

Staff Report



Development Services Department

www.kitchener.ca

REPORT TO: Committee of Adjustment

DATE OF MEETING: June 17, 2025

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

PREPARED BY: Sean Harrigan, Senior Planning Technician, 519-783-8934

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: June 6, 2025

REPORT NO.: DSD-2025-282

SUBJECT: Minor Variance Application A2024-075 - 96 Wood Street

RECOMMENDATION:

That Minor Variance Application A2024-075 for 96 Wood Street requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 6, Table 6-3, to permit a Multiple Dwelling with 8 Dwelling Units on a lot having an area of 393 square metres instead of the minimum required 450 square metres;
- ii) Section 6, Table 6-3, to permit a front yard setback of 3.8 metres instead of the minimum required 4.5 metres;
- iii) Section 6, Table 6-3, to permit an exterior side yard setback of 2.5 metres instead of the minimum required 4.5 metres; and
- iv) Section 6, Table 6-3, to permit a building height of 12 metres instead of the maximum permitted building height of 11 metres;

to facilitate the development of an 8-unit Multiple dwelling, generally in accordance with drawings prepared by Masri O Inc. Architects, dated February 28, 2025, revised May 2, 2025, BE REFUSED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review the requested minor variances to allow for the development of an 8-unit multiple dwelling on 96 Wood Street.
- The key finding of this report is that staff are not satisfied that the requested variances satisfy any of 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

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

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:

Application History

The Minor Variance Application for 96 Wood Street was originally heard on September 17, 2024, and the Committee of Adjustment recommended that the application 'Be Deferred' until December 10, 2024, or earlier, in accordance with the following:

1. That the Owner/Applicant prepare, submit and obtain approval of a Tree Protection and Enhancement Plan to demonstrate full protection of City-owned street trees adjacent to this property, that these trees will be protected to City standards throughout demolition and construction as per Chapter 690 of the current Property Maintenance By-law, and that the requested minor variances would meet the 4 tests in the Planning Act.
2. That the Owner/Applicant prepare, submit and obtain approval of a Planning Justification Report to demonstrate how the proposal will meet the Official Plan Policies for the Gildner Green Neighbourhood Cultural Heritage Landscape, with particular attention to Policies 11.C.1.35 and 15.D.2.5, and having regard for the Tree Management and Enhancement Plan, to support that the requested minor variances would meet the 4 tests in the Planning Act

Subsequent to the meeting, Planning and Heritage Planning Staff provided the Applicant with additional information and a 'Terms of Reference' on October 4, 2024, outlining what should be included in the necessary Report and Plan.

The Applicant requested that the Application be considered at the December 10, 2024, Committee of Adjustment meeting and was subsequently deferred again as the Applicant did not submit the necessary Report and Plan.

The Applicant has since prepared the necessary Report and Plan, however did not follow the 'Terms of Reference' provided on October 4, 2024. The Applicant has also made minor revisions to their proposal by removing the proposed one parking space to accommodate additional outdoor amenity space and modifying the building façade material and colour. The proposed variance for the required Driveway Visibility Triangle is no longer required given that the proposed driveway has been removed.

Property Background

The subject property is located in the K-W Hospital neighbourhood and is situated on the northwest corner of the intersection of Wood Street and York Street. The property has approximately 28 metres of frontage on York Street and 17 metres of frontage on Wood Street. The property currently contains a single detached dwelling and detached garage, both which will be removed. There is also an existing fence located within the City boulevard along York Street.

The subject property is identified as a 'Protected Major Transit Station Area' on Official Plan Map 2 – Urban Structure and Map 4 – Protected Major Transit Station Areas and

Urban Growth Centre. The property was previously designated 'Low Rise Conservation' in the K-W Hospital Neighbourhood Plan on Map 18 – Secondary Plan in the City's 1994 Official Plan. The property's land use designation changed last year to 'Strategic Growth Area A' on Map 3 – Land Use with the adoption of By-law 2024-062 and approval of OPA 49 by the Region of Waterloo. The property is also identified within the 'Gildner Green Neighbourhood' on Map 9 – Cultural Heritage Resources

The property was originally zoned 'Residential Five Zone, Special Use Provision 129U (R-5, 129U)' in Zoning By-law 85-1 when the application was heard in September and in December 2024. The property's zone category has changed to 'SGA-1: Low Rise Growth Zone' now that the appeal to By-law 2024-065 has been partially resolved.

