

# 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:** Tim Seyler, Senior Planner, 519-741-2200 ext. 7860

**WARD(S) INVOLVED:** Ward 8

**DATE OF REPORT:** September 4, 2024

**REPORT NO.:** DSD-2024-401

**SUBJECT:** Minor Variance Application A2024-077  
Consent Application B2024-024  
525 Highland Road West

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## **RECOMMENDATION:**

### **Minor Variance Application A2024-077**

A. That Minor Variance Application A2024-077 for 525 Highland Road West requesting relief from Section 8.2 of Zoning By-law 85-1, to permit an interior side yard setback of 2.5 metres instead of the minimum required 3.0 metres, generally in accordance with drawings prepared by Van Harten Land Surveyors, dated July 29, 2024, BE APPROVED.

### **Consent Application B2024-024**

B. That Consent Application B2024-024 requesting consent to sever a parcel of land having a lot width of 5.75 metres, a lot depth of 58.21 metres and a lot area of 276 square metres to convey as a lot addition to 563 Highland Road West, BE APPROVED subject to the following conditions:

1. That Minor Variance Application A2024-077 receive final approval.
2. 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.
3. 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.

4. 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.
5. 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.
6. 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.

Alternatively, if in the opinion of the City Solicitor, an Application Consolidation Parcels cannot be registered on title, the Owner shall take such alternative measures and provide such alternative documents to ensure that the severed parcel and receiving parcel are not separately encumbered, conveyed, or otherwise transferred from one another and shall remain in common ownership, at the discretion of and to the satisfaction of the City Solicitor.

7. That the Owner shall:
  - a) Complete a Building Code Assessment for the existing building proposed 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.
8. That prior to final approval, the Owner submits a Notice of Source Water Protection Plan Compliance, to the satisfaction of the Region of Waterloo.

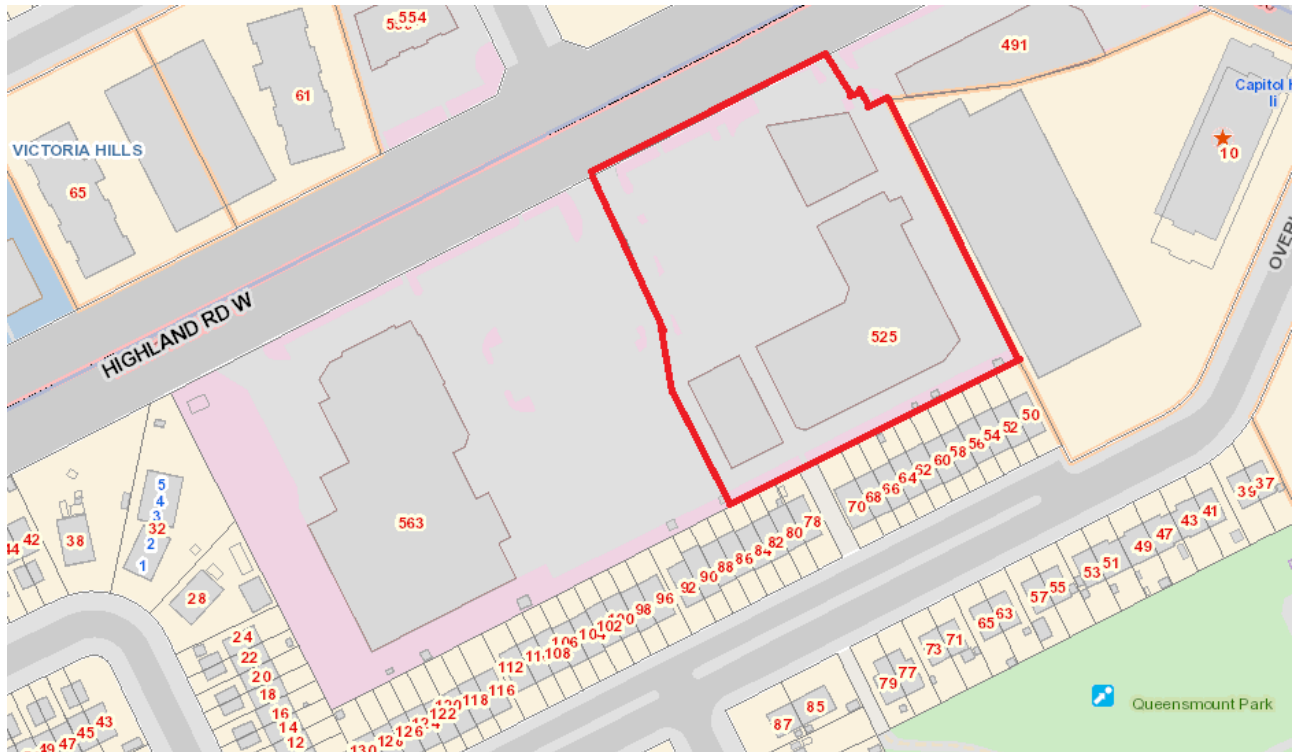
#### **REPORT HIGHLIGHTS:**

- The purpose of this report is to review applications for a Minor Variance and Consent to permit a 2.5 metre setback for an existing building, and to facilitate a transfer of land from a commercial lot to the adjacent commercial lot.
- 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 south side of Highland Road West, near the intersection of Highland Road West and Westmount Road West. The subject lots both contain commercial uses within the commercial plaza.



