

# ***Staff Report***

Development Services Department

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**REPORT TO:** Committee of Adjustment

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

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

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

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

**DATE OF REPORT:** March 27, 2025

**REPORT NO.:** DSD-2025-180

**SUBJECT:** Minor Variance Application A2025-029 - 315 Wellington St. N.

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## **RECOMMENDATION:**

That Minor Variance Application A2025-029 for 315 Wellington Street North requesting relief from the following Sections of Zoning By-law 2019-51:

- i) Section 4.1 d) and Section 7.3, Table 7-2, to permit accessory structures to have a lot coverage of 16.2% instead of the maximum permitted 15%;
- ii) Section 4.12.3 n) to permit a 1.1 metre unobstructed walkway to share part of the driveway, whereas the Zoning By-law does not permit obstruction in the walkway;
- iii) Section 5.4 f) to permit a driveway to have a width of 9.8 metres in the rear yard instead of the maximum permitted 8 metres;
- iv) Section 5.4 k) to permit the driveway portion that overlaps with the walkway to have a distinguishable material, whereas the Zoning By-law requires the driveway to be comprised of consistent material; and
- v) Section 7.3, Table 7-2, to permit a side yard setback of 1.1 metres for the principal dwelling instead of the minimum required 1.2 metres;

to facilitate the development of an Additional Dwelling Unit (ADU)(Detached) in the rear yard of the subject property, generally, in accordance with drawings prepared by The Hive Design Co., dated February 13, 2025, BE APPROVED subject to the following conditions:

### **1. That the Owner shall:**

- a) Prepare an Arborist Report or Tree Preservation Plan for the Subject Lands to the satisfaction of Environmental Planning, in accordance with the City's Tree Management Policy, to be approved by the City's Manager, Site Plans

\*\*\* This information is available in accessible formats upon request. \*\*\*  
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

and City's Director, Parks and Cemeteries, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of Demolition and/or Building Permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.

- b) That the Owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Manager, Site Plans.
2. That 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.
3. That the Owner 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:

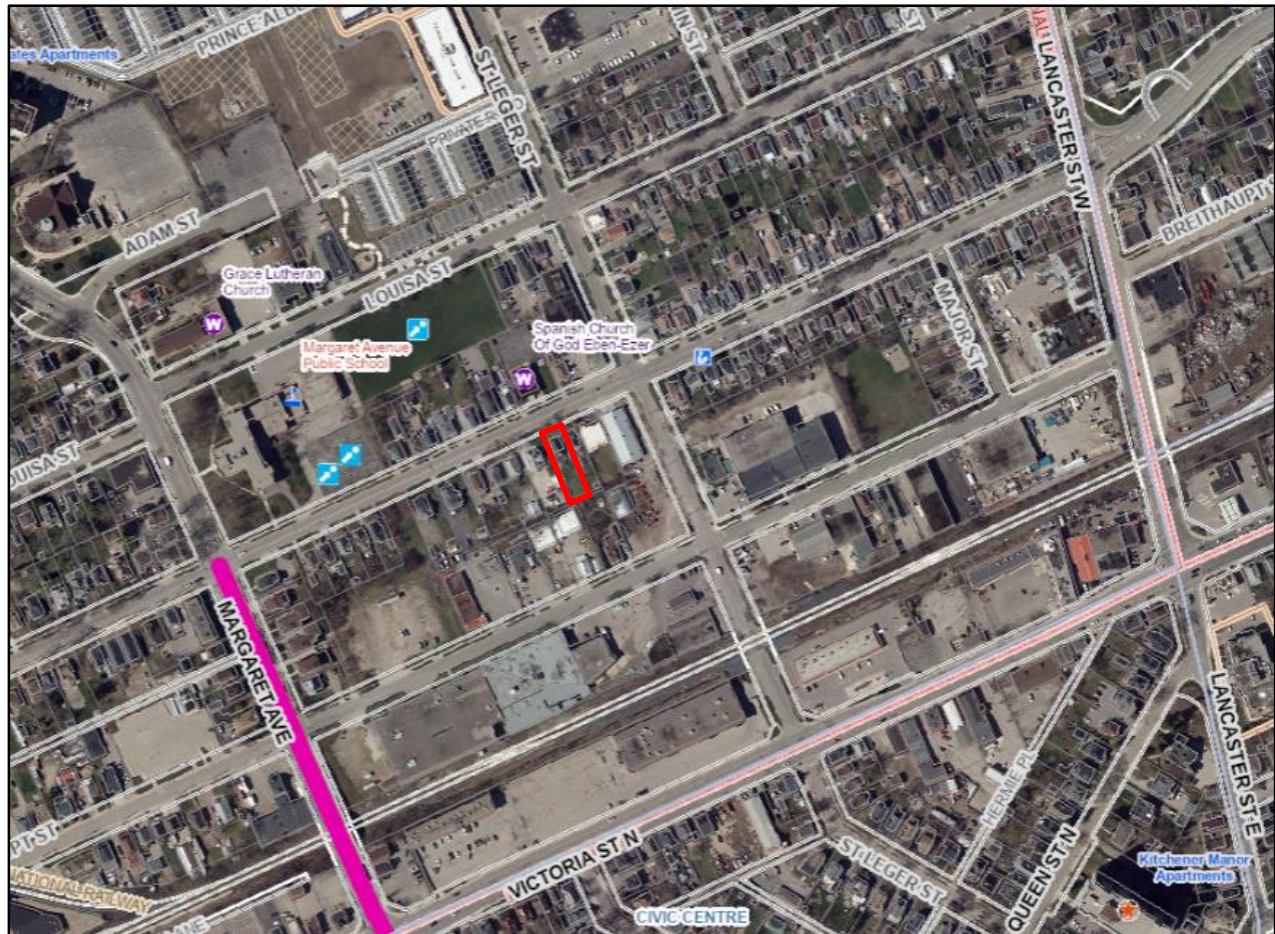
***“Warning: The Applicant is advised that the subject land is located within Metrolinx’s 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is 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.”***

