

# Staff Report



Development Services Department

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**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:** Adam Zufferli, Student Planner, 519-741-2200 ext. 7074

**WARD(S) INVOLVED:** Ward 9

**DATE OF REPORT:** November 8, 2023

**REPORT NO.:** DSD-2023-494

**SUBJECT:** Consent Application B2023-041 – 150 Marlborough Avenue

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## RECOMMENDATION:

That Consent Application B2023-041 requesting consent to sever an irregularly shaped parcel of land having a lot width of 3.7 metres, a lot depth of 3.9 metres, and a lot area of 12.5 square metres from the property municipally addressed as 150 Marlborough Avenue, to be conveyed as a lot addition to the property municipally addressed as 146 Marlborough Avenue, BE APPROVED subject to the following conditions:

1. That the Owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
3. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the lands to be severed be added to the abutting lands and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.
6. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.

**REPORT HIGHLIGHTS:**

- The purpose of this report is to review an application for consent to facilitate a transfer of land from a residential lot to the adjacent residential lot, both containing existing detached dwellings.
- 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:**

150 Marlborough Avenue is located on Marlborough Avenue on its roundabout intersection with Admiral Road. A pedestrian connection to Hearth Green runs along the southern side of the subject property. The existing use of the subject property is a single detached dwelling.



**Figure 1 – Location 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 Four Zone (RES-4)' in Zoning By-law 2019-051.

The purpose of the application is to adjust the lot lines of the subject property, known as 150 Marlborough Avenue, and the neighbouring property, known as 146 Marlborough Avenue. The driveway of 146 Marlborough Avenue encroaches on the property of 150 Marlborough Avenue, as shown below in 'Figure 3'. A portion of the subject property, shown as 'Part 1' on 'Figure 4 – Detailed Sketch', will be transferred to 146 Marlborough Avenue to solve the issue of encroachment.



