

REPORT TO: Committee of Adjustment

DATE OF MEETING: April 15, 2025

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

PREPARED BY: Ella Francis, Student Planner, 519-783-8602

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: April 2, 2025

REPORT NO.: DSD-2025-163

SUBJECT: Minor Variance Application A2025-038 – 206 Shelley Drive

RECOMMENDATION:

That Minor Variance Application A2025-038 for 206 Shelley Drive requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.1.e) to permit an existing detached garage within the front yard; and
- ii) Section 7.3, Table 7-2, to permit a rear yard setback of 4.5 metres instead of minimum required 7.5 metres to recognize the location of the existing dwelling;

to facilitate the development of detached building with two (2) Additional Dwelling Units (ADU)(Detached) on the subject property, generally in accordance with the plan prepared by Chris Machado, dated September 23, 2024, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review the minor variance application to permit an existing detached garage to be located within the front yard and to permit a rear yard setback of 4.5 metres instead of 7.5 metres to recognize the location of the existing primary dwelling to facilitate the development of a detached building with two (2) Additional Dwelling Units (ADUs)(Detached) on the subject property.
- The key finding of this report is that the minor variances meet 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 west side of Shelley Drive, near Wilson Avenue, in the Vanier Neighbourhood.



Figure 1 – Location of subject property (outlined in RED)

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 Two Zone (RES-2)' in Zoning By-law 2019-051.

The purpose of the application is to recognize the existing conditions of the existing dwelling, which will then facilitate the development of two new Additional Dwelling Units (ADUs) (Detached) on the subject property.

Due to how the yards of the house are classified, the existing detached garage is located in the front yard and the rear yard setback of the existing house is 4.5 metres where 7.5 metres is required (see Figure 3). Please note that staff originally identified the garage as also being in the exterior side yard, but through further review it was determined that the garage is entirely within the front yard.

A new detached building is proposed in the rear and interior side yards of the subject property. The new building would contain two Additional Dwelling Units (ADUs) (Detached). The proposed new building does not require any variances. In addition, a previous building permit was granted for interior alterations which would add an ADU to

the interior of the existing dwelling. ADUs (Attached) or 'Duplexing' is permitted within existing Single Detached Dwellings. Any increase in dwelling units beyond 'duplexing' requires a full zoning review and so the zoning deficiencies of the existing dwelling were identified at the time of application for building permit for the detached ADUs. Granting the variances to recognize the existing conditions of the dwelling and garage will allow the proposed new building with two ADUs to proceed to building permit.

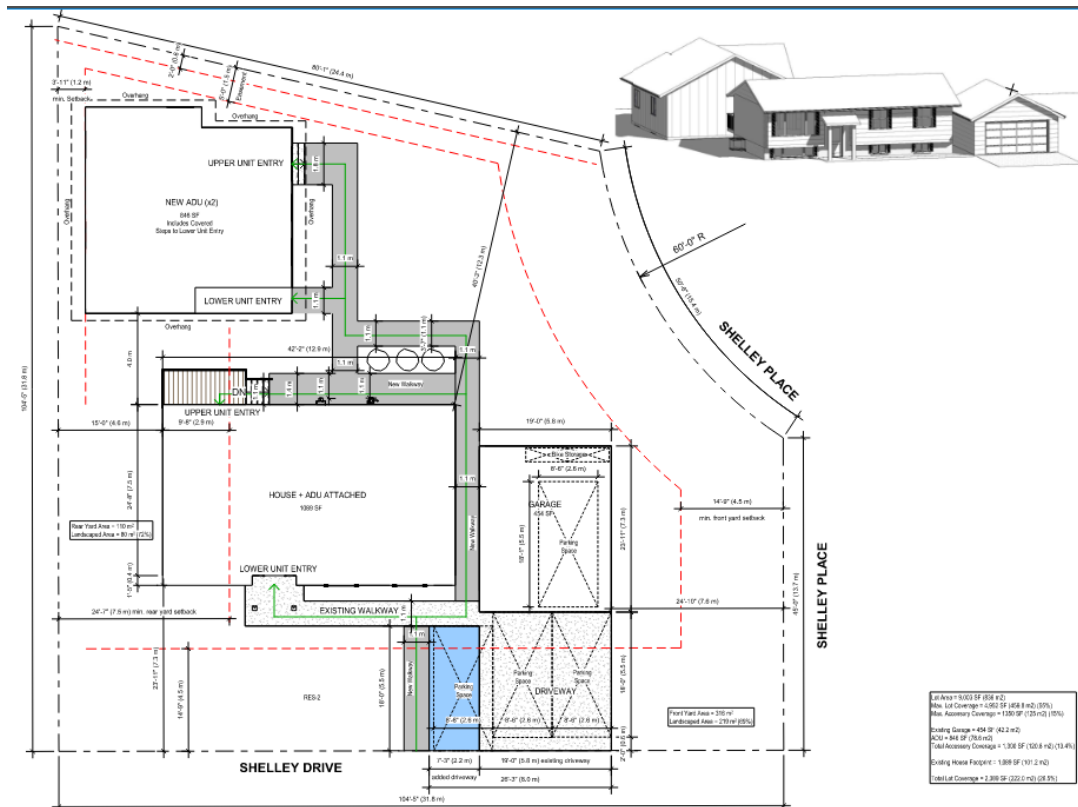


Figure 2 – Site Plan of subject property showing existing house and proposed new building with two ADUs.

