

REPORT TO: Committee of Adjustment

DATE OF MEETING: April 15, 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 8

DATE OF REPORT: March 28, 2025

REPORT NO.: DSD-2025-154

SUBJECT: Minor Variance Application A2025-035 – 53 Rusholme Road

RECOMMENDATION:

That Minor Variance Application A2025-035 for 53 Rusholme Road requesting relief from Section 7.3, Table 7-2, of Zoning By-law 2019-051, to permit an interior side yard setback of 1.8 metres, for both interior side yards, instead of the minimum required 3 metres, to facilitate the construction of a new 2 storey detached dwelling with a 3-car garage, generally in accordance with drawings prepared by McKechnie Surveying Inc., February 27, 2025, BE APPROVED subject to the following condition:

1. That the Owner shall:
 - a) Prepare a Tree Preservation Plan for the Subject Lands and City Right-of-Way, in accordance with the City's Tree Management Policy, to be approved by the City's Manager, Site Plans 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.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application requesting relief from the side yard setback of 1.8 metres rather than the required 3 metre requirement to facilitate the construction of a new 2 storey detached dwelling with a 3-car garage.
- 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 south side of Rusholme Road in the Westmount 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 One Zone (RES-1)' in Zoning By-law 2019-051.

The purpose of the application to request relief from Section 7.3, Table 7-2 of Zoning By-law 2019-051, to permit an interior side yard setback of 1.8 metres for both sides of the

proposed dwelling rather than the required 3 metres. Approval of the variance will allow for the re-development of a new single-detached dwelling, maintaining the built form of the neighbourhood. A majority of the neighbourhood maintains reduced setbacks as guided by Zoning By-law 85-1 when the neighbourhood was being developed. The side yard setback requirement at that time would have only required 1.2 metres. The new Zoning By-law 2019-051, which came into effect in 2019, now requires 3 metres.

Both current side yard setbacks for the Subject Property hold legal non-conforming status as the interior side yard abutting 63 Rusholme Road is 1.6 metres, and the interior side yard abutting 45 Rusholme Road is 2.4 metres. Existing front and rear yard setbacks comply with Zoning By-law regulations.

