

# Staff Report



Development Services Department

www.kitchener.ca

**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:** Brian Bateman, Senior Planner 519-741-2200 ext. 7869

**WARD(S) INVOLVED:** Ward 10

**DATE OF REPORT:** September 27, 2024

**REPORT NO.:** DSD-2024-439

**SUBJECT:** Minor Variance Applications A2024-088 and A2024-089  
Consent Applications B2024-027 and B2024-028  
130 and 132 Edmund Road

---

## RECOMMENDATION:

### A. Minor Variance Application A2024-089 (132 Edmund Road - Severed Parcel)

That Minor Variance Application A2024-089 for 132 Edmund Road requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.14.4 c) to permit a deck, greater than 0.6 metres in height, to be located 0 metres from the interior side lot line (common lot line) instead of the minimum required 1.2 metres; and
- ii) Section 7.3, Table 7-2, to permit an interior yard setback of 0 metres where there is not a shared common wall instead of the minimum required 1.2 metres;

to facilitate the severance of the existing semi-detached dwelling into 2 separate lots, generally in accordance, building elevation plans dated July 29, 2024, and with the deck having a 1.8 metre high privacy screen where the deck is adjacent to the shared lot line, **BE APPROVED.**

### B. Minor Variance Application A2024-088 (130 Edmund Road - Retained Parcel)

That Minor Variance Application A2024-088 for 130 Edmund Road requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 4.14.4 c) to permit a deck, greater than 0.6 metres in height, to be located 0 metres from the interior side lot line (common lot line) instead of the minimum required 1.2 metres; and
- ii) Section 7.3, Table 7-2, of Zoning By-law 2019-051 to permit an interior yard setback of 0 metres where there is not a shared common wall instead of the minimum required 1.2 metres;

to facilitate the severance of the existing semi-detached dwelling into 2 separate lots, generally in accordance, building elevation plans, dated July 29, 2024, and with the deck having a 1.8 metre high privacy screen where the deck is adjacent to the shared lot line, BE APPROVED.

**C. Consent Application B2024-028 (Create Severed Parcel – 132 Edmund Road)**

That Consent Application B2024-028 requesting consent to sever a parcel of land having a lot width of 7.9 metres on Edmund Road, a lot depth of 40.3 metres and a lot area of 318.3 square metres and to create an easement having a width of 1.5 metres, where the common wall is not shared, for the purposes of access and maintenance, BE APPROVED subject to the following conditions:

1. That Minor Variance Applications A2024-088 and A2024-089 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 Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Director, Development and Housing Approvals:
  - a) a clear and specific description of the purpose of the Easement(s) and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto); and
  - b) a clause/statement/wording confirming that the Easement(s) being granted shall be maintained and registered on title in perpetuity and shall not be

amended, released or otherwise dealt with without the express written consent of the City.

6. That a satisfactory Solicitor's Undertaking, to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor, be provided to the City Solicitor.
7. Prior to the issuance of a Demolition and/or Building Permit:
  - a) the Owner shall prepare a Tree Preservation/Enhancement Plan, an Arborist Report and ISA valuation of trees on City lands and the subject lands in accordance with the *City's Tree Management Policy*, to the satisfaction of and approval by the City's Director of Parks & Cemeteries and the City's Manager, Site Plans. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area, and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.
  - b) The Owner shall implement the approved Tree Preservation/Enhancement Plan, prior to any tree removal, grading, servicing or the issuance of any demolition and/or building permits, to the satisfaction of the City's Director of Parks & Cemeteries and the City's Manager, Site Plans. No changes to the said plan shall be granted except with the prior approval of the City's Director of Parks & Cemeteries and the City's Manager, Site Plans.
8. That the owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.
9. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
10. That the Owner submit a Development Asset Drawing (digital AutoCAD) for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.
11. That the Owner makes financial arrangements for the installation of any new service connections to the severed and/or retained lands to the satisfaction of the City's Director of Engineering Services.
12. That any new driveways are to be built to City of Kitchener standards at the Owner's expense prior to occupancy of the building to the satisfaction of the City's Director of Engineering Services.
13. That the Owner provides confirmation that the basement elevation can be drained by gravity to the street sewers to the satisfaction of the City's Director of Engineering Services. If this is not the case, then the owner will need to pump the sewage via a pump and forcemain to the property line and have a

gravity sewer from the property line to the street to the satisfaction of the City's Director of Engineering Services.

