

REPORT TO: Committee of Adjustment

DATE OF MEETING: July 15, 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 8

DATE OF REPORT: July 7, 2025

REPORT NO.: DSD-2025-314

SUBJECT: Minor Variance Application A2025-069 - 439 Alice Ave. (Left)
Minor Variance Application A2025-070 - 439 Alice Ave. (Right)

RECOMMENDATION:

A. Minor Variance Application A2025-069 – 439 Alice Avenue (Unit A - Left Side)

That Minor Variance Application A2025-069 for 439 Alice Avenue (Unit A – Left Side) requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 5.4.e), Table 5-3, to permit a driveway leading to an attached garage to have minimum setback from the southern interior side lot line of 0.1 metres instead of minimum required 1.2 metres.
- ii) Section 7.3, Table 7-3, to permit a minimum front yard setback of 5.2 metres instead of minimum required 9.5 metres;
- iii) Section 7.3, Table 7-3, to permit a minimum interior side yard setback from the southern interior side lot line of 1 metre instead of minimum required 1.2 metres; and
- iv) Section 7.3, Table 7-3, to permit a minimum interior side yard setback from the northern interior side lot line of 0 metres instead of 1.2 metres;

to facilitate the development of a new Semi-Detached Dwelling, generally in accordance with drawings prepared by Alpatrons, dated June 12, 2025, BE APPROVED subject to the following condition:

1. That the Owner shall submit a Plan(s), prepared by a qualified consultant, to the satisfaction and approval of the City's Manager, Site Plans and the Director of Parks and Cemeteries and City's Director of Engineering, showing the following:

- a) the proposed location of all buildings (including accessory buildings and structures), decks and driveways;
- b) the location of any existing buildings or structures to be removed or relocated;
- c) the proposed grades and drainage; which plan demonstrates the existing retaining wall within the City boulevard on Karn Street is removed or relocated entirely within private property;
- d) the location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition. If necessary, the plan shall include required mitigation and or compensation measures;
- e) the location of all City-owned street-tree(s) demonstrating protection and preservation of the City-owned tree(s);
- f) justification for any tree(s) to be removed;
- g) outline tree protection measures for trees to be preserved; and
- h) building elevation drawings.

B. Minor Variance Application A2025-070 – 439 Alice Avenue (Unit B – Right Side)

That Minor Variance Application A2025-070 for 439 Alice Avenue (Unit B – Right Side) requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 5.6.a), Table 5-5-1, to permit 1 parking space instead of the minimum required 2 parking spaces (1 parking space for the primary Dwelling Unit and 0.3 parking spaces per Additional Dwelling Unit);
- ii) Section 7.3, Table 7-3, to permit a minimum front yard setback of 3 metres instead of minimum required 9.5 metres;
- iii) Section 7.3, Table 7-3, to permit a minimum corner lot width of 9.3 metres instead of minimum required 12 metres;
- iv) Section 7.3, Table 7-3, to permit a minimum exterior side yard setback of 2.5 metres instead of minimum required 4.5 metres; and
- v) Section 7.3, Table 7-3, to permit a minimum interior side yard setback from the southern interior side lot line of 0 metres instead of minimum required 1.2 metres;

to facilitate the development of a new Semi-Detached Dwelling, generally in accordance with drawings prepared by Alpatrons, dated June 12, 2025, BE APPROVED subject to the following condition:

1. That the Owner shall submit a Plan(s), prepared by a qualified consultant, to the satisfaction and approval of the City's Manager, Site Plans and the Director of Parks and Cemeteries and City's Director of Engineering, showing the following:
 - a) the proposed location of all buildings (including accessory buildings and structures), decks and driveways;
 - b) the location of any existing buildings or structures to be removed or relocated;

- c) the proposed grades and drainage; which plan demonstrates the existing retaining wall within the City boulevard on Karn Street is removed or relocated entirely within private property;
- d) the location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition. If necessary, the plan shall include required mitigation and or compensation measures;
- e) the location of all City-owned street-tree(s) demonstrating protection and preservation of the City-owned tree(s);
- f) justification for any tree(s) to be removed;
- g) outline tree protection measures for trees to be preserved; and
- h) building elevation drawings.

