

# 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:** Andrew Pinnell, Senior Planner 519-741-2200 ext. 7668

**WARD INVOLVED:** Ward 3

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

**REPORT NO.:** DSD-2023-498

**SUBJECT:** Consent Application B2023-042  
Minor Variance Applications A2023-135 and A2023-136  
52 Edgehill Drive

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## RECOMMENDATION:

### A. Minor Variance Application A2023-135 (Retained Lot)

That Minor Variance Application A2023-135 for 52 Edgehill Drive (Retained Lot) requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 19 [Site Specific Provision (272)] of By-law 2019-051, to permit a lot area of 1,741.0 square metres, whereas minimum lot area of 2,023 square metres is required; and
- ii) Section 5.4f) of By-law 2019-051, to permit a driveway width of 16.5 metres for an existing driveway, whereas only a maximum driveway width of 8.0 is permitted;

generally, in accordance with the *Sketch for Severance Application*, prepared by Guenther Rueb Surveying Limited, attached to Report DSD-2023-498, BE DEFERRED to the April 2024 Committee of Adjustment meeting or at such time as Consent Application B2023-042 is considered.

### B. Minor Variance Application A2023-136 (Severed Lot)

That Minor Variance Application A2023-136 for 52 Edgehill Drive (Severed Lot) requesting relief from Section 19 [Site Specific Provision (272)] of Zoning By-law 2019-051, to allow a lot area of 1,253.6 square metres, whereas minimum lot area of 2,023 square metres is required, generally in accordance with the *Sketch for*

**Severance Application**, prepared by Guenther Rueb Surveying Limited, attached to Report DSD-2023-498, BE DEFERRED to the April 2024 Committee of Adjustment meeting or at such time as Consent Application B2023-042 is considered.

### **C. Consent Application B2023-042 – 52 Edgehill Drive**

That Consent Application B2023-042 for 52 Edgehill Drive requesting consent to sever a parcel of land having an approximate lot width of 35.4 metres, a lot depth of 45.4, metres and a lot area of 1,253.6 square metres, generally in accordance with the *Sketch for Severance Application*, prepared by Guenther Rueb Surveying Limited, attached to Report DSD-2023-498, BE DEFERRED to the April 2024 Committee of Adjustment meeting, or sooner, to provide time for the Region of Waterloo to have the Scoped Stage 2 Hydrogeological Study for Septic System Servicing peer reviewed.

#### **REPORT HIGHLIGHTS:**

- The purpose of this report is to recommend deferral of the subject Consent Application and the associated Minor Variance Applications for 52 Edgehill Drive.
- 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 northeast side of Edgehill Drive in the Pioneer Tower West Planning Community. The west side of the property is currently developed with a Single Detached Dwelling that was constructed in approximately 2016. The east side of the property is landscaped and does not contain any buildings.

The subject property is located at the intersection of Edgehill Drive and Helen Avenue and is close to King Street East and abuts commercial properties to the north that are zoned 'Arterial Commercial Zone (COM-3)', including the Embassy Motel. Properties along Edgehill Drive to the east, west and south are developed with Single Detached Dwellings of various construction dates, architectural styles, and lot sizes and shapes. All dwellings along this section of Edgehill Drive, including the Single Detached Dwelling on the subject property, are not connected to municipal water and sanitary services, though they do have access to municipal storm sewers. Rather, these properties are on private services.

The subject property has approximately 89.4 metres of frontage on Edgehill Drive and is approximately 2,994.6 square metres in area (0.74 acres). 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 One Zone (RES-1) with Site Specific Provision (272)' in Zoning By-law 2019-051. It should be clarified that Site Specific Provision (272) applies to significant portions of the Pioneer Tower West Planning Community.

