

REPORT TO: Committee of Adjustment

DATE OF MEETING: July 16, 2024

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
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WARD(S) INVOLVED: Ward 9

DATE OF REPORT: June 28, 2024

REPORT NO.: DSD-2024-321

SUBJECT: Consent Application B2024-015 - 82 York Street

RECOMMENDATION:

That Consent Application B2024-015 for 82 York Street requesting consent to sever a parcel of land having a width of 11 metres, a depth of 19.3 metres and an area of 210 square metres to convey as a lot addition to 509 Park Street, BE APPROVED subject to the following conditions:

1. That the Owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
3. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the lands to be severed be added to the abutting lands and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.
5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the

Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.

6. That the owner shall:

- a) Complete a Building Code Assessment for the existing dwelling proposed to be retained on the retained parcel of land, prepared by a qualified person, to confirm that the proposed property line and any of the building adjacent to this new property line complies with the Ontario Building Code, to the satisfaction of the City's Chief Building Official. The assessment shall address items such as, but not limited to, spatial separation of existing buildings' wall face, and shall include recommendations such as closing in of openings pending spatial separation calculation results.**
- b) Obtain a Building Permit for any remedial work/ upgrades required by the Building Code Assessment.**

7. That the Owner/Applicant submit a Notice of Source Water Protection Plan Compliance, to the satisfaction of the Region.

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for consent to facilitate a lot addition to 509 Park Street.
- 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 northeasterly side of York Street and currently contains a detached dwelling which is proposed to remain. The property proposed to receive the lot addition, 509 Park Street, currently contains a health care service building (i.e. an addiction treatment center and a local pharmacy).

The location of the subject property that is subject to this consent application is shown on Figure 1 below.

