

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** May 21, 2024

**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 1

**DATE OF REPORT:** May 8, 2024

**REPORT NO.:** DSD-2024-227

**SUBJECT:** Minor Variance Application A2024-040 - 39 Turner Avenue

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## **RECOMMENDATION:**

That Minor Variance Application A2024-040, for 39 Turner Avenue, requesting relief from Section 4.1 d) and Section 7.3, Table 7-2, of Zoning By-law 2019-051, to permit an accessory building to have a lot coverage of 18.3% (204.4 square metres in area) instead of the maximum permitted 15% (168.2 square metres in area), to add a one-storey addition to an existing detached accessory building in the rear yard, generally in accordance with the plans and drawings attached to Report DSD-2024-227 as Attachment 'A', **BE APPROVED.**

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to recommend approval of Minor Variance Application A2024-040.
- 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:**

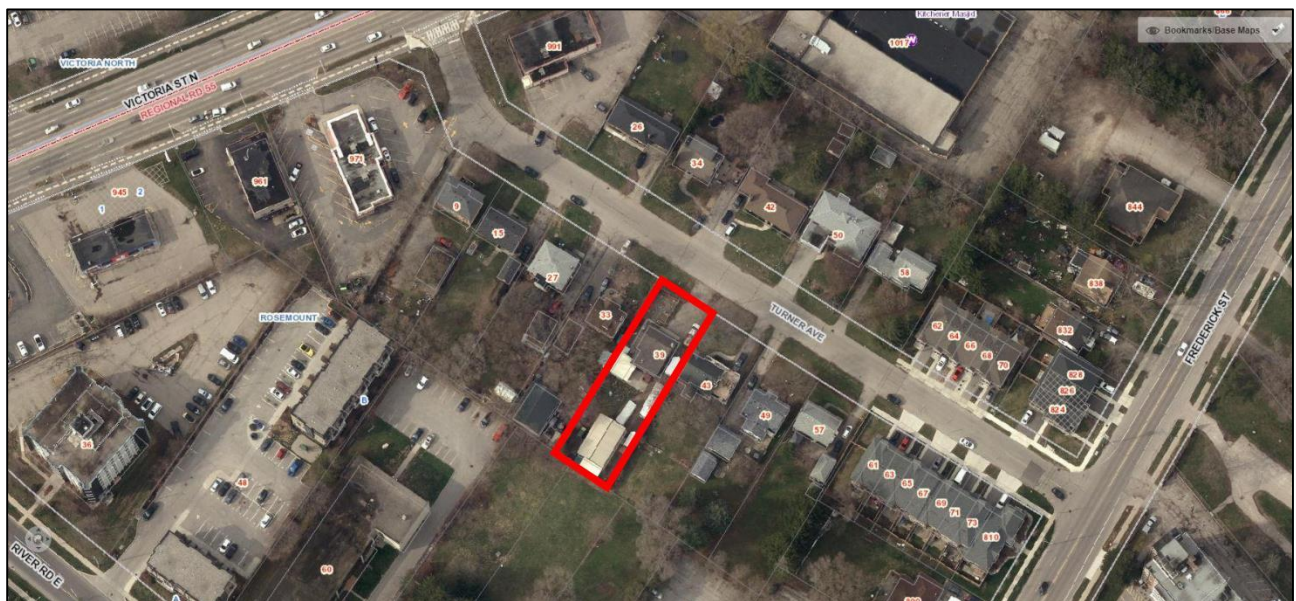
The subject property is located on the southwest side of Turner Avenue, between Victoria Street North and Frederick Street, in the Rosemount Planning Community. The subject property has an approximate width of 18.3 metres, a depth of 60.4 metres, and an area of 1,121 square metres.

Turner Avenue contains a mix of low rise residential land uses, including single detached dwellings and street townhouse dwellings. Commercial uses are located at the intersection of Turner Avenue and Victoria Street North.

