

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: Adiva Saadat, Planner, 519-783-7658

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: February 7, 2025

REPORT NO.: DSD-2025-059

SUBJECT: Minor Variance Application A2025-006 – 19 Carlin Avenue

RECOMMENDATION:

That Minor Variance Application A2025-006 for 19 Carlin Avenue requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.14.4 to permit a deck to be located 2.3 metres from the rear lot instead of the minimum required 4 metres; and
- ii) Section 7.3, Table 7-2, to permit a rear yard setback of 4.4 metres instead of the minimum required 7.5 metres;

to facilitate the development of 2 Additional Dwelling Units (ADU) (Attached) in the existing Single Detached Dwelling generally in accordance with drawings prepared by Vesselin Vassilev, dated January 6, 2025, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to permit the development of 2 attached additional dwelling units with a reduced rear yard setback.
- The key finding of this report is that the requested minor variance meets all four tests of 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 north-east side of Carlin Avenue and Dixon Street. It is in the Rockway neighbourhood which is primarily comprised of low-rise residential uses.

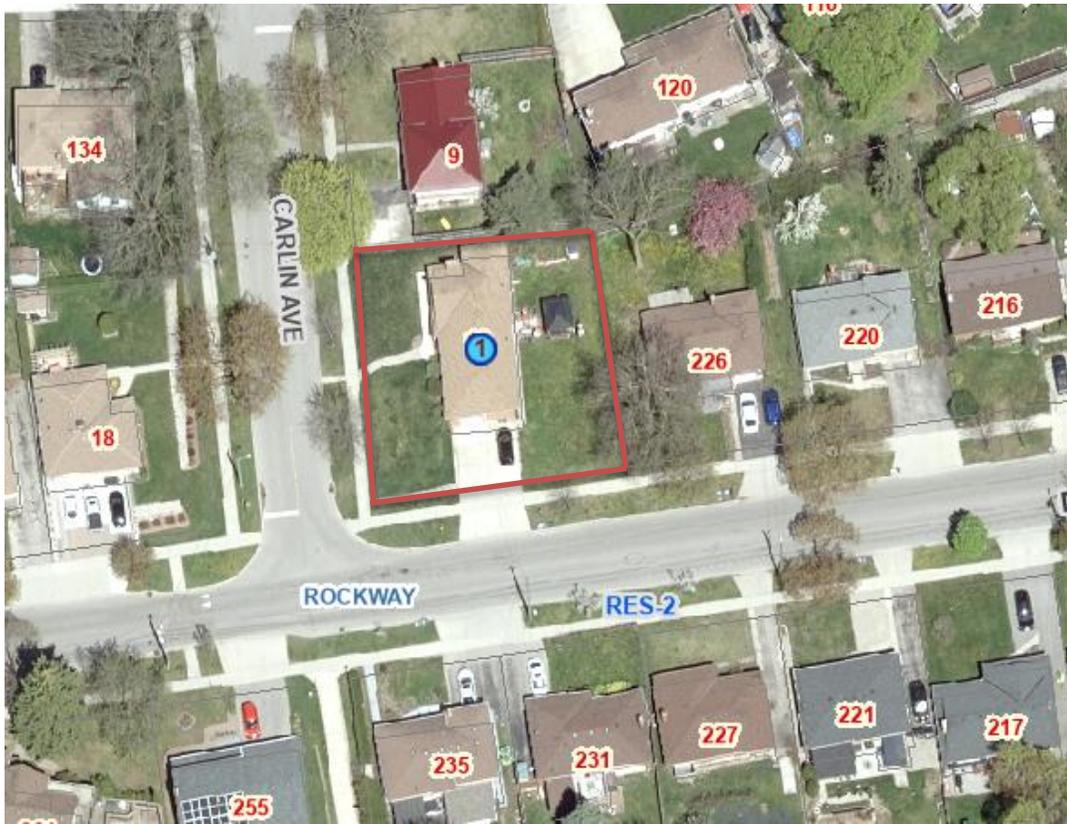


Figure 1: Location Map – 19 Carlin Avenue (Outlined in Red)

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 Two Zone (RES-2)' in Zoning By-law 2019-051.

