

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: Ben Suchomel, Student Planner, 519-783-8948

WARD(S) INVOLVED: Ward 5

DATE OF REPORT: November 06, 2024

REPORT NO.: DSD-2024-476

SUBJECT: Minor Variance Application A2024-090 – 386 Wake Robin
Crescent

RECOMMENDATION:

That Minor Variance Application A2024-090 for 386 Wake Robin Crescent requesting relief from Section 4.1 d) of Zoning By-law 2019-051 to permit a maximum height to the underside of the fascia of 4 metres instead of the maximum permitted 3 metres, and to permit a building height of 6.3 metres instead of the maximum permitted 5.5 metres to facilitate the construction of a second storey addition to an existing accessory structure, generally in accordance with revised drawings prepared by Perspective Views Architectural Designs, dated November 11, 2024, BE REFUSED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review and recommend the refusal of the minor variance application to facilitate a second storey addition to an existing accessory structure.
- The key finding of this report is that the minor variances do not meet the four tests set out within 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 Northwest Side of Wake Robin Crescent. It is located within the within the Laurentian West Neighbourhood, which is primarily comprised of low-rise residential uses of varying dwelling types.

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.

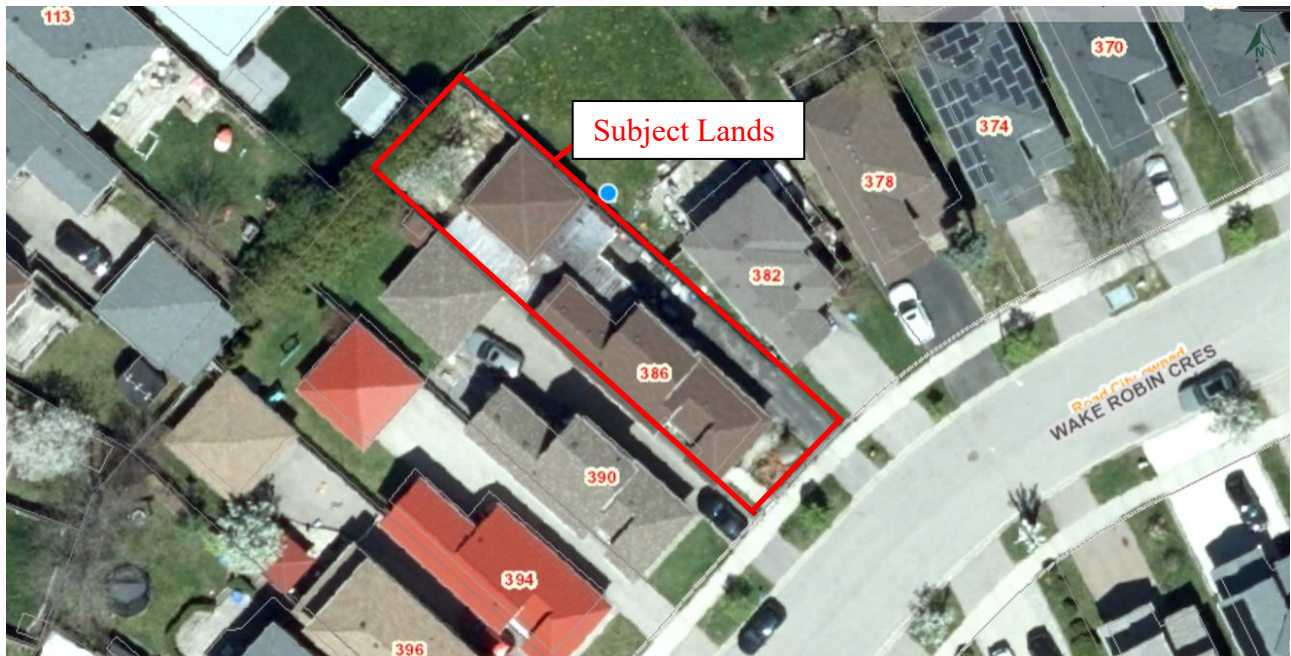


Figure 1: Location Map – 386 Wake Robin Crescent (Outlined in Red)

The purpose of this application is to enable a second-storey addition to be constructed on an existing accessory structure. It is important to note that the Applicant initially submitted a Minor Variance Application to allow for an Additional Dwelling Unit (ADU) (Detached) within the accessory structure. However, staff advised that the conversion of the existing accessory structure, with a 2nd storey addition, to a Detached ADU could not be supported, as the property could not provide the required 1.1 metre unobstructed walkway and sufficient on-site parking. After extensive collaboration and upon being informed of staff's recommendation that the current design would not be supported, the applicant chose to defer the application and work with staff to revise the proposal.