**Figure 2 – Photograph of Subject Property and Neighbouring Property**



**Figure 3 – Image of Neighbouring Driveway Encroaching on Subject Property**

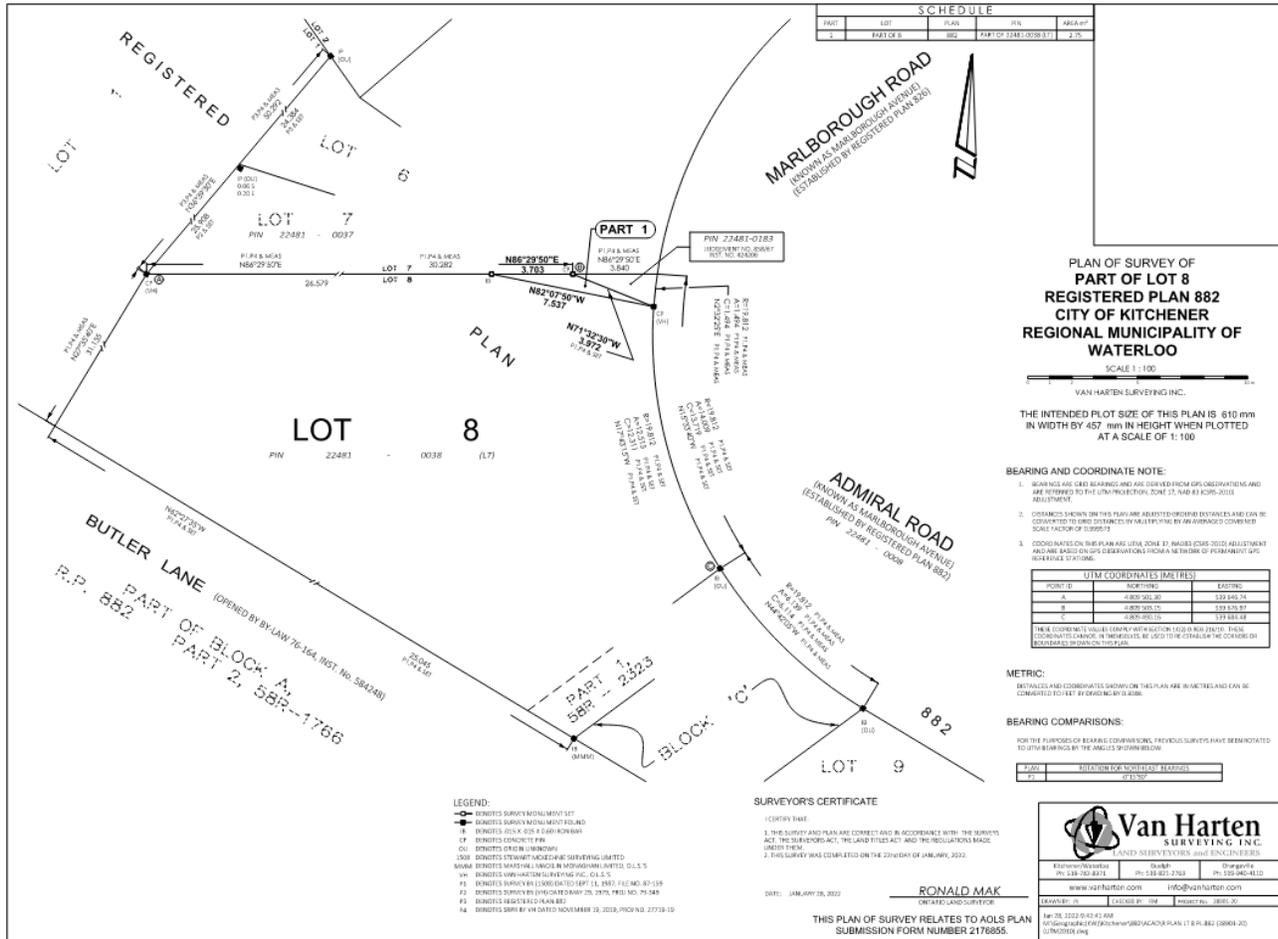


Figure 4 – Detailed Survey Sketch

**REPORT:**

**Planning Comments:**

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

Provincial Policy Statement (PPS 2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The subject application does not propose any development, rather it is an adjustment of lot lines. Planning Staff is of the opinion that the application is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

The Growth Plan supports the development of complete and compact communities that are designed to support healthy and active living and make efficient use of land. Planning Staff is of the opinion that the application conforms to the Growth Plan.

Regional Official Plan (ROP):

Regional policies in the ROP require Area Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social,

economic and personal support needs of current and future residents. Planning staff are of the opinion that the application conforms to the Regional Official Plan.

#### City's Official Plan (2014)

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 Official Plan.

Planning staff is of the opinion that the size, dimension, and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding neighbourhood which is developed with a full range of low-density housing types including detached, semi detached and multiple dwellings with lot sizes that vary in width, depth, and area. The lands front onto a public street and full services are available. There are no natural heritage features that would be impacted by the proposed consent application. Planning staff is of the opinion that the proposed severance conforms with the City of Kitchener Official Plan.

#### Zoning By-law 85-1 or 2019-051

The subject properties are zoned as 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051. Both before and after the proposed lot addition, both parcels would meet the minimum lot width and lot area requirements.

#### RES-4 Requirements:

Lot width: Minimum 9 metres

Lot area: Minimum 235 m<sup>2</sup>

#### 150 Marlborough Avenue

Lot width before lot addition: 17.9 metres

Lot width after lot addition: 17.5 metres

Lot area before lot addition: 1347.0 m<sup>2</sup>

Lot area after lot addition: 1334.5 m<sup>2</sup>

#### 146 Marlborough Avenue

Lot width before lot addition: 14.8 metres

Lot width after lot addition: 15.2 metres

Lot area before lot addition: 500.3 m<sup>2</sup>

Lot area after lot addition: 512.8 m<sup>2</sup>

All yard setback and other regulations will comply with the minimum requirements post lot addition. Planning Staff can confirm that the proposed lot addition complies with the existing Zoning By-law.

#### **Planning Conclusions/Comments:**

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the proposed boundary adjustment is desirable and appropriate.

#### **Environmental Planning Comments:**

No environmental concerns.

**Heritage Planning Comments:**

No heritage concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed consent.

**Engineering Division Comments:**

No engineering concerns.

**GRCA Comments:**

GRCA has no objection to this application.

**Parks/Operations Division Comments:**

Parkland dedication is not required for this application as the severance reflects a lot line adjustment and no new developable lot has been created.

**Transportation Planning Comments:**

No transportation concerns.

**Region of Waterloo Comments:**

No objections to the application provided that the owner/applicant submit the Regional consent review fee of \$350.00.

**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 (ROP)*
- *Official Plan (2014)*

- *Zoning By-law 2019-051*

**ATTACHMENTS:**

There are no attachments to this report.