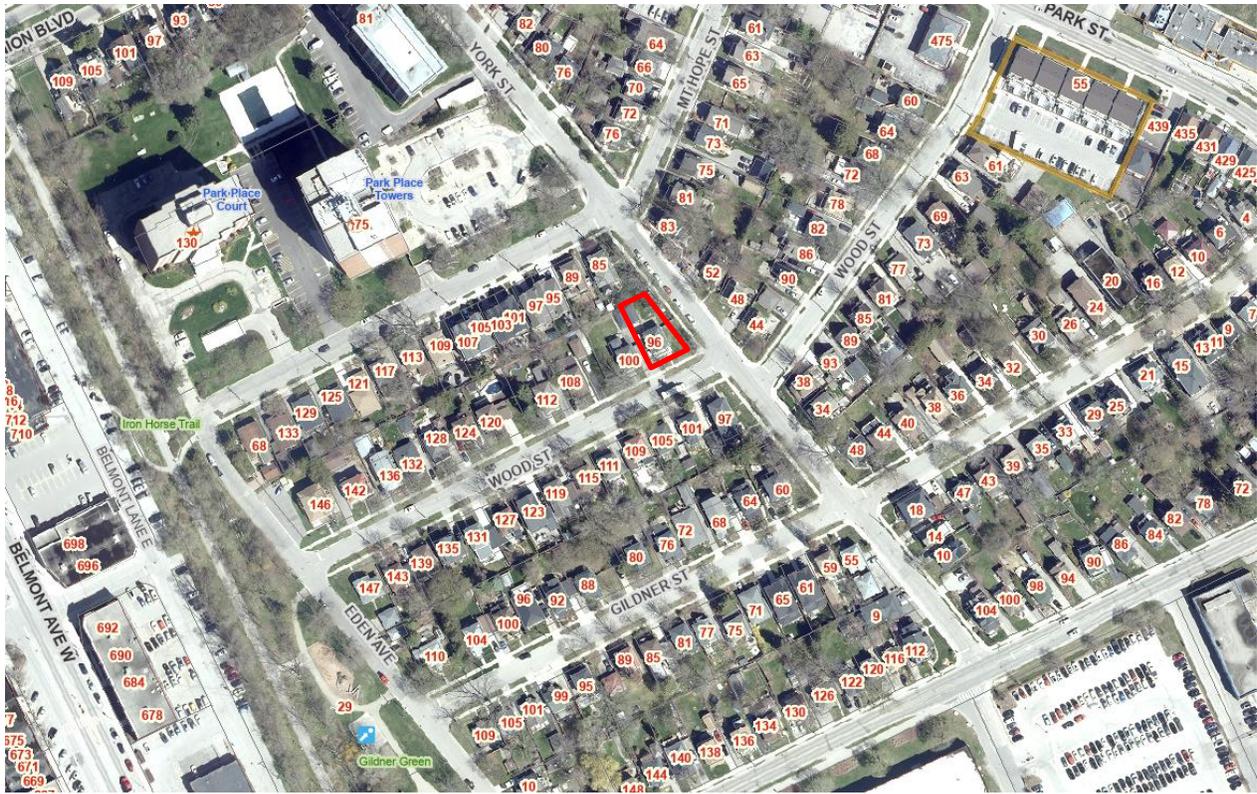


Figure 1: Location Map (96 Wood Street Shown in RED)

Purpose of Application

The purpose of this application is to review the requested minor variances to facilitate the development of an 8-unit Multiple Dwelling with reduced setbacks and increased height on an undersized lot. Residential development was previously limited to 4 dwelling units or fewer under the old R-5, 129U zoning, but now that the SGA-1 zone is in full effect, a Multiple Dwelling is permitted subject to applicable regulations. The requested variance to these applicable regulations include:

- Permit a Multiple Dwelling with between 5 and 10 dwelling units to have a reduced lot area of 393 square metres instead of the minimum required 450 square metres.
- Permit a front yard setback of 3.8 metres instead of 4.5 metres.
- Minimum exterior yard setback of 2.5 metres instead of 4.5 metres.
- Permit a building height of 12 metres instead of 11 metres.