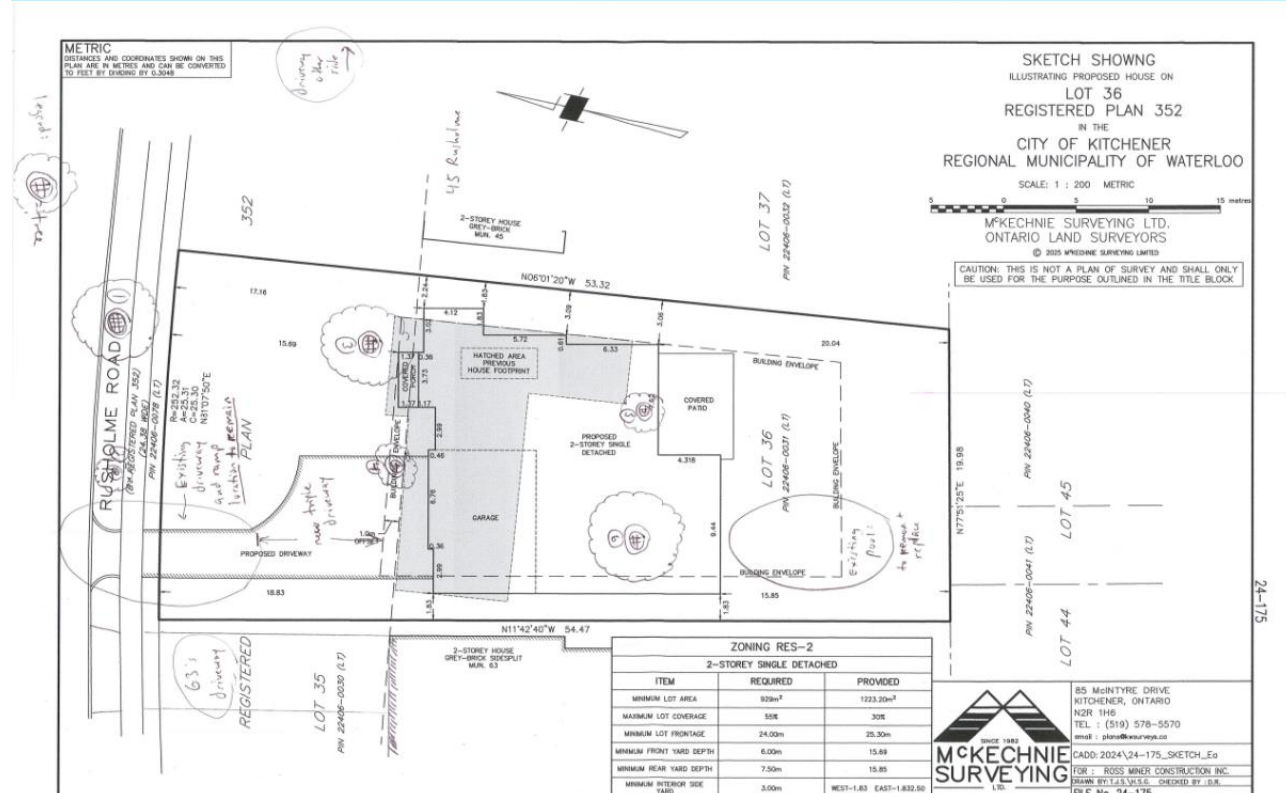


Figure 2 – Proposed Site Plan



Figure 3 – Site Photo of 53 Rusholme Road



Figure 4 – Existing side yard where the proposed dwelling will project into, existing building shown in the photo with be removed.



Figure 5 – Existing side yard showing the proximity to the abutting property and massing of abutting property building in conjunction with the existing dwelling at the Subject Property.



Figure 6 – Existing side yard where the proposed dwelling will project into, existing building shown in the photo with be removed.



Figure 7 - Existing side yard showing the proximity to the abutting property and massing of abutting property building in conjunction with the existing dwelling at the Subject Property.

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.1.8 a), pertaining to minor variance applications, mentions any new buildings and any additions and/or modifications to existing buildings are appropriate in massing and scale and are compatible with the built form and the community character of the established neighbourhood and will have regard to Section 11 of this Plan, the City's Urban Design Manual, and any site-specific Urban Design Brief or Urban Design Report and Urban Design Scorecard.

The requested side yard setback relief for both sides of the proposed dwelling to facilitate a larger single-detached dwelling conforms to the existing built form and character of the neighbourhood, as several properties along Rusholme Road currently have legal non-conforming status or previous Committee of Adjustment approval for reduced side yard setbacks. In addition, the existing dwelling at the Subject Property has a shorter massing in comparison to the built form of the neighbourhood, as highlighted in Figure 5 and Figure

7. The approval of this application would support the development of a dwelling with comparable and compatible setbacks, thereby maintaining the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the minimum side yard setback requirements is to ensure dwellings provide appropriate access to the rear yards, to accommodate fire separation, and to provide privacy to abutting properties. Planning Staff is of the opinion that the proposed 1.8 metre side yard setback for both interior side yards still allows sufficient access to the rear yard, for fire separation, and for privacy. In the opinion of Planning Staff, the requested variance to permit relief of minimum side yard setbacks 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 1.8 metres is minor, as several existing properties within the neighbourhood have reduced side yard setbacks from the 3 metres that was established in 2022 when Zoning By-law 2019-051 came into effect. In addition, the proposed setbacks will be comparable to the 1.6 metres and compatible with the 2.6 metres that currently existing now.

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 new detached dwelling that will have side yard setbacks compatible and similar to the pattern of development in the neighbourhood.

Environmental 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 53 Rusholme Road is located within the Westmount East & West Neighborhood Heritage Conservation District. The applicant is encouraged to implement a design that is sympathetic to the existing character of the neighborhood, including the design, materials, and setbacks.

Heritage Planning Comments:

Standard variance condition to complete, obtain approval or, and implement an arborist's report following the methods of the Tree Management Policy (Tree Preservation/Enhancement Plan) including City-owned street trees prior to any demolition, site alteration, grading or issuance of building permit.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permits for the demolition of the existing building and the re-construction of the single detached dwelling is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

Engineering has no comment.

Parks and Cemeteries/Forestry Division Comments:

There are two City-owned street trees within the boulevard on Rusholme Rd. It is expected that all City-owned tree assets will be fully protected to City standards throughout demolition and construction as per Chapter 690 of the current Property Maintenance By-law.

No revisions to the existing driveway or boulevard apron will be permitted without Forestry approval. Tree Protection and Enhancement Plans to Forestry's satisfaction will be required outlining complete protection of City assets prior to any demolition or building permits being issued.

Transportation Planning Comments:

Transportation have no concerns with this application.

Region of Waterloo Comments:

No concerns.

Grand River Conservation Authority Comments:

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 properties are not subject to Ontario 41/24 and, therefore, permission from GRCA is not required.

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*