

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: Raida Chowdhury, Student Planner, 519-741-2200 ext. 7078

WARD(S) INVOLVED: Ward 6

DATE OF REPORT: September 1, 2023

REPORT NO.: DSD-2023-397

SUBJECT: Minor Variance Application A2023-107 – 239 Rosebank Place

RECOMMENDATION:

That Minor Variance Application A2023-107 for 239 Rosebank Place requesting relief from Section 5.3.3 a) i) of Zoning By-law 2019-051, to permit a required parking space to be located 4.5 metres from street (property) line instead of the minimum required 6 metres, to facilitate the conversion of the attached garage into living space for a new Additional Dwelling Unit (ADU) (Attached) in the existing Single Detached Dwelling, generally in accordance with drawings submitted with Minor Variance Application A2023-107, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance to facilitate the conversion of an existing attached garage into living space for a new Additional Dwelling Unit (ADU) (Attached).
- 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 an irregularly-shaped lot located on a cul-de-sac, or no exit road, municipally known as Rosebank Place.

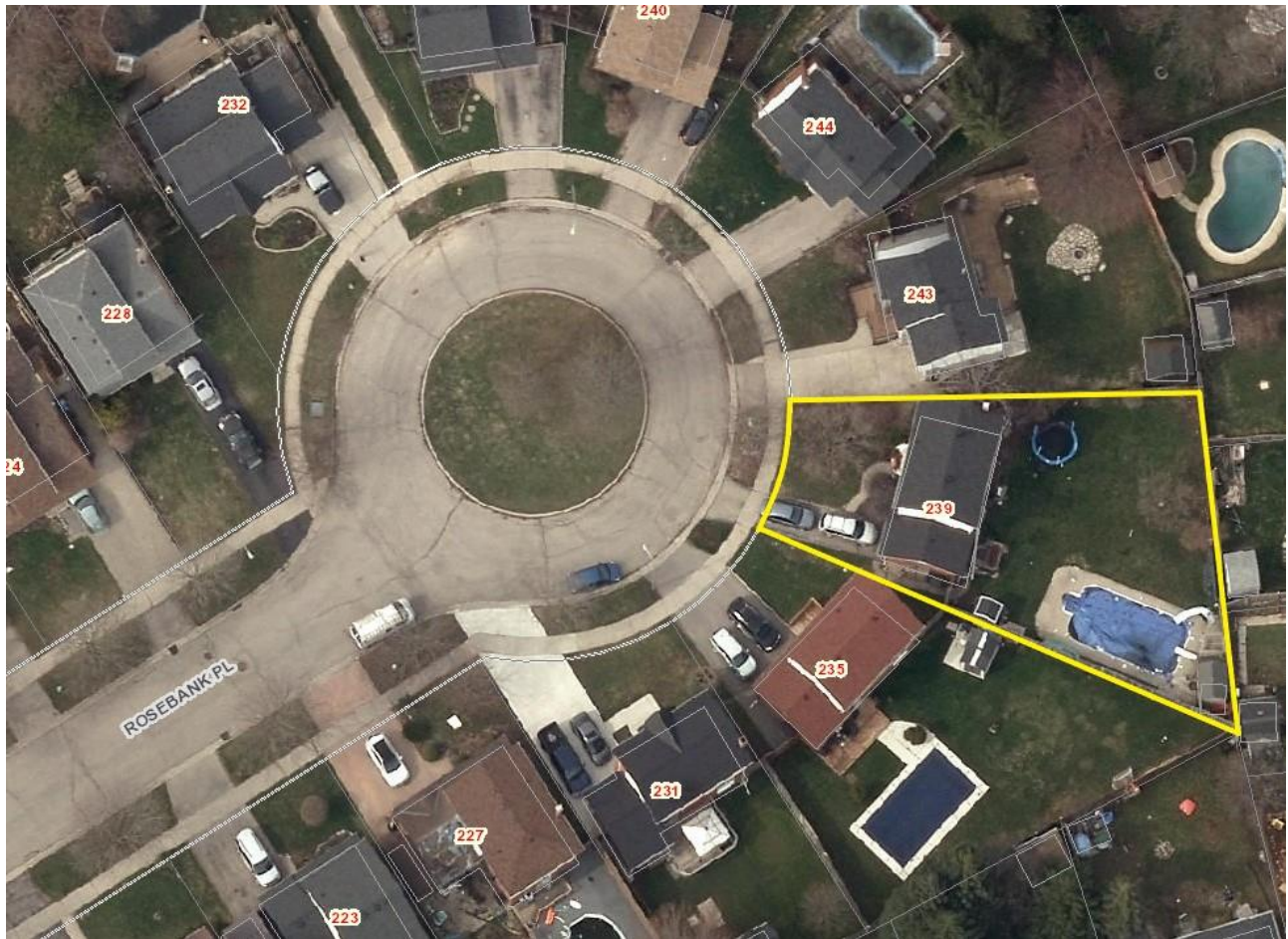


Figure 1 – Aerial Photo of Subject Property

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 Two Zone (RES-2)' in Zoning By-law 2019-051.

