

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: April 16, 2023

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
519-741-2200 ext. 7765

PREPARED BY: Andrew Pinnell, Senior Planner, 519-741-2200 ext. 7668

WARD INVOLVED: Ward 9

DATE OF REPORT: April 4, 2024

REPORT NO.: DSD-2024-146

SUBJECT: Minor Variance Application A2024-031 - 172 Kehl Street

RECOMMENDATION:

A. That Minor Variance Application A2024-031 for 172 Kehl Street requesting relief from the following sections of Zoning By-law 2019-051:

- i) Relief from Section 5.3 e) i) to permit a parking lot to be set back 0 metres from a side lot line instead of the minimum required 1.5 metres;
- ii) Relief from Section 7.3, Table 7-5 to permit a minimum lot width of 15.2 metres instead of the minimum required 19 metres;
- iii) Relief from Section 7.3, Table 7-5 to permit a minimum interior side yard to the south of 2.6 metres instead of the minimum required 4.5 metres;
- iv) Relief from Section 7.3, Table 7-5 to permit an increase in the maximum permitted Floor Space Ratio from 0.6 to 0.75; and
- v) Relief from Section 7.3, Table 7-5 to permit a building height of 10.1 metres instead of the maximum permitted 9 metres;

to facilitate the development of a block of 5 cluster townhouse dwelling units, generally in accordance with the Site Plan and Elevation Drawings prepared by Masri O Inc. Architects, dated October 30, 2023 and last revised March 11, 2024, attached to Report DSD-2024-146, except for the second storey decks and the visitor designation of the barrier-free parking space, BE APPROVED.

B. That Minor Variance Application A2024-031 for 172 Kehl Street requesting relief from Section 4.14.4 a) of Zoning By-law 2019-051 to permit decks in the interior side yard to have a setback of 0.95 metres, whereas the By-law requires that all decks meet the setback regulations required for the building in the applicable zone (i.e., 4.5m, in this case), to facilitate the development of a block of 5 cluster townhouse dwelling units, generally in accordance with the drawings prepared

by Masri O Inc. Architects, dated October 30, 2023 and last revised March 11, 2024, attached to Report DSD-2024-146, BE REFUSED.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of Variances 1 through 5 and to refuse Variance 6.
- 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 Kehl Street, between Hoffman Street and Ottawa Street South, in the Southdale Planning Community. The subject property has an approximate width of 15.3 metres, a depth of 53.9 metres, and an area of 820 square metres.

The property is located directly opposite Queen Elizabeth Public School and is developed with a single detached dwelling that was constructed in approximately 1955. The properties on Kehl Street, to the north and south, are developed with single detached and semi-detached dwellings. The lands to the southeast are zoned for low density residential uses and contain a cluster townhouse complex. The lands to the northeast contain primarily low-rise multiple dwellings.

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure of the 2014 Official Plan and is designated 'Low Rise Residential'. It should be noted that the properties immediately to the east are located within a Major Transit Station Area (Mill Station) as identified within Regional Official Plan Amendment 6. The property is zoned 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051.

Development & Housing Approvals (DHA) staff visited the subject property on March 20, 2024. At that time, staff noted several recent multiple residential redevelopments in the surrounding neighbourhood.

The applicant is proposing to demolish the single detached dwelling and construct a 3-storey, 5-unit cluster townhouse development. The townhouses would be oriented perpendicular to Kehl Street and each townhouse would have its own garage. A small parking area would be located at the rear of the property.

To facilitate the proposed development, the applicant is requesting six (6) minor variances from Zoning By-law 2019-051, as follows:

1. Relief from Section 5.3 e) i) to permit a parking lot to be set back 0 metres from a side lot line instead of the minimum required 1.5 metres;
2. Relief from Section 7.3, Table 7-5 to permit a minimum lot width of 15.2 metres instead of the minimum required 19 metres;

3. Relief from Section 7.3, Table 7-5 to permit a minimum interior side yard to the south of 2.6 metres instead of the minimum required 4.5 metres;
4. Relief from Section 7.3, Table 7-5 to permit an increase in the maximum permitted Floor Space Ratio (FSR) from 0.6 to 0.75;
5. Relief from Section 7.3, Table 7-5 to permit a building height of 10.1 metres instead of the maximum permitted 9 metres; and
6. Relief from Section 4.14.4a) to permit decks in the interior side yard to have a setback of 0.95m, whereas the By-law requires that all decks meet the setback regulations required for the building in the applicable zone (i.e., 4.5m, in this case).

As a result of changes to provincial legislation, since the proposed development comprises less than 10 dwelling units, a Site Plan Application is not required.



Figure 1: Photo of existing dwelling (at left), taken from Kehl Street.

REPORT:



Figure 2: Subject Property (outlined in red).

