

REPORT TO: Committee of Adjustment

DATE OF MEETING: July 18, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
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WARD(S) INVOLVED: Ward 2

DATE OF REPORT: July 5, 2023

REPORT NO.: DSD-2023-314

SUBJECT: Minor Variance Application A2023-080 - 15 Dellroy Avenue

RECOMMENDATION:

That Minor Variance Application A2023-080 for 15 Dellroy Avenue requesting relief from the following sections of Zoning By-law 2019-051:

- i) Requesting relief from Section 7.3, Table 7-6, to permit a front yard setback of 1 metre instead of the minimum required front yard setback of 3 metres and to permit an interior side yard setback of 0 metres instead of the minimum required interior side yard setback of 4.5 metres;
- ii) Requesting relief from Section 5.6, Table 5-5, to allow 0.6 parking spaces per dwelling unit (167 parking spaces) and 0.08 visitor parking spaces per dwelling unit (24 parking spaces) instead of the minimum required 1 parking space per dwelling unit (277 parking spaces) and 0.10 visitor parking spaces per dwelling unit (28 parking spaces);
- iii) Requesting relief from Section 5.3.4 b) ii) to allow parking spaces and drive aisles on the ground floor of a multiple dwelling building to be not entirely behind the area on the ground floor devoted to permitted uses abutting a street line facade, whereas the by-law requires all parking spaces and drive aisles to be behind the area devoted to permitted uses abutting a street line facade; and
- iv) Requesting relief from section 4.5 a) to allow encroachments into the Driveway Visibility Triangle (DVT) abutting Weber Street East whereas no encroachments into the Driveway Visibility Triangle (DVT) are allowed in;

to facilitate the development of an 18-storey mixed-use building with residential and commercial uses while retaining the existing 6-storey apartment building in accordance with Site Plan Application SP22/158/D/BB, BE DEFERRED to a future meeting date agreeable to the Applicant.

REPORT HIGHLIGHTS:

- The purpose of this report is to review and recommend Deferral of a Minor Variance Application to facilitate the development of an 18-storey mixed use building on the subject property.
- Site Plan Application SP22/158/D/BB to facilitate the proposed development has received Conditional Approval.

- Region of Waterloo Staff have identified some potential concerns with the DVT Minor Variance due to a proposed road widening along Weber Street East. The Applicant is agreeable to some more detailed work being completed by an Ontario Land Surveyor to establish the road widening and confirm the location of the proposed building relative to the new lot line and CVT and DVT.
- 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.
- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:

The subject property, municipally known as 15 Dellroy Avenue, is located at the intersection of Dellroy Avenue and Weber Street East. The subject property before the required 1.7 metre Weber Street East road widening is 5,720 m² or 0.572 hectares and roughly square in shape with 73.1 metres of frontage along Weber Street East and 76.7 metres of frontage along Dellroy Avenue (see Image 1 above). After the required road widening, the subject property is 5,587 m² or 0.55 hectares with the same frontage along Weber Street East and 75 metres along Dellroy Avenue.



Image 1 – 15 Dellroy Avenue

Currently there is an existing 6-storey apartment building on the subject property fronting onto Dellroy Avenue which was originally constructed in the 1970s (see Image 2). Surface parking located in the northwestern corner of the site is accessed from Dellroy Avenue to the north of the existing apartment building (Underground parking is accessed via Weber Street East to the east of the existing building). A grassed, sloped area covers the eastern half of the property (see Image 1). This area includes an L-shaped existing foundation wall within the eastern portion of the front yard and the northern portion of the interior side yard. The foundation wall was originally intended to support the construction of a second apartment building in an abandoned second phase of the project, and had been covered by the grassed, sloped area to maintain a safe condition on site.

The applicant is proposing to construct an 18-storey mixed-use building with a 4-storey podium fronting Weber Street East while retaining an existing 6-storey, 46 dwelling unit apartment building and associated underground parking structure. The new building will include 231 dwelling units in the tower and podium. 200 parking spaces are proposed at the surface and underground for all uses on the site. Specifically, 71 parking spaces are proposed on a reconfigured surface parking area, which is accessed via the existing Dellroy Avenue surface parking access and via a new Weber Street East access to facilitate fire truck movements. 109 parking spaces are provided in two underground levels via a new dedicated access from Weber Street East and 20 parking spaces are provided under the existing 6-storey apartment building, accessed via the existing Dellroy Avenue access, and connected to the new underground parking structure on the second underground level. The applicant is in discussions with the Ministry of Transportation (Ontario) in consideration of a long-term lease of the vacant MTO lands directly across Dellroy Avenue for up to 120 additional surface parking spaces. Any such leased parking is not permitted to count toward meeting Zoning By-Law requirements.



