

REPORT TO: Committee of Adjustment

DATE OF MEETING: May 21, 2024

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
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PREPARED BY: Eric Schneider, Senior Planner, 519-741-2200 ext. 7843

WARD(S) INVOLVED: Ward 2

DATE OF REPORT: May 9, 2024

REPORT NO.: DSD-2024-241

SUBJECT: Minor Variance Application A2024-034 – 215 Morgan Avenue

RECOMMENDATION:

That Minor Variance Application A2024-034 for 215 Morgan Avenue requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 4.12.4 a) of Zoning By-law 2019-051, as amended by By-law 2024-074, to permit 19% of street line facade opening and no pedestrian entrance instead of the minimum 20% including one (1) pedestrian entrance to the principal building;
- ii) Section 4.16 a) ii) of Zoning By-law 2019-051 to permit a building to be located 10.6 metres from an active railway right-of-way instead of the minimum required 15 metres;
- iii) Section 5.3 e) ii) of Zoning By-law 2019-051 to permit a drive aisle of 4.8 metres adjacent to a portion of one (1) parking space instead of the minimum required 6 metres;
- iv) Section 5.3 e) iii) of Zoning By-law 2019-051, as amended by By-law 2024-074, to permit parking spaces and drive aisles to be located in the front yard whereas the Zoning By-law does not permit parking spaces and drive aisles to be located in the front yard;

to facilitate the development of 4 additional dwelling units to a 4-unit development for a total of 8 dwelling units on the subject property, generally in accordance with drawings prepared by Design Permit Group Inc., dated December 11, 2023, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the addition of 4 units within an existing building to create an 8-unit multiple dwelling.

- The key finding of this report is that the requested variances meet the 4 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 South side of Morgan Avenue between Pepperwood Crescent and Southwood Drive.



Figure 1: Location Map

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 Five Zone (RES-5)' in Zoning By-law 2019-051.

The purpose of the application is to facilitate the addition of 4 dwelling units within the existing building of an existing 4 unit building for a total of 8 dwelling units on the subject property. The units are proposed to be added by demising the existing floor space into 8 units. No building additions or new gross floor area is proposed.



Figure 2: View of Subject Lands from Morgan Avenue



Figure 3: View of Existing Rear Yard Setback



Figure 4: View of Rear Lot Line showing CN Railway Right-of-Way and King Street East

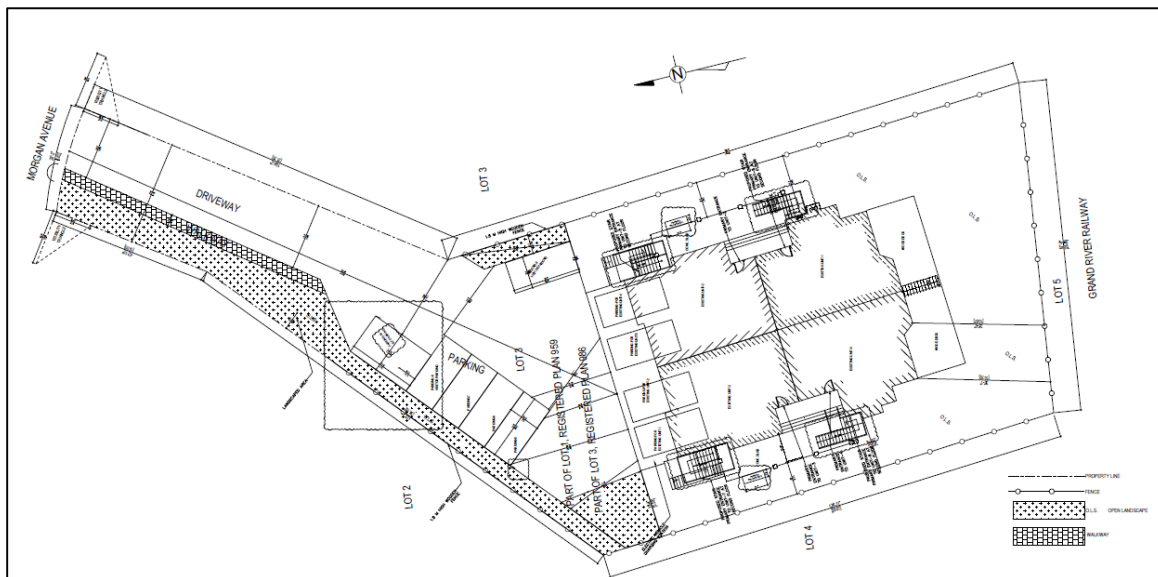


Figure 5: Proposed Site Concept Plan

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' land use designation is to permit a range of low rise residential uses, including multiple dwellings. The 'Low Rise Residential' designation encourages the mixing and integrating of different forms of housing to achieve and maintain a low rise built form. Housing policies in the Official Plan encourage the retention and rehabilitation of older housing to maintain existing housing stock, as well as encouraging small infill opportunities in existing areas with adequate services. Planning Staff are of the opinion that the requested variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

