

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: Brian Bateman, Senior Planner, 519-783-8905

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: March 3, 2025

REPORT NO.: DSD-2025-125

SUBJECT: Minor Variance Application A2025-027 - 13 Chicopee Park Court
Consent Application B2025-007 - 13 Chicopee Park Court
Consent Application B2025-008 - 11a and 11b Chicopee Park Court

RECOMMENDATION:

A. Minor Variance Application A2025-027 – 13 Chicopee Park Court

That Minor Variance Application A2025-027 for 13 Chicopee Park Court requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.12.2 g) to permit a lot width of 8 metres instead of the minimum required 10.5 metres;
- ii) Section 5, Table 5-5-1, to permit 2 parking spaces instead of the minimum required 3 parking spaces; and
- iii) Section 7.3, Table 7-2, to permit a rear yard setback of 7.2 metres instead of the minimum required 7.5 metres;

to facilitate the construction of a Single Detached Dwelling with 2 Additional Dwelling Units (ADU) (Attached) (Triplex) generally in accordance with drawings prepared by Euclid Santos, dated January 20, 2025, BE APPROVED.

B. Consent Application B2025-007 – 13 Chicopee Park Court

That Consent Application B2025-007 for 13 Chicopee Park Court (Part 3, 58R-20258) requesting consent to sever a parcel of land having a width of 1.6 metres on Chicopee Park Court, a lot depth of 35.6 metres and an area of 61.8 square metres to convey as a lot addition to 11b Chicopee Park Court (Part 2, 58R-20258) in

accordance with a plan prepared by Guenther Rueb Surveying revised dated January 20, 2025, BE APPROVED subject to the following conditions:

1. That Minor Variance Application A2025-027 receive final approval.
2. That Consent Application B2025-008 receive final approval.
3. That the Owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
4. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
5. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
6. That the lands to be severed be added to the abutting lands and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.
7. That the Owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.

Alternatively, if in the opinion of the City Solicitor, an Application Consolidation Parcels cannot be registered on title, the Owner shall take such alternative measures and provide such alternative documents to ensure that the severed parcel and receiving parcel are not separately encumbered, conveyed, or otherwise transferred from one another and shall remain in common ownership, at the discretion of and to the satisfaction of the City Solicitor

8. That the Owner obtains Demolition Control Approval, in accordance with the City's Demolition Control By-law, to the satisfaction of the City's Manager, Development Approvals.
9. That the Owner obtains a Demolition Permit, for the existing detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official, and removes the existing dwelling prior to deed endorsement.

10. That the Owner/Developer submit the consent review fee of \$350 to the Regional Municipality of Waterloo.
11. That the owner/applicant enter into a registered development agreement with the City of Kitchener for both severed and retained lands, to include the following clause noise warning clause in agreements of Offers of Purchase and lease/rental agreements and condominium declarations:

“Purchasers/tenants are advised that sound levels due to increasing road traffic on Fairway Road (RR#53) and River Road (RR#56) may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks”.

C. Consent Application B2025-008 – 11b Chicopee Park Court

That Consent Application B2025-008 for 11b Chicopee Park Court (Part 2, 58R-20258) requesting to sever a parcel of land having a width of 0.8 metres, a depth of 35.8 metres long and an area of 31 square metres, to convey as a lot addition to 11a Chicopee Park Court (Part 1, 58R-20258) to facilitate the development of Semi-Detached Dwelling with 3 Additional Dwelling Units (ADU)(Attached) in accordance with a plan prepared by Guenther Rueb Surveying revised dated January 20, 2025, BE APPROVED subject to the following conditions:

1. That Minor Variance Application A2025-027 receive final approval.
2. That Consent Application B2025-007 receive final approval.
3. That the Owner’s solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
4. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City’s Revenue Division.
5. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener’s Digital Submission Standards to the satisfaction of the City’s Mapping Technologist.
6. That the lands to be severed be added to the abutting lands and title be taken into identical ownership as the abutting lands. The deed for endorsement shall include that any subsequent conveyance of the parcel to be severed shall comply with Sections 50(3) and/or (5) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

7. That the Owner's Solicitor shall provide a Solicitor's Undertaking to register an Application Consolidation Parcels immediately following the registration of the Severance Deed and prior to any new applicable mortgages, and to provide a copy of the registered Application Consolidation Parcels to the City Solicitor within a reasonable time following registration.

