

REPORT TO: Committee of Adjustment

DATE OF MEETING: December 12, 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 2

DATE OF REPORT: November 28, 2023

REPORT NO.: DSD-2023-533

SUBJECT: Minor Variance Application A2023-140 – 332 Prospect Avenue

RECOMMENDATION:

That Minor Variance Application A2023-140 for 332 Prospect Avenue requesting relief from Section 7.3, Table 7-2, of Zoning By-law 2019-051,

- i) to permit a lot area of 342.2 square metres instead of the minimum required 395 square metres; and
- ii) to permit a rear yard setback of 4.6 metres at the northwest corner of the proposed building and a rear yard setback of 6.9 metres at the northeast corner of the proposed building, instead of the minimum required 7.5 metres;

to facilitate the construction of a detached dwelling with two (2) Additional Dwelling Units (ADU) (Attached) (Triplex), generally in accordance with drawings prepared by Bobicon Ltd., dated October 30, 2023, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review minor variances to facilitate the construction of a detached dwelling with two (2) Additional Dwelling Units (ADU) (Attached) (Triplex).
- 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 vacant lot located near the intersection of Kenneth Avenue and Prospect Avenue.



Figure 1 – Ariel Photo 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 property is located in 'Appendix D - Established Neighbourhood Area'.

In August 2023, the subject property was approved for a minor variance to permit a rear yard setback of 4.6 metres and 6.9 metres instead of the minimum required 7.5 metres, in order to facilitate the construction of a single detached dwelling (Minor Variance Application A2023-100).

As of November 2023, the applicant has altered the building proposal to contain two (2) Additional Dwelling Units (Attached) (Triplex). As such, the purpose of the current application is to review minor variances to facilitate the construction of a detached dwelling with two (2) Additional Dwelling Units (Attached) (Triplex). The proposed site plan for the triplex indicates a rear yard setback of 4.9 metres on the left side of the rear yard and a setback of 6.9 metres on the right side of the rear yard. As a result of the irregular shape of the rear area of the property and the proposed design of the triplex, the minimum rear yard setback of 7.5 metres is not able to be met, and a minor variance is requested.

Staff note that requested minor variance is for a 4.6 metre setback on the left side of the rear yard, while the site plan (Figure 2) denotes a 4.9 metre setback. This is due to the fact that the subject property was previously approved by the Committee of Adjustment for a 4.6 metre setback and the applicant would like to maintain the previously approved variance.

Further, the lot area of the subject property is 342.2 square metres. While this lot area meets the minimum requirement of 235 square metres in the Zoning By-law for a single detached dwelling (as per the previous proposal), Section 4.12.2 d) states that for a detached dwelling containing two ADUs (Attached) (Triplex) the minimum lot area shall be the greater of 395 square metres or the minimum requirement set out in Section 7.3, Table 7-2. As such, a minor variance is requested to permit a lot area of 342.2 square metres.

Three (3) tandem parking spaces are proposed to be located in the driveway which will satisfy the parking requirement and zoning regulation for a triplex dwelling.

