

REPORT TO: Committee of Adjustment

DATE OF MEETING: September 19, 2023

SUBMITTED BY: Tina Malone-Wright, Supervisor, Development Applications
519-741-2200 ext. 7765

PREPARED BY: Gaurang Khandelwal, Planner (Policy), 519-741-2200 ext. 7611

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: September 13, 2023

REPORT NO.: DSD-2023-390

SUBJECT: Minor Variance Application A2023-106 – 279 Sheldon Ave. N.

RECOMMENDATION:

That Minor Variance Application A2023-106 for 279 Sheldon Avenue North requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.14.1 to permit architectural features to project into the minimum front yard to a maximum of 0.83 metres instead of the maximum permitted projection of 0.6 metres;
- ii) Section 4.14.10 b) to permit an access ramp exceeding 0.6 metres above ground level to be located a minimum of 0.63 metres from the westerly interior side lot line instead of the minimum 0.75 metres;
- iii) Section 5.3.1 to permit a parking space within the carport to be 4.4 metres in length instead of the minimum required length of 5.5 metres;
- iv) Section 5.3.3 a) to permit a parking space to be located within 6 metres from a street line;
- v) Section 5.4 a) to permit an attached private garage to project beyond the front façade of the habitable at grade portion of the dwelling unit; and
- vi) Section 7.6 a) to permit a minimum front yard of 4.2 metres instead of the minimum required front yard of 5.65 metres;

to facilitate the construction of a carport and a wheelchair lift in the front yard and a new access ramp in the side yard of an existing single detached dwelling, generally in accordance with drawings prepared by Elan Design Studio Inc., dated July 2023, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review minor variances to facilitate the construction of a carport and a wheelchair lift in the front yard and an access ramp in the side yard of an existing single detached dwelling in order to provide an accessible entrance and exit from the dwelling to meet and enhance mobility needs.
- The key finding of this report is that the requested minor variances meet the 4 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 the south side of Sheldon Avenue North, in the Eastwood planning community. The surrounding context comprises of primarily low-rise residential uses. Lots on the south side of Sheldon Avenue North are developed as low-rise single detached dwellings. Lots on the north side of Sheldon Avenue North are large sized with one of the properties developed as a medium-rise residential condominium. Further, Sheldon Avenue North has an irregular right-of-way configuration.

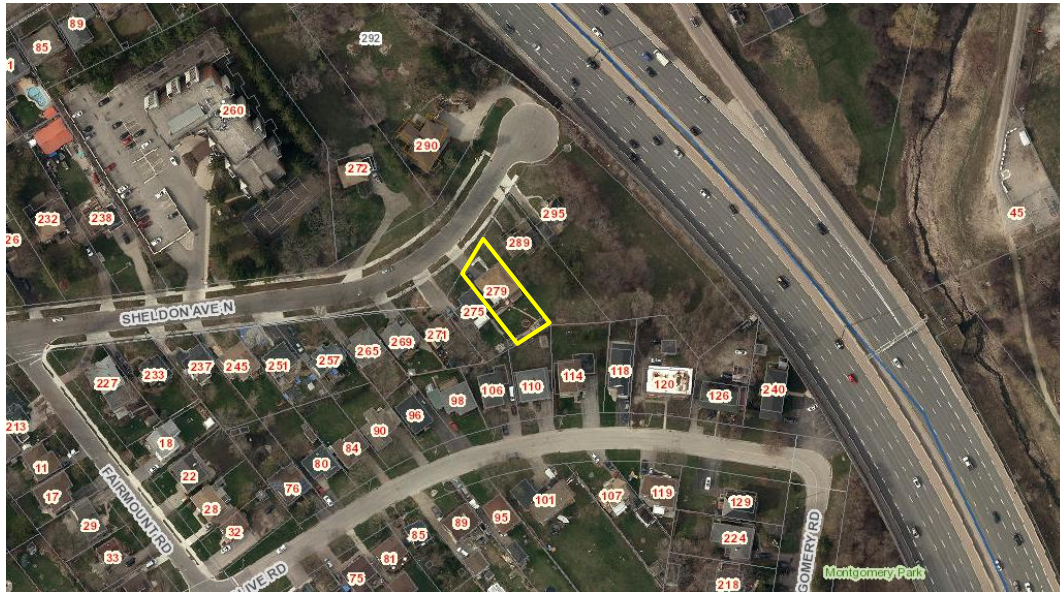


Figure 1 – Location Map of the Subject Property



Figure 2 – 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 Five Zone (RES-5)' and is located within 'Appendix C – Central Neighbourhoods Area' and 'Appendix D – Established Neighbourhoods Area' in Zoning By-law 2019-051.

