

Staff Report



Development Services Department

www.kitchener.ca

REPORT TO: Committee of Adjustment

DATE OF MEETING: November 21, 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 10

DATE OF REPORT: November 3, 2023

REPORT NO.: DSD-2023-495

SUBJECT: Minor Variance Application A2023-128 – 76 Dunham Avenue

RECOMMENDATION:

That Minor Variance Application A2023-128 for 76 Dunham Avenue requesting relief from Section 6.1.1.1 b) i) of Zoning By-law 85-1 to permit a required parking space to be located 2.5 metres from the street (property) line, instead of the minimum required 6 metres, in order to accommodate two (2) side by side parking spaces for a proposed Additional Dwelling Unit (Attached) (Duplex), generally in accordance with drawings prepared by Habitat Design Co., dated October 16, 2023, BE APPROVED, subject to the following conditions:

1. That 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.
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:

“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 a minor variance to permit a required parking space to be located 2.5 metres from the street (property) line in order to facilitate the creation of an Additional Dwelling Unit (Attached) (Duplex).
- 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 located on a corner lot at the intersection of Dunham Avenue and Mansion Street. The lot currently contains a Single Detached Dwelling.

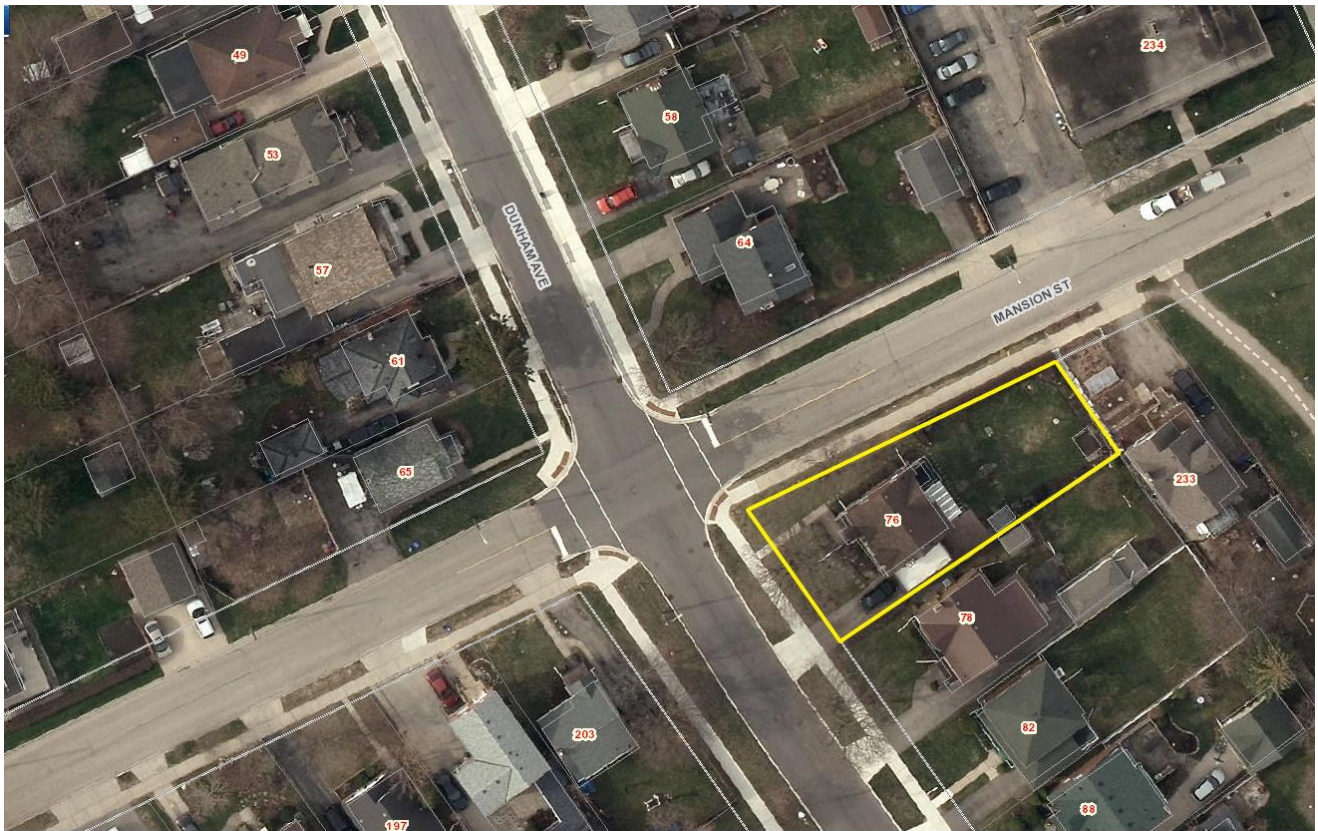


Figure 1 – Ariel Photo of the Subject Property

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Conservation A' in the Central Frederick Neighbourhood Plan for Land Use.

