

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** August 19, 2025

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

**PREPARED BY:** Jade McGowan, Student Planner, 519-707-4759

**WARD(S) INVOLVED:** Ward 2

**DATE OF REPORT:** August 6, 2025

**REPORT NO.:** DSD-2025-344

**SUBJECT:** Minor Variance Application A2025-072 – 413 Zeller Drive

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## **RECOMMENDATION:**

That Minor Variance Application A2025-072 for 413 Zeller Drive requesting relief from Section 4.14.4 b) ii) of Zoning By-law 2019-051, to permit a rear yard deck, greater than 0.6 metres in height above grade, to be located 0.6 metres from the rear lot line instead of the minimum required 4 metres, provided that the deck is setback 2.5 metres from the northern side lot line to avoid encroachment on an existing easement, generally in accordance with drawings prepared by the applicant, BE APPROVED, subject to the following condition:

1. That the Owner shall submit a Construction Plan prior to a Building Permit Application to indicate how the deck will be constructed, including how the property will be accessed, how the existing grade will be maintained, and how the Natural Conservation Lands will be protected from any encroachment or sedimentation during construction.

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to recommend approval of a Minor Variance application for relief from rear yard setbacks requirements for a deck that exceeds 0.6 metres in height
- The key finding of this report is that the application 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 southern side of Zeller Drive between Bridgemill Crescent and Zeller Crescent, in the Grand River South Planning Community. The property currently contains a Duplex dwelling. The lands surrounding the subject property are comprised of low rise single detached dwellings.



**Figure 1: Location Map**

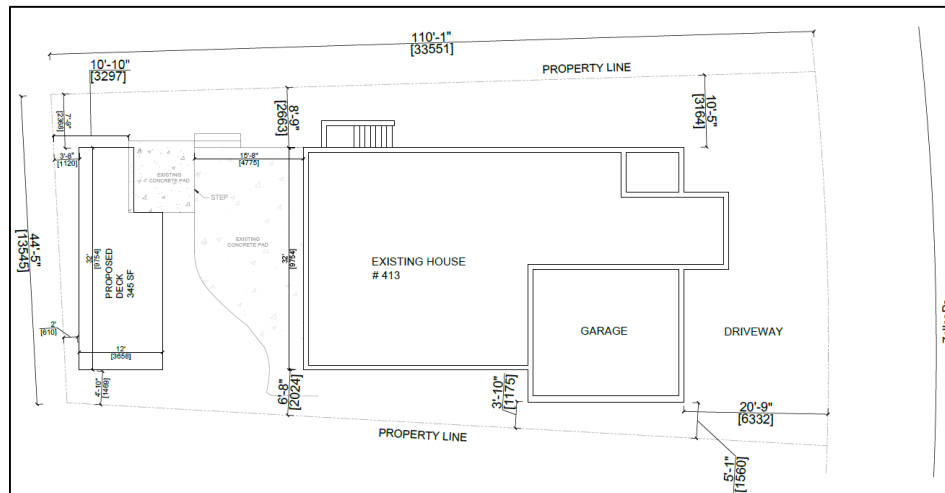
The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Low Rise Residential Two Zone (RES-2)' in Zoning By-law 2019-051.

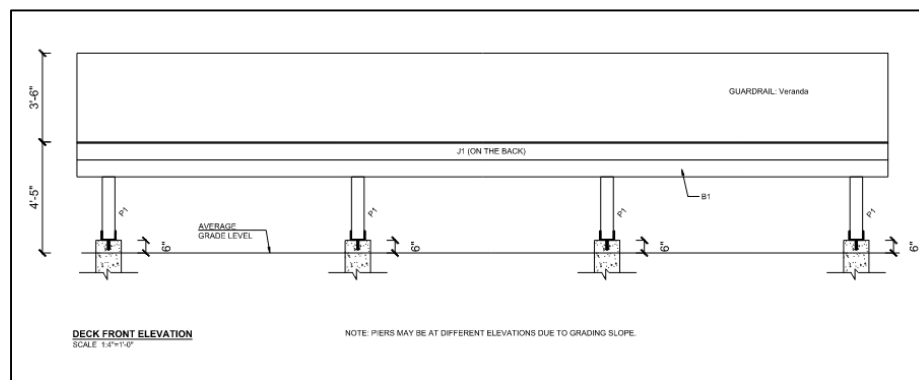
The purpose of the application is to request relief from the required rear yard setback, allowing a deck, exceeding 0.6 metres in height above grade, to be located 0.6 metres from the rear lot line instead of the required 4 metres. Relief is necessary due to the downward slope of the rear yard, which causes the deck to exceed 0.6 metres in height in order to align with the existing grade of the amenity area. The deck is intended as an extension of the existing concrete patio.

