

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** March 18, 2025

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

**PREPARED BY:** Arwa Alzoor, Planner, 519-783-8903

**WARD(S) INVOLVED:** Ward 2

**DATE OF REPORT:** February 26, 2025

**REPORT NO.:** DSD-2025-100

**SUBJECT:** Minor Variance Application A2024-096 –  
165 Fairway Road North

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## **RECOMMENDATION:**

That Minor Variance Application A2024-096 for 165 Fairway Road North requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 5.3.3 b) i) to permit the required parking to be located in the front yard, whereas the by-law does not permit parking in the front yard;
- ii) Section 5.6 a) to permit a parking requirement of 0.6 parking spaces per dwelling unit (20 parking spaces) instead of the minimum required 1 parking space per dwelling unit (30 parking spaces) and 0.1 visitor parking spaces per dwelling unit (3 parking spaces) instead of the minimum required 0.15 visitor parking spaces per dwelling unit (5 parking spaces);
- iii) Section 7.3, Table 7-6, to permit a northerly interior side yard setback of 0 metres and a southerly interior side yard setback of 1.8 metres instead of the minimum required 3 metres;
- iv) Section 7.3, Table 7-6, to permit a rear yard setback of 0.1 metres instead of the minimum required 7.5 metres;
- v) Section 7.3, Table 7-6, to permit a Floor Space Ratio of 0.72 instead of the maximum permitted 0.6;
- vi) Section 7.3, Table 7-6, to 11 dwelling units in the ground floor level units do not have a patio area adjacent to the dwelling unit with direct access to such dwelling unit; and
- vii) Section 5.10 b), to permit loading space to be 5.0 metres from the abutting residential zone instead of the minimum required 7.5 metres;

to facilitate the conversion of an existing industrial building with a front yard addition to a multiple dwelling with 30 dwelling units, generally, in accordance with Site Plan Application SP24/047/F/AA, BE APPROVED.

### REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the conversion of an existing industrial building with a front addition to a multiple dwelling with 30 dwelling units. The application was previously considered at the November 19<sup>th</sup>, 2024, Committee Meeting and deferred to allow the applicant to work with staff on finalizing the Conditional Site Plan Approval SP24/047/F/AA.
- The key finding of this report is that minor variances meet the 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.

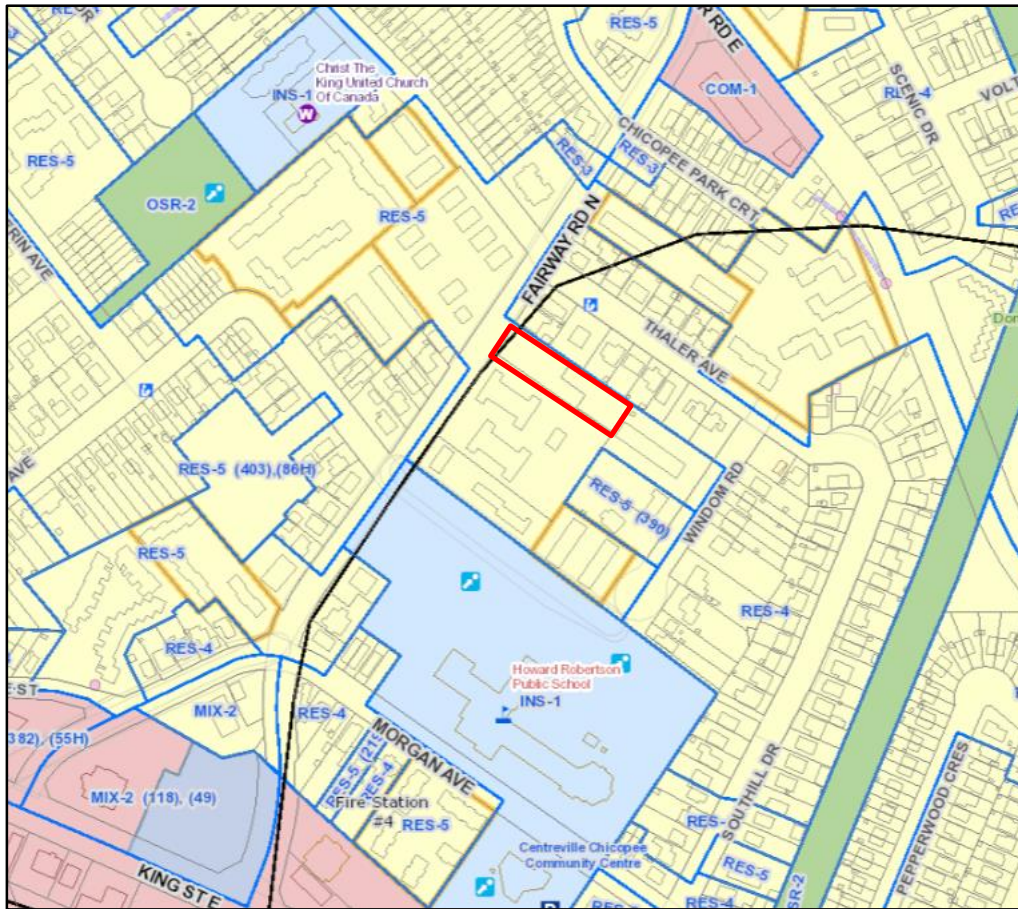
### BACKGROUND:

