

# Staff Report



Development Services Department

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**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:** Sheryl Rice Menezes, Planning Technician (Zoning),  
519-741-2200 ext. 7844

**WARD(S) INVOLVED:** 2

**DATE OF REPORT:** November 28, 2023

**REPORT NO.:** DSD-2023-528

**SUBJECT:** Minor Variance Application A2023-143 - 195 Franklin St. N.

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## RECOMMENDATION:

That Minor Variance Application A2023-143 for 195 Franklin Street North requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.7.2, Table 4-2, to allow a personal services Home Occupation (hair salon), with a gross floor area of 21 square metres, in a Single Detached Dwelling with an Additional Dwelling Unit (ADU) (Attached) (Duplex) whereas this type of home occupation is only permitted in a Single Detached Dwelling;
- ii) Section 5.3.3 a) i) to permit the required parking space for a Single Detached Dwelling with an Additional Dwelling Unit (ADU) (Attached) (Duplex) to be located 0 metres from the street (property) line instead of the minimum 6 metres to facilitate and recognize the use of the attached garage for the personal services home occupation;

generally, in accordance with drawings contained in Staff Report DSD-2023-528, BE APPROVED.

## REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to legalize an existing home business (hair salon) located in a converted garage resulting in parking variances, and for the home business (hair salon) to be accessory in a single detached dwelling with one additional attached dwelling unit (duplex).
- The key finding of this report that the requested minor variances meet all 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 the east side of Franklin Street North, north of Shuh Ave. In 2006, the property owner/occupant obtained zoning approval for a 'home business – personal services' (hair salon) which was accessory to a single detached dwelling. The hair salon was located in the basement and a building permit was issued for the use.

Subsequently, a building addition was constructed in 2021 for an Additional Dwelling Unit (ADU) (Attached) to be added (total of two dwelling units). The building permit drawings had shown the home business was removed from the basement and was not relocated anywhere else in the building.

Recently, the owners inquired about signage, and it was discovered that the new garage had been converted to a home business (personal services). The Zoning By-law only permits home business (personal services) to be accessory to a single detached dwelling. The owners wish to legalize the home business (hair salon) to be accessory in a single detached dwelling with one Additional Dwelling Unit (ADU) (Attached) as well as locating it in the former attached garage which requires a parking variance.



**Figure 1 – Aerial photo**

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 2014 Official Plan.

The property is zoned 'Low Rise Residential Two Zone (RES-2)' in Zoning By-law 2019-051.

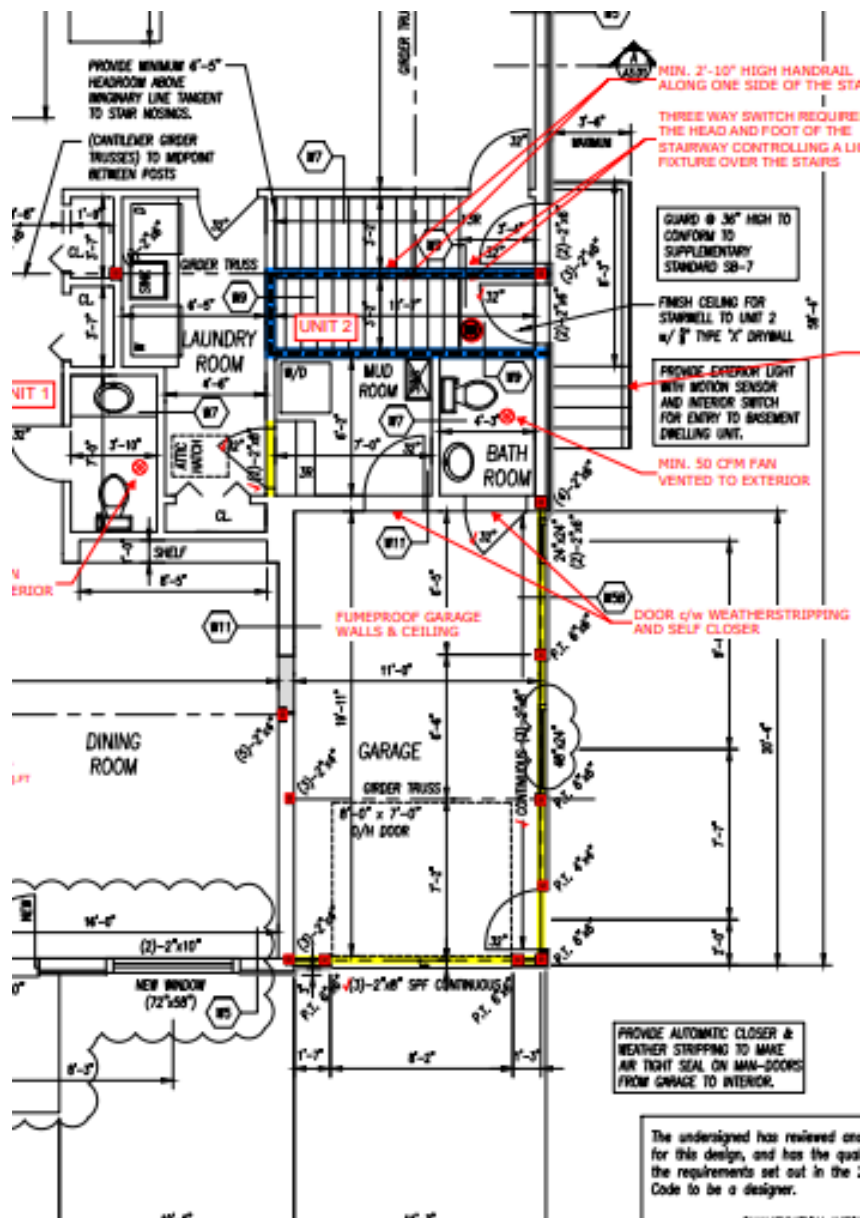
The purpose of the application is to legalize a home business (hair salon) to be accessory to a Single Detached Dwelling with one Additional Dwelling Unit (ADU) (Attached) with a parking variance.



