

REPORT TO: Committee of Adjustment

DATE OF MEETING: March 18, 2025

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

PREPARED BY: Maitland Graham, Student Planner, 519-783-7879

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: March 5, 2025

REPORT NO.: DSD-2025-113

SUBJECT: Minor Variance Application A2025-023 – 140 Byron Avenue

RECOMMENDATION:

That Minor Variance Application A2025-023 for 140 Byron Avenue requesting relief from Section 4.12.3 e) of Zoning By-law 2019-051 to permit an Additional Dwelling Unit (Detached) to have a building footprint of 93.8 square metres instead of the maximum permitted 80 square metres, to facilitate the addition of an Additional Dwelling Unit (ADU)(Detached) to an existing Additional Dwelling (ADU)(Detached) in the rear yard for a total of 4 dwelling units on the subject property, generally in accordance with drawings prepared by Arcadia Home Design Ltd., January 31, 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 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.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application requesting an Additional Dwelling (Detached) building footprint of 93.8 square metres rather than the required 80 square metres.

- The key finding of this report is that the requested minor variance meets 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 on the north side of Byron Avenue in the Vanier neighbourhood, which is predominantly comprised of low rise detached dwellings



Figure 1 – Aerial Photo of the Subject Property.

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 request relief from Section 4.12.3 e) of Zoning By-law 2019-051 to permit an Additional Dwelling (Detached) building footprint of 93.8 square metres rather than the maximum required 80 square metres. Approval of the variance will allow for the development of an Additional Dwelling Unit (Detached) for a total of four dwelling units on the subject property.