The purpose of the application is to review a minor variance to facilitate the conversion of an existing attached garage to an ADU (Attached) in an existing Single Detached Dwelling. The existing attached garage is located 10 metres from the street (property) line, which provides the 1 required parking space for the existing dwelling unit. To convert the garage into an ADU (Attached), the 2 required parking spaces would be located, side by side, in the driveway in the front of the subject property.

Zoning By-law 2019 requires that parking spaces must be a minimum of 5.5 metres in length and that one (1) of the required parking spaces must be located 6 metres from the street (property) line. Given that the driveway is 10 metres in length, a minor variance is requested for one (1) of the required parking spaces to be located 4.5 metres from the street line and permit side by side parking.

The proposed driveway width, at the widest point, is 7 metres, which complies with the Zoning By-law, as it is less than 50% of the lot width. The driveway width on the City right-of-way is not proposed to change. Accordingly, no Curb Cut Permit is required to facilitate

The front yard setback is 10 metres and the rear yard setback is 17 metres, which exceeds the minimum requirements of 4.5 metres and 7.5 metres, respectively, outlined in Zoning By-law 2019-051. The side yard setbacks both exceed the minimum requirement of 1.2 metres, with the left side yard setback being 1.9 metres, and the right yard setback being 2.3 metres. As such, the dimensions and setbacks of the proposed addition at the rear of the existing dwelling will comply with Zoning By-law 2019-051.



Staff visited the subject property on August 30, 2023.



Figure 4 – 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. 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 minor variance to facilitate a proposed ADU (Attached) within the existing single detached dwelling meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of requiring a parking space to be located 6 metres from street (property) line is to ensure that there is adequate space to accommodate vehicles without

impacting or impeding pedestrian use of the sidewalk right-of-way, and that there is adequate space for additional parking. Staff is of the opinion that the minor variance meets the general intent of the By-law, as the driveway is proposed to be widened to 7 metres, which negates the need for tandem parking, and the distance of 4.5 metres does not impede on the pedestrian use of the sidewalk right-of-way. Staff are of the opinion that the general intent of the Zoning By-law will be maintained.

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

The effects of the variance, to permit one (1) of the required parking spaces to be located 4.5 metres from street (property) line, can be considered minor as there is enough space to accommodate two vehicles without impacting the use of the sidewalk by pedestrians. Further, as the 10 metre front yard setback exceeds the minimum requirement in the Zoning By-law, and the driveway width is less than 50% of the lot width, the impact of one (1) of the required parking spaces being located 4.5 metre distance from the street (property) line is reduced, since there is adequate front yard space still remaining.

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 parking space distance from the street (property) line is appropriate for the desirable development of the lands as it will facilitate the creation of additional residential space, which supports the gentle intensification of housing and the City's Housing Pledge.

Environmental Planning Comments:

Environmental Planning has no concerns.

Heritage Planning Comments:

Heritage Planning has no concerns.

Building Division Comments:

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

Engineering Division Comments:

Engineering Division has no concerns.

Parks/Operations Division Comments:

There is an existing City-owned street tree within the boulevard and if there is any driveway widening associated with the development, this tree should be protected to City standards throughout construction as per Chapter 690 of the current Property Maintenance By-law. Suitable arrangements including the submission and approval of a Tree Protection and Enhancement Plan showing full protection for existing trees; an ISA valuation of City-owned trees and any required securities or compensation for removed trees will be required to the satisfaction of Parks and Cemeteries prior to the issuance of a Building Permit or curb cut permit. Please see Urban Design Manual Part C, Section 13 and www.kitchener.ca/treemanagement.

Planning Response: No driveway alteration or driveway widening is being proposed which would require a Curb Cut permit.

Transportation Planning Comments:

Transportation Services can support the proposed application to permit a required parking space be 4.5 metres from the property line instead of the minimum required 6 metres from the property line. Additionally, the proposed new driveway can accommodate two (2) vehicles which helps support the proposed ADU.

NOTE: if the homeowner wishes to modify the driveway and curb, they will need to follow the Curb Cut Permit process that can be found on the City of Kitchener website.

Planning Response: No driveway alteration or driveway widening is being proposed which would require a Curb Cut permit.

Grand River Conservation Authority Comments:

GRCA has no concerns.

Ministry of Transportation Comments:

MTO has no concerns.

Forestry Division Comments:

Staff have provided comment that a curb cut request would only be permitted for an additional 0.3 metre widening of the driveway in the boulevard.

Planning Response: No driveway alteration or driveway widening is being proposed which would require a Curb Cut permit.

Region of Waterloo Comments:

The Region has no concerns.

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*