

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** August 20, 2024

**SUBMITTED BY:** Tina Malone-Wright, Manager, Development Approvals  
519-741-2200 ext. 7765

**PREPARED BY:** Kirsten Hoekstra, Student Planner, 519-741-2200 ext. 7078

**WARD(S) INVOLVED:** Ward 4

**DATE OF REPORT:** August 7, 2024

**REPORT NO.:** DSD-2024-354

**SUBJECT:** Minor Variance Application A2024-063 – 908 Chapel Hill Court

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## RECOMMENDATION:

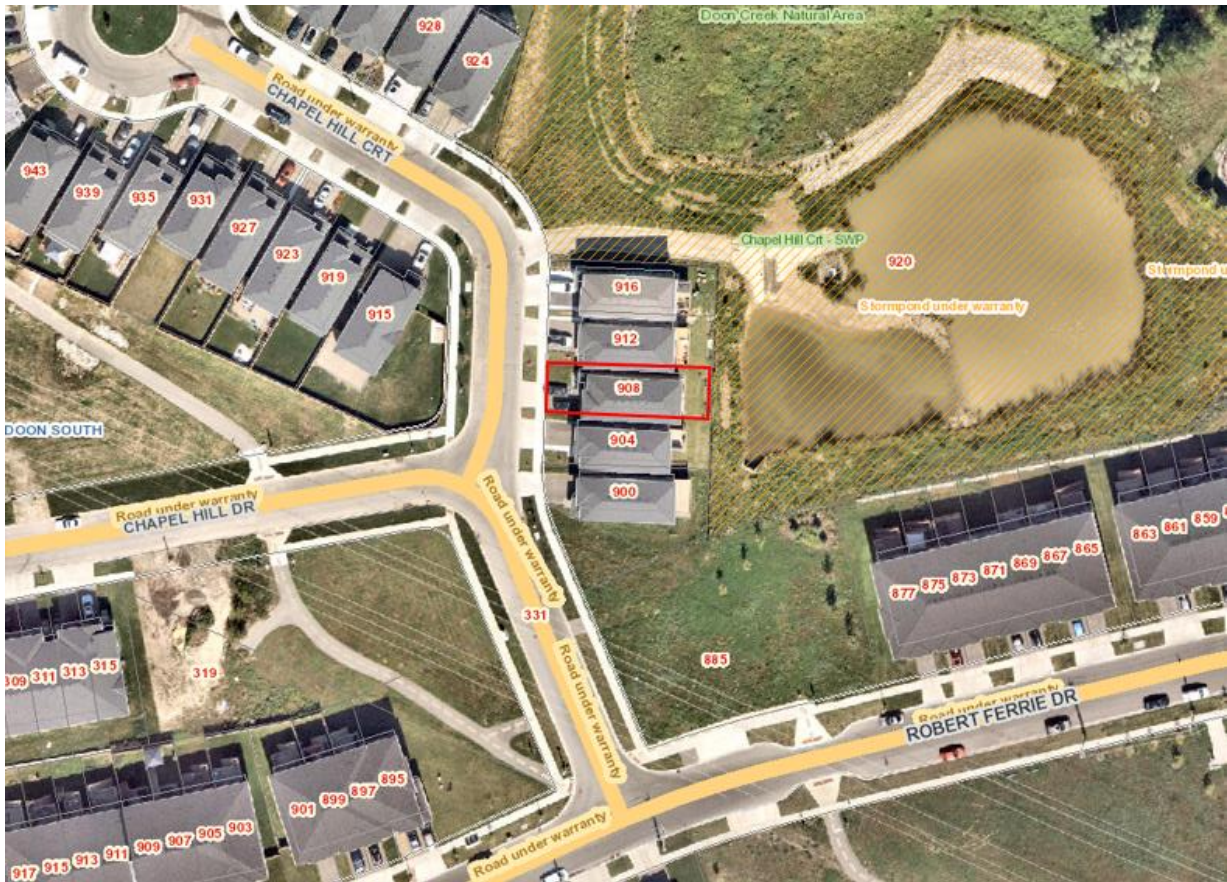
That Minor Variance Application A2024-063 for 908 Chapel Hill Court requesting relief from Section 4.14.4 c) of Zoning By-law 2019-051 to permit a rear yard setback of 3 metres instead of the minimum required 4 metres, to permit the construction of an unenclosed rear deck, greater than 0.6 metres in height, onto a detached dwelling, generally in accordance with drawings prepared by Janssen Design, dated December 20, 2019, **BE APPROVED.**

## REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application requesting a rear yard setback of 3 metres rather than the minimum required 4 metres.
- The key finding of this report is that the requested minor variance meets 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 on the east side of Chapel Hill Court in the Doon South neighbourhood, which is predominantly comprised of low rise detached residential uses.



**Figure 1 - Aerial Photo of the 908 Chapel Hill Court (Outlined in Red).**

The subject property is identified as 'Community Areas' 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 Five Zone (RES-5)' in Zoning By-law 2019-051.

The purpose of the application is to request relief from Section 4.14.4 c) of Zoning By-law 2019-051, to permit a rear yard setback of 3 metres instead of the minimum required 4 metres to facilitate the construction of an unenclosed rear deck, greater than 0.6 metres in height. Approval of the variance to encroach into the rear yard setback will allow for the construction of a functional deck, currently restricted by the existing reduced rear yard and setback constraints.

Staff note that the site has previously been subject to an approved Minor Variance Application A2019-133, which allowed a reduced rear yard setback of 6.1 metres rather than the required setback of 7.5 metres to facilitate the development of a single detached dwelling.



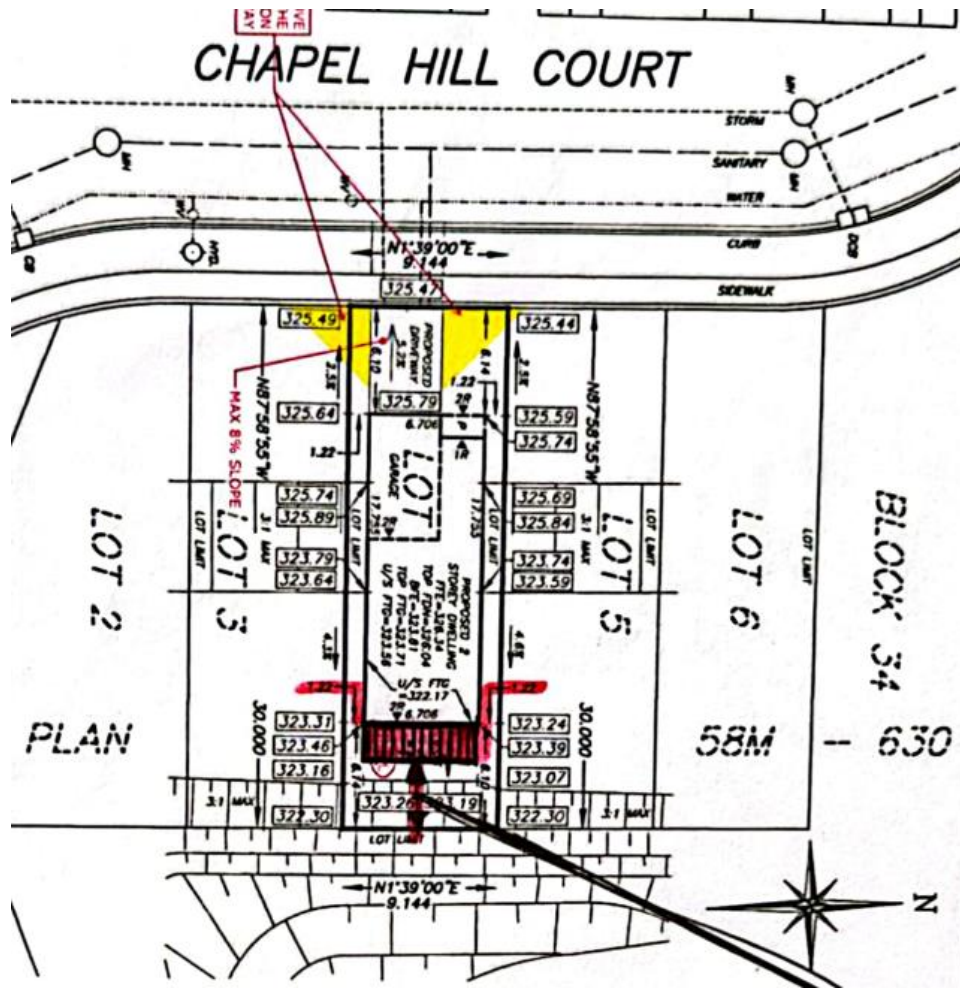


Figure 2 - Proposed Site Plan.