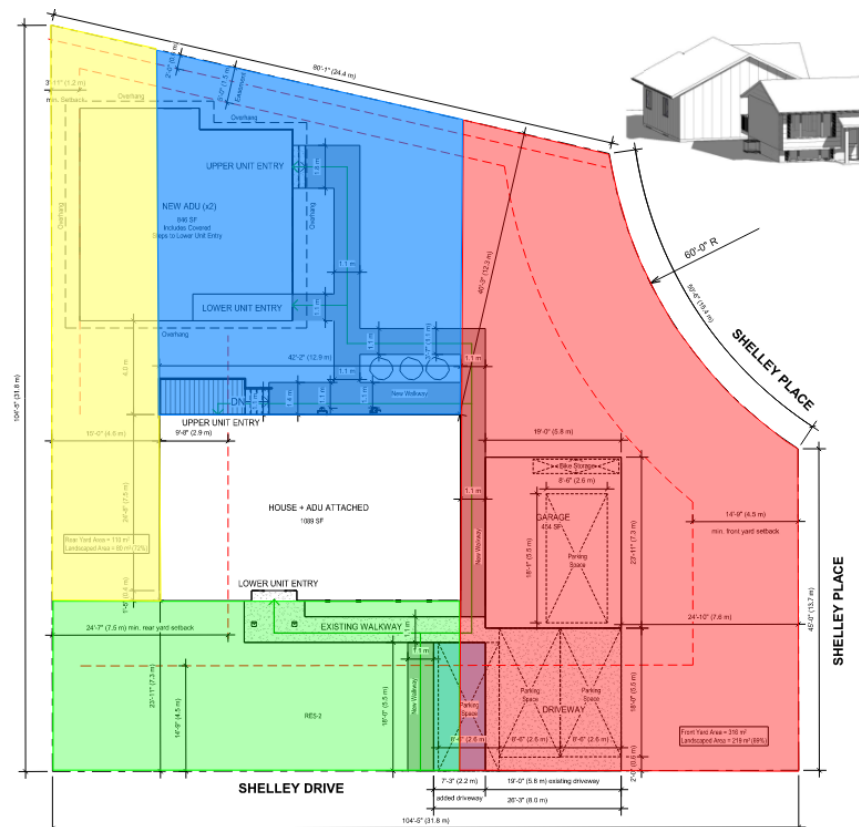


Figure 3 – Site Plan with yards identified (front yard in red, exterior side yard in green, rear yard in yellow, and interior side yard in blue).



Figure 4 – View of subject property facing west from Shelley Drive



Figure 5 – View of rear yard facing east.



Figure 6 - View of rear and interior side yards facing south.

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' in the City's Official Plan. The intent of this designation is to encourage a range of different housing to achieve a low rise built form in the neighbourhood. The existing dwelling and detached garage are permitted with the land use designation. The variance to recognize the rear yard setback of the existing dwelling and the location of the existing garage will maintain the general intent of the Official Plan.

General Intent of the Zoning By-law

Section 7.3, Table 7-2, of Zoning By-Law 2019-051 states that the minimum rear yard setback for a single detached dwelling in a residential zone is 7.5 metres. The existing dwelling has a rear yard setback of 4.5 metres. The purpose of minimum rear yard setbacks in residential zones is to provide privacy from neighbouring dwellings and a sufficient amenity area. The yard is existing and staff did not observe any adverse impacts resulting from the reduced setback. Further, the rear yard functions similarly to an interior side yard, and had it been classified as such, a variance would not be needed for the reduced setback. The interior side yard functions as a rear yard and provides sufficient amenity area for the dwelling. Therefore, the proposed rear yard variance will maintain the general intent of the Zoning By-Law.

Section 4.1.e) of Zoning By-law 2019-051 states that accessory buildings cannot be located in the front or exterior side yards. The purpose of this regulation is to ensure that the street line remains consistent and the quality of the streetscape is maintained. The existing detached garage is located in the front yard on the subject property. However, despite how the yards have been identified, the entrance to the dwelling is from Shelley Drive and the site functions as though the exterior side yard was the front yard. In Planning Staff's opinion, the location of the existing garage is consistent with the surrounding neighbourhood and does not negatively impact the streetscape. This variance would maintain the general intent of the Zoning By-law.

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

Staff have not observed any significant or adverse impacts related to the rear yard setback of the existing dwelling or the location of the existing garage. Reconstructing the dwelling or garage to bring them into compliance with the Zoning By-law would cause much more significant impacts than permitting the existing zoning deficiencies. Therefore, the proposed variances are minor in nature.

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

The variances will recognize the existing conditions of the dwelling and detached garage. They will also facilitate the development of two ADUs in the rear yard. Therefore, the proposed variances are desirable and appropriate for the use of the land.

Environmental Planning Comments:

Care should be taken when working in the rear yard not to negatively impact adjacent trees / vegetation.

Heritage Planning Comments:

No concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permits for the detached ADU is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No comments.

Parks and Cemeteries/Forestry Division Comments:

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

Transportation Planning Comments:

No concerns.

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*