#### **REPORT HIGHLIGHTS:**

- The purpose of this report is to review minor variances to allow for an Additional Dwelling Unit (Detached) in the rear yard of the subject property
- The key finding of this report is that the requested minor variances meet the 4 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 situated in the Mt. Hope Huron Park neighbourhood, located north of Victoria Street North and west of Lancaster Street West. It currently contains a two-storey Single Detached Dwelling with one Additional Dwelling Unit (Attached) (Duplex)



**Figure 1: Location Map**

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 Four Zone (RES-4)' in Zoning By-law 2019-051.

The purpose of this application is to review minor variances to facilitate the development of an Additional Dwelling Unit (ADU) in the form of a detached building located in the rear yard of a property that contains a Single Detached Dwelling with an Additional Dwelling Unit (ADU)(Attached) (Duplex). The property also features a shared driveway with the abutting lot, accessible through an existing shared right-of-way easement.





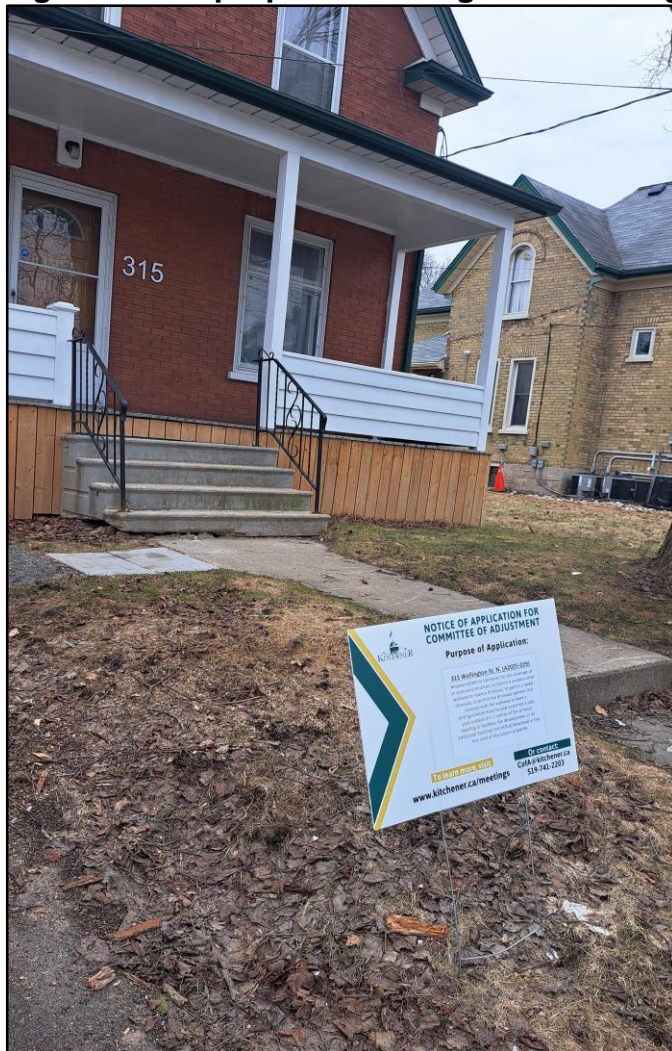
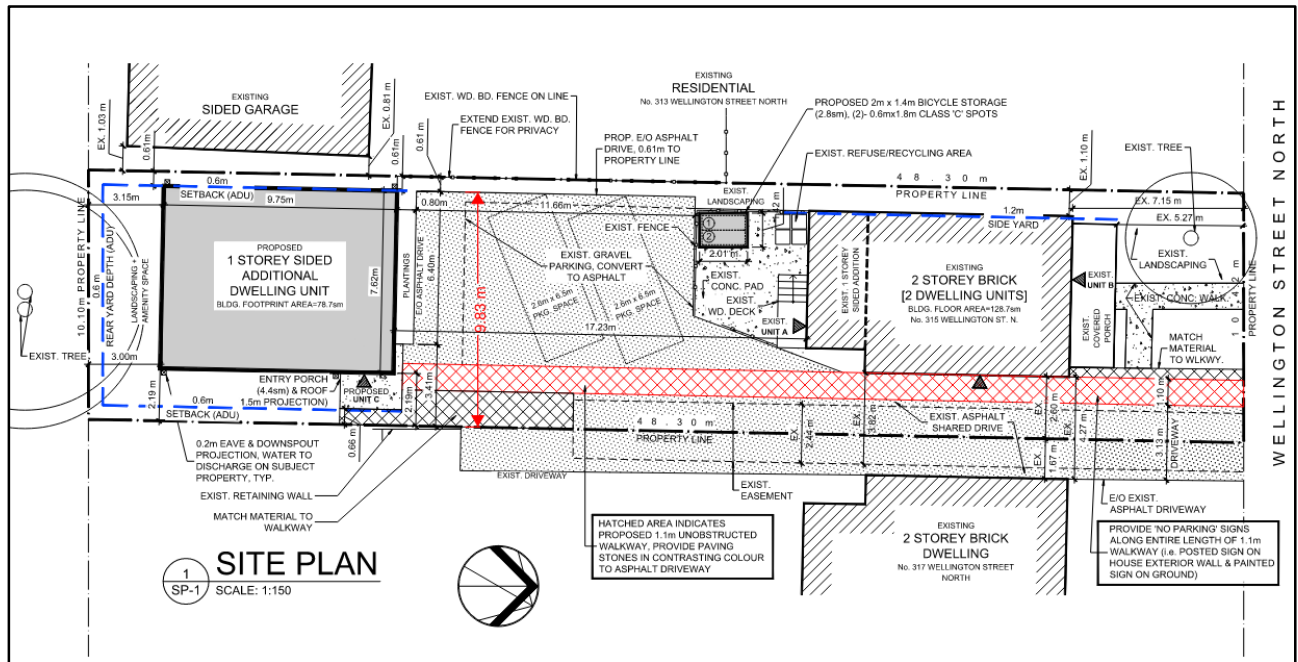
**Figure 2: Zoning Map**

To accommodate the proposed detached dwelling, relief from the Zoning By-law is required for the following variances:

- The existing principal dwelling has a side yard setback of 1.1 metres, whereas the Zoning By-law requires a minimum of 1.2 metres;
- The total lot coverage for accessory structures, including the proposed detached dwelling and a bicycle parking shed, is 16.2%, exceeding the maximum permitted 15%;
- The walkway leading to the detached dwelling is partially obstructed by the driveway, impacting access to the rear yard parking spaces; and
- The rear yard parking spaces result in a driveway width of 9.8 metres, which overlaps with the walkway and combines two different materials, creating inconsistency in the surfacing material.