The subject property is located in the Centreville Chicopee neighbourhood north of King Street East on Fairway Road North.



Figure 1: Location Map





**Figure 2: Zoning Map**

The subject property is identified as a 'Community Area' 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 Five Zone (RES-5)' in Zoning By-law 2019-051.

The purpose of this application is to facilitate the conversion of an existing industrial building, with a front addition, into a multiple dwelling with 30 residential units.

The building was initially constructed as a single detached dwelling, with an industrial addition added later. In 2019, a Site Plan Application (SP19/018/F/TS) was submitted to convert the building into a multiple dwelling with a total of 7 units, which received 'Conditional Approval'. As part of this process, a Minor Variance Application was required to recognize the existing setbacks and allow parking spaces at the front of the building. Although the minor variances were approved, the Site Plan Application did not proceed further.

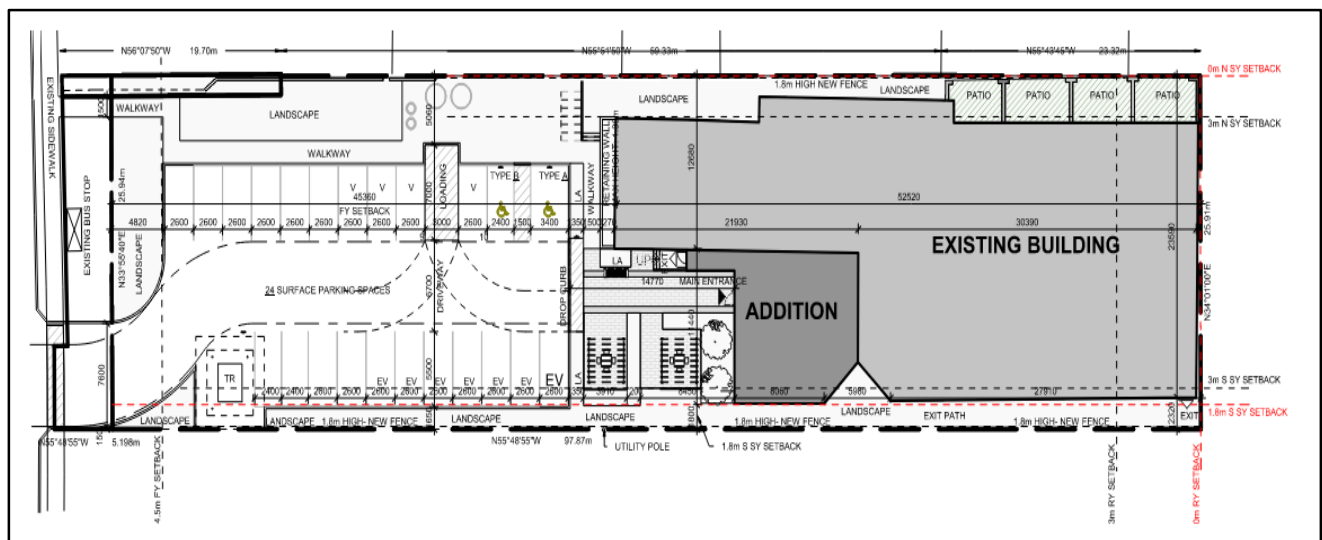
In 2024, the site was purchased by a new owner who applied for a site plan application to convert the building into a 33-unit multiple dwelling. It received 'Redlined Conditional Approval', with comments highlighting the need to enhance site functionality and provide more livable units by increasing amenity areas that align with the Urban Design Guidelines. This approval was issued to meet the municipality's 60-day timeline for either redlined conditional approval or conditional approval. However, staff continued working

