

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
519-741-2200 ext. 7765

PREPARED BY: Sheryl Rice Menezes, Senior Planning Technician,
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WARD(S) INVOLVED: Ward 7

DATE OF REPORT: May 13, 2024

REPORT NO.: DSD-2024-238

SUBJECT: Minor Variance Application A2024-038 - 32 Montana Crescent

RECOMMENDATION:

Zoning By-law 2019-051

That Minor Variance Application A2024-038 for 32 Montana Crescent requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 4.12.3 g) to permit a building floor area of 122 square metres instead of the maximum permitted 80 square metres;
- ii) Section 4.12.3 i) to permit a lot width of 7.3 metres instead of the minimum required rather than the required 13.1 metres;
- iii) Section 4.12.3 l) a) to permit a shed roof with a building height of 4.8 metres instead of the maximum permitted 4.5 metres;
- iv) Section 4.12.3 n) to permit an unobstructed walkway of 0.94 metres at one pinch point instead of the minimum required 1.1 metres; and
- v) Section 4.14.4 c) to permit a deck attached to the Additional Dwelling Unit (ADU) (Detached) to have a rear yard setback of 1.4 metres instead of the minimum required 4 metres;

to facilitate the construction of an Additional Dwelling Unit (ADU) (Detached) at the rear of a semi-detached dwelling which is proposed to contain two (2) dwelling units for a total of three (3) dwelling units on the property, generally in accordance with drawings prepared by the applicant, Robert Davis, dated April 23, 2024, and submitted with this application, BE APPROVED.

Zoning By-law 2019-051, as amended by By-law 2024-074

That Minor Variance Application A2024-038 for 32 Montana Cres requesting relief from the following sections of Zoning By-law 2019-051, as amended by By-law 2024-074:

- i) Section 4.12.3 g) to permit a lot width of 7.3 metres instead of the minimum required rather than the required 10.5 metres;**
- ii) Section 4.12.3 h) to permit a shed roof with a building height of 4.8 metres instead of the maximum permitted 4.5 metres;**
- iii) Section 4.12.3 n) to permit an unobstructed walkway of 0.94 metres at one pinch point instead of the minimum required 1.1 metres; and**
- iv) Section 4.14.4 c) to permit a deck attached to the Additional Dwelling Unit (ADU) (Detached) to have a rear yard setback of 1.4 metres instead of the minimum required 4 metres;**

to facilitate the construction of an Additional Dwelling Unit (ADU) (Detached) at the rear of a semi-detached dwelling which is proposed to contain two (2) dwelling units for a total of three (3) dwelling units on the property, generally in accordance with drawings prepared by the applicant, Robert Davis, dated April 23, 2024, and submitted with this application, BE APPROVED, subject to the following:

This Minor Variance shall become effective only at such time as By-law 2024-074 (Enabling 4 Units in 2019-051) comes into force and effect, pursuant to section 34 (30) of the Planning Act, R.S.O. 1990, c. P 13, as amended, at such time the variance shall be deemed to have come into force and effect as of the final date of this decision.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the construction of an Additional Dwelling Unit (ADU) (Detached) in the rear yard.
- The key finding of this report is 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.



Figure 1: Aerial photo

BACKGROUND:

The subject property is located on the north side of Montana Crescent which backs onto Highland Rd W.

It is identified as 'Community Area' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in City's 2014 Official Plan.

The property is zoned 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051.

The purpose of the application is for minor variances to both Zoning By-law 2019-051 and Zoning By-law 2019-051, as amended by By-law 2024-074, to permit the construction of an Additional Dwelling Unit (ADU) (Detached) in the rear yard. It is noted that the existing semi-detached dwelling will be renovated to have one (1) Additional Dwelling Unit (ADU) (Attached). This will result in a total of three (3) dwelling units on the subject property.



Figure 2: View of property from street.

