

# 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:** Arwa Alzoor, Planner, 519-741-2200 ext. 7847

**WARD(S) INVOLVED:** Ward 5

**DATE OF REPORT:** May 1, 2024

**REPORT NO.:** DSD-2024-218

**SUBJECT:** Minor Variance Application A2024-042 - 125 Seabrook Drive

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## RECOMMENDATION:

That Minor Variance Application A2024-042 for 125 Seabrook Drive requesting relief from Section 7.2 of Zoning By-law 85-1 to permit:

- i) a gross leasable commercial space of 1,932.5 square metres instead of the maximum permitted 999 square metres; and
- ii) to permit a gross leasable commercial space for a convenience retail outlet to be 555 square metres instead of the maximum permitted 225 square metres;

to construct Phase Two of a development for a commercial plaza with a specialty grocery store, in accordance with Site Plan Application SP24/002/S/AA, BE APPROVED.

## REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the construction of Phase Two of a development for a commercial plaza.
- The key finding of this report is that the requested variances meet 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.

**BACKGROUND:**

The subject property is located in the Rosenberg area north of Huron Road and east of Fischer Hallman Road.

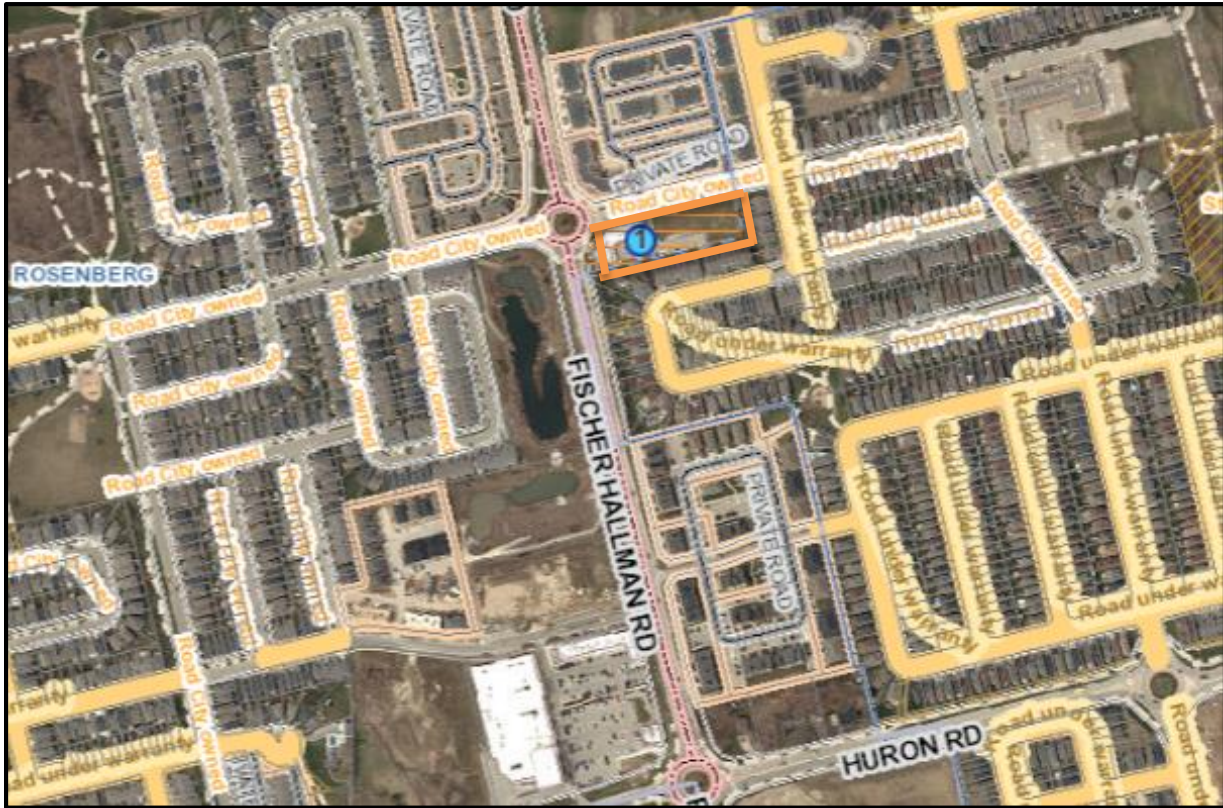


Figure 1: The subject property in an aerial view.