Subsequently, the applicant amended the application to seek relief from Zoning By-law 2019-051 to permit the addition of a second storey to the existing accessory structure, while proposing a setback of 0.6 metres from the property line.

However, at the time the revised Minor Variance application was submitted, the applicant further modified the proposal to remove the 0.6 metre setback required by 2019-051 to align with the existing footprint of the accessory structure at 0 metres, which complied with the regulations in Zoning By-law 85-1.

Although there is an existing maintenance easement registered on title for the existing accessory structure, Zoning By-law 2019-051 does not permit the construction of accessory structures at 0 metres with an easement. Accordingly, the second storey would not be able to be constructed at a 0 metre setback.

The revised application failed to include the necessary variance to permit the construction of a second storey at 0 metres with the existing easement. Accordingly, the applicant was contacted and revised drawings illustrating that the second storey addition would be setback 0.6 metres from the side lot line were received on November 11, 2024.

Staff note that there is an easement adjacent to the current accessory structure, which is intended to facilitate the continued use and maintenance of the accessory structure and could support maintenance of the proposed second storey addition. However, upon the completion of a site inspection, staff note that the easement is inaccessible because it has been fenced off, which could have the potential to impact the long-term maintenance of the accessory structure.

Staff emphasize that if the Committee wishes to approve the variances to permit an increased height for the accessory structure, they would still not be able to create an Additional Dwelling Unit (ADU) (Detached) without obtaining other necessary variances and building permits.

It should also be noted that Zoning By-laws 85-1 and 2029-051 do not permit accessory structures to be used for human habitation.

