

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 10

DATE OF REPORT: January 8, 2025

REPORT NO.: DSD-2025-019

SUBJECT: Consent Application B2025-001 – 284 Duke Street East

RECOMMENDATION:

That Consent Application B2025-001 requesting consent to sever a parcel of land having a lot width of 12.7 metres, a lot depth of 12.1 metres and a lot area of 155.2 square metres to convey as a lot addition to 44 Betzner Avenue North, BE APPROVED subject to the following conditions:

1. That the Owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
3. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the lands to be severed be added to the abutting lands and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.
5. That the owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the

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Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.

Alternatively, if in the opinion of the City Solicitor, an Application Consolidation Parcels cannot be registered on title, the Owner shall take such alternative measures and provide such alternative documents to ensure that the severed parcel and receiving parcel are not separately encumbered, conveyed, or otherwise transferred from one another and shall remain in common ownership, at the discretion of and to the satisfaction of the City Solicitor.

- 6. That the Owner obtains a Demolition Permit, for the existing metal-clad garage proposed to be demolished, to the satisfaction of the Chief Building Official, and removes the existing metal-clad garage prior to deed endorsement.**
- 7. That the Owner submit the consent review fee of \$350 to the Regional Municipality of Waterloo.**

REPORT HIGHLIGHTS:

- The purpose of this report is to review and make recommendations with respect to the consent application for 284 Duke Street East and 44 Betzner Avenue North.
- Staff recommend that the application be approved.
- 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 Duke Street East, a short distance from the intersection of Duke Street East and Betzner Avenue North. 44 Betzner Avenue North is located on the west side of Betzner Avenue, a shorty distance north of the intersection with Duke Street East. The two properties share a property line (the rear yard of the Betzner Avenue North and side yard of the Duke Street East property).

The surrounding area is generally low-rise residential, with mixed non-residential uses along the nearby King Street East and Charles Street East corridors and westerly towards Downtown Kitchener.



Figure 1 - The subject properties (284 Duke Street East in red, 44 Betzner Avenue North in green) and surrounding property boundaries.



Figure 2 - Photo of 284 Duke Street East



Figure 3 - Metal-clad garage at rear of property



Figure 4 - Photo of 44 Betzner Avenue North

The properties are identified as 'Protected Major Transit Station Area' on Map 2 – Urban Structure and designated 'Strategic Growth Area A' on Map 3 – Land Use in the City's 2014 Official Plan.

Both properties are zoned 'Residential Five Zone (R-5)' in Zoning By-law 85-1. Both properties are also zoned 'SGA-1' in Zoning By-law 2019-051 (Amending By-law 2014-065 currently under appeal and not in effect).

The purpose of the application is to sever the rear portion of 284 Duke Street East and add this area to the rear of 44 Betzner Avenue North. The severed area is roughly 155 square metres in area. The lands to be severed currently contains a metal-clad garage, which is proposed to be removed. Both 284 Duke Street East and 44 Betzner Avenue North contain a single detached dwelling, both of which will remain.

