

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** April 15, 2025

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

**PREPARED BY:** Sheryl Rice Menezes, Senior Planning Technician,  
519-783-8944

**WARD(S) INVOLVED:** 10

**DATE OF REPORT:** April 3, 2025

**REPORT NO.:** DSD-2025-166

**SUBJECT:** Minor Variance Application A2025-039 – 195 Victoria St. N.

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## **RECOMMENDATION:**

That Minor Variance Application A2025-039 for 195 Victoria Street North requesting relief from Section 53.2.1 of Zoning By-law 85-1 and Section 6.3.1 b) of Zoning By-law 2019-051 to permit the construction of a partially enclosed roof structure over below-grade stairs to be located 2.1 metres from the rear lot line instead of the minimum required 7.5 metres, for a Single Detached Dwelling with two (2) Additional Dwelling Units (ADU)(Attached), generally in accordance with the drawings prepared by Steven Parker and attached to Minor Variance Application A2025-039, **BE APPROVED.**

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to review a minor variance application for a Single Detached Dwelling with two (2) Additional Dwelling Units (ADU)(Attached) (for a total of 3 dwelling units) to have a partially enclosed roof structure over rear yard basement stairs.
- The key finding of this report is that the requested minor variance meets all 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.



*Image 1: Aerial photo (2022)*

**BACKGROUND:**

The subject property is located on the south side of Victoria Street North and one property west of Margaret Avenue.

The property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure and has an Official Plan designation of Strategic Growth Area A. It is zoned 'Low Intensity Mixed Use Corridor (MU-1)' in Zoning By-law 85-1 and zoned 'Strategic Growth Area Two Zone (SGA-2)' in Zoning Bylaw 2019-051.

In August 2023, the applicant obtained minor variance approval, A2023-099, to permit a reduced lot width and area for the three dwelling units. However, it is noted that recent changes to both By-laws 85-1 and 2019-051 now permit the three dwelling units to be located on the property with the existing lot area and lot width and therefore these two regulations are no longer require variance approval.

The three dwelling units use is permitted and acknowledged with Zoning Certificate #23-116163 which was issued in 2023. Though the property does not provide a 1.1 metre unobstructed walkway nor have 'soft' landscaping in the front or rear yard, which is a current requirement of the bylaw, these two regulations can be considered legal non-conforming.

The applicant has been recently advised that a partially enclosed roofed structure is required over the rear yard basement stairs. This is required by because based on their design, there is only one compliant exit from the basement unit. They are proposing to enclose the exterior stair well to protect it from exposure to the other fire compartments (dwelling units) as required by Section 9.9.4.4. of the Ontario Building Code.

Staff visited the site on March 28, 2025.



***Image 2: Front yard***



***Image 3: Rear yard***



## **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

As noted in Section 15.D.2. of the Official Plan regarding residential uses, the 'Strategic Growth Area' land use designations are intended to increase all forms of residential development within the strategic growth area. As well, Section 15.D.2.55 notes that the specific 'Strategic Growth Area A' land use designation will accommodate a range of low and medium density residential housing types including those permitted in the Low-Rise Residential designation. Therefore, the use of the property for three dwelling units meets the general intent of the Official Plan.