with the applicant to address significant concerns related to site overdevelopment, including insufficient indoor and outdoor amenity space, reduced parking, and setback limitations. Following the redlined conditional approval, a minor variance application was submitted but, due to these ongoing concerns, staff recommended Deferral of the application on November 19, 2024, and the Committee of Adjustment agreed

Following the ongoing communication with the applicant, the applicant revised the proposal to mitigate overdevelopment issues by reducing the front addition's massing, increasing amenity space, and relocating Class A bicycle parking inside the units to create more landscaped open space beside the front parking lot. The revised proposal now includes 30 units and larger private patios for some ground-floor units, which has generally improved the site's functionality.

The requested variances are:

- to permit a parking reduction to 23 parking spaces instead of the minimum required 35 parking spaces and for the parking spaces to be located in the front yard;
- to permit reduced side yard and rear yard setbacks;
- an increased Floor Space Ratio; and
- to allow some of the ground floor dwelling units not to have a private patio, and
- to allow the loading space to be closer to the abutting lot than required.



**Figure 3: Updated Site Plan**

Staff have visited the site on Friday, November 1<sup>st</sup>, 2024.



**Figure 4: Front of the Existing Building**



**Figure 5: An image Showing Existing Side yard Setback**





**Figure 6: An Image Showing Existing View of The Proposed Parking Lot**



**Figure 7: An Image Showing the Subject Property from Fairway Road North**

## **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 'Low Rise Residential' in the City's Official Plan, which contains a number of policies related to density in low-rise residential areas. The Low Rise Residential land use designation accommodates a full range of low-density housing types, including single detached dwellings, duplex dwellings, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings and special needs housing.

**Setbacks:** The existing setbacks reflect a longstanding condition that has functioned without issues over an extended period. The proposed conversion of the building from industrial to residential use enhances compatibility with the surrounding area's residential nature. It aligns with the Official Plan's intent to support residential uses within this designation.

**Parking:** Policy 13.C.8.6 states that the City may consider adjustments to parking requirements for properties within an area or areas, where the City is satisfied that adequate alternative parking facilities are available, where developments adopt transportation demand management (TDM) measures or where sufficient transit exists or is to be provided. Transportation staff have reviewed the parking study, which recommends that the site has comprehensive TDM measures. Transportation staff have no concerns with this reduction.

**Loading space Location:** The loading space is situated closer to the abutting residential lot than required; however, it will be adequately buffered by the mandated visual barrier and landscaping, minimizing potential impacts on adjacent properties.

**Floor Space Ratio:** Policy 15.D.3.11 applies a maximum Floor Space Ratio (FSR) of 0.6. However, site-specific increases up to a maximum FSR of 0.75 may be considered, where it can be demonstrated that the increase in the FSR is compatible. The revised proposal now includes 30 dwelling units with a reduced front addition footprint, allowing for increased amenity space and landscaping. This revision results in a lower overall density, aligning more closely with the intent of the Official Plan by enhancing site functionality and compatibility with the surrounding area.

**Private patio:** Policy 15.D.3.3 states the City will apply design principles in accordance with the Urban Design Policies in Section 11. An emphasis will be placed on adequate and appropriate amenity areas, and landscaped areas will be provided on-site. The revised proposal includes private patios for four ground-floor units and increased landscaped and amenity areas. These enhancements better align with the intent of the Urban Design Policies, improving site livability and overall design quality.

Considering the above, staff are of the opinion that the variances meet the general intent of the Official Plan

### General Intent of the Zoning By-law

**Setbacks:** the intention of the setback requirement in the zoning by-law is to ensure that the property has space for walkway, amenities, circulation, parking, pathways and separation from the street and abutting lots. The requests for legalizing, the side yards and rear yard all recognize an existing situation. The building was used at one point as a tool

and die shop; however, its use has ended. The building has existed for several years with no negative impact on the surrounding neighbourhood, and the applicant has advised that the building will continue to exist as is.