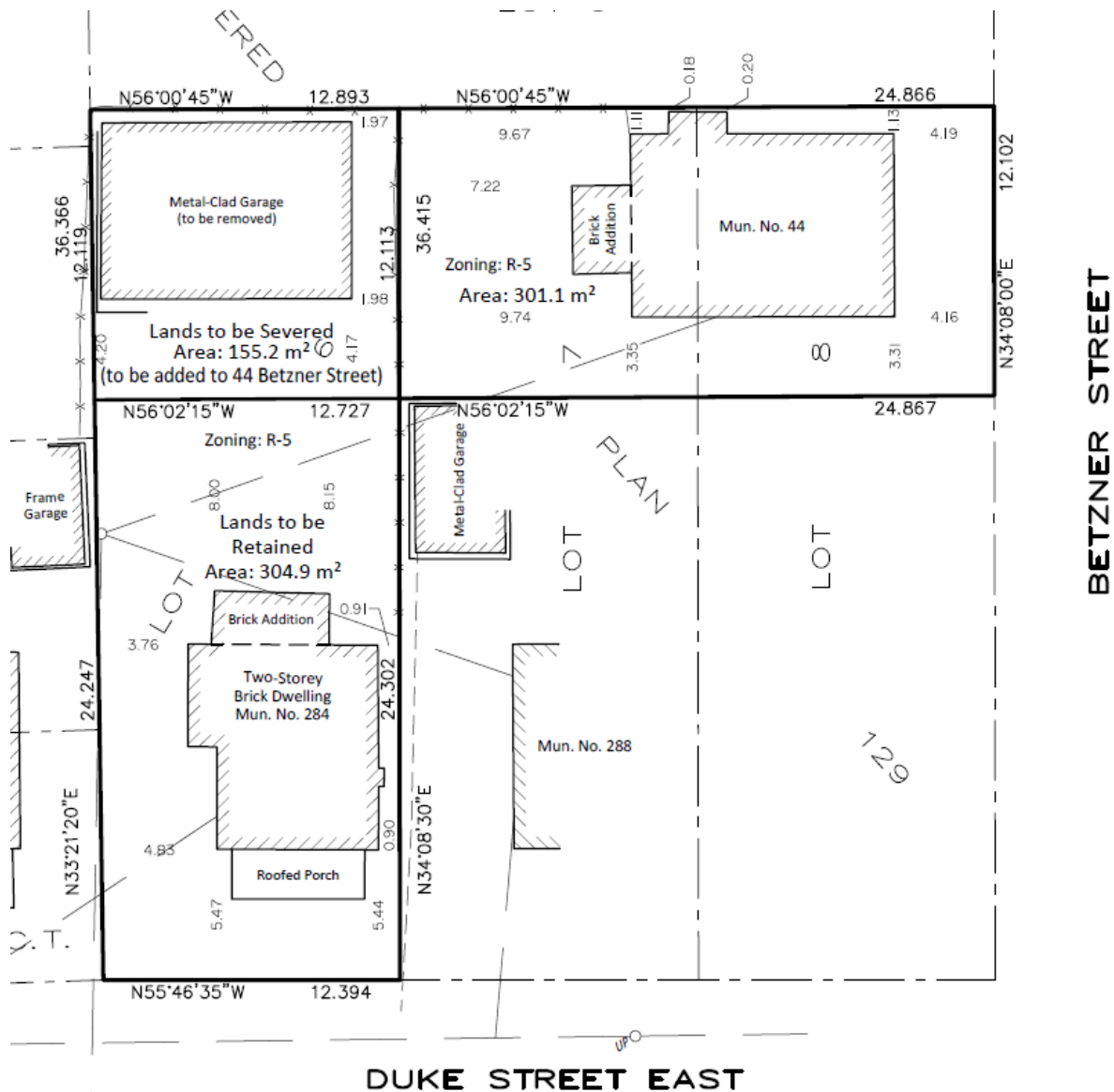


Figure 5 - Sketch of the proposed consent

REPORT:

Planning Comments:

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

Provincial Planning Statement (PPS 2024)

Staff are satisfied that the proposed severance applications are consistent with the Provincial Planning Statement in general and as it relates to housing policies in Chapter 2 regarding intensification and facilitating housing options. While no development is proposed through this application, the new parcel arrangement does not preclude infill development from occurring in the future, should Additional Dwelling Unit(s) wish to be pursued. Thus, Section 2.2 1 (b) of the PPS 2024, which states that Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents, can remain achievable.

Regional Official Plan (ROP):

ROP Urban Area policies state that the focus of the Region's future growth shall be within the Urban Area. The subject lands fall within the 'Urban Area' and are designated 'Built-Up Area' in the ROP. While no development is proposed through this application, the new parcel arrangement does not preclude the implementation of ROP policies. Further implementing the PPS 2024, Regional policies require municipalities to plan for a range of housing in terms of form, tenure, density, and affordability to satisfy the various physical, social, economic, and personal support needs of current and future residents. The neighbourhood provides for the physical and community infrastructure required for residential development, including transportation networks, municipal water and wastewater systems, and a broad range of social and public health services, conforming with Policy 2.D.1 of the ROP. Staff are satisfied that the proposed severance applications adhere to these policies and conform to the ROP.

City's Official Plan (2014)

The subject properties are identified as 'Protected Major Transit Station Area' on Map 2 – Urban Structure and is designated 'Strategic Growth Area A' on Map 3 – Land Use in the City's Official Plan.