**Figure 2: The subject property in the zoning map.**

The subject property is identified as 'Urban Corridor' on Map 2 – Urban Structure and is designated as "Mixed Use One" in the Rosenberg Secondary Plan

The property is zoned 'Convenience Commercial Zone (C-1) with Special Use Provision 331U' in Zoning By-law 85-1

The purpose of the application is to facilitate the construction of Phase Two of the site development, which is proposed to contain a one-storey commercial building with a storage basement. The proposed building will add to the overall gross leasable commercial space for the property which exceeds the maximum required, and it will have a retail unit that exceeds the maximum gross leasable commercial space for a convenience retail outlet

The applicant has submitted a Site Plan Application, SP24/002/S/AA, which has been reviewed with all applicable divisions and agencies and has received 'conditional approval' subject to receiving approval of the minor variances.







**Figure 5: The existing road access to the commercial plaza**

Staff visited the subject property on March 2<sup>nd</sup>, 2024.



**Figure 6: The subject property from Seabrook Drive where the proposed building will be located**

**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 'Mixed Use 1' land use designation in the Rosenberg Secondary Plan states that The City may impose maximum gross floor area limits on non-residential development, including limiting the gross floor area of individual non-residential outlets (including food store) as well the combined total gross floor area of non-residential outlets, in the Zoning By-law to ensure that the uses are appropriately scaled for the planned function of the Mixed Use area and community.

- Lands designated 'Mixed Use 1' are generally intended to provide a minimum amount of small-scale commercial uses at neighbourhood gateway locations supplemented with multiple residential and other non-residential uses.
- Permitted non-residential, neighbourhood oriented uses may include the following:
  - Retail, but not including Major Retail;
  - Office, but not including Major Office;
  - Financial establishments, personal services and/or restaurants in a plaza or mixed-use building;
  - Health-related uses, such as health offices and clinics;
  - Studios
  - Craftsman shop
  - Education establishments, day care, religious institutions and museum up to 25% of a building.

The proposed commercial building aims to fulfill this objective by offering a diverse range of neighbourhood-oriented commercial services without exceeding the scope outlined in the official plan. The absence of major retail or major office spaces ensures that the development remains in line with the intended character of a convenience commercial plaza. Therefore, staff are of the opinion that the new commercial building and requested variances meet the general intent of the Official Plan.

### General Intent of the Zoning By-law

The general intent of the Zoning By-law to limit the gross leasable commercial space and the gross leasable commercial space for a convenience retail outlet is to avoid having a major retail development within a neighbourhood and to maintain the convenience retail character. The proposed commercial building reflects this objective by integrating retail and other commercial uses into a one-storey single development on the subject property.

The proposed increase in the retail gross area for the specialty grocery store will still provide a convenience retail use, and the overall gross leasable commercial will be one storey with this being the only convenience retail outlet greater than 225 square metres in area. Considering the above, staff are of the opinion that the requested variances meet the general intent of the Zoning By-law.

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

The variances' effects will be minor, given that the proposed development adheres closely to the primary goals and principles outlined in the Official Plan and Zoning By-law. Furthermore, the proposal mitigates any potential negative impacts on the surrounding area, ensuring that the proposed changes remain in harmony with the existing neighborhood fabric, providing the required amount of parking, and meeting the overall character and functionality of the convenience commercial plaza.

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

The minor variances to permit an increase in the overall gross leasable commercial space and in the gross leasable commercial space for a convenience retail outlet are desirable and appropriate as they will enable the development of a specialty grocery store in a neighbourhood that will accommodate the needs of local residents and businesses within walking distance while maintaining the neighborhood convenience retail planned function.

**Environmental Planning Comments:**

No concerns.

**Heritage Planning Comments:**

No concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance, provided a building permit for the commercial unit 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 comments.

**Parks/Operations Division Comments:**

No concerns.

**Transportation Planning Comments:**

No concerns.

**The Region of Waterloo Comments:**

No comments.

**Grand River Conservation Authority Comments:**

GRCA has no objection to the approval of the above applications. The subject properties do not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The properties are not subject to Ontario Regulation 41/24 and, therefore, a permission from GRCA is not required.

**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 85-1*