The purpose of the application is to facilitate the construction of a carport and a wheelchair lift in the front yard and an access ramp in the westerly side yard of the existing single detached dwelling. These additions are intended to provide an accessible entrance and exit from the dwelling to meet and enhance mobility needs for the existing single detached dwelling.

A previous minor variance application was approved for the subject property by the Committee of Adjustment on June 15, 2021. At that time, the minor variance was approved without conditions and permitted the re-construction of an attached covered deck in the side yard of the existing single detached dwelling with a westerly side yard setback of 0.55 metres rather than the required 1.2 metres in Zoning By-law 85-1. Since that time Zoning By-law 2019-051 has come into full force and effect for the subject property, requiring additional relief from prescribed regulations with respect to the proposed carport, wheelchair lift and access ramp.



Figure 3 – Location of Requested Minor Variances

City Planning staff conducted a site visit on August 25th, 2023.

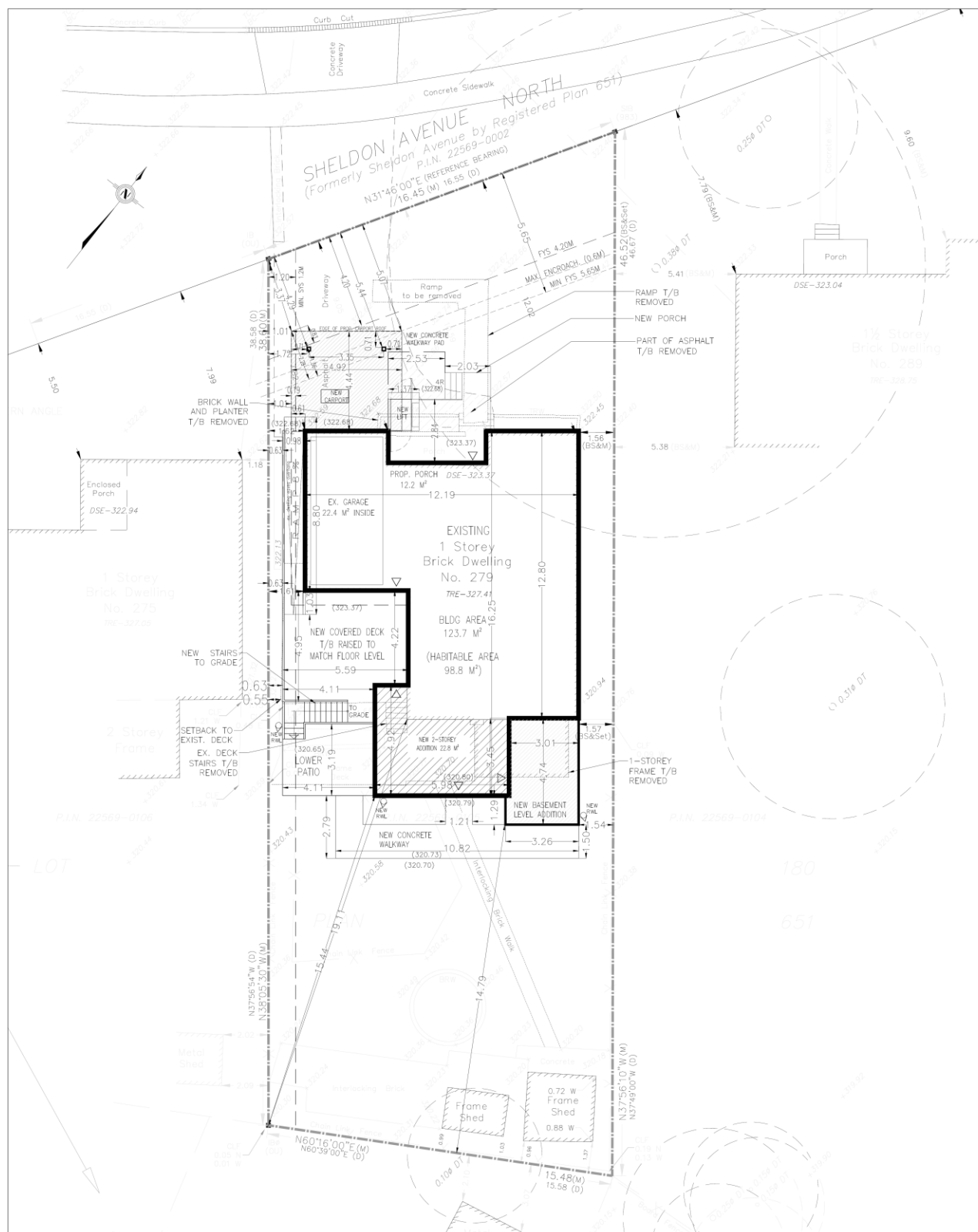


Figure 4 – Proposed Site Plan

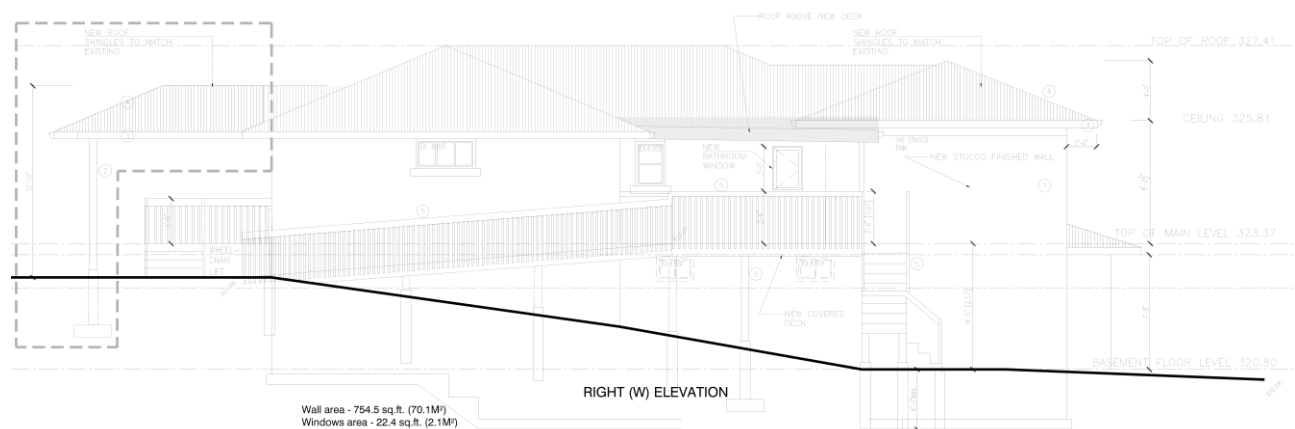
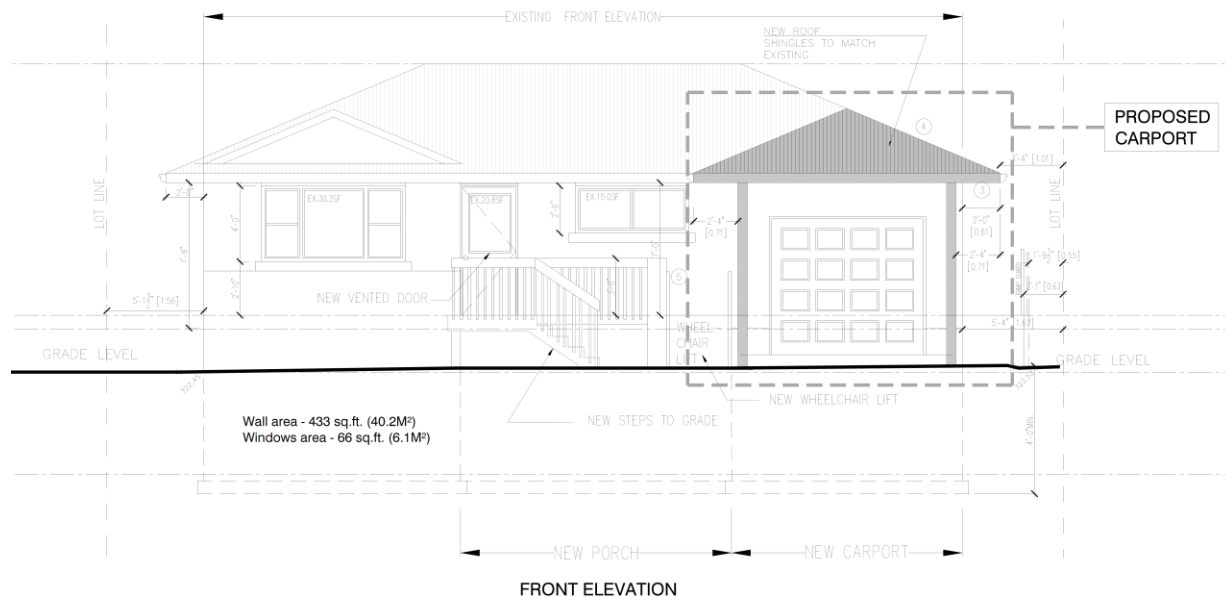