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 property is designated 'Low Rise Residential'. The intent of the land use designation is to encourage residential intensification and/or redevelopment which includes additional 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 variances will meet the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the building floor area regulation is to ensure the detached ADUs do not dominate the rear yard. Under the existing by-law regulations there is a maximum building floor area. However, under the amending by-law there is no maximum floor area. The massing is regulated by the height and footprint on the property. Though the GFA of 122

square metres is over the maximum permitted 80 square metres required under the existing bylaw, it is noted that there is a mezzanine inside the unit. Staff are on the opinion that the intent of the existing by-law is met and a variance for this requirement will not be needed once amending By-law 2024-074 comes into effect.

The intent of the lot width regulations is to ensure there is sufficient width for additional units. The subject lot is pie-shaped which results in a lot width of 7.3 metres at the 4.5 metre setback. As the lot widens there is more than the required lot width, especially in the rear yard where detached ADU will be located.

The intent of the building height regulation is to ensure that the detached ADU does not dominate the lot with a height greater than the main building. Because of grade difference on the lot, the detached ADU is located at a lower grade and is not higher than the main building. See Figure 3 below.

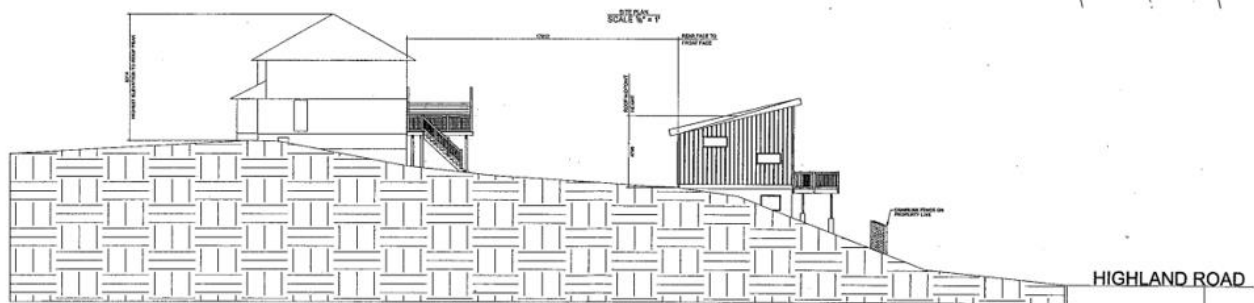


Figure 3: View of grading from right side yard.

The intent of the minimum walkway width of 1.1 metres is to ensure that emergency services can access the detached ADU without obstruction. Fire Prevention staff have confirmed that the proposed variance for the walkway at the pinch point of going over the porch is supportable.

The intent of the minimum rear yard setback for a deck over 0.6 above grade is to ensure that the use of the deck as an amenity area does not negatively impact the neighbouring properties. As shown on the aerial photo above (Figure 1), the property backs onto Highland Road West and there is no impact on the neighbours nor the streetscape because the vegetation along Highland Road West.

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

As noted above, the detached ADU will be setback in the rear yard of the subject property. There is sufficient lot area and width to support the dwelling unit. Because of grade, the height of the building does not impact the main building or abutting properties. Staff are of the opinion that the effects of the variances are minor.

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

Staff are of the opinion that the variances for the detached ADU are desirable and appropriate for the property and provide a gentle form of intensification which can be considered appropriate for the use of the property and compatible with the surrounding neighbourhood.

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 concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the detached additional dwelling unit 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:

There is an existing City owned street tree that may be impacted by the proposed construction. If this tree(s) 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. As part of the required Building Permit a plan showing adequate tree protection should be submitted.

Transportation Planning Comments:

Transportation Services does not have any concerns with the proposed application.

Region of Waterloo Comments:

There are no conditions for the above application. However, the applicants are advised that there would be impacts from road noise from Highland Road West to the existing and proposed dwellings/buildings. The applicants are responsible for ensuring no environmental noise impacts from/on the proposed development.

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 and By-law 2024-074*