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 Official Plan contains several policies that are relevant to the requested variances, for example:

- 13.C.8.4. All parking areas or facilities will be designed, constructed and maintained:...b) for the safe and efficient movement of all users, on the site, and at points of ingress and egress related to the site;...f) to result in aesthetically acceptable parking areas which blend into the general environment of the area.
- 15.D.3.3. To support the successful integration of different housing types, specifically multiple residential developments, through new development / redevelopment and/or residential intensification, within lands designated Low Rise Residential, Medium Rise Residential or High Rise Residential, the City will apply design principles in accordance with the Urban Design Policies in Section 11. An emphasis will be placed on: a) compatibility of building form with respect to massing, scale, design; b) the relationship of housing to adjacent buildings, streets and exterior areas; c) adequate and appropriate parking areas are provided on site; and, d) adequate and appropriate amenity areas and landscaped areas are provided on site.
- 15.D.3.4. All new residential buildings, additions and/or modifications to existing residential buildings and conversions in predominantly low density neighbourhoods should be compatible with and respect the massing, scale, design and physical

character of the established neighbourhood and have both appropriate landscaped areas and parking areas provided on site.

- 15.D.3.11. A maximum Floor Space Ratio of 0.6 will apply to all development and redevelopment. Site-specific increases to allow up to a maximum Floor Space Ratio of 0.75 may be considered where it can be demonstrated that the increase in the Floor Space Ratio is compatible and meets the general intent of the policies in this Plan. An Official Plan Amendment will be required to consider an increase in the Floor Space Ratio greater than 0.75.
- 4.C.1.8. Where a special zoning regulation(s) or minor variance(s) is/are requested, proposed or required to facilitate residential intensification or a redevelopment of lands, the overall impact of the special zoning regulation(s) or minor variance(s) will be reviewed, but not limited to the following to ensure, that:
 - a) Any new buildings and any additions and/or modifications to existing buildings are appropriate in massing and scale and are compatible with the built form and the community character of the established neighbourhood and will have regard to Section 11 of this Plan, the City's Urban Design Manual, and any site-specific Urban Design Brief or Urban Design Report and Urban Design Scorecard.
 - d) New buildings, additions, modifications and conversions are sensitive to the exterior areas of adjacent properties and that the appropriate screening and/or buffering is provided to mitigate any adverse impacts, particularly with respect to privacy.
 - e) The lands can function appropriately and not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on the site.
 - f) The impact of each special zoning regulation or variance will be reviewed prior to formulating a recommendation to ensure that a deficiency in the one zoning requirement does not compromise the site in achieving objectives of compatible and appropriate site and neighbourhood design and does not create further zoning deficiencies.
- 4.C.1.9. Residential intensification and/or redevelopment within existing neighbourhoods will be designed to respect existing character. A high degree of sensitivity to surrounding context is important in considering compatibility

Development & Housing Approvals (DHA) staff is of the opinion that Variance 1, for a parking space setback reduction, meets the general intent of the Official Plan (OP). The view of the parking lot will be mitigated by a 1.8-metre-high visual barrier and the parking spaces themselves will be set back 1.5 metres. The parking area will be aesthetically acceptable. Also, Transportation Services does not have concerns with the requested parking space setback reduction. Safety is not a concern.

DHA staff is of the opinion that Variances 2 through 5 meet the general intent of the OP. The variances lot width, side yard setback, floor space ratio, and building height will result in development that is compatible with the adjacent uses with respect to massing, scale, and design. A common amenity space will help compensate for the reduced area of private amenity space at the rear of the units (within the side yard). An FSR up to the requested 0.75 is justified since the increase is compatible and meets the intent of the OP, noting that the development proposes the facilities necessary to support the proposed use (e.g., parking, landscaped areas, amenity space).

However, DHA staff is of the opinion that Variance 6 does not meet the general intent of the OP. This variance would facilitate the construction of second storey decks attached to the rear of each townhouse unit, within 0.95 metres of the southerly side lot line. Staff is concerned that this would result in an amenity space that is not sensitive to the exterior areas of adjacent properties, particularly the property to the south (176 Kehl Street). Staff is concerned that the requested setback reduction will not provide sufficient buffering to the side and rear yards of the abutting single detached dwelling and will negatively impact upon privacy. It should be noted that there is a slight grade difference (0.6 - 0.7 metres) between the subject property and 176 Kehl Street, as shown in Figure 3, below. This grade difference would result in the second storey decks being slightly higher than if the grading was the same for both properties. This may exacerbate the privacy / buffering issue.



Figure 3: Photo showing the grade change between the subject property (dwelling is partially shown at left) and the single detached dwelling to the south, addressed as 176 Kehl Street (dwelling is fully shown, at centre).

