

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** November 15, 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 5

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

**REPORT NO.:** DSD-2022-469

**SUBJECT:** Minor Variance Application A2022-130 - 252 Mountain Laurel Crescent

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## **RECOMMENDATION:**

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

- A. That Minor Variance Application A2022-130 for 252 Mountain Laurel Crescent requesting relief from Section 6.1.1.1 b) ii) d) and vi) of Zoning By-law 85-1 to permit a driveway to have a maximum width of 6.5 metres instead of the maximum permitted 5.2 metres to recognize the existing concrete driveway and concrete pathways as the permitted driveway, BE APPROVED.

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

- B. That Minor Variance Application A2022-130 for 252 Mountain Laurel Crescent requesting relief from Section 5.4, Table 5-2, and e) of Zoning By-law 2019-051 to permit a driveway to have a maximum width of 6.5 metres instead of the maximum permitted 4.6 metres (50% of the lot width) to recognize the existing concrete driveway and concrete pathways as the permitted driveway, 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 an application requesting relief from Section 6.1.1.1 b) ii) d) and vi) of Zoning By-law 85-1 to permit a driveway to have a maximum width of 6.5 metres instead of the maximum permitted 5.2 metres, and relief from Section 5.4, Table 5-2, and e) of Zoning By-law 2019-051 to permit a driveway to have a maximum width of 6.5 metres instead of the maximum permitted 4.6 metres (50% of the lot width) to recognize the existing concrete driveway and concrete pathways as the permitted driveway.

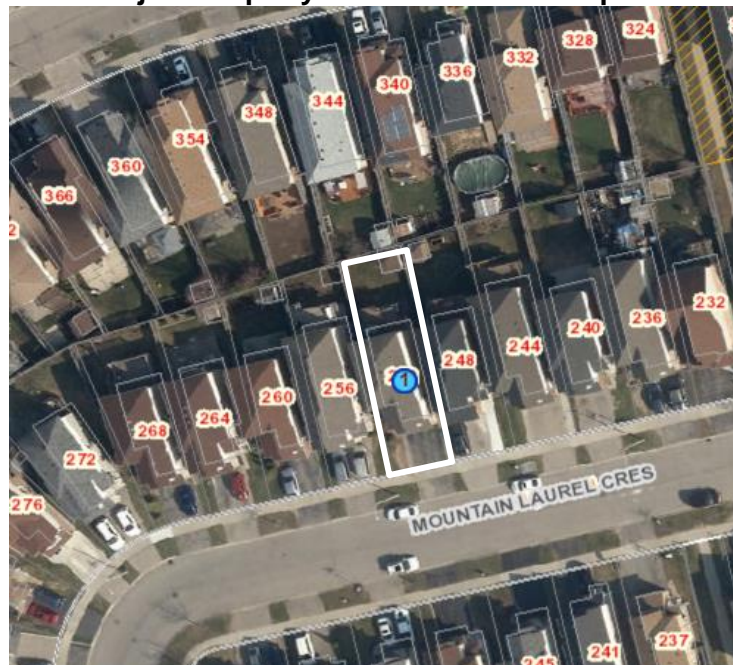
- The key finding of this report is that the requested variances meet the 4 tests of the Planning Act.
- There are no financial implications.
- This report supports the delivery of core services.

## **BACKGROUND:**

The subject property is located on the northerly side of Mountain Laurel Crescent, in the Laurentian West neighbourhood. The Laurentian West neighbourhood is predominantly comprised of low rise residential and commercial/retail uses.



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



**Location Photo – 252 Mountain Laurel Cres.**

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 Four Zone (R-4), 286R' in Zoning By-law 85-1, and 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051, which is currently under appeal.

The applicant is requesting relief from Section 6.1.1.1 b) ii) d) and vi) of Zoning By-law 85-1 to permit a driveway to have a maximum width of 6.5 metres instead of the maximum permitted 5.2 metres, and relief from Section 5.4, Table 5-2, of Zoning By-law 2019-051 to permit a driveway to have a maximum width of 6.5 metres instead of the maximum permitted 4.6 metres (50% of the lot width) to recognize the existing concrete driveway and concrete pathways as the permitted driveway.

