

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: Sheryl Rice Menezes, Senior Planning Technician,
519-783-8944

WARD(S) INVOLVED: 3

DATE OF REPORT: November 12, 2024

REPORT NO.: DSD-2024-488

SUBJECT: Minor Variance Application A2024-098 – 153 Eighth Avenue

RECOMMENDATION:

That Minor Variance Application A2024-098 for 153 Eighth Avenue requesting relief from Section 4.12.3 e) of Zoning By-law 2019-051 to facilitate the conversion of an existing detached garage into an Additional Dwelling Unit (ADU) (Detached) having a Gross Floor Area (GFA) of 83.7 square metres instead of the maximum permitted 80 square metres, generally in accordance with drawings attached to Minor Variance Application A2024-098, BE APPROVED subject to the following conditions.

1. That the Owner shall:

- i) Modify and install a distinguishable driveway and required walkway(s);
- ii) Modify the parking area in the rear yard to remove unnecessary asphalt, not required for parking, and install appropriate landscaping;
- iii) Modify the existing deck/porch and the existing fence in the front yard;

to be in compliance with the regulations of Zoning By-law 2019-051 and the Fence By-law, 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 a minor variance application to facilitate the conversion of an existing detached garage to an Accessory Dwelling Unit (ADU) (Detached).
- The key finding of this report is that the requested minor variance meets all the four texts 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 property is located on the east side of 153 Eighth Avenue, south of Connaught Street.

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

The purpose of the application is to facilitate the conversion of the existing detached garage to an Additional Dwelling Unit (ADU) (Detached) with a footprint of 83.7 square metres rather than the permitted maximum of 80 square metres.



Figure 1 - Aerial photo of subject property

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 intent of the Low Rise Residential land use designation is to encourage residential intensification and/or redevelopment which includes ADUs to respond to the changing housing needs and as a cost-effective means to reduce infrastructure and service costs by minimizing land consumption and making better use of existing community infrastructure. The variance meets the general intent of the Official Plan.



Figure 2 - Street view of subject property

General Intent of the Zoning By-law

The intent of the footprint regulation is to ensure that detached ADUs do not dominate the rear yard. The massing and size of detached ADUs is regulated by floor area and building height. A footprint of 83.7 square metres is minimally over the maximum 80 square metres permitted and would not be visible. As the building, currently a detached garage, already exists, meets the 5 metre setback from the principle dwelling, it is not practical to reduce the footprint. Staff are of the opinion that the variance meets the general intent of the Zoning By-law.



Figure 3 - Existing garage to be converted to Detached Additional Dwelling Unit

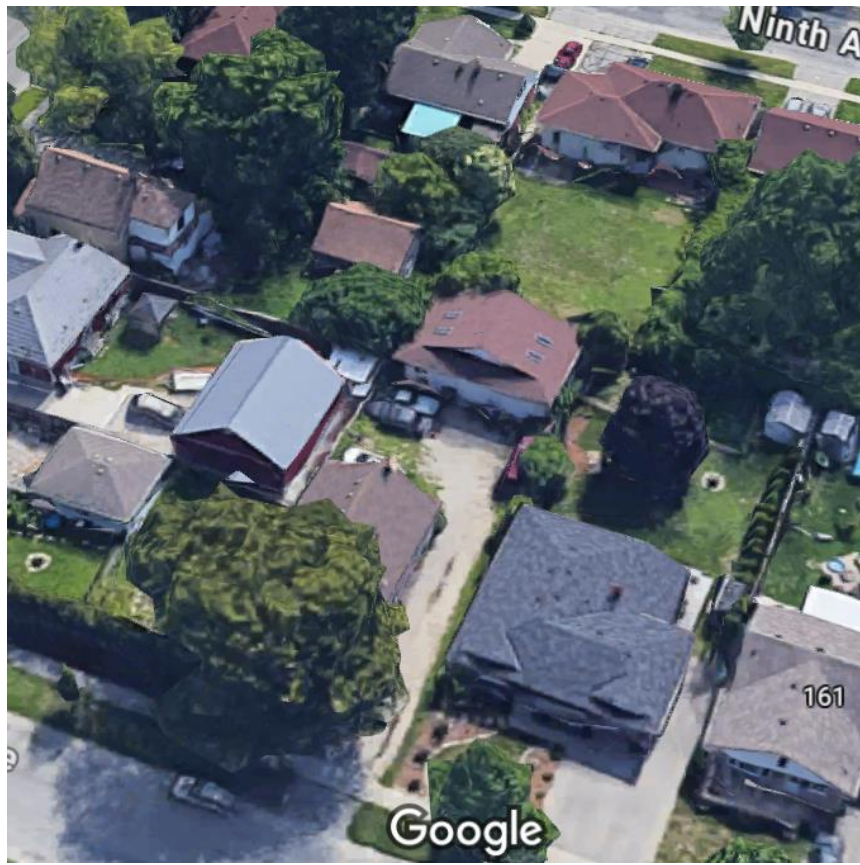


Figure 4 - Aerial photo from Google streetview.