The subject property contains a one-storey single detached dwelling constructed in approximately 1952. The property also contains an accessory building in the rear yard that was constructed in 2008, according to the owner. The accessory building has an approximate width of 8.5 metres, depth of 13.1 metres, and height of 5.5 metres.

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 southwest (i.e., towards the rear of the property) are designated as 'Medium Rise Residential'. The property is zoned 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051. Development & Housing Approvals (DHA) staff visited the subject property on May 3, 2024.

The applicant is proposing to construct a one-storey addition onto the front and northwest side of the existing accessory building. The dimensions are shown on the attached plan. To facilitate the proposed addition, the applicant is requesting a minor variance for relief from Section 4.1 d) and Section 7.3, Table 7-2, of Zoning By-law 2019-051, to permit an accessory building to have a lot coverage of 18.3% (204.4 square metres in area) instead of the maximum permitted 15% (168.2 square metres in area).



**Figure 1: Subject Property (outlined in red).**





**Figure 2: Photo of subject property (at right), taken from Turner Avenue. The existing accessory building is only partially visible within the rear yard.**

## **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, Development & Housing Approvals (DHA) staff offers the following comments:

#### General Intent of the Official Plan

The Official Plan contains a few policies that are relevant to the requested variance, for example:

- 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.3.8. The Low Rise Residential land use designation will accommodate 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.
- 4.C.1.20. The City will support and attempt to accommodate residents who may wish to adapt their housing to better suit their circumstances and needs that may change over time, provided these changes to the housing do not significantly impact the nature or community character of the surrounding residential area.

DHA staff is of the opinion that the requested variance meets the general intent of the Official Plan (OP). It should be noted that the subject property has a lot area that is nearly 5 times greater than the minimum lot area required by the applicable zoning category (i.e., 235 m<sup>2</sup> is required, whereas 1,121 m<sup>2</sup> is provided). The variance would facilitate an accessory building addition that is appropriate in massing and scale, given the large land area of the lot. Furthermore, the variance would facilitate an addition to a building that is accessory to a low rise residential use.

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

The purpose of the regulation that limits the lot coverage of an accessory building is to limit the proportions of a building for an accessory use in comparison to the building containing the primary residential use. In this case, the subject property has a lot area that is nearly 5 times greater than the minimum lot area required by the 'RES-4' Zone and the increased proportion of the accessory building would not be perceptible. The proposed addition would be lower in height than the existing accessory building and would exceed the required minimum side and rear yard setbacks. Moreover, due to the size and orientation of the single detached dwelling and existing vegetation, it is unlikely that the proposed addition to the accessory building would be visible from the street. Accordingly, DHA staff is of the opinion that the requested variance meets the general intent of the Zoning By-law (ZBL)

#### Are the Effects of the Variance Minor?

DHA staff is of the opinion that the requested variance is minor, meaning that it will not cause unacceptably adverse impacts on adjacent properties. As aforementioned, the proposed addition would exceed the required minimum side and rear yard setbacks. Also, the increase in proportions from 15% to 18.3% would be imperceptible. In this regard, DHA staff is of the opinion that the variance is minor.

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

DHA staff is of the opinion that the requested variance is desirable for the appropriate development of the land. If approved, the variance will permit an appropriate addition to the existing accessory building, which represents the resident's wish to adapt his housing to better suit his circumstances and needs, in accordance with Policy 4.C.1.20 of the OP.

#### **Environmental Planning Comments:**

Care should be taken during construction to not impact tree(s) or their roots that are located at 33 Turner Ave. 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 concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided building permit for the addition to the existing accessory building 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 does not have any concerns with the proposed application.

**Region of Waterloo Comments:**

No concerns.

**Metrolinx Comments:**

- The subject property is located within 300m of the Metrolinx Guelph Subdivision which carries Metrolinx's Kitchener GO Train service.
- Advisory Comments:

The Proponent is advised of the following:

Warning: The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

**Grand River Conservation Authority Comments:**

No concerns.