The property is zoned 'Residential Five Zone (R-5)' in Zoning By-law 85-1.

The purpose of the application is to permit a required parking space to be located 2.5 metres from the street (property) line, in order to facilitate the creation of an Additional Dwelling Unit (Attached) (Duplex). The existing subject property is a Single Detached Dwelling, which currently contains an attached garage. The attached garage is approximately 3.1 metres in width by 5.3 metres in length and contains stairs at the rear which provides access to the subject property. As such, the existing attached garage does not meet the Zoning By-law 85-1 dimension requirements for an attached garage parking space (3.04 metres by 5.49 metres) and does not function as a garage/required parking space.

Zoning By-law 85-1 states that 1 parking space is required for each dwelling unit for an Additional Dwelling Unit (Attached). Since the attached garage does not function as such, both parking spaces must be located in the driveway. The existing driveway is 4.25 metres, and is proposed to be widened by 2 metres, which would make the proposed driveway a total of 6.25 metres. Both of the required parking spaces are proposed to be side-by-side and located 2.5 metres from the street (property) line, as shown in Figure 2. Section 6.1.1.1 b) i) requires that a required parking space be located a minimum of 6 metres from the street (property) line. Accordingly, a minor variance is requested to permit a required parking space to be located 2.5 metres from the street (property) line as the attached garage does not function as such. The subject property and proposed use of the building for a single detached dwelling with an ADU (Attached) (Duplex), meets all other zoning requirements, including lot width, setbacks, and driveway width requirements.