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

As shown in the drawings submitted with the application, the detached ADU is to be located in the existing garage which is located at the rear of the property and is shown on the drawings to meet the minimum 0.6 metre side yard and rear yard setbacks. As well, the minimum 5 metre setback to the main dwelling is met. The building already exists and permitting an increase of 3.7 m is considered minor (see Figure 4).

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

Staff are of the opinion that the variance for the detached ADU is desirable and appropriate for the property and will provide a gentle form of intensification which can be considered appropriate for the use of the property and compatible with the surrounding neighbourhood.

EXISTING DRIVEWAY

From staff review, it has been noted that the existing driveway of recycled asphalt appears to exceed the maximum driveway width of 40% (5.5 metres) (see Figure 2).

The applicant advised that some recycled asphalt has moved onto a walkway that exists to the left and that he will be creating a new 1.1 m walkway to the right. He is aware of the maximum driveway width and will update his zoning plan (below) for the Zoning Certificate that is required for building permit review to show both walkways (and material used) and maximum driveway width and ensure it is corrected on the property. This will also be followed up by staff as part of the building permit/zoning inspections.

Regarding the rear yard which is also covered in recycled asphalt and is not permitted to be used for a 'parking lot'. The applicant is aware that a maximum of three parking spaces are permitted in the rear yard. He will update his zoning plan to show the spaces and any remaining area will have to be changed to an alternate material to differentiate parking area from non-parking area. This will also be updated on the zoning plan for the Zoning Certificate.

EXISTING DECK

It was noted from the site visit, there is an additional existing deck/porch behind a fence in the front yard that is not shown on the zoning plan.

The deck is permitted provided it is less than 1 metre in height above the grade, is located 3 metres from the front lot line and 1.2 metres from the side lot line. The applicant will have to provide these details on the zoning plan and if regulations not met, the deck to be removed, reconstructed to comply, or consideration of a new minor variance application required.

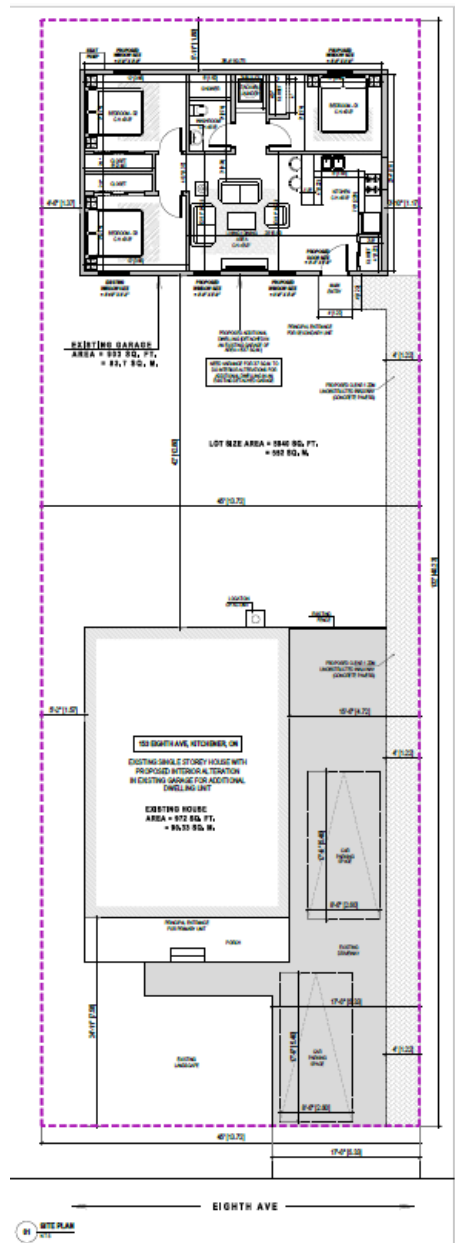


Figure 5 - Proposed zoning plan submitted with Zoning Certificate and this application.

EXISTING FENCE IN FRONT YARD

In addition, there is a 1.5 metre high solid wood fence in the front yard not shown on the zoning plan. Whereas the maximum fence height in the front yard is 0.9 metres if the deck/porch it surrounds it is 0.6 metres high or less. The applicant has been advised that these details to be supplied on the zoning plan to determine maximum height of fence. If the fence is not permitted, then a separate Fence Variance Application is required to be considered or the fence could be removed or reduced in height to comply. Staff will work with the applicant on his zoning plan to ensure this item is resolved.



Figure 6 - Existing front yard fence. Height 1.5 metres (4 ft, 11 in).

Environmental Planning Comments:

No comments.

Heritage Planning Comments:

No comments.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the change of use of the detached garage into a detached ADU is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

The side yard currently accommodates overland stormwater flows from the rear yard. A sidewalk is required to the rear yard in accordance with the Zoning By-law. The final grading of this property shall not adversely affect the drainage of adjacent properties or the overall grading control plan. The Owner is responsible to address storm water drainage at the Building Permit stage.

Parks/Operations Division Comments:

The existing driveway on the property is not as shown on plans. See Staff comments above.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

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*