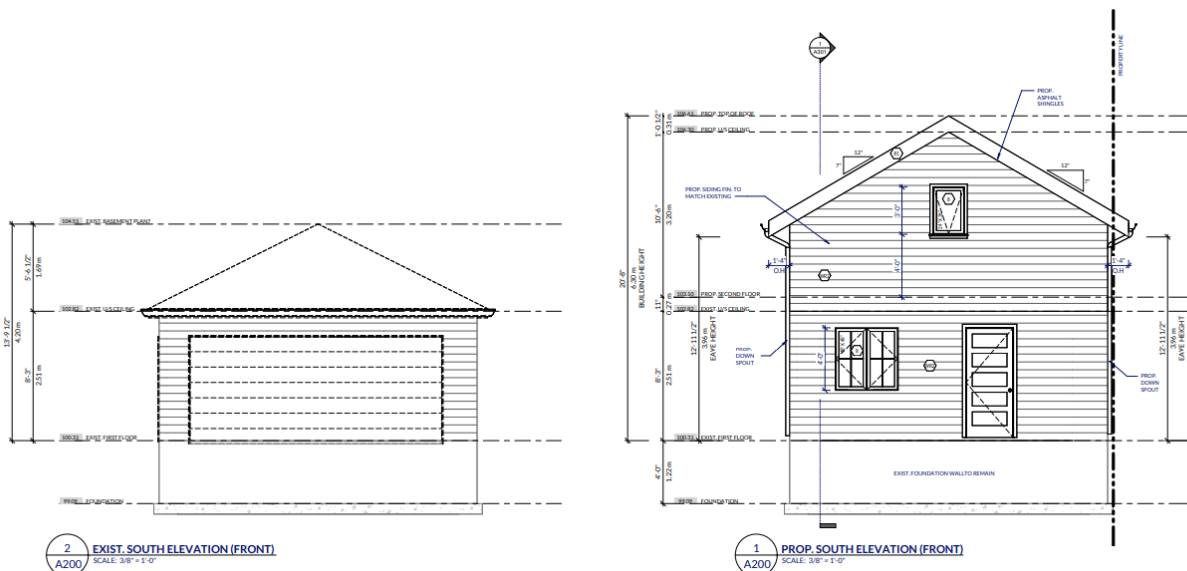


Figure 2: South Elevation

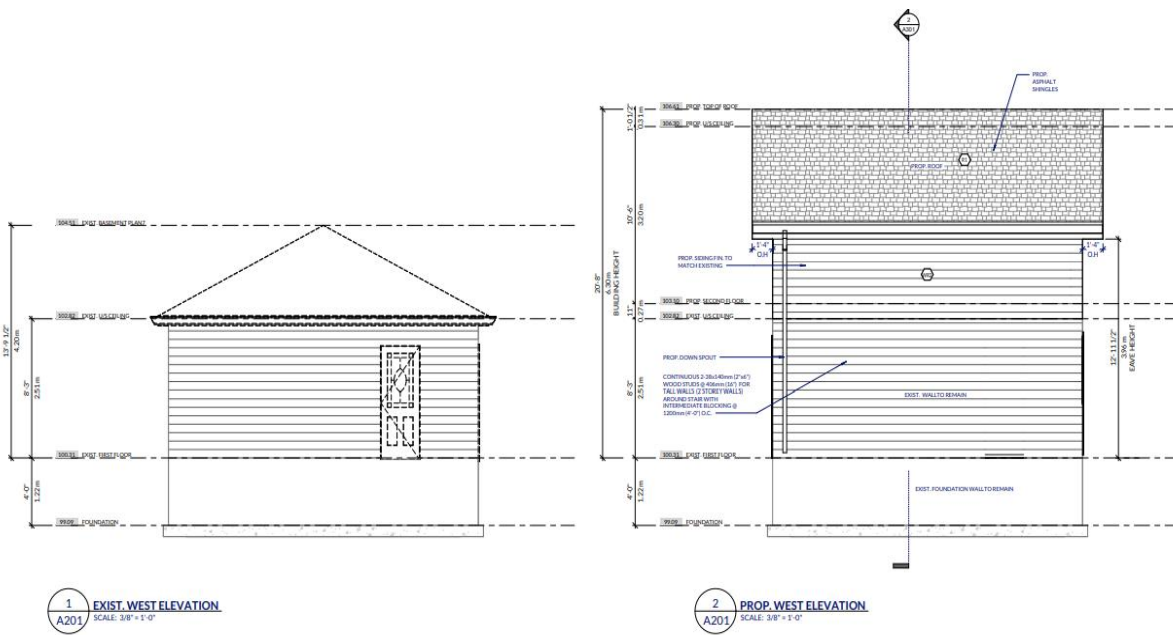


Figure 3: West Elevation

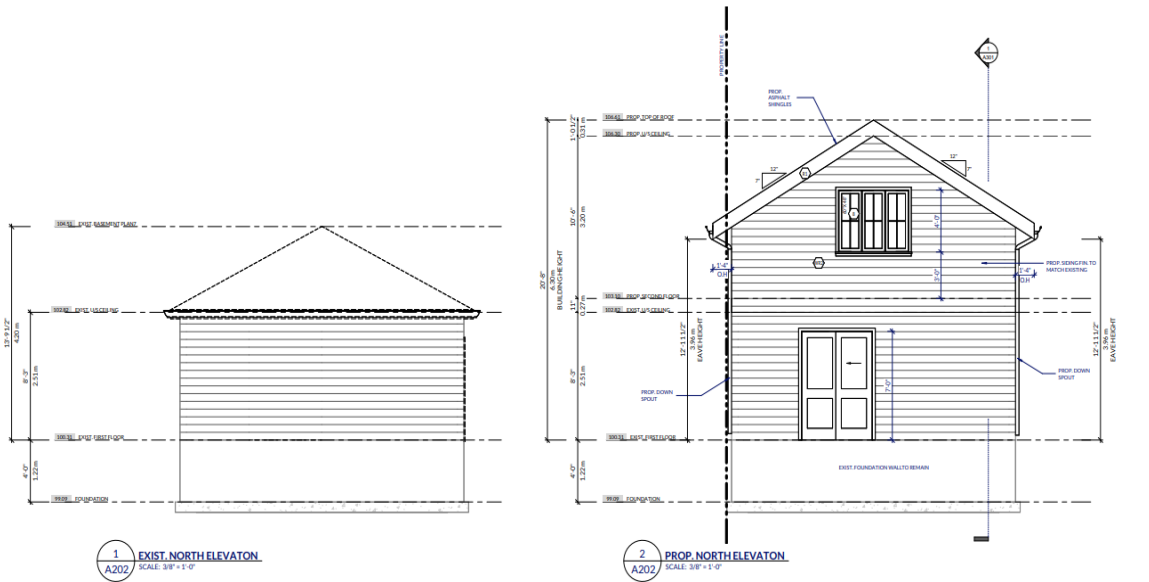
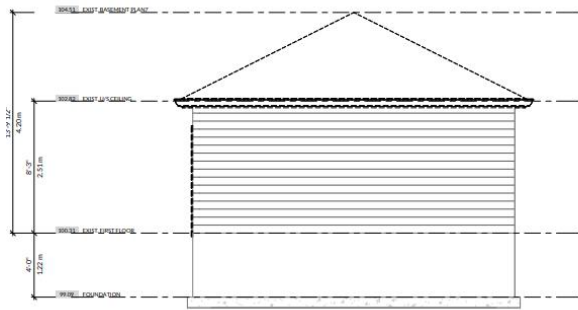
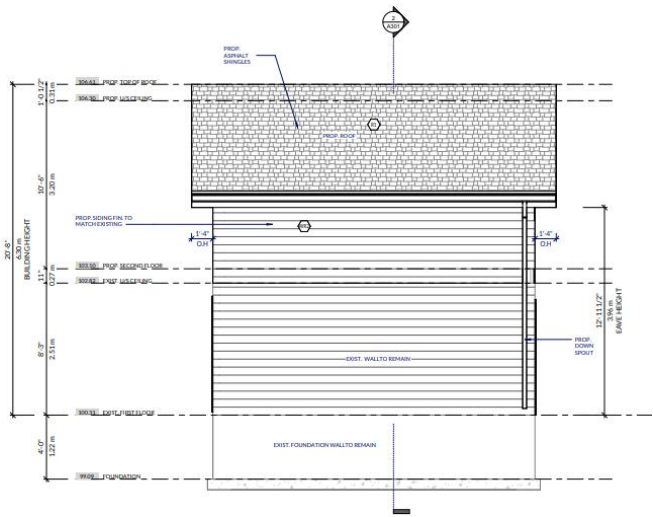


