

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: October 17, 2023

SUBMITTED BY: Tina Malone-Wright, Supervisor, Development Applications
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PREPARED BY: Raida Chowdhury, Student Planner, 519-741-2200 ext. 7078

WARD(S) INVOLVED: Ward 1

DATE OF REPORT: October 3, 2023

REPORT NO.: DSD-2023-441

SUBJECT: Minor Variance Application A2023-122 – 186 Lyndhurst Drive

RECOMMENDATION:

That Minor Variance Application A2023-122 for 186 Lyndhurst Drive requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.12.3 n) to allow an unobstructed walkway that is 1.06 metres in width instead of the minimum required of 1.1 metres;
- ii) Section 4.12.3.1 a) to permit the principal dwelling to have a minimum side yard setback of 1.06 metres, instead of the minimum required 1.2 metres; and
- iii) Section 5.4, Table 5-2, to permit a driveway that is 1.06 metres from the side yard, whereas the Zoning By-law requires that the driveway shall be located no closer than the required side yard setback of the dwelling where there is an attached garage, which is 1.2 metres;

to facilitate the creation of an Additional Dwelling Unit (ADU) (Detached) in the rear yard of an existing Detached Dwelling, generally in accordance with drawings prepared by Paul Burns, dated September 2023, BE APPROVED subject to the following condition:

1. That the property owner shall modify the existing driveway to provide a driveway and a distinguishable unobstructed walkway to the proposed Additional Dwelling Unit (ADU) (Detached) in accordance with the Regulations of Zoning By-law 2019-051 by September 30, 2024. Any request for a time extension must be approved in writing by the Manager of Development Review prior to completion date set out in this decision. Failure to complete the condition will result in this approval becoming null and void.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the creation of an Additional Dwelling Unit (ADU) (Detached) in the rear yard of an existing Single Detached Dwelling.
- The key finding of this report is that the minor variances 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 a rectangular lot located on Lyndhurst Drive, which contains a one-storey Single Detached Dwelling.



The purpose of the application is to review minor variances to facilitate the creation of an ADU (Detached) in the rear yard of a Single Detached Dwelling. The proposed ADU (Detached) is 6.4 metres in length and 9.1 metres in width, and the distance between the proposed ADU (Detached) and the existing Single Detached Dwelling is 11.2 metres. The proposed ADU (Detached) is 1.2 metres from the rear lot line and interior side lot line, which is greater than the minimum requirement of 0.6 metres outlined in Zoning By-law 2019-051. However, the right side yard setback of the principal dwelling is 1.06 metres, which is 0.04 metres shorter than the minimum side yard setback requirement of 1.2 metres.

Further, Zoning By-law 2019-051 requires that a driveway shall be located no closer than the required side yard setback of the dwelling, where there is an attached garage (which is 1.2 metres), whereas the existing driveway on the subject property is located 0 metres from the side lot line. The walkway is proposed to be beside the driveway and have a width of 1.06 metres, and as such, the driveway would then be located 1.06 metres from the side lot line, which is deficient from the By-law requirement of 1.2 metres. Lastly, the By-law requires that on a lot containing an ADU (Detached), there is an unobstructed walkway of 1.1 metres. Accordingly, minor variances are requested to permit an unobstructed walkway of 1.06 metres in width instead of 1.1 metres, and a right side yard setback of 1.06 metres.

The left side of the driveway is also proposed to be widened, which would make the total width of the driveway 6.09 metres. The lot width is approximately 16.7 metres according to City mapping which would permit a maximum driveway width of 50% (8.3 metres) or a maximum of 8 metres whichever is the lesser.