Figure 5 – Elevation drawings

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 identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City of Kitchener Official Plan. The intent of the Low Rise Residential designation is to accommodate a full range of low density housing types including special needs housing. The Official Plan defines special needs housing as, "any housing, including dedicated facilities such as residential care facilities, in whole or in part, that is used by people who have specific needs beyond economic needs, including but not limited to, needs such as mobility requirements or support functions required for daily living." One of the objectives of the residential land uses (Policy 15.3.4) is to implement policies in 'Section 4: Housing' of the Official Plan. Official Plan policy 4.C.1.8 details criteria that should be considered

where minor variances are requested and specifies that additions and/or modifications to existing buildings should be appropriate in massing and scale and compatible with the built form and character of the established neighbourhood and adjacent properties. Further Policy 4.C.1.25 to 4.C.1.29 speaks to 'special needs housing'. Policy 4.C.1.28 in particular directs the City to ensure that adaptive reuse of existing buildings for special needs housing is compatible in terms of use and built form with the surrounding context. Staff are of the opinion that the proposed addition of the carport, wheelchair lift and access ramp to the existing single detached dwelling is compatible with the scale, massing, design and character of adjacent properties, maintains the character of the streetscape, and is appropriate for the adaptive reuse of the existing single detached dwelling for special needs housing. Further, staff are of the opinion that the requested variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

The subject property is zoned 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051.

1. Front Yard Setback

The intent of the minimum front yard setback is to ensure that buildings are adequately set back from the travelled portion of the right-of-way for buffering and safety purposes, to allow sufficient private front yard landscaped area for aesthetic reasons, and to ensure that new developments and front yard additions do not disrupt the character of an established neighbourhood.

The subject property is within 'Appendix D – Established Neighbourhoods Area' of Zoning By-law 2019-051. The RES-5 zone requires the minimum front yard for lands identified in Appendix D to be the average of the front yards of the abutting lots, minus 1.0 metre. In this regard, the required minimum front yard has been determined as 5.65 metres, based on current conditions of the adjacent properties (275 Sheldon Avenue North and 289 Sheldon Avenue North). Sheldon Avenue North has an irregular right-of-way configuration which results in front lot line of the subject property to be located further away from Sheldon Avenue North with an extended right-of-way for the street. Further, 289-295 Sheldon Avenue North has an active Site Plan application (SP19/117/S/TS) that has been Approved in Principle with a proposal for 40 stacked townhouse dwelling units. The front yard setback for the redeveloped site is proposed to be 4.55 metres.

The proposed carport in the front yard is designed to be unenclosed and match the existing single detached dwelling so that it does not disrupt the character of the neighbourhood and the streetscape while providing improved accessibility and protection from elements for the wheelchair user.

Staff are of the opinion that the requested variance for reduction in minimum front yard to 4.2 metres instead of 5.65 metres meets the general intent of the Zoning By-law.

2. Projection of Architectural Features in the Front Yard

The intent of architectural features, including eaves, to project a maximum of 0.6 metres into any required yard is to ensure that the design and character of the built environment in neighbourhoods is maintained.

The existing single detached dwelling has eaves that extend 0.6 metres from around the dwelling. To match the overhang of the eaves on the westerly side of the dwelling, eaves of the carport project 0.71 metres from the columns of the carport. This results in the eaves to project 0.83 metres into the minimum front yard setback (4.2 metres). The proposed carport design matches the existing single detached dwelling and the overhang of the carport eaves follows and extends with that of the existing dwelling.

Staff are of the opinion that the requested variance to allow architectural features (eaves) to project 0.83 metres into the minimum front yard setback meets the general intent of the Zoning By-law.

