

# 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:** Sheryl Rice Menezes, Planning Technician (Zoning),  
519-741-2200 ext. 7844

**WARD(S) INVOLVED:** 10

**DATE OF REPORT:** November 30, 2022

**REPORT NO.:** DSD-2022-505

**SUBJECT:** Minor Variance Application A2022-140 – 213 Sheldon Avenue North

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## RECOMMENDATION:

### Zoning By-law 85-1

A. That Minor Variance Application A2022-140 for 213 Sheldon Avenue North requesting relief from:

- i) Sections 38.2.1 and 6.1.1.1 b) i) of Zoning By-law 85-1 to permit the required off-street parking (*marked as #1 on the plan attached to DSD-2022-505*) to be located 3 metres from a side lot line abutting Fairmount Road instead of the required 6 metres;
- ii) Section 38.2.1 of Zoning By-law 85-1 to permit the carport to be located 5.7 metres from the rear lot line instead of the required 7.5 metres; and
- iii) Section 6.1.1.1 b) v) of Zoning By-law 85-1 to legalize an existing parking space (*marked as #2 on the plan attached to DSD-2022-505*) to be located between the building and the lot line abutting Fairmount Road having a depth of 3.05 metres rather than the required parking space depth of 5.5 metres;

to facilitate the construction of a carport and legalize the existing parking in the driveway, generally in accordance with drawings prepared by Carole Boucher Architect, dated November 10, 2022, BE APPROVED.

### Zoning By-law 2019-051

B. That Minor Variance Application A2022-140 for 213 Sheldon Avenue North requesting relief from:

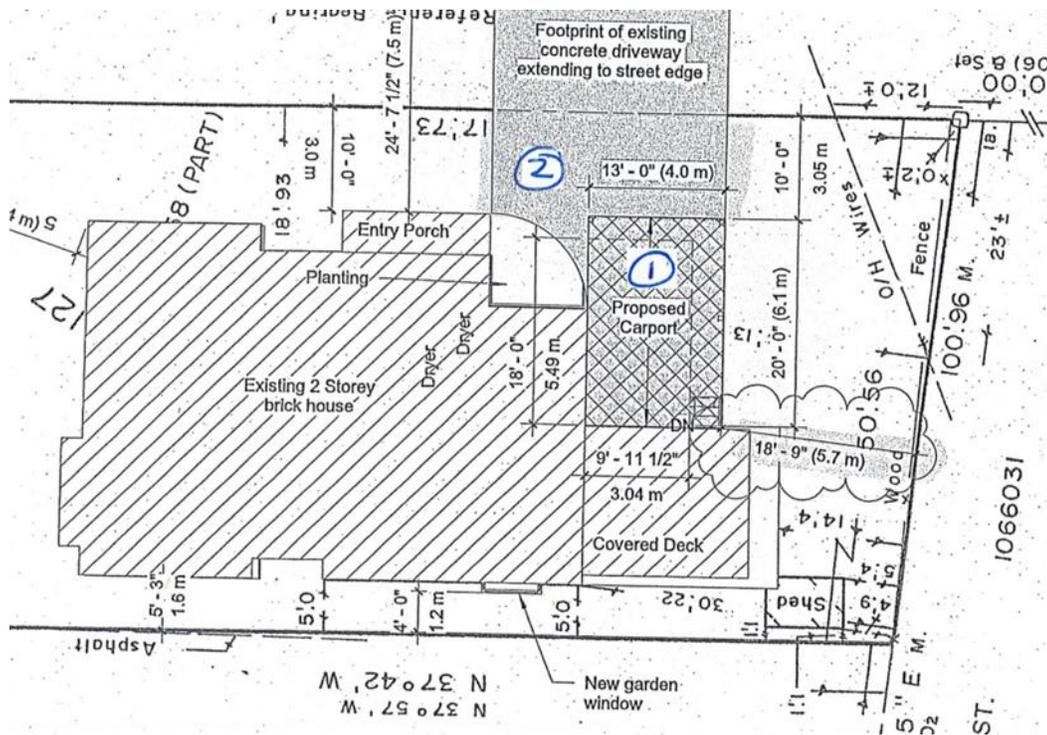
- i) Sections 7.3, Table 7-2, and 5.3.3 a) i) of Zoning By-law 2019-051 to permit the required off-street parking (*marked as #1 on the plan attached to DSD-2022-505*) to be located 3 metres from a side lot line abutting Fairmount Road instead of the required 6 metres;
- ii) Section 7.3, Table 7-2, to permit the carport to be located 5.7 metres from the rear lot line instead of the required 7.5 metres; and