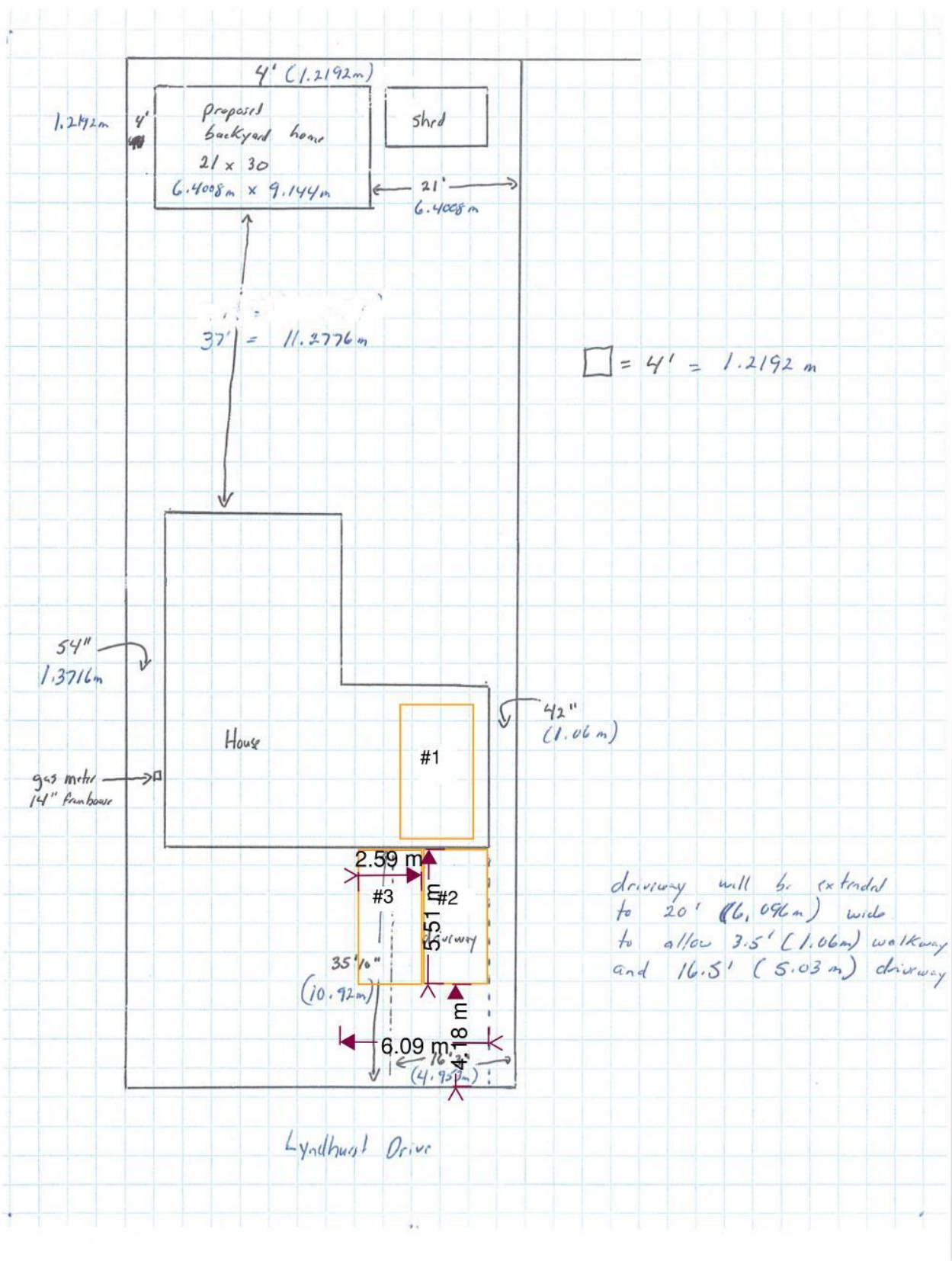


Figure 1 – Proposed Site Plan