Alternatively, if in the opinion of the City Solicitor, an Application Consolidation Parcels cannot be registered on title, the Owner shall take such alternative measures and provide such alternative documents to ensure that the severed parcel and receiving parcel are not separately encumbered, conveyed, or otherwise transferred from one another and shall remain in common ownership, at the discretion of and to the satisfaction of the City Solicitor

8. That the Owner obtains Demolition Control Approval, in accordance with the City's Demolition Control By-law, to the satisfaction of the City's Manager, Development Approvals.
9. That the Owner obtains a Demolition Permit, for the existing detached dwelling proposed to be demolished, to the satisfaction of the Chief Building Official, and removes the existing dwelling prior to deed endorsement.
10. That the Owner/Developer submit the consent review fee of \$350 to the Regional Municipality of Waterloo.
11. That the owner/applicant enter into a registered development agreement with the City of Kitchener for both severed and retained lands, to include the following clause noise warning clause in agreements of Offers of Purchase and Sale, lease/rental agreements and condominium declarations:

"Purchasers/tenants are advised that sound levels due to increasing road traffic on Fairway Road (RR#53) and River Road (RR#56) may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks".

REPORT HIGHLIGHTS:

- The purpose of this report is to assess a request for consent as lot additions to existing lotting fabric and a minor variance to facilitate the development of a semi- and single detached dwelling with 3 and 2 attached dwelling units, respectively.
- The key finding of this report is that staff are of the opinion the consent and minor variance applications represent 'good planning' and recommend their approval.
- 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 south side of Chicopee Park Court (see Figure 1).



Figure 1 – Aerial Photo of Subject Property

Chicopee Park Court is a dead-end street that has a single point of access from the east side of Fairway Road just south of River Road. The street contains a variety of low-rise residential building forms with varying lot sizes.

In 2018, Consent Applications B2018-119 and B2018-120 were submitted requesting to sever 2 lots and retain one lot for residential purposes and were approved by the Committee of Adjustment. These decisions lapsed.

The applicant re-applied with new Consent Applications B2020-027 and B2020-028. They were subsequently approved, and the consent plan to implement these decisions was registered as 58R-20258 – see Figure 2. Reference Plan 58R-20258 comprises 3 lots with 9.6 metre frontages, approximately 35 metres of depth and areas of approximately 345 square metres. The intent was to remove the existing detached dwelling and re-develop each lot with a duplex dwelling. The existing dwelling has not been demolished but is presently vacant.