**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:**

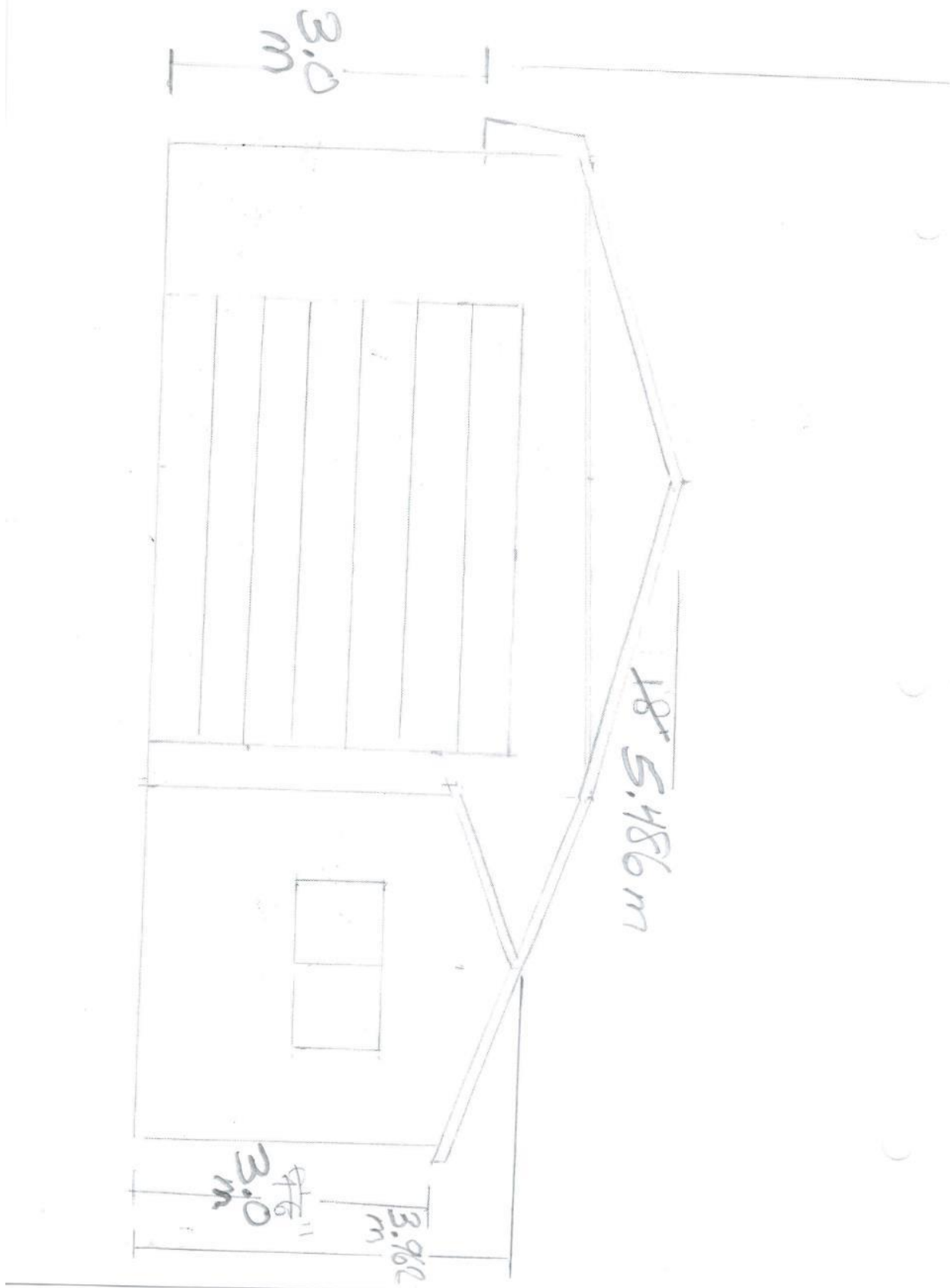
INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information 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.