A building permit was issued in 2023 to permit an Additional Dwelling Unit (ADU)(Attached), including two rear-yard parking spaces accessed through the existing front driveway.

The current proposal to add an Additional Dwelling Unit (ADU) (Detached) in the rear yard is under review through the Zoning Occupancy Certificate process, which is being reviewed by Zoning Services staff.





**Planning staff conducted a site inspection on Friday, March 28, 2025.**



**Figure 5: The rear view of the principal building with the rear patio and the shared driveway**



**Figure 6: The rear yard where the detached dwelling will be, with the walkway and the rear parking spaces**

## **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'. This designation places emphasis on accommodating a full range of low-density housing types, which include single detached dwellings, additional dwelling units attached and detached. The city will encourage and support the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form.

Policy 4.C.1.24 of the City's Official Plan states that: "4.C.1.24. The City, in accordance with Planning Act and other applicable legislation, will permit a stand-alone additional dwelling unit (detached), as an ancillary use to single detached dwellings, semi-detach dwellings and street townhouse dwellings. The following criteria will be considered as the basis for permitting an Additional Dwelling Unit (ADU)(Detached).

- a) the use is subordinate to the main dwelling on the lot;
- b) the use can be integrated into its surroundings with negligible visual impact to the streetscape;
- c) the use is compatible in design and scale with the built form on the lot and the surrounding residential neighbourhood in terms of massing, height and visual appearance; and,
- d) other requirements such as servicing, parking, access, stormwater management, tree preservation, landscaping and the provision of amenity areas."

In addition, section 11 - Urban Design and policies relating to "Safety", Policy 11.C.1.15 states that:

"11.C.1.15 Development applications will be reviewed to ensure that they are designed to accommodate fire prevention and timely emergency response."

The proposal is to add a detached dwelling in the rear yard conforms with the Official Plan policies. In addition, staff consulted with the Fire Prevention Staff and confirmed that there are no concerns regarding walkway safety as there is a legal easement/shared right-of-way and no parking is permitted by the owners on either side of the driveway to obstruct the walkway.

Based on the above, the variances meet the general intent of the Official Plan.

### General Intent of the Zoning By-law

**Existing setback:** The Zoning By-law requires the entire site, not just the newly proposed detached structure, to comply with applicable regulations, including the required setbacks. This requirement ensures adequate separation between buildings, maintains access to building systems and equipment, and supports the site's overall functionality.

Although the principal dwelling was legally constructed with a reduced side yard setback of 1.1 metres at the front wall, the introduction of a detached ADU triggers a review of the entire property for compliance. As such, the existing dwelling is considered non-complying. In this case, the side yard setback of 1.1 metres occurs only at the front portion of the principal dwelling and represents a minor variance of just 0.1 metres. The setback

increases toward the rear of the building, reaching approximately 1.42 metres. This area is landscaped with grass, accommodates air conditioning units and the site's gas meter, and provides sufficient space for access and light to the side-facing windows.

**Accessory lot coverage:** The Zoning By-law permits a maximum lot coverage of 15% for accessory structures, including detached dwelling units and accessory sheds, to ensure that properties maintain adequate open space, drainage capacity, livability, and rear yard functionality.

The additional coverage primarily results from including a small front porch on the detached Accessory Dwelling Unit (ADU) and a shed to accommodate the required Class C bicycle parking, both of which contribute to the site's livability and functionality without generating negative impacts on neighboring properties. With that, the detached dwelling still meets the required setback for the detached dwelling, the separation requirement, and the landscaped area required for the front and the rear of the property.

**Driveway width in the rear yard:** Limiting the driveway width in the rear yard to 8 metres is intended to preserve landscaping and amenity space, while minimizing the extent of impermeable surfaces, which helps manage stormwater on-site.

In this case, the proposed driveway exceeds the 8.0-metre limit to accommodate the required parking spaces. However, the property continues to meet the rear yard landscaping requirements, including a patio serving the principal dwelling and approximately 3.1 metres of amenity space to the rear of the proposed detached dwelling. These landscaped areas provide sufficient space for outdoor use and stormwater infiltration.