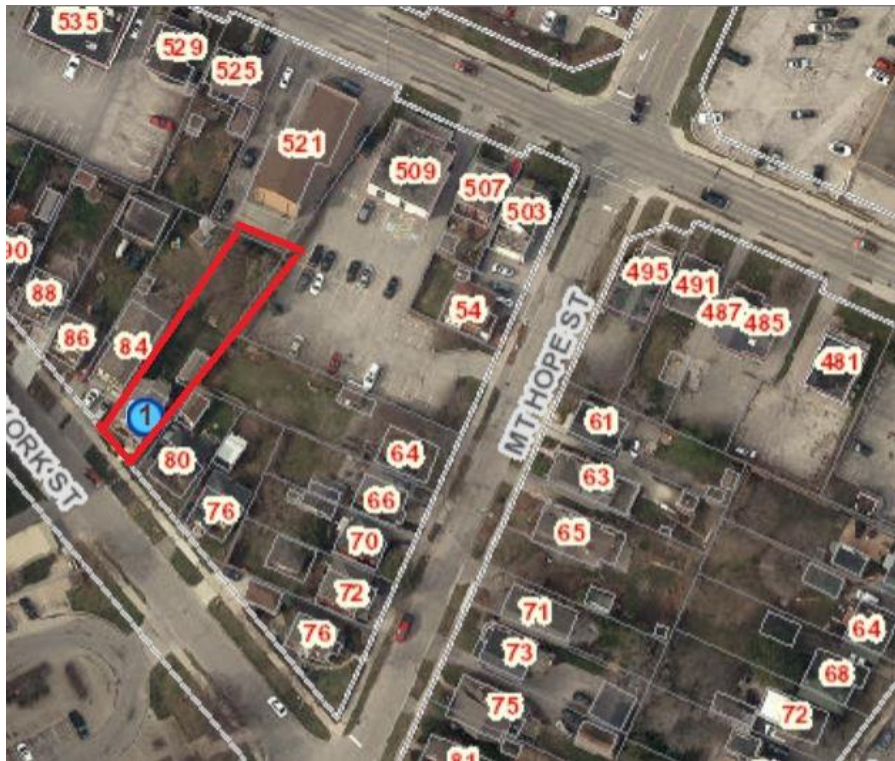


Figure 1: Location of Subject Property

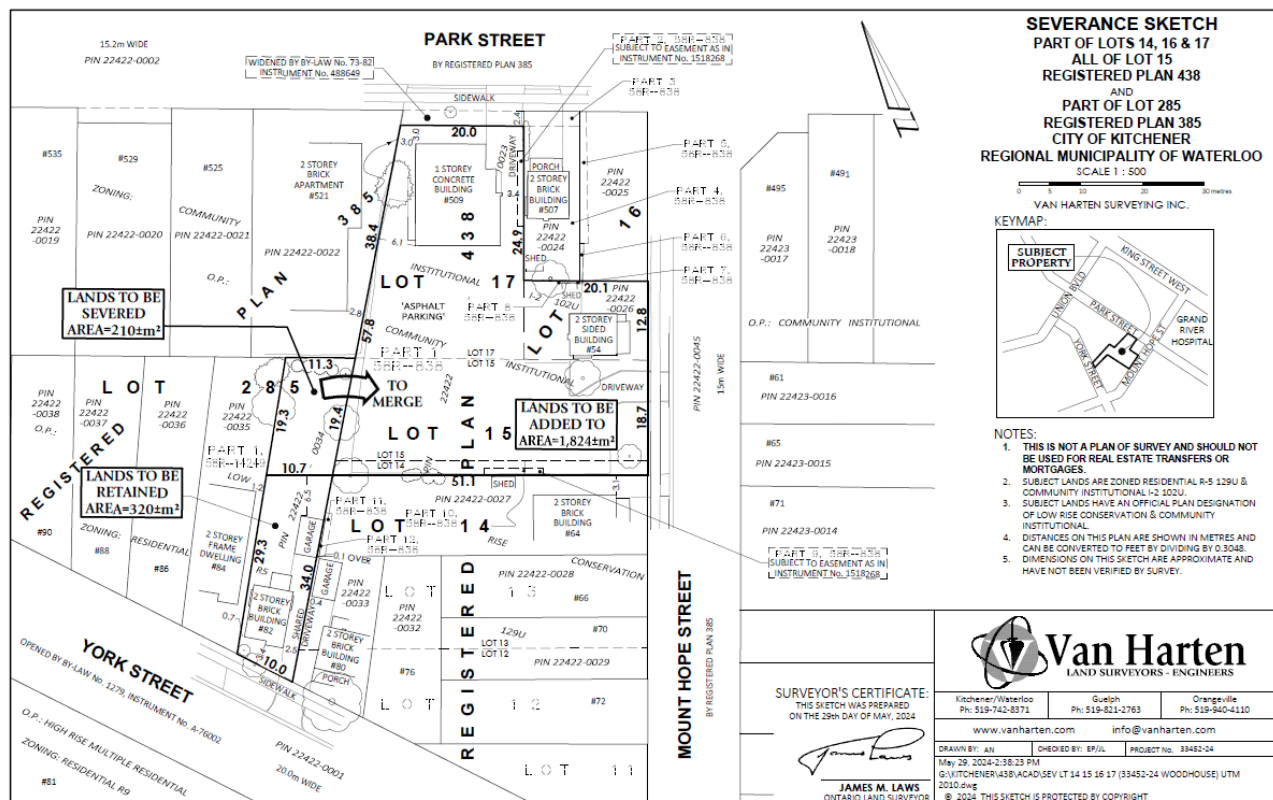


Figure 2: Severance Sketch



Figure 3 – Site Visit Photo

The subject property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Low Rise Conservation' on the KW Hospital Secondary Plan in the City's 1994 Official Plan. It is proposed to be designated 'Strategic Growth Area A' by OPA 49 to the 2014 Official Plan as part of Growing Together Planning framework.

The property is zoned 'Residential Five Zone (R-5) with Special Use Provision 129U' in Zoning By-law 85-1 and proposed to be zoned 'Low Rise Growth Zone (SGA-1)' in Zoning By-law 2019-051, as amended by By-law 2024-065.

