

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: October 15, 2024

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

PREPARED BY: Ben Suchomel, Student Planner, 519-741-2200 ext. 7074

WARD INVOLVED: Ward 10

DATE OF REPORT: September 30, 2024

REPORT NO.: DSD-2024-436

SUBJECT: Minor Variance Application A2024-087 - 211 Lancaster St. W.
Consent Application B2024-026 - 211 Lancaster St. W.

RECOMMENDATION:

Minor Variance Application A2024-087

That Minor Variance Application A2024-087 for 211 Lancaster Street West requesting relief from Section 5.3.1, Table 5-1, and Section 7.3, Table 7-2, of Zoning By-law 2019-051, to permit the following:

- i) to permit a parking space within a private attached garage to have a width of 2.78 metres instead of the minimum required 3 metres; and
- ii) to permit a lot width of 7.97 metres instead of the minimum required 9 metres;

to facilitate the creation of a new lot for a detached dwelling in conjunction with Consent Application B2024-026, generally in accordance with drawings prepared by ISOLINE ARCHITECTS, dated June 11, 2024, BE REFUSED.

Consent Application B2024-026

That Consent Application B2024-026 requesting consent to sever a parcel of land having a lot width of 7.97 metres, a lot depth of 36.57, metres and a lot area of 292 square metres, generally in accordance with drawings prepared by ISOLINE ARCHITECTS, dated June 11, 2024, BE REFUSED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review the application to sever the subject lands into two (2) parcels to facilitate the construction of a single detached dwelling. Minor variances are required to facilitate the proposed consent.

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

- The key finding of this report is that the consent and associated variances do not align with applicable policies and that the variances do not meet the four tests of a minor variance. Staff is recommending the refusal of the subject applications.
- 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 Lancaster Street West, between Guelph Street and Arnold Street. The property is generally rectangular in shape, with the front property line being along Lancaster Street West. The site is currently occupied by a single detached dwelling and is surrounded by existing low-rise residential uses including single detached dwellings, semi-detached dwellings, and multiple dwelling buildings.

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.



Figure 1: Location Map – 211 Lancaster Street West (Outlined in Red)

The purpose of the consent application is to divide the property into two (2) separate parcels of land to facilitate the construction of a single detached dwelling on the proposed severed parcel of land, while keeping the existing single detached dwelling on the retained lands. To do so, however, requires the submission of a minor variance application for the

severed lands to permit deficiencies created as a result of the proposed severance. The variances requested are to permit a reduced lot width and a reduction in the proposed attached garage width.

Staff note that the applications had initially been submitted in June of this year. Upon staff's recommendation that the current design would not be supported, the applicant chose to defer the applications internally to work with staff prior to proceeding to a Committee of Adjustment meeting. After extensive collaboration, staff and the applicant could not reach a consensus and staff had advised that the current applications would not be supportable. Planning staff had concerns with the size of the lot and the built form proposed for the severed lot, the loss of large street tree with an additional driveway and suggested the lot size be retained to provide more redevelopment opportunities with less impacts. Despite staff's opinion, the applicant had requested to proceed to the Committee of Adjustment meeting scheduled for October 15th, 2024.

