

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: February 18, 2025

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

PREPARED BY: Sean Harrigan, Senior Planning Technician, 519-783-8934

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: February 7, 2025

REPORT NO.: DSD-2025-071

SUBJECT: Minor Variance Application A2025-009 – 775 Queen St. S.

RECOMMENDATION:

That Minor Variance Application A2025-009 for 775 Queen Street South requesting Permission under section 45(2)(a)(ii) of the Planning Act to permit the enlargement or extension of a legal non-conforming use, a Single Detached Dwelling with one Additional Dwelling Unit (Attached), to facilitate the addition of an Additional Dwelling Unit (Detached) with 2 dwelling units for a total of 4 dwelling units on the subject property, generally in accordance with the plan received on January 22, 2025, prepared by Craig Dumart, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review the request for permission to expand a legal non-conforming use at 775 Queen Street South.
- The key finding of this report is that staff are satisfied that expanding the legal non-conforming use is in the public interest and does not create unacceptable impacts on abutting properties.
- 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 within the Mill-Courtland neighbourhood and is situated on the northeast corner of the intersection of Queen Street South and Highland Road East. The property has approximately 15 metres of frontage on Queen Street South and 30

metres frontage on Highland Road East and currently contains a Single Detached Dwelling with one Additional Dwelling Unit (Attached) which is a legal non-conforming use.



Figure 1: Location Map - 775 Queen St. S. (Outlined in Red)

The subject property is identified as 'Community Areas' 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 Zone 1 (MIX-1)' in Zoning By-law 2019-051. The property also falls within 'Appendix C – Central Neighbourhoods' and 'Appendix D – Established Neighbourhood Area' in Zoning By-law 2019-051.

The purpose of this permission application is to expand the legal non-conforming use, a Single Detached Dwelling with one Additional Dwelling Unit (Attached), to facilitate the construction of an Additional Dwelling Unit (Detached) with two dwelling units for a total of four dwelling units on the property. Staff note that the current MIX-1 zone permits a dwelling unit but only within a mixed use building where at least one permitted non-residential is located on the ground floor along the entire length of the street line façade. Neither the existing building nor proposed Additional Dwelling Unit (Detached) contain a ground floor non-residential use.

In addition to the permission application, a building permit and Zoning Occupancy Certificate is required before the Additional Dwelling Unit (Detached) can be constructed. The Zoning Occupancy Certificate process will ensure the proposed structure is zoning compliant with respect to such regulations as setbacks, building height, minimum landscaping, minimum parking, and maximum driveway width. The applicant has yet to submit a Zoning Occupancy Certificate which means staff cannot confirm the proposed structure is completely zoning compliant. However, staff noticed during a site visit that the existing driveway extends beyond the garage on both sides as shown in Figure 4 below and is approximately 13 metres wide. As per Zoning Section 5.1, whenever there is an

increase in gross floor area on a lot, such as adding an Additional Dwelling Unit (Detached), the provisions of Section 5 shall apply. This means the driveway must be reduced in width to comply with the current maximum permitted driveway width of 8 metres or otherwise permitted by a minor variance application before the Additional Dwelling Unit (Detached) can be zoning compliant. Any necessary driveway modifications will be managed as part of the Zoning Occupancy Certificate process.

