

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: January 20, 2026

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

PREPARED BY: Brian Bateman, Senior Planner, 519-783-8905

WARD(S) INVOLVED: Ward 9

DATE OF REPORT: January 5, 2026

REPORT NO.: DSD-2026-027

SUBJECT: Minor Variance Application A2026-004 - 37 Heiman Street

RECOMMENDATION:

That Minor Variance Application A2026-004 for 37 Heiman Street requesting relief from the following Sections of Zoning By-law 2019-051 to:

- i) Section 5.3 e) i), permit a parking area to be located 0.5 metres from a side lot line instead of the minimum required 1.5 metres;
- ii) Section 7.3, Table 7-6, to permit a lot width of 14.2 metres instead of the minimum required 19 metres; and
- iii) Section 7.3, Table 7-6, to permit a right side yard setback of 2.3 metres instead of the minimum required 3 metres;

to facilitate the development of a 3-storey multiple dwelling having 6 dwelling units in accordance drawings, dated December 11, 2025, prepared for a Zoning Occupancy Permit, BE DEFERRED until June 20, 2026 or sooner to allow the Applicant/Owner:

- i) To prepare a Scoped Environmental Impact Study (EIS) and Tree Management and Enhancement Plan (TMEP) to the satisfaction of the Director of Development and Housing Approvals; and
- ii) To satisfy the Conditions of the Grand River Conservation Authority as noted in their comments dated December 31, 2025.

REPORT HIGHLIGHTS:

- The purpose of this report is to assess Minor Variances requested to facilitate a plan to develop 37 Heiman Street with a 3-storey, 6 unit multiple dwelling.
- The key finding of this report is that a decision on whether these variances are 'minor' is premature until such time as a Scoped Environmental Impact Study (EIS) and Tree

Management and Enhancement Plan (TMP) have been submitted and approved to the satisfaction of the Director of Development and Housing Approvals, and satisfaction of the Grand River Conservation Authority conditions. Therefore staff are recommending Deferral at this time.

- This property was created through Consent Applications B2018-021 to B2018-023. Agreement WR1125863 was entered into requiring the preparation of a Tree Management and Enhancement Plan (TMP) and Scoped Environmental Impact Study (EIS) prior to issuance of a Building Permit.
- 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 a vacant undeveloped parcel of land addressed as 37 Heiman Street (see Figure 1). This rectangular parcel of land was created through Consent Applications B2018-021 to B2018-023 with the intent of developing the property at a future date.

Because there are trees on-site, the owner was required to enter into an Agreement with the City (WR1125863 – see attachment) as part of Consent Approval. The agreement requires the preparation of a Tree Management and Enhancement Plan (TMP) and Scoped Environmental Impact Study (EIS) prior to issuance of a Building Permit. When the agreement was entered into, it was anticipated that the development would require Site Plan Approval and these studies would have been required at this time to support the proposed development. The requested variances would have been reviewed and assessed as part of the Site Plan Approval process. In the absence of a Site Plan Application, as none is required, the studies need to be submitted as part of the review of this Minor Variance Application. Also, as the variances implement a plan that will remove and/or impact trees, staff feel it is imperative to require the environmental work upfront.

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 rear portion of 37 Heiman Street is also within the Grand River Conservation Authority's Regulatory Limit.

The property is zoned 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051.