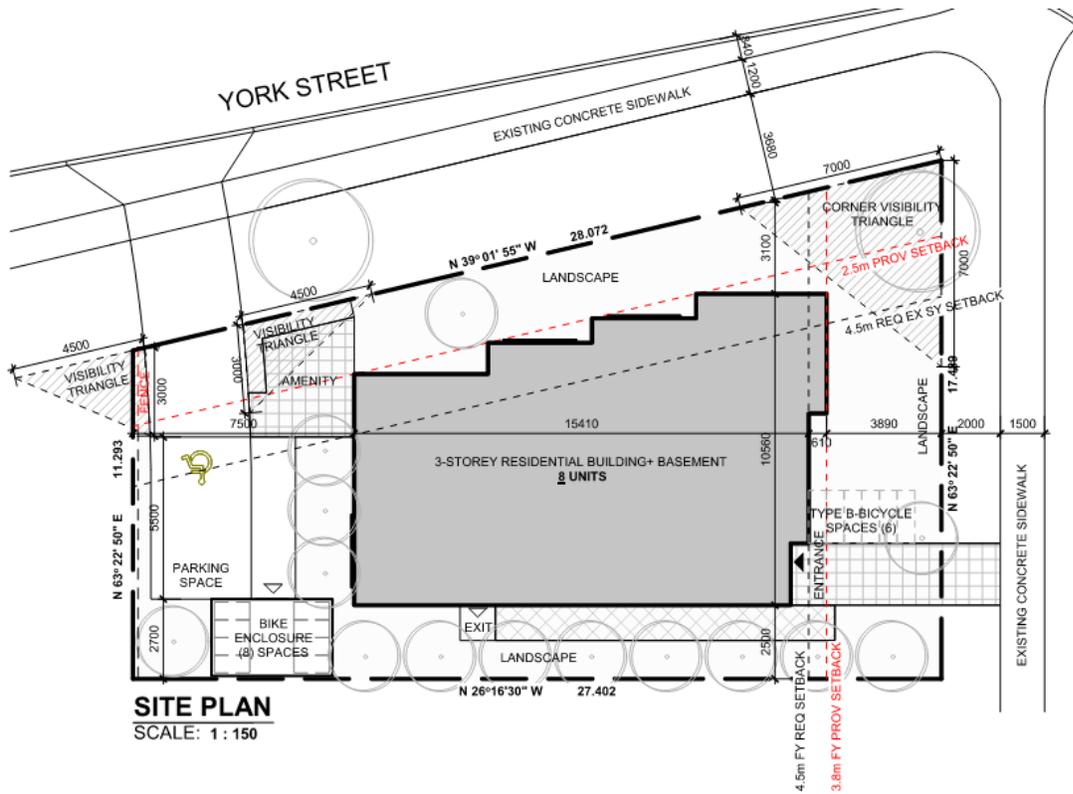


Figure 3: Site Plan - First Submission

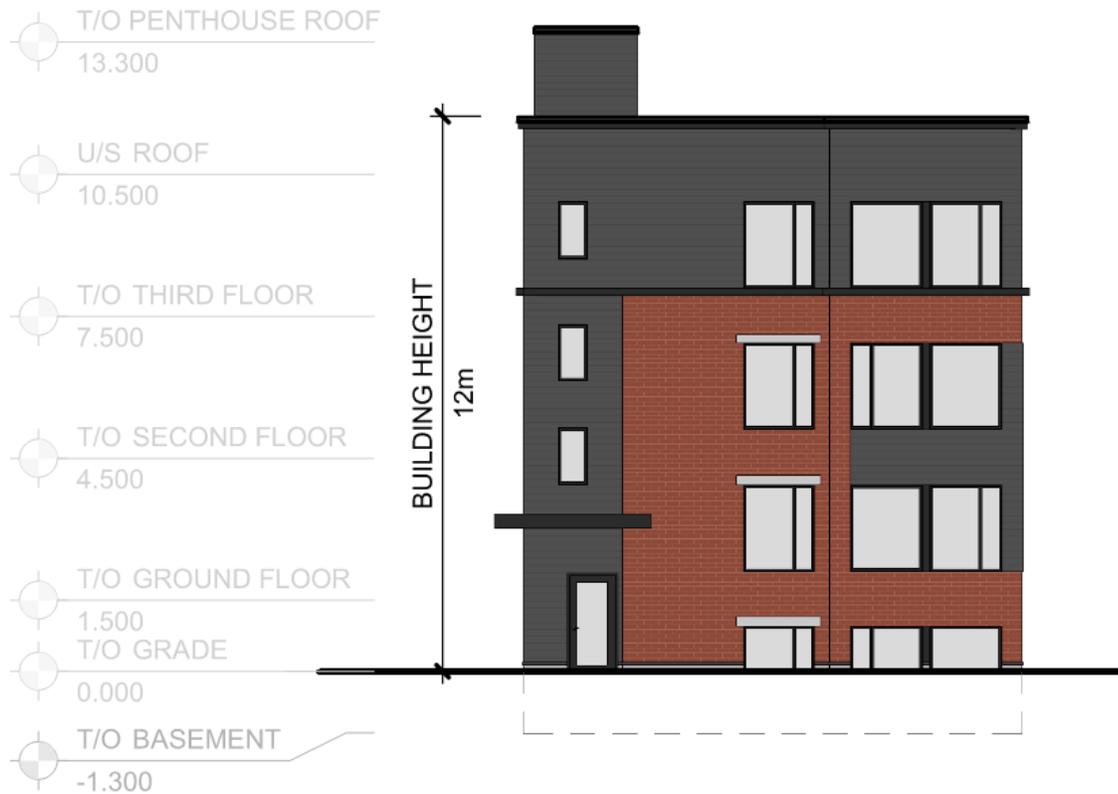


Figure 4: Building Elevation (Wood Street Facade) - Revised May 2, 2025

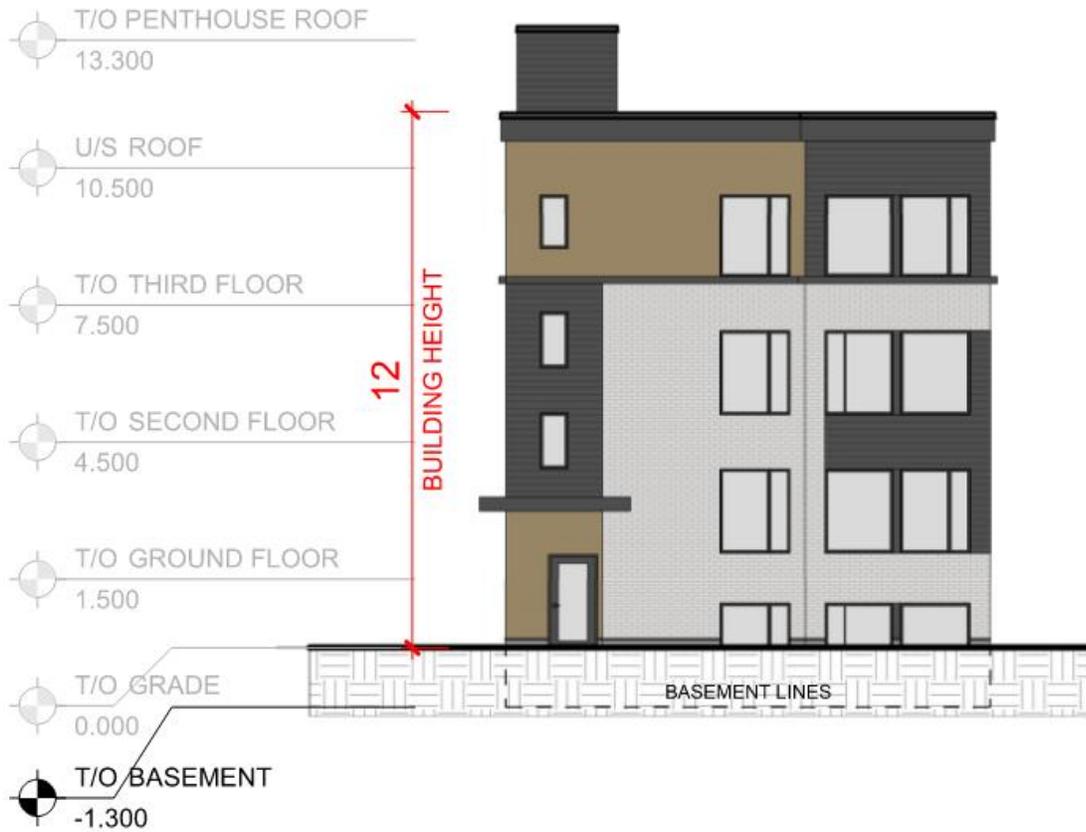


Figure 5: Building Elevation (Wood Street Facade) - First Submission



Figure 6: Existing House (Wood Street)



Figure 8: Existing House and Fence (York Street)



Figure 10: Wood Street Streetscape Beside Existing House



Figure 9: York Street Streetscape Beside Existing House



Figure 7: Existing Driveway and Garage



Figure 11: Location of City Trees Beside 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:

The following submission materials were reviewed for this application:

- Site Plan and Development Data and Elevations prepared by Masri O Inc. Architects, dated June 17, 2024, revised May 2, 2025.
- CofA Report prepared by Urban Insights, dated February 28, 2025, revised May 2, 2025.
- Cultural Heritage Impact Memo prepared by LRA Heritage, dated February 28, 2025, revised May 2, 2025.
- Tree Management Plan, Landscape Plan, and Landscape Details prepared by Hill Design Studio Inc., dated February 27, 2025, revised April 29, 2025.

- Vegetation Management Report prepared by Hill Design Studio Inc., dated February 27, 2025, revised April 30, 2025.

General Intent of the Official Plan

Official Plan Amendment (OPA) 49 (By-law 2024-062) incorporated modifications to the text and mapping of the Official Plan in order to implement a new land use planning framework for seven of the City's ten Protected Major Transit Station Areas. This Official Plan amendment changed the subject property's designation to 'Strategic Growth Area A'. Strategic growth area land use designations are applied within the Urban Growth Centre and Protected Major Transit Station Areas. These lands will provide opportunities for all housing types and a range of commercial, employment, and institutional uses to create complete communities. Lands within Protected Major Transit Station Areas shall be planned to achieve minimum densities, with the target for Grand River Hospital Station being 160 residents and jobs combined per hectare as per Section 3.C.2.18. The proposed development would contribute to the diversity of housing types.

