

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: Julian Lee, Student Planner, 519-741-2200 ext. 7078

WARD(S) INVOLVED: Ward 2

DATE OF REPORT: August 5, 2022

REPORT NO.: DSD-2022-376

SUBJECT: Minor Variance Application A2022-376 – 334 Waterbend Crescent

RECOMMENDATION:

Zoning By-law 85-1

- A. That Minor Variance Application A2022-376 for 334 Waterbend Crescent requesting relief from Section 5.6A.4 c) of Zoning By-law 85-1, to permit a rear deck to have a rear yard setback of 2 metres instead of the minimum required 4 metres to facilitate the extension of the existing deck, in accordance with drawings prepared by Steve Ryan, Heritage Design, dated May 1, 2022, BE APPROVED.

Zoning By-law 2019-051

- B. That Minor Variance Application A2022-376 for 334 Waterbend Crescent requesting relief from Section 4.14.4 c) of Zoning By-law 2019-051, to permit a rear deck to have a rear yard setback of 2 metres instead of the minimum required 4 metres to facilitate the extension of the existing deck, in accordance with drawings prepared by Steve Ryan, Heritage Design, dated May 1, 2022, BE APPROVED subject to the following:

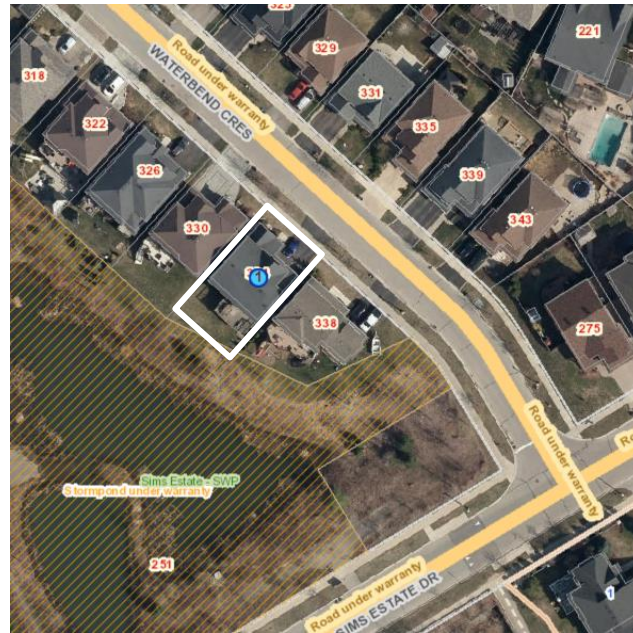
This minor variance shall become effective only at such time as Zoning By-law 2022-040 comes into force, pursuant to section 34 (30) of the Planning Act, R.S.O. 1990, c. P 13, as amended, at such time the variance shall be deemed to have come into force as of the final date of this decision.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application requesting relief from Section 5.6A.4 c) of Zoning By-law 85-1, to permit a rear deck to have a rear yard setback of 2 metres rather than the minimum required 4 metres, and from Section 4.14.4 c) of Zoning By-law 2019-051, to permit a rear deck to have a rear yard setback of 2 metres rather than the minimum required 4 metres, to facilitate the extension of the landing staircase to improve the functionality of the deck.
- The key finding of this report is that the requested minor variances meet the 4 tests of the Planning Act
- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is located on the westerly side of Waterbend Crescent, between Sims Estate Drive and Grasswood Street. The subject property is located within the Grand River South neighbourhood, which is predominantly comprised of low rise single detached residential uses.



Location of Subject Property



Location of Requested Variances



Photo of Subject Property

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 'Residential Three Zone (R-3, 175R)' in Zoning By-law 85-1, and 'Low Rise Residential Two Zone (RES-2)' in Zoning By-law 2019-051, which is currently under appeal.

The purpose of the application is to request relief from Section 5.6A.4 c) of Zoning By-law 85-1, to permit a rear deck to have a rear yard setback of 2 metres rather than the minimum required 4 metres, and from Section 4.14.4 c) of Zoning By-law 2019-051, to permit a rear deck to have a rear yard setback of 2 metres rather than the minimum required 4 metres, to facilitate the extension of the landing staircase to improve the functionality of the deck.

Because the existing staircase is hazardously steep, the applicant intends to extend the existing staircase into the required rear yard setback, adding a landing to improve the safety and functionality of accessing the deck. A building permit application (#22 109852) for the deck revisions has also been received for the subject property and is currently under review.