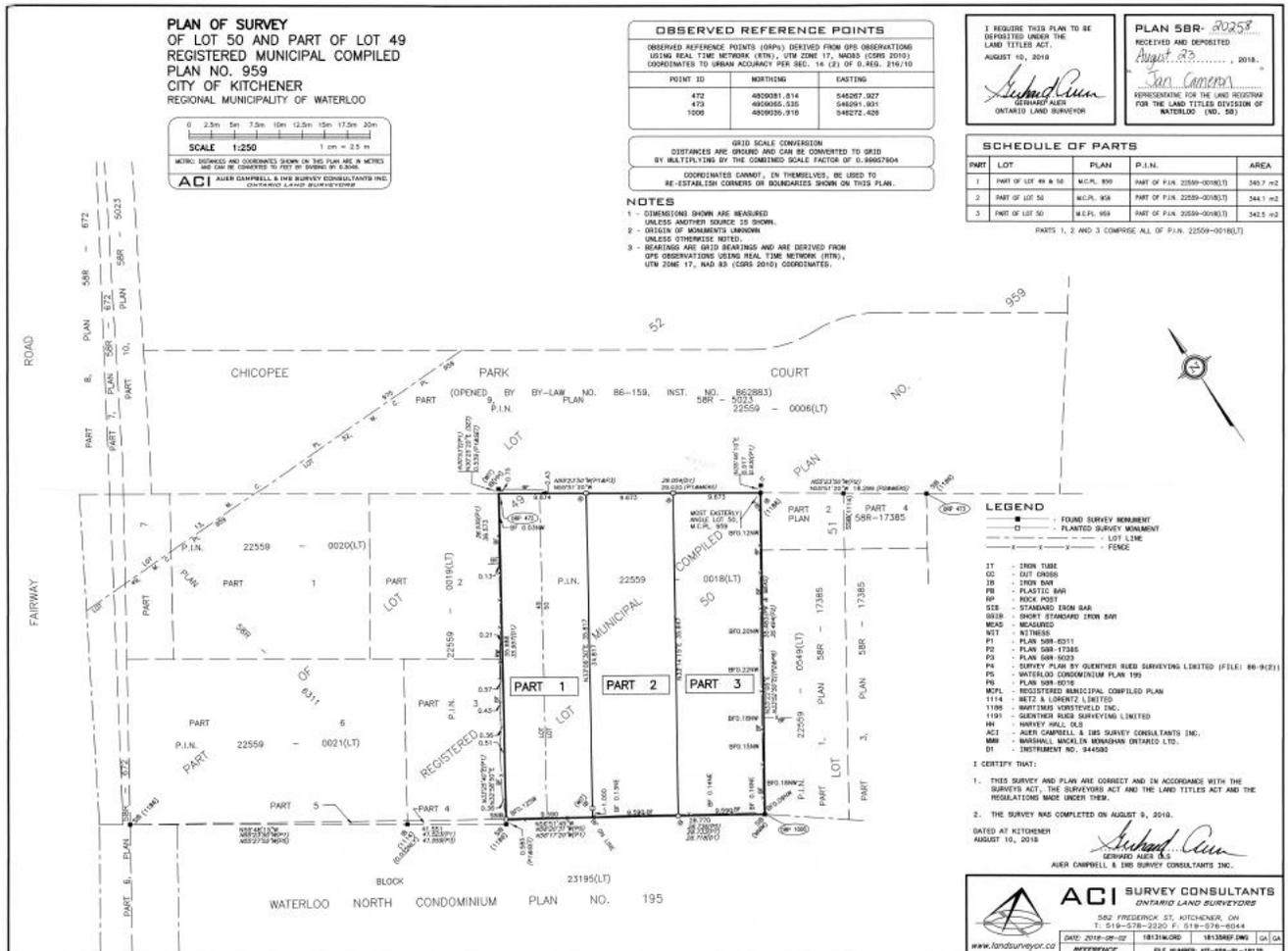


Figure 2 – Lotting Fabric on Reference Plan 58R-20258

The subject properties are 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 properties are zoned ‘Low Rise Residential Four Zone (RES-4)’ in Zoning By-law 2019-051.

The purpose of these consent applications is to re-configure the lotting fabric of 58R-20258 through two lot additions as shown on Figure 3 below. These lot additions are being proposed to create lot sizes to support a semi-detached dwelling with accessory dwelling units as pictured on Figure 4 on 11a and 11b Chicopee Park Court while retaining a lot for a single detached dwelling and 2 accessory units on 13 Chicopee Park Court. A minor variance application has been submitted for 13 Chicopee Park Court. It is to approve a lot width of 8 metres for a single detached dwelling with 2 additional units and to permit a reduced rear yard setback of 7.2 metres and 2 parking spaces rather than the required 3 parking spaces.

A site visit occurred on February 27, 2025 – see Figure 5.