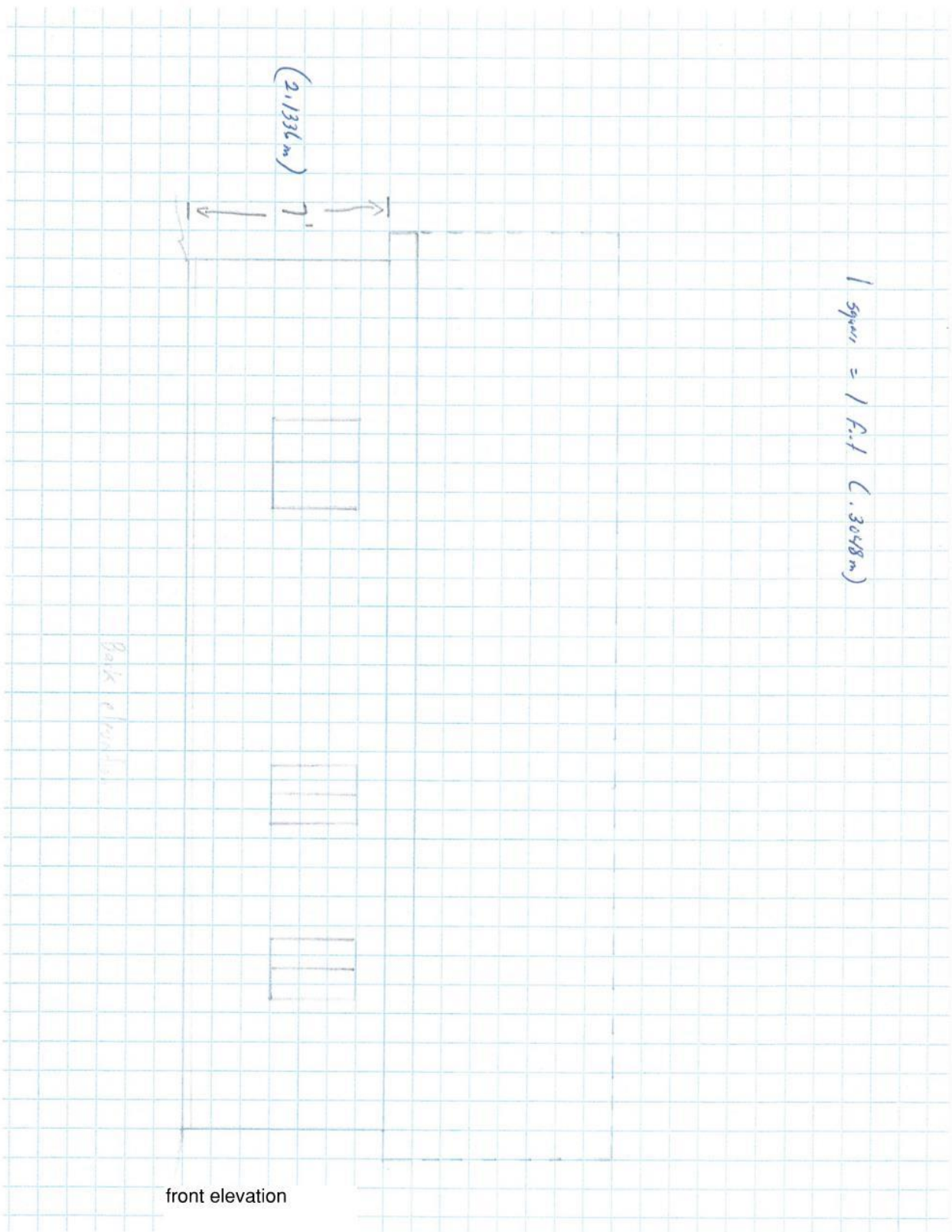


Figure 2 – Front Elevation of Proposed ADU (Detached)