#### General Intent of the Zoning By-law

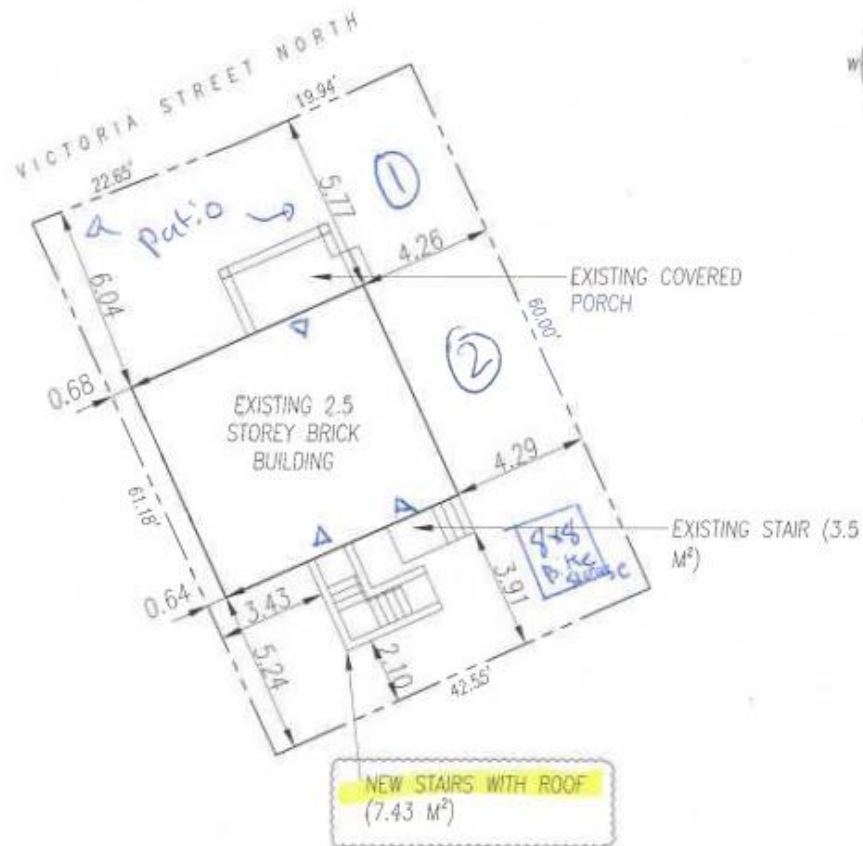
The intent of the rear yard setback regulation is to ensure that the property can adequately support the use and provide amenity area and sufficient parking spaces. This zone does not require any parking spaces, but the applicant is providing two legal size spaces (2.6 metres x 5.5 metres) in tandem in the existing driveway. As shown in photo image 3 above, the rear yard can provide the minimum 30% landscaped area. It is noted that it is not 'soft' landscaping as required by current bylaw but is considered legal non-conforming as a hard surface patio as the use for three units was legalized by the previous minor variance decision A2023-099. The variance meets the intent of the Zoning By-law.

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

As noted above, general intent of the by-law is met, and the use supports appropriate housing intensification which is supported by the City. The property meets all other regulations of the bylaw. The impact on the neighbouring properties is no different as the use of the subject property is for three dwelling units and the area for the variance is for stairs to the basement of the building. The variance can be considered minor.

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

The variance is desirable and appropriate as it will facilitate the construction of a partially enclosed roofed area required by Ontario Building Code and facilitate the use of the building for 3 dwelling units. Thereby permitting and supporting a gentle intensification of a building in a Major Transit Station Area.



**Image 4: Site Plan**

**Environmental Planning Comments:**

No comments or concerns.

**Heritage Planning Comments:**

No comments or concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance. A Building Permit has been issued for the change of use to a triplex. The applicant will be required to provide revised drawings to the building division for any changes made to the permit.

**Engineering Division Comments:**

No comments.

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

No concerns and no requirements.

**Transportation Planning Comments:**

Transportation Services have no concerns with this application.

**Metrolinx Comments:**

The subject property is located within 300 metres of the Metrolinx Guelph Subdivision, which carries Metrolinx's Kitchener GO Train service.

**GO/HEAVY-RAIL – CONDITIONS OF APPROVAL**

- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact [Farah.Faroque@metrolinx.com](mailto:Farah.Faroque@metrolinx.com) with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:

*“Warning: The Applicant is advised that the subject land is located within Metrolinx’s 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.”*

**Planning Response:**

Metrolinx provided the same conditions for approval for this Minor Variance Application as were provided for Minor Variance Application A2023-099 and considered by the Committee of Adjustment on August 15, 2023. At that meeting the Committee approved Minor Variance Application A2023-099 without the Metrolinx conditions.

Planning staff have not included these same conditions as conditions of approval for Minor Variance A2025-039 given the use that was previously approved as part of Minor Variance Application A2023-099 is not changing and this minor variance is for an enclosed basement entrance.

**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 85-1 and 2019-051*
- *DSD-2023-335 (Minor Variance A2023-099)*