CERTIFY THAT
THE FIELD SURVEY REPRESENTED BY THIS PLAN
WAS COMPLETED ON THE 13TH DAY OF FEBRUARY, 1988.

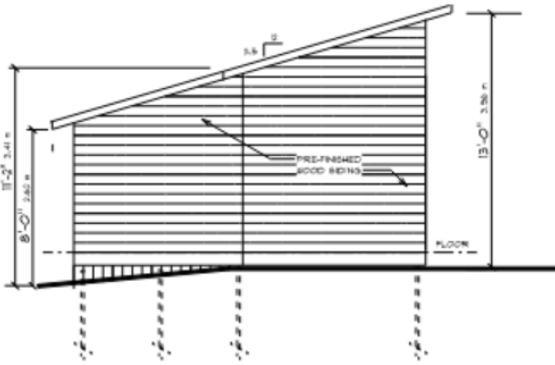
DATED: FEB. 15, 1988.

Wayne D. Turpel
WAYNE D. TURPEL
ONTARIO LAND SURVEYOR

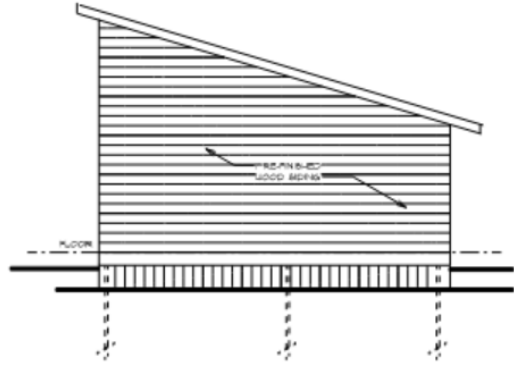
WAYNE D. TURPEL SURVEYING LIMITED
ELMIRA, ONTARIO PHONE (519) 669-5070

DRAWN BY: H.T. CHECKED BY: W.D.T. FILE NO. 85-115

Attachment A – Site Plan



LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION

I REVIEW AND TAKE RESPONSIBILITY FOR THE DESIGN WORK ON BEHALF OF MENNO S. MARTIN CONTRACTOR LTD. AND I AM QUALIFIED IN THE APPROPRIATE CATEGORY AS AN ARCHITECT DESIGNER UNDER SUBSECTION 3.2.9 DIVISION C OF THE BUILDING CODE

Trent Bauman
 TRENT BAUMAN
 BCN: 2644

MENNO S. MARTIN CONTRACTOR LTD. <small>DESIGN-BUILD • ADDITIONS • RENOVATIONS</small>		<small>100 KILBUCK STREET, ST. C. COLUMBIA ON N0Y 1K6 TELEPHONE: 905.441.4348 WEBSITE: WWW.MENNOSE.COM E-MAIL: WWW@MENNOSE.COM</small>
SCALE: 1/4" = 1'-0"	NEW SHED FOR: THE WEINER-LAURENCE RESIDENCE 471 DUKE ST. KITCHENER	DRAWN BY: TCB SHEET NUMBER: A-4
DATE: JUNE 18, 2023		

Attachment B – Shed Elevations