

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: September 17, 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: September 4, 2024

REPORT NO.: DSD-2024-388

SUBJECT: Minor Variance Application A2024-072 – 565 Topper Woods Crescent

RECOMMENDATION:

That Minor Variance Application A2024-072 for 565 Topper Woods Crescent requesting relief from Section 4.7.2, Table 4-2, of Zoning By-law 2019-051 to permit a “Catering Service Establishment” in a Single Detached Dwelling with an Additional Dwelling Unit (ADU) (Attached), a Duplex, whereas this Home Occupation is only permitted in a Single Detached Dwelling, generally in accordance with drawings prepared by Effriel Dela Paz, submitted with Minor Variance Application A2024-072, **BE APPROVED.**

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to permit a home occupation (catering service establishment) to be permitted in a single detached dwelling with an additional dwelling unit (attached).
- The key finding of this report is that the requested minor variance meets all 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 Topper woods Crescent, near the intersection of Robert Ferrie Drive and Topper Woods Crescent, in the Doon South neighbourhood.



Figure 1 – Location of subject property (outlined in Red)

The subject property is identified as a 'Community Area' 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 Four Zone (RES-4)' in Zoning By-law 2019-051.

The purpose of the application is to permit a home occupation (catering service establishment) in a single detached dwelling with an Additional Dwelling Unit (ADU) (Attached), a Duplex, whereas this home occupation is only permitted in a single detached dwelling. All other regulations of the Zoning By-law will be met, including parking.

The applicant advised Staff that the catering service establishment will be located in one room on the first floor, and that the site is not currently operating as a duplex, nor does the applicant intend to rent out the other unit. Further, Staff were informed that the applicant considered removing the legal duplex status, but ultimately decided to keep this status so it does not have to be reestablished if they plan to sell the property in the future.