The purpose of the application is to sever the rear portion of 82 York Street, illustrated in Figure 2, and add this parcel to the landholdings of 509 Park Street.

No new development or redevelopment is proposed at this time.

A site visit occurred on June 27, 2024, and photo taken (Figure 3).

REPORT:

Planning Comments

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

Provincial Policy Statement (PPS 2014)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The subject application does not propose any development, rather it is an adjustment of lot lines. Planning Staff is of the opinion that the application is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

The Growth Plan supports the development of complete and compact communities that are designed to support healthy and active living and make efficient use of land and infrastructure, at densities and in locations which supports transit viability and active transportation. The proposed lot addition will ultimately facilitate a future multiple residential development in close proximity to the ION.

Planning staff is of the opinion that the development proposal conforms to the Growth Plan.

Regional Official Plan (ROP):

Urban Area policies of the ROP identify that the focus of the Region's future growth will be within the Urban Area. The subject lands are designated Built-Up Area in the ROP. The proposed development conforms to Policy 2.D.1 of the ROP as this neighbourhood provides for the physical infrastructure and community infrastructure to support the proposed residential development, including transportation networks, municipal drinking-water supply and wastewater systems, and a broad range of social and public health services.

Regional policies require Area Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social, economic and personal support needs of current and future residents. Planning staff are of the opinion that the severance application conforms to the Regional Official Plan.

City's Official Plan (2014)

The in-effect Official Plan(s) are both the 1994 and 2014 Official Plans.

The lands are subject to the general policies of the 2014 Official Plan but are still part of the KW Secondary Plan in the 1994 Official Plan.

The subject property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure in the 2014 Official Plan and is designated 'Low Rise Conservation' in the KW Hospital Secondary Plan.

The property is proposed to be identified as 'Protected Major Transit Station Area' (Urban Structure) and 'Strategic Growth Area A' (Land Use) by OPA 49.

Section 17.E.20.4 of the Official Plan discusses consent applications for lot additions. It notes,

“17.E.20.4 Consents may be permitted for the creation of a new lot, boundary adjustments, rights of-way, easements, long-term leases and to convey additional lands to an abutting lot provided an undersized lot is not created.

At this time, no new development is proposed for this lot addition, and it won't create an undersized lot. Moreover, staff are satisfied this lot addition will not frustrate any potential for future re-development nor does it create a retained lot that is undersized or irregular

shaped relative to surrounding lotting fabric. Staff are therefore of the opinion that the proposed consent conforms to the City's 2014 Official Plan.

OPA 49 – Growing Together Planning Framework

In March of 2024, Council endorsed the Growing Together framework. According to OPA 49, the subject lands are located within a Protected Major Transit Station Area (Urban Structure) and designated 'Strategic Growth Area A' (Land Use). This designation is intended to accommodate intensification within a low-rise residential context. OPA 49 has been approved by the Region of Waterloo but is not in effect at the time of writing this report.

Zoning By-law 85-1

The subject property is zoned as 'Residential Five Zone (R-5) with Special Use Provision 129U' in Zoning By-law 85-1. The proposed lot addition will not result in a non-compliance of the minimum lot width or lot area requirements in effect on the subject lands. Staff are of the opinion that the proposed retained lot conforms to the City's Zoning By-law.

Zoning By-law 2019-051, as amended by By-law 2024-065

Implementing zoning of OPA 49 for 82 York Street is 'Low Rise Growth Zone (SGA-1)'. The retained lands will comply with the proposed zoning once it is in-effect.

The proposed lot addition is proposed to be conveyed to 509 Park Street which is proposed to be zoned 'Mid Rise Growth Zone (SGA-2)'.

Planning Conclusions/Comments:

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the proposed lot addition is appropriate in that it is in compliance with all policies, and it will facilitate future redevelopment opportunities in a Major Transit Station Area.

Environmental Planning Comments:

No concerns or comments with this application as no development is proposed. However, should re-development be considered; the City's Tree Management policies would apply given there are trees/vegetation on-site.