14. That prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
15. That the Owner/Developer submit a Notice of Source Water Protection Plan Compliance to the Regional Municipality of Waterloo.
16. That the Owner/Developer enter into a registered development agreement with the City of Kitchener to include the following noise warning clause in all agreements of Offer of purchase/sale and lease/rental for all dwelling units on both Severed and Retained lots, to the satisfaction of the Region:
  - i) Purchasers/tenants are advised that sound levels due to increasing road traffic on Weber Street East and Conestoga Parkway 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.

**D. Consent Application B2024-027 (Retained Parcel -130 Edmund Road)**

That Consent Application B2024-027 requesting consent to create an easement having a width of 1.5 metres, where the common wall is not shared, for the purposes of access and maintenance, BE APPROVED subject to the following conditions:

1. That Minor Variance Applications A2024-088 and A2024-089 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 Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Director, Development and Housing Approvals:

- a) a clear and specific description of the purpose of the Easement(s) and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto); and
  - b) a clause/statement/wording confirming that the Easement(s) being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.
6. That a satisfactory Solicitor's Undertaking, to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor, be provided to the City Solicitor.
  7. That prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
  8. That the Owner/Developer submit a Notice of Source Water Protection Plan Compliance to the Regional Municipality of Waterloo.

#### **REPORT HIGHLIGHTS:**

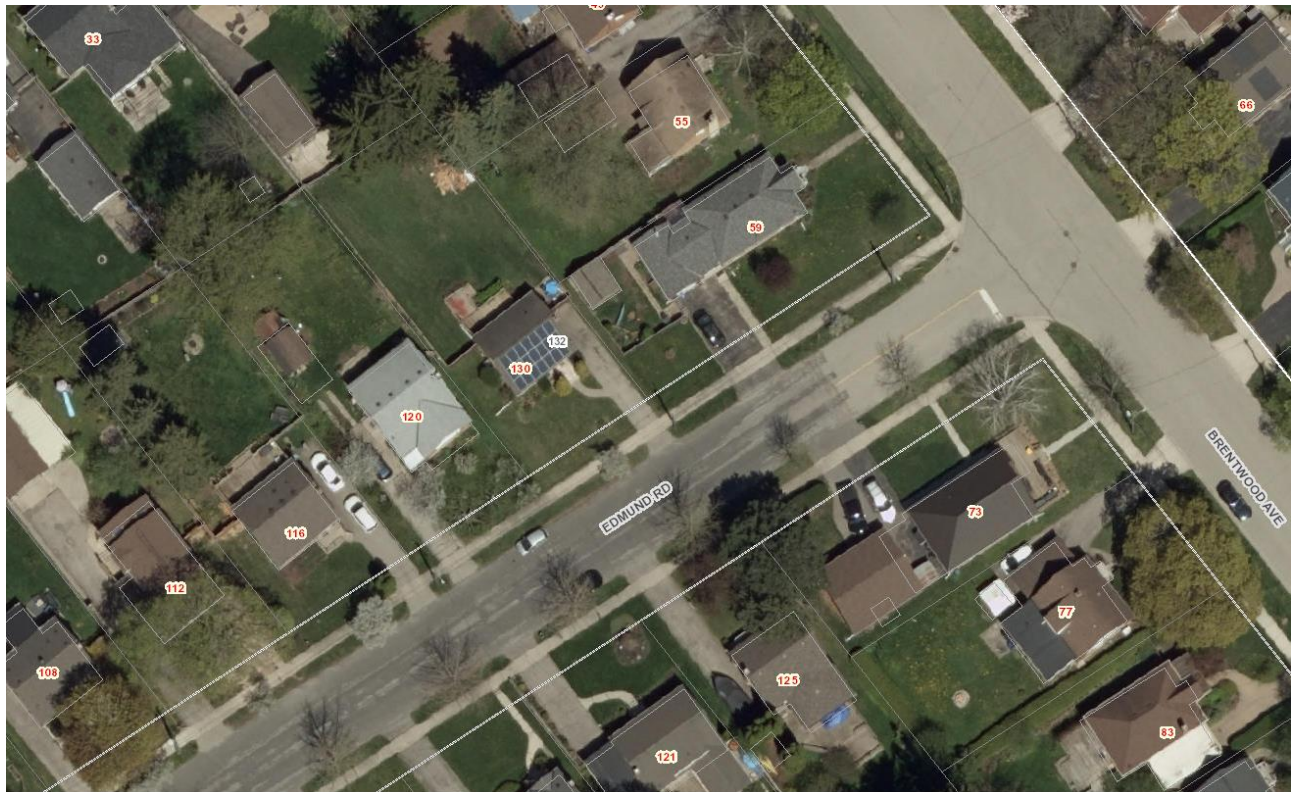
- The purpose of this report is to discuss a request to divide a property for the purposes of creating separate parcels to facilitate the sale of each half of a semi-detached dwelling under construction. The request also includes the creation of maintenance easements and setback variances proposed along the common property line for above-ground decks.
- The key finding of this report is that the requests represent good planning and staff is recommending approval of all 4 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 north side of Edmund Drive near the intersection of Brentwood Drive in the Eastwood Neighbourhood (see Image 1). The property is rectangular in shape, 15.85 metres in width and 636 square metres in area. It is legally described as Lot 88, Plan 651. The dwelling shown in Image 1 has been demolished in favour of a semi-detached dwelling.

