

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 2

DATE OF REPORT: November 6, 2024

REPORT NO.: DSD-2024-471

SUBJECT: Minor Variance Application A2024-091 - 32 Burgetz Ave.
Minor Variance Application A2024-092 – 34 Burgetz Ave.
Minor Variance Application A2024-093 – 36 Burgetz Ave.
Minor Variance Application A2024-094 – 38 Burgetz Ave.

RECOMMENDATION:

A. Minor Variance Application A2024-091 – 32 Burgetz Avenue

That Minor Variance Application A2024-091 for 32 Burgetz Avenue requesting relief from Sections 5.3.3 i) and iii) of Zoning By-law 2019-051 to permit a parking space located within a building to be setback 5.6 metres instead of the minimum required 6 metres to legalize the location of an attached garage for the existing semi-detached dwelling; and to allow the required parking for a duplex in a driveway to be located 0 metres from the front lot line instead of the required 0.5 metres, BE APPROVED, subject to the following conditions:

1. That the property owner shall install a distinguishable driveway and required walkway(s) and landscaped areas, in accordance with the regulations of Zoning By-law 2019-051, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. Any request for a time extension must be approved in writing by the Manager of Development Approvals prior to completion date set out in this decision.
3. Failure to complete Condition No. 1 will result in this approval becoming null and void.

B. Minor Variance Application A2024-092 – 34 Burgetz Avenue

That Minor Variance Application A2024-092 for 34 Burgetz Avenue requesting relief from Sections 5.3.3 i) and iii) of Zoning By-law 2019-051 to permit a parking space located within a building to be setback 5.6 metres instead of the minimum required 6 metres to legalize the location of an attached garage for the existing semi-detached dwelling; and to allow the required parking for a duplex in a driveway to be located 0 metres from the front lot line instead of the required 0.5 metres, BE APPROVED, subject to the following:

1. That the property owner shall install a distinguishable driveway and required walkway(s) and landscaped areas, in accordance with the regulations of Zoning By-law 2019-051, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. Any request for a time extension must be approved in writing by the Manager of Development Approvals prior to completion date set out in this decision.
3. Failure to complete Condition No. 1 will result in this approval becoming null and void.

C. Minor Variance Application A2024-093 – 36 Burgetz Avenue

That Minor Variance Application A2024-093 for 36 Burgetz Avenue requesting relief from Sections 5.3.3 i) and iii) of Zoning By-law 2019-051 to permit a parking space located within a building to be setback 5.6 metres instead of the minimum required 6 metres to legalize the location of an attached garage for the existing semi-detached dwelling; and to allow the required parking for a duplex in a driveway to be located 0 metres from the front lot line instead of the required 0.5 metres, BE APPROVED, subject to the following:

1. That the property owner shall install a distinguishable driveway and required walkway(s) and landscaped areas, in accordance with the regulations of Zoning By-law 2019-051, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. Any request for a time extension must be approved in writing by the Manager of Development Approvals prior to completion date set out in this decision.
3. Failure to complete Condition No. 1 will result in this approval becoming null and void.

D. Minor Variance Application A2024-094 – 38 Burgetz Avenue

That Minor Variance Application A2024-094 for 38 Burgetz Avenue requesting relief from Sections 5.3.3 i) and iii) of Zoning By-law 2019-051 to permit a parking space located within a building to be setback 5.7 metres instead of the minimum required 6 metres to legalize the location of an attached garage for the existing semi-detached dwelling; and to allow the required parking for a duplex in a driveway to be located 0 metres from the front lot line instead of the required 0.5 metres, BE APPROVED, subject to the following:

1. That the property owner shall install a distinguishable driveway and required walkway(s) and landscaped areas, in accordance with the regulations of Zoning By-law 2019-051, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. Any request for a time extension must be approved in writing by the Manager of Development Approvals prior to completion date set out in this decision.
3. Failure to complete Condition No. 1 will result in this approval becoming null and void.

