

# Staff Report



Development Services Department

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**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** December 13, 2022

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

**PREPARED BY:** Joanne McCallum, Coordinator, Planning & Zoning, 519-741-2200  
ext. 7075

**WARD(S) INVOLVED:** Ward 9

**DATE OF REPORT:** December 2, 2022

**REPORT NO.:** DSD-2022-502

**SUBJECT:** Minor Variance Application A2022-136 - 332 Charles Street East

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## **RECOMMENDATION:**

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

That Minor Variance Application A2022-136 for 332 Charles Street East requesting relief from:

- i) Section 55.1 (MU-3) of Zoning By-law 85-1 to permit an 'Animal Shelter' as a permitted use of the subject property; and
- ii) Section 55.2.1 (MU-3) of Zoning By-law 85-1 to permit a front yard setback of 14 metres instead of the maximum permitted 7.5 metres;

to recognize and permit the existing building to be used as an 'Animal Shelter' use, in accordance with the approved Site Plan, dated September 6, 1979, **BE APPROVED.**

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to review an application for minor variances to permit the existing building to be used as Animal Shelter and legalize the front yard setback of the existing building located on the property municipally addressed as 332 Charles Street East.
- There are no financial implications.
- This report supports the delivery of core services.

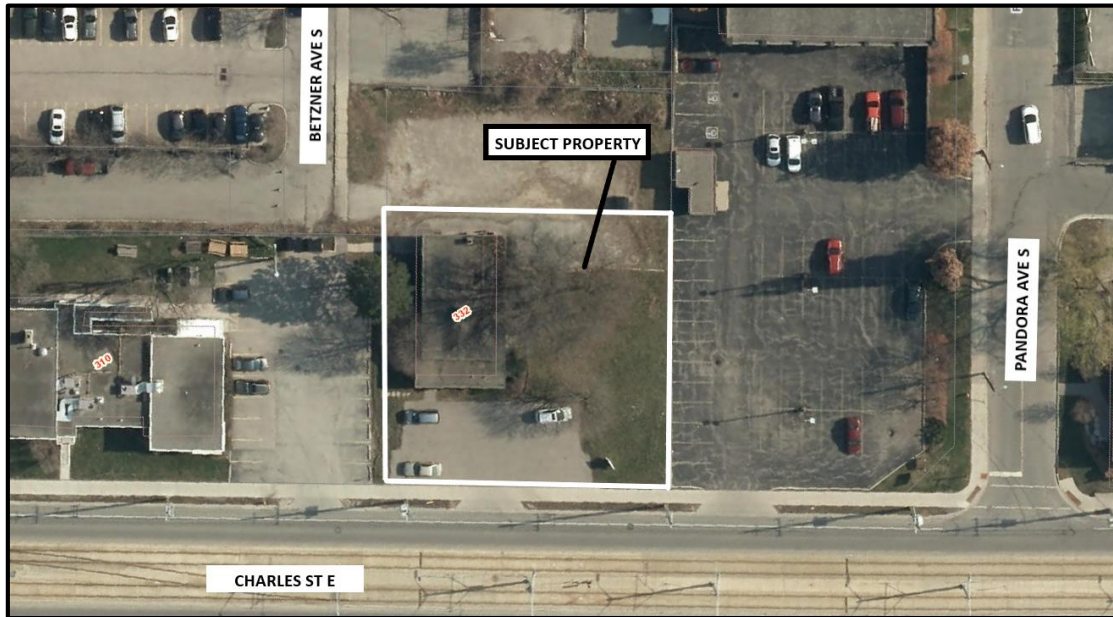
## **BACKGROUND:**

The subject property is located on Charles St E between Pandora Ave S and Cameron St S. The subject property is identified as 'Major Transit Station Area' on Map 2 – Urban Structure. The property is designated 'Mixed Use Corridor' on Map 10 – King Street East Neighbourhood Secondary Plan in the City's Official Plan.

The property is zoned 'High Intensity Mixed Use Corridor Zone (MU-3)' in Zoning By-law 85-1 with Special Regulation Provision 544R.

The purpose of the application is to recommend the approval of variances to permit an 'Animal Shelter' use and to recognize the existing building on the property. The current business 'Kitchener Stray Cat Rescue' has existed on the property since 2021.

