

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** September 9, 2023

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

**PREPARED BY:** Eric Schneider, Senior Planner, 519-741-2200 ext. 7843

**WARD(S) INVOLVED:** Ward 10

**DATE OF REPORT:** September 6, 2023

**REPORT NO.:** DSD-2023-404

**SUBJECT:** Minor Variance Application A2023-114 – 78 Weber Street West

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**RECOMMENDATION:**

That Minor Variance Application A2023-114 for 78 Weber Street West requesting relief from:

- i) Section 5.6.1 a) of Zoning By-law 85-1 to permit steps that are within 3 metres of a street line and within a required yard to be 0.78 metres in height rather than the maximum permitted height of 0.6 metres; and
- ii) Section 5.6A.4 d) of Zoning By-law 85-1 to permit a porch that is greater than 0.6 metres in height to be 0.2 metres from a street line instead of the minimum required 3 metres;

in accordance with drawings prepared by Stakt Architecture Inc., dated August 2, 2023, BE APPROVED, subject to the following conditions:

1. That the Owner shall grant Metrolinx an environmental easement over the Retained Lands for operational emissions, to the satisfaction of Metrolinx.
2. That the Owner shall provide confirmation to Metrolinx that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor, to the satisfaction of Metrolinx:

***“Warning: The Applicant is advised that the subject land is located within Metrolinx’s 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that***

***Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.”***

#### **REPORT HIGHLIGHTS:**

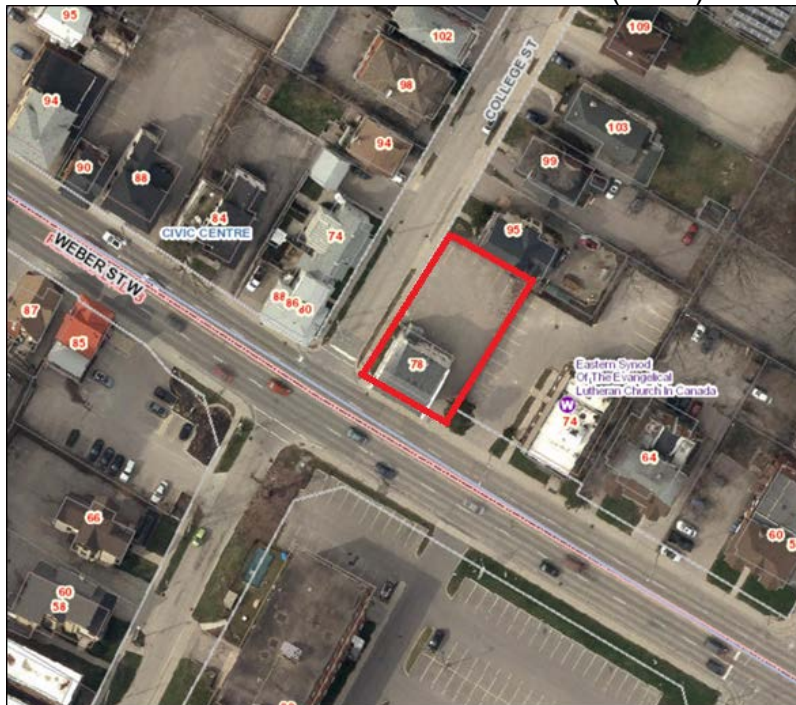
- The purpose of this report is to review an application for minor variance to permit the use of the building as a 6-unit multiple dwelling.
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application 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 corner lot and is located on the northeast corner of Weber Street West and College Street. The existing building on site is designated under Part V of the Ontario Heritage Act and located within the Civic Centre Neighbourhood Heritage Conservation District. The building has been used previously as a 4-unit multiple dwelling.

The subject property is identified as a ‘Major Transit Station Area’ on Map 2 – Urban Structure and is designated ‘High Density Commercial Residential’ on Map 9 – Civic Centre Neighbourhood Plan for Land use in the City’s Official Plan.

The property is zoned ‘Commercial Residential Three Zone (CR-3)’ in Zoning By-law 85-1.



**Figure 1: Location of Subject Property**

The purpose of the application is to facilitate the redevelopment of the site for use as a 6-unit multiple dwelling. The proposed porch and steps are to facilitate the entrance required for the additional unit(s) being added. The applicant has submitted a Zoning Occupancy Certificate (ZOC) to the Planning Division that is under review. Site Plan approval is not required for multiple dwellings of 10 units or less as of November 28, 2022 (Bill 23). A Heritage Permit is required for the proposed redevelopment of the site and has been issued as HPA-2023-V-013.