Additionally, the wider driveway is located at the rear of the property and is not visible from the street, combined with the walkway, thereby avoiding any negative impact on the streetscape or neighbourhood character.

**The overlap of the driveway with the unobstructed walkway and the driveway material:** The Zoning By-law requires an unobstructed walkway to provide safe and clear access to detached dwellings, which also serves as the access for emergency services. Additionally, the by-law requires that driveways be constructed using consistent materials to support cohesive design and safe vehicle movement.

In this case, the proposed rear yard layout partially overlaps the driveway and the required walkway, creating an area with mixed surface materials.

The overlap occurs only when vehicles access the rear parking spaces, and the walkway remains clear and unobstructed at all other times. The use of different materials helps visually distinguish the walkway, which is essential for ensuring it remains identifiable, accessible, and safe for pedestrian circulation and emergency access. This variance was reviewed to the satisfaction of the Fire Prevention Team and confirmed no concerns as per the email dated February 18, under Attachment -1

Based on the above, the requested variances meet the intent of the zoning By-law.



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

**Existing setback:** The existing setback variance is minor as it represents a reduction of only 0.1 metres and is limited to the front portion of the side wall. The setback increases to approximately 1.42 metres toward the rear of the building, maintaining adequate separation and light access.

**Accessory lot coverage:** The accessory lot coverage exceeds the maximum by only 1.2%, which equals approximately 6 square metres. This minor increase accommodates the required bicycle parking shed and a covered front porch on the detached dwelling, contributing to improved site functionality and architectural design.

**Driveway width in the rear yard:** The driveway in the rear yard widens to 9.8 metres, but only beyond the rear patio area. At the front of the property, the driveway is just 1.6 metres wide, and it is shared with the abutting lot through an existing easement/shared right-of-way, creating a combined width of 3.1 metres. Given this configuration, the impact of the increased driveway width is minimal, especially as it is located at the rear and not visible from the street.

**The overlap of the driveway with the unobstructed walkway and the driveway material:** The required 1.1-metre unobstructed walkway is maintained across the site. The overlap with the driveway occurs only when vehicles are actively accessing the rear parking spaces. This is due to the shared central driveway between the subject property and the abutting lot. The use of different materials within the overlap area serves to clearly distinguish the walkway, ensuring it remains visible, functional, and accessible when not in use by vehicles

Based on the above, the requested variances are considered minor in nature, with no significant negative impacts

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 requested variances are desirable and appropriate as they will facilitate a form of gentle intensification of the subject property with the development of an additional dwelling unit in the rear yard, that will support the City's Housing Pledge and will make use of existing infrastructure.

**Environmental Planning Comments:**

There may be a tree in shared ownership with 317 Wellington Street North that would be impacted by the ADU footprint. Please include the standard variance condition to complete, obtain approval and implement an arborist's report following the methods of the Tree Management Policy (TP/EP) prior to any demolition, site alteration, grading or Building Permit issuance.

**Heritage Planning Comments:**

The Kitchener Cultural Heritage Landscape Study (CHLS) dated December 2014 and prepared by The Landplan Collaborative Ltd. was approved by Council in 2015. The CHLS serves to establish an inventory and was the first step of a phased Cultural Heritage Landscape (CHL) conservation process. The property municipally addressed as 315 Wellington Street North is located in the Mt. Hope/Breithaupt Neighborhood CHL. Since

the ADU is located in the rear of the property, staff have no concerns. However, the applicant is encouraged to use materials, massing, and design that is compatible with the character of the neighborhood.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided a building permit for the detached ADU 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 concerns.

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

No concerns, no requirements.

**Transportation Planning Comments:**

Transportation Services will support the request to allow a 1.1 metre walkway to overlap with the exiting driveway.

**The Region of Waterloo Comments:**

Please be advised that any development on the subject lands is subject to the provisions of the Regional Development Charge By-law 19-037 or any successor thereof and may require payment of Regional Development Charges for these developments prior to the issuance of a building permit.

The comments contained in this letter pertain to the Application numbers listed. If a site is subject to more than one application, additional comments may apply.

Please forward any decisions on the above-mentioned Application numbers to the undersigned.

**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. 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.”

### **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*

### **ATTACHMENTS:**

Attachment A – Email from the Fire Prevention Team