

# 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:** Tara Zhang, Planner, 519-741-2200 ext. 7760

**WARD(S) INVOLVED:** Ward 10

**DATE OF REPORT:** August 4, 2022

**REPORT NO.:** DSD-2022-399

**SUBJECT:** Minor Variance Application - A2022-099 - 68 Breithaupt Street  
Owner: Robert Edward Drzazga  
Agent: Andrew Head / Gerald Maclean

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## RECOMMENDATION:

### Zoning By-law 85-1

#### A. That Minor Variance Application A2022-099 for 68 Breithaupt Street;

- 1) To permit a 'Service or Repair to Motor Vehicles' as a permitted use of the subject property;
- 2) Relief from Section 19.3 of Zoning By-law 85-1 to permit a front yard setback of 0.8 metres instead of the minimum required 6 metres; and
- 3) Relief from Section 19.3 of Zoning By-law 85-1 to permit a side yard setback of 0.8 metres instead of the minimum required 1.2 metres;

to recognize the location of the existing building for use as a 'Service or Repair to Motor Vehicles' use, in accordance with Site Plan Application SP22/111/B/TZ, BE APPROVED.

## REPORT HIGHLIGHTS:

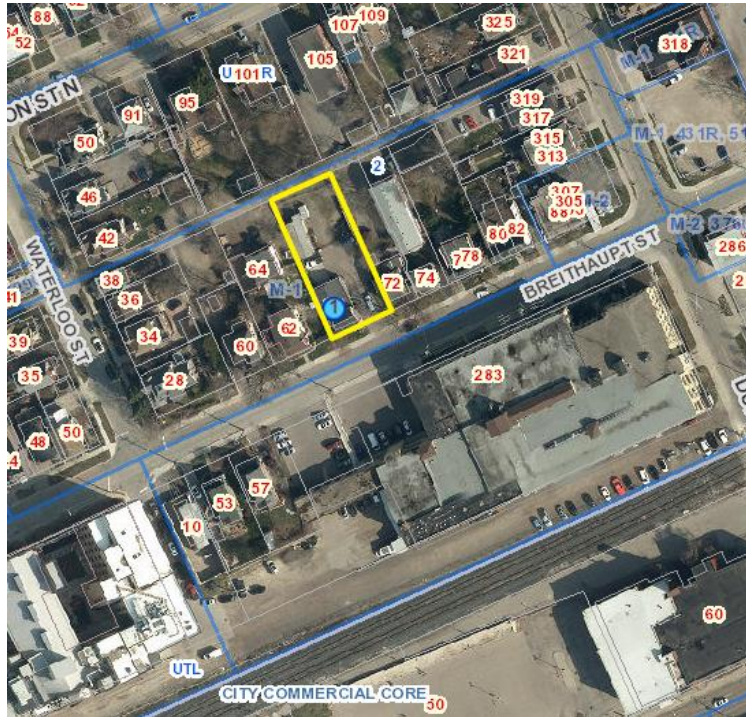
- The purpose of this report is to review and provide a recommendation Minor Variance Application A2022-099.
- There are no financial implications.
- This report supports the delivery of core services.

## BACKGROUND:

The subject property is located north of Breithaupt Street near the City Commercial core. The subject property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure and is designated 'General Industrial Employment' on Map 3 – Land Use in the City's 2014 Official Plan. The property is zoned 'Industrial Residential Zone (M-1)' in Zoning By-law 85-1.

The purpose of the application is to recommend the approval of variances to permit a 'Service or Repair to Motor Vehicles' use and to recognize the location of the existing building on the property. The current business 'RIM Doctor' has existing on the property for over 9 years. The owner/applicant has already submitted a Stamp Plan B Site Plan Application (SP22/111/B/TZ) with the Planning Division, which is currently under review.