Figure 4: North Elevation

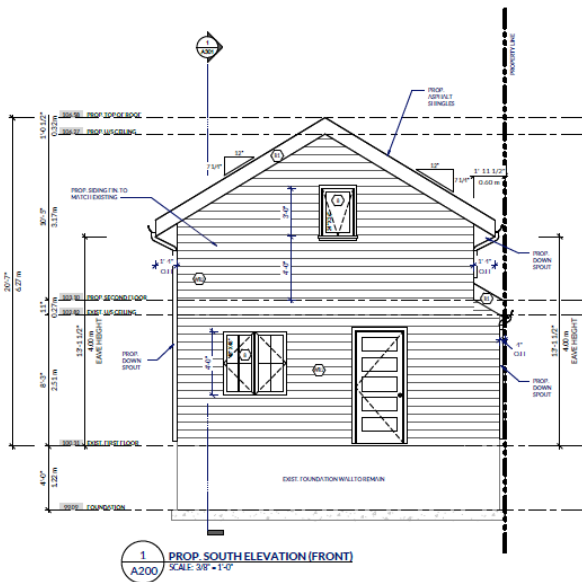


1
A203
EXIST. EAST ELEVATION
SCALE: 3/8" = 1'-0"



2
A203
PROP. EAST ELEVATION
SCALE: 3/8" = 1'-0"

Figure 5: East Elevation



1
A200
PROP. SOUTH ELEVATION (FRONT)
SCALE: 3/8" = 1'-0"

Figure 7: Revised South Elevation (showing 0.6 metre setback for 2nd floor)