The subject property abuts City owned Natural Conservation Lands to the rear. Staff are requesting that a Construction Plan be provided prior to an application for Building Permit. The Plan should outline how the deck will be constructed, including how the rear yard will be accessed, how the existing grade of the lands will be maintained, and how the Natural Conservation Lands will be protected from any encroachment or sedimentation during construction.

It should also be noted that there is a 5 metre Storm Water Utility easement centred on the northern interior side lot line. Therefore, any and all structures must be setback a minimum of 2.5 metres from the interior lot line. Any development or structures located within this easement may be subject to removal at the property owner's expense.

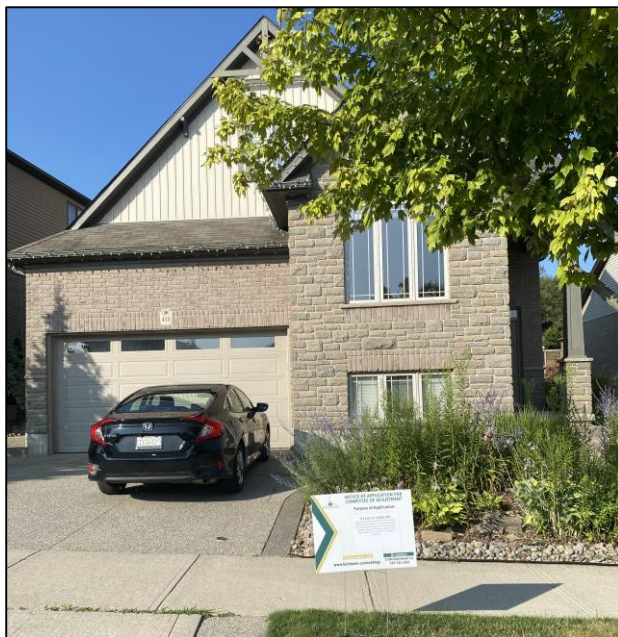


### Figure 2: Proposed Site Plan



### Figure 3: Proposed Deck Elevation

Staff completed a site visit on August 1<sup>st</sup>, 2025.



#### Figure 4: 413 Zeller Drive Streetview



### Figure 5: Proposed Rear Deck Location

## **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 Official Plan. The intent of the Low Rise Residential land use designation is to accommodate a full range of low density housing types, including the existing single detached dwelling use. The proposed deck in the rear yard will be an extension of the existing concrete patio and will provide additional functional outdoor amenity area. Therefore, Planning Staff are of the opinion that the requested variance maintains the general intent of the Official Plan.

#### General Intent of the Zoning By-law

The intent of the rear yard setback regulation for a deck that exceeds 0.6 metres in height is to ensure adequate sight lines, minimize negative visual impacts of structures, and preserve the privacy of neighbouring properties. Due to the downward slope of the rear yard toward the rear lot line, the deck must exceed 0.6 metres in height in order to align with the existing grade of the current amenity area. The proposed deck is modest in scale and design, with piers that do not create a negative impact and do not create a significant massing effect as per the elevation drawing (Figure 3). No significant privacy concerns are anticipated as the subject property abuts Lackner Woods, a Natural Conservation area, to the rear. Therefore, Planning Staff are of the opinion that the requested variance maintains the general intent of the Zoning By-law.

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

The proposed reduced rear yard setback of the deck is not anticipated to have any significant or adverse impacts on the neighbouring properties. A Construction Plan is being requested to ensure there are no adverse impacts on the Natural Conservation Lands during construction. Therefore, Planning Staff are of the opinion that the effects of the requested variance 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 deck will provide a functional outdoor amenity space that is compatible with the residential character of the neighbourhood, as multiple neighbouring dwellings also feature raised decks of a similar scale and design in the rear yard. Therefore, Planning Staff are of the opinion that the requested variance is desirable and appropriate for the development of the lands.

**Environmental Planning Comments:**

The subject property abuts a Natural Conservation Area, and it should be confirmed that the work can be completed with no encroachment or sedimentation on City land, and no changes to the existing grade. There is a stormwater catch basin near the eastern corner of the property, but no drainage issues are anticipated.

**Heritage Planning Comments:**

No comments.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided a building permit for the deck is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

There is a 5 metre wide easement centered on the north property line. Therefore, nothing permanent (with footings) can be within this easement. The deck is proposed to be 2.36 metres from the property line so this must be adjusted to be outside of the 2.5 metre easement.

**Parks Planning Comments:**

There is an existing City-owned street tree within the right-of-way on Zeller Drive. 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 Services have no concerns with this application.

**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*