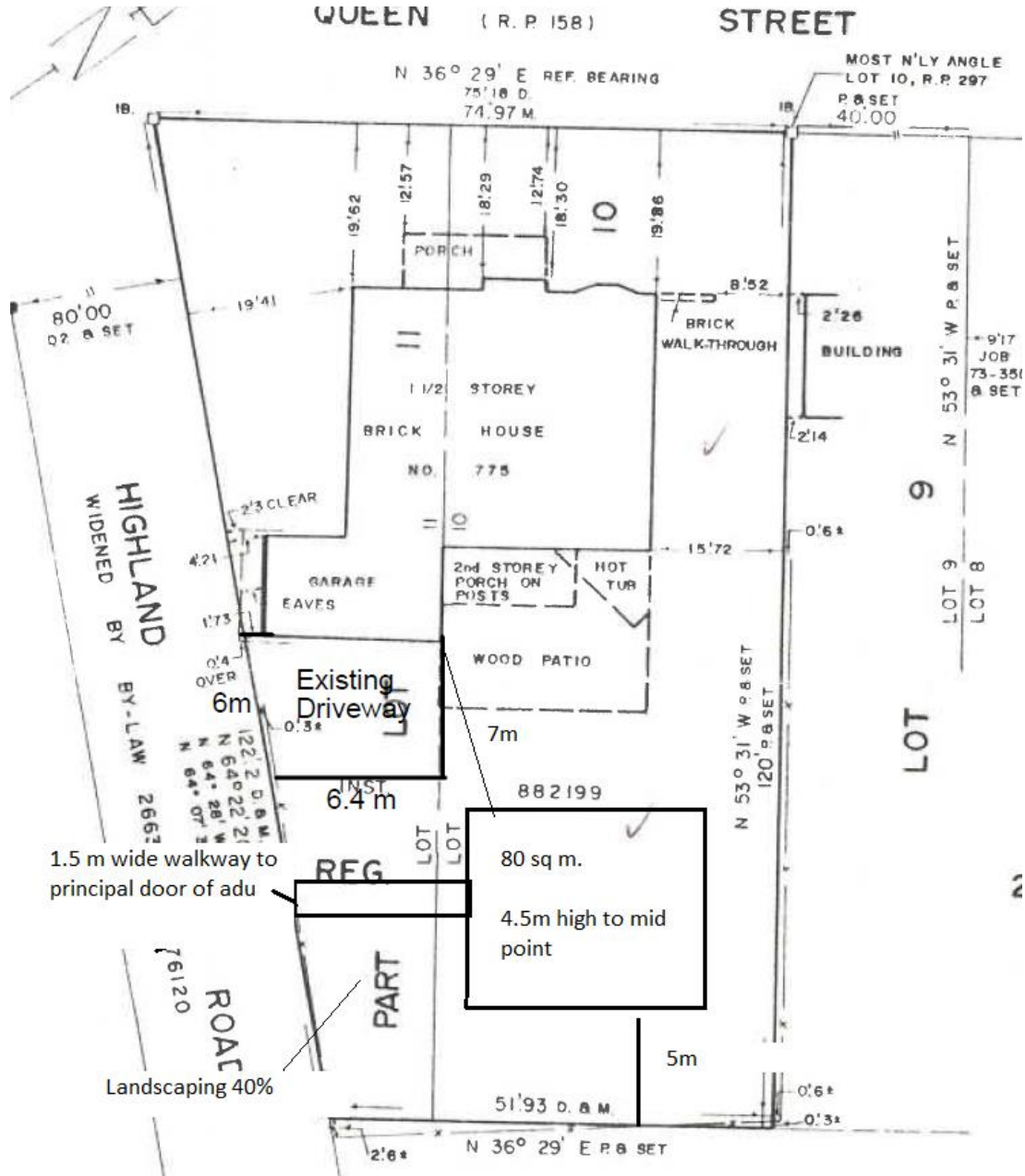


Figure 2: Site Plan for Additional Dwelling Unit (Detached)



Figure 3: Front of Existing Single Detached Dwelling with one Additional Dwelling Unit (Attached)



Figure 4: Existing Driveway



Figure 5: Proposed Location for Additional Dwelling Unit (Detached) in Rear Yard

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)(ii). 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 satisfied that request for permission to expand the legal non-conforming use to facilitate the construction of an Additional Dwelling Unit (Detached) with two dwelling units is in the public interest. The City of Kitchener is currently experiencing a housing crisis and

is looking for opportunities to facilitate residential development wherever appropriate, such as the proposed intensification on the subject property.

Any Adverse or Unacceptable Impacts?

The proposed expansion of the legal non-conforming use, a Single Detached Dwelling with one Additional Dwelling Unit (Attached), does not create any unacceptable or adverse impacts on abutting properties. The abutting property to the north is also zoned 'MIX-1' and as mentioned above, a dwelling unit is a permitted use provided the dwelling unit is located within a mixed use building with at least one ground floor non-residential use which abuts the entire street line façade. Since a dwelling unit is a permitted use, the other permitted uses within the 'MIX-1' are contemplated to be within close proximity of dwelling units. As such, adding more dwelling units to the subject property should not have unacceptable impacts on the abutting property to the north. The other abutting property to the east is Woodside Park which will not be negatively impacted by the expansion of the legal non-conforming use.

Environmental Planning Comments:

Environmental Planning has no concerns with this application.

Heritage Planning Comments:

The subject property is located adjacent to the Victoria Park Neighborhood Heritage Conservation District, and to 20-30 Woodland Road East, which is designated under Part IV of the Ontario Heritage Act. The proposed development is not anticipated to have any adverse impacts to the adjacent protected cultural heritage resources. Thus, staff have no concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided a building permit for the two detached additional dwelling units is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

Applicant will need to ensure site servicing is sufficient for additional ADU's at Building Permit stage.

Parks and Cemeteries/Forestry Division Comments:

Although no construction is proposed along Queen Street, there is an un-inventoried tree along the Queen Street Sout frontage that is likely a shared boundary tree and should be protected to required City standards throughout construction as per Chapter 690 of the current Property Maintenance By-law. I would also note that the existing driveways are wider than what is shown on the mark-up survey.

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