

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: November 19, 2024

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
519-783-8913

PREPARED BY: Brian Bateman, Senior Planner, 519-783-8905

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: November 6, 2024

REPORT NO.: DSD-2024-070

SUBJECT: Consent Application B2024-029 – 62 Fourth Avenue

RECOMMENDATION:

That Consent Application B2024-029 for 62 Fourth Avenue requesting consent to sever a parcel of land having a lot width of 7.6 metres on Fourth Avenue, a lot depth of 40.3 metres and a lot area of 307.6 square metres., **BE APPROVED**, subject to the following conditions:

1. 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.
2. 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.
3. 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.
4. That the Owner provides a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
5. 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.

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

6. 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.
7. 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.
8. 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.
9. That the Owner pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$8,032.00.
10. That that the Owner make satisfactory financial arrangements with the City in the amount of \$5,400.00 in Urban Forest Compensation for the tree removal in the City's boulevard.
11. That the Owner/Applicant submit the Section 59 Notice to the Regional Municipality of Waterloo.
12. That, prior to final approval, the applicant submits the Consent Application Review Fee of \$350.00 to the Region of Waterloo.
13. That the Owner 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 the retained and severed lots, to the satisfaction of the Region.

“Purchasers/tenants are advised that sound levels due to increasing road traffic 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.”

REPORT HIGHLIGHTS:

- The purpose of this report is to discuss a request to divide a property for the purposes of creating separate parcels of land to facilitate the sale of each half of a semi-detached duplex dwelling under construction.
- The key finding of this report is that the consent represents good planning and staff is recommending approval accordingly.
- 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 at 62 Fourth Avenue in the Vanier Neighborhood. The property did contain a detached home shown below in Figure 1 that has been demolished in favour of a semi-detached duplex dwelling currently under construction shown in Figure 2.



Figure 1: Aerial Photo of 62 Fourth Avenue

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 Zone Four (RES-4)' in Zoning By-law 2019-051.

The purpose of the consent application is to split the property (see Figure 3) so that each half of the semi-detached duplex dwelling can be on separate parcels of land to be dealt with independently. Each parcel to be created complies with the RES-4 zoning regulations in terms of lot width and area. How the dwellings will look is shown in Figure 4.



Figure 2: Photo of Current View of Subject Property

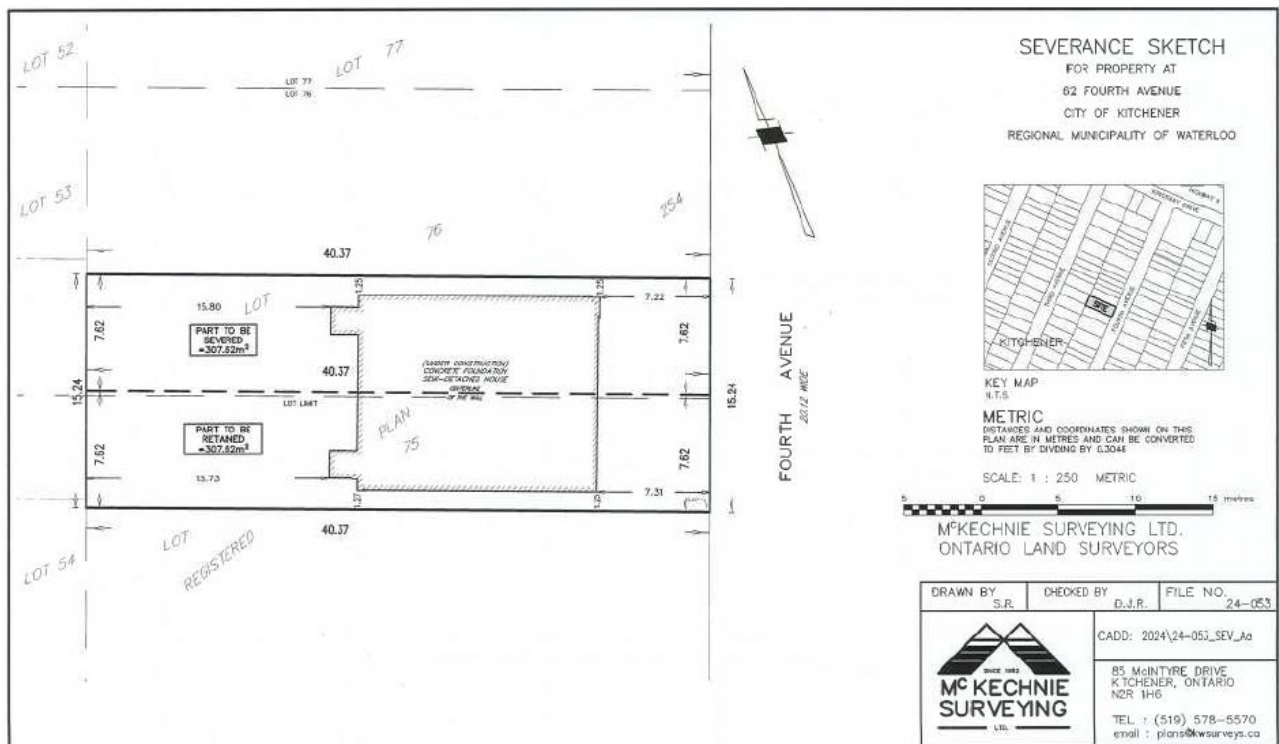


Figure 3: Proposed Consent Drawing



Figure 4: Elevation Drawings

REPORT:

Planning Comments:

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

Provincial Planning Statement (PPS 2024)

The Provincial Planning Statement (PPS), 2024 is a streamlined province-wide land use planning policy framework that replaces both the Provincial Policy Statement, 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 while building upon housing-supportive policies from both documents. The PPS 2024 came into force on October 20, 2024.