Planning Staff conducted a site visit on July 27th, 2022.

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 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 intent of the Low Rise Residential designation is to accommodate a diverse range of low rise housing types while maintaining the low density character of the neighbourhood. Official Plan policy 4.C.1.8 details criteria that should be considered where a minor variances is requested. Subsections 'c' and 'd'

specify that: modifications to existing structures are compatible in scale, massing, design, and character to adjacent properties and the streetscape; that modifications are sensitive to the exterior areas of adjacent properties; and that appropriate buffering or screening is provided to mitigate any adverse impacts, particularly with respect to privacy. Staff note that there are no properties directly abutting the rear lot line of the subject property and that the height of the existing deck will not change; as such, there will be no impacts to the privacy of neighbouring properties. Staff are of the opinion that the siting, massing, and scale of the existing deck and proposed staircase extension will not affect adjacent properties and low rise residential character of the neighbourhood as it is not visible from the street, therefore maintaining the intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the 4 metre rear yard setback requirement in both Zoning By-laws 85-1 and 2019-051 regarding rear decks is to maintain both an adequate level of separation and privacy between abutting properties and ensure an adequately sized outdoor amenity space. Staff note that because there are no residential properties directly abutting the rear lot line of the subject property, and that a deficiency of 2 metres in the rear yard will not be discernable to the public or by neighbouring properties and no adverse impacts to privacy will occur. Permitting the requested variances will facilitate the extension of the staircase providing access to the rear deck, which will provide safer and greater access to the existing outdoor amenity space. Staff are of the opinion that the requested variances will not affect the privacy of neighbouring properties and will continue to provide access to the existing outdoor amenity space, therefore meeting the intent of the Zoning By-laws.

Is/Are the Effects of the Variances Minor?

Staff are of the opinion that the effects of the requested variances are minor as the approval of a 2 metre rear yard setback will not be discernable to the public. The location, massing, and design of the proposed staircase extension will not have an impact on the neighbouring properties or on the character of the surrounding community context.

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

The requested variances are desirable for the appropriate development and use of the land and building as the proposed staircase extension is compatible with the form and scale of surrounding properties and will provide greater access to the existing rear deck and outdoor amenity space. The rear yard setback deficiency will not be discernable from the public realm and will not impact the privacy of any surrounding properties. As such, the requested variances are considered desirable in order to facilitate the extension of the existing staircase to the rear deck which will improve the safety and usability of the deck.

Environmental Planning Comments:

No natural heritage or tree management policy concerns.

Heritage Planning Comments:

No heritage concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance. Application has been made for the rear yard deck and it is currently under review.

Engineering Division Comments:

Engineering has no comment.

Parks/Operations Division Comments:

No comments.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application.

Region of Waterloo Comments:

No concerns.

GRCA Comments:

No concerns.

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*

ATTACHMENTS:

- Attachment A – Survey of Subject Property
- Attachment B – Site Plan of Existing Conditions of Subject Property
- Attachment C – Site Plan of Proposed Staircase Extension
- Attachment D – Photos of Existing Staircase

Survey of Subject Property

SURVEYOR'S REAL PROPERTY REPORT, PART 1
PLAN OF PART OF LOT 5, REGISTERED PLAN 58M-388
 (PART 1, PLAN 58R-16117)
CITY OF KITCHENER
REGIONAL MUNICIPALITY OF WATERLOO

SCALE = 1 : 250
 METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

GUENTHER RUEB SURVEYING LIMITED

NOTE: BEARINGS ARE AZIMUTHIC AND ARE REFERRED TO THE SURVEY LIMIT OF WATERBEND CRESCENT, AS SHOWN ON REGISTERED PLAN 58M-388, HAVING A BEARING OF N 47°16'37" W.



RECEIVED

JUN 25 2008

DEVELOPMENT & TECHNICAL SERVICES DEPT.
 BUILDING

(REGISTERED PLAN 58M-388)
WATERBEND CRESCENT

P.I.N. 22713 - 3035

REFERENCE BEARING
 N 47°16'37" W



THIS REPORT WAS PREPARED FOR
 COOK HOMES LIMITED

PART 2

THIS PLAN MUST BE READ IN
 CONJUNCTION WITH SURVEY REPORT
 DATED JUNE 23, 2008.

1181 = GUENTHER RUEB
 SURVEYING LTD.
 ACT = AUTO. CAMPBELL
 & ING. D.L.S.T.
 SSIR = SHORT STANDARD
 IRON BAR
 PB = PLAN 58R-16117

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 4th DAY OF JUNE, 2008.