The applicant is requesting Consent to create a new lot by severing the existing lot into two parcels. The Severed Lot would have an approximate frontage of 35.4 metres on Edgehill Drive, a depth of 45.4 metres, and an area of 1,253.6 square metres (0.31 acres). The Retained Lot would have an approximate frontage of 54.1 metres on Edgehill Drive, a depth ranging between 17.4 metres and 48.2 metres, and an area of 1,741.0 square metres.

The applicant proposes to retain the existing Single Detached Dwelling on the Retained Lot and allow for the future construction of a Detached Dwelling on the Severed Lot. The applicant is proposing to extend water services from the intersection of Limerick Drive / Edgehill Drive to the Severed Lot (approximately 100 metres), while providing private sanitary services. The Retained Lot would continue on private water and private sanitary services.

To facilitate the requested Consent, the applicant is requesting approval of a Minor Variance Application for each resultant lot, as follows (the Severed and Retained lots comply with zoning regulations, except for the following):

1. Minor Variance Application A2023-136 (Severed Lot): Requesting a lot area of 1,253.6 square metres, whereas Site Specific Provision (272) requires a minimum lot area of 2,023 square metres.
2. Minor Variance Application A2023-135 (Retained Lot):
  - a. Requesting a lot area of 1,741.0 square metres, whereas Site Specific Provision (272) requires a minimum lot area of 2,023 square metres; and
  - b. Requesting a driveway width of 16.5 metres for an existing driveway, whereas Section 5.4 f) only permits a maximum width of 8.0 metres.



**Figure 3: Subject Property (outlined in red).**

## **REPORT:**

To support the request for Consent, the applicant submitted a Scoped Stage 2 Hydrogeological Study for Septic System Servicing, prepared by Englobe Corp., dated September 25, 2023. This study was requested by the Region of Waterloo as a complete application requirement, to justify the applicant's request to allow the Retained Lot to be

serviced via a private septic system, whereas usually a connection to the municipal sanitary system is required.

On November 6, 2023, the Region of Waterloo advised that the Region requires the Hydrogeological Study to be peer reviewed and requires the peer review to be complete and the study accepted before the Consent is conditionally approved (rather than as a condition of Consent). The need for a peer review was identified by the Region in the Pre-Submission Comments on the proposed Consent Proposal. At the time of scheduling the applications for consideration, staff had thought that this Peer Review had already occurred. The Region further advises that they are in the process of organizing the peer review.

In the meantime, the Region is requesting that a decision regarding the Consent application be deferred until the peer review has been completed.

Planning staff agrees with the Region that the subject applications should be deferred to provide time for the Region to have the required study peer reviewed. Without the Region's endorsement of the private septic proposal, Planning staff is of the opinion that no decision on the Consent application should be made.

**Region of Waterloo Comments:**

The applicant is proposing to sever a +/-1,253.6 m<sup>2</sup> parcel with a +/-35 m frontage on Edgehill Dr, while retaining a 1,741 m<sup>2</sup> parcel with frontage on Edgehill Dr. The applicant notes an existing storm easement on the subject property. The proposed uses on the severed property are residential.

Regional Fee (Advisory Comments):

The owner/applicant is required to submit the Regional consent review fee of \$350.00 prior to final approval of the consent.

Environmental Noise (Advisory Comments):

Regional staff note that the proposed severed and retained lots are in close proximity (approximately 95 metres) to King Street East (Regional Road No. 8). Although there are some existing intervening land uses between the proposed dwellings and the transportation noise sources, the proposed dwellings on the retained and severed lots will likely have impacts from transportation and stationary noise sources. It is the responsibility of the applicant to ensure the proposed development is not adversely affected by anticipated transportation (traffic) and stationary (commercial) noise impacts. ROP Policy 2.G.13 indicates that a noise study may be required for a development application for a sensitive land use submitted in the vicinity of an Existing or Planned Regional Road, Provincial Highway, the rapid transit system, transit terminals, railways or Area Municipal roads.