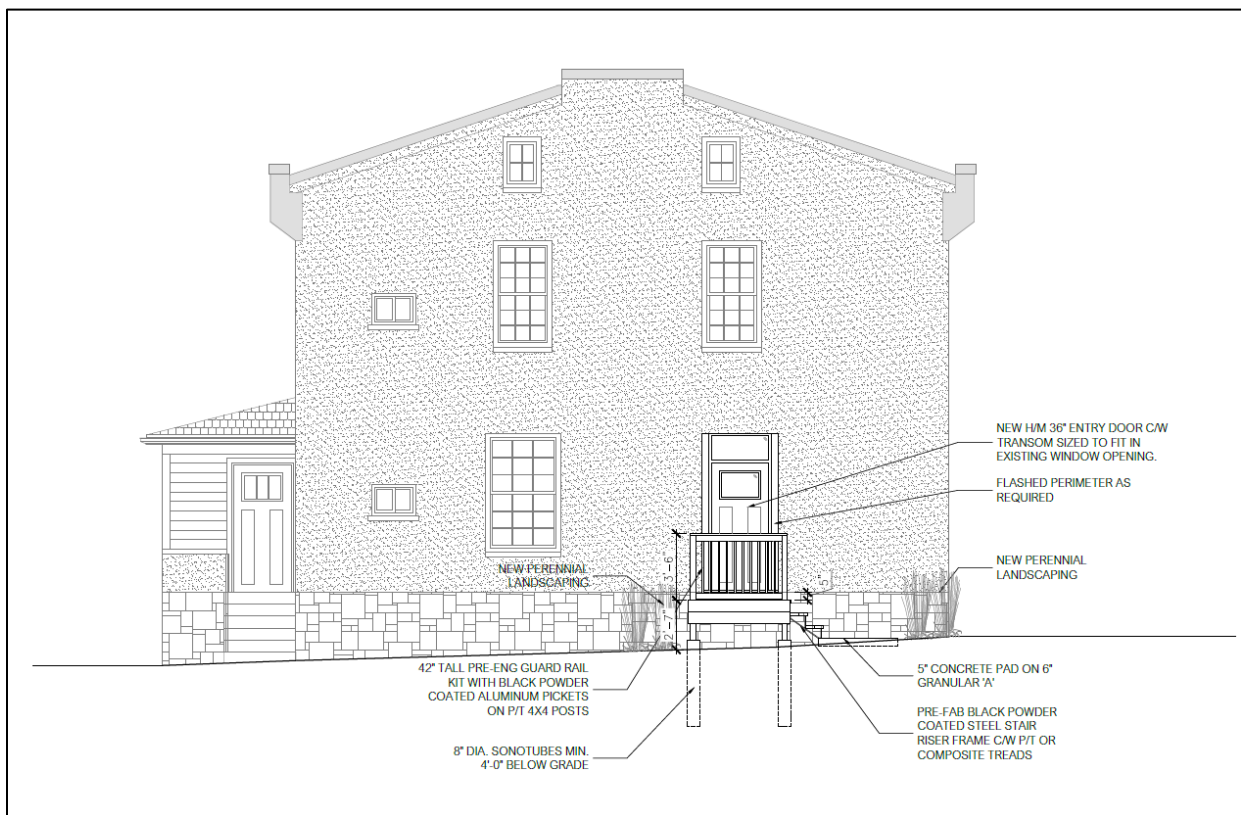


**Figure 2: View of Existing Building from Weber Street West (September 5, 2023)**





**Figure 3: View of Existing Building from College Street (September 5, 2023)**



**Figure 4: Proposed Elevation with Porch and Steps**

## **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 City's Official Plan contains policies that encourage the redevelopment and re-use of existing buildings and infill opportunities, in order to respond to changing housing needs and as a cost-effective means to reduce infrastructure and servicing costs by minimizing land consumption and making better use of existing community infrastructure. The requested variance would enable the use of the existing building for a re-purposed 6-unit multiple dwelling. Staff is of the opinion that the requested variance meets the general intent of the Official Plan.