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



**Figure 1:** Location Map – 332 Charles Street East



**Figure 2:** Photo of building at 332 Charles Street East





Figure 3: Photo of building at 332 Charles Street East

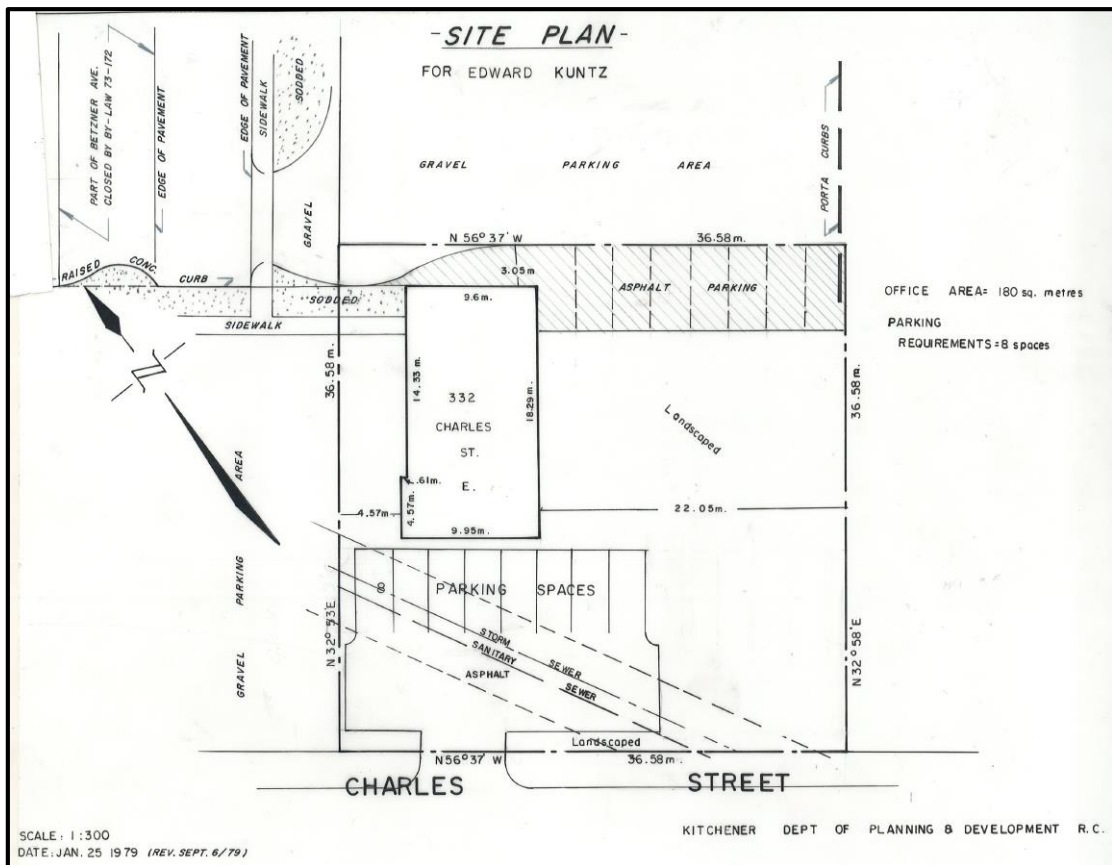


Figure 4: Site Plan Revised September 6, 1979

## 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 a 'Major Transit Station Area' on Map 2 – Urban Structure, and 'Mixed Use Corridor' on Map 10 – King Street East Neighbourhood Secondary Plan in the City's 2014 Official Plan.

Mixed Use Corridors provide residential redevelopment opportunities together with appropriate commercial and institutional uses that primarily serve adjacent residential neighbourhoods. The Mixed Use Corridor along Charles Street is intended to intensify in the future with a balanced distribution of commercial, multiple residential and institutional uses. A broad range of commercial uses is permitted, including freestanding office and small retail.

The minor variance to add an 'Animal Shelter' use as a permitted use is consistent with the Mixed Use Corridor land use designation and intent of the Official Plan.

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

The subject property is zoned 'High Intensity Mixed Use Corridor Zone (MU-3)'. This zone permits a wide range of commercial, residential and personal service uses, and also includes canine and feline grooming. Canine and feline grooming, however, does not permit veterinary services, boarding, pet related retail sales and overnight accommodations of dogs and cats.

An 'Animal Shelter' is not a defined use in Zoning By-law 85-1 and the property is not currently zoned in Zoning By-law 2019-051. Animal Shelter has been defined in Zoning By-law 2019-051 as *"the use of a premises where lost, abandoned, or rescued animals are boarded for the purposes of care, claiming, or adoption."*

Given that an 'Animal Shelter' is not a defined use in Zoning By-law 85-1 but is similar in use to a Canine and Feline Grooming use, providing care to animals, which is permitted in the MU-3 zone, its operation in the existing building on the subject property would meet the intent of the Zoning By-law.

The subject property is only permitted to have a maximum front yard setback of 7.5 metres. The intent of this regulation is to create a streetscape and built form that are pedestrian-friendly and transit-oriented. The applicant is proposing to legalize the existing front yard setback of 14 metres as the setback is only legal for a permitted use. As the current building and its setback have existed since 1979, Staff is of the opinion that the existing maximum front yard setback would also be appropriate for an Animal Shelter use and accordingly would meet 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 has been used over the years for many uses without impacting the streetscape or adjacent properties.

The Zoning By-law currently allows for some pet-related uses defined in Canine and Feline Grooming but did not go as far as to define Animal Shelter and its related uses. The effects of adding an Animal Shelter as a permitted use, and its associated practices of care, claiming and adoption of lost, abandoned, or rescued animals will be minor.

Staff is of the opinion that the maximum front yard setback of 14 metres, where 7.5 metres is required is minor. The extra space in the front yard will allow for parking requirements to be met, without having to remove the existing landscaped area in the side yard. Staff have noted that the existing parking layout as shown in Figure 1 is not being executed as per the Site Plan shown in Figure 4 above. Staff is recommending that parking spaces be established and demarcated with painted lines as per the Site Plan.

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

Staff is of the opinion that the proposed variances are desirable and appropriate, as it will allow the applicant to continue operating a much needed business in the existing building.

**Environmental Planning Comments:**

No comment.

**Heritage Planning Comments:**

No concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided a building permit for the change of use to an animal shelter is obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

No comment.

**Parks/Operations Division Comments:**

No concerns.

**Transportation Planning Comments:**

Transportation Services have no concerns with the application, provided that the parking requirement is being satisfied.

**Grand River Conservation Authority:**

The subject property does not contain any watercourses, floodplains, shorelines, wetlands, valley slopes or other environmental features of interest to GRCA. The property is not subject to Ontario Regulation 150/06 and therefore a permission from GRCA is not required.

**Region of Waterloo:**

No concerns.

**Ministry of Transportation of Ontario (MTO):**

MTO has no objection.

**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*