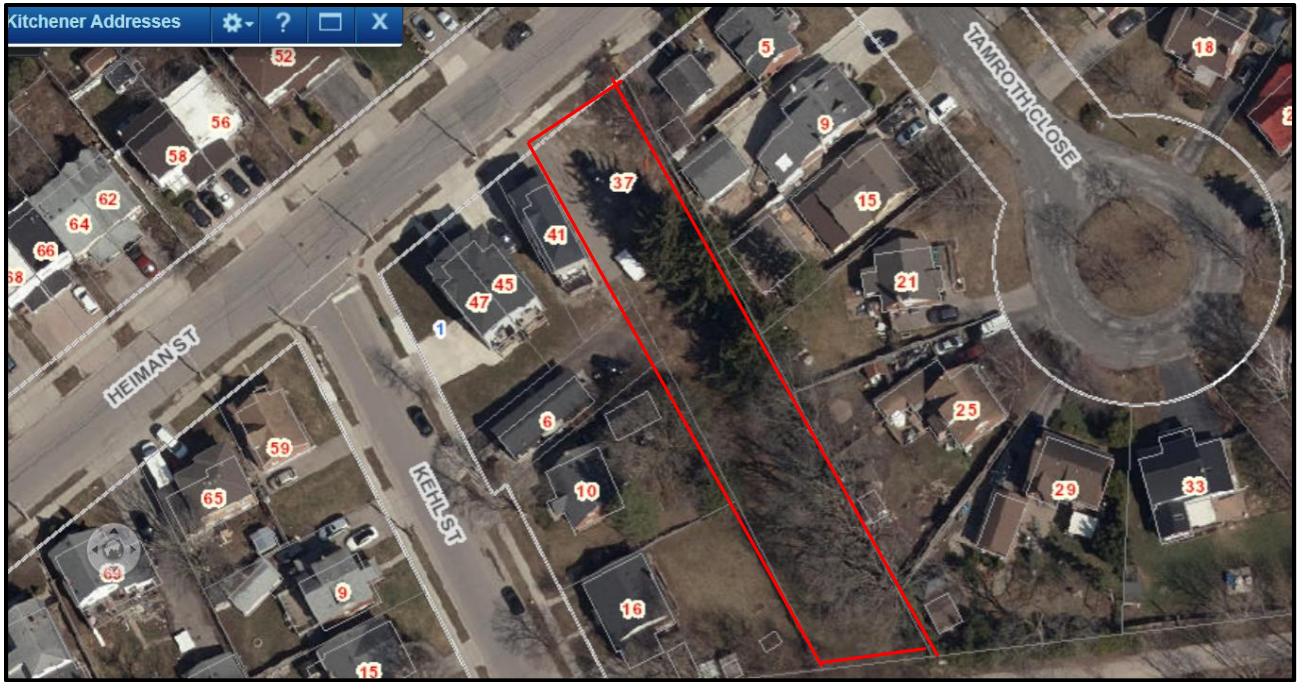


Figure 1 – Subject Property (outlined in red) and Surrounding Lands



Figure 2 – Photograph of Subject Property

The purpose of the application is to seek approval of 3 variances for the existing lot width, the side yard setback to a parking area and the side yard setback for a multiple dwelling, which are required to facilitate the plan shown in Figure 3 below:

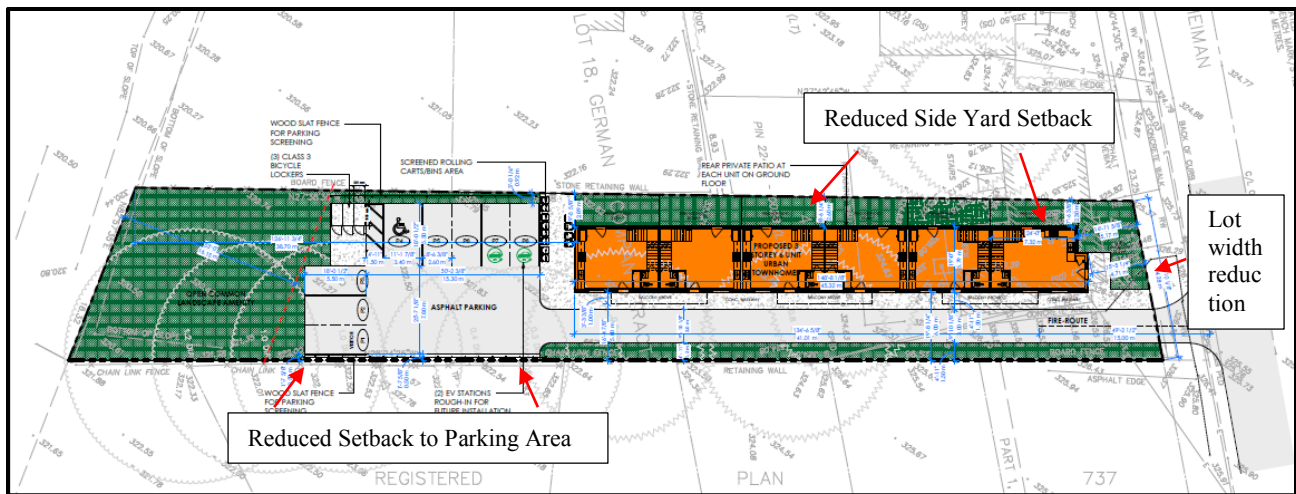


Figure 3 – Proposed Site Plan

REPORT:

Planning Comments:

Staff is recommending Deferral so that the applicant can prepare the required Scoped EIS and TMP as required through Agreement (WR1125863) to support his request for the Minor Variances and built form under consideration. A 6 month Deferral, (or sooner if the reports are completed and reviewed in advance), is suggested so that the Applicant/Owner has time to prepare the necessary work and for staff to review it and report back to Committee.