REPORT HIGHLIGHTS:

- The purpose of this report is to review Minor Variance Applications to facilitate the development of a Semi-Detached Dwelling with 3 dwelling units in each side.
- The key finding of this report is that the requested minor variances satisfy the Four Tests in 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 southwest corner of Alice Avenue and Karn Street. The property currently contains a single detached dwelling and shed with a driveway accessed from Karn Street. The existing house is currently setback 1.5 metres from Karn Street and is supported by a wood retaining wall located within the city boulevard directly beside the sidewalk. The property has approximately 16.8 metres of frontage on Alice Avenue and 22.6 metres of frontage on Karn Street. There are street trees, utility boxes, and utility poles within the City boulevard directly abutting the subject site.

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 property also falls within 'Appendix C – Central Neighbourhoods Area' and 'Appendix D – Established Neighbourhoods Area' in Zoning By-law 2019-051.

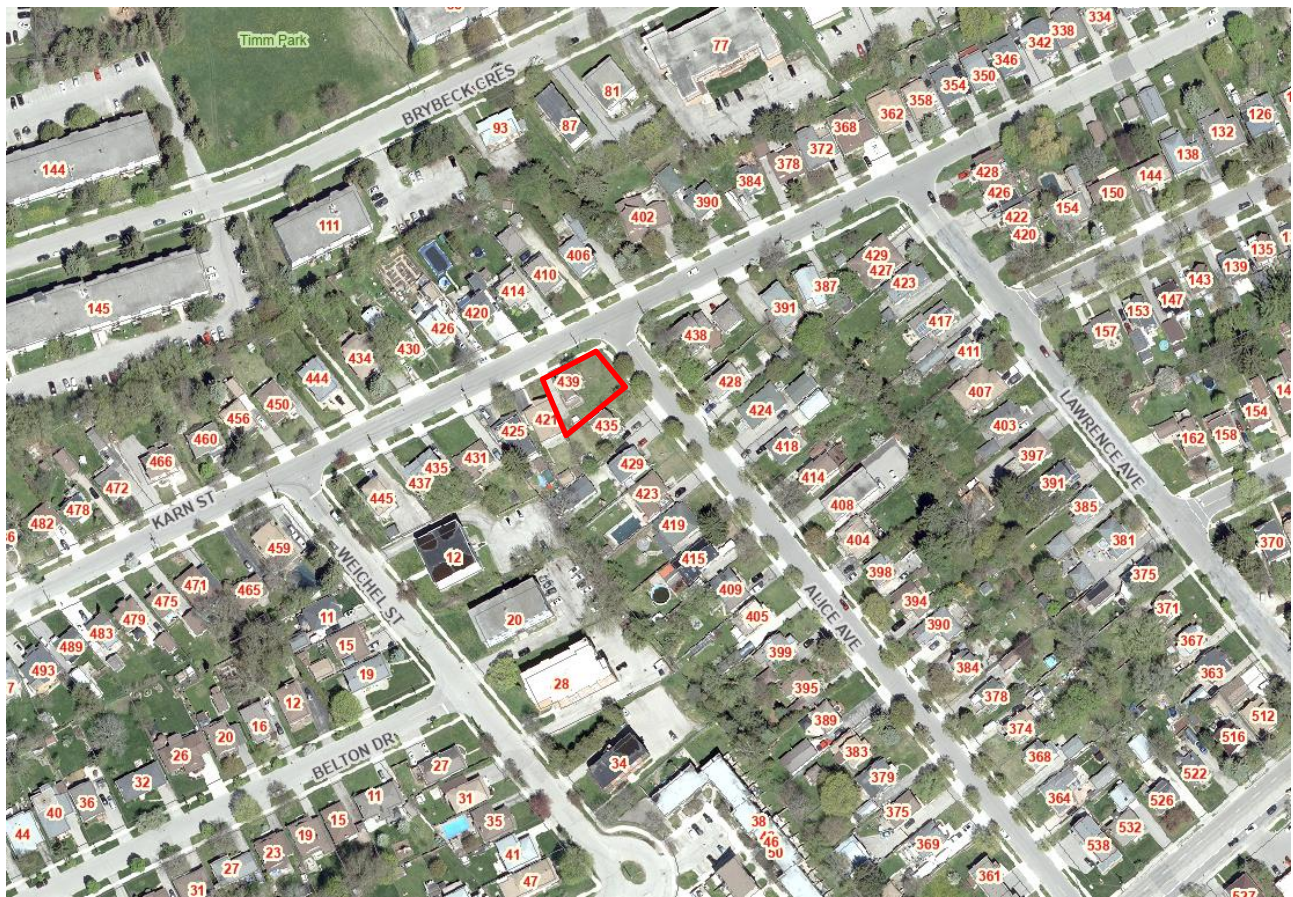


Figure 1: Location Map (439 Alice Avenue shown in RED)

