

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: August 16, 2022

SUBMITTED BY: Tina Malone-Wright, Supervisor, Development Applications
519-741-2200 ext. 7765

PREPARED BY: Sheryl Rice Menezes, Planning Technician (Zoning),
519-741-2200 ext. 7844

WARD(S) INVOLVED: Ward 1

DATE OF REPORT: August 2, 2022

REPORT NO.: DSD-2022-404

SUBJECT: Minor Variance Application A 2022-101 – 120 Rosemount Drive
Owner: Stacey Charron

RECOMMENDATION:

Zoning By-law 85-1

A. That Minor Variance Application A2022-101 for 120 Rosemount Drive requesting relief from:

- 1) Section 40.2.6 to permit a side yard setback of 1.8 metres instead of the minimum required 2.5 metres;**
- 2) Section 6.1.1.1 d) i) to permit the three (3) required off-street parking spaces to be located between the front façade and the street (property) line on Sherwood Avenue, whereas the By-law does not permit parking in front of the building façade; and that the required off-street parking spaces are permitted to be located 1.8 metres from the street (property) line instead of the minimum required 3 metres;**

to legalize a 3-unit multiple dwelling in accordance with Site Plan Application SP 22/115/R/SRM, BE APPROVED.

Zoning By-law 2019-051

B. That Minor Variance Application A2022-101 for 120 Rosemount Drive requesting relief from:

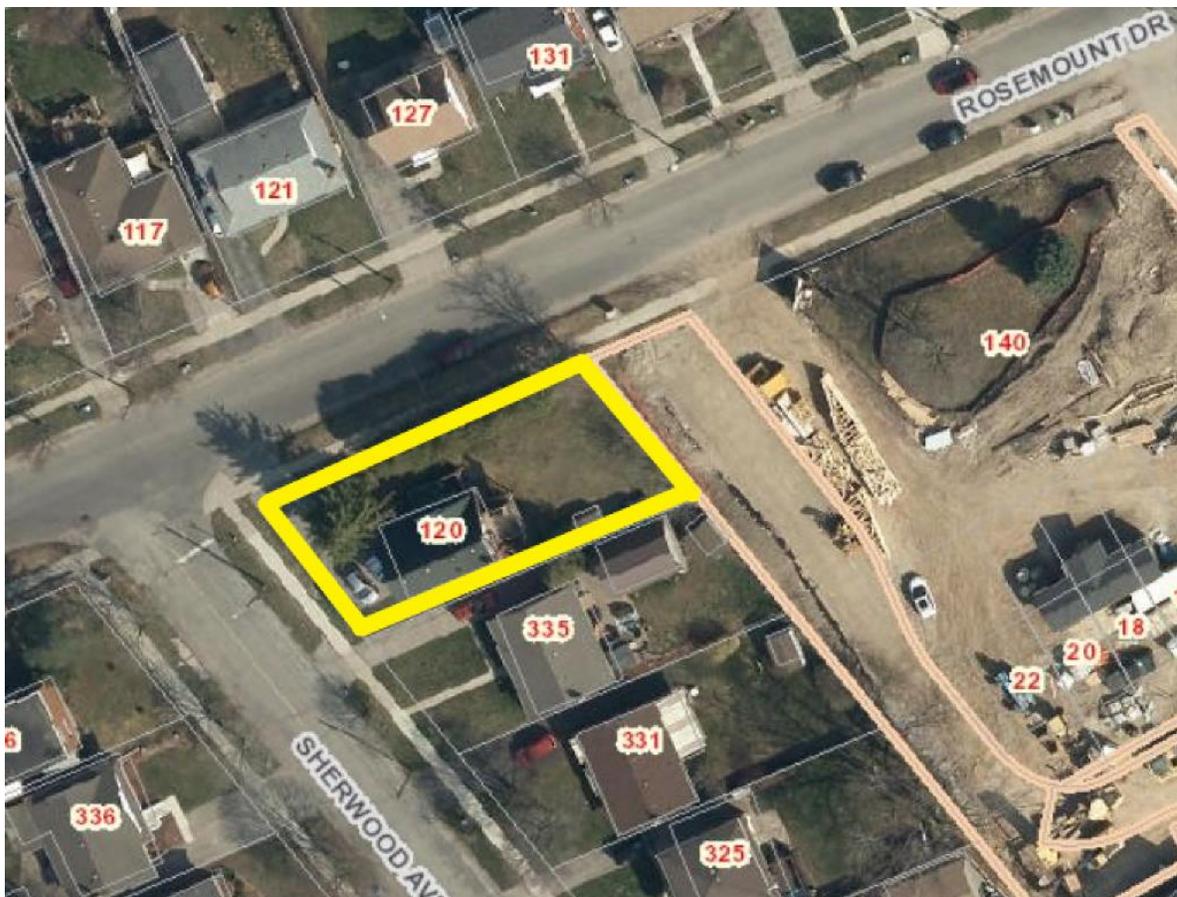
- 1) Section 7.3, Table 7-6, to permit a side yard setback of 1.8 metres instead of the minimum required 2.5 metres;**
- 2) Section 5.3.3 c) i) to permit the three (3) required off-street parking spaces to be located between the front façade and the street (property) line on Sherwood Avenue, whereas the By-law does not permit parking in front of the building façade; and that the required off-street parking spaces are permitted to be located 1.8 metres from the street (property) line instead of the minimum required 3 metres;**