Image 2 – Photo of 15 Dellroy Avenue

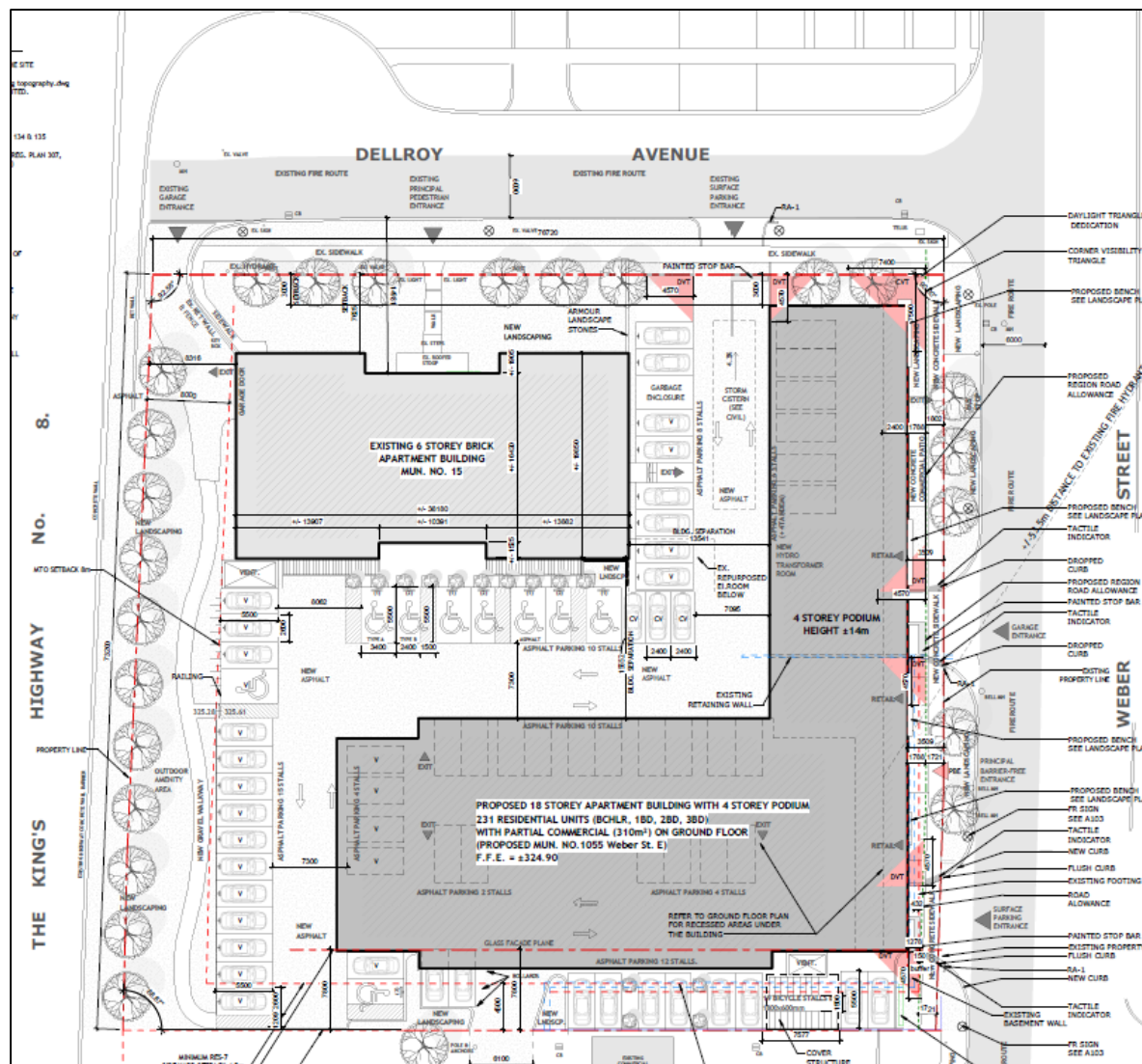


Image 3 – Proposed Site Development

REPORT:

Planning Comments Minor Variance Applications

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 shown within an 'Urban Corridor' on Map 2 and designated 'High Rise Residential' on Map 3 of the City of Kitchener Official Plan. Lands shown within 'Urban Corridors' are 'Intensification Areas' intended "to have strong *pedestrian* linkages and be integrated with neighbouring residential and employment uses' as well as to 'provide for a range of *retail* and commercial uses and intensification opportunities that should be *transit supportive*." Lands designated 'High Rise Residential' "will primarily accommodate high density multiple dwellings...to achieve a high intensity of residential use." All *development* and *redevelopment* must have a *Floor Space Ratio* between 2.0 and 4.0. The minor variances to facilitate this development will meet the intent of the Official Plan.