**Figure 1: Location Map - 525 and 563 Highland Road West**

The subject property is identified as ‘City Node’ on Map 2 – Urban Structure and is designated ‘Mixed Use’ on Map 3 – Land Use in the City’s 2014 Official Plan.

The property is zoned ‘Neighbourhood Shopping Centre Zone (C-2), with Special Regulation Provision 43R’ in Zoning By-law 85-1.

The purpose of this application is to adjust the lot lines between the properties municipally known as 525 Highland Road West and 563 Highland Road West. The applicant has indicated that the adjustment is for administrative and financing purposes. A minor variance is required in order to permit a 2.5 metre setback from the adjusted property line for an existing building.





**Figure 4: Existing Building on site and approximate location of lot addition**

**REPORT:**

**Planning Comments Minor Variance Application A2024-077:**

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 'Mixed Use' in the City's Official Plan. This designation permits an appropriate mix of commercial, residential and institutional uses. The reduced side yard setback maintains the functionality of the property and will help with future development on the existing site. Staff is of the opinion that the variance meets the general intent of the Official Plan.

### General Intent of the Zoning By-law

The intent of the side yard setback is to ensure there is adequate side yard access to the site for maintenance, servicing, etc. The proposed reduced side yard setback will not affect the functionality of the site, and specific upgrades to the existing building are proposed. A shared access agreement is also still on title for the properties and the reduced side yard is not affected by the agreement. Staff is of the opinion that the variance 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 is minor as the reduced side yard setback still provides adequate access to the building and the overall property. The proposed variance will not present any significant impacts to adjacent properties or the overall commercial plaza and neighbourhood.

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

The proposed variance is appropriate for the development and use of the land as the approval will allow the lot line adjustment and allow for future development within the commercial plaza. The proposed variance will not impact the functionality of the current commercial properties.

### **Planning Comments Consent Application B2024-024:**

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 at this time, 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 mixed-use developments along with supporting compact urban form, redevelopment and intensification. The lot line adjustment will assist in accommodating the site for future commercial expansion which will help make use of existing community infrastructure. Thus, Planning Staff is of the opinion that the application 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 development, including transportation networks, municipal drinking-water supply and wastewater systems, and a broad range of social and public health services. Planning staff are of the opinion that the severance application conforms to the Regional Official Plan.

### City's Official Plan (2014)

The subject property is identified as 'City Node' on Map 2 – Urban Structure and is designated 'Mixed Use' on Map 3 – Land Use in the City's Official Plan.

Staff are of the opinion that the size, dimensions, and shape of the resultant lots are suitable for the use of the lands and will continue to function appropriately and be compatible with the surrounding neighbourhood. The lands front onto a public street and the lot addition will facilitate the future development of the properties. There are no natural heritage features that would be impacted by the proposed consent application. Staff are of the opinion that the proposed consent application conforms with the City's Official Plan

### Zoning By-law 85-1 or 2019-051

The property is zoned 'Neighbourhood Shopping Centre Zone (C-2), with Special Regulation Provision 43R' in Zoning By-law 85-1.

The proposed boundary adjustment maintains compliance of the minimum lot width and lot area requirements in effect for the subject lands. Staff are of the opinion that the proposed lot addition conforms to the City's Zoning By-law.

### **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 creation of the severed lot and resulting lot addition is desirable and appropriate.

### **Environmental Planning Comments:**

No natural heritage features or functions. No trees in this central part of this commercial development. No concerns.

### **Heritage Planning Comments:**

No heritage planning comments or concerns.

### **Building Division Comments:**

The Building Division has no objections to the proposed variance.

The Building Division has no objections to the proposed consent provided for the retained 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 address 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:**

No engineering comments or concerns.

**Parks/Operations Division Comments:**

Parkland Dedication is not required as this is considered as a lot addition.

**Transportation Planning Comments:**

Transportation Services have no concerns with this application.

**Region of Waterloo Comments:**

The owner/applicant is proposing consent for a lot line adjustment of approximately 241 sqm (severed lands). The lot addition from 525 Highland Road West to 563 Highland Road West has been proposed for administrative and financing purposes. A minor variance for a reduced side yard setback of 2.5 metres is being requested for an existing commercial building on 525 Highland Road West.

*Source Water Protection Policy*

525 and 563 Highland Road West are in a Source Protection Area where Risk Management Plan or prohibition policies implemented by the Region of Waterloo may apply. A Notice of Source Protection Plan Compliance (Section 59 Notice) is required as part of the formal application. This will be required as a condition of consent approval.

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

1. That prior to final approval, the Owner/Developer submit a Notice of Source Water Protection Plan Compliance, to the satisfaction of the Region.

**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-law 85-1*