As per Official Plan Section 11.C.1.37 the City will require development and/or redevelopment in a Protected Major Transit Station Area to support and contribute to a high quality public realm. To do this, the City will require a high quality public realm at grade which includes sidewalks, street furniture, street trees, and landscaping. The City will also require developments to support, maintain and/or increase the tree canopy, where possible, to support Kitchener's Sustainable Urban Forestry Strategy. The subject property currently abuts several mature City trees, as shown in Figure 11, that form an essential component of the streetscape character in addition to contributing to the high quality public realm, as shown in Figures 6-10. Ensuring the retention of these trees is critical to satisfying this Official Plan policy

To address the City trees, the Applicant prepared a Tree Management Plan and Arborist Report which states that only one City tree will be removed to facilitate the development. This tree is located on Wood Street directly beside the existing driveway as shown in Figures 6 and 7. The Arborist Report indicates that this tree is in poor condition and will not survive the required excavation or construction of the new walkway. City Forestry staff agree that the tree's structural condition is poor and has a limited lifespan remaining. As such, staff are agreeable to this tree removal with the understanding that sufficient compensation will be required for replacement trees.

While staff agree with the Arborist evaluation for the tree on Wood Street, staff have significant concerns with the evaluation of potential impacts to the large Sugar Maple tree on York Street shown in Figure 8. The tree trunk is over 1 metre in diameter and requires a minimum setback (Tree Protection Zone (TPZ)) of 6.8 metres from all site alterations. The original Arborist Report prepared on February 27, 2025, states that this tree is in fair condition but is sensitive to root disturbance and is expected to decline in health due to the impacts of construction including hard surface elements that will require excavation and compaction within 2 metres of the tree trunk, well within the required setback. As such, the original Arborist Report recommend that the tree be removed. City Forestry, Planning, and Heritage staff will not support the removal of a large, healthy City tree that forms an essential component of the neighbourhood tree canopy coverage and streetscape character to accommodate a request for a reduced exterior side yard setback. As such, the Applicant was asked to revise their Tree Management Plan and Arborist Report. Staff

noted that the tree might tolerate a minor encroachment into the required TPZ, likely by maintaining the required 4.5 metre building setback. However, this minor encroachment must be justified by a fulsome analysis and supported by adequate tree protection measures to mitigate potential impacts.

