

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: Brian Bateman, Senior Planner, 519-741-2200 ext. 7869

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: December 2, 2022

REPORT NO.: DSD-2022-503

SUBJECT: Minor Variance Application A2022-139 – 360 Wellington Street N

RECOMMENDATION:

Zoning By-law 85-1

- A. That Minor Variance Application A2022-139 for 360 Wellington Street North requesting relief from Section 5.6A.4 d) of Zoning By-law 85-1, to permit a minimum front yard setback of 2.8 metres instead of the minimum required 4.5 metres, to legalize the location of an existing barrier-free access, BE APPROVED.

Zoning By-law 2019-051

- B. That Minor Variance Application A2022-139 for 360 Wellington Street North requesting relief from Section 4.4.7 of Zoning By-law 2019-051, to permit a minimum front yard setback of 2.8 metres instead of the minimum required 4.5 metres, to legalize the location of an existing barrier-free access, BE APPROVED.

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 applicant is requesting a minor variance to legalize the location of an existing barrier-free access in the front yard of the subject property.
- There are no financial implications.
- This report supports the delivery of core services.



Location map: 360 Wellington Street N.

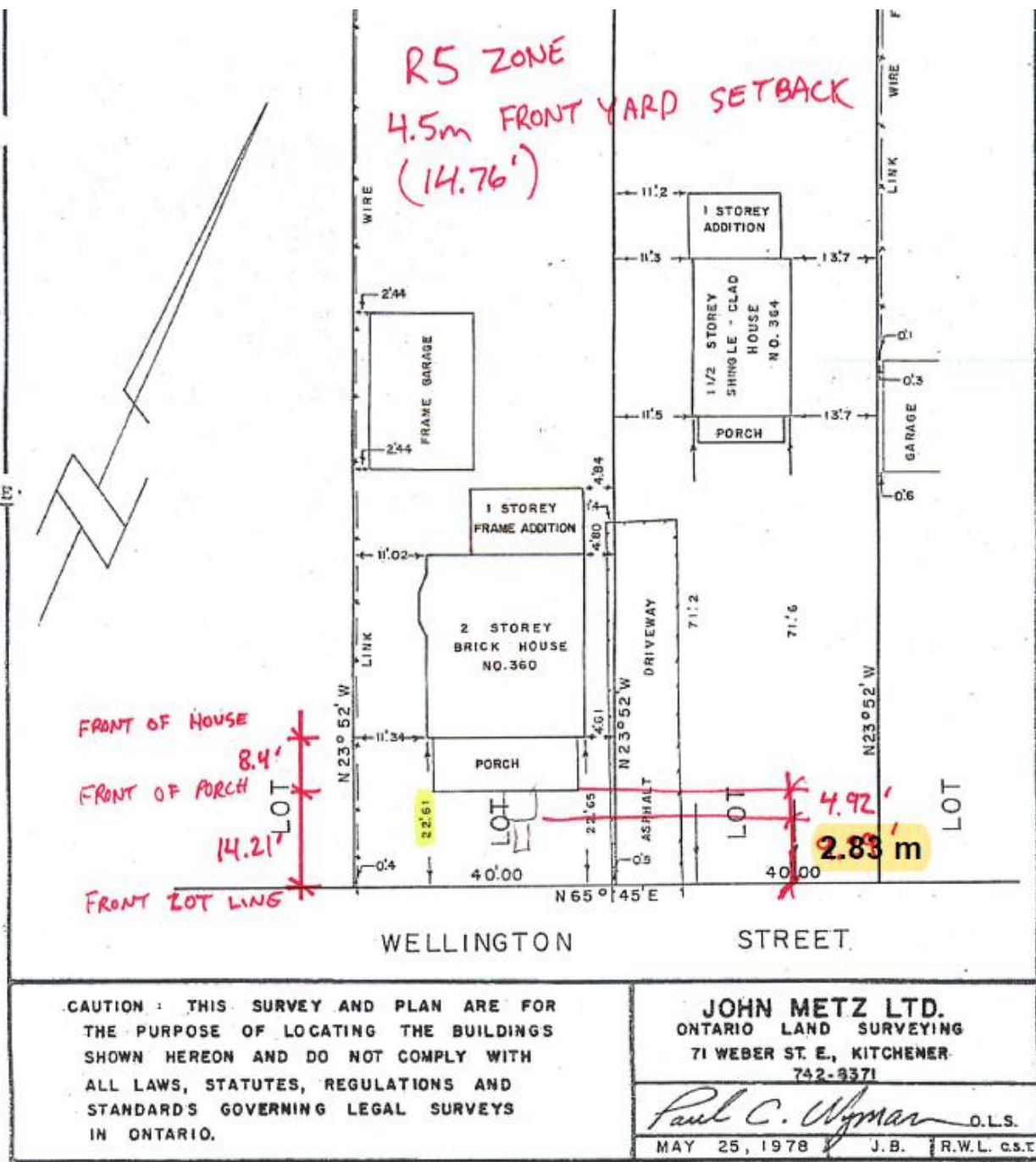
BACKGROUND:

The subject property at 360 Wellington Street North is located on the north side of Wellington Street North between Lancaster and St. Leger Streets. The subject property is currently developed with a detached residential dwelling.

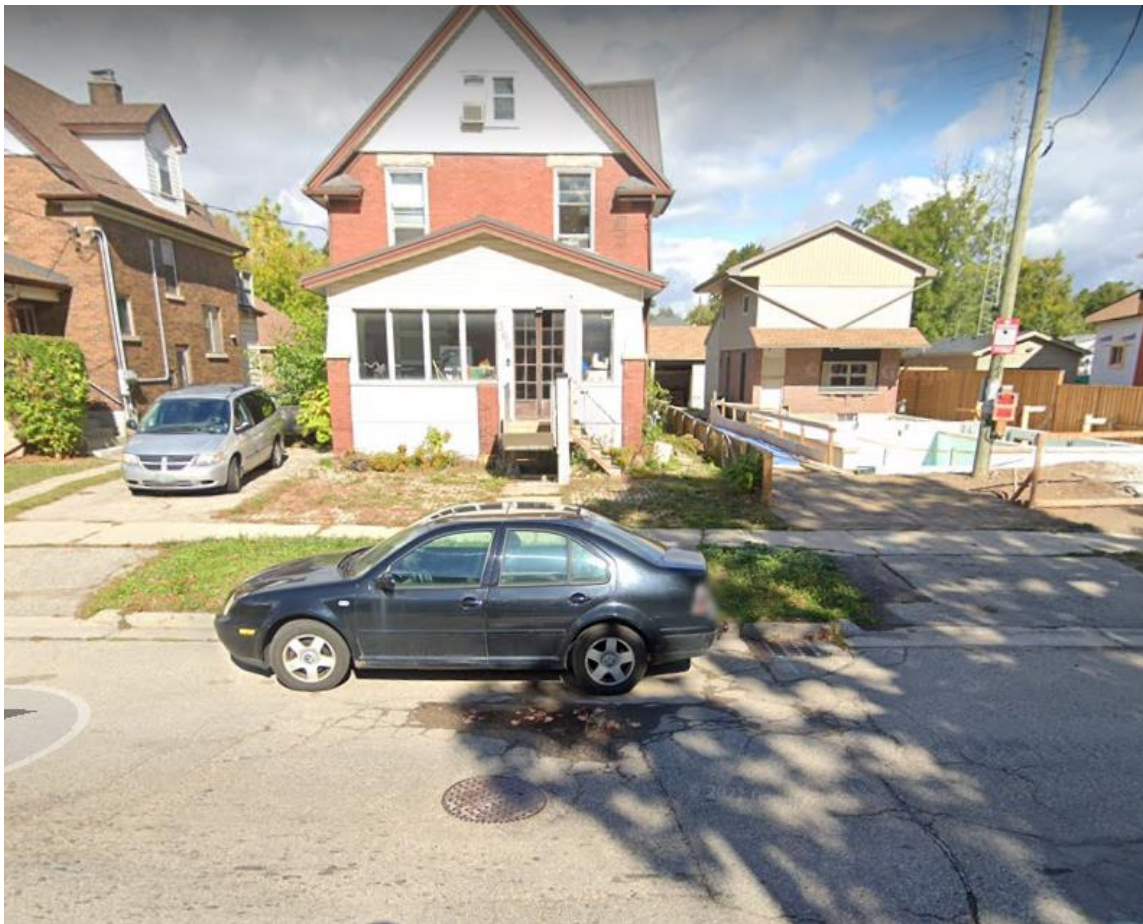
The subject property is identified as 'Community Areas' on Map 2 – Urban Structure and is designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The property is zoned 'Residential Five Zone (R-5)' with Special Use Provision 129U 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 purpose of the application is to legalize the location of an existing barrier-free access in the front yard that contravenes the front yard setback of the Zoning By-law.



