

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** October 18, 2022

**SUBMITTED BY:** Tina Malone-Wright, Interim Manager, Development Review  
519-741-2200 ext. 7765

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

**WARD(S) INVOLVED:** Ward 4

**DATE OF REPORT:** October 7, 2022

**REPORT NO.:** DSD-2022-445

**SUBJECT:** Minor Variance Application A2022-122 - 3 Evenstone Avenue

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## **RECOMMENDATION:**

### **Zoning By-law 85-1**

A. That Minor Variance Application A2022-122 for 3 Evenstone Avenue requesting relief from:

- 1) Section 36.2.1 of Zoning By-law 85-1, to permit a side yard abutting a street setback for the part of the building accommodating off-street parking of 4.5 metres instead of the minimum required 6 metres; and
- 2) Section 6.1.1.1 b) iv) to permit a parking space to be located within the front yard for a distance of 9 metres from the side yard abutting a street line, and the same shall not be located in the side yard abutting a street for a distance of 12 metres from the front lot line;

to facilitate an addition with an attached garage to the existing single detached dwelling for an additional dwelling unit (attached) (ADU), in accordance with drawings prepared by Gerard O'Rourke, dated September 2, 2022, BE APPROVED.

1. Prior to the issuance of a Building Permit, the Owner shall prepare a Tree Preservation and Enhancement Plan, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures. No changes to the said plan shall be granted except with the approval of the City's Supervisor, Site Plans

### **Zoning By-law 2019-051**

B. That Minor Variance Application A2022-122 for 3 Evenstone Avenue requesting relief from:

\*\*\* This information is available in accessible formats upon request. \*\*\*  
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

- 1) Section 7.3, Table 7-2 of Zoning By-law 2019-051, to permit an exterior side yard setback of 4.5 metres instead of the minimum required 6 metres;
- 2) Section 5.4, Table 5-2, b) i) and ii) of Zoning By-law 2019-051, to permit an attached garage to extend 3 metres beyond the front façade of the habitable portion of the dwelling instead of the maximum permitted 1.8 metres, and to not provide a front porch where a private garage projects beyond the habitable portion of the front façade of the dwelling unit; and
- 3) Section 5.4 c) of Zoning By-law 2019-051, to permit a parking space to be located within the front yard for a distance of 7 metres from the exterior side lot line, and the same shall not be located within the exterior side yard for a distance of 7 metres from the front lot line;

to facilitate an addition with an attached garage to the existing single detached dwelling for an additional dwelling unit (ADU) (Attached), in accordance with drawings prepared by Gerard O'Rourke, dated September 2, 2022, BE APPROVED subject to the following condition:

1. Prior to the issuance of a Building Permit, the Owner shall prepare a Tree Preservation and Enhancement Plan, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures. No changes to the said plan shall be granted except with the approval of the City's Supervisor, Site Plans.

And 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 minor variances to Zoning By-laws 85-1 and 2019-051 to facilitate the construction of an addition to the existing single detached dwelling for an additional dwelling unit (ADU) (Attached).
- The key finding of this report is that the requested variances meet the 4 tests of the Planning Act.
- There are no financial implications.
- This report supports the delivery of core services.

#### **BACKGROUND:**

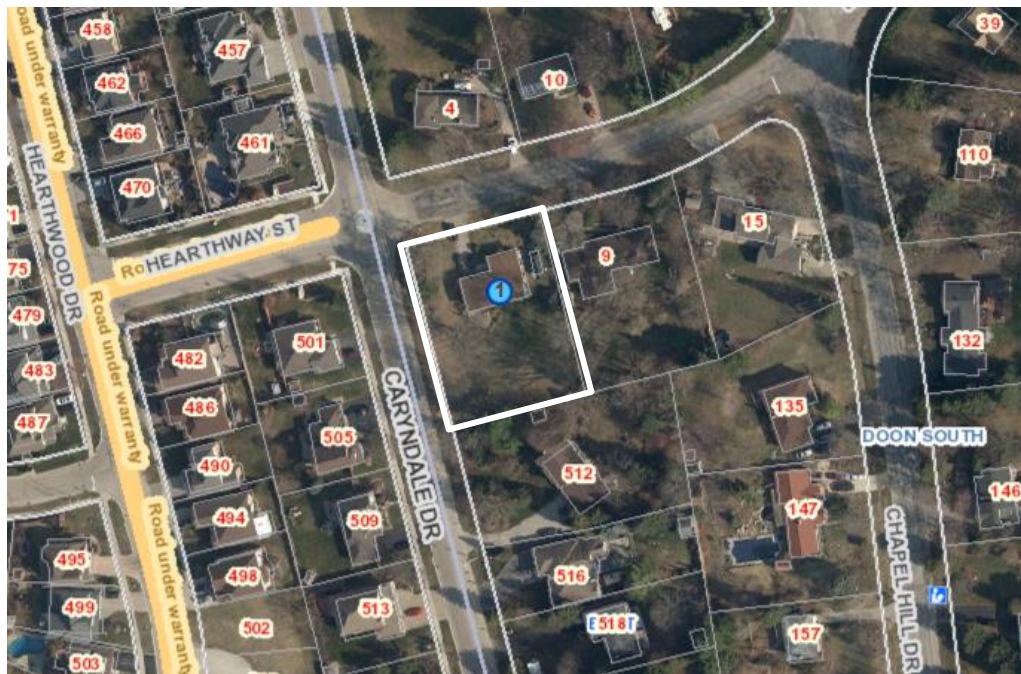
The subject property is located on the corner of Evenstone Avenue and Caryndale Drive, on the southerly side of Evenstone Avenue. The subject property is located within the Doon South neighbourhood, which is primarily comprised of low rise residential uses.