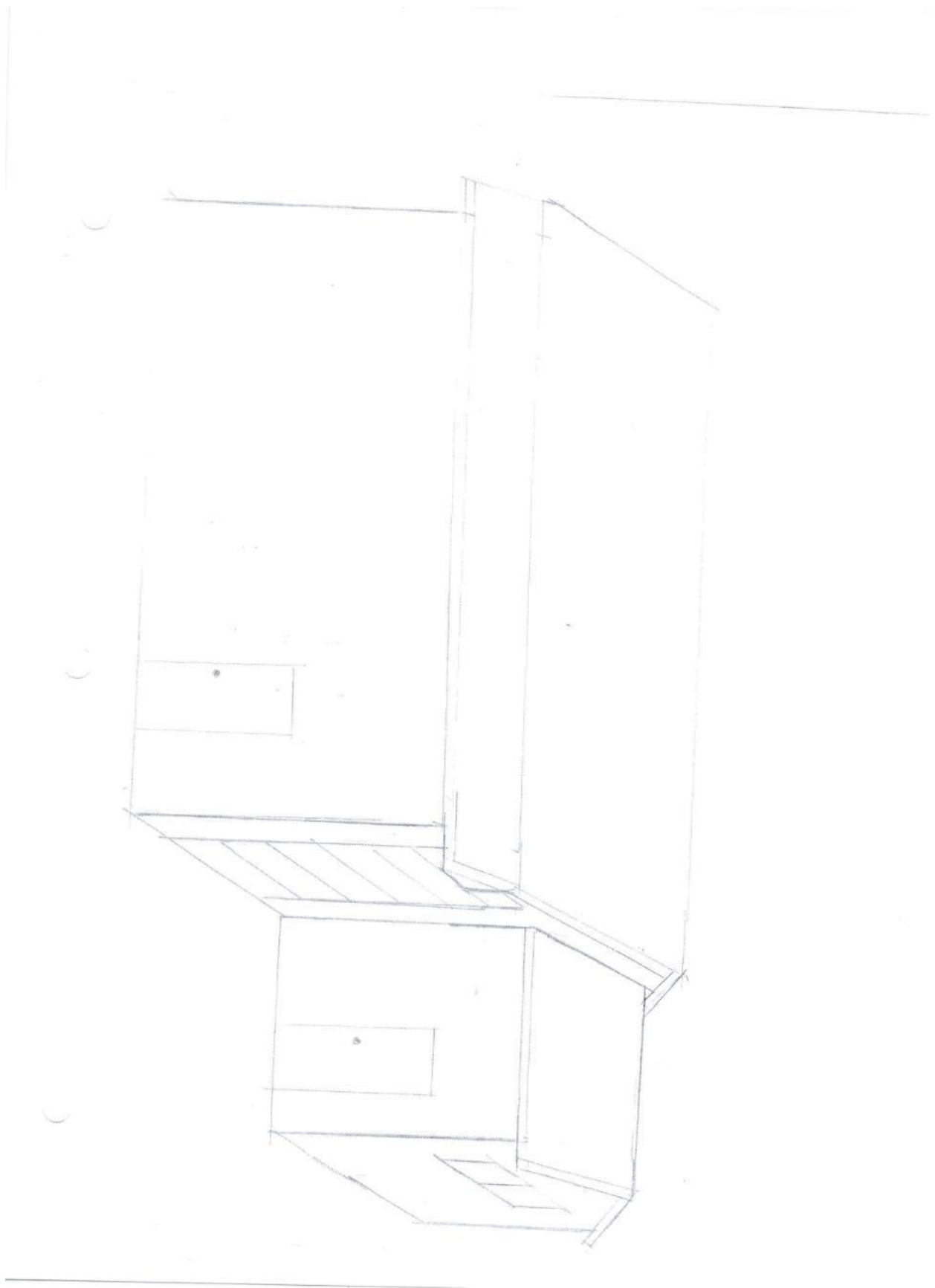
## **PREVIOUS REPORTS/AUTHORITIES:**

- *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' - Plan and Drawings Submitted with Minor Variance Application A2024-040







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AVENUE