REPORT HIGHLIGHTS:

- The purpose of this report is to review and recommend approval of the requested minor variances to legalize the existing setbacks of the attached garages from the front lot lines and to allow required parking for a duplex be setback 0 metres from the street line.
- The key finding of this report is that the minor variances meet the four tests of the Planning Act.
- 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 properties are located at 32 to 38 Burgetz Avenue in the Centre-Chicopee Neighbourhood adjacent to St. Patrick School currently under construction. The subject properties contain semi-detached dwelling units that were constructed in 2022/2023. The owner has recently applied for building permits to duplex the semis where it was discovered they were built with attached garages setback less than the required 6 metres from the street lot lines.

Additionally, the required second parking space for a duplex in a driveway must be setback 0.5 metres from the front lot line and, because the driveways are less than 6 metres, this setback cannot be achieved. Hence, a minor variance to allow a 0-metre setback for required parking for a duplex is also requested.

Therefore, the purpose of Minor Variance Applications A2024-091 to A2024-094 is to legalize the existing attached garage setbacks to the front lot lines and to allow the required parking space in a driveway for a duplexed semi to be setback 0 metres to the front lot lines. Staff further note that existing driveway widths are wider than what the By-law permits. These are not subject to a variance as the owner has agreed to comply with the By-law. As a result, approval is conditional upon the driveways meeting the Zoning By-law for driveway widths.



Figure 1 – Aerial Photograph of Subject Properties



Figure 2 – Streetview Photo of Subject Properties

The properties are designated 'Low Rise Residential' in the City's Official Plan and identified as a 'Community Areas' on the City's Urban Structure Map.

The properties are zoned 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051.

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 to A2024-091, A2024-092, A2024-093 and A2024-094:

General Intent of the Official Plan

The subject properties are identified as 'Community Areas' on Map 2 – Urban Structure and are designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan. The intent of the Low Rise Residential designation is to accommodate a diverse range of low rise housing types while maintaining the low-density character of the neighbourhood. Official Plan policy 4.C.1.8 details criteria that should be considered where a minor variance is requested. Subsections 'b' and 'e' specify that the requested variances should ensure that "where front yard setback reductions are proposed for new buildings in established neighbourhoods, the requested front yard setback should be similar to adjacent properties and supports and maintain the character of the streetscape and the neighbourhood", and that "the lands can function appropriately and not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on the site".

Permitting the requested variances would recognize an existing situation while facilitating the conversion of the subject properties into duplexes, which is a permitted use in the land use designation and provide a form of gentle intensification in the community while preserving the built form of the property. Staff are of the opinion that the requested variances meet the intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of the regulation requiring the garage setback is to ensure the garage is not located ahead of the habitable portion of the dwelling and to ensure a driveway is of sufficient length to park a vehicle on and would not support overhang of the vehicle on the sidewalk. The intent is being maintained in both existing situations. The driveways are slightly greater than 5.5 metres in length which meets the minimum length of a parking space dimension under the Zoning By-law. Also, the additional 0.5 metres setback is to provide a small buffer for a required parking space in a driveway for a duplex to ensure no overhang. Given the minimum length of a parking space is being achieved in the driveway, the minor 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 of the minor variances are minor, as the deficiencies of 0.3 and 0.4 metres are not discernible, the garages do not protrude beyond the habitable portion and the minimum length of a parking space of 5.5 metres is being maintained in the driveways.

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 development and use of the lands as they will recognize the location of the existing attached garages and parking spaces in the driveways and facilitate a gentle intensification of the semi-detached dwellings with additional dwelling units.

Environmental Planning Comments:

No concerns.

Heritage Planning Comments:

No concerns.

Building Division Comments:

The Building Division has no objections to the proposed variances.

Engineering Division Comments:

No concerns.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

No concerns.

GRCA comments:

No concerns.

Region of Waterloo 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 Policy Statement (PPS 2024)*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*
- *DSD-19-128 - 28 Burgetz Avenue (Consent)*
- *DSD-20-030 - 28 - Burgetz Avenue (Variances and Consents)*
- *DSD-2022-023 - 32 Burgetz Avenue (Consents)*