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

iii) Section 5.3.1, Table 5-2, e) to legalize an existing parking space (marked as #2 on the plan attached to DSD-2022-505) to be located between the building and the lot line abutting Fairmount Road having a depth of 3.05 metres rather than the required parking space depth of 5.5 metres;

to facilitate the construction of a carport and legalize the existing parking in the driveway, generally in accordance with drawings prepared by Carole Boucher Architect, dated November 10, 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 to facilitate the construction of a carport for a single detached dwelling.
- The key finding of this report is that the requested minor variances meet the four tests of the Planning Act.
- There are no financial implications.
- Community engagement included circulation of the application via mail, notification by way of The Record and signage placed on the property.
- This report supports the delivery of core services.

**BACKGROUND:**

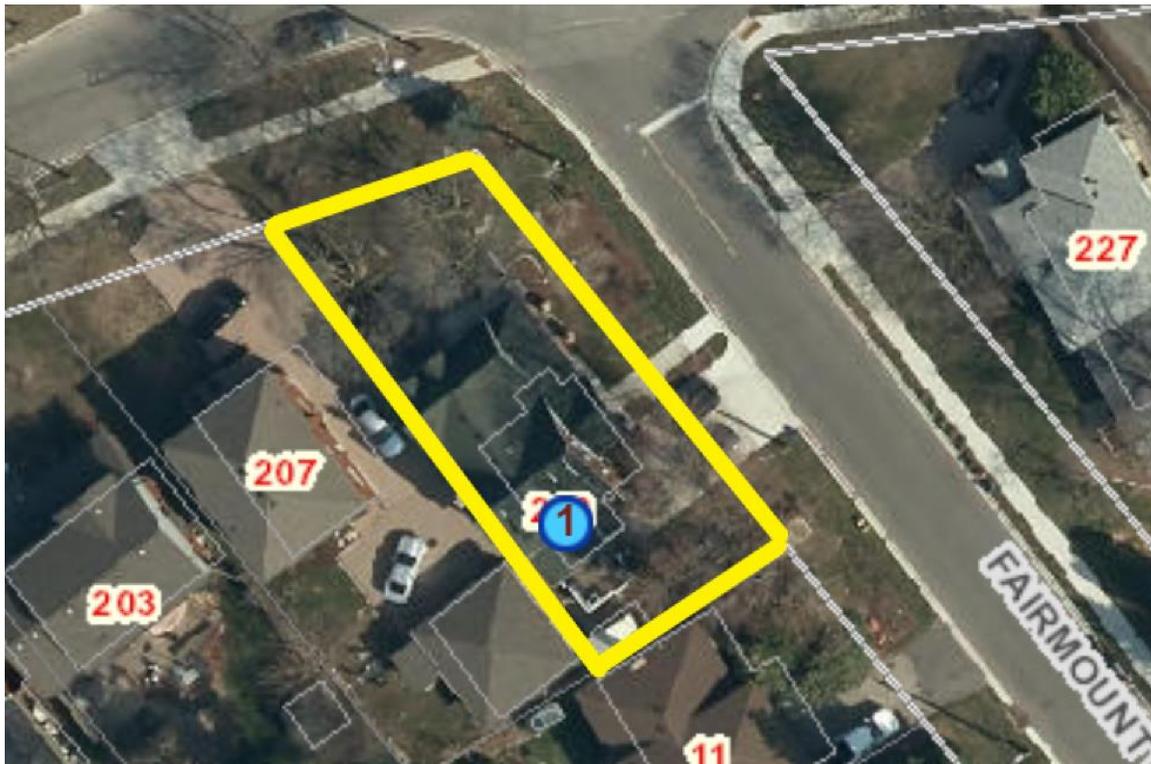
The subject property is located at the south-west corner of Sheldon Avenue North and Fairmount Road.