The subject property is identified as '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 applications is to sever the property for semi-detached dwelling purposes currently under construction shown in Image 2. Additionally, due to the offset of the common shared wall of the dwelling at the front and rear, the applicant has applied to create two easements measuring 1.5 metres long by 1.5 metres wide over both the severed and retained lands only where there is the offset between the units at the front and back of the dwelling (see Image 3). This is to provide access for maintenance purposes. The dwelling offset further creates a zoning infraction and hence the need for 0 metre setbacks for the severed and retained portions. Lastly, the applicant has applied for relief to allow for decks, with heights greater than 0.6 metres, to be setback 0 metres to the proposed interior or common lot line instead of the required 1.2 metres. Image 5 shows the rear elevations of the dwelling and decks.



**Image 1 – Aerial Photo**



Image 2 – Foundation of Semi-detached dwelling

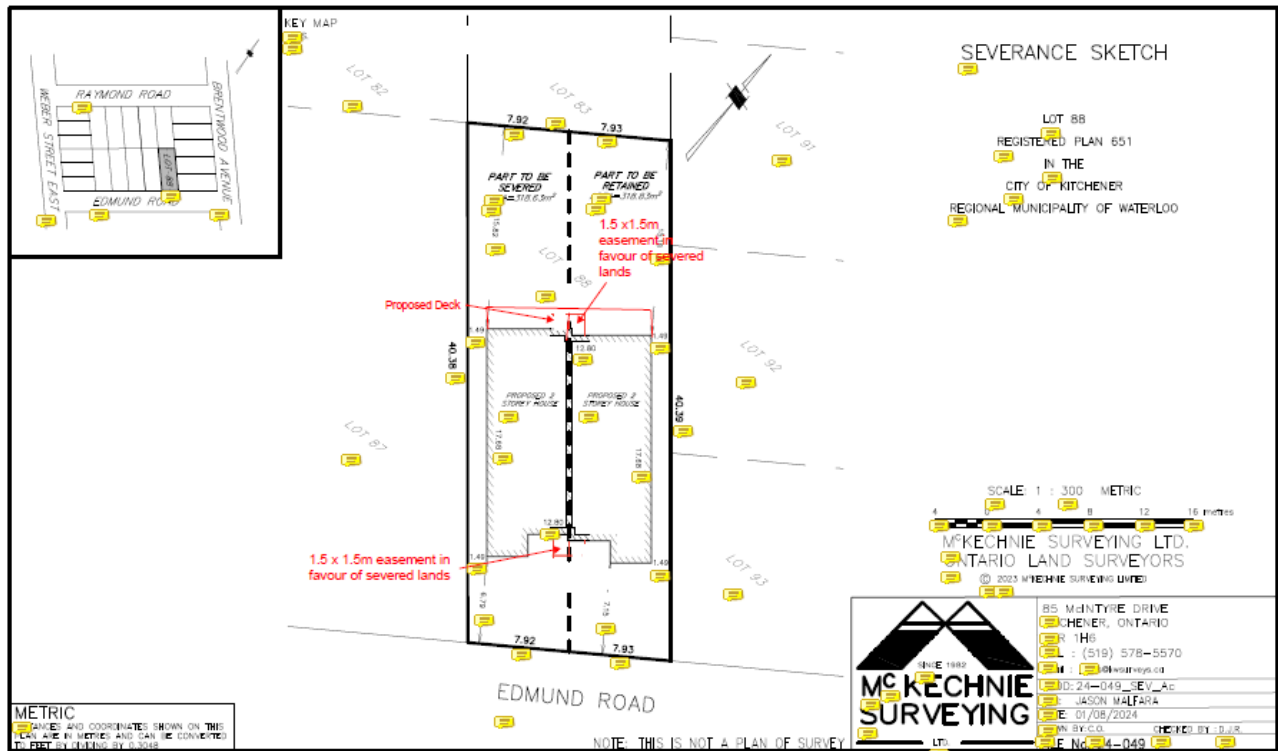


Image 3 – Survey of Lot and Creation of Separate Parcels

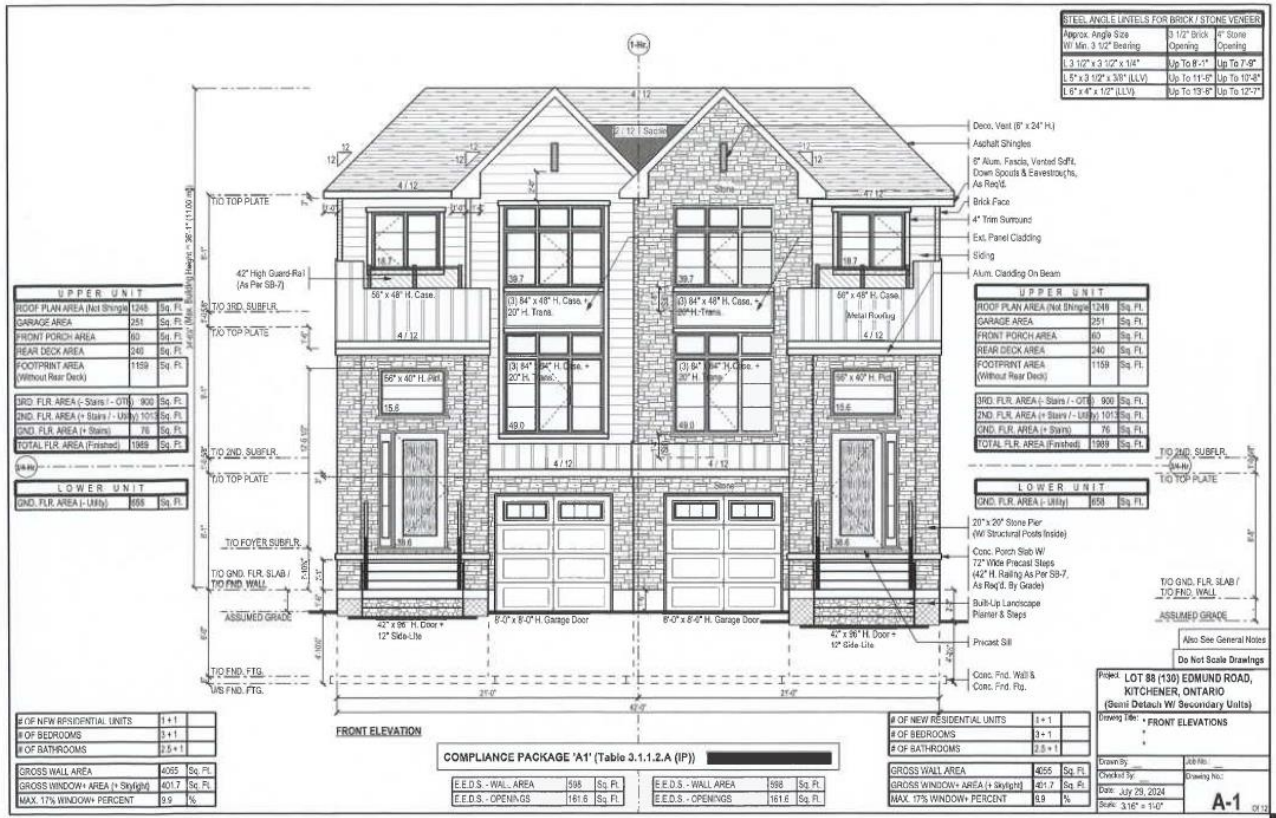


Image 4 – Front Elevations



Image 5 – Back Elevations



## **REPORT:**

### **Planning Comments Minor Variance Application A2024-088 and A2024-089:**

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 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 intent of the Low Rise Residential land use designation is to accommodate a full range of low density housing types which may include single detached dwellings, additional dwelling units, attached and detached, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings, special needs housing, and other forms of low-rise housing. Duplexed semi-detached dwellings being proposed represent a gentle form of intensification that meet the general intent of the designation.

The variances for 0 metre setbacks to the interior lot lines meet the intent of policy 4.C.18 of the Official Plan. The requested setback affects the interior lot line only and any impact is considered both minor and technical in nature. Privacy between the proposed units and adjacent properties will be ensured through privacy screens to be erected at both ends of the decks. Maintenance easements are requested on both sides to ensure access is legally provided in event future maintenance is required.