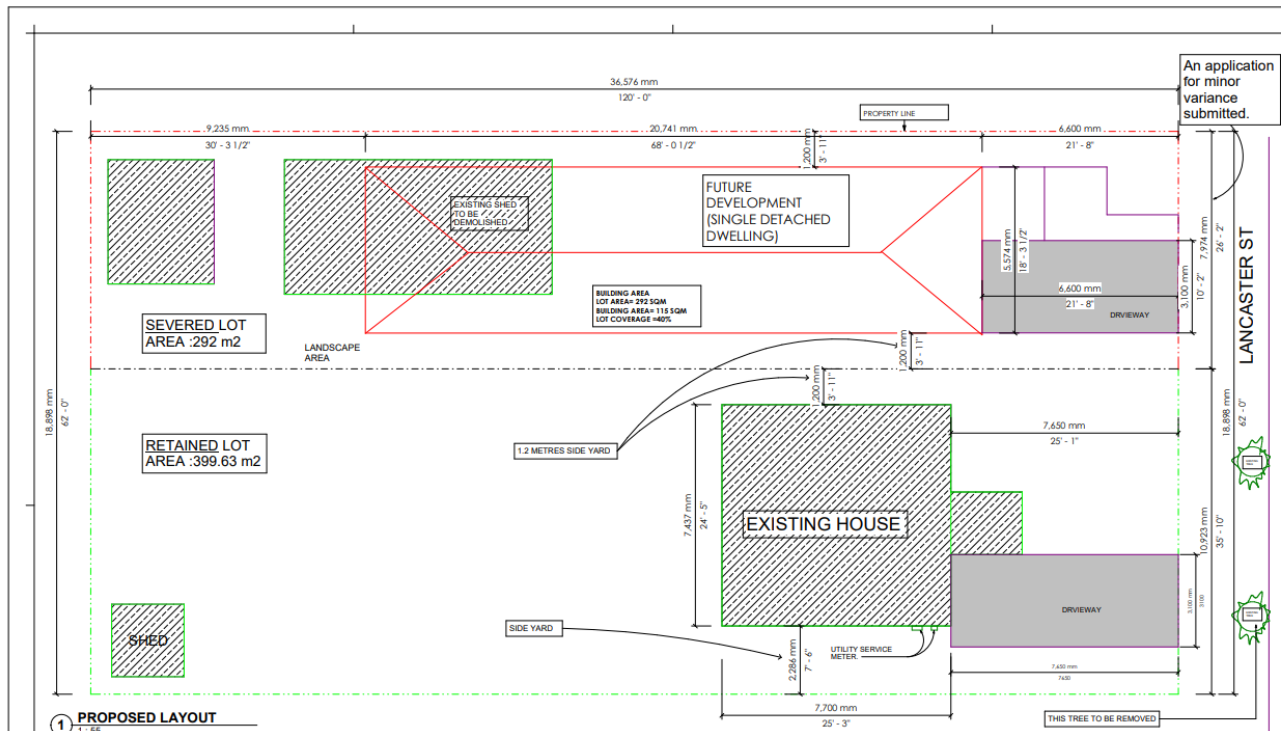


Figure 2: Proposed Lot Fabric.

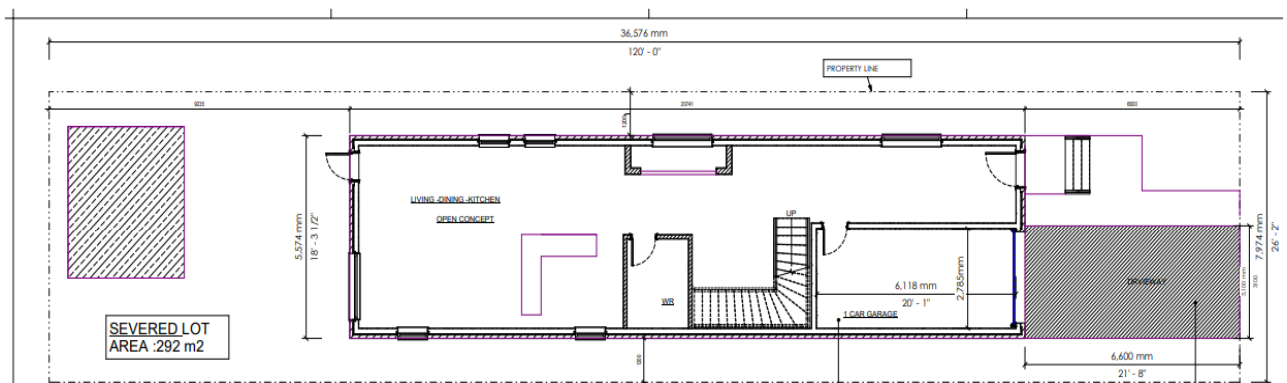


Figure 3: Floor Plan for the Proposed Detached Dwelling.