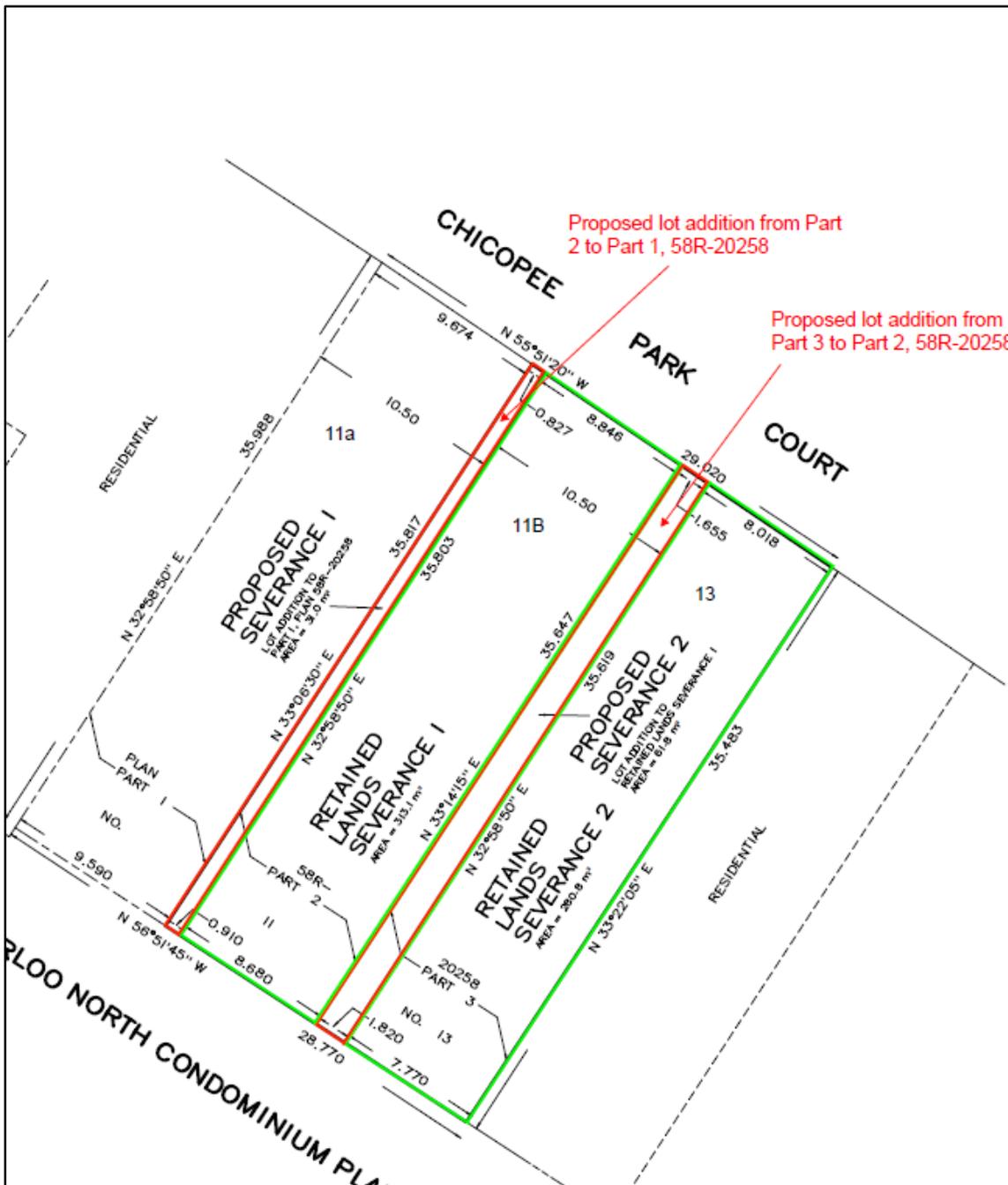


Figure 3 – Lot Addition Consent Plan

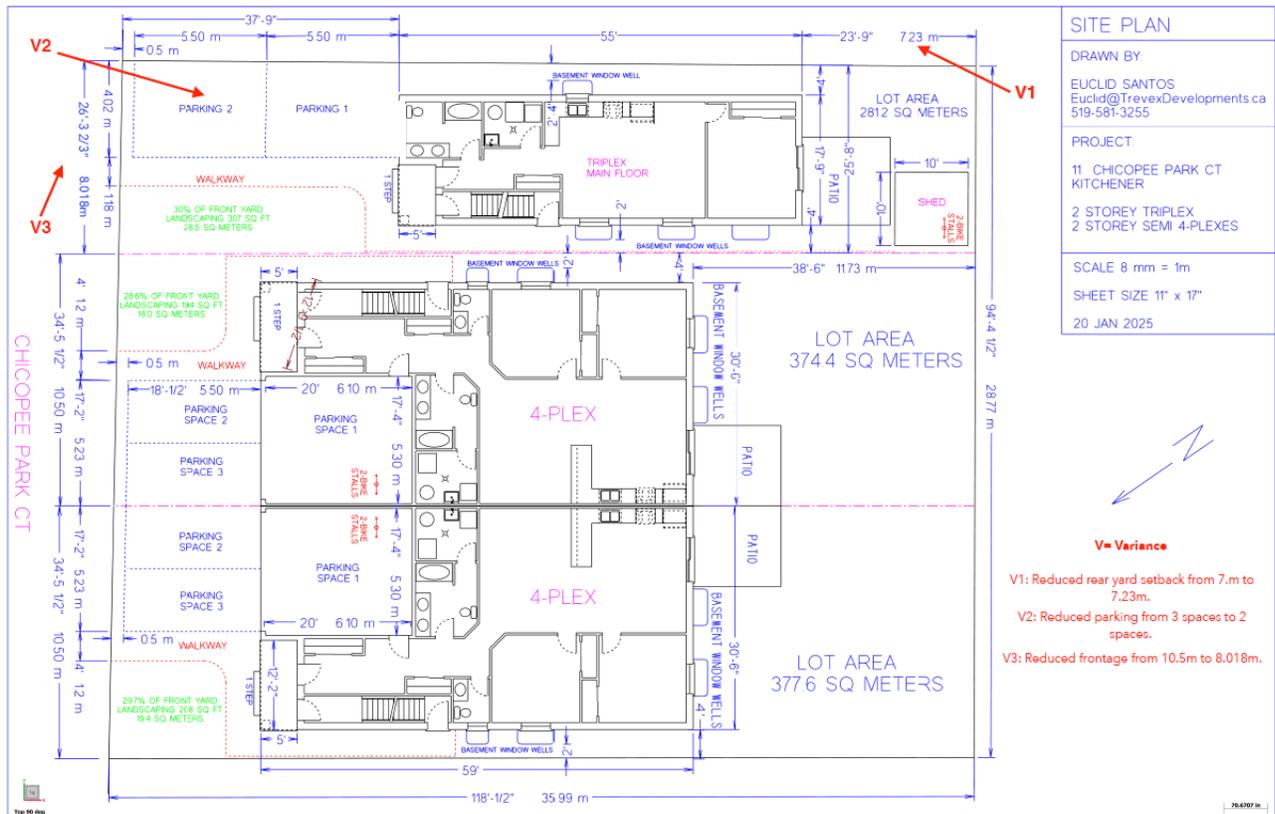


Figure 4 – Proposed Semi and Single Detached Dwelling Location Plan



Figure 5 – Photo of Subject Property

REPORT:

Planning Comments Minor Variance Application A2025-027:

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 intent is to support a variety of low-rise residential building forms providing those built forms are compatible with surrounding context and any impacts mitigated appropriately through design measures in accordance with criteria outlined in 4C.1.24. A semi and single-detached dwelling with additional dwelling units are compatible building forms given the designation of the property, scale and massing, functionality and servicing of the proposal, and variety of building forms and lot sizes generally found in this area. Therefore, staff opine the intent of the Official Plan is maintained.

General Intent of the Zoning By-law

Variance for a Reduced Lot Width

The intent of the lot width regulation is to ensure a lot is wide enough to support a use that can provide an appropriate amenity area, landscaped area and having enough parking spaces. The applicant's plan shown on Figure 4 demonstrates that a single detached dwelling with 2 additional dwelling units on an 8-metre-wide lot can function adequately in this context given the lot area exceeds the by-law regulation. The plan further demonstrates there is sufficient amenity and landscaped areas and can provide parking for 2 spaces in tandem. Therefore, the intent of the by-law is being maintained in staff's opinion.

Variance for a Reduced Rear Yard Setback

The intent of a rear yard setback is to ensure there is adequate separation from abutting properties and there is space for a private amenity area. A 7.2 metre rear yard in the opinion of staff maintains the intent of the regulation and is considered a minor reduction.

