

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

**WARD(S) INVOLVED:** Ward 9

**DATE OF REPORT:** October 2, 2024

**REPORT NO.:** DSD-2024-454

**SUBJECT:** Minor Variance Application A2024-085 - 62 Gage Avenue

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## RECOMMENDATION:

That Minor Variance Application A2024-085 for 62 Gage Avenue requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.14.7 b) to permit an unenclosed porch 1.8 metres from the street line instead of the minimum required 3.0 metres; and
- ii) Section 7.6 a) to permit a minimum front yard setback of 2.89 metres instead of the minimum required 9.0 metres;

to facilitate the construction a new semi-detached dwelling, generally in accordance with drawings prepared by Grit Engineering Inc., dated August 23, 2024, BE APPROVED subject to the following condition:

1. 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.

#### REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to permit the creation of a new semi-detached dwelling.
- 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 Gage Avenue, at the corner portion of the road with itself. The existing property contains a single detached dwelling. The applicant proposes to demolish the single detached dwelling and sever the property to create 2 new semi-detached dwellings. This application is to permit a reduced front yard setback for the semi-detached dwelling that is closest to the corner of Gage Avenue. Future consent applications are required to be submitted to enable each half of the semi-detached dwellings to be dealt with separately.



**Figure 1: Location Map: 62 Gage Avenue**

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 application is to permit a new semi-detached dwelling to have a front yard setback of 2.89 metres instead of the minimum required 9.0 metres, and to permit an unenclosed porch 1.8 metres from the street line instead of the minimum required 3.0 metres.

The minor variances are due to the curve of the street along Gage Avenue. The majority of the dwelling is set back further than the 2.89 metres and meet the standard 4.5 metre setback within Zoning By-law 2019-051. However, the property is located in Appendix 'D' of the Zoning By-law which means the setback is measure from the existing dwelling that is adjacent to the property. The 9.0 metre minimum front yard setback calculation is based off of survey drawings from the existing dwelling at 56 Gage Avenue minus one meter in order to get the required front yard setback. Staff are supportive of the variances as the street line of the existing other dwellings along Gage Avenue do not have a consistent street line and are of various setbacks along the street. Further the curve of the street corner only effects a small portion of the front of the house, the majority of the house is set back further than what is proposed. Finally, the driveway portion of the property is designed so that it is at the farthest point away from the curvature of the corner in order to ensure there are no conflicts with driveway visibility and corner visibility.

In August 2024, the properties received approval for the Consent to sever the property into two, and conditions are being cleared in order to obtain the final approval. The proposed semi-detached dwelling will be the first constructed on the site, and then in a later application will be required to come back to the Committee of Adjustment to sever the semi-detached dwelling so that each half of the dwelling will be able to be dealt with separately.

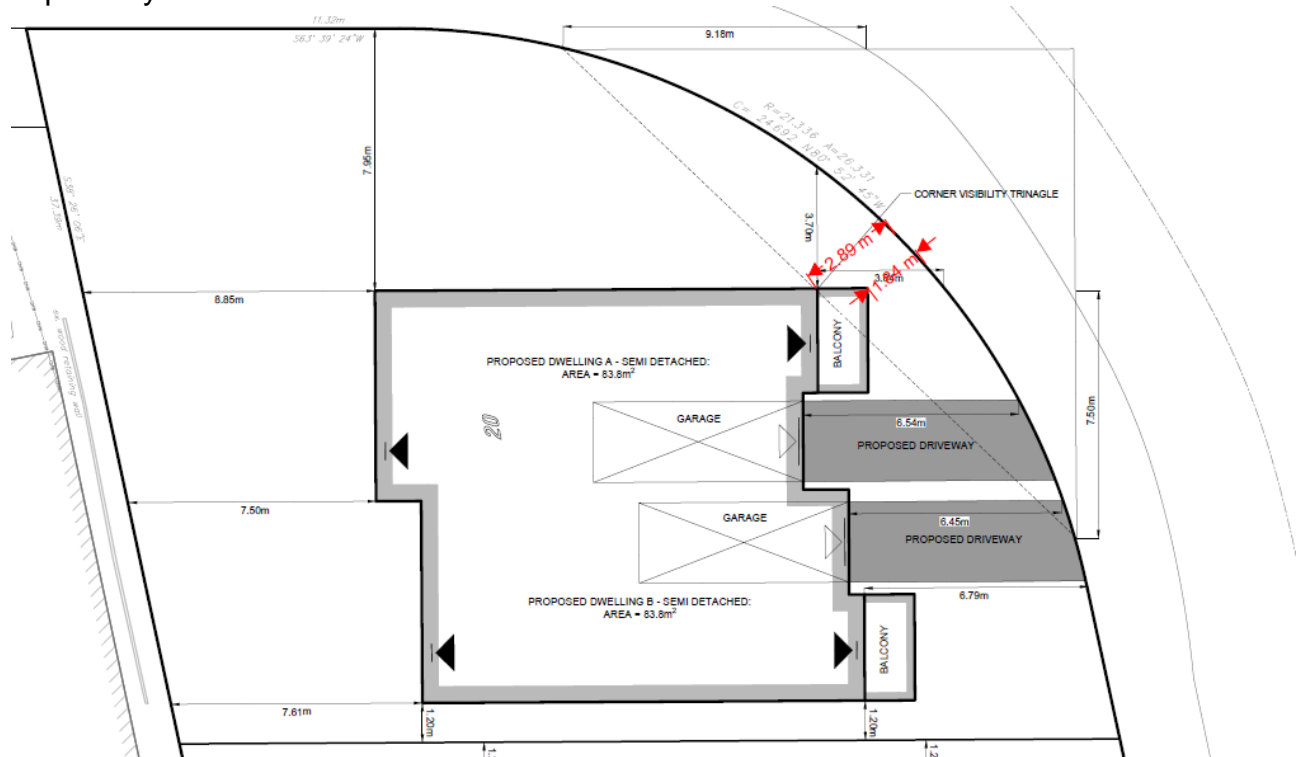


Figure 2: Proposed front yard setbacks



**Figure 3: Existing single detached dwelling at 62 Gage Avenue to be demolished**

## **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 'Low Rise Residential' in the City's Official Plan. This designation permits low density forms of housing such as semi-detached dwellings. The proposed variances meet the intent of the Official Plan which encourages a range of different forms of housing and encourages a mix of residential uses in residential areas. The proposed use conforms to the land use designation, and it is the opinion of staff that the requested variances meet the general intent of the Official Plan.