The variances will meet the general intent of the Official Plan.

#### General Intent of the Zoning By-law

The general intent of the zoning by-law is to ensure there is adequate separation between the dwelling and side lot lines. In this situation, a semi-detached dwelling is being constructed with a common interior lot line between the units. But because of the offset, there is a portion of the dwelling that will not have a common lot line and therefore does not comply with zoning for a side yard. For all intents and purposes, this is technical in nature and staff have no concerns.

Similarly, for the decks, the 0 metre setback affects the interior lot line of the semi-detached units only. This is a common occurrence in this situation. A privacy screen is proposed to be erected between the proposed units at the end of the deck on 132 Edmund Road. Staff suggest that a similar privacy screen be erected on the deck on 130 Edmund Road where it is adjacent to the shared property line.

In the opinion of staff, the variances will meet the general intent of the Zoning By-law.

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

In the opinion of staff, the effects are minor. As noted previously, 0 metre interior side yards for a semi-detached dwelling is common since two units are attached. This request is technical in nature due the offset in the dwelling which staff prefer since it provides visual interest and breaks up the massing. Having the decks at 0 metres only affects the

interior of lots. To address the potential impacts of the reduced setbacks, privacy screening is proposed for the deck at 132 Edmund Road and staff is recommending that this also be installed on the deck at 130 Edmund Road. Accordingly, the effects of the variances will be minor.

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