Section 3.C.2.17 of the Official Plan Protected Major Transit Station Areas

"3.C.2.17. The planned function of Protected Major Transit Station Areas, in order to support transit and rapid transit, is to:

a) provide a focus for accommodating growth through development to support existing and planned transit and rapid transit service levels;

b) provide connectivity of various modes of transportation to the transit system;

c) achieve a mix of residential, office (including major office), institutional (including major institutional) and commercial development (including retail commercial centres), wherever appropriate; and,

d) have streetscapes and a built form that is pedestrian-friendly and transit-oriented.”

The preamble of Section 15 pertaining to Strategic Growth Area A provides the following:

“The Strategic Growth Area A land use designation is generally intended to accommodate intensification within existing predominantly low-rise residential neighbourhoods, lands further away from Rapid Transit station stops, and/or lands where existing lots are generally too small to support high rise buildings. It is anticipated that the majority of development and/or redevelopment will occur through infill including missing middle housing and compatible non-residential uses.”

The proposed consent application continues the exiting function of the subject properties and does not preclude future infill opportunities.

Section 15.D.2.55 of the Official Plan provides additional direction for Strategic Growth Area A lands:

“15.D.2.55. The Strategic Growth Area A land use designation will accommodate a range of low and medium density residential housing types including those permitted in the Low Rise Residential and Medium Rise Residential land use designation.”

The proposed consent application continues the existing low rise residential use of the properties, conforming to the intended function of Strategic Growth Area A lands.

Section 17.E.20.5 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding infill development and lot creation (Consent Policies). These policies state the following:

“17.E.20.5 Applications for consent to create new lots will only be granted where:

- a) the lots comply with the policies of this Plan, any Community Plan and/or Secondary Plan, and that the lots are in conformity with the Zoning By-law, or a minor variance has been granted to correct any deficiencies;
- b) the lots reflect the general scale and character of the established development pattern of surrounding lands by taking into consideration lot frontages, areas, and configurations;
- c) all of the criteria for plan of subdivision are given due consideration;
- d) the lot will have frontage on a public street;

- e) municipal water services are available;
- f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;
- g) a Plan of Subdivision or Condominium has been deemed not to be necessary for proper and orderly development; and,
- h) the lot(s) will not restrict the ultimate development of adjacent properties.”

The proposed consent application conforms to Official Plan policies, and in particular, policy 17.E.20.5.B. The existing lot lines are anomalous to the surrounding area. The rear yard of 284 Duke Street East extends unusually far, creating a shorter than typical property at 44 Betzner Avenue North. Through the proposed consent application, the lot lines will be aligned with the surrounding neighbourhood, demonstrating better conformity to Official Plan policy 17.E.20.5.B than the existing condition.

Zoning By-law 85-1

The subject properties are zoned as ‘R-5’ in Zoning By-law 85-1. The following zone provisions will be impacted by the proposed consent application: Lot Area, Rear Yard, and Lot Coverage. The following table outlines the R-5 requirement for each of these provisions, as well as the conformity of each property as proposed.

Zone Provision	Requirement	284 Duke Street East		44 Betzner Avenue North	
		Provided	Conformity	Provided	Conformity
Minimum Lot Area	235 m ²	304.9 m ²	Y	456.3 m ²	Y
Minimum Rear Yard	7.5 m	8 m	Y	19.9 m	Y
Maximum Lot Coverage	45%	< 45%	Y	< 45%	Y

Both lots, as proposed, will conform to the requirements of the ‘R-5’ zone of Zoning By-law 85-1.

Zoning By-law 2019-051

The subject properties are zoned as ‘SGA-1’ in Zoning By-law 2019-051, introduced as part of the Growing Together East initiative. Growing Together is currently under appeal, and as such the ‘SGA-1’ is yet to be in force and effect. Although not in effect, applications are tested against the new zoning for consistency. The three relevant zone provisions listed above remain the same in the ‘SGA-1’ zone, with Maximum Lot Coverage being increased to 55%. As such, the proposal conforms to the requirements of the ‘SGA-1’ zone of Zoning By-law 2019-051.

Planning Conclusions/Comments:

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the creation of the severed lots are desirable and appropriate.

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.

Region of Waterloo Comments:

Any submission requirements may be subject to peer review, at the owner/ Owner/Developer's expense as per By-law 23-062. If any other applications are required to facilitate the application, note that fees are subject to change and additional requirements may apply.