The applicant is seeking a variance to permit an increase in the width of a driveway, in order to permit the existing driveway, and the adjacent pathways (for a total width 6.5 metres), to use the existing concrete area, as the legal driveway. The requested width would also legalize the widened driveway apron on the city boulevard being the same width as the driveway on the subject property. The applicant requires the additional width, the adjacent concrete pathways, to accommodate barrier free access on the subject property and to the curb for GRT MobilityPLUS services.

## **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 'Low Rise Residential' land use designation permits the use of the property for residential use, which includes a driveway to provide access and parking to the dwelling. The City's Official Plan encourages 'Universal Design' by encouraging new sites to be designed, existing sites to be redeveloped, the public realm and community infrastructure to be planned to be barrier-free and universal accessibility by all citizens.

Staff are of the opinion that the requested variances to have a widened driveway meet the intent of the Official Plan.

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

The intent of the maximum driveway width of 5.2 metres in Zoning By-law 85-1 and 4.6 metres in Zoning By-law 2019-051 is to maintain the streetscape and character of the surrounding neighbourhood and ensure adequate landscaping and soft scaping on the property. Staff note that brushed concrete portion of the driveway leading to the garage, excluding the concrete pathways, is 4.5 metres in width, which is within the zoning regulations of both Zoning By-laws 85-1 and 2019-051.

The applicant would like to be able to consider and use the adjacent concrete pathways as part of the driveway to assist with providing barrier free access on the subject property and to allow access to the street to access GRT MobilityPLUS services.

The Zoning By-laws require that the driveway be comprised of a material that is consistent throughout and is distinguishable from other surfacing, including landscaping and walkways. The existing driveway and walkways are comprised of concrete, a consistent material, however the concrete pathways are distinguishable as they are stamped concrete rather than brushed concrete.

Staff are of the opinion that the intent of the Zoning By-law will be maintained as the variances will recognize the width of the driveway at the curb while maintaining the appearance of a 4.5 metre concrete driveway which meets zoning regulations.

As the current state of the property is comparable to the front yards of other properties in the neighbourhood, Staff are of the opinion that the requested variances meet the intent of the Zoning By-laws.

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

The effects of the requested variances are minor as they are existing conditions that are proposed to be legalized and do not impact the ability of the subject property to function appropriately.

Staff note that there are a number of properties along Mountain Laurel Crescent with comparable driveway widths to the subject property (for example: 244 and 260 Mountain Laurel Crescent); legalizing the existing width of the concrete surface would not impact the streetscape of the surrounding neighbourhood or impact the functioning of the subject or adjacent properties

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 use of the land and building as they would permit both the concrete driveway and pathways to be considered the legal driveway and facilitate barrier free access in the driveway and from the building to the street to access GRT MobilityPLUS services.

**Environmental Planning Comments:**

No natural heritage or tree management concerns.

**Heritage Planning Comments:**

No concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance.

**Engineering Division Comments:**

Engineering (Christine Goulet) had provided commentary to Planning concerning the cutting of the curb on June 13, 2022. A curb cut can only be as wide as the driveway plus a 0.4m flare. It does not include walkways adjacent to driveways.

Planning Comments

The applicant is requesting the minor variances to permit a driveway to have a maximum width of 6.5 metres instead of the maximum permitted 5.2 metres and 4.6 metres to recognize the existing concrete driveway and concrete pathways as the permitted driveway.

**Parks/Operations Division Comments:**

No comments.

**Transportation Planning Comments:**

The proposed driveway width does not have any impact on any legal on-street parking spaces. Transportation Services can support 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.