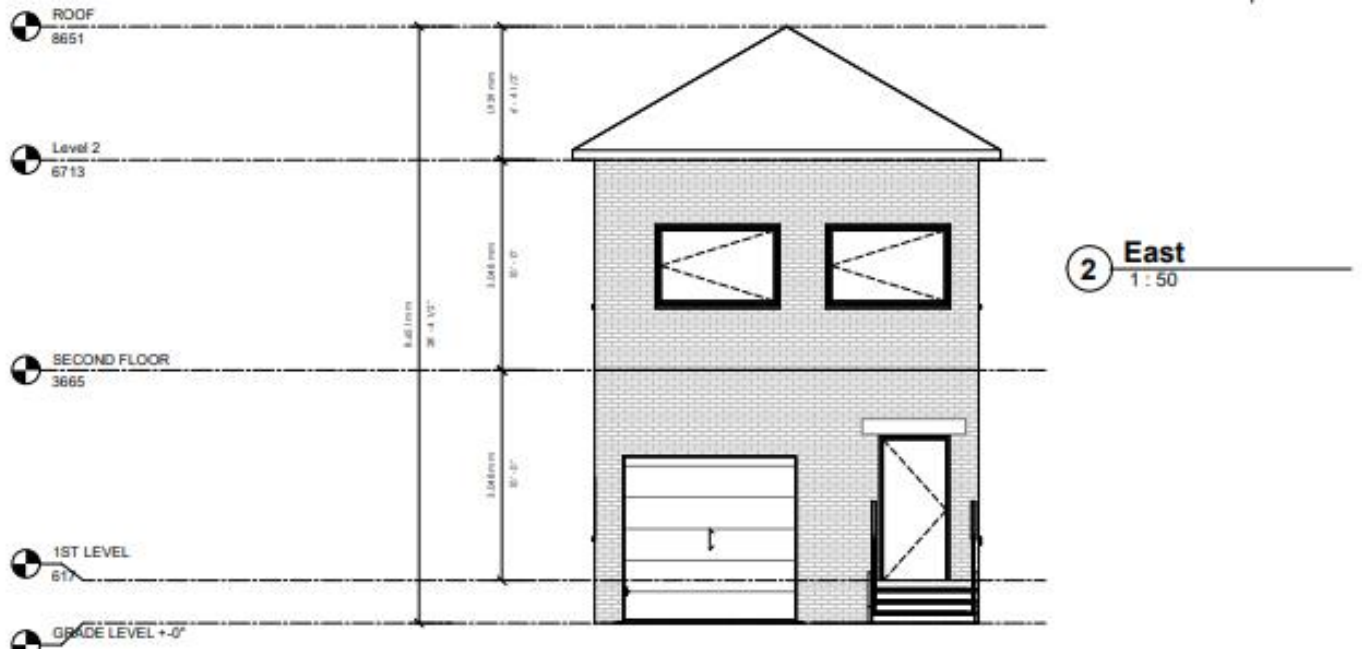


Figure 4: East Elevation.

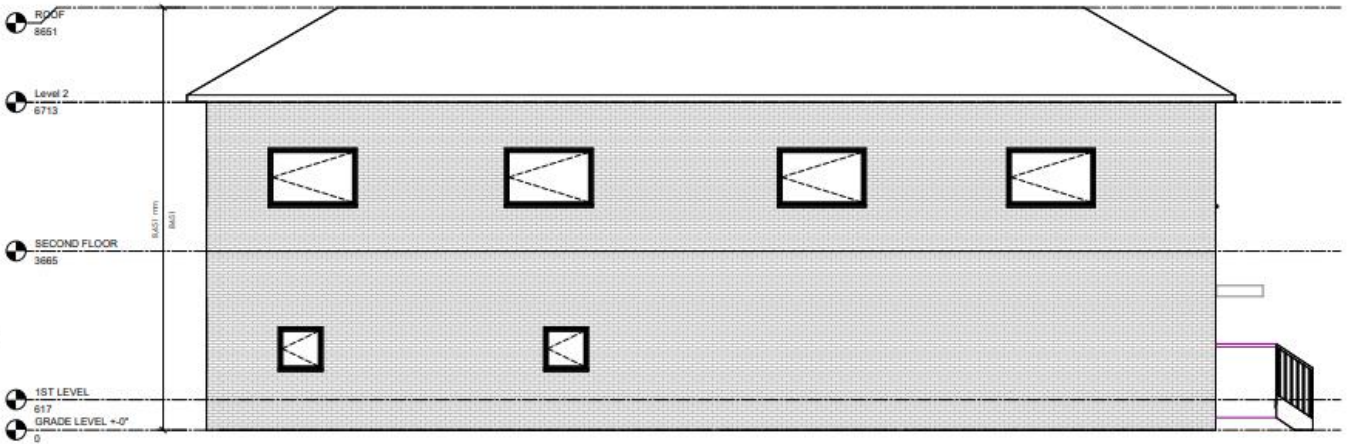


Figure 5: South Elevation.

Planning staff conducted a site visit on September 26, 2024.



Figure 6: Existing Single Detached Dwelling at 211 Lancaster Street West

REPORT:

Planning Comments:

Minor Variance Application A2024-087 (Severed Parcel – 211 Lancaster Street West):

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

Staff is of the opinion that the requested variances do not meet the intent of the Official Plan. Section 4.C.1.8. of the 2014 Official Plan states:

“Where...minor variances are requested, proposed, or required to facilitate residential intensification or a redevelopment of lands, the overall impact of the...minor variances will be reviewed, but not limited to the following to ensure, that:

- a) Any new buildings and any additions and/or modifications to existing buildings are appropriate in massing and scale and are compatible with the built form and the community character of the established neighbourhood.
- b) ...
- c) ...
- d) New buildings.... are sensitive to the exterior areas of adjacent properties and that the appropriate screening and/or buffering is provided to mitigate any adverse impacts, particularly with respect to privacy.
- e) ...
- f) The impact of each special zoning regulation or variance will be reviewed prior to formulating a recommendation to ensure that a deficiency in the one zoning requirement does not compromise the site in achieving objectives of compatible and appropriate site and neighbourhood design and does not create further zoning deficiencies.