JUNE 23, 2008

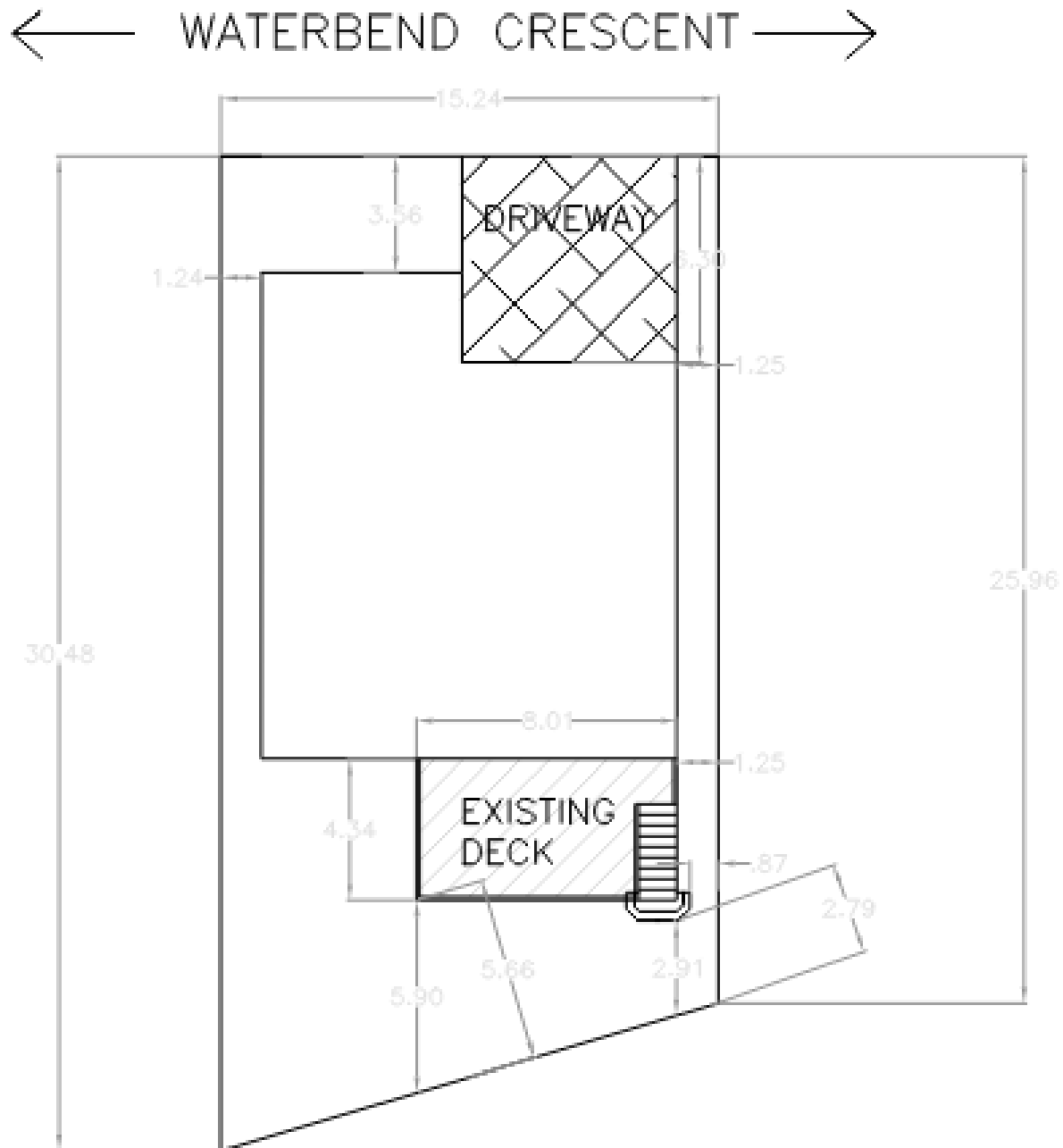
J. Daniel McLeod
 J. DANIEL McLEOD
 ONTARIO LAND SURVEYOR

