

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** January 21, 2025

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

**PREPARED BY:** Evan Wittmann, Senior Planner, 519-783-8523

**WARD(S) INVOLVED:** Ward 9

**DATE OF REPORT:** January 8, 2025

**REPORT NO.:** DSD-2025-021

**SUBJECT:** Minor Variance Application A2025-003 – 126 Highland Rd. W.

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## RECOMMENDATION:

That Minor Variance Application A2025-003 for 126 Highland Road West requesting permission under Section 45(2)(a)(i) of the Planning Act, to permit the enlargement or extension of a legal non-conforming use, a Single Detached Dwelling in the “Mixed Use One Zone (MIX-1)” of Zoning By-law 2019-051, to facilitate the development of an Additional Dwelling Unit (ADU) (Attached), generally in accordance with drawings prepared by JR Design and Consultants, dated October 2024, BE APPROVED, subject to the following conditions:

1. That the Owner shall alter the existing driveway to conform with Zoning By-law 2019-051.
2. That the Owner shall complete the work, identified in Condition No. 1 above, by June 1, 2025. Any request for a time extension must be approved in writing by the Manager, Development Approvals prior to completion date set out in this decision. Failure to complete the condition will result in this approval becoming null and void.

## REPORT HIGHLIGHTS:

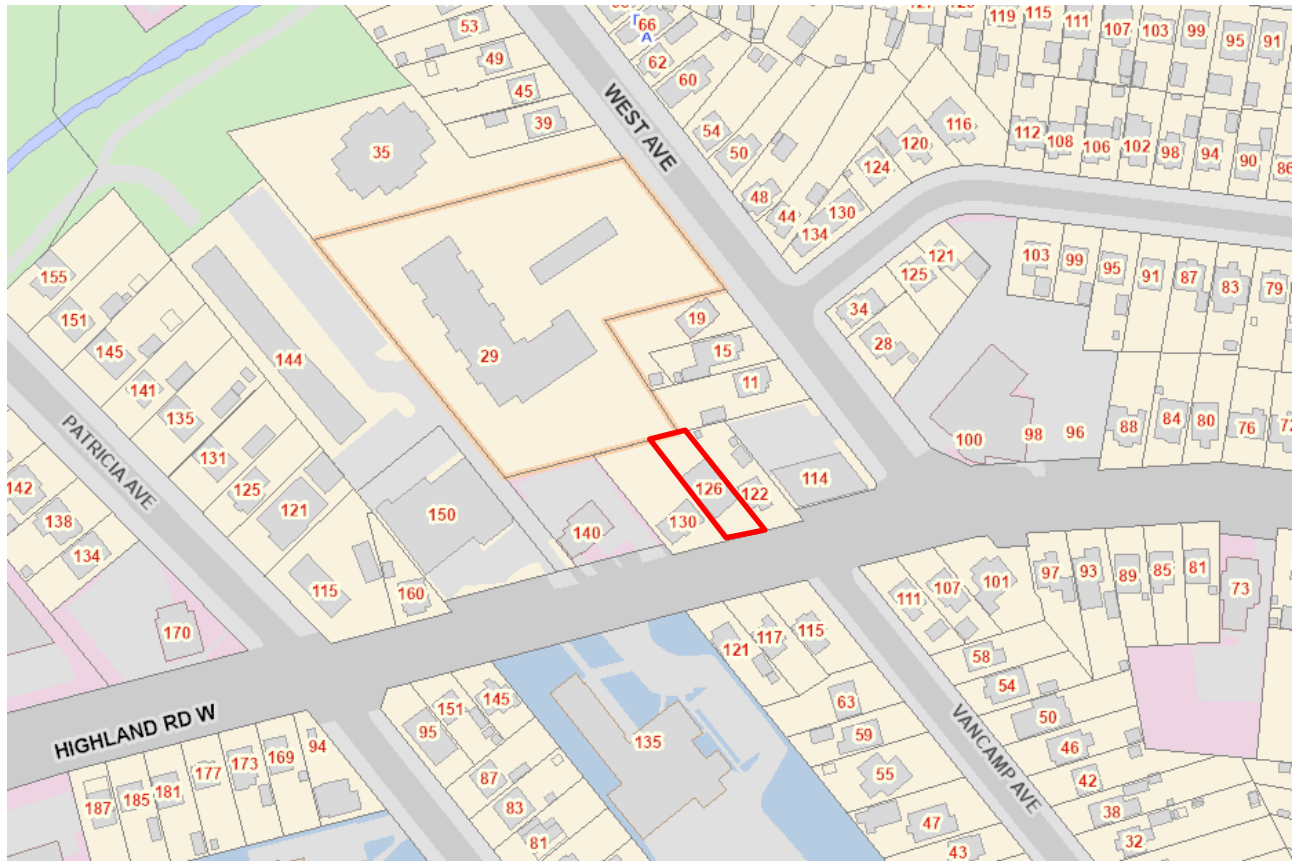
- The purpose of this report is to review and make recommendations with respect to the requested application for Permission for 126 Highland Road West.
- The key finding of this report is the application meets the applied tests and is recommended for approval.
- There are no financial implications.
- 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 north side of Highland Road West, between West Avenue and Patricia Avenue. A mix of residential and non-residential uses are located along this stretch of Highland Road West, with predominantly residential and institutional uses on the south side of the road.