The variances are desirable and appropriate for the use of land. A duplexed semi-detached dwelling with an offset is a gentle form of intensification in established neighbourhoods. The variances, while technical in nature, help to facilitate a building form that is not only compatible but visually interesting. The decks are to be used for outdoor amenity for the upper duplexed portion and to gain access to the ground level rear yard of the property.

**Planning Comments Consent Applications B2024-027 and B2204-028:**

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

Provincial Policy Statement (PPS 2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Section 1.4.3(b) of the PPS promotes all types of residential intensification, and sets out a policy framework for sustainable healthy, liveable and safe communities. The PPS promotes efficient development and land use patterns, as well as accommodating an appropriate mix of affordable and market-based residential dwelling types with other land uses, while supporting the environment, public health, and safety. Provincial policies promote the integration of land use planning, growth management, transit-supportive development, intensification, and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.

Planning staff is of the opinion that the proposed application will facilitate a form of gentle intensification of the subject property with the creation of two new lots for a duplexed semi-detached dwelling that are compatible with the surrounding community and will make use of the existing infrastructure. No new public roads would be required for the proposed development. Therefore, Staff are of the opinion that this proposal is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020:

The Growth Plan supports the development of complete and compact communities that are designed to support healthy and active living, make efficient use of land and infrastructure, provide for a range and mix of housing types, jobs, and services, at densities and in locations which support transit viability and active transportation. The subject lands are near transit, trails and parks.

Policy 2.2.6.1(a) states that Municipalities will support housing choice through the achievement of the minimum intensification targets in this plan by identifying a diverse

range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents.