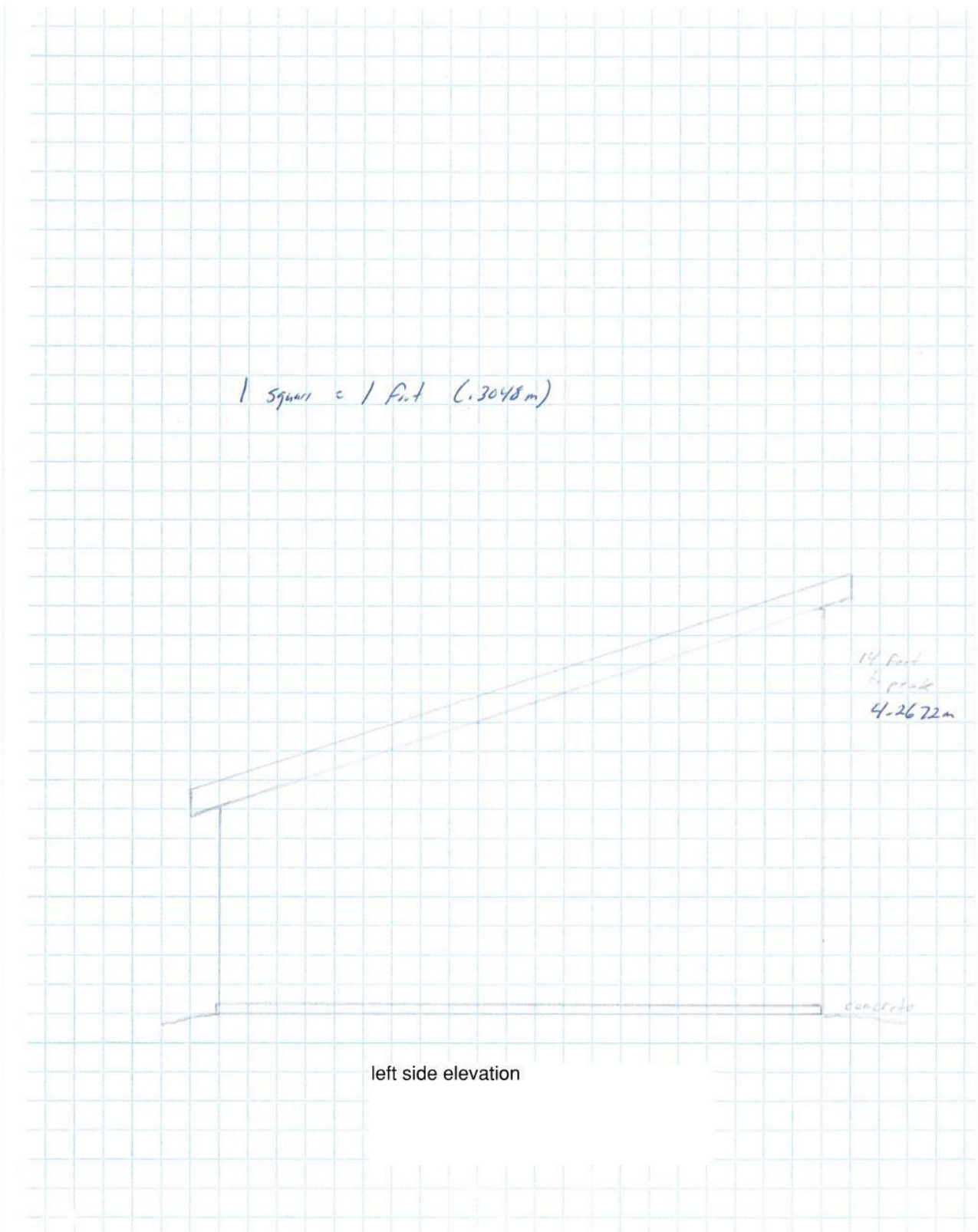


Figure 3 – Left Side Elevation of Proposed ADU (Detached)

Staff visited the subject property on September 28, 2023.



Figure 4 – Photo 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 permits 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 existing use and proposed ADU (Detached) conforms to the land use designation. Accordingly, the variances to facilitate the ADU (Detached) will meet the general intent of the Official Plan.

General Intent of the Zoning By-law

Unobstructed Walkway of 1.1 metres

The intent of the unobstructed walkway requirement is to ensure that there is a clear pathway of entry for tenants of the unit, as well as emergency services. Staff is of the opinion that the proposed walkway of 1.06 metres will still provide an adequate access for residents, and staff from the Fire Division have confirmed that the variance of 0.04 metres will have negligible impact on emergency access.

Side Yard Setback of the Principal Dwelling

The intent of the side yard setback requirement is to ensure that there is emergency access to the rear yard, as well as access throughout the property. The proposed site plan demonstrates that the 1.06 metre walkway located on the right side of the property will provide unobstructed access to the rear yard, and as such, staff is of the opinion that the requested variance meets the general intent of the Zoning By-law.

Driveway Located No Closer than Side Yard Setback (Where there is an Attached Garage)

The intent of the driveway located no closer than the side yard setback requirement of the principal dwelling is to limit the width of the driveway to that of the attached garage. Currently, the existing driveway extends beyond the attached garage. Although the applicant intends to modify this portion of the driveway to be a distinguishable walkway, the new location of the driveway will still only be setback 1.06 metres, the same as the setback of principal dwelling. The proposed variance would facilitate the driveway being in line with the side yard setback of the principal dwelling. As such, staff are of the opinion that the minor variance meets the intent of the By-law.

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

Staff is of the opinion that the requested variances are minor as the principal dwelling and driveway is adequately setback from the interior lot line and sufficient access for residents and emergency services will still be provided. Further, the proposed ADU (Detached) complies with zoning regulations and exceeds the minimum setback requirements.

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

The variance is appropriate for the development and use of the land. The requested variances will support a gentle intensification of housing and support the City's Housing Pledge by facilitating the construction of a ADU (Detached) on the subject property.

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 building permit for the rear yard ADU is 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:

Parks/Operations Division has no concerns.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Grand River Conservation Authority Comments:

Grand River Conservation Authority have no concerns.

Region of Waterloo Comments:

The Region of Waterloo 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*