According to the Province, the PPS 2024 provides municipalities with the tools and flexibility they need to build more homes. It enables municipalities to:

- plan for and support development, and increase the housing supply across the province;
- align development with infrastructure to build a strong and competitive economy that is investment-ready;

Sections 2.1.6 and 2.3.1.3 of the PPS 2024 promote planning for people and homes and supports planning authorities to support general intensification and redevelopment while achieving complete communities by, accommodating an appropriate range and mix of land uses, housing options, transportation options with multimodal access, employment, public service facilities and other institutional uses, recreation, parks and open space, and other uses to meet long-term needs.

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 conforms with the City of Kitchener Official Plan.

Zoning By-law 2019-051

The subject property is zoned ‘Low Rise Residential Zone Four (RES-4)’ in Zoning By-2019-051. A semi-detached dwelling plus an Additional Dwelling Unit (ADU) (Attached) is a permitted use. The proposed lot sizes comply with the lot area/width regulations. Variances are not required to facilitate the consent.

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.

Environmental Planning Comments:

Building permit has been issued and foundation installed, no opportunity to retain trees on site is possible.

Heritage Planning Comments:

No concerns.

Building Division Comments:

Has no objections to the consent.

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 niall.melanson@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:

As a condition of Building permit application **2024 113417** parkland dedication of \$3,830.00 was incorrectly assessed and paid for the construction of the duplex semi-detached dwelling.

Additional 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 is calculated as \$11,862. Since \$3,830.00 has been paid previously, the required Parkland Dedication is **\$8,032.00 and** is required prior to final approval of the Consent.

Park Dedication is calculated at 5% of the new development lots only, with a land valuation calculated by the lineal frontage of 7.62 metres at a land value of \$36,080.00 per frontage metre with a per unit cap of \$11,862.00. The fees previously paid at Building permit have been deducted from the required fees.

Through the Building Permit application **2024 113417** it was noted that there was an existing City-owned street tree within the boulevard at 62 Fourth Ave and that the proposed driveway should be revised to protect this tree. Through the building and demolition permit process, the applicant had made initial contact with Forestry staff but failed to provide all information requested. According to current Forestry compensation protocols for tree removal, **\$5,400.00 in Urban Forest Compensation is required.** This compensation is required prior to final approval of the Consent.

Transportation Planning Comments:

No concerns.

Region of Waterloo Comments:

Environmental Noise

At this location, the proposed development may encounter traffic noise sources due to Highway 7 and Highway 8. It is the responsibility of the applicant to ensure the proposed noise sensitive development is not adversely affected by anticipated noise impacts. To address the environmental noise impacts, the applicant must prepare an Environmental Noise Study; the noise levels criteria and guidelines for the preparation of the study should follow the Ministry of the Environment, Conservation and Park NPC-300 requirements. The Regional process for this requirement can be provided upon request.

In lieu of an Environmental Noise Study, the Region will require as a condition of consent approval that the owner/applicant enter into a registered Development Agreement with the City of Kitchener to implement the following noise mitigation measures:

- a) That the following warning clause be included in all agreements of purchase and sale and/or rental agreements for all dwelling units on the severed and retained lots:
- (i) “Purchasers/tenants are advised that sound levels due to increasing road traffic 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 Environment, Conservation and Parks.”

Source Water Protection

The subject lands are within a Wellhead Protection Area under the Clean Water Act and Wellhead Protection Sensitivity Area under the Regional Official Plan. A Notice of Source Protection Plan Compliance (Section 59 Notice) is required as part of a complete application. Please visit the TAPS website to obtain documentation and for further information: <https://taps.regionofwaterloo.ca/>. The Section 59 Notice will be required as condition of approval for the consent application.

Regional Review Fees

Regional Staff are not in receipt of the required consent review fee of \$350.00. The consent review fee is required as a condition of approval for the consent application. Fees must be submitted individually to the Region, in-person, by mail, or e-payment.

- Arrange EFT by emailing pwalter@regionofwaterloo.ca.
- Cheque or bank draft can be dropped off at Head Office lobby/security (main floor), located at 150 Frederick St, Kitchener. 15 min parking is available at the rear of the building, outside the Kitchener Public Library, at the intersection of Queen St N and Ahrens St E.
- Cheque or bank draft can be mailed as follows: Attention of Peggy Walter, Planning, Development and Legislative Services, Regional Municipality of Waterloo, 150 Frederick St, Kitchener, ON N2G 4J3.

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

1. That the Owner/Applicant submit the Section 59 Notice to the Regional Municipality of Waterloo.
2. That the Owner/Applicant submit the consent review fee of \$350 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 the retained and severed lots, to the satisfaction of the Region.

“Purchasers/tenants are advised that sound levels due to increasing road traffic 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.”

GRCA 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 Planning Statement (PPS 2024)*
- *Regional Official Plan (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*