General Intent of the Zoning By-law

The subject property is zoned 'RES-7: High Rise Residential Seven Zone', under Zoning By-law 2019-051, which permits 'Multiple Dwelling' and a range of non-residential uses. This zone category requires a minimum *Front Yard* and *Exterior Yard Setback* of 3.0 metres and a minimum *Interior Side Yard Setback* of 4.5 metres. Section 5 of the Zoning By-law (Parking, Loading, and Stacking) requires 1.0 parking spaces per dwelling unit plus 0.1 per dwelling unit of visitor parking and 1.0 parking spaces per 33 m² of non-residential GFA. It further requires that ground floor parking spaces and drive aisles for multiple dwelling buildings be located entirely behind permitted uses abutting the street line façade of the building, such as the proposed residential and non-residential uses, except for access. Section 4 of the Zoning By-Law (General Regulations) requires driveway visibility triangles at all driveway accesses and restricts any obstructions to visibility, including buildings, except for objects 0.9 metres or less in height from the ground or objects higher than 5 metres in height from the ground.

The minor variances have been reviewed in the context of Site Plan Application SP22/158/D/BB to ensure that the proposal and built form support the planned function of the land use designation and intent of the zone category and Zoning By-law. Accordingly, the intent of the Zoning By-law will be maintained.

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

The effects of the variances will be minor. The proposed development has been reviewed to ensure that it is compatible in built form and can function appropriately on the subject lands. A Transportation Impact Study and Parking Study has been submitted and accepted by Transportation Planning Staff. Also as Site Plan Application SP22/158/D/BB, to facilitate this development, has received conditional approval, the effects of the variances will be minor.

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

The minor variances are desirable and appropriate as they will facilitate the development of an 18-storey mixed-use building with a 4-storey podium fronting Weber Street East while retaining an existing 6-storey, 46 dwelling unit apartment building and associated underground parking structure. The new building will provide an additional 231 dwelling units, for a total of 277 dwelling units and support the City's Housing Pledge.

Environmental Planning Comments:

No concerns.

Heritage Planning Comments:

No concerns.

Building Division Comments:

The Building Division has no objections to the proposed variances provided a building permit for the new residential building is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No concerns.

Parks/Operations Division Comments:

No concerns

Transportation Planning Comments:

It should be noted that Paradigm Transportation Solutions Limited submitted (November 2022) a Transportation Impact Study and Parking Study, which was reviewed by Transportation Services.

Transportation Services staff have dealt with the applicant regarding the proposed parking rate and encroachments into the driveway visibility triangles and are supportive of both.

Grand River Conservation Authority Comments:

No objections or concerns.

Region of Waterloo Comments:

The Regional staff do not support this minor variance application. Any structures within the Daylight Triangle (DLT) and any encroachment under, at or above the ground within the Regional right of way, including the daylight triangle (including the lands to be dedicated to the Region), will not be allowed. The buildings and the site must be designed accordingly.

Planning Staff Comments:

Site Plan Application SP22/158/D/BB received Conditional Approval on May 15, 2023. During the review of the Site Plan there was considerable dialogue with the Region with respect to the required road widenings, the location of the building and proposed landscaping within the Regional Road allowance. There are 2 triangles in this location, a Corner Visibility Triangle (CVT) and a Driveway Visibility Triangle (DVT). The DVT's apply to the driveway entrances, whereas the CVT applies to the corner of Weber Street East and Dellroy Avenue. The applicant has requested a Minor Variance with respect to the Driveway Visibility Triangle (DVT). Some survey work needs to be done to confirm the road widening and the impacts to the proposed development. In any case, the applicant can confirm that building will be adjusted to comply with the Regional CVT. However, in the absence of this more detailed survey work to establish the road widening and confirm the location of the proposed building relative to the new lot line and CVT and DVT, the Applicant has requested to defer this application.

Corner Visibility Area - means the area formed within a corner lot by two triangles, where the intersecting street lines form the legs of each triangle, and the triangles extend from the street linepoint of intersection.

Corner Visibility Triangle – means a triangular area formed within a corner lot by the intersecting street lines or the projections thereof, and a straight line connecting them from their point of intersection.

Driveway Visibility Triangle – means a triangular area formed within a lot by the intersection of an edge of a driveway and a lot line, or the projections thereof, and a straight line connecting them from their point of intersection.

Airport Zoning (Advisory):

The owners/applicants are also advised that the subject property falls within the Region of Waterloo Zoning Regulated Area, specifically under the Take-off/Approach Surface for Runway 08. Using the Region of Waterloo International Airport Zoning Regulations (AZR) online tool (<https://www.waterloairport.ca/en/about-ykf/airport-zoning-regulations-update.aspx>), the permitted building height for the subject property is 399.5m Above Sea Level (ASL), the maximum building height is 75.5m based on a maximum ground level of 324m ASL. Please ensure that the building heights for the proposed development comply with the Region of Waterloo Airport zoning and height restrictions. The Region of Waterloo International Airport AZR also regulates any construction of towers/cranes for a proposed development. Any proposed development at this location must ensure that construction towers/cranes also comply with the Region of Waterloo International AZR.

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 (ROP)*
- *ROPA 6*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*