In lieu of requiring a detailed transportation and stationary noise study, and because the primary transportation noise source is a Regional Road, Regional staff require as a condition of the consent that the owner/applicant of the units on all (retained and severed) lots will be required to enter into a registered agreement with the Region of Waterloo to include noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements.

For the severed lot, the owner is to agree that all dwelling unit(s) must be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision of adding central air conditioning prior to occupancy. In addition, the following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:

- a. "Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP)."
- b. "This unit has been designed with the provision of adding a central air conditioning system at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP)."
- c. "Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible."

For the retained lot, the following noise warning clauses will be included in all offers of purchase and sale, deeds and lease/rental agreements:

- a. "Purchasers/tenants are advised that sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP)."
- b. "Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible."

*Water and Wastewater Services (Advisory Comments):*

Regional Staff note that the property does not currently have municipal water or sanitary services. City Staff have previously indicated that it is not feasible for the City, or the owner/applicant at their expense, to extend municipal sanitary services to the proposed retained or severed lot. The subject application proposes private services within the urban area.

Policy 2.J.8 of the Regional Official Plan permits residential infill development on individual on-site water and individual on-site sewage services, subject to the following:

- a) it is demonstrated to the satisfaction of the Region that the extension of servicing from a municipal water and/or wastewater system is not feasible;

- b) the site is not located within Wellhead Sensitivity Area 1, a High Microbial Risk Management Zone, or a Surface Water Intake Protection Zone 1 described in Chapter 8;
- c) studies prepared in accordance with the Regional Implementation Guidelines for Source Water Protection Studies and accepted by the Region, demonstrate that such services can operate satisfactorily on the site and will not have a negative impact on groundwater resources;
- d) it is demonstrated to the satisfaction of the area municipality's Chief Building Official that the site conditions are suitable for the long-term provision of such services with have no adverse effects; and
- e) the development application complies with Policies 5.B.8 and 5.C.6 as applicable.

A Hydrogeological study was submitted with the application. Subject to the Region's "Hydrogeological Assessment Guidelines for Privately-Serviced Developments –Scoped Stage 2 Studies" a third-party review of the report is required to demonstrate to the Region's satisfaction, that such private services can operate satisfactorily on the site and will not have a negative impact on groundwater resources. Regional Staff cannot support the proposed application until the required technical study has been peer reviewed. As a result, Regional staff recommend deferral of the application at this time until the peer review has been completed and the study has been accepted by the Region.

Well and Septic Decommissioning (Advisory Comments):

Regional Staff note that should municipal water and/or septic services be provided and connected to the proposed severed and retained lots, any private well and/or septic system on the proposed retained lands will have to be decommissioned in accordance with Regulation 903 of the Ontario Water Resources Act, Ontario Building Code and all other applicable regulation.

**The Region recommends that the application be deferred until such time as the Hydrogeological Study has been peer reviewed and conformity with ROP Policy 2.J.8 has been demonstrated.**

General Comments

Any future development on the lands subject to the above-noted consent application will be subject to the provisions of Regional Development Charge By-law 19-037 or any successor thereof. Please accept this letter as our request for a copy of the staff reports, decisions and minutes pertaining to each of the consent applications noted above. Should you require Regional Staff to attend the meeting or have any questions, please do not hesitate to contact the undersigned.