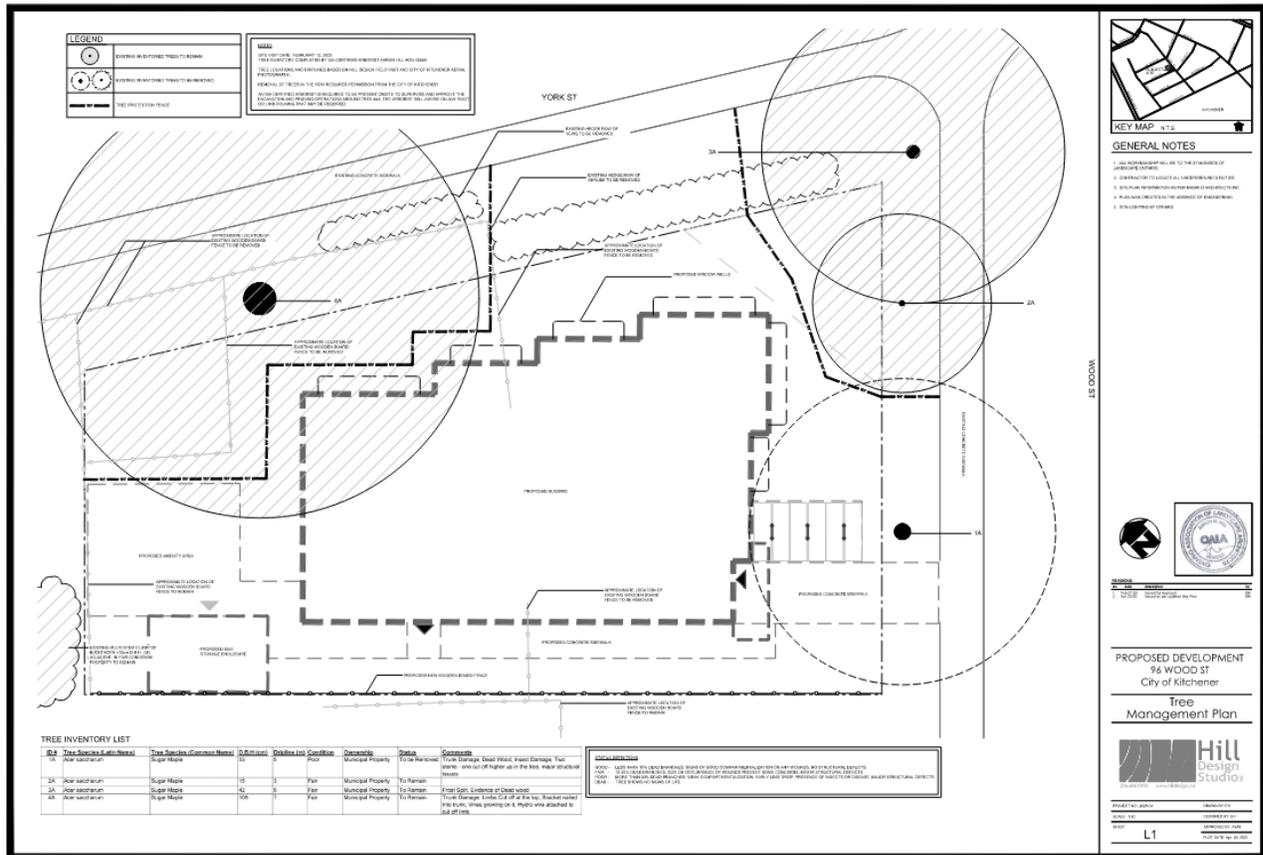


Figure 12: Tree Management Plan

The Applicant provided revised documents on May 2, 2025, which states that the large tree on York Street would be preserved. The proposed new driveway and hard scaped amenity area within the tree’s rootzone had been removed as shown on Figure 2. However, the building’s location and extent of excavation had not changed as previously recommended. The revised Arborist Report claims that since the revised site plan allows for the rootzone to the north, west, and south to remain largely untouched, the tree should tolerate some encroachment into the rootzone due to foundation excavation. However, Forestry staff have significant concerns with this revised evaluation and lack of supporting evidence. The revised Arborist Report does not provide sufficient rationale to support this claim by analyzing the excavation required for the main building, other than stating that the other areas of untouched rootzone should be sufficient to preserve the tree. For example, the revised Arborist Report does not provide an analysis of low-impact exploratory root investigations, exact area of disturbance within the tree protection zone required for excavation, exact distance between the tree trunk and closest point of excavation, impacts to rooting areas outside the tree protection zone, or any pruning required for the new building. Without a comprehensive analysis of these factors, there is insufficient evidence to justify the conclusion that the tree will survive the negative impacts for the long term, particularly since the original Arborist Report clearly states this tree species is sensitive to root disturbance and will suffer negative impacts due to excavation within 2 metres of the

tree. As such, staff strongly disagree with the Arborist Report regarding this tree on York Street and anticipate the potential impacts from the proposed development will result in the tree's removal. Preservation of this tree for the long term is essential for adhering to the Official Plan and as such, staff must recommend refusal for the requested variance to permit reduced exterior side yard setback of 2.5 metres.

The subject property is located within the Gildner Green Neighbourhood Cultural Heritage Landscape (CHL). The Gildner Green Neighbourhood CHL was identified in the City's 2014 Cultural Heritage Landscape Study and the boundaries were further refined and the heritage attributes identified in the City's 2018 Cultural Heritage Landscape Implementation (CHLI) for Cultural Heritage Landscapes within the K-W Hospital Secondary Plan Area. The findings of these documents were implemented during the City's Growing Together project (OPA 49), which culminated in new Official Plan policies and new zoning.

