

Staff Report



REPORT TO: Committee of Adjustment

DATE OF MEETING: November 19, 2024

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

PREPARED BY: Arwa Alzoor, Planner, 519-783-8903

WARD(S) INVOLVED: Ward 2

DATE OF REPORT: November 1, 2024

REPORT NO.: DSD-2024-473

SUBJECT: Minor Variance Application A2024-096 –
165 Fairway Road North

RECOMMENDATION:

That Minor Variance Application A2024-096 for 165 Fairway Road North requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 5.3.3 b) i) to permit the required parking to be located in the front yard, whereas the by-law does not permit parking in the front yard;**
- ii) Section 5.6 a) to permit a parking requirement of 0.6 parking spaces per dwelling unit (20 parking spaces) instead of the minimum required 1 parking space per dwelling unit (33 parking spaces) and 0.09 visitor parking spaces per dwelling unit (3 parking spaces) instead of the minimum required 0.15 visitor parking spaces per dwelling unit (5 parking spaces);**
- iii) Section 7.3, Table 7-6, to permit a northerly interior side yard setback of 0 metres and a southerly interior side yard setback of 1.8 metres instead of the minimum required 3 metres;**
- iv) Section 7.3, Table 7-6, to permit a rear yard setback of 0.1 metres instead of the minimum required 7.5 metres;**
- v) Section 7.3, Table 7-6, to permit a Floor Space Ratio of 0.75 instead of the maximum permitted 0.6; and**
- vi) Section 7.3, Table 7-6, to not require ground floor level units to have a patio area adjacent to the dwelling unit with direct access to such dwelling unit;**

to facilitate the conversion of an existing industrial building with a front addition to a Multiple Dwelling with 33 dwelling units, generally, in accordance with Site Plan Application SP24/047/F/AA, BE DEFERRED until March 19, 2025, or earlier, in accordance with the following:

1. Until such time that Site plan Application SP24/047/F/AA, receives 'Conditional Approval', and that all redlined comments are resolved to the satisfaction of the Manager of Site Plans.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the conversion of an existing industrial building with a front addition to a Multiple Dwelling with 33 dwelling units.
- The key finding of this report is that staff are not satisfied with the proposed development, as it is not considered compatible. Staff recommends that the minor variance application be deferred to allow the opportunity for the applicant to address the redlined site plan comments to improve the compatibility of the development.
- 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 in the Centreville Chicopee neighbourhood north of King Street East on Fairway Road North.