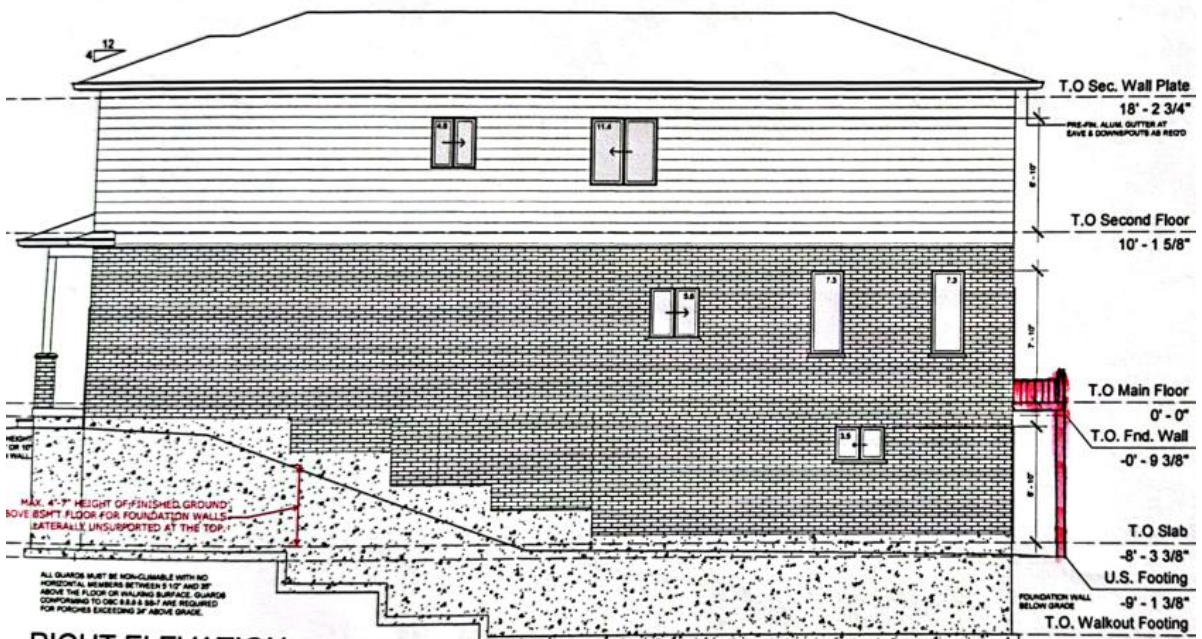


Figure 3 - Proposed east elevation.