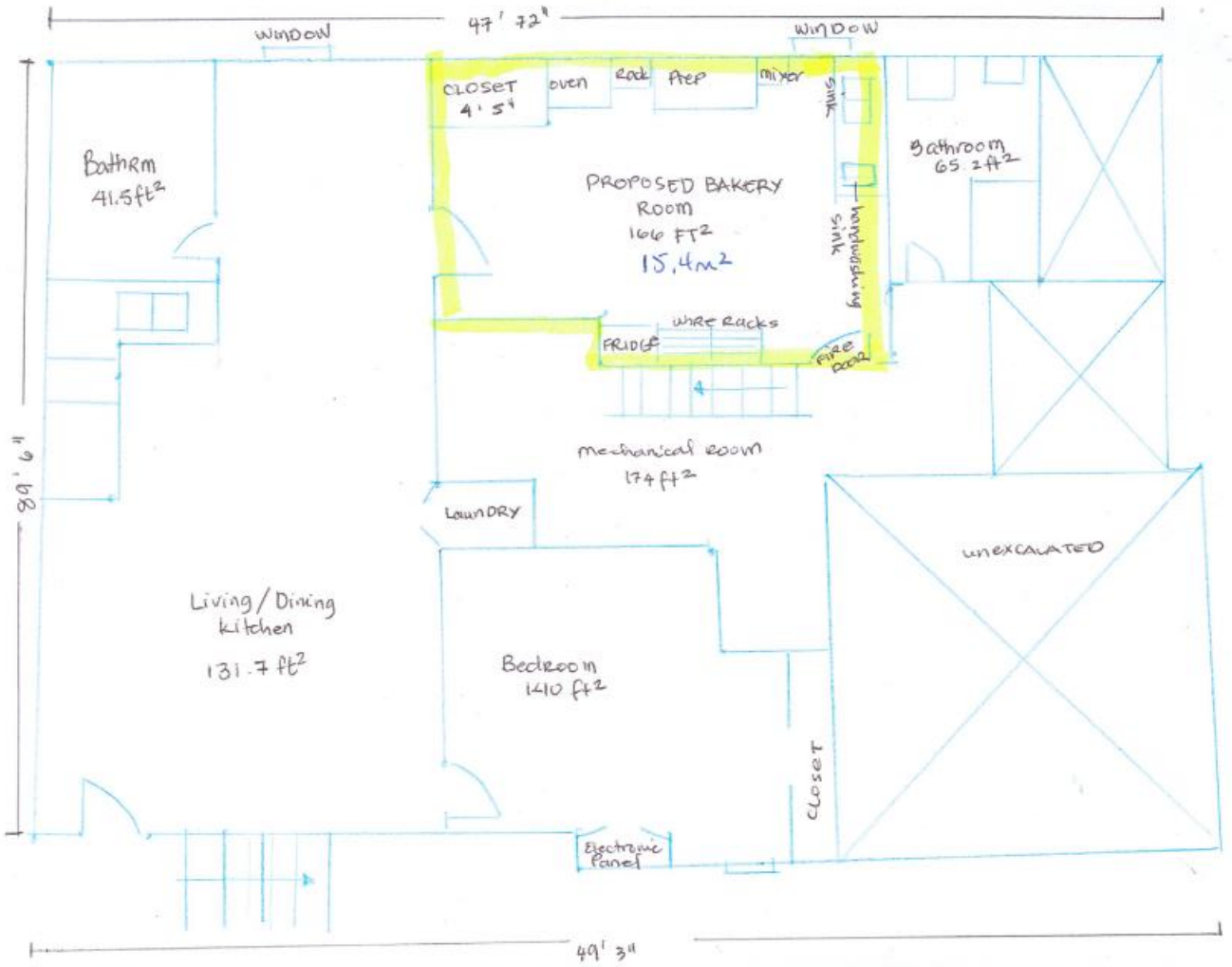


Figure 2 – Proposed floor plan.


SURVEYOR'S REAL PROPERTY REPORT (PART 1)
PLAN OF LOT 92, REGISTERED PLAN NO. 58M-384
CITY OF KITCHENER
REGIONAL MUNICIPALITY OF WATERLOO
 SCALE = 1 : 250



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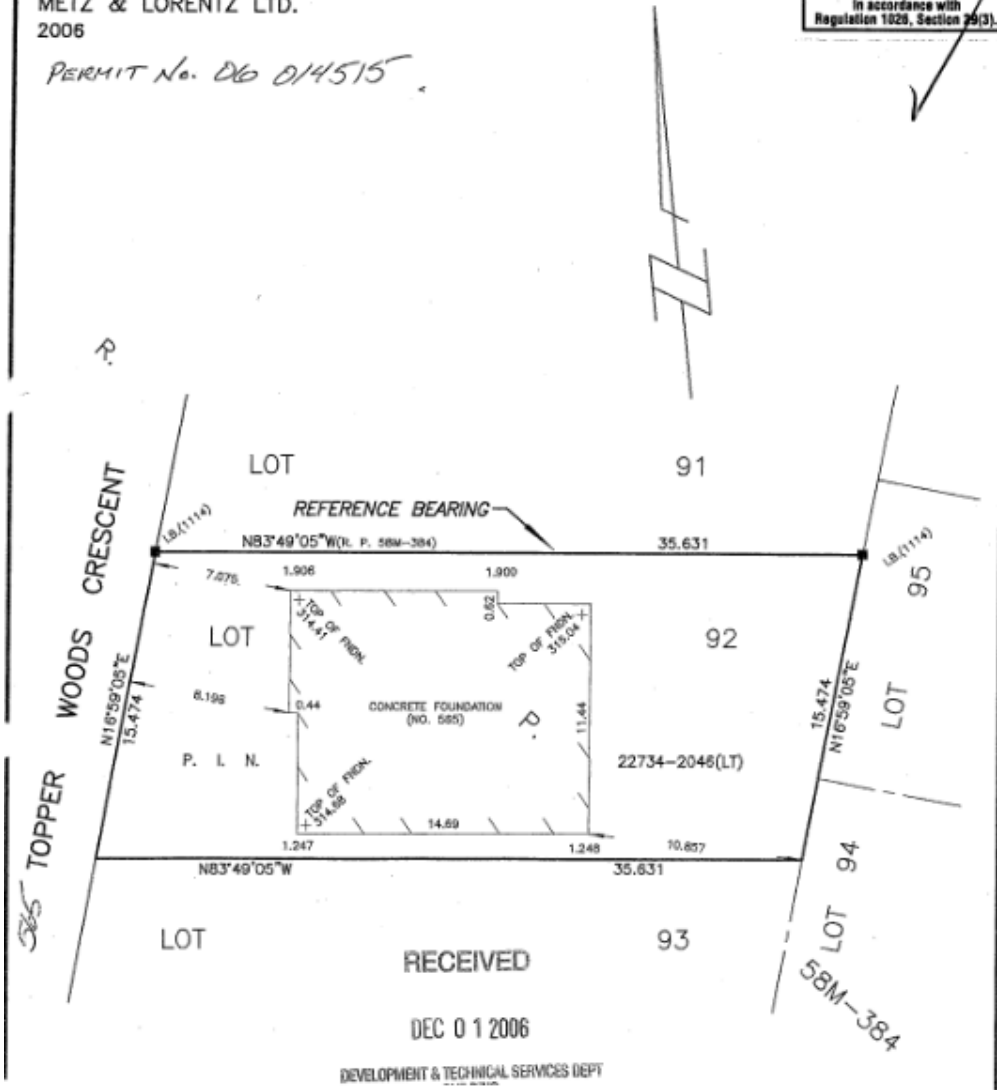