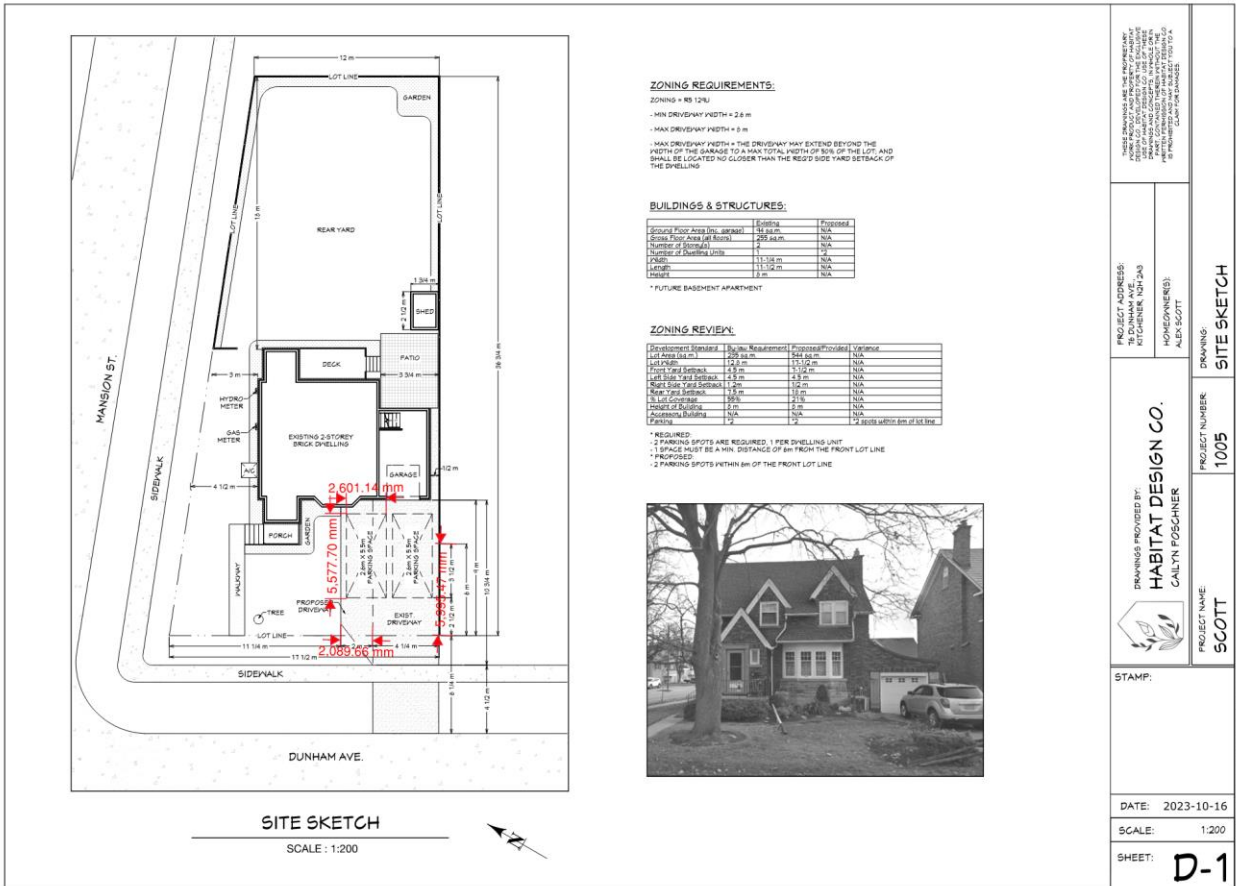


Figure 2 – Site Plan

Staff conducted a visit to the subject property on November 1st, 2023.

PROJECT ADDRESS:
 78 DUNHAM AVE.
 KITCHENER, ON N2B 2A9

DRAWINGS PROVIDED BY:
HABITAT DESIGN CO.
 GAILYN FOSCHNER

PROJECT NUMBER:
1005

DRAWING:
SITE SKETCH

PROJECT NAME:
SCOTT

DATE: 2023-10-16
 SCALE: 1:200
 SHEET: **D-1**

PHONE: 226.868.1888 — EMAIL: habitatdesignco@gmail.com

DESIGNER:
 ALEX SCOTT

DATE: 2023-10-16

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 78 DUNHAM AVE.
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Figure 3 – Photo of Subject Property from Site Visit

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 Conservation A' land use designation in the Central Frederick Neighbourhood Plan for Land Use is to preserve the scale, use, and intensity of existing development. Permitted uses include duplex dwellings. It is the opinion of staff that the existing use and proposed ADU (Attached) (Duplex) conforms to the land use designation. Accordingly, the variance to facilitate the ADU (Attached) (Duplex) will meet 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 the front or exterior side yards do not function primarily as parking areas. The driveway is proposed to be widened to 6.2 metres, which negates the need for tandem parking, and the setback of the parking of 2.5 metres does not impede on the pedestrian use of the sidewalk right-of-way. Further, the primary use of the front yard is the variety of hard and soft landscaping

features that are shown in Figure 3. As such, 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 the required parking space to be located 2.5 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 7.5 metre front yard setback of the attached garage exceeds the minimum requirement in the Zoning By-law, and the proposed driveway width is less than 50% of the lot width, the impact of one the required parking spaces being located 2.5 metres 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?

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 (Attached) (facilitate a Duplex use) on the subject property.

Environmental Planning Comments:

Provided there is no addition to create an attached ADU, there are no tree management concerns. There are no natural heritage issues.

Heritage Planning Comments:

Heritage Planning staff have no concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit to change the use to an additional dwelling unit (attached). Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

Engineering Division has no concerns.

Parks/Operations Division Comments:

Parks/Operations Division staff have no concerns.

Transportation Planning Comments:

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

- That a required parking space be located 2.5 metres from the lot line rather than the required 6 metres.

Region of Waterloo Comments:

The Region of Waterloo has no concerns.

Grand River Conservation Authority Comments:

The GRCA has no concerns.

Metrolinx Comments:

Metrolinx is in receipt of the minor variance application for 76 Dunham Ave to facilitate an additional parking spot to support the future basement apartment (changing the single detached dwelling into a duplex). Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300 metres of the Metrolinx Guelph Subdivision which carries Metrolinx's Kitchener GO Train service.

Conditions of Approval:

- 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 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*
- *Official Plan (2014)*
- *Zoning By-law 85-1*

