

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
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PREPARED BY: Sheryl Rice Menezes, Senior Planning Technician,
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WARD(S) INVOLVED: 4

DATE OF REPORT: September 4, 2024

REPORT NO.: DSD-2024-398

SUBJECT: Minor Variance Application A2024-071 – 509 Wilson Avenue

RECOMMENDATION:

That Minor Variance Application A2024-071 for 509 Wilson Avenue requesting relief from Section 13A.1 and Appendix 'C', Special Use Provision 112U, of Zoning By-law 85-1, to permit a 'Personal Services' use in one of the units in the existing building, generally in accordance with drawings prepared by the applicant, attached to Minor Variance Application A2024-071, **BE APPROVED.**

REPORT HIGHLIGHTS:

- The purpose of this report is to review a Minor Variance Application to permit a 'personal service use' in Unit 6 of an existing commercial building.
- The key finding of this report is that the requested minor variance meets 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.

BACKGROUND:

The subject property is located on the west side of Wilson Avenue, south of Fairway Road South.



Figure 1 – Location of Subject Property

The subject property is identified as 'Major Transit Station Area (MTSA)' on Map 2 – Urban Structure and is designated 'Commercial' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Campus Commercial Zone (C-8)' in Zoning By-law 85-1. As the property is within a Major Transit Station Area, new zoning to bring it into Zoning By-law 2019-051 will be done through the 'Growing Together East' Project.

Although the 2014 Official Plan permits a 'personal service' use in MTSA's and in lands designated 'Commercial', Zoning By-law 85-1, still applicable to the subject property, does not permit this use.

The purpose of the application is to facilitate the use of one of the units in the existing commercial building for a personal service use.



Figure 2 - View From Wilson Avenue

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 'Commercial' in the 2014 Official Plan. The intent of the Commercial land use designation is to serve the day-to-day and weekly commercial needs of the surrounding community. As well, the Major Transit Station Areas, are planned to achieve a mix of residential, office, institutional, as well as commercial development. Personal service uses therefore meet the intent of the Official Plan. Policy 15.D.5.16 permits 'personal services' as a use in the Commercial land use designation.

- 15.D.5.16. The permitted uses on lands designated Commercial and identified as a Major Transit Station Area, City Node, Community Node, Arterial Corridor or Urban Corridor on Map 2, may include:
- a) auto service stations which may include car washes, gas stations and/or gas bars;
 - b) commercial entertainment uses as an accessory use within a hotel, motel, restaurant or planned commercial recreation complex;

- c) commercial recreation;
- d) conference / convention / exhibition facilities;
- e) drive-through facilities;
- f) financial establishments;
- g) funeral homes;
- h) hotels and motels;
- i) health offices and health clinics;
- j) office;
- k) personal services;
- l) religious institutions;
- m) restaurants;
- n) sale, rental, service, storage or repair of motor vehicles, major recreational equipment and parts and accessories for motor vehicles or major recreational equipment; and,
- o) vehicle and recreational equipment sales/rental and service.

As a 'personal service' use is permitted in an MTSA and in the Commercial land use designation, the intent of the Official Plan would be maintained.

General Intent of the Zoning By-law

The intent of the special provision prohibiting personal services was to limit the amount of traffic visiting multiple-tenanted commercial buildings in this area of Fairway Road South. However, since the special use provision was established in 1985, the intent of this provision is no longer relevant because of the growth and use anticipated in Major Transit Station Areas. Staff are of the opinion that the variance to allow this use in one of the units in the commercial plaza meets the intent of the Zoning By-law.

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

Adding a personal service use to this multiple-tenant building is in keeping with the commercial land use and zoning of this property. There is sufficient parking established and the property is in close proximity to ION and public transit. Staff are of the opinion that the effects of the variance would be minor.

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 of the land as it will permit one of the units in the existing building to be used for 'personal services' which use is permitted by the Official Plan and an appropriate use in a Major Transit Station Area.

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 interior alterations 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:

No concerns.

Transportation Planning 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 85-1*