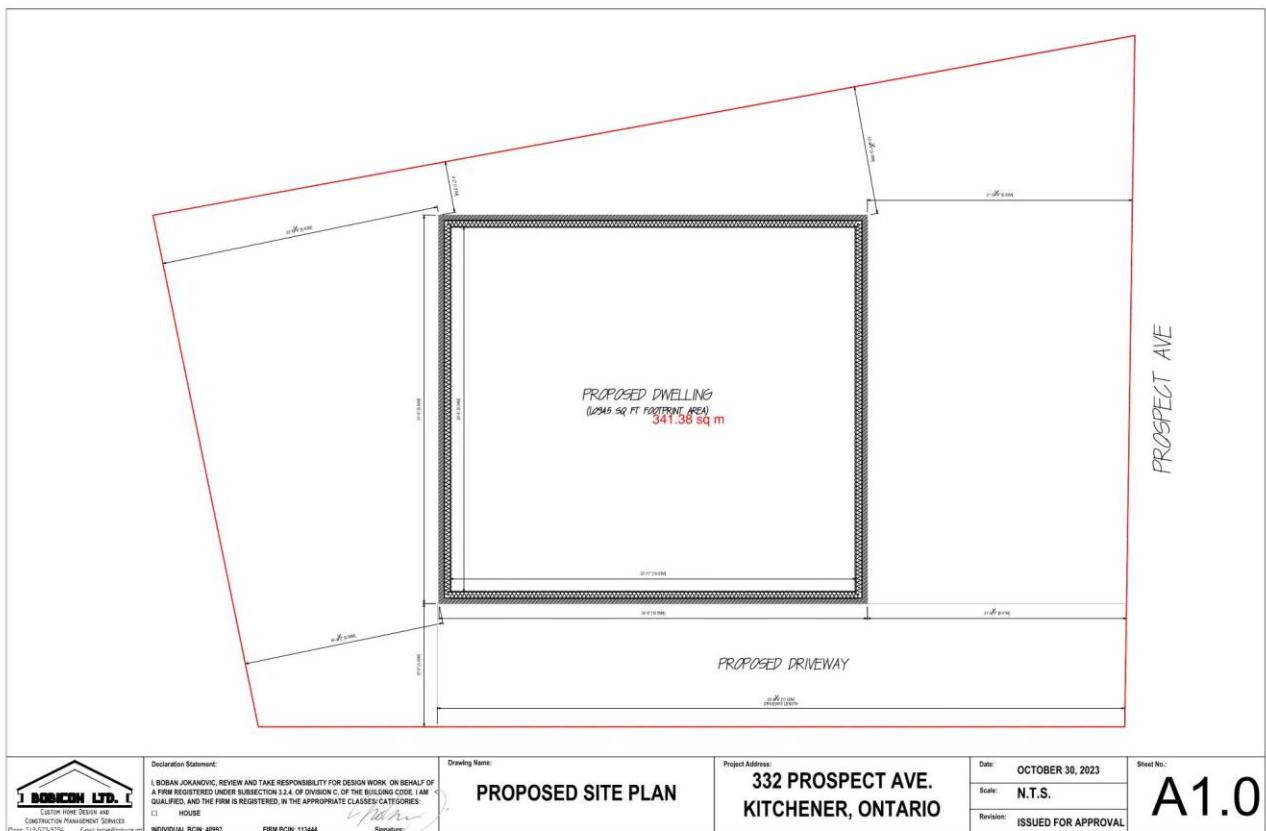


Figure 2 – Site Plan

Staff conducted a site visit to the subject property on November 23rd, 2023.

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. The Low Rise Residential land use designation permits a full range of low density housing types which may include 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 variance to facilitate the proposed use of a detached dwelling with two ADUs (Attached) meets the general intent of the Official Plan.

General Intent of the Zoning By-law

Minimum Rear Yard Setback

The general intent of the rear yard setback requirement is to ensure that there is an adequate separation from adjacent properties with respect to privacy concerns, and that there is appropriate amenity space for residents. The proposed site plan indicates that there will be adequate amenity space for residents in the rear yard, due to the shape of the lot. The privacy concerns appear minimal due to the existing fence and the larger rear yard setbacks on adjacent properties. As such, staff is of the opinion that the previously approved minor variances to permit a reduced rear yard are appropriate for a triplex and meet the general intent of the Zoning By-law.

Minimum Lot Area

The general intent of the minimum lot area requirement of 395 square metres is to ensure the use can function accordingly on the lot including providing required parking and an adequate amenity space for residents/tenants. Staff is of the opinion that the variance to permit a reduced lot area meets the general intent of the By-law, as 342.2 square metres is still an appropriate lot area as required parking and sufficient amenity area can still be provided on site. Further, the proposed lot coverage of under approximately 30% is lower than the maximum permitted 55% lot coverage, and the proposed landscaped area exceeds the 20% minimum requirement.

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

Staff is of the opinion that the requested variance is minor, as any privacy concerns related to adjacent properties are minimal, the reduced rear yard setback will still provide a sufficient amenity area and will not have any significant impacts to adjacent properties or

the overall neighbourhood.

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

Planning staff is of the opinion that the variances to reduce the minimum rear yard setback and to permit a smaller lot area is appropriate for the desirable development of the lands, as they will support a gentle intensification of the property with the creation of three dwelling units and support the City's Housing Pledge. The variances will facilitate the construction of triplex on an irregular-shaped lot. The proposed elevation drawings (Figure 3) demonstrates that the proposed building will be compatible with the built form in the neighbourhood.

Environmental Planning Comments:

No natural heritage concerns or tree management 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 a single detached dwelling with two Additional Dwelling Units are obtained prior to construction. 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 has no concerns.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Grand River Conservation Authority Comments:

The GRCA has no concerns.

Region of Waterloo Comments:

No conditions/concerns for the proposed development. However, the owners are advised that:

- a) The existing and the proposed dwellings may have impacts from environmental noise from traffic on the municipal street system in the vicinity, and the owners are responsible for ensuring that the proposed development does not have any impacts from the environmental noise in the vicinity.
- b) The subject lands are located within the Airport Zoning Regulated area and specifically under the airport runway take-off approach surface and are accordingly subject to all provisions of Airport Zoning regulations.

For any further information in this regard, please contact Jordan Vander Veen @ 519.575.4780 ext. 8514 Email: JVanderVeen@regionofwaterloo.ca

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-2023-342*