

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: Emily Clarkson, Student Planner, 519-741-2200 ext. 7074

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: December 7, 2022

REPORT NO.: DSD-2022-493

SUBJECT: Minor Variance Application A2022-141 - 488 Duke Street West

RECOMMENDATION:

Zoning By-law 85-1

A. That Minor Variance Application A2022-141 for 488 Duke Street West requesting relief from:

- i) Section 39.2.1 of Zoning By-law 85-1, to permit a front yard setback of 5.1 metres instead of the minimum required 6.8 metres; and
- ii) Section 39.2.1 of Zoning By-Law 85-1 to permit an interior side yard setback of 1.1 metres instead of the minimum required 1.2 metres;

to facilitate the construction of a covered front porch, generally in accordance with drawings prepared by Carole Boucher Architect, dated October 26, 2022, BE APPROVED.

Zoning By-law 2019-051

B. That Minor Variance Application A2022-141 for 488 Duke Street West requesting relief from:

- i) Section 7.3, Table 7-2, of Zoning By-law 2019-051 to permit a front yard setback of 5.1 metres instead of the minimum required 6.8 metres; and
- ii) Section 7.3, Table 7-2, of Zoning By-Law 2019-051, to permit an interior side yard setback of 1.1 metres instead of the minimum required 1.2 metres;

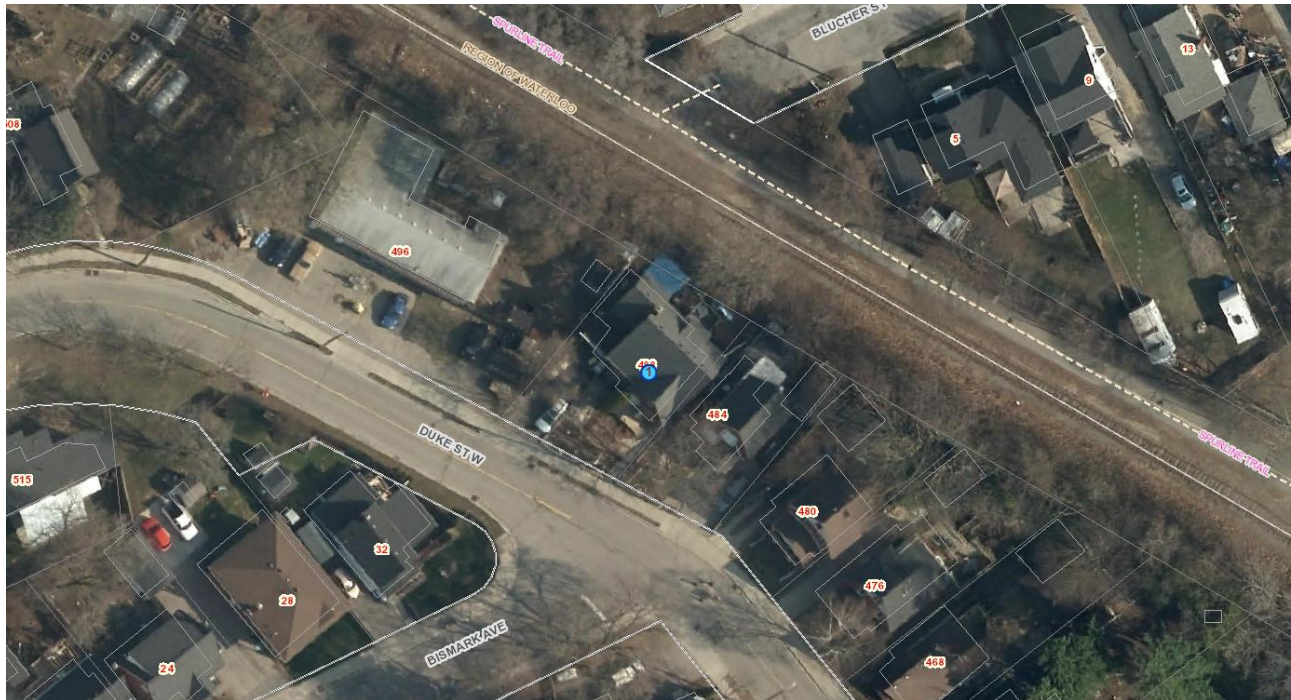
to facilitate the construction of a covered front porch, generally in accordance with drawings prepared by Carole Boucher Architect, dated October 26, 2022, BE APPROVED, subject to the following:

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



Location Map of 488 Duke Street West (subject property).

BACKGROUND:

The subject property is located on the North side of Duke Street West and is located near the intersection of Duke Street West and Bismark Avenue. The subject property currently contains an existing 1 ½ storey single detached dwelling. The area is predominantly a low-rise low-density neighbourhood.