Variance for a Parking Reduction

The intent of parking regulations is to ensure there is adequate parking on-site and to avoid spillover onto the street. The driveway is long enough to provide for a 2 tandem spaces and staff do not support a driveway widening for a required third space. A reduction in one space is supportable given location and proximity to public transportation on Fairway Road. Transportation Planning has no concerns with the proposed reduction of one space.

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

In the opinion of staff, the variances are minor. In this context, a single detached dwelling with an 8 metre lot width functions adequately as the length of the lot allows flexibility to minimize the effects of a slight rear yard reduction. A parking reduction is minor in that the property is within walking distance to Fairway Road which has a direct bus route to Fairview Mall and a commercial plaza located at the corner of River Road and Fairway Road.

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

The variances are appropriate for the appropriate development and use of the lands in the opinion of staff. A single detached dwelling with 2 additional dwelling units is a compatible building form given context and policy direction, is functional and serviceable and will provide additional housing needed to help address the City's housing crisis.

Planning Comments Consent Applications B2025-007 and B2025-008:

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

Provincial Planning Statement (PPS 2024)

Staff are satisfied that the proposed severance applications are consistent with the Provincial Planning Statement in general and as it related to housing policies in Chapter 2 regarding intensification and facilitating housing options. Section 2.2 1 (b) states that Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents.