The purpose of the applications is to permit a new Semi-Detached Dwelling with 3 dwelling units in each side. To facilitate this development, minor variances are required for the minimum setback for side yards, minimum front yard setback, and minimum corner lot width. The applicant has also requested an additional minor variance for each side of the Semi-Detached Dwelling to retain city trees. This includes a variance to permit the driveway leading to an attached garage for the left side of the Semi-Detached Dwelling (Unit A) to be located a minimum of 0.1 metres from the side lot line instead of a minimum 1.2 metre setback and a variance to permit a minimum of 1 parking space for the right side (Unit B) of the Semi-Detached Dwelling instead of the minimum required 2 parking spaces.

For the left side (Unit A), it is possible to construct a driveway that adheres to the minimum 1.2 metre side yard setback. However, this would necessitate the removal of a large city tree on Alice Avenue. For the right side (Unit B), it is possible to construct an attached garage which combined with a driveway would provide the required 2 parking spaces. However, reconfiguring the driveway location such that it led to an attached garage would require the removal of at least one city tree.

While the applicant has made design considerations to protect the city trees, the proposed driveway for the left side of the Semi-Detached Dwelling (Unit A) still falls within the 3 metre tree protection zone of a large city tree on Alice Avenue. The driveway and proposed building are also close to a private tree on the abutting property to the south. As such, staff have requested a Tree Preservation Plan to help ensure the driveway and building location do not compromise the long term health of the city and private trees. This

Tree Preservation Plan will also determine whether the proposed driveway on Alice Avenue can remain at a 3 metre width or if the width should be reduced to the minimum 2.6 metres to better protect the city tree.

As noted above, there is an existing wood retaining wall located within the city boulevard directly beside the sidewalk that appears to support the existing house, as shown in Figures 4, 6, and 8 below. This retaining wall appears to have been constructed several decades ago without any encroachment agreements. As such, staff have requested a condition of approval requiring a grading plan which demonstrates the retaining wall will be removed or relocated onto private property, and that this grading plan be implemented through the future building permit.