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

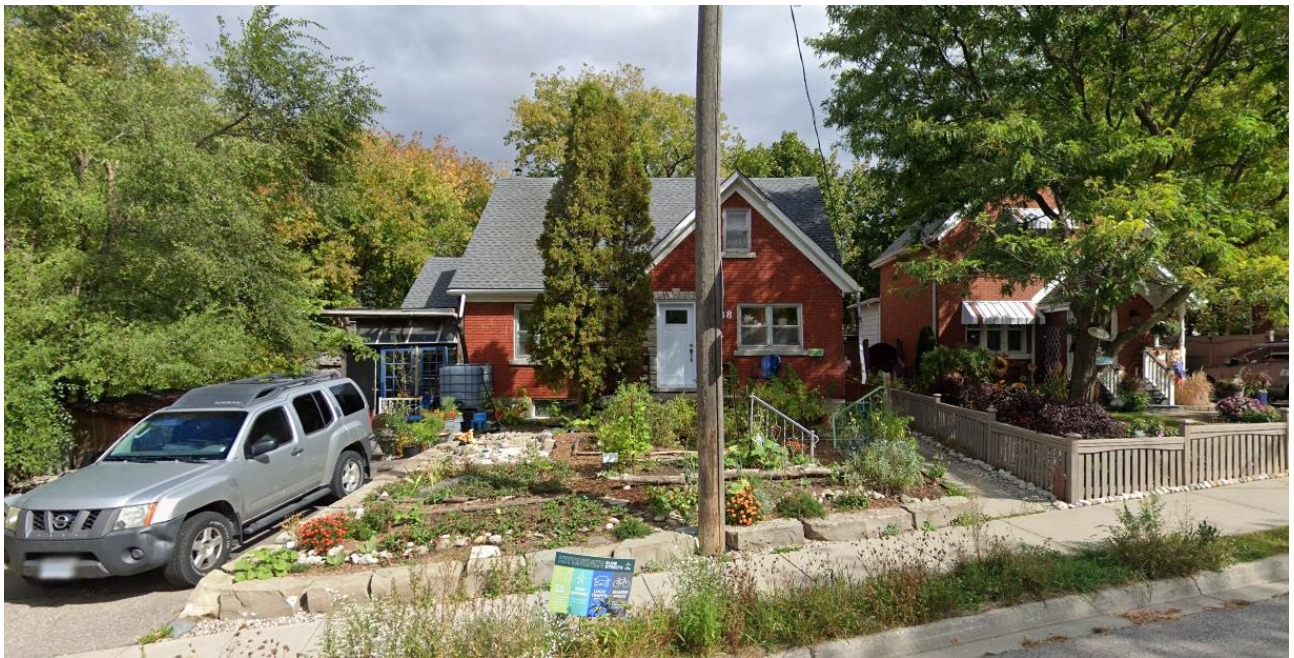
The property is zoned 'Residential Five Zone (R-5)' in Zoning By-law 85-1, and 'Low Rise Residential Four Zone (RES-4)' in Zoning By-Law 2019-051, which is currently under appeal.

The purpose of the subject minor variance application is to facilitate the construction of a covered front porch on the subject property. Specifically, the variances are as follows:

- to permit a front yard setback of 5.1 metres instead of the minimum required 6.8 metres; and
- to permit an interior side yard setback of 1.1 metres instead of the minimum required 1.2 metres.



Front view of house at 488 Duke Street West (subject property).



View of property from Google Maps Street view (October 2020).

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

In the City'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. The property currently contains a single detached dwelling and the proposed the construction of a front covered porch space is a typical and natural extension of a single detached dwelling. As the built form will continue to be compatible in massing and scale and is an appropriate use of the property, it is the opinion of staff that the requested variance meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of the regulation for properties within an "Established Neighbourhood" area requiring a front yard setback of 1 metre of the average of the neighbouring properties minus a metre is to ensure redevelopments support a consistent streetscape in the established neighbourhood. In this case, the majority of the existing dwelling will maintain the established front yard setback. The proposed setback of 5.1 metres of the covered front porch will facilitate the conversion and minor extension of the existing concrete front step into a covered front porch that will continue to maintain the established streetscape.

The general intent and purpose of the by-law requirement for a minimum 1.2 metre interior side yard is to ensure an appropriate access can be maintained to the rear yard and that there is adequate buffering and minimal impacts between buildings. The proposed front porch will maintain the existing 1.1 metre side yard of the existing dwelling and still be sufficient in width to accommodate access to the rear yard and be an appropriate distance from the adjacent property.

Staff are of the opinion that as an adequate front yard and building separation are provided, the requested variances for a reduction in both front and interior side yard setbacks meets the general intent of Zoning By-law.

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

The requested variance can be considered minor since they are not anticipated to cause unacceptable adverse impacts on adjacent properties. The deficiency of 0.1 metres for the interior side yard setback, and deficiency of in the front yard setback of 1.7 metres will not be discernible. The proposed interior side yard setback will provide an appropriate space from the adjacent property and the front yard setback will be compatible with the streetscape and provide an adequate front yard open space.

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

The requested variances to permit a reduction in the interior side yard setback and front yard setback are desirable and appropriate as they will facilitate the construction of an appropriately sized covered front yard porch space off of the existing single detached dwelling that will meet all other zoning requirements. It will provide a covered entrance and amenity area for the dwelling.

Environmental Planning Comments:

No concerns.

Heritage Planning Comments:

There are no heritage concerns. 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 property municipally addressed as 488 Duke Street West is located within the Mt Hope/Breithaupt Neighbourhood CHL. 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 building permit for the new front porch is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No comments.

