

**REPORT TO:** Committee of Adjustment

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

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

**PREPARED BY:** Andrew Pinnell, Senior Planner, 519-783-8915

**WARD(S) INVOLVED:** Ward 10

**DATE OF REPORT:** March 5, 2025

**REPORT NO.:** DSD-2025-112

**SUBJECT:** Minor Variance Application A2025-015 - 1180 Union Street

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## **RECOMMENDATION:**

That Minor Variance Application A2025-015 for 1180 Union Street requesting relief from the following Sections of Zoning By-law 85-1:

- i) Section 5.3, to permit a parking space and driveway to be located in the Corner Visibility Triangle (7.5 metres by 7.5 metres), whereas the Zoning By-law does not permit parking spaces and driveways in this location; and
- ii) Section 6.1.1.1 b) iv) to permit a driveway to be located 7.4 metres from the intersection of street lines instead of the minimum required 9.0 metres;

to facilitate the development of a 1.1 metre wide unobstructed walkway to a dwelling unit in the existing building, generally in accordance with the *Proposed Site Plan*, prepared by Bobicon Ltd., dated January 12, 2025, as modified, and as attached to Report DSD-2025-112, BE APPROVED.

## **REPORT HIGHLIGHTS:**

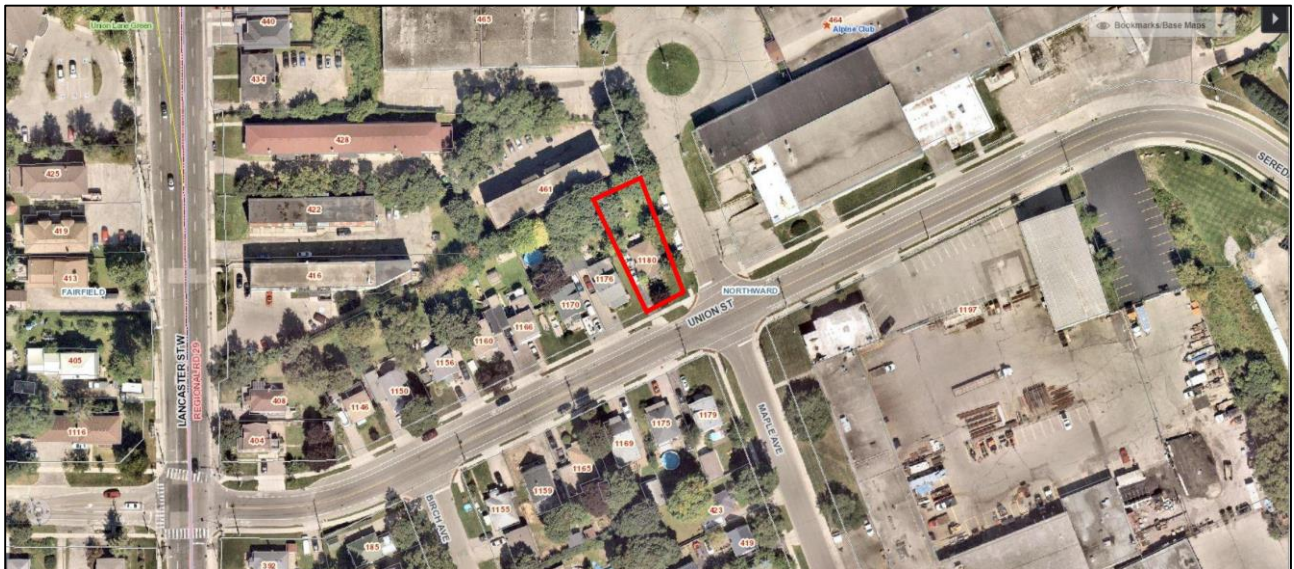
- The purpose of this report is to recommend approval of variances for relief from the Corner Visibility Triangle regulation and driveway setback to intersection regulation, to facilitate the development of a 1.1 metre wide unobstructed walkway to a dwelling unit in the existing building
- There are 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 at the northwest corner of Union Street and Maple Avenue, in the North Ward Planning Community. The property contains a dwelling, constructed as a single detached dwelling in approximately 1949. The rear yard of the property is approximately 18.4 metres deep and a large portion of the rear yard is within a depression that is approximately 1.3 metres below the grade of Maple Avenue.