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

The intent of the front yard setback is to ensure a consistent built form along the street edge. The subject property is located within Appendix 'D' of the Zoning By-law which follows a specific calculation to determine the required front yard setback of the property. The required setback of 9.0 metres is calculated by the neighbouring property's front yard setback minus one metre. Staff note that the street edge along Gage Ave is not consistent with varying front yard setbacks along the portion of the road. Further, the requested 2.89

metre setback only pertains to the corner of the front of the building due to the curvature of the Gage Avenue corner. The majority of the front of the building is setback further than the requested 2.89 metres.

The intent of the unenclosed porch setback regulation is to ensure the porch has adequate separation from the street edge. As with the front yard setback the request is being made due to the curvature of the Gage Avenue corner, and only the corner of the porch is at the requested 1.8 metres. The majority of the porch does meet the 3.0 metre setback.

Staff is of the opinion that the requested variances meet 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 variances are minor as the variances only pertain to the corner of the dwelling that is closest to the curvature of the road. Both the front of the building and the porch are further setback from the road and outside of the corner visibility triangle. The proposed variances will not present any significant impacts to adjacent properties or the overall neighbourhood.

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

The proposed variances are desirable and appropriate for the development of the land. The scale, massing and height of the proposed new semi-detached dwellings will not negatively impact the existing character of the subject property or surrounding neighbourhoods and permits gentle intensification.

**Environmental Planning Comments:**

No environmental planning concerns.

**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 62 Gage Avenue is located within the Warehouse District. 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. An application has been made to for the new semi-detached dwelling.

**Engineering Division Comments:**

No engineering division concerns.

**Parks/Operations Division Comments:**

This property has been subject to a previous consent application (B2024-021) that was approved with conditions including the requirement for submission and approval of a Tree

Protection and Enhancement Plan and possible financial compensation for the protection of existing trees within the right of way.



**Figure 3: Existing single detached dwelling at 62 Gage Avenue to be demolished**

**Figure 4: Photo of Figure 3 from Staff Report DSD-2024-357, dated August 7, 2024.**

There comments were as follows:

*There is considerable existing treed vegetation on the property and some within the Gage Avenue right of way and on the shared front property line.*

*City-owned trees will be impacted by the proposed development and the owner shall fulfill one of the following options:*

1. *Enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor and registered on title of the severed and retained lands, which shall include the following:*
  - a) *That the owner shall prepare a Tree Protection and Enhancement Plan, demonstrating protection of the City-owned tree that is located adjacent to the severed and retained lands, to the satisfaction of the City's Director Parks & Cemeteries. Said plan shall include, among other matters, the identification of a proposed building envelope/work zone, landscaped area and vegetation to be preserved. No changes to the said plan shall be granted except with the prior approval of the City's Director Parks & Cemeteries.*
  - b) *The owner shall implement the Tree Protection and Enhancement Plan, prior to any grading, servicing, tree removal or the issuance of building permits, to the satisfaction of the City's Director Parks & Cemeteries.*

- c) *The owner shall maintain the severed and retained lands, in accordance with the approved Tree Protection and Enhancement Plan, for the life the development.*

OR

2. *Make arrangements regarding financial compensation for the trees to be removed, to the satisfaction of the City's Director of Parks & Cemeteries. This will require a basic Tree Protection and Enhancement Plan, Arborist Report and ISA valuation of trees on City lands."*



**This requirement is outstanding** and it was noted that the proposed demolition and construction will impact existing trees within the right of way. **Accordingly, it was quite disappointing to visit the site and see the removals of trees, City street trees, without the submission of a Tree Protection and Enhancement Plan, attempted protection and valuation of City street trees, and permission for their removal.**

**A basic Tree Protection and Enhancement Plan, Arborist Report and ISA valuation of trees on City lands and the subject lands MUST BE submitted for review and approval as a Condition of this Minor Variance Application, if approved.**

**Transportation Planning Comments:**

Transportation Services want to ensure that our comments from the August 20, 2024, Committee of Adjustment Meeting are carried through with this development. See below comments.

*“The City of Kitchener’s Official Plan notes Gage Avenue is designated for a road widening with an ultimate road width of 18 metres between Belmont Avenue and Waverly Road. Therefore, a conveyance of approximately 1.5 metres to 2.7 metres along the entire Gage Avenue frontages (retained and severed) is required. A reference plan be submitted by an Ontario Land Surveyor (OLS) illustrating the road widening.*

*The Owner shall prepare at their cost, a Phase I and if necessary, a Phase II Environmental Site Assessment (ESA) for the portion of the lands being conveyed to the City of Kitchener for a road widening of Gage Avenue to the satisfaction of the City’s Engineering Services.”*

Planning staff can advise that in order to create the lot for the semi-detached dwelling, the conditions with respect to the requirement for a road widening will need to be satisfied.

#### **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*
- *DSD-2024-357*