**Figure 2 - Street View**







**Figure 4 - Floor plan from building permit for garage (now being used as a home business – hair salon).**

## 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 Residential designation is to encourage residential intensification and/or redevelopment which includes accessory dwelling units to respond to changing housing needs and as a cost-effective means to reduce infrastructure and service costs by minimizing land consumption and making better use of existing community infrastructure.

The proposed parking variance to permit the conversion of the garage to be used for an accessory home business (hair salon) maintains the low rise residential built form of the neighbourhood. It is the opinion of staff that the requested parking variance meet the general intent of the Official Plan.

Regarding the accessory home business (hair salon), the Official Plan encourages the distribution of complementary non-residential uses in appropriate locations within residential areas. As the hair salon use is accessory to one of the dwelling units, staff is of the opinion that the intent of the Official Plan is met.

#### General Intent of the Zoning By-law

The intent of the regulation permitting a home business (hair salon) in a single detached dwelling but not a duplex dwelling is to ensure that the occupants of the dwellings on the property are not disrupted by a non-residential use on the site. The owner has advised that she books appointments for clients and ensures that appointments are appropriately spaced apart. This ensures that there is no overlap with client parking. The owner has had a home business (hair salon) on this property since 2006 and there have been no concerns from the neighbourhood. As sufficient parking is provided, staff are of the opinion that the intent of the By-law is met.

The intent of the regulation that one legal off-street parking space is located a minimum of 6 metres from the front lot line for a duplex use is to ensure that there is sufficient parking for the use should the property only have tandem parking (which is permitted for duplex uses). For the subject property there is sufficient lot width to accommodate a driveway for three vehicles in front of the building. (one for each dwelling unit and one for the accessory home business).

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

The request to have the parking space variance can be considered minor as there is adequate area to provide the required minimum three parking spaces. It is noted that the owners obtained permission for a Curb Cut Permit (dated 05/12/2022) to widen the driveway to a maximum of 8 metres which accommodates three vehicles.

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

The variance to permit the home business use accessory to a duplex supports intensification for an existing community infrastructure. As well, the variance for the duplex parking provides a gentle form of intensification within the existing building which is appropriate for the property and compatible for the surrounding neighbourhood.

#### **Signage:**

Staff note that there currently is a window sign located on the garage doors (see 'Street View' photo above). Window signs are permitted for home businesses provided they are non-flashing and do not block or cover more than 50% of the window area the sign is displayed on. Section 680.24.3 of the Sign By-law states that window signs for home businesses require a permit. Staff will follow up with the business owner about obtaining a sign permit for the home business.

**Environmental Planning Comments:**

No concerns.

**Heritage Planning Comments:**

No concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided building permit for the interior renovations for the hair salon is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

No concerns.

**Parks/Operations Division Comments:**

No concerns.

**Transportation Planning Comments:**

Transportation Services have no concerns with this application. Transportation Services supported the curb cut and driveway widening in May of 2022.

**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*