The proposed development represents a gentle intensification and will contribute towards achieving the City's intensification density targets. The severance application will help make efficient use of existing infrastructure, parks, roads, trails and transit. Planning staff is of the opinion that the development proposal 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 residential development, including transportation networks, municipal drinking-water supply and wastewater systems, and a broad range of social and public health services. Regional policies require Municipalities to plan for a range of housing in terms of form, tenure, density and affordability to satisfy the various physical, social, economic and personal support needs of current and future residents. 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 '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 proposed severance is in conformity with this aspect of the plan and maintains the residential land use designation.

Section 17.E.20.5 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding infill development and lot creation (Consent Policies). These policies state the following:

"17.E.20.5 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;
- d) the lot will have frontage on a public street;
- e) municipal water services are available;

- f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;
- g) a Plan of Subdivision or Condominium has been deemed not to be necessary for proper and orderly development; and,
- h) the lot(s) will not restrict the ultimate development of adjacent properties.”

The proposed lot widths and lot areas of the proposed severed and retained lots comply with the minimum ‘RES-4’ zone lot width and lot area requirements and minor variances are not required for the lot sizes. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding neighbourhood which is developed with low rise residential uses with lot sizes that vary in width, depth, and area. The subject lands front onto a public street and full services are available. There are no natural heritage features that would be impacted by the proposed consent application. Planning staff is of the opinion that the proposed severances conform with the City of Kitchener Official Plan.

Zoning By-law 2019-051:

The property is zoned ‘Low Rise Residential Four Zone (RES-4)’ in Zoning By-law 2019-051. The ‘RES-4’ zones permit a range of low-rise residential dwelling types including single detached, semi-detached and multiple dwellings. The ‘RES-4’ zone requires a minimum lot width of 7.5 metres and a minimum lot area of 210 square metres for semi-detached dwelling units.

**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 lots are desirable and appropriate. The uses of both the severed and retained parcels are in conformity with the City’s Official Plan and Zoning By-law. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. There are existing schools within the neighbourhood. The easements will ensure orderly development is achieved. Staff is further of the opinion that the proposal is consistent with the Region of Waterloo Official Plan, the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe and is good planning and in the public interest.

**Environmental Planning Comments:**

No environmental comments or concerns.

**Heritage Planning Comments:**

No Heritage comments or concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variances.

The Building Division has no objections to the proposed consents.

### **Engineering Division Comments:**

No concerns to the proposed variance.

The following be included as conditions of the Consent Application B2024-028

- Severance of any blocks within the subject lands will require separate, individual service connections for sanitary 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 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](mailto:eric.riek@kitchener.ca)
- Any new driveways are to be built to City of Kitchener 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:**

**(Demolition and Building permits have been issued. See also comments for B2024-027)**

There is an existing City-owned street tree located on Edmund Road that will be impacted by construction and conflicts with the proposed driveway location. A Tree Protection and Enhancement Plan (TPEP) and ISA valuation of the existing tree is required, please see Urban Design Manual Part C, Section 13 and [www.kitchener.ca/treemanagement](http://www.kitchener.ca/treemanagement). Full compensation is expected prior to clearance of severance conditions.

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 7.92 metre at a land value of \$36,080.00 per frontage metre with a per unit cap of \$11,862.00.

There is an existing City-owned street tree located on Edmund Road that will be impacted by construction and conflicts with the proposed driveway location. A Tree Protection and Enhancement Plan (TPEP) and ISA valuation of the existing tree is required, please see Urban Design Manual Part C, Section 13 and [www.kitchener.ca/treemanagement](http://www.kitchener.ca/treemanagement). Full compensation is expected prior to clearance of severance conditions.

**Transportation Planning Comments:**

Transportation Services have no concerns with the applications.

**Grand River Conservation Authority (GRCA) Comments:**

GRCA has no objections to the approval of the above noted applications.

**Region of Waterloo Comments:**

No concerns with regards to the variances.

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 per application to the Regional Municipality of Waterloo.
2. That the Owner/Developer submit a Notice of Source Water Protection Plan Compliance to the Regional Municipality of Waterloo.
3. That the Owner/Developer enter into a registered development agreement with the City of Kitchener 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 Weber Street East and Conestoga Parkway 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.

**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*