

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: March 18, 2025

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

PREPARED BY: Tim Seyler, Senior Planner, 519-783-8920

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: March 5, 2025

REPORT NO.: DSD-2025-129

SUBJECT: Minor Variance Application A2025-019 – 114 Madison Ave. S.

RECOMMENDATION:

That Minor Variance Application A2025-019 for 114 Madison Avenue South requesting relief from the following Sections of Zoning By-law 85-1:

- i) Section 6.1.2 b) vi) A) to permit one (1) visitor parking space at a rate of 0.1 visitor parking spaces per dwelling unit, instead of the minimum required two (2) visitor parking spaces at a rate of 0.15 visitor parking spaces per dwelling unit;
- ii) Section 40.6 to permit a side yard setback of 1.5 metres instead of the minimum required 2.5 metres; and
- iii) Section 40.6 to permit a Floor Space Ratio of 1.58 instead of the maximum permitted Floor Space Ratio of 0.6;

to permit a 10 unit multiple dwelling generally in accordance with drawings prepared by Marius Ardelean Designer, dated February 18, 2025, BE APPROVED subject to the following conditions:

1. That the Owner provides confirmation, to the satisfaction of the Director of Engineering Services, that the existing services can support the proposed additional demand prior to an application for a Building Permit being received. If the demand cannot be supported, the Owner shall make an application through the Off-Site works process, to the satisfaction of the Director of Engineering Services.
2. That the Owner shall make an application for a Site Alteration Permit, to the satisfaction of the Director of Engineering Services, prior to an application for a Building Permit being received.

3. That the Owner acknowledge that any new driveways or widenings to existing driveways are to be built to City of Kitchener standards and that the Owner confirms, to the satisfaction of the City's Director of Engineering Services, if an application for a Curb Cutting/ Driveway widening permit is required prior to an application for a Building permit being received.
4. That the Owner shall:
 - a) Prepare a Tree Preservation Plan for the Subject Lands, in accordance with the City's Tree Management Policy, to be approved by the City's Manager, Site Plans and City's Director, Parks and Cemeteries, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of Demolition and/or Building Permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.
 - b) That the Owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Manager, Site Plans.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the construction of a 10 unit residential multiple dwelling.
- The key finding of this report is that the minor variances meet the 4 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 side of Madison Avenue South near the intersection of Madison Avenue South and Courtland Avenue East.



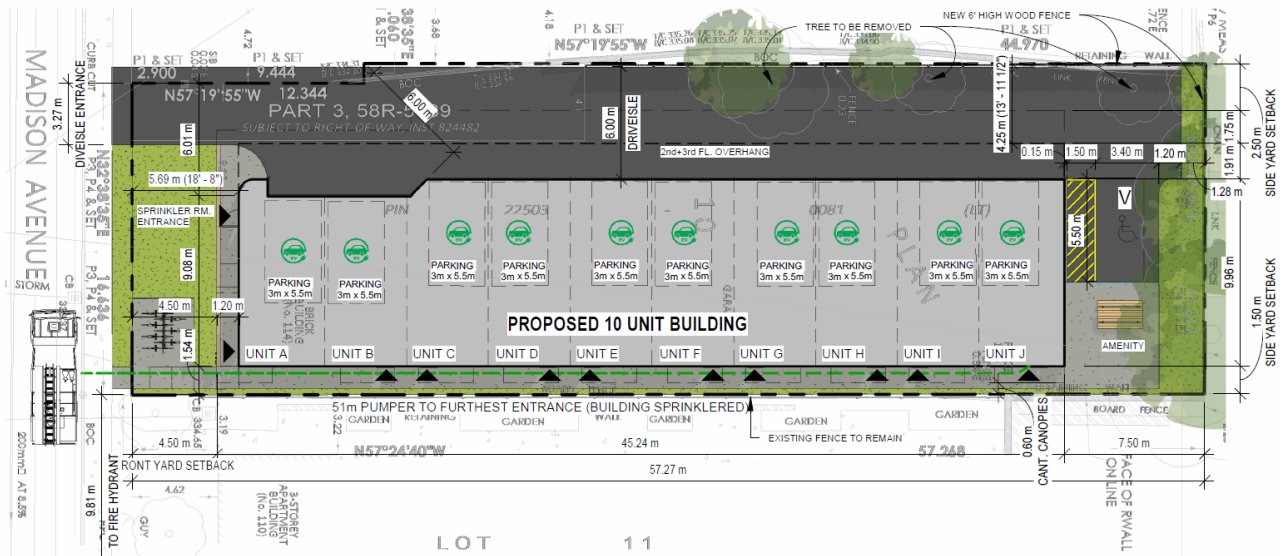
Figure 1: Location Map: 114 Madison Avenue South

The subject property is 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 2014 Official Plan.

The property is zoned 'Residential Six Zone (R-6)' in Zoning By-law 85-1, and 'Low Rise Growth Zone (SGA-1)' in Zoning By-law 2019-051.

The purpose of the application is to review a minor variance application to permit a 10 unit residential multiple dwelling. The applicant is proposing a 10 unit dwelling in the form of townhouses. It should be noted that the 'SGA' Zones are still under appeal and are not in effect at the time of this report. If the new zoning was in effect none of the minor variances within this report would be required and the proposed building would meet the zoning regulations 'as of right'.

