

REPORT TO: Committee of Adjustment

DATE OF MEETING: October 17, 2023

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

PREPARED BY: Sheryl Rice Menezes, Planning Technician (Zoning), 519-741-
2200 ext. 7844.

WARD(S) INVOLVED: 3

DATE OF REPORT: October 10, 2023

REPORT NO.: DSD-2023-442

SUBJECT: Minor Variance Application A2023-118 – 35 Fifth Avenue

RECOMMENDATION:

That Minor Variance Application A2023-118 requesting relief from Section 4.12.2 e) of Zoning By-law 2019-051 to permit a lot width of 12.2 metres instead of the minimum required 13.1 metres to facilitate the demolition of an existing single detached dwelling and the construction of a new single detached dwelling with two (2) Attached Additional Dwelling units (ADUs) (Attached), for a total of three dwelling units, generally in accordance with the drawings prepared by AH+ Architects, dated Septemr23/09/13, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to construct a new building containing three dwelling units on a lot with a width of 12.2 metres.
- The key finding of this report is that the requested minor variance does meet 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 located on the east side of Fifth Avenue, south of Kingsway Drive.

The subject property is identified as 'Community Area' 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.

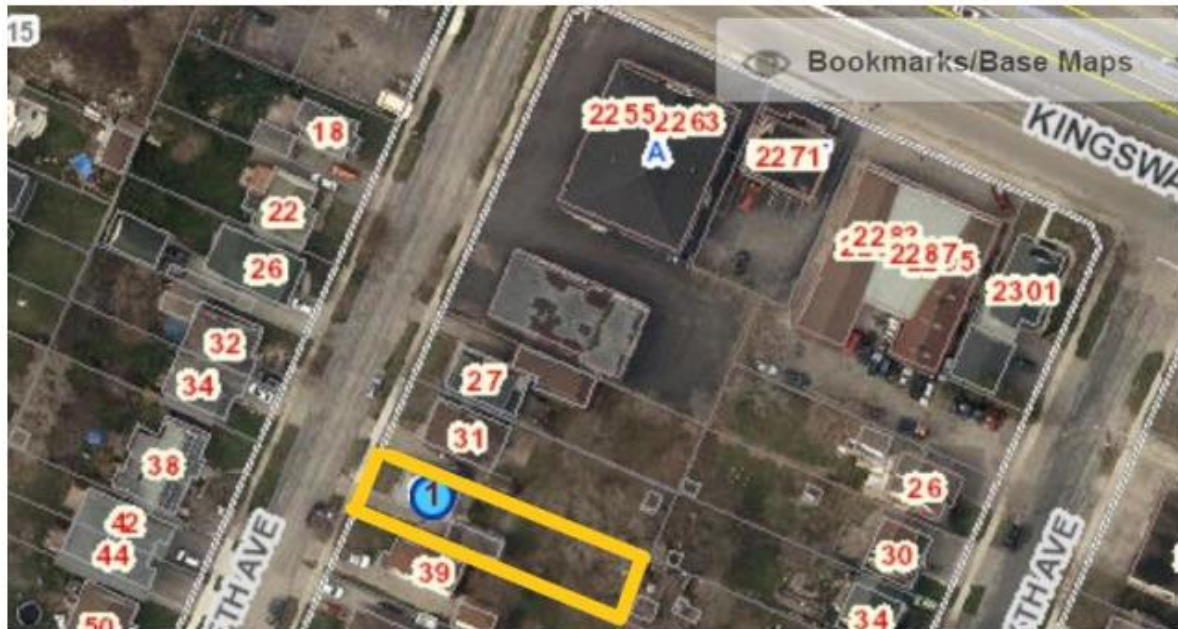


Figure 1: Aerial photo with subject property highlighted



Existing dwelling at 35 Fifth Ave

Figure 2: Street view of Subject Property – 35 Fifth Ave

Staff revisited the site on September 30, 2023.

The purpose of this new application is to permit the construction of a new single detached dwelling with two attached additional dwelling units (for a total of 3 units).

The agent had previously applied in July 2023 (A2023-078) for the same use with a different built form design that required two minor variances: reduced lot width and an increased garage width. The Committee of Adjustment refused the Minor Variance Application.