The lands to the west, on Union Street, contain mainly low density residential uses, while the property immediately to the north contains a 3-storey multiple dwelling. The lands to the east and southeast are used for industrial purposes.

The subject property is identified as 'Community Areas' on Map 2 – Urban Structure of the 2014 Official Plan and is designated as 'Low Rise Conservation A' in the North Ward Secondary Plan. The property is zoned 'Residential Five Zone (R-5) with Special Use Provision 129U' under Zoning By-law 85-1 (only)



**Figure 1: Subject Property (outlined in red).**

In August 2024, the Committee conditionally approved Consent Application B2024-022 to sever a parcel of land with frontage on Maple Avenue, for the purposes of constructing a Single Detached Dwelling with an Additional Dwelling Unit (ADU) (Attached) on the Severed Lot.

The Retained Lot contains an existing Single Detached Dwelling, which is proposed to be modified to contain an ADU (Attached) and has approximate frontage on Union Street of 12.6 metres, a frontage on Maple Avenue of 22.4 metres, a depth ranging between 12.6 metres and 14.4 metres, and an area of 302.6 square metres.

In addition, the Committee approved associated Minor Variance Application A2024-067 which grants relief for the Retained Lot from Section 39.2 of Zoning By-law 85-1:

- a) to permit a corner lot width of 12.6 metres instead of the minimum required 15 metres,

- b) to permit a westerly side yard setback on one side of the dwelling where there is a driveway of 2.9 metres instead of the minimum required 3.0 metres,
- c) to permit a side yard setback abutting Maple Avenue of 3.2 metres instead of the minimum required 4.5 metres and
- d) to permit a rear yard setback of 2.8 metres instead of the minimum required 7.5 metres.

The purpose of the latter Minor Variance Application was to recognize the existing dwelling at 1180 Union Street, on the Retained Lot.

As of the date of the subject report, all conditions related to Consent Application B2024-022 have been cleared and the deed has been endorsed. However, staff does not know whether the Severed Lot has been created yet. Also, the existing dwelling is currently under renovation, as shown in Figure 2.



**Figure 2: Photo of existing dwelling, taken from the intersection of Union Street and Maple Avenue.**

Following approval of the above noted applications, it was determined that further relief is required to construct the required 1.1-metre-wide unobstructed walkway on the Retained Lot, from the sidewalk on Union Street to the principal entrance on west side of the existing building. The City's Development and Housing Approvals Division has paid the Minor Variance Application fee to account for this additional variance. In this regard, the

owner is now requesting further relief from the following Sections of Zoning By-law 85-1, via the subject application:

- i) Section 5.3, to permit a parking space and driveway to be located in the Corner Visibility Triangle (7.5 metres by 7.5 metres), whereas the Zoning By-law does not permit parking spaces and driveways in this location; and
- ii) Section 6.1.1.1 b) iv) to permit a driveway to be located 7.4 metres from the intersection of street lines instead of the minimum required 9.0 metres.

For the purposes of this report, it should be noted that the Zoning By-law 85-1 definition of a Corner Visibility Triangle “means a triangular area formed within a corner lot by the intersecting street lines or the projections thereof and a straight line connecting them 7.5 metres from their point of intersection.”

Development and Housing Approvals (DHA) staff visited the site on February 27, 2025.

## **REPORT:**

### **Planning Comments:**

In considering the four tests for 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 Parking section of the 2014 Official Plan outlines the following applicable policy:

13.C.8.4. All parking areas or facilities will be designed, constructed and maintained:...b) for the safe and efficient movement of all users, on the site, and at points of ingress and egress related to the site.

In this regard, DHA staff is of the opinion that the 0.05 metre encroachment of a parking space and driveway into the Corner Visibility Triangle (CVT) and reduced setback of the driveway to the intersection of Maple Ave / Union St is acceptable for all users, based on Transportation Services' comment that it has “no concerns with the driveway as it would not impact the CVT”.

Policy 13.8.2.1 of the (*Low Rise Conservation – A*) of the North Ward Secondary Plan states, that, “Permitted uses are restricted to single detached dwellings, duplex dwellings, semi-detached dwellings, lodging houses, small residential care facilities, home businesses, and private home day care.” In this regard, the requested variances would facilitate a permitted use along with the added benefit of an Additional Dwelling Unit (Attached).

DHA staff is of the opinion that the requested variances meet the general intent of the Official Plan.