**Figure 1 – Location Map**

The subject property is identified as 'City Node' on Map 2 – Urban Structure and is designated 'Mixed Use' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Mixed Use One Zone (MIX-1) with Site Specific Provision (62)' in Zoning By-law 2019-051. The 'MIX-1' zone does not permit stand-alone residential uses, resulting in the existing dwelling on the subject property being a legal non-conforming use as it was constructed prior to the current zoning coming into effect.

The purpose of the application is to permit the expansion of the legal non-conforming use to facilitate the creation of an Additional Dwelling Unit (ADU)(Attached) to essentially create a Duplex use of the existing building. The Planning Act permits the expansion of legal non-conforming uses, if certain criteria are met, as assessed in this report.



**Figure 2 - Photo of the Subject Property (Taken December 27, 2024)**

**REPORT:**

**Planning Comments:**

Case law sets out the tests to be applied by the Committee of Adjustment in considering applications under Section 45(2)(a)(i). It should be noted that the test to be applied is not the four-part test for minor variances under Section 45(1) but rather whether the approval of the application:

1. Is in the public interest; and
2. Creates unacceptable or adverse impact upon abutting properties.

Is Approval in the Public Interest?

Staff are of the opinion that the approval of this application is in the public interest as it would permit the use of the existing basement as an ADU (Attached). The proposed use would provide a form of gentle intensification, supporting the City’s Housing Pledge and increasing the range of housing options as directed in Official Plan policy 4.C.1.24. As residential uses already exist along Highland Road, there would not be a discernable impact to the surrounding uses in the area.

### Are There Adverse or Unacceptable Impacts?

Staff are of the opinion that permitting the use of the basement as an ADU (Attached) would not result in any adverse or unacceptable impacts. The current building is not conducive to mixed uses, and residential uses are permitted in the 'MIX-1' zone. As such, no land use impacts are anticipated. The required parking spaces can be accommodated on the site, and no new additional floor area is proposed to the existing building. Additionally, the basement unit is not visible from the public realm; therefore, no adverse or unacceptable impacts are anticipated.

### **Environmental Planning Comments:**

No comments.

### **Heritage Planning Comments:**

No comments.

### **Building Division Comments:**

No comments.

### **Engineering Division Comments:**

No comments.

### **Parks/Operations Division Comments:**

No comments.

### **Transportation Planning Comments:**

No comments.

### **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*

**ATTACHMENTS:**

Attachment A – Site Plan

# ATTACHMENT A

I, **ROBERT SAKIMONE**, declare (per name) that I have received and take responsibility for the design work on behalf of a firm registered under subarticle 3.2.4 Div. C of the Building Code. I am qualified, and the firm is registered, in the appropriate classes / categories.

Individual BCIN: 19478  
 Firm BCIN: 20563

*Robert Sakimone*  
 (Signature)

REVISIONS		
No.	REVISION	DATE BY
1	ISSUED FOR CLIENT APPROVAL	OCT 23, 25
2	ISSUED FOR BUILDING PERMIT	- -

**JR DESIGN AND CONSULTANTS**

- DESIGN DRAWINGS  
 - WORKING DRAWINGS  
 - RENOVATIONS  
 - INSPECTIONS

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 EMAIL: rob\_sakimone@jrcanad.com

PROJECT: PROPOSED SECONDARY UNIT  
 IN EXISTING HOUSE  
 126 HIGHLAND ROAD WEST  
 KITCHENER, ONTARIO

FILE: SITE PLAN

DRAWN BY: ROB SAKIMONE PROJECT NO.: 24-1025  
 SCALE: 3/32" = 1'-0" DATE NO.: A0  
 DATE: OCTOBER, 2024