General Intent of the Zoning By-law

Regarding Variance 1, the purpose of the zoning regulation to require a 1.5 metre parking lot setback is to ensure adequate buffering between parking areas and side/rear yards of adjacent properties, including for urban design purposes. In this case, the parking area in question comprises only two parking spaces and the spaces themselves maintain the 1.5 setback. Only the drive aisle that is part of this parking area does not maintain the setback. Also, a fence will be provided to screen the drive aisle and parking area from the adjacent property. DHA staff is of the opinion that this variance meets the general intent of the Zoning By-law (ZBL).

With respect to Variances 2 through 5, the purpose of the regulations for which relief is sought is to ensure that the facilities necessary to support the proposed use are provided, adequate buffering is provided, and character and compatibility are maintained. In this case, the necessary facilities are adequately provided (e.g., parking, landscaping, amenity space), adequate setbacks are provided considering the low-rise nature of the proposal, and the FSR and building height are appropriate since the variances will not result in compatibility issues. DHA staff is of the opinion that these variances meet the general intent of the ZBL.

Regarding Variance 6, the purpose of the regulation for a deck setback is to ensure that buffering and privacy are maintained between outdoor amenity spaces and adjacent properties. In this case, the requested variance would permit a second storey deck to be constructed less than one metre from the side lot line. Privacy will be adversely impacted. DHA staff is of the opinion that this variance does not meet the general intent of the ZBL.

Are the Effects of the Variances Minor?

DHA staff is of the opinion that Variances 1 through 5 are minor, meaning that they will not cause unacceptably adverse impacts on adjacent properties. As aforementioned, the proposed development would provide the facilities necessary to support the proposed use, and character and compatibility would be maintained. However, staff is of the opinion that Variance 6 will result in adverse impacts on the abutting property addressed as 176 Kehl Street, especially the rear yard amenity area. This variance is not minor.

Are the Variances Desirable for the Appropriate Development or Use of the Land, Building and/or Structure?

DHA staff is of the opinion that Variances 1 through 5 are desirable for the appropriate development of the land. These variances will permit the land to be redeveloped at a higher density, while remaining compatible with and sensitive to the surrounding land uses. However, staff is of the opinion that Variance 6 is not desirable for the appropriate development of the structure. This variance will permit the construction of two-storey decks that will result in privacy issues with the abutting property to the south.

Planning Conclusion:

Variances 1 through 5 meet the four tests for minor variances, under the Planning Act. Accordingly, DHA staff recommends approval.

However, Variance 6 does not meet the four tests and should be refused.

Environmental Planning Comments:

The proposed development may negatively impact trees on or near the property line with 164 Kehl Street. Any building and/or structure should be located beyond the dripline of tree(s).

Heritage Planning Comments:

No comments.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the new townhouse is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No concerns.

Parks/Operations Division Comments:

As site plan approval is not required for a residential development with 10 units or fewer, Parkland Dedication will be assessed at a future building permit application and required prior to building permit issuance.

There is an existing City-owned street trees located on Kehl St that will be impacted by future demolition, servicing and construction. *If this tree cannot be protected to City standards throughout construction as per Chapter 690 of the current Property Maintenance By-law, full compensation and replacement is expected. A Tree Protection and Enhancement Plan (TPEP) will be required as part of a Building Permit application,* please see Urban Design Manual Part C, Section 13 and www.kitchener.ca/treemanagement .

Transportation Planning Comments:

Transportation Services have no concerns with this application. However, as part of this submission, drawing A1.1 notes the one required barrier free (BF) parking space as visitor. This is not supportable as the one BF space cannot be assigned as visitor parking.

[Development & Housing Approvals staff note: For this proposal, 1 parking space per unit is required for a total of 5 spaces (provided within private garages) plus 1 visitor space and 1 barrier-free space (both of which are provided in the rear parking lot). Transportation Services staff further advises that if the one visitor space is retained as is and the visitor designation is removed from the barrier-free space, the issue is resolved. The applicant is advised that the parking should be revised, accordingly.]

Region of Waterloo:

No concerns.

Grand River Conservation Authority:

No objections.