Furthermore, Section 4.C.1.9. of the 2014 Official Plan states:

“Residential intensification and/or redevelopment within existing neighbourhoods will be designed to respect existing character. A high degree of sensitivity to surrounding context is important in considering compatibility.”

Planning staff note that the proposed variances will enable the creation of two lots and the construction of a single detached dwelling that is incompatible with the established neighbourhood’s-built form and character, as it features lot widths and a new built form dissimilar to adjacent properties.

Additionally, Staff note that the proposed severance would result in the construction of a new driveway on the retained parcel, which would disrupt the streetscape by removing an existing street tree. Additionally, the requested variance for the garage arises because the proposed lot width for the severed parcel does not meet the required lot width of 9.0 metres. As a result, the proposed single detached dwelling has a front facade width of 5.57 metres, and a garage built to the necessary 3 metres would exceed the maximum allowed front façade width, at grade, of 50%. Therefore, staff find that the proposed variance for lot width will result in additional zoning deficiencies, which is not supported by Policy 4.C.1.8(f) of the Official Plan.

Therefore, planning staff is of the opinion that the requested variances do not meet the general intent of the City’s Official Plan.

General Intent of the Zoning By-law

The applicant has requested variances to permit a reduced lot width and a reduced attached garage width for the lands that are intended to be severed. The general intent of the zoning by-law regulations for the minimum lot width is to ensure a lot is appropriately sized to accommodate the building and site functions (driveway, servicing, etc.). Lot width also considers the context of the lots in the surrounding area.

It is Staff’s opinion that the requested variance to allow for reduced lot width for a single detached dwelling of 7.97 metres rather than the required 9.0 metres does not meet the general intent of the Zoning By-law. Staff is of the opinion that a 7.97-metre-wide lot width

for a single detached dwelling will not facilitate a sufficient width to allow for the construction of a functional single detached dwelling that would meeting zoning requirements. A 7.97-metre-wide lot would result in a 5.57-metre-wide dwelling in order to meet the minimum required 1.2 metre side yard setbacks. The size of the dwelling is problematic in being able to provide a parking space within an attached garage that would meet zoning requirements.

A private attached garage cannot exceed 50% of the façade width of the dwelling. In this case the attached garage can only be 2.78 metres in width, however, the interior of the attached garage must be 3 metres in width to meet the zoning requirements for a parking space within an attached garage.

The private attached garage width requirement is to ensure functional use of the private garage as a parking space. It is Staff's opinion that the requested reduced garage width of 2.78 metres rather than the minimum required 3 metres will not allow for the functional use of the space for the required parking space.

Staff are of the opinion that the requested variances do not provide for adequate lot width and garage width, and thus, do not meet the general intent of the Zoning By-law.

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

Planning staff are of the opinion that the effects of the requested minor variances are not minor in nature. Staff are of the opinion that the requested variances will not facilitate the functional use of the severed lands. The proposed lot width and garage width will hinder the appropriate development and the functional use of the site. Thus, Planning Staff are of the opinion that the requested variances do not satisfy the 'minor' test.

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

Staff note that Lancaster Street West south of the expressway is intended to serve as a planned transit corridor for future growth and development within the City of Kitchener, as outlined in Map 2, Urban Structure, within the Official Plan. By approving the minor variance to allow for a reduced lot width to permit the development of a single detached dwelling, staff believe that it could impact the area's redevelopment potential and limit the possibility of increasing density through permitted uses such as semi-detached and mixed-use dwelling typologies.

Additionally, it is Staff's opinion that the proposed variances are not desirable for the appropriate development of the land. Therefore, the planning staff find the application to be not appropriate development of the subject lands.

Consent Application B2024-026:

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following 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 not satisfied that the creation of the severed lot is desirable and appropriate.

Section 17.E.20.5. of City's 2014 Official Plan states that:

Applications for consent to create new lots will only be granted where:

- a) the lots comply with the policies of this Plan, any Community Plan and/or Secondary Plan, and that the lots are in conformity with the Zoning By-law, or a minor variance has been granted to correct any deficiencies;
- b) the lots reflect the general scale and character of the established development pattern of surrounding lands by taking into consideration lot frontages, areas, and configurations;
- c) all of the criteria for plan of subdivision are given due consideration....