**Parking location:** The requested minor variance to permit the required parking to be located between the front façade and the front lot line recognizes an existing situation. The zoning requirement to not allow parking between the front façade and the lot line, is to ensure that a parking lot doesn't dominate the front street and to provide an adequate buffer from the street. The proposed parking lot is setback approximately 4.8 metres from the front lot line with an additional road widening area, providing a sufficient buffer from the street. Besides, landscaping opportunities can help mitigate the visual impact on the streetscape, maintaining a balance between functionality and urban design goals. Given that this layout reflects the existing conditions, the minor variance supports a reasonable use of the property without compromising the intent of the zoning bylaw to limit front yard parking.

**Parking reduction:** The intent of the requirement for 1 parking space per dwelling unit and 0.15 visitor spaces per dwelling unit is to ensure adequate parking for residents and visitors. The proposal seeks a reduction to 0.6 parking spaces per dwelling unit (20 spaces total) and 0.09 visitor spaces per dwelling unit (3 spaces total). A parking study was submitted to support this reduction and was reviewed by Transportation Services staff, who have no concerns regarding the proposed rate. Additionally, the property is well-served by active transportation options nearby, and sufficient bicycle parking is available to encourage alternative transportation methods. Staff are of the opinion that the proposed parking rate adequately meets the needs of the future residents and aligns with the intent of the zoning by-law.

**Loading space Location:** The Zoning By-law requires a minimum 7.5 metre setback between a loading space and abutting residential properties to provide an adequate buffer. This setback is intended to mitigate noise impacts, enhance safety, and maintain the character of the surrounding neighbourhood. The proposed loading space is located 5.0 metres from the abutting residential lot, and the property will have a visual barrier on the common lot line, providing additional separation. The space will primarily be used for Molok waste collection, which typically occurs once or twice a week, and for occasional moving trucks, which are infrequent in residential areas. Given the limited use of the loading space, potential impacts on adjacent properties will be minimal.

**Private Patio:** The intent of the required private patio is to ensure that each unit has enough private amenity space to enhance residents' quality of life. Common amenity space is also essential as it promotes well-being, fosters community, and allows residents to enjoy outdoor environments. The revised proposal better aligns with this intent by incorporating private patios for four ground-floor units and increasing access to dedicated outdoor spaces. Additionally, the site provides more common amenity areas and additional landscaped green space, enhancing overall livability.

**Floor Space Ratio:** The 0.6 Floor Space Ratio (FSR) is a regulation in the Zoning By-law intended to ensure that development is compatible in scale and form with other low-rise housing types in adjacent properties. The revised proposal reduces the front addition footprint and decreases the overall number of units, resulting in a more balanced built



form. These changes help mitigate potential impacts on neighboring properties while ensuring the development remains in keeping with the surrounding residential context.

Based on the above, 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?

The requested variances' effects are considered minor as they do not significantly negatively impact adjacent properties, the surrounding neighbourhood, or the overall function of the site. Appropriate mitigation measures, such as enhanced landscaping, buffering, and design modifications, have been incorporated to minimize potential impacts. Given these considerations, the variances represent a reasonable adjustment that supports the efficient use of land, with some minor variances.

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

The requested variances are desirable for the appropriate development and use of the land, building, and/or structure as they allow for a functional and efficient design of the existing structure while maintaining compatibility with the surrounding context. The proposed modifications support the efficient use of land as a multiple dwelling building that will provide new dwelling units and support the City's Housing Pledge.

**Environmental Planning Comments:**

No environmental comments or concerns.

**Heritage Planning Comments:**

No Heritage comments or concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variances provided building permit for the change of use of the existing industrial building into a residential building is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions

**Engineering Division Comments:**

No comments.

**Parks/Operations Division Comments:**

Park planning concerns including required park dedication as cash in lieu of land will be addressed through SP24/047/F/AA.

**Transportation Planning Comments:**

Transportation Services has no concerns with this application.

**The Region of Waterloo Comments:**

No concerns.

**Enova comments:**

The builders/developers will need to maintain the minimum clearances as outlined in Enova's 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*
- *DSD-19-217*
- *DSD-2024-473*