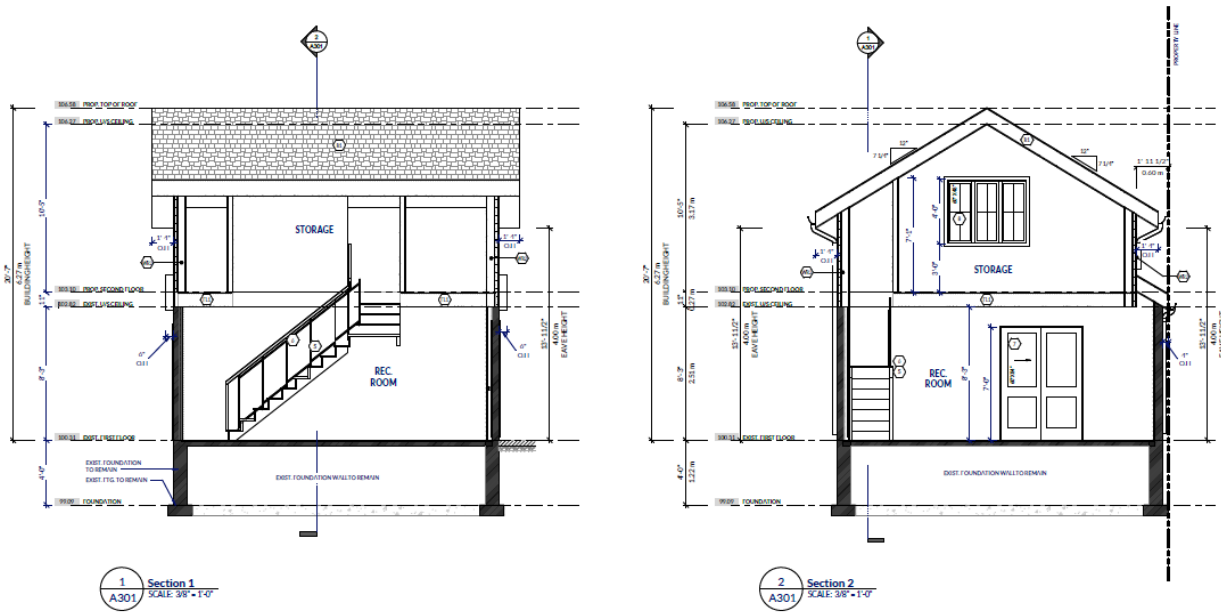


Figure 8: Revised Interior Layout

Planning staff conducted a site visit on October 31, 2024.



Figure 8: Existing Site Conditions at 386 Wake Robin Crescent on October 31, 2024.



Figure 9: Existing Accessory Structure at 386 Wake Robin Crescent on October 31, 2024.

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 as 'Low Rise Residential' within the City's Official Plan. This designation emphasises the importance of ensuring compatibility in building form with regard to the massing, scale, and design, which is essential for facilitating the successful integration of diverse building types. Furthermore, it emphasizes the relationship between residential structures and adjacent buildings, streets, and public spaces. The accessory structure use conforms to the land use designation; however, it is not clear whether the proposed height, massing and scale is compatible and in keeping with the intent of the land use designation. While the use meets the intent, staff are of the opinion that the variances to permit an increase in height may not meet the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the maximum height to the underside of the fascia for an accessory building is to ensure that accessory structures are not excessive in height and to ensure neighbouring properties do not have adverse impacts from large rear yard structures. The

proposed second storey may create significant privacy concerns for properties in the vicinity, particularly the adjacent property, due to its proposed height.

Furthermore, the requested height increase for the accessory structure is greater than the maximum permitted height for an Additional Dwelling Unit (ADU) (Detached) which is 6.0 metres where the principal dwelling has a building height equal to or greater than 9.1 metres.

Although the second storey is now proposed to be setback 0.6 metres from the side lot line, upon a site inspection, staff note that the easement is not accessible, and has been fenced off, which may impact the ability to support long-term maintenance of the accessory structure.

Staff is of the opinion that the requested variances do not maintain the general intent of the Zoning By-law.

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

Staff are of the opinion that the requested variances are not minor in nature. Specifically, the increase in fascia height, as well as the overall height of the structure, is expected to have considerable impacts on adjacent properties, the view from the street, and overall character of the broader neighborhood.

The 2-storey accessory structure will result in height/massing impacts to abutting properties beyond that of a typical accessory structure. Furthermore, this modification could lead to privacy issues for neighboring properties, as well as increased shade impacts.

As a result, staff concludes that the overall effects of the variances will be not minor in nature.

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

It is staff's opinion that the variances are not desirable for the appropriate development and use of the accessory structure and use of the property. The increase in building height results in a 2-storey accessory structure which will have a building height greater than a Detached ADU and will have the appearance of a single detached dwelling rather than a detached garage.

It is unclear of the need or purpose of the increase building height of the accessory structure and staff have concerns with the accessory structure being utilized for human habitation based on conversations with the homeowner and the drawing illustrating the first floor being used for a 'rec room'.

Environmental Planning Comments:

No Environmental Planning comments or concerns.

Heritage Planning Comments:

No Heritage comments or concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance. A Building Permit application has been made to convert the existing detached garage into a Detached ADU.

If the Committee should approve the Minor Variance Application, it is suggested that a condition be added to require the Owner to modify their Building Permit Application to remove reference from the accessory structure being used for human habitation or as an Additional Dwelling Unit (ADU) (Detached).

Engineering Division Comments:

No comment.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Grand River Conservation Authority (GRCA) Comments:

GRCA has no objection to the approval of the application. The subject property does not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The property is not subject to Ontario Regulation 41/24 and, therefore, a permission from GRCA is not required.

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