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*

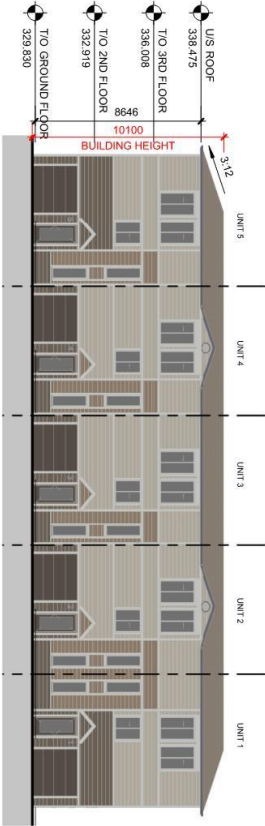
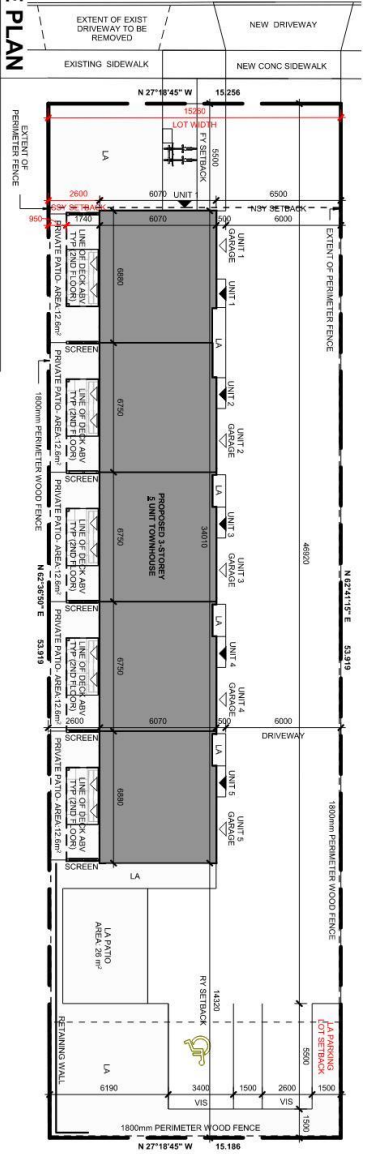
ATTACHMENTS:

Attachment A - Site Plan and Elevation Drawings prepared by Masri O Inc. Architects, dated October 30, 2023.

Attachment A – Site Plan and Elevation Drawings prepared by Masri O Inc. Architects, dated October 30, 2023.

DATA		REQUIRED	PROVIDED
ZONING		RES-5	
MIN. LOT AREA (m ²)	525	820	
MIN. LOT WIDTH (m)	19.0	15.2	
SETBACKS			
FY (m)	5.4	5.5	
RY (m)	6.0	14.3	
N. SY (m)	4.5	6.5	
S. SY (m)	4.5	2.6	
MIN. LANDSCAPE AREA (%)	20	31	
MIN. LANDSCAPE AREA (m ²)	164	255	
BUILDING AREA (m ²)		204	
GROSS FLOOR AREA (m ²)		613	
MAX. FLOOR SPACE RATIO	0.6	0.75	
MAX. BUILDING HEIGHT (m)	9.0	10.1	
MAX. # OF STOREYS	3	3	
PRIVATE PATIO AREA	1/UNIT	1/UNIT	
NUMBER OF UNITS		5	
MIN. PARKING REQUIRED PER UNIT PLUS 0.15 PER UNIT VISITORS		5 PLUS 1 VIS	
MAX. PARKING REQUIRED 1.4 PER UNIT		5 PLUS 2 VIS	
PARKING LOT SETBACK	1.5	0m - 1.5m	
VISUAL BARRIER	YES	YES	
NO. OF BARRIER FREE SPACES REQ'D	1	1	
BIKE RACKS REQ'D TYPE B	2	2	
GARAGE		INDOOR	

SITE PLAN
SCALE: 1 : 200



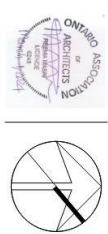
NORTH ELEVATION
SCALE: 1 : 200



WEST ELEVATION (STREET LINE FACADE)
SCALE: 1 : 200

THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND REPORT ALL ERRORS AND DISCREPANCIES TO THE ARCHITECT IMMEDIATELY UPON DISCOVERY. THESE DOCUMENTS ARE CONSIDERED INSTRUMENTS OF SERVICE AND PROPERTY OF THE ARCHITECT. THESE DOCUMENTS ARE TO BE USED ONLY FOR THE INTENDED PURPOSE INDICATED UNDER THE TITLE. ANY ALTERATION, REPRODUCTION OR COPYING WITHOUT THE CONSENT OF THE ARCHITECT IS PROHIBITED. DO NOT SCALE THESE DRAWINGS.

NO.	DATE	ISSUED FOR
1	2024.03.01	ISSUED FOR CQFA
2	2024.03.11	RESUBMITTED FOR CQFA



MASRI O INC. ARCHITECTS
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PROJECT:
PROPOSED TOWNHOUSES
PROPOSED TOWNHOUSES
PRIME SKY INC.

DRAWING TITLE:
SITE PLAN & ELEVATIONS

DATE: 2023.10.30
SCALE: As Indicated
DRAWN: SS
STATUS: CQFA
JOB NO.: 2351

DRAWING NO.:
A1.1