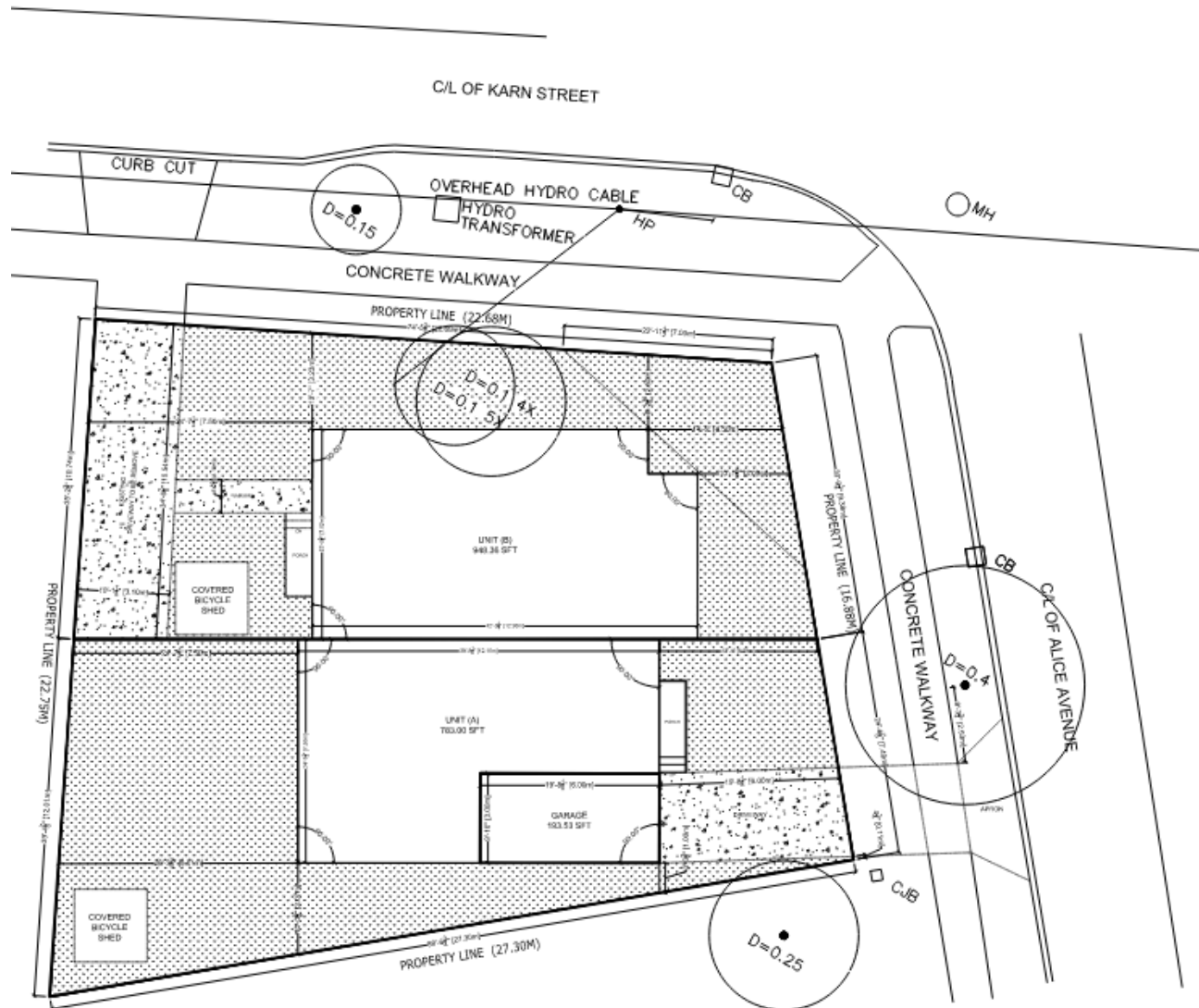


Figure 2: Site Plan



Figure 3: Subject Site at Corner of Karn Street and Alice Avenue



Figure 4: Existing Wood Retaining Wall



Figure 5: Alice Avenue Streetscape beside Subject Site



Figure 6: Existing Driveway Accessed from Karn Street



Figure 7: Proposed New Driveway Location on Alice Avenue



Figure 4: Existing House and Wood Retaining Wall

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 general intent of the 'Low Rise Residential' land use designation is to support a high quality of life while ensuring that existing and new residential areas are walkable and supported by all modes of transportation. The 'Low Rise Residential' designation will also accommodate a full range of low density housing types and 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. The proposed Semi-Detached Dwelling with 3 dwelling units in each side maintains this general intent.

Official Plan policy 4.C.1.8 states that where minor variances are requested to facilitate the residential redevelopment, the overall impact of the variances will be reviewed to ensure, amongst other provisions, that the proposed building is compatible with the existing built form and neighbourhood, the lands can function properly, and any variances for reduced front yard setbacks are similar to adjacent properties and supports and maintains the streetscape character. To this regard, the proposed Semi-Detached Dwelling is compatible with the existing neighbourhood and built form. The reduced front yard and exterior side yard setbacks are generally consistent with the adjacent properties on Karn Street and Alice Avenue as well as the other surrounding properties. The proposed off set front yard setbacks and off set side walls combined with the retention of city trees creates a consistent streetscape along Alice Avenue that mimics the opposite side. The proposed 2.5 metre exterior side yard setback from Karn Street is an improvement from the existing 1.5 metre setback and maintains a consistent streetscape and intersection, particularly with the house directly opposite the subject site on the southeast corner of Karn Street and Alice Avenue which is setback roughly 3 metres from Karn Street. The proposed 2.5 metre exterior side yard setback is also appropriate with the reduced corner lot width, which allows for the right side of the Semi-Detached Dwelling (Unit B) to have a building footprint width of 7 metres.