### General Intent of the Zoning By-law

The intent of the CVT regulation is to allow motorist, pedestrian, and cyclist visibility across a site from one street to another, at an intersection. The purpose of the driveway setback to an intersection is to ensure sufficient buffering and visibility at an intersection.

It should be noted that under the applicable By-law 85-1, a CVT is 7.5 metres by 7.5 metres. However, if the subject property was under By-law 2019-051 (majority of the of the city), the requirement would be 7 metres by 7 metres [see Section 4.5 d)]. Ultimately, it is anticipated that By-law 2019-051 will be applied in this area in the coming years. In this case, since the CVT encroachment is only 0.05 metres under by-law 85-1, the property will fully comply when By-law 2019-051 is implemented in this location.

Moreover, it should be noted that under the applicable By-law 85-1, on a corner lot, an access driveway shall not be located closer than 9.0 metres to the intersection of the street lines abutting the lot. However, if the subject property was under By-law 2019-051, the related regulation reads differently, stating "...no driveway, or parking space shall be located within the front yard for a distance of 7 metres from the exterior side lot line..." [see Section 5.4i)]. In this case, since the distance to the intersection is 7.4 metres, the property will fully comply when By-law 2019-051 is implemented in this location.

As stated above, Transportation Services has "no concerns with the driveway as it would not impact the CVT". Adequate visibility and buffering are provided to and from the intersection.

DHA staff is of the opinion that the requested variances meet the general intent of the Zoning By-law.

### Are the Effects of the Variances Minor?

DHA staff is of the opinion that the requested variances are minor since they are not anticipated to cause unacceptably adverse impacts on adjacent properties or to users of abutting municipal sidewalks or roads. As aforementioned, Transportation Services has "no concerns with the driveway as it would not impact the CVT" and adequate visibility and buffering are provided to and from the intersection.

### Are the Variances Desirable for the Appropriate Development or Use of the Land, Building and/or Structure?

DHA staff is of the opinion that the requested variances are desirable. Through the dwelling modifications to add an ADU (Attached) and related Consent Application B2024-022, the subject variances will help facilitate appropriate, gentle intensification within an established neighbourhood and will assist in providing much needed housing during the present housing crisis. Moreover, the variance will permit a 1.1 metre wide unobstructed walkway for fire fighting purposes to be constructed through the interior side yard and front yard to Union Street. This walkway alignment may present less complications than constructing the walkway through the rear yard and exterior side yard to Maple Avenue.

### **Environmental Planning Comments:**

As part of the related, conditionally approved Consent Application in 2024 (Application B2024-022), a condition was required for the owner to enter into an agreement with the City on both the Severed Lot and Retained Lot to require a Tree Preservation / Enhancement

Plan and to implement the Plan, prior to grading, servicing, tree removal, or issuance of building permits. Development and Housing Approvals staff advises that this agreement has been registered. Current and future landowners are advised that the preparation of Tree Preservation / Enhancement Plan and to implement the Plan, prior to grading, servicing, tree removal, or issuance of building permits.

**Heritage Planning Comments:**

No concerns. However, the applicant is advised that the subject property is located adjacent to the Union Street Cultural Heritage Landscape.

**Building Division Comments:**

The Building Division has no objections to the proposed variance. A Building Permit has already been issued for the change of use to a duplex.

**Engineering Division Comments:**

Engineering has no concerns.

**Parks and Cemeteries/Forestry Division Comments:**

No concerns.

**Transportation Planning Comments:**

Transportation Services have no concerns with the driveway as it would not impact the CVT under the 2019-051 zoning by-law.

**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*
- *North Ward Secondary Plan (1994 Official Plan)*
- *2014 Official Plan*

- *Zoning By-law 85-1*
- *DSD-2024-366*

**ATTACHMENTS:** Attachment A – *Proposed Site Plan*, prepared by Bobicon Ltd., dated January 12, 2025, as modified



**Declaration Statement:**

I, BOBAN JOJANONIC, REVIEW AND TAKE RESPONSIBILITY FOR DESIGN WORK ON BEHALF OF A FIRM REGISTERED UNDER SUBSECTION 3.2.4 OF DIVISION C, OF THE BUILDING CODE, I AM QUALIFIED, AND THE FIRM IS REGISTERED, IN THE APPROPRIATE CLASS/ CATEGORIES:

☐ HOUSE

INDIVIDUAL BCIN: 09957      FIRM BCIN: 113444

*Boban Jojanovic*      Signature:

**Drawing Name:**

## PROPOSED SITE PLAN

Project Address:

**1180 UNION ST.  
KITCHENER, ONTARIO**

Date:

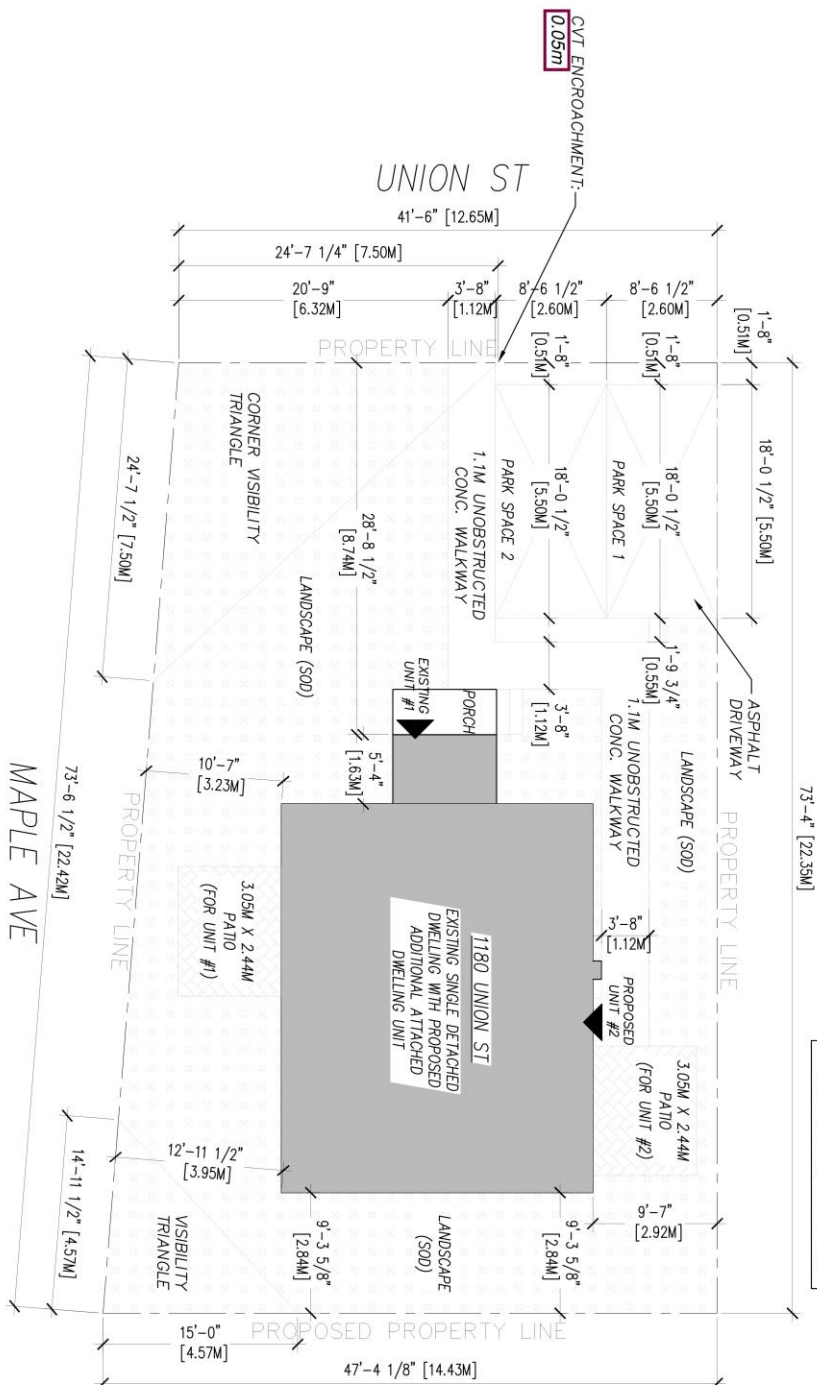
JANUARY 12, 2025

Scale: **N.T.S.**

ISSUED FOR PLANNING

Sheet No.:

SP1



**NOTE: WALKWAY IS TO DIFFER FROM THE DRIVEWAY IN MATERIAL OR IN FINISH.**