Parks/Operations Division Comments:

No comments.

Transportation Planning Comments:

No concerns.

Regional Comments:

There are no Concerns about the proposed variance. However, the owners are advised that the plan provided in the application shows that the existing fence in the rear of the property is encroaching into the Regional right-of-way of the Region's spur line. Staff advise that any encroachments within the Regional right-of-way are not allowed and may be removed by the Regional forces at the owner's cost.

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:

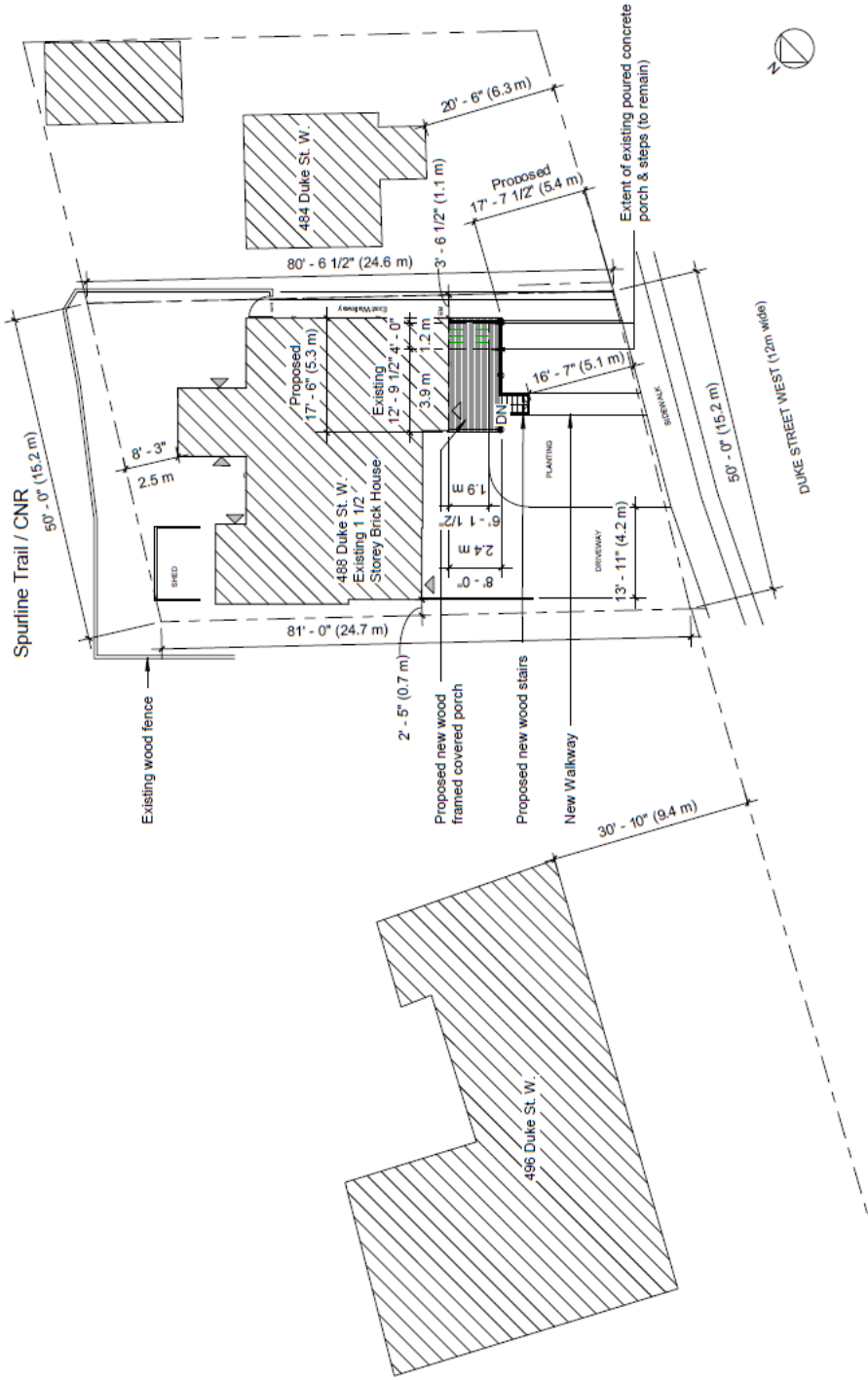
INFORM – This report has been posted to the City's website with the agenda in advance of the Committee of Adjustment meeting. A notice sign was placed on the property advising that a Committee of Adjustment application has been received. The sign advises interested parties to find additional information 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/or 2019-051*

ATTACHMENTS:

Attachment A – Drawing included with application





Carolle Boucher
Architect
443 Louisa St.
Kitchener, ON
N2H 5N3
519-497-8737
carolle@cbarch.ca

Emily Slofstra
Covered Front Porch
488 Duke St. W. Kitchener, ON

No.	Description	Date

Site Plan for Minor Variance

Project number 2292
Date October 26, 2022
Drawn by C.B.
Checked by E.S.

A100
Scale 1 : 200