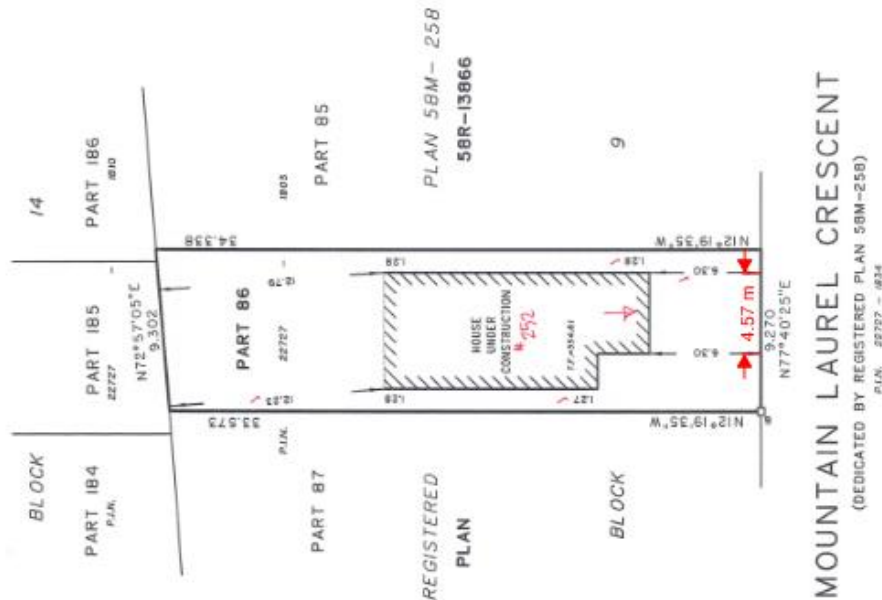
**PREVIOUS REPORTS/AUTHORITIES:**

- *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 and 2019-051*

**ATTACHMENTS:**

Attachment A – Survey of Subject Property





**MOUNTAIN LAUREL CRESCENT**  
(DEDICATED BY REGISTERED PLAN 58M-258)

MONUMENTATION USED TO  
E-ESTABLISH NORTH LIMIT  
OF MOUNTAIN LAUREL CR.  
AND THE BOUNDARIES  
OF PART B6

REFERENCE MONUMENTS  
4706 & 4089  
ON RECORD WITH  
BSEAD LTD.

REFERENCE MONUMENTS  
4706 & 4099  
ON RECORD WITH  
BIRAD LTD.

**SURVEYOR'S REAL PROPERTY REPORT, PART I  
PLAN OF**

PART OF BLOCK 9,  
REGISTERED PLAN 58M-258  
(ALSO KNOWN AS PART 86, PLAN 58R-13866)

CITY OF KITCHENER  
REGIONAL MUNICIPALITY OF WATERLOO

KERRY F. HILLIS – ONTARIO LAND SURVEYOR  
2003

SCALE 1 : 250

**METRIC: DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048**

## NOTES:

1. BEARINGS ARE ASTROMERIC AND ARE REFERRED TO THE NORTH LIMIT OF MOUNTAIN LAUREL PRESIDENT  
ASSOCIATION OF O  
LAND SURVEY  
PLAN SUBMISSION

☐ DENOTES SURVEY MONUMENT PLANTED  
 IS DENOTES IRON BAR  
 T.J. DENOTES TOP OF FOUNDATION

RECEIVED

SEP 30 2003

DEVELOPMENT & TECHNICAL SERVICES DEPT.

## SURVEYOR'S CERTIFICATE

**I CERTIFY THAT:**

THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT AND THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM. THE SURVEY WAS COMPLETED ON THE 25th DAY OF SEPTEMBER, 2003.

THIS REPORT WAS PREPARED FOR  
EASTFOREST HOMES  
AND THE UNDERSIGNED ACCEPTS  
NO RESPONSIBILITY FOR USE  
BY OTHER PARTIES.

SEPTEMBER 26, 2005

KERRY F. HILLIS  
ONTARIO LAND SURVEYOR

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LIMITED**

BSR&amp;D

Ontario Land Surveyors  
Urban and Rural Planners

351 Speedvale Avenue West  
Guelph, Ontario N1H 1C5  
TEL: (519) 822-4031  
FAX: (519) 822-1220

DATE: SEPTEMBER 26, 2003	CK
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PROJECT 02-4439-52

## Survey of Subject Property