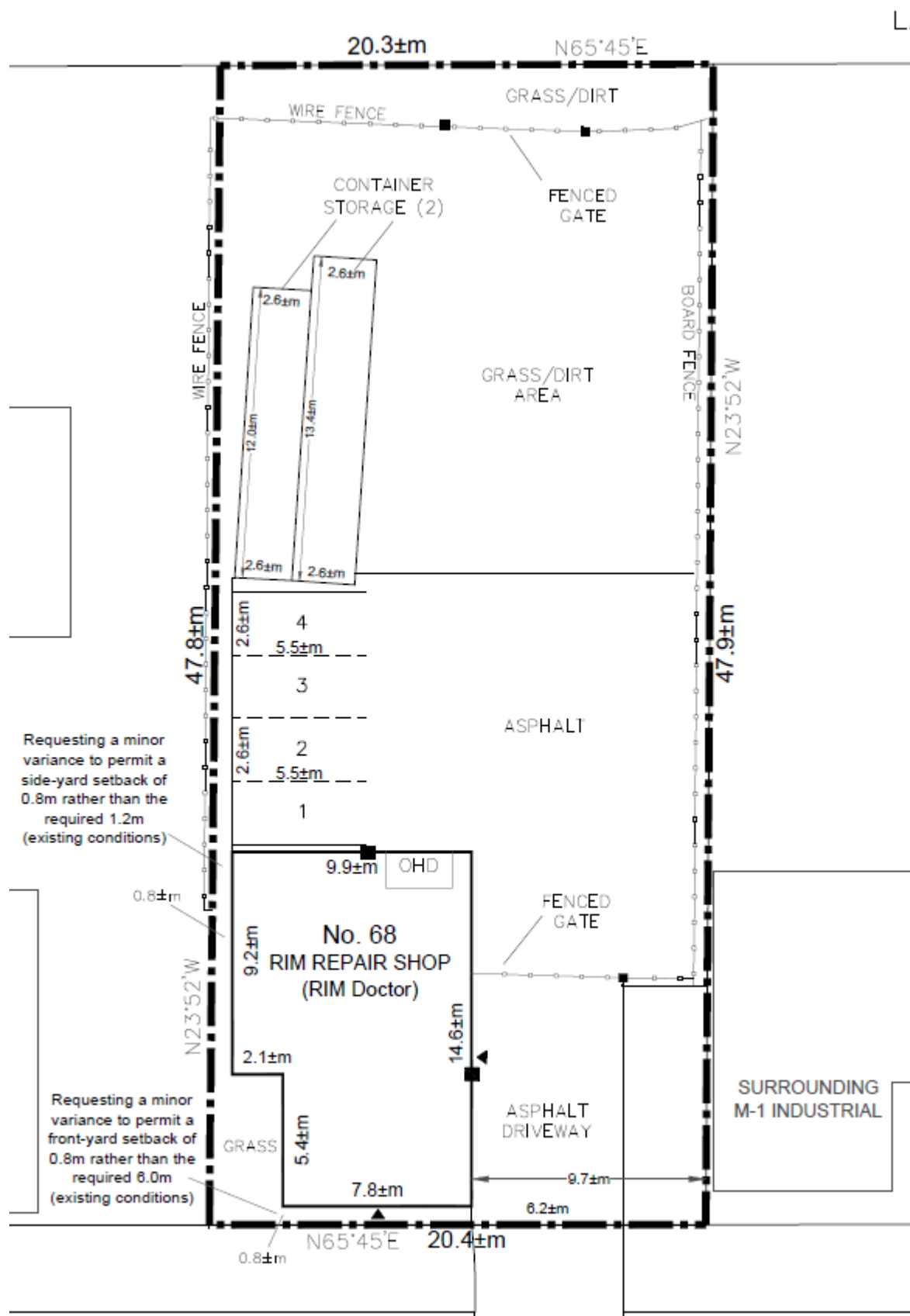
City Planning staff conducted a site inspection of the property on July 29<sup>th</sup>, 2022



**Figure 1: Location Map: 68 Breithaupt Street**



**Figure 2: Front view of 68 Breithaupt Street**



### Figure 3: Proposed Site Plan

## 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

Policy 15.D.6.18 b) states:

15.D.6.18. The General Industrial Employment land use designation may also permit a limited number of accessory or ancillary uses which support the primary function of the General Industrial Employment land use designation: The uses may include:

b) automotive repair and detailing;

The 'General Industrial Employment' land use designation permits a limited number of accessory or ancillary uses which support the primary function of the 'General Industrial Employment' land use designation. This includes automotive repair and detailing. It is the opinion of staff that the variance to permit the use of "Service or Repair to Motor Vehicles" meets the intent of the Official Plan land use designation.

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

The intent of the front yard setback of 6 metres is to provide adequate distance between the property line and the building. The intent of the 1.2 metres side yard setback is to provide adequate privacy between the buildings. The building will not be under construction and is existing. The surrounding neighbourhood has a similar setback to the front lot line in the Industrial-Residential Zone (M-1). It is staff's opinion that intent of the Zoning By-law 85-1 has been met due to the existing conditions of the property and the neighbourhood.

The intent of the 'Industrial Residential (M-1) Zone' in Zoning By-law 85-1 is to act as a transitional area between intensive industrial and residential uses. Under the M-1 Zone, a similar use 'Sale, Rental or Service of Tools and Industrial, Farm or Catering Equipment' is permitted.

The subject property was not zoned as part of new Zoning By-law 2019-051 to implement the General Industrial Employment land use designation in the 2014 Official Plan, given its location in a Major Transit Station Area. An 'Automotive Detailing and Repair Operation' is a permitted use in the 'General Industrial Employment Zone (EMP-2)' in Zoning By-law 2019-051.

It is staff's opinion that the minor variance for the addition of the 'Service or Repair of Motor Vehicles' use meets the general intent of the Zoning By-law.

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

The requested variances are considered minor as the building is existing and in a similar location as adjacent properties and has been used over the years for many uses without impacting the streetscape or adjacent properties. The use meets the intent of a General Industrial Employment land use designation and based on the preliminary site plan will be able to function appropriately on the subject property.

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

Planning staff is of the opinion that the proposed variances are desirable and appropriate, that is compatible with the neighbourhood and allow the use of an existing building.

**Environmental Planning Comments:**

No concerns.

**Heritage Planning Comments:**

There are no heritage concerns. The Kitchener Cultural Heritage Landscape Study (CHLS) dated December 2014 and prepared by The Landplan Collaborative Ltd. was approved by Council in 2015. The CHLS serves to establish an inventory and was the first step of a phased Cultural Heritage Landscape (CHL) conservation process. The property municipally addressed as 68 Breithaupt Street is located within the Warehouse District CHL. The owner and the public will be consulted as the City considers listing CHLs on the Municipal Heritage Register, identifying CHLs in the Official Plan, and preparing action plans for each CHL with specific conservation options.

**Building Division Comments:**

No objections.

**Engineering Division Comments:**

Engineering has no comments.

**Parks/Operations Division Comments:**

No comments.

**Transportation Planning Comments:**

Any encroachments of the building into the driveway visibility triangle are supported, as this is an existing condition. Transportation Services have no concerns with the proposed 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 Policy Statement (PPS 2014)*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020*
- *Regional Official Plan*
- *Official Plan (2014)*
- *Zoning By-law 85-1*