The Deferral would also allow satisfaction of the GRCA comments/conditions.

Environmental Planning Comments:

A Tree Management and Enhancement Plan (TMP) and Scoped Environmental Impact Study (EIS) is required through Agreement (WR1125863).

Heritage Planning Comments:

No comments or concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided a building permit for the 6-unit 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/Forestry Division Comments:

Cash-in-lieu of parkland dedication will be required prior to issuance of a building permit. No other concerns or requirements.

Transportation Planning Comments:

Transportation Services have no concerns with this application but note that drivers are expected to face some delays as the proposed drive aisle can only facilitate one direction of vehicle travel at a time.

The wider area near the parking spaces will help facilitate an approximate 5-point turn if all parking spaces are occupied to allow a vehicle to exit the site in a forward motion.

GRCA Comments:

The GRCA has reviewed this application under Ontario Regulation 686/21, acting on behalf of the Province regarding natural hazards identified in Section 5.2 of the Provincial Planning Statement (PPS, 2024), as a public body under the Planning Act, as well as in accordance with Ontario Regulation 41/24 and GRCA's Board approved policies.

Information currently available at our office indicates that the subject lands contain the Shoemaker Creek floodplain. This portion of the floodplain is a Two-Zone Policy Area. The Regulatory Floodplain Elevation (RFE) for the property is 321.8 metres (CGVD28).

The proposed building elevations indicate the top of the ground floor will be 425.75 metres, which seems implausible, but no vertical datum is cited. The site plan also appears to show all development will be outside of the floodway portion of the floodplain, but GRCA staff cannot be certain without grading details and a higher resolution drawing that does not blur the measurement text. These issues will need to be corrected in the final drawings.

The proposed building and associated grading must be above the RFE, and all development activity is outside of the floodway, in accordance with City of Kitchener Official Plan Policies 6.C.2.5(c)(i) and 6.C.2.7(b), as well as GRCA Policies 8.1.30 and 8.1.31. In order to demonstrate meeting these policies, the GRCA will require the following plans, all of which must note the horizontal and vertical datums (e.g., NAD83 UTM Zone 17, CGVD28):

1. A Topographic Survey, completed by an Ontario Licensed Surveyor, showing the extent of the Regulatory Floodplain Elevation (RFE) as per the surveyor's measurements.
2. A Grading Plan showing:
 - a) The floodway/flood fringe boundary as derived directly from our floodplain layer, which can be downloaded from the Grand River Information Network at <https://data.grandriver.ca/>.
 - b) The post-development extent of the Regulatory Floodplain Elevation (RFE), sufficiently floodproofing the building and driveway / parking.
3. Building plans and cross-sections (i.e., a revised version of building plan A-300), showing corrected geodetic floor elevations, and with all floor space above the Regulatory Floodplain Elevation (RFE).

The GRCA has confidence that the applicant can revise their plans accordingly to demonstrate the above. As such, the GRCA recommends approving the application

conditional on providing these plans to the GRCA's satisfaction, as well as obtaining a GRCA permit.

Region of Waterloo Comments;

No concerns.

Six Nations of the Grand River Elected Council (SNGREC) Comments:

Bird and Light Friendly Design

SNGREC requests that the building is designed using bird and light friendly practices. This includes minimizing reflective surfaces, creating visual markers on windows, and using warmer lights that are directed downwards and away from natural areas. Hundreds of millions of birds are killed by windows in North America each year, with 56% being from low-rise residential, thus this request extends to all sizes of development.

(<https://ontarionature.org/sustainable-building-design-can-stop-millions-of-birds-deaths-blog/>).

Please see the City of Toronto's bird friendly practices for glass and for lighting as guidelines and implement them thoroughly across the entire design:

<https://www.toronto.ca/wp-content/uploads/2017/08/8d1c-Bird-Friendly-Best-Practices-Glass.pdf>

<https://www.toronto.ca/wp-content/uploads/2018/03/8ff6-city-planning-bird-effective-lighting.pdf>

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*
- *Planning Report for B2018-021 to B2018-023*

ATTACHMENTS:

Attachment A – Agreement WR1125863