3. Projection of an Attached Garage beyond the Front Façade of the Dwelling

The intent of attached private garage to not project beyond the front façade of the habitable portion of the dwelling within Central Neighbourhoods Area is to ensure that new development does not disrupt the character of the Central Neighbourhoods Area.

The projection of the carport beyond the habitable portion of the dwelling is necessary so that the wheelchair lift can be accessed through the carport with sufficient protection from the elements. It is to be noted that the applicant has explored locating the wheelchair lift within the existing private garage but has indicated that the current size of the garage does not allow the accommodation of a wheelchair lift. Further, in consideration of the irregular shape of the lot and the minimum required front yard setback, the habitable portion of the dwelling can be developed and extend beyond the proposed carport.

Staff are of the opinion that the requested variance to permit an attached private garage to project beyond the front façade of the existing habitable at grade portion of the dwelling meets the general intent of the Zoning By-law.

4. Minimum Length of Parking Space

The intent of minimum parking space dimensions is to ensure provision of functional car parking spaces. The Zoning By-law requires a parking space length of 5.5 metres. The applicant has proposed a carport with the length of the car parking space to be 4.44 metres. Since the attached garage is a carport, the applicant has indicated that the parking length space of 4.44 metres will provide sufficient shelter from the elements.

Staff are of the opinion that the requested variance for a reduction in the required minimum length of a car parking space meets the general intent of the Zoning By-law.

5. Parking Space Location

The intent of off-street parking spaces in Zoning By-law 2019-051 to be setback 6 metres from the lot line is to ensure that a vehicle can be safely parked on the driveway without affecting the City right-of-way and abutting properties. The required setback ensures clear visibility lines when existing the driveway.

Sheldon Avenue North has an irregular right-of-way configuration which results in most of the driveway of 279 Sheldon Avenue North to be located within the City's right-of-way. Although the proposed parking space within the carport is located within 6 metres from the lot line, it is more than 6 metres away from the street. This ensures that a vehicle can be safely parked on the driveway and there are clear visibility lines when existing the driveway. It is to be noted that there is only 1 parking space required for the single detached dwelling. The existing attached private garage is to be maintained for parking and the applicant has indicated that there are no intentions to convert the existing private garage for other use.

Staff are of the opinion that the requested variance to allow the required parking spaces to be located within 6 metres from the street (property) meets the general intent of the Zoning By-law.

6. Access ramp setback

The intent of the access ramp exceeding 0.6 metres above ground level to be located a minimum of 0.75 metres from the side lot line is to ensure privacy with adjacent properties.

The access ramp provided on the westerly side of the property is designed to be 0.98 metres wide which will facilitate the use by a wheelchair user. The adjacent property has two windows along the westerly side of the subject property. The overlook and privacy concerns in relation to the access ramp above 0.6 metres above ground level to be used primarily by a wheelchair user are negligible.

Staff are of the opinion that the requested variance for the access ramp to be located 0.63 metres from the side lot line instead of the minimum required 0.75 metres meets the general intent of the Zoning By-law.

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

Planning staff is of the opinion that the requested variances are minor, in that they will not adversely impact the character of the neighbourhood, streetscape and adjacent properties. No compatibility or privacy concerns are identified with the requested variances, because of building design measures and orientation relative to the surrounding 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 variances are desirable and appropriate for the development of subject land to meet and enhance mobility needs through the provisions of a carport, wheelchair lift, and an access ramp. The applicant has demonstrated through building and site design, that the proposed additions will not have adverse impacts on the adjacent properties and will be compatible with the character of the neighbourhood. In addition, the variances would facilitate accessible entrance and exit from the existing single detached unit to meet and enhance mobility needs.

Environmental Planning Comments:

No natural heritage or trees in area of development.

Heritage Planning Comments:

No heritage concerns

Building Division Comments:

The Building Division has no objections to the proposed variance provided a building permit for the carport and revision to the issued permit are obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

Applicant to provide a minimum 0.5 metre setback from property line to ensure an unobstructed shared property line swale is maintained.

Parks/Operations Division Comments:

No concerns, no comments

Transportation Planning Comments:

Transportation Services can support the proposed application to permit the following:

- That the parking space in the proposed carport be 4.4 metres in length instead of the required 5.5 metres length; and
- That a parking space be located less than 6 metres from the property line.

