

Staff Report



Development Services Department

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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. 7873

WARD(S) INVOLVED: Ward 8

DATE OF REPORT: May 10, 2024

REPORT NO.: DSD-2024-246

SUBJECT: Minor Variance Application A2024-039 - 114 Brandon Avenue

RECOMMENDATION:

That Minor Variance Application A2024-039 for 114 Brandon Avenue requesting relief from Section 7.3, Table 7-2, of Zoning By-law 2019-051 to permit a rear yard setback of 5.5 metres instead of the minimum required 7.5 metres, to facilitate the replacement of an existing sunroom at the rear of the detached dwelling, generally in accordance with drawings prepared by JR Design and Consultants, dated February 2024, **BE APPROVED.**

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the reconstruction of an existing sunroom at the rear of a detached dwelling.
- The key finding of this report is that the requested variance meets the 4 tests of the Planning Act.
- There are no financial implications.
- Community engagement included notice signs 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 north side of Brandon Avenue between Dunbar Road and Katherine Crescent.



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 Two Zone (RES-2)' in Zoning By-law 2019-051.

The purpose of the application is to permit the reconstruction of an existing sunroom at the rear of the detached dwelling.

Staff note that the applicant applied for relief from the minimum side yard setback to recognize an existing carport located 0.45 metres from the side lot line. However, Staff researched the City's records and found the building permit from 1960 for the carport that was approved in that location in compliance with the contemporaneous Zoning By-law (Zoning By-law 4830). Therefore, the carport location is considered legal-non-complying and a minor variance is not required.



**Figure 2: View of Existing Single Detached Dwelling
(May 3, 2024)**



**Figure 3: View of Existing Sunroom
(May 3, 2024)**



**Figure 4: View Showing Sunroom Setback to Rear Lot Line
(May 3, 2024)**

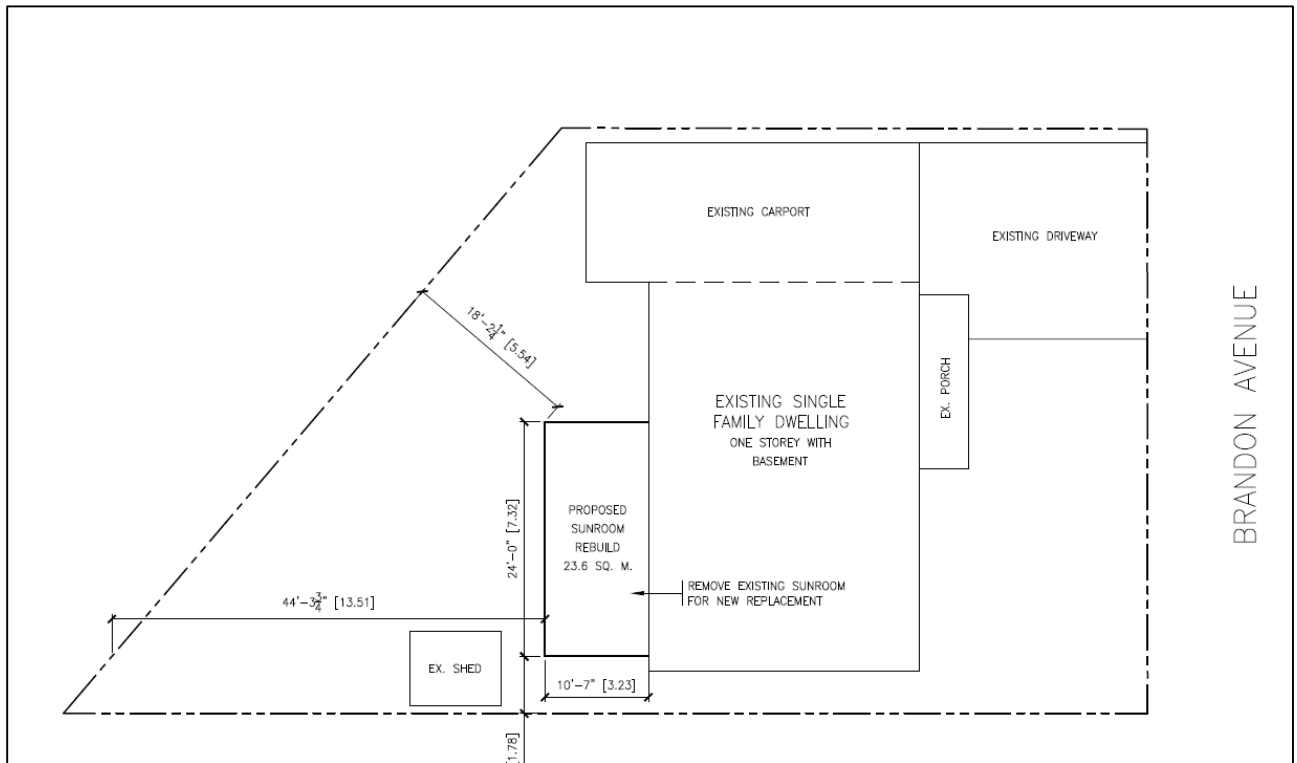


Figure 5: Concept Plan

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 accommodate a full range of low density housing types. 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. Planning Staff are of the opinion that the requested variance meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the regulation that requires a 7.5 metre rear yard setback is to ensure that there is adequate outdoor amenity space and adequate building separation. In this situation, the requested rear yard setback of 5.5 metres is caused by irregular shaped that create a triangle shaped rear yard and a pinch point. Staff are satisfied that there is adequate amenity space in the rear yard. Staff note that an existing sunroom in the same location exists today and functions with adequate building separation from adjacent lands. In the opinion of Staff, the requested variance meets the general intent of the Zoning By-law.

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

The proposal intends to replace the sunroom in the same location and dimensions as the existing sunroom. Staff do not expect adverse impacts or effects as the location of built form is not changing as part of the requested variance. Staff are of the opinion that the requested variance is minor.

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

The use of the land as a single detached dwelling is not proposed to change. The location and scale of built form is also not proposed to change. The variance is desirable and appropriate as it will facilitate the reconstruction of the existing sunroom in the same location.

Environmental Planning Comments:

Care should be taken during construction to not impact the root zone of trees on and/or adjacent to the property. It is recommended that temporary protective fencing be installed (as per Appendix 'E' of the City's Tree Management Policy) prior to construction commencing.

Heritage Planning Comments:

No heritage concerns.

Building Division Comments:

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

Engineering Division Comments:

No Engineering comments.

Parks/Operations Division Comments:

No Parks/Operations comments.

Transportation Planning Comments:

Transportation Services does not have any concerns with the proposed 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 – Concept Plan