**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:**

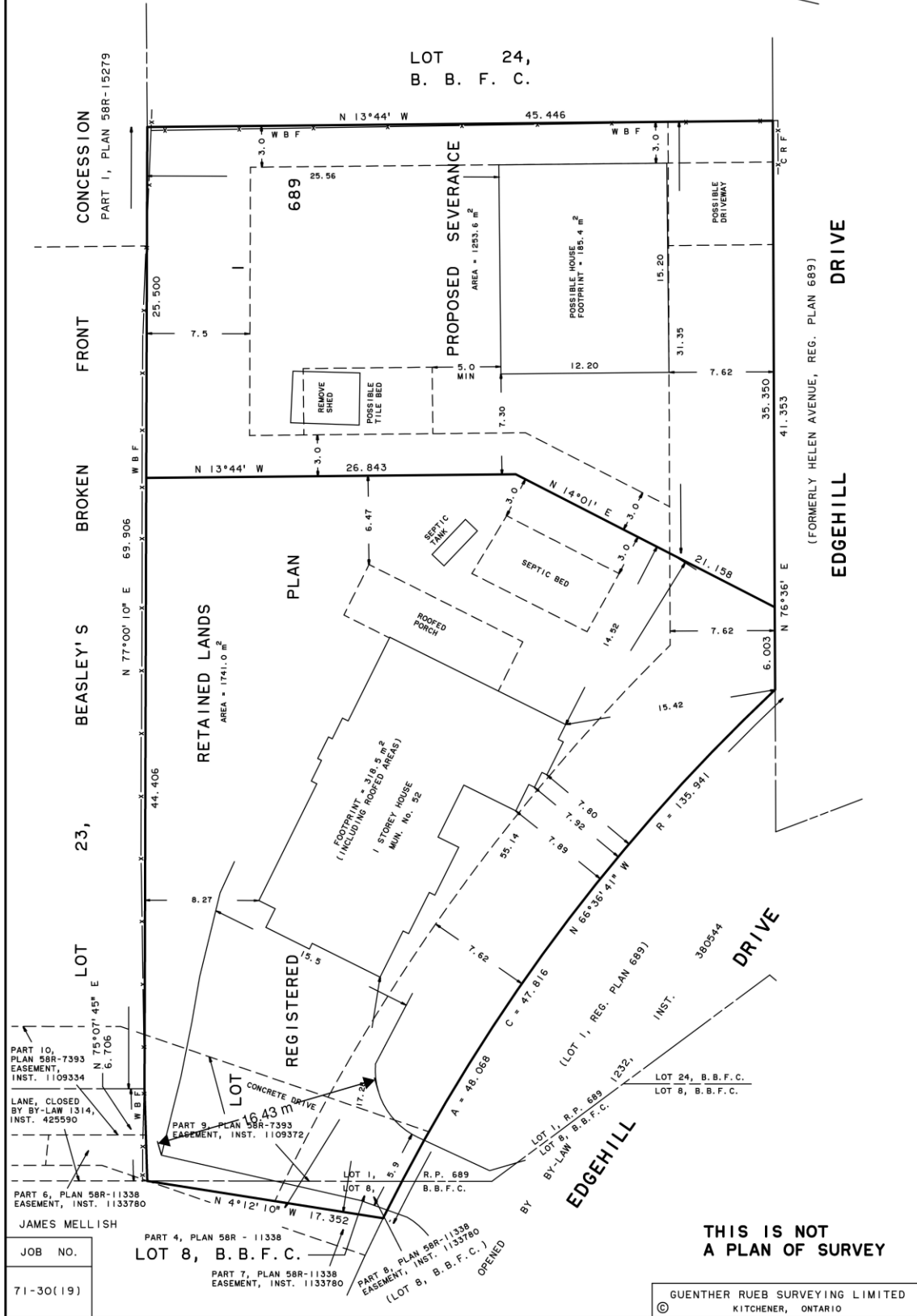
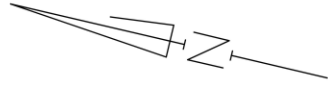
- *Planning Act*
- *Provincial Policy Statement (PPS 2020)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*

**ATTACHMENTS:**

Attachment A - Sketch for Severance Application, prepared by Guenther Rueb Surveying Ltd.

SKETCH FOR SEVERANCE APPLICATION  
OF NO. 52 EDGEHILL DRIVE  
CITY OF KITCHENER

SCALE = 1 : 250  
METRIC



JOB NO.
71-30(19)

GUENTHER RUEB SURVEYING LIMITED  
KITCHENER, ONTARIO