Regional Official Plan (ROP):

ROP Urban Area policies state that the focus of the Region's future growth shall be within the Urban Area. The subject lands fall within the 'Urban Area' and are designated 'Built-Up Area' in the ROP. The proposed development conforms to Policy 2.D.1 of the ROP as this neighbourhood provides for the physical and community infrastructure required for the proposed residential development, including transportation networks, municipal water and wastewater systems, and a broad range of social and public health services. Regional polices require municipalities to plan for a range of housing in terms of form, tenure, density, and affordability to satisfy the various physical, social, economic, and personal support needs of current and future residents. Staff are satisfied that the proposed severance applications adhere to these policies and conforms to the ROP.

City's Official Plan (2014)

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 Official Plan.

Section 17.E.20.5 of the Official Plan implements Section 51 of the Planning Act and contains policies regarding infill development and lot creation (Consent Policies). These policies state the following:

"17.E.20.5 Applications for consent to create new lots will only be granted where:

- a) the lots comply with the policies of this Plan, any Community Plan and/or Secondary Plan, and that the lots are in conformity with the Zoning By-law, or a minor variance has been granted to correct any deficiencies;

- b) the lots reflect the general scale and character of the established development pattern of surrounding lands by taking into consideration lot frontages, areas, and configurations;
- c) all of the criteria for plan of subdivision are given due consideration;
- d) the lot will have frontage on a public street;
- e) municipal water services are available;
- f) municipal sanitary services are available except in accordance with Policy 14.C.1.19;
- g) a Plan of Subdivision or Condominium has been deemed not to be necessary for proper and orderly development; and,
- h) the lot(s) will not restrict the ultimate development of adjacent properties.”

Zoning By-law 2019-051

The subject properties are zoned as ‘Low Rise Residential Four Zone (RES-4)’. The purpose of this zone is to accommodate a range of low-density dwelling types that allow up to four dwelling units on a range of lot sizes in low rise areas on a lot that is a minimum of 10.5 metres in width.

Planning Conclusions/Comments:

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the re-configuration of existing lots of record through the proposed lot additions are desirable and appropriate. The uses of both the severed and retained parcels are in conformity with the City’s Official Plan and Zoning By-law. Planning staff is of the opinion that the size, dimension and shape of the proposed lots are suitable for the use of the lands and compatible with the surrounding community. The lands front onto an established public street and are serviced with municipal services. Staff is further of the opinion that the proposal is consistent with the Region of Waterloo Official Plan, the Provincial Planning Statement, and is good planning and in the public interest.

Environmental Planning Comments:

No concerns.

Heritage Planning Comments:

No concerns.

Building Division Comments:

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

The Building Division has no objections to the proposed consent. Region of Waterloo and Area Municipalities' Design Guidelines and Supplemental Specifications for Municipal Services (DGSSMS) allows only one service per lot. Separate building permit(s) will be required for the demolition of the existing building, as well as construction of the new residential buildings.

Engineering Division Comments:

No concerns with the Minor Variance or Consents. 13, 11a, and 11b Chicopee Park Court submitted Consent Applications in 2018 and 2020. The applicants satisfied the conditions in 2020 and received an off-site works permit for the servicing in the ROW. The money was received by the City in 2021, and the permit was issued in that same year. This permit does not expire so they can still use it for this consent process if nothing is changing.

Parks/Operations Division Comments:

The trees located on the front yard of #13 Chicopee Park Court are private trees. Parkland Dedication is not required for the proposed lot additions.

Transportation Planning Comments:

Transportation Services have no concerns with these applications.

Region of Waterloo Comments:

No concerns but has requested a Regional fee of \$350.00 per application as a condition of consent approval.

It is the responsibility of the developer to ensure the proposed development is not impacted by anticipated transportation noise from Fairway Road (RR#53) and River Road (RR#56). While an environmental noise study for the proposed development would normally be required, Corridor Development would waive this requirement in lieu of the applicant entering into an agreement with the Region of Waterloo to implement a Noise Warning Clause.

The Region will require the following as a condition of consent approval:

1. That the owner/applicant enter into a registered development agreement with the Region of Waterloo for both severed and retained lands, to include the following clause noise warning clause in agreements of Offers of Purchase and Sale, lease/rental agreements and condominium declarations.

“Purchasers/tenants are advised that sound levels due to increasing road traffic on Fairway Road (RR#53) and River Road (RR#56) may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks.”

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 (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*
- *Consent Application Reports B2018-119, B2018-120 and B2020-027, B2020-028*