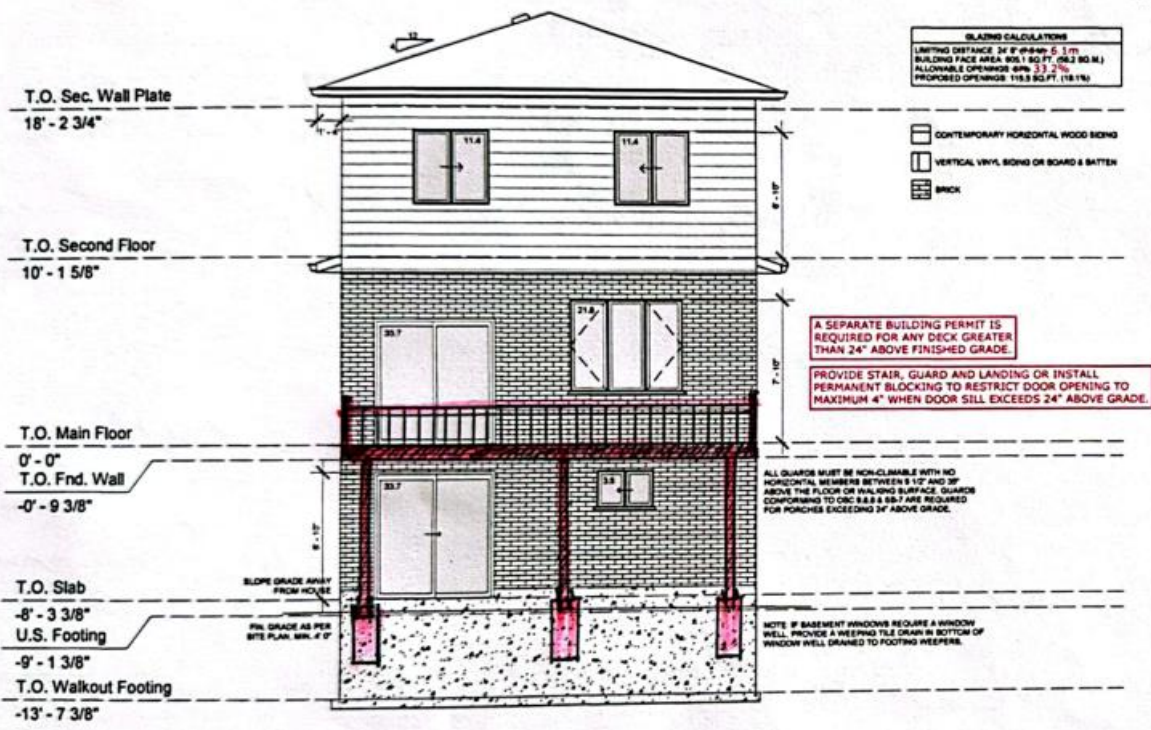


Figure 4- Proposed rear elevation.

Planning Staff conducted a site visit on July 30, 2024





**Figure 5 – Site Photo of 908 Chapel Hill Court.**



**Figure 6 - Existing rear yard where the deck is proposed.**





**Figure 7 – Existing Stormwater Management Pond abutting the rear of the property.**

**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 subject property is designated 'Low Rise Residential' on Map 3 – Land Use. The intent of the Low-Rise Residential designation is to accommodate a diverse range of low-rise housing types while maintaining the low-density character of the neighbourhood. Official Plan policy 4.C.1.8 d), in regard to criteria that should be considered where a minor variance is requested, specifies that: appropriate buffering or screening is to be provided to mitigate any adverse impacts, particularly with respect to privacy. An existing stormwater management pond is located along the rear property line. The requested reduced rear yard setback will facilitate the construction of an unenclosed rear deck and maintains the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of the rear yard setback requirement is to ensure that there is an adequate separation from adjacent properties with respect to privacy concerns, and that there is functional appropriate amenity space for residents. Planning Staff is of the opinion

that the proposed 3 metre setback will still provide an adequate amenity area and privacy from the rear adjacent property, as there is sufficient buffering between properties, due to the presence of a stormwater management pond abutting the rear property line. In the opinion of Planning Staff, the requested variance to permit a reduced rear yard setback to facilitate the construction of a functional unenclosed deck, greater than 0.6 metres in height, meets the general intent of the Zoning By-law.

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

Staff is of the opinion that the requested variance of a 3-metre rear yard setback is minor, as any privacy concerns related to the adjacent properties are minimal, and there are not any expected significant adverse impacts to the character of the neighbourhood. Thus, staff is of the opinion that the effects of the proposed variance are minor.

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

Planning Staff is of the opinion that the variance to reduce the minimum rear yard setback is appropriate for the desirable use of the lands as it will facilitate the expansion of outdoor amenity space, increasing the functionality and desirability of the residential property. Staff also recognize that allowing the variance will allow a functional deck width which will further improve its use and enhance the design.

**Environmental Planning Comments:**

No concerns.

**Heritage Planning Comments:**

No Heritage comments or concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided building permit for the rear yard deck 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 requirements.

**Transportation Planning Comments:**

Transportation Services have no concerns with this application.

**GRCA**

GRCA has no objection to the approval of the above 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*
- *DSD-19-278*