The variances for driveway setback and reduced parking to preserve city trees also helps ensure compatibility with the existing neighbourhood and built form. In terms of functionality, there is sufficient space for outdoor amenity and landscaped area as well as suitable access to transportation with the combination of vehicle parking, bicycle parking, and proximity to public transit. Given these development design considerations, staff are satisfied that the proposed variances maintain the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of the of the minimum front and side yard setbacks is to maintain a consistent streetscape character and allow suitable space for access and drainage along the side yards. As discussed above, the proposed staggered front yard setbacks helps create a smooth transition from the abutting property to the south that mimics the opposite side of Alice Avenue to create a consistent street. The requested variances for 0 metre

side yard setbacks to the shared common lot line between the Semi-Detached Dwelling is required to facilitate these off set front yard setbacks that mimics the opposite side of Alice Avenue. Although not technically needed at this time as both halves of the semi-detached dwelling will be located on one (1) legal lot, the applicant is applying for other minor variances and this variance will clarify the intent of setbacks in this location will facilitate a future severance. At the time of severance of the semi-detached dwelling so that each half may be dealt with independently, maintenance easements will be created in the location of these 0 metre offset walls along the common lot line to facilitate access and maintenance of the exterior of the wall by the adjacent unit owner. The proposed front yard setbacks along with the proposed exterior side yard setback are also generally consistent with the rest of the surrounding properties on Karn Street and Alice Avenue. As such, staff are satisfied that the requested variances for reduced setbacks maintain the general intent of the Zoning By-law.

The general intent of the minimum corner lot width is to help ensure sufficient space an appropriately sized Semi-Detached Dwelling while maintaining a suitable exterior yard setback. To this regard, the proposed 2.5 metre exterior side yard setback is appropriate and the side of the Semi-Detached Dwelling on the corner lot is approximately 7 metres wide, which is beyond the standard width of a Semi-Detached Dwelling on an interior lot with the minimum lot width of 7.5 metres.

The general intent of the required 1.2 metre setback from a side lot line for a driveway leading to an attached garage is to help ensure a consistent streetscape and sufficient space for drainage and access to the rear yard. The proposed 0.1 metre driveway setback is only required to preserve a city tree which helps contribute to a consistent streetscape and Engineering staff have no concerns with the reduced driveway setback's potential impact on future drainage. As such, staff are satisfied that the requested variance for a reduced driveway setback from the side lot line maintains the general intent of the Zoning By-law.

The general intent of the minimum parking requirements is to ensure sufficient access to transportation. The proposed Semi-Detached Dwelling provides a total of 3 parking spaces to 6 dwelling units along with a weather protected area with controlled access for each half of the Semi-Detached Dwelling for bicycle parking. The property is also a short distance from public transit located on Westmount Road West and Victoria Street South. As such, staff are satisfied that the reduced parking maintains the general intent of the Zoning By-law.

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

Staff are satisfied that the proposed minor variances are minor in nature. As discussed above, the proposed setbacks and reduced lot width are consistent with the existing neighbourhood and streetscape character and do not create adverse impacts. The proposed reduced driveway setback and reduced parking allow for city trees to be retained and do not create adverse impacts such as reduced access to transportation for tenants or suitable drainage.

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

The proposed variances are desirable for the appropriate development and use of the land. As mentioned above, the requested variances facilitate the development of a Semi-Detached Dwelling which contributes to the diversity of housing within the area and the proposed variances for reduced front, interior side, and exterior side yard setbacks helps create a consistent streetscape. The reduction in parking spaces and driveway setbacks also helps protect existing street trees which is desirable for the appropriate development of the land.

Environmental Planning Comments:

No natural heritage features/functions, or Tree Management Policy compliance issues if development stays away from the southeast corner where tree in potential shared ownership exists.

Heritage Planning Comments:

No Heritage comments or concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided a building permit for the new semi-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 concerns.

Parks and Cemeteries/Forestry Division Comments:

At the time of severance, cash-in-lieu of park land dedication is required on the severed parcel as 1 new development lot will be created. The cash-in-lieu dedication required would be \$11,862.00 if the severance occurred at this time. Park Dedication is calculated at 5% of the new development lot only, with a land valuation calculated by the lineal frontage of 8.44 m at a land value of \$36,080.00 per frontage meter, which equals \$15,225.00. In this case, a per unit cap of \$11,862.00 would have been applied if the severance occurred at this time.

There are existing City-owned street trees located along Karn Street and Alice Avenue that should be protected in place throughout all construction. 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. 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:

The Applicant should provide a dedicated walkway to the front entrance, as the proposed design ties the walkway into the driveway.

Transportation Services has no concerns with the function of the driveway from a vehicular perspective.

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*