Any future development on the lands subject to the above-noted consent applications will be subject to the provisions of Regional Development Charge By-law 19-037 or any successor thereof. Prior to final approval, City staff must be in receipt of the above-noted Regional condition clearances.

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 (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 85-1 and 2019-051 (As amended by By-law 2024-065)*

ATTACHMENTS:

Attachment A – Consent Sketch

ATTACHMENT A

Sketch of Proposed Severance

LOT 6 REGISTERED PLAN 129 CITY OF KITCHENER REGIONAL MUNICIPALITY OF WATERLOO

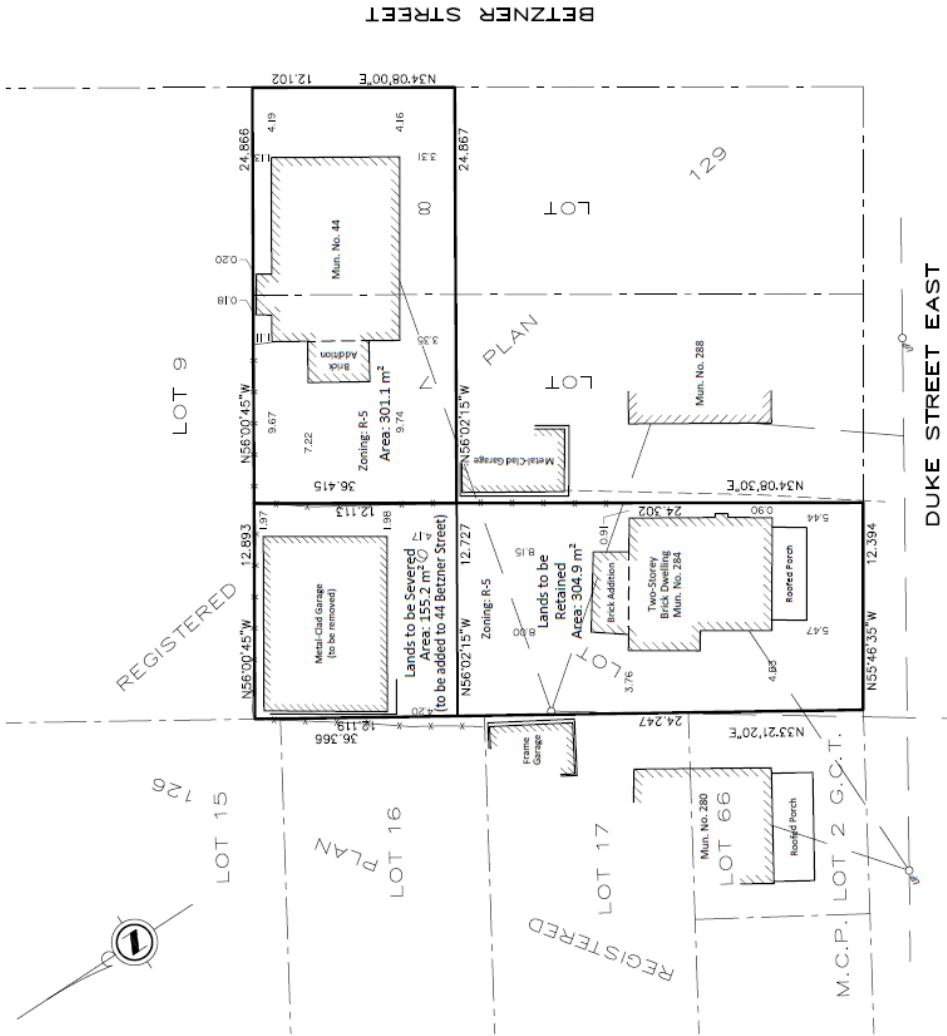
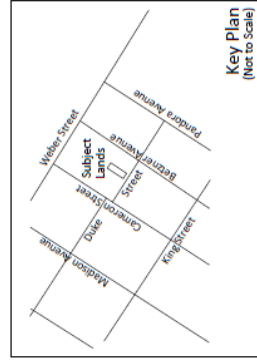
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J.D. BARNES LIMITED

SURVEYING
LAND INFORMATION SPECIALISTS
427 KENNEDY ST. E. KITCHENER, ON N2Z 2P9
TEL: (519) 336-2222 FAX: (519) 336-2622 www.jdbarnes.com

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