The purpose of the application is to review minor variances to recognize the location of the existing building and deck to permit the development of 2 attached Additional Dwelling Units (ADU) (Attached) within the existing Single Detached Dwelling.

Under the previous Zoning By-law 85-1 the front lot line for a corner lot could be either lot line abutting a street. The single detached dwelling was constructed on the lot using Carlin Avenue as the front lot line.

"Front Lot Line" means the lot line abutting a street with the following exceptions:

- b) in the case of a corner lot containing or proposed to contain a single detached, semi-detached or duplex dwelling, any lot line abutting a street except a lot line forming part of a corner visibility triangle, may be deemed to be the front lot line, only for the purpose of determining front, side and rear yard requirements.*

The area now considered the rear yard was classified as an interior side yard because the front lot line was abutting the street Carlin Avenue.

However, under the current Zoning By-law 2019-051, the front lot line on a corner lot cannot be either lot line and is instead defined as the shorter lot line abutting a street, which is Dixon Street.

Lot Line, Front – means the lot line abutting a street with the following exceptions:

- a) *in the case of a corner lot, the shorter lot line abutting a street, not including the lot line forming part of a corner visibility triangle, shall be the front lot line. Where such lot lines are of equal length, the City may deem any of the lot lines abutting a street as the front lot line.*

As a result, the lot line farthest and opposite to the front lot line is now considered the rear lot line; therefore, the rear yard. This change has resulted in non-compliance with the rear yard setback. Therefore, minor variances are being requested to address the revised setback requirement to facilitate the conversion of the Single Detached Dwelling to a Triplex use.

