

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: Tara Zhang, Planner, 519-741-2200 ext. 7760

WARD(S) INVOLVED: Ward 3

DATE OF REPORT: December 2, 2022

REPORT NO.: DSD-2022-510

SUBJECT: Minor Variance Application A2022-144 - 21 Third Avenue

RECOMMENDATION:

Zoning By-law 85-1

A. That Minor Variance Application A2022-144 for 21 Third Avenue requesting Permission under Section 45(2)(a)(i) of the Planning Act to permit the enlargement or extension of a legal non-conforming use, a printing and publishing establishment, to facilitate the construction of a two-storey addition at the front of the existing building having a building floor area of 101.3 square metres for the total building gross floor area on the property of 600 square metres, generally in accordance with the Site Plan, dated November 16, 2022, **BE APPROVED.**

Zoning By-law 2019-051

B. That Minor Variance Application A2022-144 for 21 Third Avenue requesting Permission under Section 45(2)(a)(i) of the Planning Act to permit the enlargement or extension of a legal non-conforming use, a printing and publishing establishment, to facilitate the construction of a two-storey addition at the front of the existing building having a building floor area of 101.3 square metres for the total building gross floor area on the property of 600 square metres generally in accordance with the Site Plan, dated November 16, 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 and make recommendations on an application for permission for 21 Third Ave.
- There are no financial implications.
- This report supports the delivery of core services.

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

BACKGROUND:

The subject property is located near the intersection of Kingsway Dr and Third Ave and south of Highway 8. 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)' 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 allow the enlargement and extension of a legal non-conforming use, to facilitate an addition proposed to be constructed onto the existing printing and publishing establishment.

City staff conducted a site visit on November 25th, 2022.



Figure 1: Location Map: 21 Third Ave



Figure 2: Front view of subject property

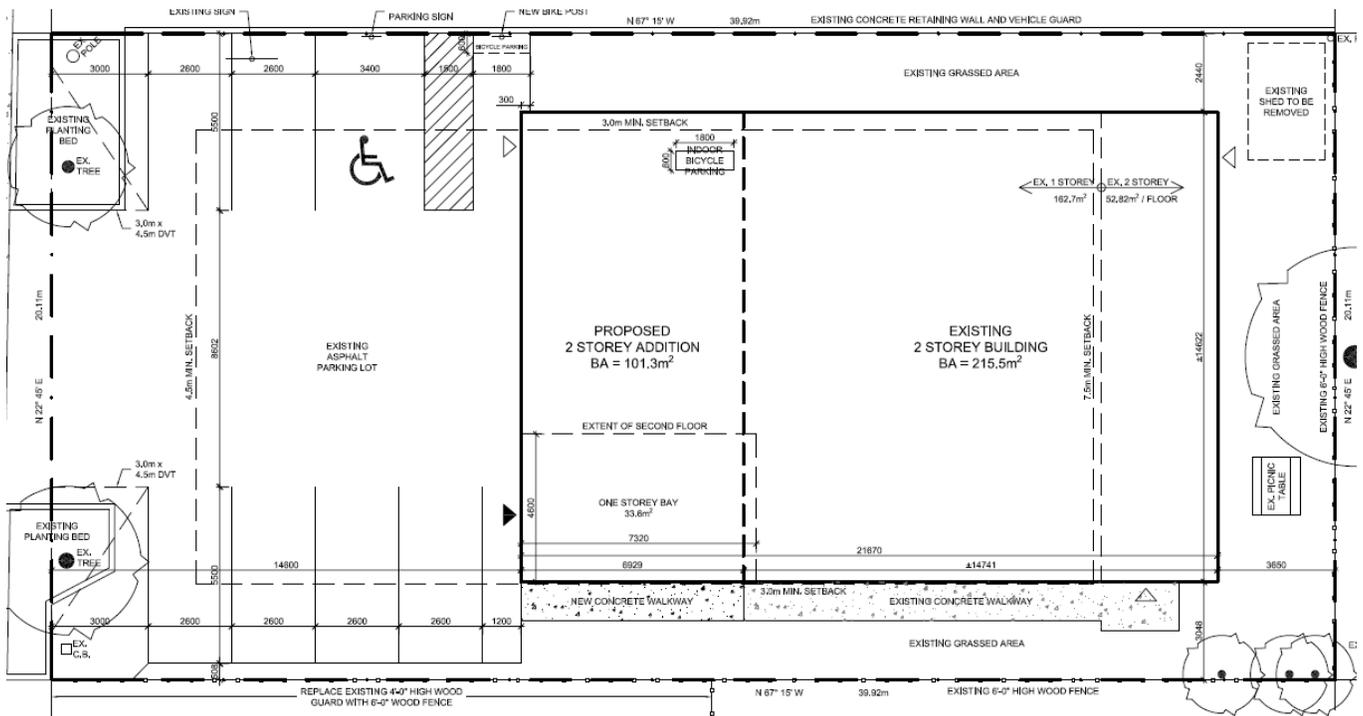


Figure 3: Site plan showing the proposed addition at the front

REPORT:

Planning Comments:

Case law sets out the tests to be applied by the Committee of Adjustment in considering applications under Section 45(2)(a)(i). It should be noted that the test to be applied is not the four-part test for minor variances under Section 45(1) but rather whether the approval of the application:

1. Is in the public interest; and
2. Creates unacceptable or adverse impact upon abutting properties.

Is Approval in the Public Interest?

Staff are of the opinion that the approval of this application is in the public interest because it will result additional floor space that will support the commercial use on this site that has existed as a commercial property since at least 1995. The subject property is currently within a residential zone; however, the property is located directly adjacent and in line with the commercial properties on Kingsway Drive that facilitates a transition between the commercial uses on Kingsway and the residential component of the neighbourhood. While the proposed addition is in the front yard, which increases the visibility of the building and the use, staff are of the opinion that the addition will allow the location of the front façade to be more compatible and consistent with the rest of the streetscape.

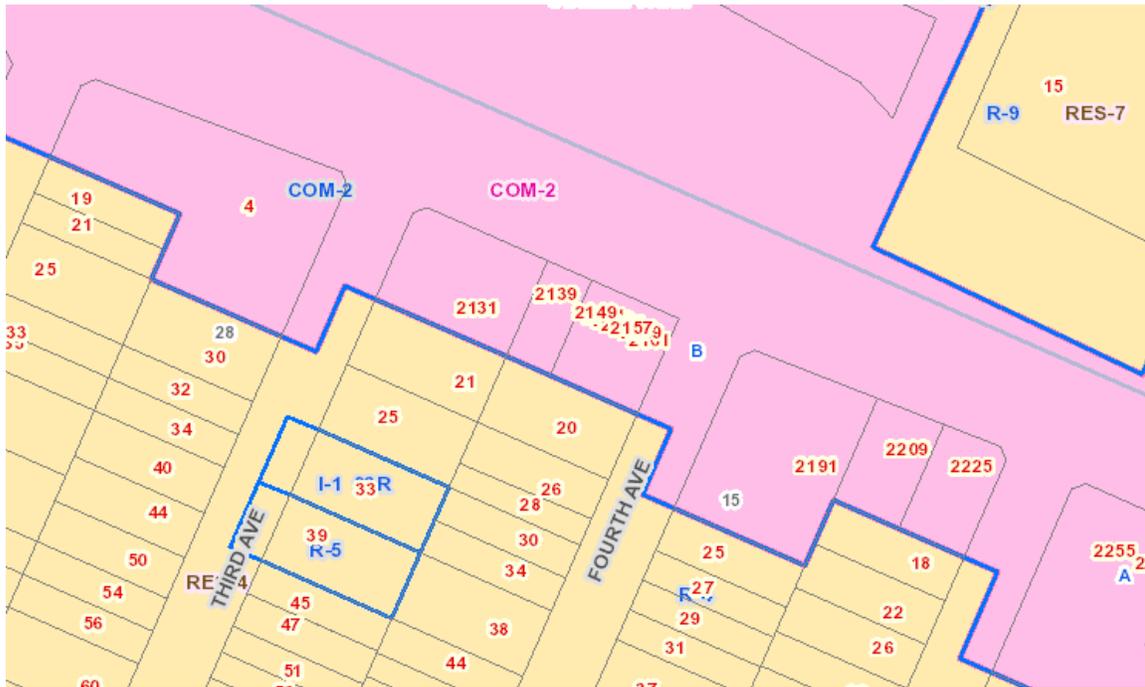


Figure 4: Zoning Map

Any Adverse or Unacceptable Impacts?

Staff are of the opinion that permitting the extension of the legal non-conforming use of the printing and publishing shop will not create any adverse or unacceptable impact. The site plan indicates that there will be a high fence, a visual barrier, adjacent to the Residential Zoned property on the south side to provide privacy for the residential use. Also, the use has existed for several years without a history of complaint. Staff note that the proposed two-storey extension will meet the parking requirements for a printing and publishing establishment and will be compatible with current building's massing, height, and setbacks.

Environmental Planning Comments:

No concerns.

Heritage Planning Comments:

No concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the addition to the existing printing and publishing establishment is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

Engineering has no comment.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

In speaking with Planning staff, Transportation Services have been made aware that the applicant complies with number of parking spaces and therefore, Transportation Services have no concerns with this 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-laws 85-1 and 2019-051*