Official Plan policy 12.C.1.23 states that the City has the authority to require a Heritage Impact Assessment and/or Heritage Conservation plan for development, redevelopment, and site alterations on properties within or adjacent to a CHL. After discussing the scope of the proposed development with Heritage staff, it was determined that a Planning Justification Report which directly address the relevant heritage and other Official Plan policies could be provided instead of a Heritage Impact Assessment. Staff provided the Applicant with terms of reference on October 4, 2024, detailing what must be included in the Planning Justification Report to sufficiently address the relevant Official Plan policies and heritage considerations. As mentioned above, the Applicant prepared a Planning Justification Report and Cultural Heritage Impact Memo but did not follow the terms of reference and did not adequately address the heritage concerns.

Official Plan Policy 11.C.1.35 states that new development or redevelopment within a CHL will support, maintain, and enhance the major characteristics and attributes of the CHL, support the adaptive reuse of existing buildings, be compatible with the existing neighbourhood including streetscape and built form, and respond to the design, massing, and materials of the adjacent and surrounding buildings. To address this Official Plan policy, the Applicant's Cultural Heritage Impact Memo provides broad opinions that the new building has been designed to reflect key architectural features and is compatible with existing low-density and multi-unit residential uses in the area and reflects the historical working-class housing patterns associated with the CHL. However, there is no evidence or rationale to support these broad claims that the proposed development conserves the cultural heritage values and attributes of the property, streetscape, and CHL. This is particularly problematic since the proposed development appears to be a sharp contrast to the established cultural heritage attributes in the following ways:

- The architectural design of the proposed building does not feature common housing design characteristics from the Gildner Green Neighbourhood CHL. In particular, the roof style is flat whereas most buildings feature a front gable or hipped roof and the materials are not identified on the building elevation drawings.
- The proposed development removes a mature tree on Wood Street and encroaches into the critical root zone of a mature City-owned tree on York Street, which Forestry staff anticipates will result in significant negative impacts that leads to the tree's untimely removal.

- The 3.5 storey and 12 metre building height of the proposed building does not align with the primarily 2 to 2.5 storey buildings in the Gildner Green Neighbourhood CHL. In particular, the adjacent building and surrounding buildings range from 1.5 to 2 storeys in height.
- The proposed lot coverage is inconsistent with other properties in the Gildner Green Neighbourhood CHL. In particular, the width and depth of the proposed building is larger than the adjacent and surrounding buildings.
- There is no consideration for the adaptive reuse of the existing building.

These significant deviations from the established cultural heritage values and attributes and the anticipated negative impacts on the CHL are incompatible with the Official Plan requirement. As such, the proposed variances for increased height, reduced lot area, and reduced exterior side and front yard setbacks do not maintain the general intent of the Official Plan.

In addition to the heritage design considerations, Official Plan Section 15.D.2.5 states that site specific applications which seek relief from the implementing SGA zoning must consider factors such as compatibility with the planned function of the subject site and adjacent land, suitability of the lot for the proposed use and/or built form, lot area and consolidation outlined in Policy 3.C.1.34, compliance with the City's Urban Design Manual and Official Plan policies, cultural heritage resources, and technical considerations and other contextual or site-specific factors. Official Plan policy 4.C.1.8 also states that where minor variances are requested to facilitate residential redevelopment, the overall impact of the minor variances will be reviewed to ensure any new buildings are appropriate in massing and scale, are compatible with the built form and community character of the established neighbourhood, and the lands can function appropriately and do not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on site, amongst other provisions.

As discussed above, the proposed building design and anticipated negative impact on existing street trees and streetscape are not compatible with the established neighbourhood character, built form, or cultural heritage resources, which contradicts Official Plan policies 15.D.2.5 and 4.C.1.8. In terms of the suitability of the lot, staff have significant concerns with the proposed number of units on an undersized lot. The Zoning By-law requires a lot area of 450 square metre for Multiple Dwellings with between 5 and 10 dwelling units to help ensure the lands can function appropriately by providing sufficient amenity space while still adhering to the general character of the neighbourhood, particularly related to setbacks and lot coverage. The subject property is 393 square metres and the proposed building has a reduced exterior side and front yard setback while meeting the minimum rear yard setback of 7.5 metres. This reduced lot area combined with the bare minimum rear yard setback and reduced exterior side and front yard setbacks significantly limits the available outdoor amenity space, thereby failing to adhere to the general intent of Official Plan policy 15.D.2.5 and 4.C.1.8. Furthermore, staff have concerns with the functionality of the site with respect to parking. While it is true the Planning Act and Zoning By-law do not require any vehicle parking spaces within a Protected Major Transit Station Area, it is beneficial for the functionality of the site to provide at least one parking space or loading space for visitors, contractors, and/or deliveries for the proposed 8 units. This would help avoid unacceptable adverse impacts

on adjacent properties and the neighbourhood which already has challenges with high demand for limited on street parking. Without at least one parking or loading space, staff do not believe the proposed development maintains the general intent of Official Plan policies 15.D.2.5 and 4.C.1.8.