Figure 1: Location Map

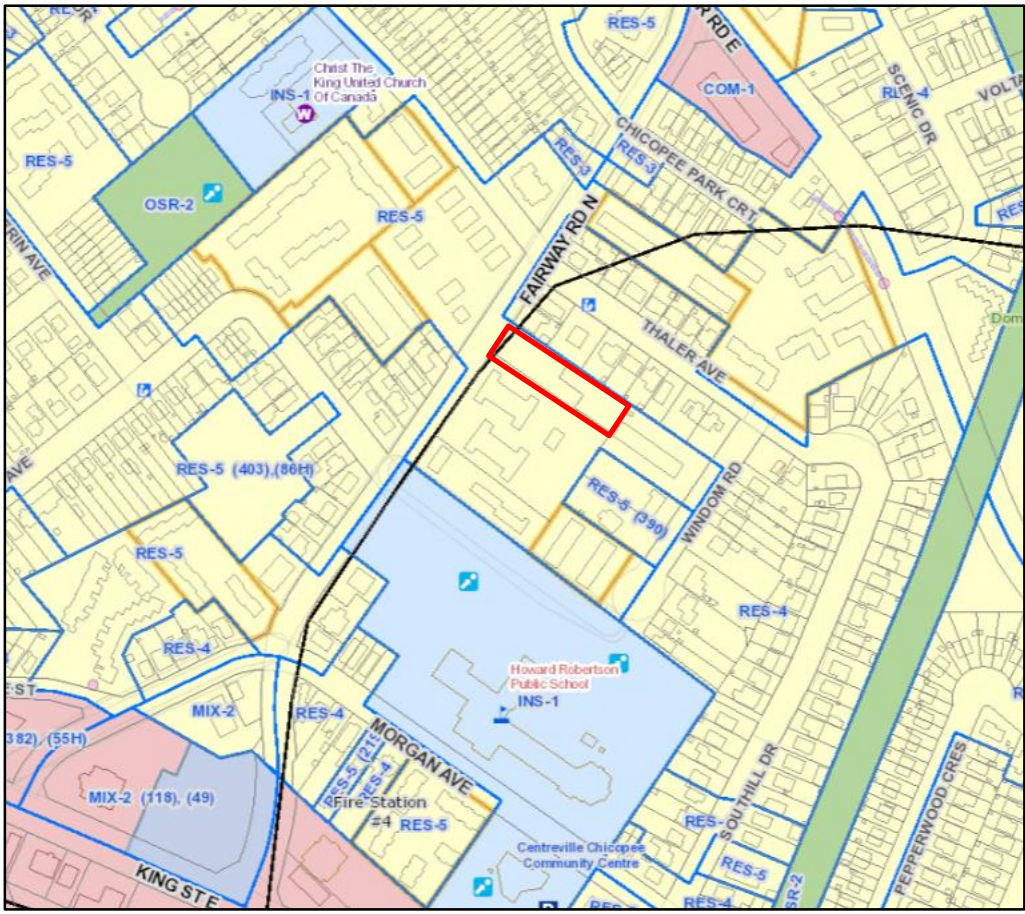


Figure 2: Zoning Map

The subject property is identified as a '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 Five Zone (RES-5)' in Zoning By-law 2019-051.

The purpose of this application is to facilitate the conversion of an existing industrial building, with a front addition, into a multiple dwelling with 33 residential units.

The building was originally constructed as a single detached dwelling, with an industrial addition added later. In 2019, a Site Plan Application (SP19/018/F/TS) was submitted to convert the building into a multiple dwelling having a total of 7 units, which received 'Conditional Approval'. As part of this process, a Minor Variance Application was required to recognize the existing setbacks and allow parking spaces at the front of the building. Although the minor variances were approved, the Site Plan Application did not proceed further.

The current Site Plan Application proposes converting the building into a 33-unit multiple dwelling. It has received 'Redlined Conditional Approval' with comments emphasizing the need to improve site functionality and circulation. This redlined conditional approval was issued to meet the municipality's 60-day timeline requirement for either redlined conditional approval or conditional approval. However, staff continue to work with the applicant to address functionality concerns, as significant issues related to site

overdevelopment include lack of indoor and outdoor amenity space, reduced parking, and existing setback limitations.

While staff support the provision of additional housing, it is crucial that this site provides quality living in a functional and livable environment. Therefore, a deferral is recommended to allow staff and the applicant to address these variances and make the proposal more compatible with community standards and livability goals.

The requested variances are:

- to permit a parking reduction to 23 parking spaces instead of the minimum required 38 parking spaces, and for the parking spaces to be located in the front yard;
- to permit reduced side yard and rear yard setbacks;
- an increased Floor Space Ratio; and
- to not require ground floor units to have patio areas that comply with the requirements of 11 square metres for ground floor units.

Once the redlined comments are addressed, minor variance are still anticipated to be required; however, they will be more supportable as they will align with the City of Kitchener's Urban Design Guidelines and satisfy the four tests of the Planning Act.



Figure 3: Site Plan

Staff have visited the site on Friday, November 1st, 2024.



Figure 4: Front of the Existing Building



Figure 5: An image Showing Existing Side yard Setback



Figure 6: An Image Showing Existing View of The Proposed Parking Lot



Figure 7: An Image Showing the Subject Property from Fairway Road North

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, which contains a number of policies related to density in low-rise residential areas. The Low Rise Residential land use designation accommodates a full range of low-density housing types, including single detached dwellings, duplex dwellings, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings and special needs housing.

Setbacks: The existing setbacks reflect a longstanding condition that has functioned without issues over an extended period. The proposed conversion of the building from industrial to residential use enhances compatibility with the residential nature of the surrounding area. It aligns with the Official Plan's intent to support residential uses within this designation.

Parking: Policy 13.C.8.6 states that the City may consider adjustments to parking requirements for properties within an area or areas, where the City is satisfied that adequate alternative parking facilities are available, where developments adopt transportation demand management (TDM) measures or where sufficient transit exists or is to be provided. Transportation staff have reviewed the parking study, which provides a recommendation that the site has comprehensive TDM measures. Transportation staff have no concerns with this reduction.

Floor Space Ratio: Policy 15.D.3.11 applies a maximum Floor Space Ratio (FSR) of 0.6. However, site-specific increases up to a maximum FSR of 0.75 may be considered, where it can be demonstrated that the increase in the FSR is compatible. The proposal to add 33 dwelling units and a front addition to the existing building increases the density in a manner that does not align with the intent of the Official Plan, as it does not ensure compatibility with the surrounding area. The site is considered overbuilt, with limited indoor and outdoor amenity space, reduced parking, and restricted setbacks due to existing conditions. Expanding the building footprint further adds to these limitations and introduces additional challenges in meeting the intended urban form and function.