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



**Photo of Subject Property and Location of Requested Variances**



**Location Map: 3 Evenstone Avenue**

The purpose of the application is to request relief from:

- Zoning By-law 85-1 to permit a side yard abutting a street setback for the part of the building accommodating off-street parking of 4.5 metres instead of the minimum required 6 metres; to permit a parking space to be located within the front yard for a distance of 9 metres from the side yard abutting a street line, and the same shall not be located in the side yard abutting a street for a distance of 12 metres from the front lot line; and

- Zoning By-law 2019-051 to permit an exterior side yard setback of 4.5 metres instead of the minimum required 6 metres; to permit an attached garage to extend 3 metres beyond the front façade of the habitable portion of the dwelling instead of the maximum permitted 1.8 metres, and to not provide a front porch where a private garage projects beyond the habitable portion of the front façade of the dwelling unit; and to permit a parking space to be located within the front yard for a distance of 7 metres from the exterior side lot line, and the same shall not be located within the exterior side yard for a distance of 7 metres from the front lot line.

to facilitate the construction of an addition to the existing single detached dwelling for an additional dwelling unit (attached) (ADU).

Planning Staff conducted a site visit on September 29, 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 variance is requested. Subsections 'b' and 'e' specify that the requested variances should ensure that "where front yard setback reductions are proposed for new buildings in established neighbourhoods, the requested front yard setback should be similar to adjacent properties and supports and maintain the character of the streetscape and the neighbourhood", and that "the lands can function appropriately and not create unacceptable adverse impacts for adjacent properties by providing both an appropriate number of parking spaces and an appropriate landscaped/amenity area on the site". Official Plan policy 4.C.1.24. further maintains that the City will permit the addition of an additional dwelling unit (detached) where appropriate to provide alternate housing options to Kitchener homeowners and residents. Staff are of the opinion that permitting the requested variances would maintain the required parking spaces and facilitate the use of the addition as an additional dwelling unit (attached), providing a form of gentle density to the community while preserving the low density character of the neighbourhood. Staff are also of the opinion that the existing landscaping and siting of the proposed addition along Caryndale Avenue would provide an adequate amenity area on the property, as well as maintain the functioning of the property and adjacent dwellings. Staff are of the opinion that the requested variances meet the intent of the Official Plan.

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

The intent of the 6 metre setback from the side yard abutting a street for the required off-street parking in both Zoning By-law 85-1 and 2019-051, and of the 9 metre by 12 metre parking restriction in By-law 85-1 and 7 metre by 7 metre parking restriction in By-law 2019-051, is to ensure adequate visibility for vehicles in the intersection of Evenstone Avenue and Caryndale Avenue, and clear visibility lines for vehicles exiting the property. These regulations also ensure that a vehicle can be safely parked without impacting City and public rights-of-way, or access for the surrounding properties. These visibility lines will still be maintained with the requested variances as the proposed attached garage will be designed, with the garage door facing and accessing the front yard rather than directly facing the street. This configuration and design of the garage will result in a driveway that is situated well away from the intersection and ensure adequate visibility without impacting City

and public rights-of-way or access to the neighbouring properties while maintaining the required parking in the zoning.

The intent of requiring a front porch for dwellings where the garage projects beyond the habitable portion of a dwelling is to activate the street, to ensure attached garages do not dominate the streetscape while supporting a built form which contributes to the public realm. Staff are of the opinion that as the attached garage will not directly face the street, the attached garage will not be apparent from the street and have the same impacts as a garage with a door that directly faces the street.

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

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

As the requested variances are barely discernable to the public realm, adequate amenity areas will be maintained on the property, and present no impacts to traffic visibility on Evenstone Avenue and Caryndale Avenue or access to neighbouring properties, Staff are of the opinion that the requested variances are minor in nature.

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 as it would facilitate the construction of an addition to the existing single detached dwelling for the use of an ADU (attached) while ensuring that the appropriate number of parking spaces are provided on the subject property. The variances will allow the built form to be brought closer to the intersection, create and provide a focal point, without negatively impacting visibility.