Plan showing location of the Barrier-Free Access



Existing detached dwelling at 360 Wellington Street North - Source: Google

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 designated Low Rise Residential in the City of Kitchener's Official Plan. The intent of the Low-Rise Residential land use designation is to permit a variety of low-density residential uses. Within this designation, emphasis is placed on compatibility of built form with respect to massing, scale, and design to ensure a cohesive relationship with adjacent buildings, streets, and exterior areas. Additionally, the City's Housing policies support and attempt to accommodate residents who may wish to adapt their housing and age in place to better suit their circumstances and needs that may change over time, provided these changes to the housing do not significantly impact the nature or community character of the surrounding residential area. A barrier-free access in the front yard for a detached dwelling would support these policies. Therefore, planning staff is of the opinion that the requested variance is appropriate and meets the general intent of the City's Official Plan.

General Intent of the Zoning By-law

The intent of the 4.5 metre setback is to ensure that there is a consistent streetscape for dwellings along Wellington Street. The barrier-free access is a 1.2 metre wide by 1.47 metre deep by 1 metre high deck used in conjunction with a wheelchair lift to provide access to the house by scooter or wheelchair for the owner. The barrier-free access is not visually impactful but is necessary for the owner to be able to access his home. Staff are of the opinion that a 2.8 metre setback from the front

lot line will continue to be an appropriate setback and meet the intent of the regulation. Therefore, staff is of the opinion that the reduction being requested meets the general intent of the zoning by-law.

Is the Effects of the Variance Minor?

The requested variance is minor. The deficiency in the setback only pertains to the barrier-free access/lift. Staff are of the opinion that the requested reduction in setback for a barrier-free access will allow the owner with a disability accessibility to access the dwelling from the front yard and will not negatively impact any of the adjacent properties or surrounding neighbourhood.

Is the Variance Desirable For The Appropriate Development or Use of the Land?

A barrier-free access is appropriate for the development and use of land. It provides accessibility to and from the existing dwelling for the occupant.

Environmental Planning Comments:

Environmental Planning Staff have no concerns.

Heritage Planning Comments:

The subject property is located within the Mt. Hope/Breithaupt Neighbourhood Cultural Heritage Landscape (CHL). 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 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 provided a building permit for the deck and wheelchair lift is obtained. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

Engineering staff have no concerns.

Transportation Planning Comments:

Transportation Planning staff have no concerns.

Parks:

No comments

Region of Waterloo Comments:

No concerns

GRCA:

No concerns

Metrolinx:

The subject property is located within 300 meters of Metrolinx's Guelph Subdivision which carries Metrolinx's Kitchener GO Train service. Warning: The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect

the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

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 Zoning By-law 2019-051*