The subject property is identified as 'Community Area' 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 'R-4' in Zoning By-law 85-1 and Low Rise Residential Four 'RES-4' in Zoning By-law 2019-051, which is currently under appeal.

In 2000, the property owner obtained approval of Minor Variance Application A2000-015, to construct an addition having sideyard setback from Fairmount Road of 3.04 m rather than required 4.57 metres and to legalize an off-street parking space to be located 0.3 metres from the lot line abutting Fairmount Road rather than required 6 metres.

The purpose of this application is facilitate the construction of a carport for a single detached dwelling to be located 3.05 m (space #1) from Fairmount Road and to legalize the setback of a parking space that was created beside the original parking space (space #2).

Staff visited the site on November 29, 2022.



*Aerial photo 2021*

**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 property is designated as Low Rise Residential which places emphasis on compatibility of building form with respect to massing, scale and design in order to support the successful integration of different housing types. It also places emphasis on the relationship of housing to adjacent buildings, streets and exterior areas. The proposed variances would facilitate a carport addition to the existing single detached dwelling and meet the general intent of the Official Plan.



*View from Fairmount Road*

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

The intent of the 6 metre setback for the required parking space (space #1) and the carport is ensure that vehicles may park in front of the structure without impacting the streetscape. There remains sufficient room between the proposed carport and the paved portion of the street that vehicles will not overhang the street. It is noted that there is no sidewalk along this portion of Fairmount Road.

The intent of the depth of a parking space (#2) to be 5.5 metres is to also ensure that vehicles do not overhang City sidewalks or streets. As noted in the aerial photo above, there is no sidewalk along this portion of the property and there is sufficient land between the lot line and the paved portion of the street for a vehicle. See photo above.

The intent of the rear yard setback is to ensure a sufficient amenity area can be provided on site and to ensure an appropriate separation from adjacent properties. Staff are of the opinion that the rear yard setback of 5.7 metres will be sufficient and maintain an adequate amenity area.

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

Transportation Planning staff have advised that it has no objection to the variances. The proposed carport and space #1 are located further back than what existed in 2000, which is better aesthetics for the streetscape. Space #2 has existed for some time and there has been no complaints received to date.

Staff are of the opinion that the requested variances related to parking setback and parking stall length meet the intent of the Zoning By-law as both spaces can accommodate a vehicle without impacting the city right-of-way as is visible in the street view image above.

The resulting rear yard will be sufficient in size and depth as its deficiency will not negatively impact the adjacent property.

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

The proposed carport and parking setback variance (#1) will permit vehicles to park in the carport and driveway with adequate room for them. The current driveway has existed without complaints and the driveway is well maintained. As a result, the variances are desirable and appropriate in the opinion of staff.



*View from Sheldon Ave N towards Fairmount Road*

**Environmental Planning Comments:**

No concerns.

**Building Division Comments:**

No objections to the proposed variance provided building permit for the carport 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 comments.

**Transportation Planning Comments:**

Transportation Services supports the proposed parking setback of 3.05m from the required 6.0 metres setback from the property line for the car port parking space noted on the plan (labeled as space 1). The plan also notes a second parking space (labeled as space 2), which encroaches into the City of Kitchener right-of-way by 2.45 metres, which is also supportable.

Planning comments: Although the City cannot sanction encroachments, small compact cars range in 3 metres to 4.3 metres in length and the parking space would be suitable for a compact car on the smaller end of the length scale.

**Ministry of Transportation Comments**

No objection to this application. The subject property does fall within the MTO permit control, however given the proposed scope of work and separation from the highway network, MTO review, approval and permits will not be required.

**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*
- *Committee of Adjustment decision A2000-015 to permit construction of an addition having a sideyard setback from Fairmount of 3.04 m (rather than 4.57 m) and to legalize an off-street parking space located 0.3 m from the lot line abutting Fairmount Rd (rather than 6 m).*