**Environmental Planning Comments:**

Due to the treed nature of the property and neighboring properties, Environmental planning requires a Tree preservation and enhancement plan prior to the issuance of a building permit. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. If necessary, the plans shall include required mitigation and or compensation measures. No changes to the said plan shall be granted except with the approval of the City's Supervisor, Site Plans.

**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 3 Evenstone Drive is located within the Caryndale Neighbourhood 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:**

The Building Division has no objections to the proposed variance. Application has been made for the addition to the dwelling unit and is currently under review.

**Engineering Division Comments:**

Engineering has no concerns.

**Parks/Operations Division Comments:**

No comments.



**Transportation Planning Comments:**

Transportation Services have no concerns with the proposed application.

**GRCA Comments:**

No concerns.

**Region of Waterloo Comments:**

No concerns.

**CN Rail Comments:**

No comments.

**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.

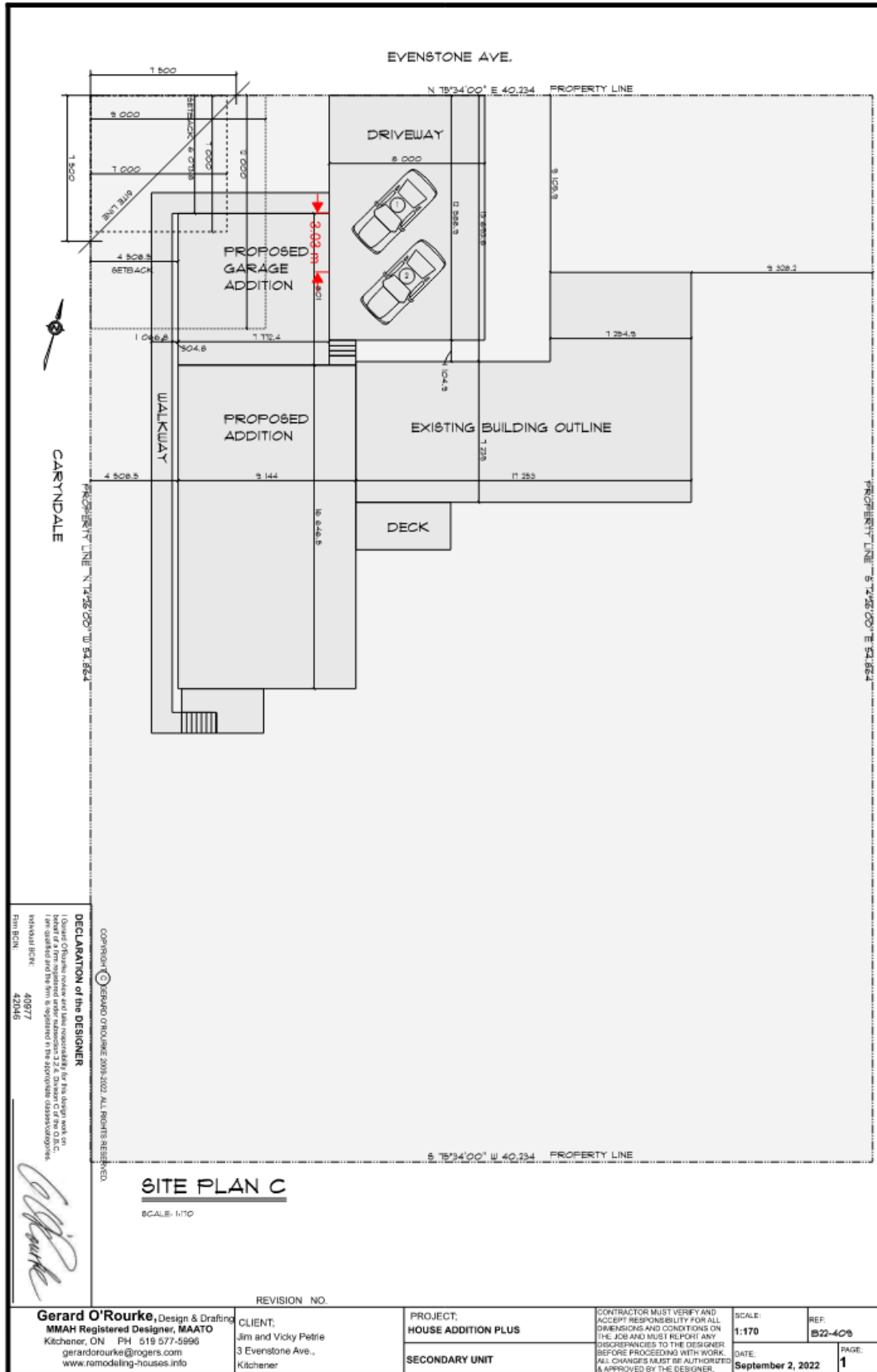
**PREVIOUS REPORTS/AUTHORITIES:**

- *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 – Proposed Site Plan

# Attachments:



## Proposed Site Plan