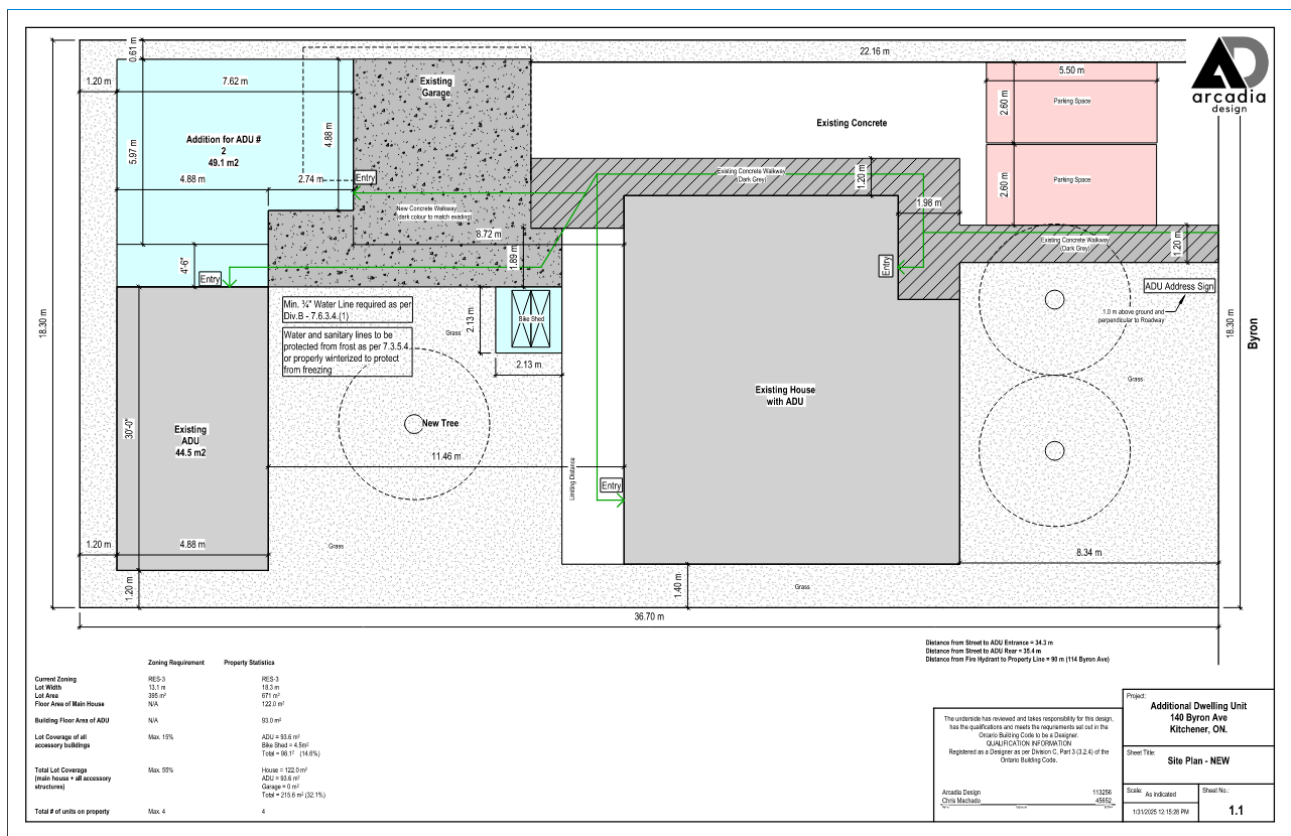


Figure 2 – Proposed Site Plan

Planning Staff conducted a site visit on February 25, 2025



Figure 3 – Site Photo of 140 Byron Avenue



Figure 4 – Existing rear yard where the Additional Dwelling (Detached) is proposed, existing garage shown in photo will be removed.



Figure 5 – Existing Additional Dwelling (Detached)

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' on Map 3 – Land Use. The intent of the Low-Rise Residential designation is to accommodate a diverse range of low-rise housing types while maintaining the low-density character of the neighbourhood. Official Plan policy 4.C.1.6. mentions that the City will identify and encourage residential intensification and/or redevelopment, including adaptive re-use and infill opportunities, including additional dwelling units, attached and detached, in order to respond to changing housing needs and as a cost-effective means to reduce infrastructure and servicing costs by minimizing land consumption and making better use of existing community infrastructure. The requested increase in building footprint to facilitate the construction of an additional dwelling unit, totalling four dwelling units on the subject property, identifies an infill opportunity, promotes intensification and better use of existing infrastructure, therefore maintaining the general intent of the Official Plan.

General Intent of the Zoning By-law

The purpose of the Additional Dwelling (Detached) building footprint requirement is to ensure that the Detached ADU is secondary to the primary dwelling in size, new dwelling units provide sufficient living space while remaining compliant with zoning by-law regulations and maintaining sufficient amenity space on the property. Planning Staff is of the opinion that the proposed 93.8 square metre footprint is a minor increase in footprint size while still meeting other by-law regulations and maintaining adequate amenity space in the rear side yard. In the opinion of Planning Staff, the requested variance to permit an increase of Additional Dwelling (Detached) building footprint to facilitate the development of a fourth dwelling unit on the property maintains the general intent of the Zoning By-law.

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

Planning Staff is of the opinion that the requested variance of 93.8 square metres is minor, as there is not significant increase in size beyond the required 80 square metres, the proposed Additional Dwelling (Detached) will be replacing the footprint of an existing accessory structure, and there are not any expected significant adverse impacts to the character of the neighbourhood.

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 variance to increase the maximum building footprint for Additional Dwelling (Detached) is appropriate for the desirable use of the lands as it will facilitate a greater variety of dwelling units while maintaining the low-rise residential character of the neighbourhood. Planning Staff also recognize that allowance of the variance will contribute to the housing supply of the city, supports the City's Housing Pledge and is of good land use practices.

Environmental Planning Comments:

No environmental comments or concerns.

Heritage Planning Comments:

No concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permits for the addition to the existing detached ADU 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 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:

No concerns.

Transportation Planning Comments:

Transportation Services have no concerns with this application.

Grand River Conservation Authority Comments:

GRCA has no objection to the approval of the application. The subject property does not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The property is not subject to Ontario Regulation 41/24 and, therefore, a permission from GRCA is not required.

Region of Waterloo Comments:

No 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*