Given the uncertainty of when the SGA zone will come into effect, the applicant is requesting variances to Zoning By-law 85-1 in order to commence development as soon as is possible.



LOT 11
Figure 2: Proposed Site Plan



Figure 3: Current site conditions – 114 Madison Ave. S.

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 lands are designated 'Strategic Growth Area A' (Map 3). The Strategic Growth Area land use designation is generally intended to accommodate intensification within existing predominantly low-rise residential neighbourhoods. The designation also accommodates a range of low and medium density residential housing types including those permitted in the Low Rise Residential and Medium Rise Residential land use designations. Staff is of the opinion that the variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

Parking

The intent of the minimum parking regulations is to ensure that there is enough parking within the property for residents and their visitors. The reduction of parking results in one less parking space provided on site. Each unit will have their own private garage for parking a vehicle and there will be one barrier free accessible visitor space on the property. Further, the forthcoming 'SGA' zoning does not require a minimum parking rate as the SGA-1 area is defined to be close to alternative transit options within the City. The property is also supplying the approved bicycle parking rates as outlined within the new Zoning By-law for the Protected Transit Station Areas.

Side yard setback

The intent of the side yard setback is to ensure there is adequate separation and no adverse impacts to the adjacent residential properties. The development will be setback the required 1.5 metres that is within the new 'SGA-1' zoning. The reduction of 1 metre is appropriate for the development and will still provide sufficient access and setback.

Floor Space Ratio

The intent of the maximum Floor Space Ratio is to ensure that developments are appropriate in terms of massing, height and density on a property. The proposed new 'SGA-1' zoning does not have a maximum Floor Space Ratio calculation within, and buildings are subject only to height restrictions through the new zoning to ensure developments are compatible within the neighbourhoods. The development is a 3 storey building which is compatible within the surrounding community and the building will not exceed the maximum permitted height in the 'SGA' Zone with the increase in FSR.

Staff is of the opinion that the variances meet the general intent of the Zoning By-Law.

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

Staff is of the opinion that the requested variances are minor as the variances that are requested are to support a new residential development. The proposed variances are not

required with the new 'SGA' zoning and will not present any significant impacts to adjacent properties or the overall streetscape and neighbourhood.

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

The proposed variances are desirable and appropriate for the development and use of the land as their approval will facilitate the construction of a new residential development within a strategic growth area ahead of the appeal of the SGA Zones being resolved.

Environmental Planning Comments:

No natural heritage planning concerns.

Heritage Planning Comments:

The Kitchener Cultural Heritage Landscape Study (CHLS) dated December 2014 and prepared by The Landplan Collaborative Ltd. was approved by Council in 2015. The CHLS serves to establish an inventory and was the first step of a phased Cultural Heritage Landscape (CHL) conservation process. The property municipally addressed as 114 Madison Avenue South is located within the Cedar Hill Neighbourhood CHL. The proposed variances are not anticipated to have any major impacts on the cultural heritage value of the Cedar Hill Neighbourhood. As such, staff have no concerns. Staff would, however, encourage that any new development be compatible with the surrounding character of the neighborhood in terms of setbacks, massing, and materials.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permits for the 10 units residential building is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

- That the Owner provides confirmation, to the satisfaction of the Director of Engineering Services, that the existing services can support the proposed additional demand prior to an application for a Building Permit being received. If the demand cannot be supported, the Owner shall make an Application through the Off-Site Works Process, to the satisfaction of the Director of Engineering Services.
- That as this property is over 0.1 ha in size which triggers the Site Alteration By-Law, the Owner shall make an Application for a Site Alteration Permit, to the satisfaction of the Director of Engineering Services, prior to an application for a Building Permit being received.
- That the Owner acknowledges that any new driveways or widenings to existing driveways are to be built to City of Kitchener standards and that the Owner confirms, to the satisfaction of the Director of Engineering Services, if an application for a Curb Cutting/Driveway Widening Permit is required prior to an application for a Building Permit being received.

Parks and Cemeteries/Forestry Division Comments:

There is an existing City-owned street tree that will be impacted by the proposed development. **It is expected that all City owned tree assets will be fully protected to City standards throughout demolition and construction as per Chapter 690 of the current Property Maintenance By-law.**

A revised plan should be submitted along with a Tree Protection and Enhancement Plan (TPEP) showing full protection for the existing City tree to the Director of Parks and Cemeteries. Grading and Servicing plans should accompany the Building Permit submission.

Please clearly indicate the location of tree trunks, dripline and offsets to proposed fencing and construction work zone. Securities for protected trees and/or compensation for removed trees may be required. Clearance from the Director of Parks and Cemeteries for the revised plan and approval of the Tree Protection and Enhancement Plan and Arborist Report and any necessary compensation **is required prior to the issuance of a Demolition Permit or Building Permit**

Parkland Dedication fees will be required for the new residential units to **be paid prior to the issuance of the Building Permit**.

Transportation Planning Comments:

The driveway entrance and the drive aisle should provide a 6.0 metre minimum width exclusively on the subject property to accommodate emergency service vehicles, unless the southerly neighboring property would agree that any future development would share the driveway access.

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-laws 85-1 and 2019-051*