Street Line Façade Openings and Pedestrian Entrance

The intent of the regulation that requires multiple dwelling of up to 10 units to have 20% street line façade openings and one pedestrian entrance is to animate the streetscape with active uses and design that addresses the street. In this situation, the existing lot is irregular in shape and the portion of the lot closest to the street line is a narrow area that is comprised of only the access aisle to the parking area, with the rest of the site widening out as it gets further from the street. The existing building is located approximately 40 metres from the street line and does not represent a building street wall that strongly affects the streetscape. The requested variance will not have an immediate impact on the aesthetics or design of the streetscape due to the irregular lot shape and building location, and therefore Staff are of the opinion that the variance meets the general intent of the Zoning By-law.

Railway Setback

The intent of the regulation that requires dwellings to be located 15 metres from a railway right-of-way is to mitigate impacts of noise and vibration for residential uses. The requested setback of 10.6 metres represents the current location of the existing building containing 4 dwelling units. The applicant is not proposing any new additional gross floor area, and therefore there is no residential floor space proposed to be located closer to the railway right-of-way than what currently exists on site. Rather, the proposed units will be added by demising the existing floor space. The impact of noise and vibration is not expected to increase above existing levels as the dwelling building is proposed to be located in the same footprint. Therefore, Staff are of the opinion that the requested variance meets the general intent of the Zoning By-law.

Drive Aisle Width

The intent of the minimum drive aisle width of 6 metres is to ensure functional movement of motor vehicles on site when entering and exiting the site from the parking area. The existing parking area is irregular in shape and layout and makes the best use of the irregular lot lines at the front of the site. While the majority of drive aisle area meet and exceed the 6 metre minimum drive aisle, there exists a pinch point of 4.8 metres for one parking space due to the shape of the lot lines in that area (shown in box in Figure 5). However, the parking area contains a large area to turn around in the middle. Staff are of the opinion that functional movements of motor vehicles can occur on site with the proposed configuration. Staff are of the opinion that the requested variance meets the general intent of the Zoning By-law.

Parking and Drive Aisles in the Front Yard

The intent of the regulation that prohibits parking and drive aisles in the front yard of multiple dwellings is to ensure that the streetscape is activated with built form that provides visual interest, rather than automobile storage. In this situation, the existing building is located 40 metres from the street line and is obscured due to the irregular shape lot at the front. The parking area has existed in front of the building since its construction, and it is not feasible to relocate behind the building given the existing building placement. The site's narrow lot width at the street line is insufficient to provide a built form that addresses the street and public realm, as there is only enough space for an access aisle. Staff note that the majority of parking spaces are obscured from the street in private garages or behind a vegetative buffer. Planning Staff is of the opinion that requested variance meets the general intent of the Zoning By-law.

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

The applicant is not proposing any additional building floor area as part of the proposed addition of 4 units, nor is any expansion of asphalt parking area proposed. The changes are proposed to occur within the building, and Staff do not expect any adverse effects on the adjacent lands or surrounding neighbourhood as a result of the requested variances. Therefore, Staff are of the opinion that the requested variances are minor.

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

The lands are zoned for multiple dwellings in a low rise form. The applicant is proposing to increase the number of units on site without demolition of the existing building or construction of any additions. Staff are of the opinion that the variances are desirable for the use of the building and lands.

Environmental Planning Comments:

No tree management or natural heritage concerns.

Heritage Planning Comments:

No heritage comments or concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the 4 additional residential buildings are obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No Engineering comment.

Parks/Operations Division Comments:

Parkland Dedication will be required for the proposed fifth to eighth residential units to be paid prior to the issuance of the Building Permit.

Transportation Planning Comments:

Transportation Services can support the Minor Variance Application.

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 Concept Plan