GUENTHER RUEB SURVEYING LIMITED
 KITCHENER, ONTARIO

JOB NO.	D = PLANTED
	F = FOUND
08-08	SIB = STANDARD IRON BAR
	IB = IRON BAR
	RIR = ROUND IRON BAR
	IT = IRON TUBE

CC = CUT CROSS
Prap = PROPORTIONED
- X = FENCE
M = MEASURED
D = DIST.
P = SEE PLAN 58M-388

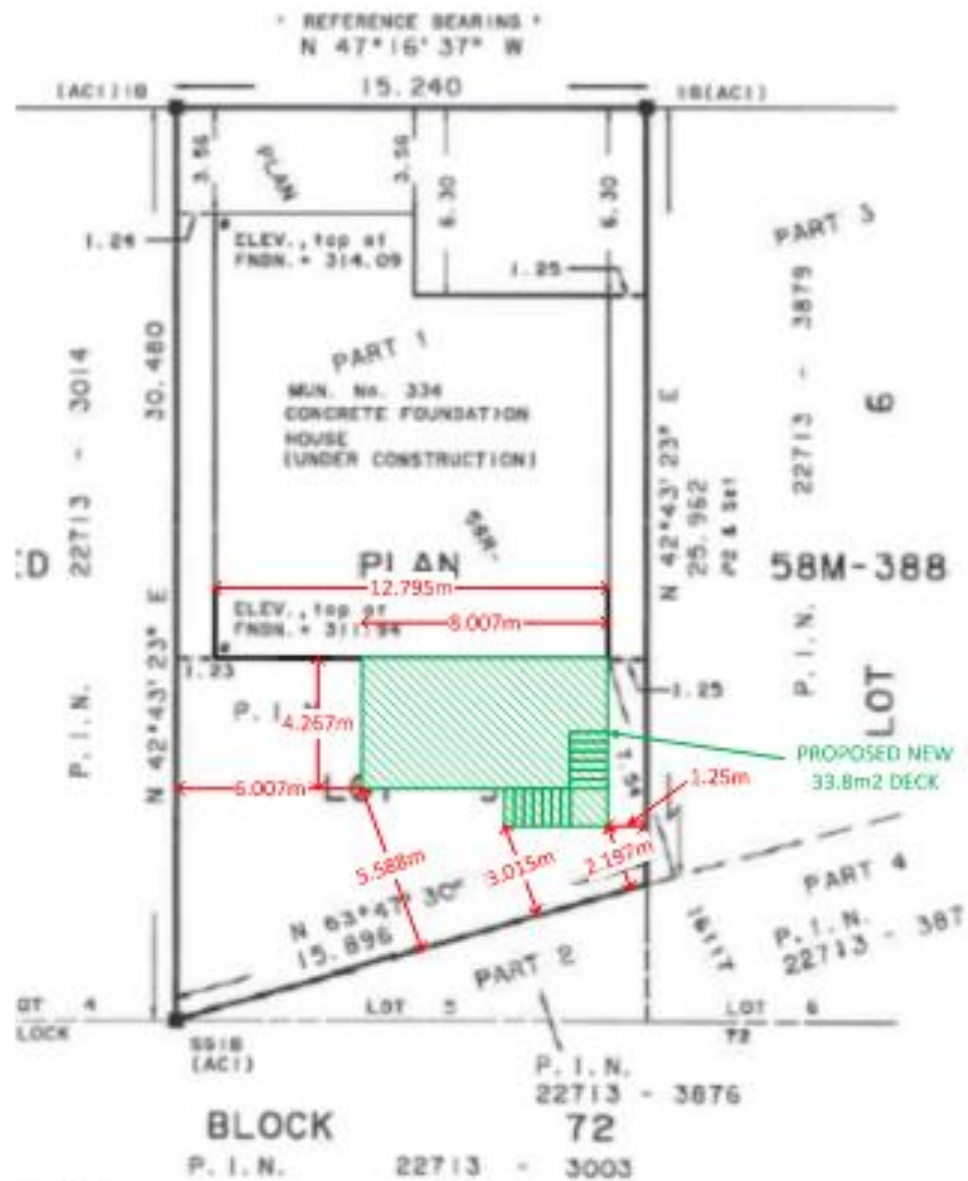
Site Plan of Existing Conditions of Subject Property




Current Deck Layout

There are no trees or streams on the property to note.

Site Plan of Proposed Staircase Extension



PROJECT: Bishop Deck Plan – REVISION 1 - Survey		DATE: May 1 2022	 <small>HERITAGE DESIGN, INC. 10000 10TH AVENUE, SUITE 100, DENVER, CO 80202</small>
STEVE RYAN		SCALE: 1" = 5'	

Photos of Existing Staircase