General Intent of the Zoning By-law

The purpose of the 'SGA-1: Low Rise Growth Zone' is to create opportunities for missing middle housing and compatible non-residential uses in low-rise forms up to 11 metres in height. While the proposed 8-unit Multiple Dwelling creates opportunities for missing middle housing, the building does not adhere to the maximum 11 metres in height. The purpose of the 11 metre maximum building height is to ensure a consistent streetscape and built form and that residential intensification is compatible with the existing neighbourhood within the low rise growth zone. As discussed extensively above, the proposed building does not follow the established streetscape or built form and is not compatible with the existing neighbourhood character within the low rise growth zone. As such, the proposed increase in building height does not maintain the general intent of the Zoning By-law.

The general intent of the minimum required front and exterior side yard setbacks is to maintain a consistent built form and streetscape character while providing some opportunities for landscaping. To this regard, the proposed front and exterior side yard setbacks are consistent with the existing surrounding properties on Wood Street and York Street which have front yard setbacks generally ranging from 2 – 4 metres. However, the existing houses on Wood Street and York Street are generally 2 to 2.5 storeys with gable or hipped roofs and a front porch. This existing built form is significantly different from the proposed building which has 3.5 storeys, 12 metres building height, flat roof, and no front porch. This considerable difference in street line façade does not maintain a consistent streetscape character and built form and as such, does not maintain the general intent of the Zoning By-law. Furthermore, as discussed above, the proposed 2.5 metre exterior yard setback results in excavation occurring unacceptably close to an existing City tree that is anticipated to result in the tree's removal. This does not maintain the general intent of the Zoning By-law.

The subject property is currently 393 square metres which satisfies the minimum requirement for a total of 4 residential dwelling units. The Applicant is proposing 8 units, 4 more than currently permitted, which requires a minimum lot area of 450 square metres. The general intent of the minimum lot area requirement is to ensure appropriate massing, consistent and compatible built form, and for sufficient outdoor amenity space and landscaping. As discussed above, the reduced lot area combined with the bare minimum rear yard setback and reduced exterior side and front yard setbacks significantly limits the available outdoor amenity and landscaped space. Without suitable amenity and landscaped areas, the proposed development does not maintain the general intent of the Zoning By-law. Furthermore, the reduced lot area combined with reduced and bare minimum setbacks is inconsistent with the existing neighbourhood built form and lot coverage as noted in the heritage discussed above. This further demonstrates the disconnect between the proposed variances and the general intent of the Zoning By-law.

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

Staff is of the opinion that the effects of the proposed variances are not minor in nature. As discussed extensively above, the proposed development deviates substantially from the existing neighbourhood, established streetscape, and heritage values and attributes. The proposed building with an increased height and reduced front and exterior side yard setback creates a 12 metre street line façade that is not compatible and does not complement the existing neighbourhood, thereby resulting in negative effects that staff do not consider minor in nature. The reduced lot area with minimal amenity space insufficient for 8 dwelling units also creates negative effects by placing additional pressures and potential nuisances on surrounding properties and increased demand for City owned amenity space. This negative effect is not minor in nature. Furthermore, the complete lack of parking or loading spaces for an undersized lot also has the potential to create negative impacts. The existing on-street parking situation for this neighbourhood is already problematic with demand normally far exceeding the supply, particularly due to the close proximity to the Grand River Hospital. Without any on-site parking or loading spaces, all visitors, deliveries, and contractors for any of the 8 dwelling units must utilize on street parking thereby negatively impacting an already challenging situation. As such, staff do not believe the effect of the requested 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 proposed development and requested variances are not desirable for the appropriate development and use of the land. While it is true that the Official Plan designation generally encourages missing middle house such as the proposed 8-unit Multiple Dwelling, the Official Plan is clear that any development must respect the low rise growth objectives for this designation and requirement for compatibility with the existing neighbourhood, streetscape, and cultural heritage values and attributes. As discussed extensively above, the proposed building is not compatible with the existing neighbourhood and streetscape and deviates significantly from the established cultural heritage values and attributes.

Environmental Planning Comments:

A tree in potential shared ownership with 85 Mt. Hope Street should also be assessed for impact from the proposed development.

Heritage Planning Comments:

The property municipally addressed as 96 Wood Street is in the Gildner Green Neighbourhood Cultural Heritage Landscape (CHL). The Gildner Green Neighbourhood CHL was identified in the City's 2014 Cultural Heritage Landscape Study. The boundaries were refined, and the heritage attributes identified in the City's 2018 Cultural Heritage Landscape Implementation (CHLI) for Cultural Heritage Landscapes within the K-W Hospital Secondary Plan Area. The findings of these documents were implemented during the City's Growing Together project, which culminated in new Official Plan (OP) policies and new zoning. In addition to new OP policies, the Gildner Green Neighbourhood CHL is identified on Map 9 – Cultural Heritage Resources – of the OP.

DSD-2024-530 dated November 28, 2024 recommended deferral until June 17, 2025 subject to two (2) conditions. Condition 2 required the Owner/Applicant to prepare, submit and obtain approval of a Planning Justification Report to demonstrate how the proposal

will meet the OP policies for the Gildner Green Neighbourhood CHL, with particular attention to Policies 11.C.1.35 and 15.D.2.5, and have regard for the Tree Management and Enhancement Plan, to support that the requested minor variances would meet the four (4) tests of the *Planning Act*. A scoped Terms of Reference for the Planning Justification Report in relation to the Gildner Green Neighbourhood CHL was provided to the Applicant on October 4, 2024. A final Cultural Heritage Impact Memo to support the Planning Justification Report has not been submitted.