Figure 3 – Survey plan for 565 Topper Woods Crescent.

Planning Staff conducted a site visit on August 30, 2024.



Figure 4 – View of 565 Topper Woods Crescent from the 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 as Low Rise Residential which places emphasis on compatibility of building form with respect to massing, scale, and design to support successful integration of different housing types. It also places emphasis on the relationship of housing to adjacent buildings, streets, and exterior areas. The existing use of the site as a Single Detached Dwelling with one Additional Dwelling Unit (ADU) (Attached) is permitted. The massing and scale of the building is not changing. The addition of an accessory home occupation is in keeping with the intent of the residential designation and therefore the proposed variance meets the intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the regulation prohibiting a catering service establishment as a home business in a dwelling with two units is to ensure that a home occupation does not

negatively impact any other occupants in the building. Staff were advised that there will be no clients/customers coming to the premises as all orders will be completed through delivery and transactions done online.

Additionally, as noted in the background section of the report, the home occupation is proposed to be limited to one room on the first floor, 15.4 square metres in area. The Zoning by-law would permit an area of 50 square metres. The applicant further advised staff that they are not using the property as a duplex, with immediate family residing in both units of the house, and they do not intend to rent out the other unit for as long as the catering service establishment is in business. Thus, Planning Staff is of the opinion that the requested variance meets the intent of the Zoning By-law.

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

The area to be used for the home occupation is one room with a total area of 15.4 square metres. This is a small portion of the entire building which has a gross floor area of approximately 334 square metres for the two dwelling units. As noted above, as this catering service establishment will have minimum impacts to the functionality of the dwelling and property and there will be no clients coming and going, Staff is of the opinion that the effects of the variance will be minor in nature.

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

The variance is desirable for the appropriate development and use of the residential building on the subject property as it will facilitate an appropriate home occupation to operate in a building designed to have two dwelling units. As the business will be limited to one room and will not attract customers to the property, staff is of the opinion that this variance is an appropriate use on the property.

Environmental Planning Comments:

No concerns due to no site development work proposed.

Heritage Planning Comments:

No Heritage comments or concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance. An application has been made to add the bakery into the existing duplex.

Engineering Division Comments:

No concerns.

Parks/Operations Division Comments:

No concerns, no comments

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Region of Waterloo Comments:

No concerns.

GRCA 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*