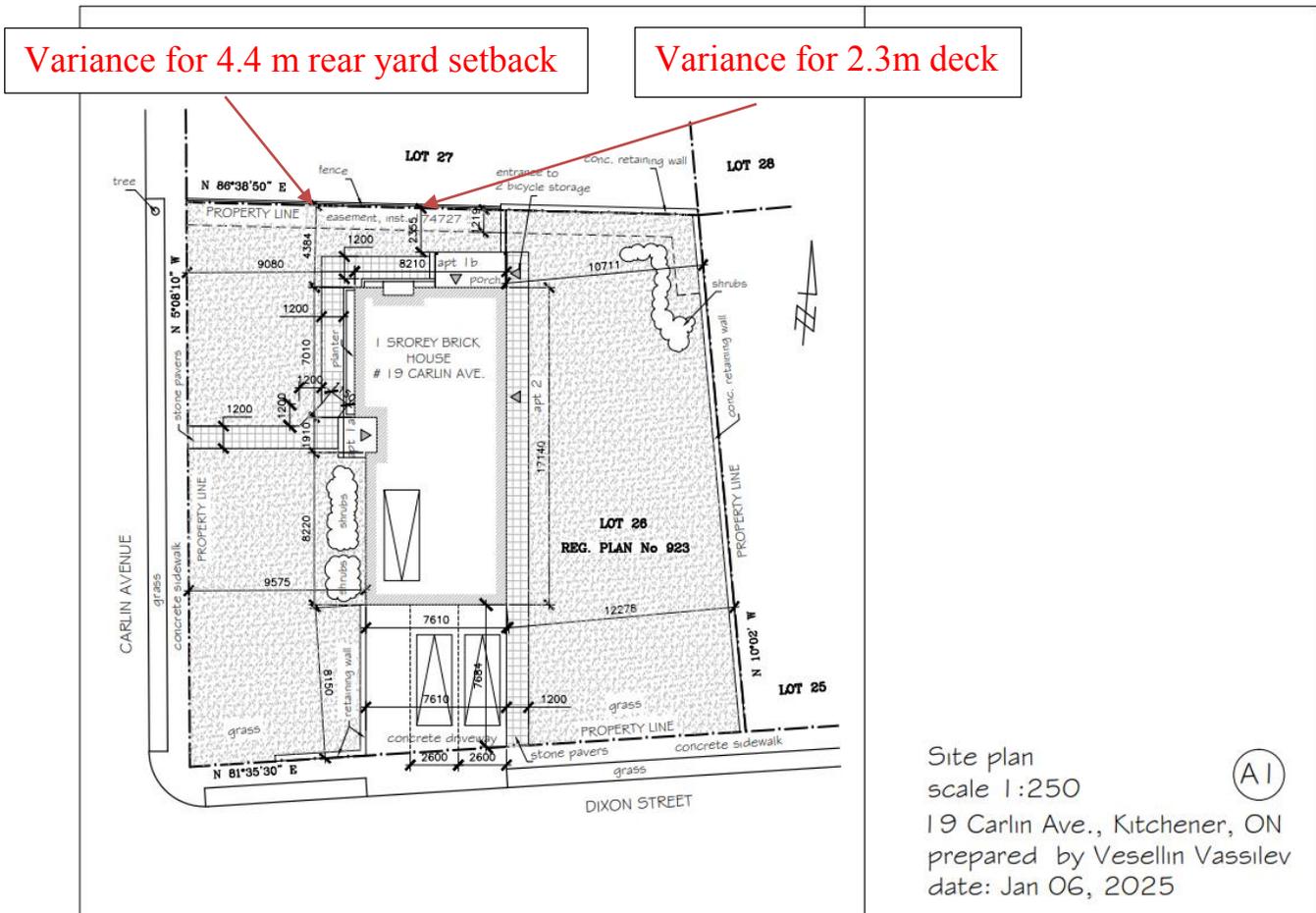


Figure 2: Requested Variances Site Plan

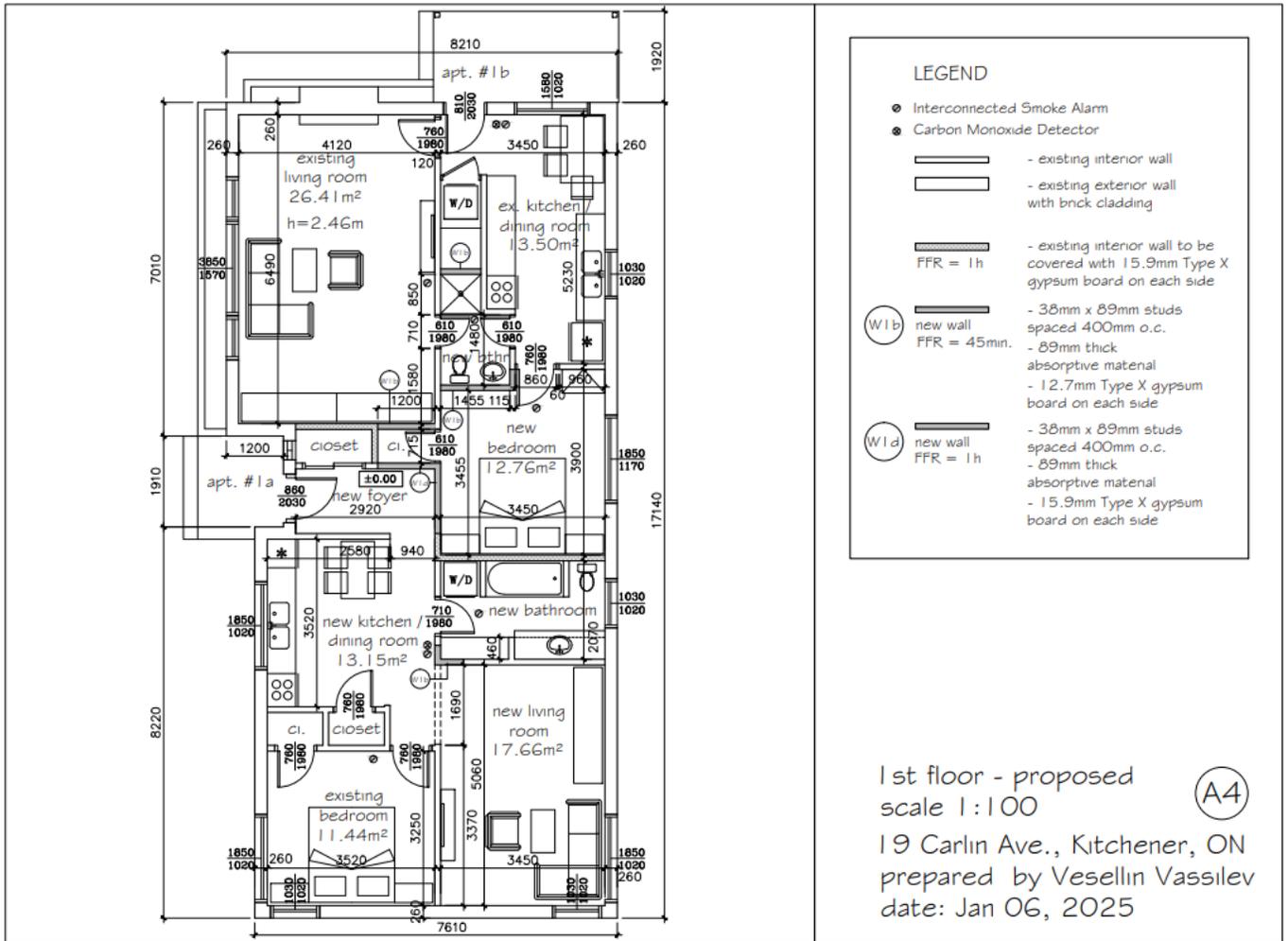


Figure 4: Proposed 1st Floor Plan

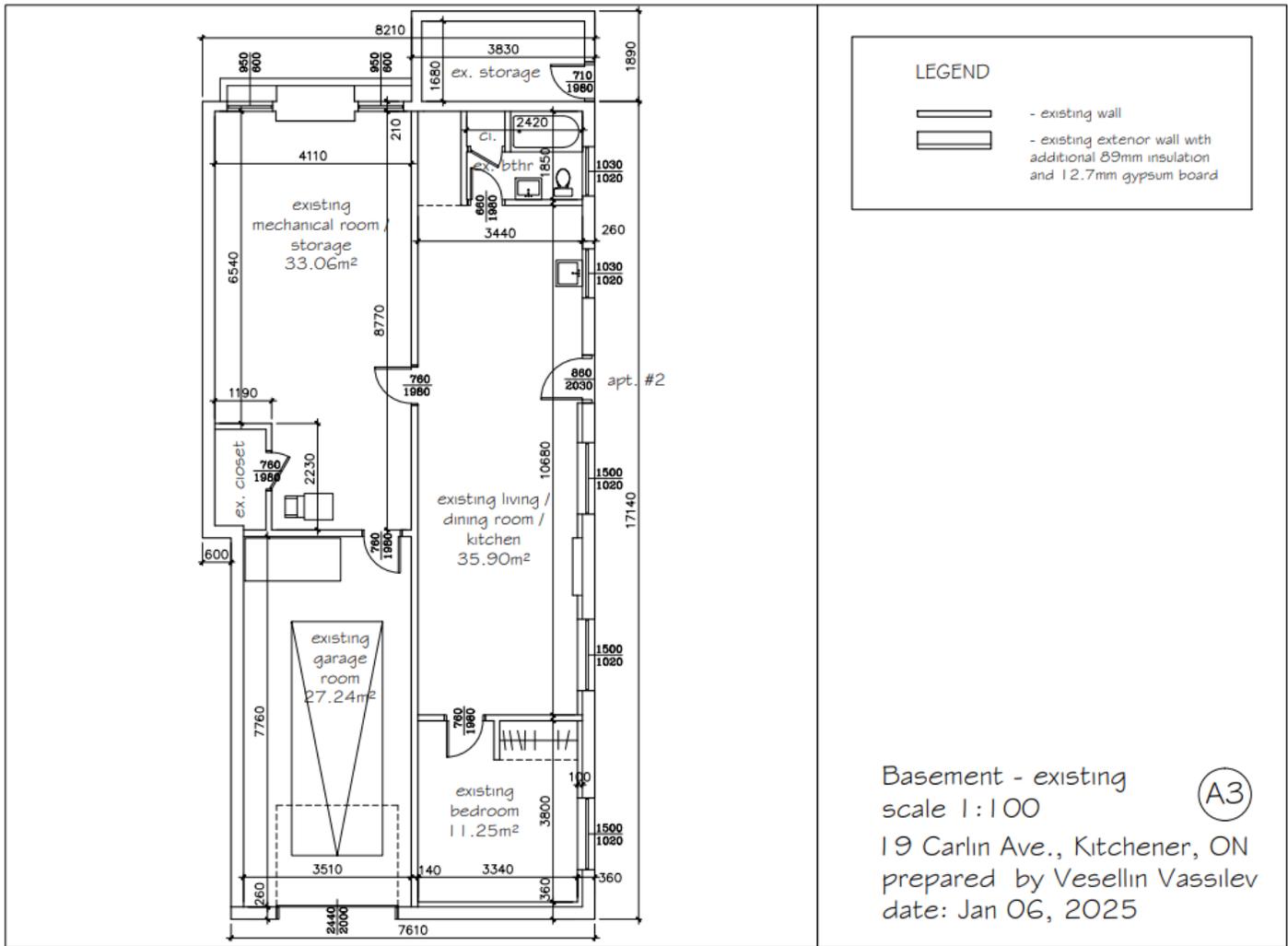


Figure 5: Existing Basement Floor Plan

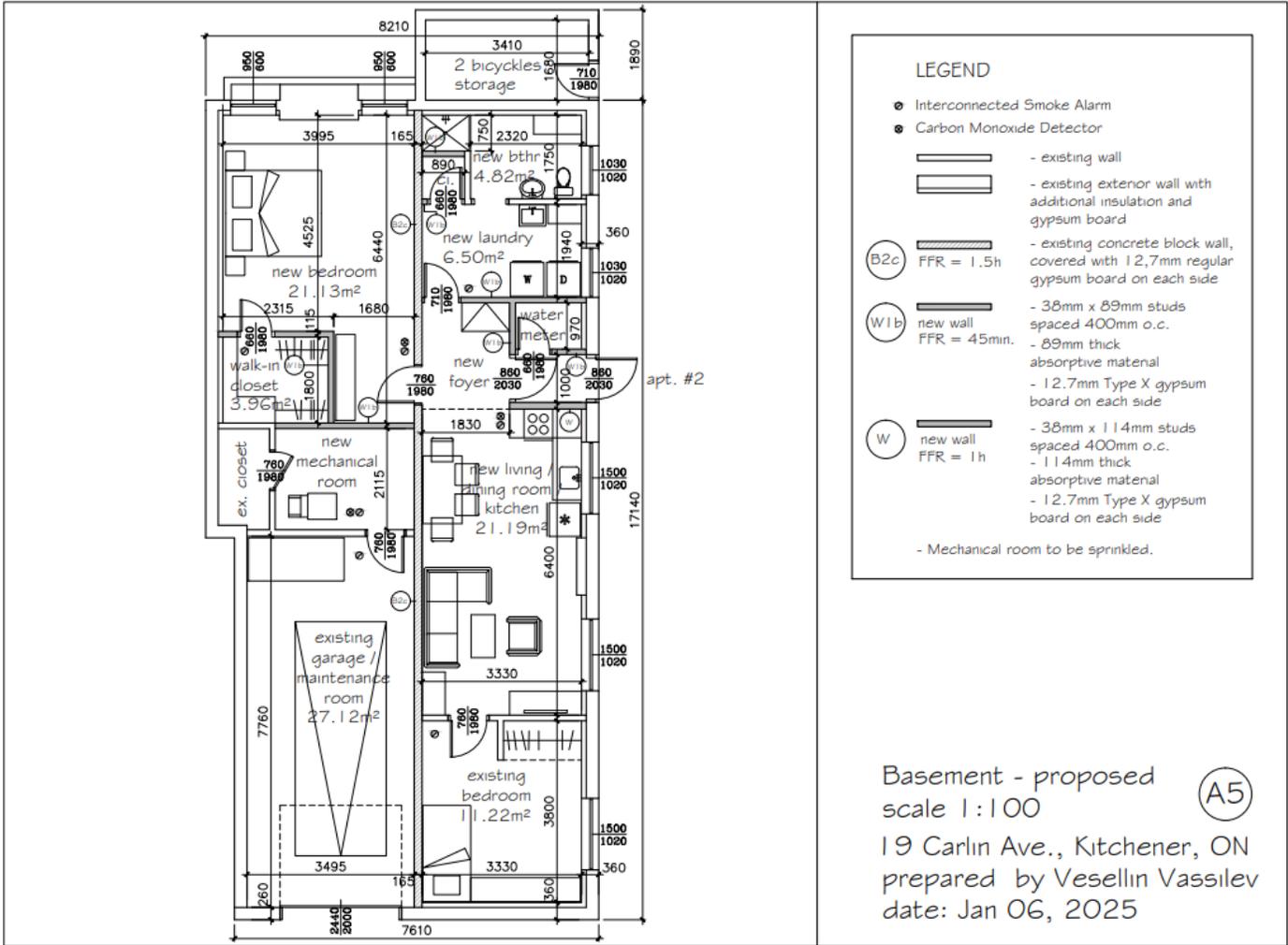


Figure 6: Proposed Basement Floor Plan

Planning Staff conducted a site visit on January 30, 2025



Figure 7: Existing Site Conditions as of January 30, 2025



Figure 8: Rear Yard of the Property Under By-Law 2019-051

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 emphasizes the importance of ensuring compatibility in building form with regard to massing, scale, and design, to facilitate the successful integration of diverse housing types while maintaining the low-density character of the neighbourhood. Policy 4.C.1.23 permit up to 3 additional dwelling units subject to meeting any other applicable policies in the Plan and zoning regulations.