Heritage Planning Comments:

No concerns.

Building Division Comments:

The Building Division has no objections to the proposed consent subject to the following condition for the building existing on the retained parcel of land:

1. A qualified designer is retained to complete a building code assessment as it relates to the new proposed property line and any of the building adjacent to this new property line shall addresses such items as: Spatial separation of existing buildings' wall face to the satisfaction of the Chief Building Official. Closing in of openings may be required, pending spatial separation calculation results.

2. A building permit shall be obtained for any remedial work/ upgrades that may be required by the building code assessment

Engineering Division Comments:

Advisory Comment: Severance Sketch, Part Of Lots 14, 16 & 17, All Of Lot 15, Registered Plan 438 And Part Of Lot 285, Registered Plan 385, City Of Kitchener, Regional Municipality Of Waterloo prepared by Van Harten indicates the inclusion of the 54 Mt. Hope Street parcel.

City of Kitchener policy is to have only 1 set of municipal service connections (sanitary, storm, and water) per property. Any redundant service connections as a result of the amalgamation/consolidation of separate properties, will require abandonment and/or removal of redundant service connections to City/Regional standard.

The owner will be required to make satisfactory financial arrangements with the Engineering Division for the installation or removal of service connections required to the property; this would be a condition of any future development application for the property. Our records indicate sanitary, storm and water municipal services are currently available to service this property; with the exception of storm infrastructure on Park Street. Any further enquiries in this regard should be directed to Nolan Beatty - nolan.beatty@kitchener.ca.

Parks/Operations Division Comments:

Parkland dedication is not required for this application as it is considered lot addition and no development is currently anticipated. Parkland Dedication requirements will be assessed as part of a future comprehensive redevelopment application for the properties benefiting from the lot addition.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

GRCA Comments:

No concerns.

Region of Waterloo Comments:

The Owner/Applicant is seeking consent to sever a part of residential parcel (82 York Street) as a lot addition to an institutional parcel (509 Park Street/54 Mt. Hope Street), being: conveyed lands – 210 square metres area with approx. 11 metres width and 19.3 metres depth; retained lands – 320 square metres area with approx. 11 metres width and 29.5 metres depth; and the benefitting lands – 1,824 square metres area with irregular boundary.

Archaeological Assessment (Advisory)

Based on a review of the Region's archaeological potential model, the subject lands of 82 York Street, 509 Park Street and 54 Mt. Hope Street possess some potential for the recovery of archaeological resources due to proximity to historic landform and building. The Region does not require the submission of an archaeological assessment due to the extensive disturbance on the properties, however, the applicant should be made aware that:

- If archaeological resources are discovered during future development or site alteration of the subject property, the applicant will need to immediately cease alteration/development and contact the Ministry of Citizenship and Multiculturalism. If it is determined that additional investigation and reporting of the archaeological resources is needed, a licensed archaeologist will be required to conduct this field work in compliance with S. 48(a) of the Ontario Heritage Act; and/or,
- If human remains/or a grave site is discovered during development or site alteration of the subject property, the applicant will need to immediately cease alteration and must contact the proper authorities (police or coroner) and the Registrar at the Bereavement Authority of Ontario in Compliance with the Funeral, Burial and Cremation Services Act, 2002 S. 96 and associated Regulations.

Source Water Protection Policy

The subject lands are identified within Source Water Protection Areas subject to the Clean Water Act (Part IV) and/or Regional policies (ROP Map 6a). A Notice of Source Water Protection Plan Compliance issued under S. 59(2) is required by the Region

Regional Staff has no objection to this application subject to the following condition:

1. That the Owner/Applicant submit a Notice of Source Water Protection Plan Compliance, to the satisfaction of the Region.

Hydro One

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 (ROP)*
- *Official Plan (2014)*
- *Zoning By-laws 85-1 and 2019-051, as amended by By-law 2024-065*
- *DSD-2024-005 – Growing Together*