Official Plan policy 11.C.1.35 provides direction for Design in Cultural Heritage Landscapes and indicates that:

New Development or redevelopment in a cultural heritage landscape will:

- a) Support, maintain and enhance the major characteristics and attributes of the cultural heritage landscape further defined in the City's 2024 City of Kitchener Cultural Heritage Landscape Study;*
- b) Support the adaptive reuse of existing buildings;*
- c) Be compatible with the existing neighbourhood, including but not limited to the streetscape and the built form; and,*
- d) Respond to the design, massing and materials of the adjacent and surrounding buildings.*

It is the opinion of Heritage Planning staff that the proposed development does not meet the general intent of:

- OP Policy 11.C.1.35.a (support, maintain or enhance the identified heritage attributes of the Gildner Green Neighbourhood CHL); OP Policy 11.C.1.35.c (be compatible with the Gildner Green Neighbourhood CHL); and, OP Policy 11.C.1.35.d (respond to the design, massing and materials of the adjacent and surrounding buildings in the Gildner Green Neighbourhood CHL) because:
 - The proposed development removes mature trees and encroaches into the critical root zone of a mature City-owned tree, which presents a significant risk to the immediate and long-term health and retention of the tree.
 - The architectural design of the proposed building does not feature common housing design characteristics from the Gildner Green Neighbourhood CHL. In particular, (i) the roof style is flat whereas most buildings feature a front gable or hipped roof, and (ii) the materials are not identified on the building elevation drawings.
 - The 3.5 storey height of the proposed building does not align with the primarily 2 to 2.5 storey buildings in the Gildner Green Neighbourhood CHL. In particular, the adjacent building and surrounding buildings range from 1.5 to 2 storeys in height.
 - The proposed lot coverage is not consistent with other properties in the Gildner Green Neighbourhood CHL. In particular, the width and depth of the proposed building is larger than the adjacent and surrounding buildings.

- OP Policy 11.C.1.35.b) because the proposed development demolishes the existing building.

Official Plan policy 15.D.2.5 indicates that:

Notwithstanding policies 4.C.1.8 and 4.C.1.9, site specific applications which seek relief from the implementing zoning through a minor variance(s) or amendment to the Zoning By-law, and/or seek to amend this Plan will consider the following factors:

- a) Compatibility with the planned function of the subject lands and adjacent lands;*
- b) Suitability of the lot for the proposed use and/or built form;*
- c) Lot area and consolidation as further outlined in Policy 3.C.2.11;*
- d) Compliance with the City's Urban Design Manual and Policy 11.C.1.34;*
- e) Cultural heritage resources, including Policy 15.D.2.8; and,*
- f) Technical considerations and other contextual or site specific factors.*

It is the opinion of Heritage Planning staff that the proposed development does not meet the general intent of:

- OP Policy 15.D.2.5.b because the lot is undersized for the proposed use with a built form that does not meet the intent of OP Policy 11.C.1.35 (as outlined above).
- OP Policy 15.D.2.5.f because a final Cultural Heritage Impact Memo in support of the Planning Justification Report has not been provided.

Based on the above comments, Heritage Planning staff recommend refusal of Committee of Adjustment Minor Variance Application A2024-075.

Building Division Comments:

The Building Division has no objections to the proposed variance provided a building permit for the new residential building is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No Concerns.

Parks and Cemeteries Comments:

Cash-in-lieu of park land dedication will be required at time of future Site Plan application.

There are existing City-owned street trees within the right-of-way on Wood Street and York Street. 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 Site Plan approval.

Forestry Division Comments:

4A York St tree (#142817)

- The tree has a DBH of 108cm, therefore its minimum setback (TPZ) is 6.8m.
- The proposed dwelling is located 3m from the trunk and further disturbance, including excavation for the foundation, extends as close as 1.75m from the trunk. The proposed extent of injury is substantial and exceeds the tree's expected tolerance level, thus necessitating removal. Forestry does not support removal of this tree.
- If clearance pruning is needed, the arborist report and TMP must clearly specify the extent of pruning.

1A Wood St tree (#150563)

- The tree has a DBH of 53cm, therefore its minimum setback (TPZ) is 4.2m.
- Forestry's assessment of this tree determined its structural condition to be poor. Though its condition does not warrant immediate removal in itself, the tree has limited lifespan remaining and it is unlikely to tolerate much injury. Therefore, Forestry accepts its removal due to conflicts with the proposed design.
- Compensation for a tree of this DBH class is calculated at 5 replacement trees. These funds will be allocated to planting trees in the neighborhood to restore canopy cover.

Tree Protection Fencing (TPF)

- TPF should enclose around all sides of the TPZ, including along the sidewalk, to protect trees and their soil habitat from potential impacts from traffic and stockpiling materials.
- Standard TPF consists of 1.2m tall orange safety fencing secured to a 2"x4" wood frame or steel T-bars at minimum 2.4m spacing. However, sightlines must be maintained within the corner visibility triangle.

Replanting

- Two proposed trees are indicated within the City right-of-way. However, tree planting within the right-of-way is to be undertaken by Forestry. Funds received as cash in lieu will be directed to replant and maintain trees to Forestry's standards and specifications.

Transportation Planning Comments:

Transportation Services had no concerns with the encroachment into the driveway visibility triangle as this is an existing condition with the neighbouring property at 85 Mt. Hope Street. However, this variance is no longer applicable.

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*