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

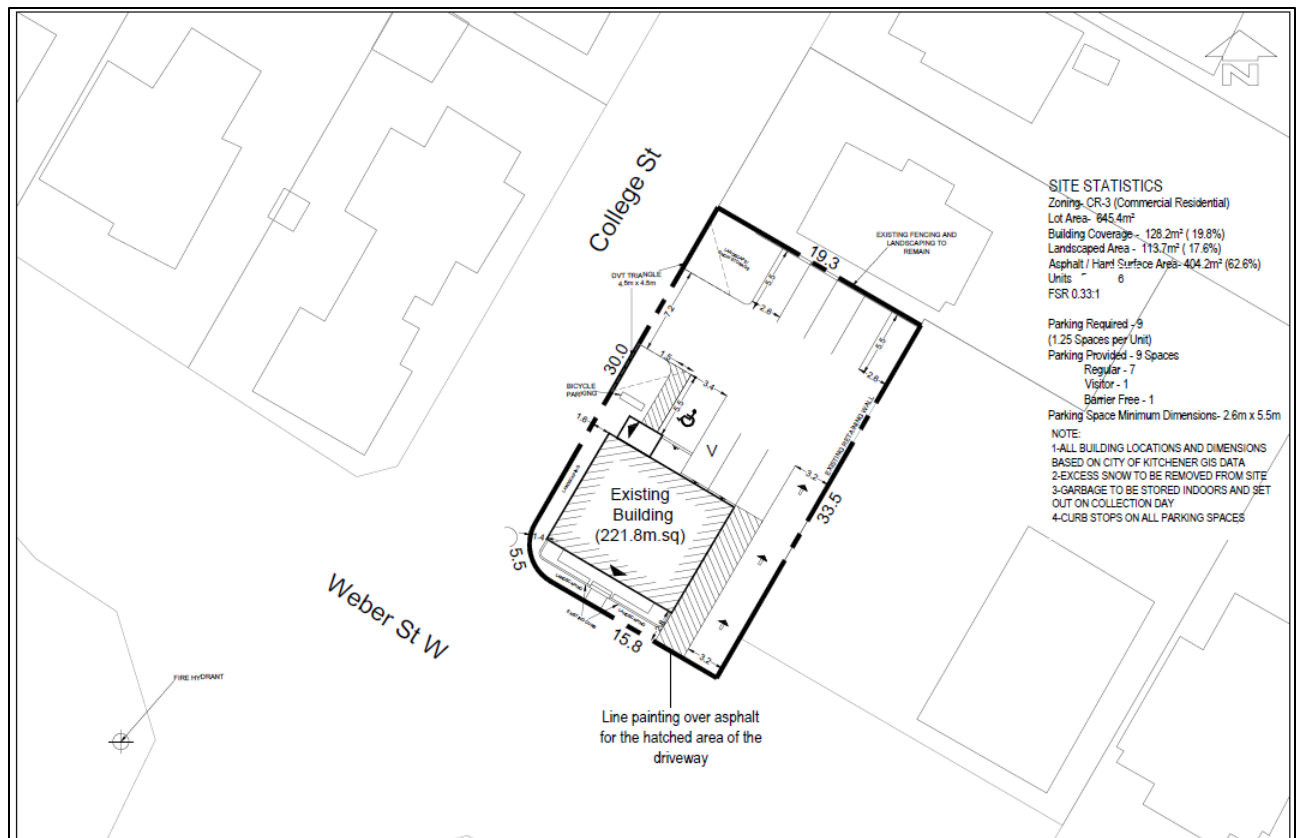
The intent of the regulations that require a porch and steps to be under 0.6 metres in height and to be set back from the street line is to provide for adequate separation between the functional space used for private property and the public realm. With the existing building setback at 1.6 metres to the street line at College Street, the building is located closer to the street line than a porch could in the current zoning. This is indicative of the unique character of the Civic Centre neighbourhood, which contains numerous examples of reduced setbacks of buildings, porches, and steps to the street line. College Street is a one-way directional street in this section, and municipal sidewalk and a landscaped boulevard is existing. The proposed porch and steps are outside of the Driveway Visibility Triangle (DVT) and the Corner Visibility Triangle (CVT). Staff do not foresee any adverse impacts to the public realm in this street cross section, and therefore are of the opinion that the requested minor variances meet the general intent of the Zoning By-law.

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

The existing building currently contains a small porch and steps within 3 metre of the street line (see Figure 3). The proposed porch and steps will provide functional access to a dwelling unit and are not expected to create adverse impacts for neighbouring lands or the public realm. Staff is of the opinion that the effects of the requested variances are minor.

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

The lands contain a building formerly used as a 4-unit multiple residential. The redevelopment of the site into a 6-unit multiple dwelling is appropriate for the lands based on the site layout and former use as a small multiple dwelling site. The site is situated in the Civic Centre Neighbourhood Conservation District and the building is designated under Part V of the Ontario Heritage Act. The re-use of the existing building is considered desirable and appropriate for the use of the land and building in the opinion of Staff.



- a) The owners are advised that any noise-sensitive development on the subject lands may have impacts from environmental noise from transportation noise from traffic on

Weber Street East (RR #08) and any potential stationary noise in the vicinity. The applicants are responsible for ensuring that the subject development does not have any environmental noise impacts.

- b) Under any future development application, a dedicated road widening (approximately 3.82 metres) will be required to comply with ROP Designated road width (currently 26.213 metres) for Weber Street West (RR #08). Under such future conditions, the existing/proposed building would be encroaching into the Regional road right-of-way. The applicants must use their due diligence so as to have minimum impacts to the subject's existing/proposed development at such times in future.
- c) An encroachment agreement may be required under any future development application stage.

### **Metrolinx Comments:**

Metrolinx is in receipt of the minor variance application for 78 Weber Street West to facilitate the construction of a new side porch and steps to support a new 2<sup>nd</sup> storey unit within the building. Metrolinx's comments on the subject Application are noted below:

- The subject property is located within 300 metres of Metrolinx's Guelph Subdivision which carries Metrolinx's Kitchener GO Train service.
- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact [Farah.Faroque@metrolinx.com](mailto:Farah.Faroque@metrolinx.com) with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor

*"Warning: The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units."*

### **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*
- *Civic Centre Secondary Plan*
- *Official Plan (2014)*
- *Zoning By-law 85-1*
- *HPA-2023-V-013*

**ATTACHMENTS:**

No attachments.