

# 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 2

**DATE OF REPORT:** July 28, 2023

**REPORT NO.:** DSD-2023-342

**SUBJECT:** Minor Variance Application A2023-100 – 332 Prospect Avenue

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## RECOMMENDATION:

That Minor Variance Application A2023-100 for 332 Prospect Avenue requesting relief from Section 7.3, Table 7-2, of Zoning By-law 2019-051, to permit a rear yard setback of 4.6 metres and 6.9 metres instead of the minimum required 7.5 metres, to facilitate the construction of a detached dwelling, generally in accordance with drawings prepared by Bobicon Ltd., dated June 28, 2023, **BE APPROVED.**

## REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance to facilitate the construction of a single detached dwelling.
- 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 a vacant lot located near the intersection of Kenneth Avenue and Prospect Avenue.



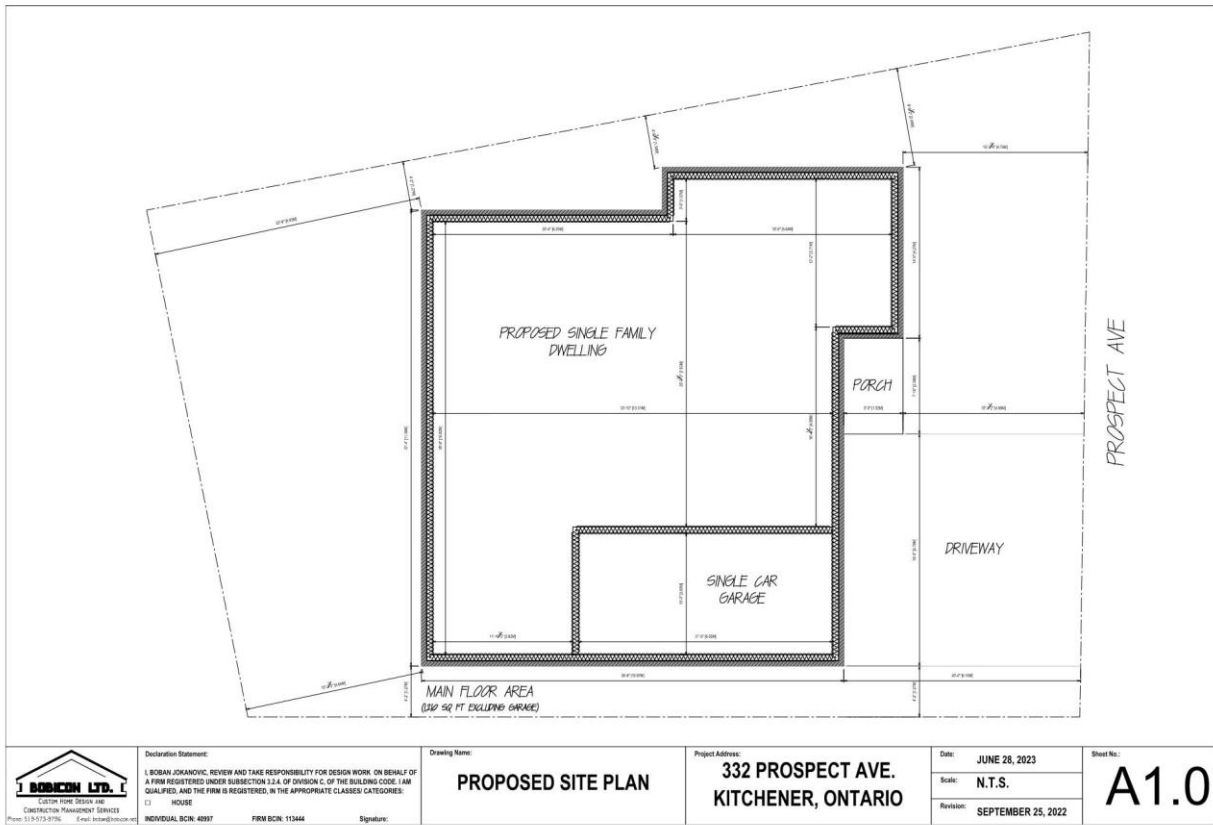
**Figure 1 – Ariel Photo of Subject Property**

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 purpose of the application is to review a rear yard setback variance to facilitate the construction of a single detached dwelling. The subject property is currently a vacant lot, with a lot area of 342.2 square metres. The proposed site plan for the single detached dwelling indicates a rear yard setback of 4.6 metres on the left side of the rear yard and a setback of 6.9 metres on the right side of the rear yard. As a result of the irregular shape of the rear area of the property and the proposed design of the single detached dwelling, the minimum rear yard setback of 7.5 metres is not able to be met.

Staff visited the subject property on July 26, 2023.



**Figure 2 – Proposed Site Plan**



**Figure 3 – Front View of Subject Property**

## **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' on Map 3 – Land Use. The Low Rise Residential land use designation permits a full range of low density housing types which may include single detached dwellings, additional dwelling units, attached and detached, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings, special needs housing, and other forms of low-rise housing.

This designation places emphasis on compatibility of building form with respect to massing, scale, and design in order to support the successful integration of different housing types. It also places emphasis on the relationship of housing to adjacent buildings, streets, and exterior areas. It is the opinion of staff that the variance to facilitate the proposed use of a single detached dwelling meets the general intent of the Official Plan.

#### General Intent of the Zoning By-law

The general intent of the rear yard setback requirement is to ensure that there is an adequate separation from adjacent properties with respect to privacy concerns, and that there is appropriate amenity space for residents. The proposed site plan indicates that there will be adequate amenity space for residents in the rear yard, due to the shape of the lot. The privacy concerns appear minimal due to the existing fence and the larger rear yard setbacks on adjacent properties. As such, staff is of the opinion that the 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 requested variance is minor, as any privacy concerns related to adjacent properties are minimal, the reduced rear yard setback will still provide a sufficient amenity area and will not have any significant impacts to adjacent properties or the overall neighbourhood.

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

Planning staff is of the opinion that the variance to reduce the minimum rear yard setback is appropriate for the desirable development of the lands, as it will facilitate the construction of a dwelling on an existing irregular-shaped lot.

### **Environmental Planning Comments:**

Environmental Planning has 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 single detached dwelling is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

Engineering Division has no concerns with this application.

**Parks/Operations Division Comments:**

Parks/Operations Division have no concerns with this application.

**Transportation Planning Comments:**

Transportation Services have no concerns with this application.

**Region of Waterloo Comments:**

There are no concerns/requirements for the above application. The owners are advised that the subject property falls within the Region of Waterloo Zoning Regulated Area, specifically under the Take-off/Approach Surface for Runway 08. For more information in this regard, please contact Jordan Vander Veen, Manager at 519-648-2256 ext. 8514 Email: [jvanderveen@regionofwaterloo.ca](mailto:jvanderveen@regionofwaterloo.ca).

**Grand River Conservation Authority Comments:**

The GRCA 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*