The Applicant has reapplied and has updated the design as noted in the site plan drawing and elevations that follow.

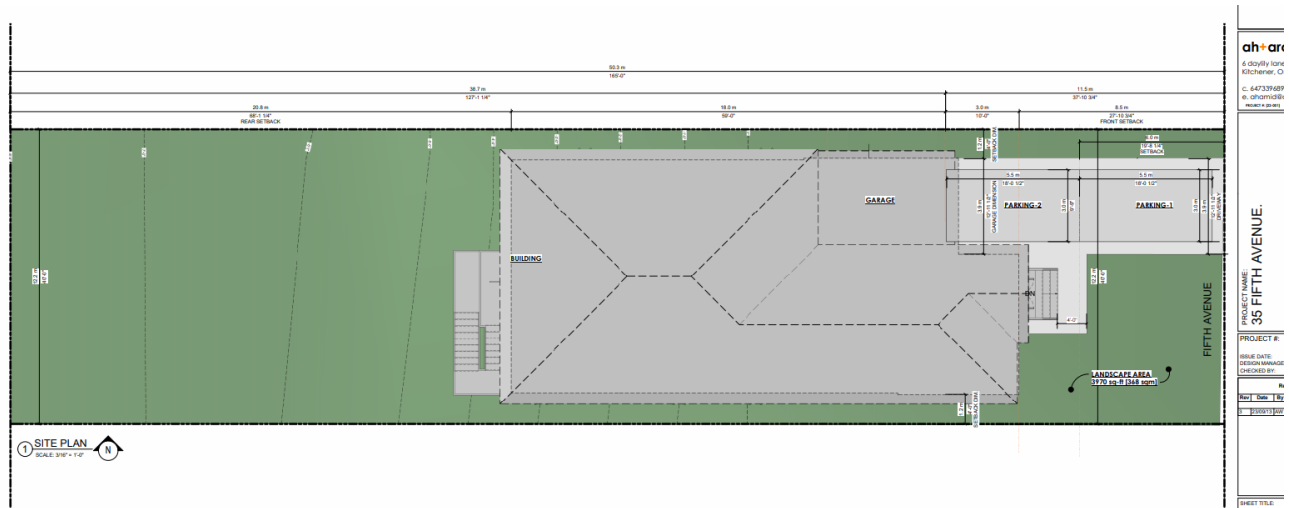


Figure 3: Proposed plan

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 intent of the Low-Rise Residential designation is to accommodate a full range of low-density housing types which may include single detached dwellings with additional dwelling units. The mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form is supported. The minor variance meets the intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the lot width regulation is to ensure that buildings with three dwelling units have sufficient lot width for the setbacks for the structure, for parking and for the amenity area. The lot width variance reduction of 0.9 metres for the modified design for three dwelling units, as submitted with the application, meets the intent of the Zoning By-law.



① PERSPECTIVE 1
SCALE: 1/16" = 1'-0"



② PERSPECTIVE 2
SCALE: 1/16" = 1'-0"

Figures 4 & 5: Proposed elevation drawings

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

After the July 2023 minor variance application (A2023-078), the applicant has since redesigned the building to be more appropriate in its built form for a 3-unit multiple dwelling. In doing so, they have reduced the variances from two to one by eliminating the garage width variance. The reduced lot width does not impact providing sufficient setbacks or amenity area. Staff are of the opinion that the effect of the lot width variance is minor.

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

As noted above, the lot width variance meets the intent of the Official Plan and Zoning By-law, as well as being minor. By reducing the variance to one regulation, and modifying the design, the development, staff are of the opinion that the development is appropriate for the property and surrounding neighbourhood.

Environmental Planning Comments:

No concerns.

Heritage Planning Comments:

No concerns.

Building Division Comments:

No comments.

Engineering Division Comments:

No comments.

Parks/Operations Division Comments:

There is an existing City-owned street tree that will be impacted by the associated demolition and construction and 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 the existing tree or appropriate compensation will be required through the Building Permit. Please see Urban Design Manual Part C, Section 13 and www.kitchener.ca/treemanagement.

Transportation Planning Comments:

No comments.

Region of Waterloo Comments:

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*
- *DSD-2023-313 (A2023-078)*