

Staff Report



Development Services Department

www.kitchener.ca

REPORT TO: Committee of Adjustment

DATE OF MEETING: April 15, 2025

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

PREPARED BY: Tim Seyler, Senior Planner, 519-783-8920

WARD(S) INVOLVED: Ward 2

DATE OF REPORT: April 2, 2025

REPORT NO.: DSD-2025-160

SUBJECT: Consent Application B2025-009 – 179 Jansen Avenue

RECOMMENDATION:

That Consent Application B2025-009 for 179 Jansen Avenue requesting consent to create an easement having a width of 20.1 metres, a depth of 38 metres, and an area of 760 square metres, BE APPROVED subject to the following conditions:

1. That the Owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the Owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
3. That the owner provides a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full size paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Manager, Development Applications:
 - a) a clear and specific description of the purpose of the Easement(s) and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto); and

b) a clause/statement/wording confirming that the Easement(s) being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.

5. That a satisfactory Solicitor's Undertaking to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor be provided to the City Solicitor.

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for Consent to create an easement over the subject property to facilitate driveway access for 177 and 181 Jansen Avenue.
- 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 Jansen Avenue, near the intersection of Jansen Avenue and Fairway Road North.



Figure 1: Subject property – 179 Jansen Avenue

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 purpose of the application is to create a new access easement over the subject property in order for the adjacent properties, addressed as 177 and 181 Jansen Avenue to have access to their rear yards and existing driveways and garages. The easement is proposed to be over the driveway entrance and exit at the front of the property. Further, the subject property is subject to Site Plan Application SP24/065/J/TS that has received 'Conditional Approval' for 56 stacked townhouse dwelling units.



REPORT:

Planning Comments:

In considering all the relevant Provincial legislation, Regional and City policies and regulations, Planning staff offer the following comments:

Provincial Planning Statement (PPS 2024)

Staff are satisfied that the proposed easement application are consistent with the Provincial Planning Statement in general and as it related to housing policies in Chapter 2 regarding intensification and facilitating housing options. Section 2.2 1 (b) states that Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents.

Regional Official Plan (ROP):

ROP Urban Area policies state that the focus of the Region's future growth shall be within the Urban Area. The subject lands fall within the 'Urban Area' and are designated 'Built-Up Area' in the ROP. The proposed development conforms to Policy 2.D.1 of the ROP as this neighbourhood provides for the physical and community infrastructure required for the proposed residential development, including transportation networks, municipal water and wastewater systems, and a broad range of social and public health services. Regional polices require municipalities to plan for a range of housing in terms of form, tenure, density, and affordability to satisfy the various physical, social, economic, and personal support needs of current and future residents. Staff are satisfied that the proposed easement application adhere to these policies and conforms to the ROP.

City's Official Plan (2014)

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 Official Plan.

Section 17.E.20.4 of the Official plan states: Consents may be permitted for the creation of a new lot, boundary adjustments, rights of-way, easements, long-term leases and to convey additional lands to an abutting lot provided an undersized lot is not created.

The application is creating an easement over an existing lot and Staff are satisfied the proposed easement conforms to the Official Plan.

Zoning By-law 2019-051

The subject property is zoned as 'Residential Five Zone (RES-5)' with Site Specific Provision (403) and Holding Provision (86H) in Zoning By-law 2019-051. The proposed easement is to provide legal access to the two adjacent residential properties. The creation of the easement will not result in any zoning deficiencies.

Planning Conclusions/Comments:

With respect to the criteria for the subdivision of land listed in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, staff is satisfied that the creation of the easement is desirable and appropriate.

Environmental Planning Comments:

No concerns with the easement. Tree management has been addressed through Site Plan Application SP24/065/J/TS.

Heritage Planning Comments:

No heritage planning concerns.

Building Division Comments:

The building division has no objections to the proposed consent.

Engineering Division Comments:

Engineering has no comments.

Parks and Cemeteries/Forestry Division Comments:

Easement – no parkland dedication is required.

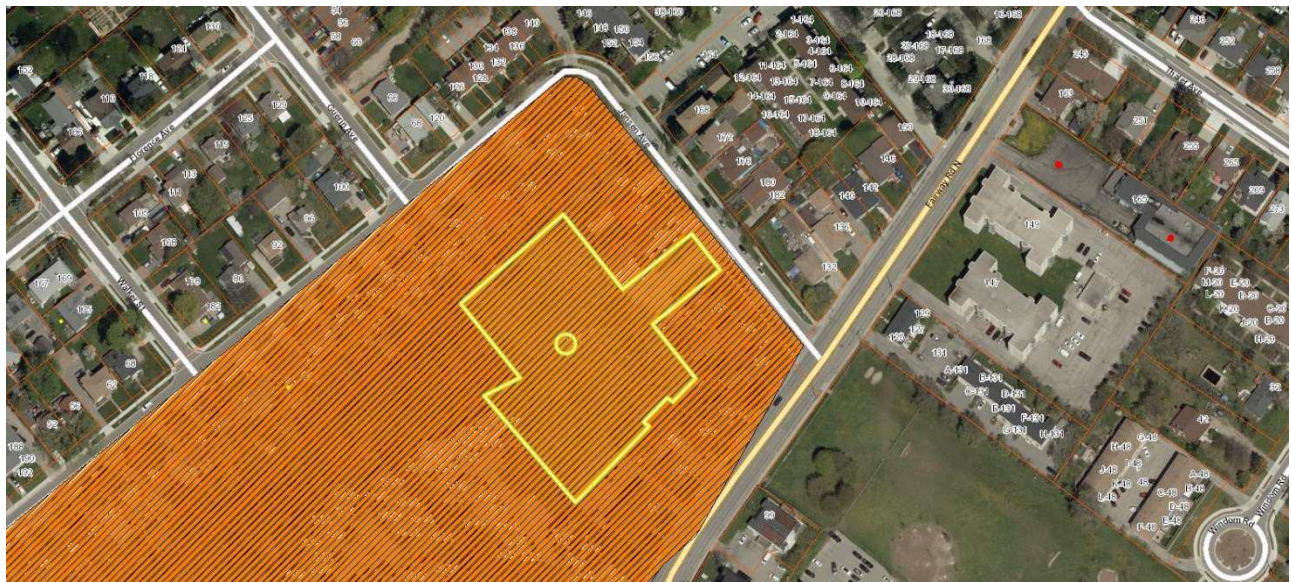
Transportation Planning Comments:

Transportation Services have no concerns with this application.

Region of Waterloo Comments:

The owner/applicant has applied for a consent for an easement over 179 Jansen Ave. The approximate area of the easement is 760.33 m². The purpose of the easement is to provide access to property owners at 179 Jansen Ave and 181 Jansen Ave.

Threats Inventory Database: This information is provided until such time as access to the Threat Inventory Database (TID) has been transferred to the Area Municipality. There is a former landfill in the TID on the subject property and the adjacent properties.



Threats Inventory Database mapping 179 Jansen Ave, Kitchener

Regional Fees: Regional staff have received the fee for consent review of \$350.00.

Regional Staff have no objection to Consent File B2025-009.

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 (ROP)*
- *Official Plan (2014)*
- *Zoning By-law 2019-051*
- *DSD-2024-251*