to legalize a 3-unit multiple dwelling in accordance with Site Plan Application SP 22/115/R/SRM, BE APPROVED subject to the following:

This minor variance shall become effective only at such time as Zoning By-law 2022-040 comes into force, pursuant to section 34 (30) of the Planning Act, R.S.O. 1990, c. P 13, as amended, at such time the variance shall be deemed to have come into force as of the final date of this decision.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to legalize the use of the building and parking space setbacks for an existing 3-unit multiple dwelling.
- The key finding of this report is that the requested minor variances meet the four tests of the Planning Act.
- There are no financial implications.
- Community engagement included circulation of the application via mail and notification by way of the Record newspaper and signage placed on the property.
- This report supports the delivery of core services.



BACKGROUND:

The subject property is located at the southeast corner of Rosemount Drive and Sherwood Avenue and contains an existing 3-unit multiple dwelling. The last legal use on record is a duplex. The property was converted to a 3-unit multiple dwelling without permission of the City by a previous owner. In addition, the parking on site has never met regulations. At the time of construction, Bylaw 1823 required that parking spaces 'shall not be provided or maintained other than to the rear of the front wall of the main building (the front wall being the façade that faces Sherwood Ave, the shorter lot line). The current owner wishes to legalize the use of the property.

The subject property is identified as 'Community Area' 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 'Residential Six (R-6)' in Zoning By-law 85-1 and 'Low Rise Residential Five (RES-5)' in By-law 2019-051, which is currently under appeal.

The purpose of the application is to legalize the existing building setback and proposed parking setback for an existing 3-unit multiple dwelling.



View from Rosemount Drive. Existing driveway access to be closed.

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 designation is to accommodate a range of low-rise residential uses including 3-unit multiple dwellings. The proposed variances conform to the land use designation, and it is the opinion of staff that the variances are appropriate.

General Intent of the Zoning By-law

The intent of the 2.5 metre side yard setback for a 3-unit multiple dwelling is to ensure sufficient setback from abutting properties. The building has existed since approximately 1954 and there has been no concerns with the setback to date.

The intent of the two variances for parking spaces is to ensure that parking does not dominate a streetscape. As noted above, the original parking spaces have never complied but as no complaints received, they were used as they exist since the building was constructed. Now that the current owner wishes to legalize the use, parking must meet today's regulations or variances be approved.

As the proposed parking arrangement is in the same location as the existing parking, but the access is from Sherwood Avenue instead of Rosemount Drive, the impact on the property and streetscape is minimal. The new access is safer for vehicles to use and have better visibility of other vehicles and pedestrians on the street right-of-way.

Staff are of the opinion that all variances meet the general intent of both Zoning By-laws.

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

As the building is existing and the proposed parking arrangement is generally in the same area but with a new safer access point, staff consider the requested variances as minor.

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

As noted previously, the building has been used by the current owner as a 3-unit multiple dwelling since at least 2012. The building was converted from a duplex to 3 units prior to 2012 by a previous owner. As the new access point will be farther from the intersection than what exists, it is considered safer for vehicular and pedestrian traffic. Staff are of the opinion that all variances are appropriate for the use of the land and building.

Environmental Planning Comments:

No natural heritage concerns. Please advise that care should be taken when removing the existing driveway to not negatively impact the existing tree.

Heritage Planning Comments:

No comments.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the change of use to a triplex is obtained. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No comments.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

Transportation Services will support the proposed parking setback of 1.89m from the required 3.0m setback.

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 Policy Statement (PPS 2014)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-laws 85-1 and 2019-051*