Sheldon Ave North has an irregular right-of-way configuration which makes almost half of the length of the existing driveway at 279 Sheldon Avenue North located within the City's right-of-way but does not impact the sidewalk or roadway in any way. The proposed applications should not impact parking on-site.

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:

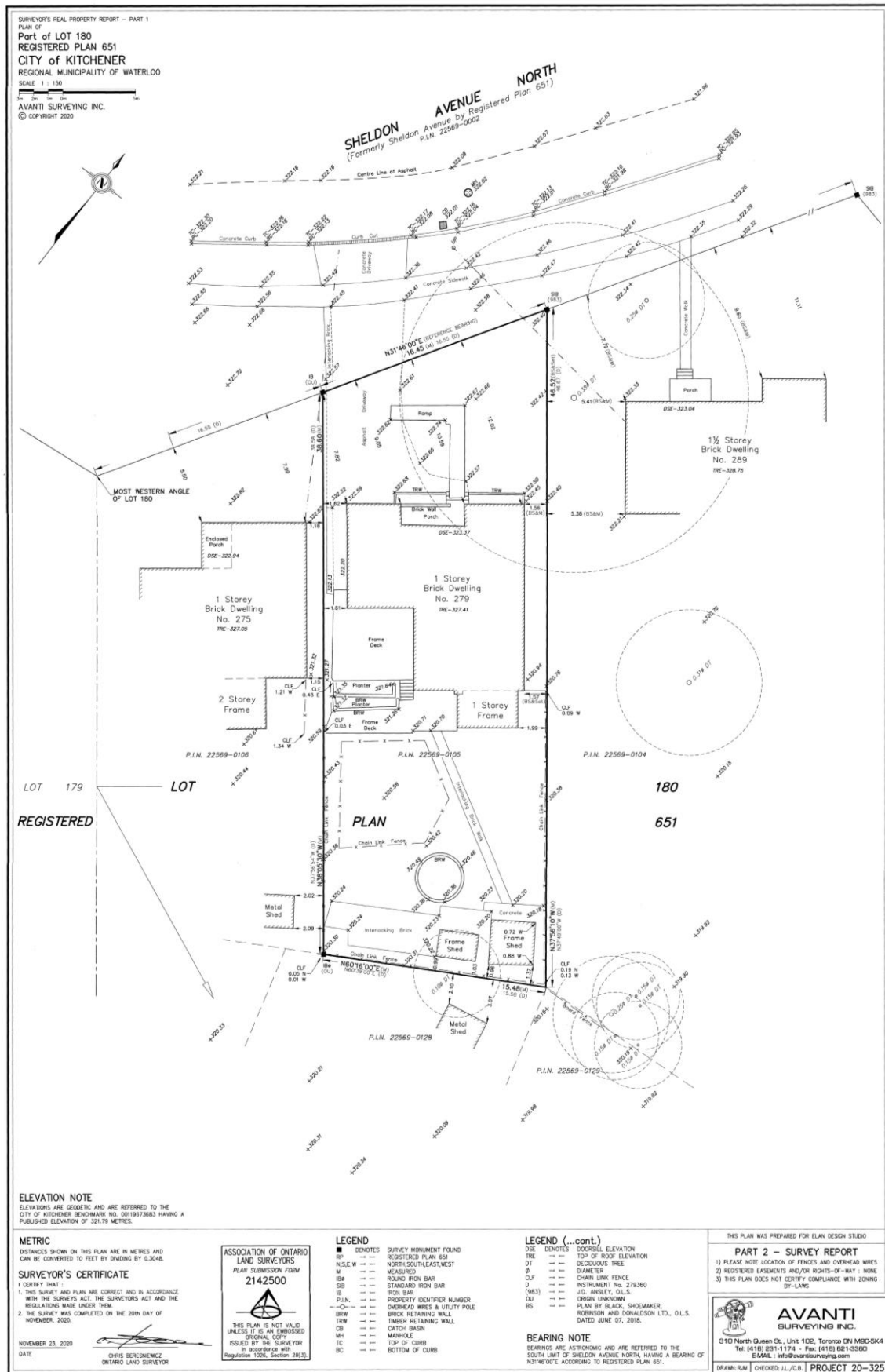
- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*

ATTACHMENTS:

Attachment A – Survey of 279 Sheldon Ave N

Attachment B – Site Plan of proposed addition for 279 Sheldon Ave N

Attachment A – Survey of 279 Sheldon Ave N



[illegible]