Private patio: Policy 15.D.3.3 states the City will apply design principles in accordance with the Urban Design Policies in Section 11. An emphasis will be placed on adequate and appropriate amenity areas, and landscaped areas will be provided on-site. None of the ground-floor units provide the required 11 square meters of private patio space, nor are balconies provided for the second-floor units. Additionally, the proposal lacks an indoor amenity area, and the exterior amenity space is minimal, situated between a fence, retaining wall, and garbage wells. This arrangement is not considered practical for the proposed one- and two-bedroom units. Overall, the amenity provisions fall short of the standards set out in the Urban Design Manual guidelines

In addition, policy 4.C.1.8 f) states that the impact of each special zoning regulation or variance will be reviewed prior to formulating a recommendation to ensure that a deficiency in the one zoning requirement does not compromise the site in achieving objectives of compatible and appropriate site and neighbourhood design and does not create further zoning deficiencies.

As such, staff are of the opinion that the general intent of this policy cannot be satisfied until the applicant reduces the additional area added to the building to improve the proposed floor space ratio and add more amenity space.

General Intent of the Zoning By-law

Setbacks: the intention of the setback requirement in the zoning by-law is to ensure that the property has space for walkway, amenities, circulation, parking, pathways and separation from the street and abutting lots. The requests for legalizing, the side yards and rear yard all recognize an existing situation. The building was used at one point as a tool and die shop; however, its use has ended. The building has existed for several years with no negative impact on the surrounding neighbourhood, and the applicant has advised that the building will continue to exist as is.

Parking location: The requested minor variance to permit the required parking located between the front façade and the front lot line recognizes an existing situation. The zoning requirement to not permit parking between the front façade and the lot line, is to ensure that a parking lot doesn't dominate the front street and to provide an adequate buffer from the street. The proposed parking lot is setback approximately 4.8 metres from the front lot line with an additional road widening area, providing a sufficient buffer from the street. This setback, combined with landscaping opportunities, can help mitigate the visual impact on the streetscape, maintaining a balance between functionality and urban design goals. Given that this layout reflects the existing conditions, the minor variance supports a reasonable use of the property without compromising the intent of the zoning bylaw to limit front yard parking.

Parking reduction: The intent of the requirement for 1 parking space per dwelling unit and 0.15 visitor spaces per dwelling unit is to ensure adequate parking for residents and visitors. The proposal seeks a reduction to 0.6 parking spaces per dwelling unit (20 spaces total) and 0.09 visitor spaces per dwelling unit (3 spaces total). A parking study was submitted in support of this reduction and was reviewed by Transportation Services staff, who have no concerns regarding the proposed rate. Additionally, the property is well-served by active transportation options nearby, and sufficient bicycle parking is available to encourage alternative transportation methods. Staff are of the opinion that the proposed parking rate adequately meets the needs of the future residents and aligns with the intent of the zoning by-law

Private Patio: The intent of the required private patio is to ensure that each unit has enough private amenity space to enhance residents' quality of life. Common amenity space is also important as it promotes well-being, fosters a sense of community, and allows residents to enjoy outdoor environments. The lack of private patio space for ground-floor units does not meet the intent of the zoning by-law, as the site lacks adequate private amenity areas and is not in close proximity to a public park. With the proposed increase in density, the absence of private outdoor space limits the quality and livability of the housing for future residents. Providing accessible, private outdoor space is essential to ensure that the development supports a high standard of residential livability.

Floor Space Ratio: The 0.6 Floor Space Ratio (FSR) is a regulation in the Zoning By-law intended to ensure that development is compatible in scale and form with other low-rise housing types in adjacent properties. The proposed increase in FSR adds mass to the

existing building, leading to a density that does not comply with required setbacks, parking provisions, or amenity space. This additional massing pushes the building closer to the property line than allowed, resulting in reduced privacy and limiting functional amenities for residents. The cumulative effect of these variations does not meet the Zoning By-law intent of the FSR to provide compatible, livable residential development within a balanced urban form.

Based on these concerns, staff recommend deferring this application to allow the applicant an opportunity to revise and improve the proposal, ensuring it better aligns with the Zoning By-Law requirements.

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

The potential individual and cumulative impacts of the requested variances relating to existing setbacks, parking location and reduction, floor space ratio, and the lack of ground floor patios are significant, as they currently do not align with the intent of the Official Plan and zoning by-law. To consider these variances minor in nature, it is essential to reduce the building's massing and address the redlined conditional approval comments to better integrate with surrounding properties and improve site functionality. Therefore, staff are not satisfied that the effects of the proposed variances can be considered minor until these outstanding issues are resolved.

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

The requested variance will facilitate a form of missing middle housing inventory, converting the existing industrial building into a multiple dwelling by making use of existing infrastructure. However, the accumulation of variances results in an overbuilt area relative to the available site area. Therefore, staff recommend a deferral to allow revisions that would better meet these objectives and create a more desirable development for future residents.

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 provided building permit for the change of use of the existing industrial building into a residential building is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions

Engineering Division Comments:

No comments.

Parks/Operations Division Comments:

Park planning concerns including required park dedication as cash in lieu of land will be addressed through SP24/047/F/AA.

Transportation Planning Comments:

Transportation Services has no concerns with this application.

The 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-19-217*