In this case, staff recommends that the Committee not grant the requested minor variances necessary to facilitate the subject consent application to create a new lot for the reasons noted above. Furthermore, staff is of the opinion that the proposed lot does not reflect the general scale and character of the established development pattern of surrounding lands since they do not consider appropriate lot configurations. Moreover, the application does not meet the criteria for plan of subdivision outlined in Section 51 (24) of the Planning Act, especially with respect to:

- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any; and
- (f) the dimensions and shapes of the proposed lots.

Should the Committee wish to approve the subject applications, conditions should be imposed to require the standard consent conditions and those conditions outlined in the below department / agency comments.

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 are not satisfied that the creation of the severed lot is desirable and appropriate.

Environmental Planning Comments:

Standard condition for consent to enter into an agreement to complete a Tree Preservation/Enhancement Plan prior to demolition, building permit, grading, servicing etc. on BOTH severed AND retained parcels.

Heritage Planning Comments:

The Kitchener Cultural Heritage Landscape Study (CHLS) dated December 2014 and prepared by The Landplan Collaborative Ltd. was approved by Council in 2015. The CHLS serves to establish an inventory and was the first step of a phased Cultural Heritage Landscape (CHL) conservation process. The property municipally addressed as 211 Lancaster Street West is located within the Mount Hope/Breithaupt Neighbourhood CHL. The owner and the public will be consulted as the City considers listing CHLs on the Municipal Heritage Register, identifying CHLs in the Official Plan, and preparing action plans for each CHL with specific conservation options.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the new residential building is obtained prior to construction.

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:

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary, storm, and water, in accordance with City policies.
- The owner is required to make satisfactory financial arrangements with the Engineering Division for the installation of new service connections that may be required to service this property, all prior to severance approval. Our records indicate sanitary, storm and water municipal services are currently available to service this property. Any further enquiries in this regard should be directed to eric.riek@kitchener.ca
- Any new driveways are to be built to Region of Waterloo standards. All works are at the owner's expense and all work needs to be completed prior to occupancy of the building.
- A servicing plan showing outlets to the municipal servicing system will be required to the satisfaction of the Engineering Division prior to severance approval.
- A Development Asset Drawing (digital AutoCAD) is required for the new site infrastructure with corresponding layer names and asset information to the satisfaction of the Engineering Division prior to severance approval.
- The owner must ensure that the basement elevation of the building can be drained by gravity to the municipal sanitary sewer. If basement finished floor elevations do not allow for gravity drainage to the existing municipal sanitary system, the owner will have to pump the sewage to achieve gravity drainage from the property line to the municipal sanitary sewer in the right of way.

Parks/Operations Division Comments:

Existing trees identified for removal are within the Regional right of way and are not City assets or infrastructure.

Cash-in-lieu of park land dedication will be required on the severed parcel as 1 new development lot will be created. The cash-in-lieu dedication required is **\$11,862.00**. Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 7.974 metre at a land value of \$36,080.00 per frontage metre with a per unit cap of \$11,862.00.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Region of Waterloo Comments:

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

1. That the Owner/Applicant submit the consent review fee of \$350 to the Regional Municipality of Waterloo.
2. That the Owner/Developer enter into a registered development agreement with the Regional Municipality of Waterloo to include the following noise warning clause in all agreements of Offer of purchase/sale and lease/rental for all dwelling units on both retained and severed lots, to the satisfaction of the Region:
 - i. Purchasers/tenants are advised that sound levels due to increasing road traffic on Lancaster Street West may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.
 - ii. Purchasers/tenants are advised that noise due to industrial land use in proximity may at times be audible.
3. That the Owner/Developer dedicate an approximate 3.0 metre road widening along the Lancaster Street West frontage for retained and severed lands, to the satisfaction of the Regional Municipality of Waterloo. The owner/applicant must engage an Ontario Land Surveyor to prepare a reference plan which illustrates the required road widening lands to the satisfaction of the Regional Municipality of Waterloo and the road widening must be dedicated without cost and free of encumbrance.
4. That the Owner/Developer submit a Functional Servicing Report, to the satisfaction of the Regional Municipality of Waterloo.

Grand River Conservation Authority (GRCA) Comments:

GRCA has no objection to the approval of the above application.

Enova:

We have reviewed the documents concerning the noted Application and have no comments or 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-law 2019-051*