4.C.1.23. The City may permit up to three additional dwelling units, attached and/or detached, on a lot which contains a single detached dwelling, a

semi-detached dwelling or a street-townhouse dwelling as the principal use, unless otherwise limited by the policies of this Plan, and in accordance with the City's Zoning By-law, in order to provide additional housing options to Kitchener homeowners and residents.

The proposed use of the property will conform to the Official Plan. Staff is in opinion that requested variances to be able to develop 2 Additional Dwelling Units (ADU)(Attached) within the existing Single Detached Dwelling meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of the rear yard setback requirement is to ensure adequate spacing on the property for open space and amenity area for the residents. The existing dwelling was developed in accordance with Zoning By-law 85-1 and met all the required setbacks. The existing rear yard setback of 4.4 metres will continue to function as an interior side yard and provide sufficient separation between the properties for access and air circulation. Additionally, the absence of windows on the left (north) side of the property prevents overlook and maintains the privacy of the neighbouring properties. The property maintains sufficient usable backyard space that was created under Zoning By-law 85-1. Therefore, Staff are of the opinion that the proposed variances meets the general intent of the Zoning By-law

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

The reduced setback is minor in nature as the proposed additional dwelling units will be located within the existing structure with no exterior modifications which ensures any changes remain invisible from the streetscape. The structure's appearance will remain compatible with adjacent viewpoints and visually consistent with its surroundings. Given that the existing built form remains unchanged, the existing setbacks will not negatively impact the neighbouring properties or the streetscape.

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

Planning staff is of the opinion that the variances are desirable for the appropriate development of the lands. Recognizing the location of the existing building and deck will allow for the construction of two additional dwelling units within the existing building and facilitate a gentle intensification of the subject property and support the City's Housing Pledge.

Environmental Planning Comments:

No comments or concerns.

Heritage Planning Comments:

No comments or concerns.

Building Division Comments:

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

Engineering Division Comments:

No comments or concerns.

Parks and Cemeteries/Forestry Division Comments:

Advisory comment: There are three existing City-owned Street trees within the boulevards on Carlin Avenue and Dixon Street and these trees should be protected to City standards throughout construction as per Chapter 690 of the current Property Maintenance By-law.

Transportation Planning Comments:

No comments or 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*