

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

**WARD(S) INVOLVED:** Ward 3

**DATE OF REPORT:** December 7, 2022

**REPORT NO.:** DSD-2022-495

**SUBJECT:** Minor Variance Applications A2022-137 and A2022-138  
81 Second Avenue and 83 Second Avenue

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## **RECOMMENDATION:**

### **Minor Variance Application A2022-137 – 81 Second Avenue**

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

- A. That Minor Variance Application A2022-137 for 81 Second Avenue requesting relief from Section 6.1.1.2 e) of Zoning By-law 85-1 to permit the required parking space within a building to have a minimum length of 4.87 metres instead of the minimum required 5.49 metres, to legalize the size of the parking space within the existing attached garage of the semi-detached dwelling, BE APPROVED.

#### **Zoning By-law 2019-051**

- B. That Minor Variance Application A2022-137 for 81 Second Avenue requesting relief from Section 5.3.1, Table 5-1, of Zoning By-law 2019-051, to permit the required parking space within a building to have a minimum length of 4.87 metres instead of the minimum required 5.5 metres, to legalize the size of the parking space within the existing attached garage of the semi-detached dwelling, 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.

## **Minor Variance Application A2022-138 – 83 Second Avenue**

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

- A. That Minor Variance Application A2022-138 for 83 Second requesting relief from Section 6.1.1.2 e) of Zoning By-law 85-1 to permit the required parking space within a building to have a minimum length of 4.87 metres instead of the minimum required 5.49 metres, to legalize the size of the parking space within the existing attached garage of the semi-detached dwelling, BE APPROVED.

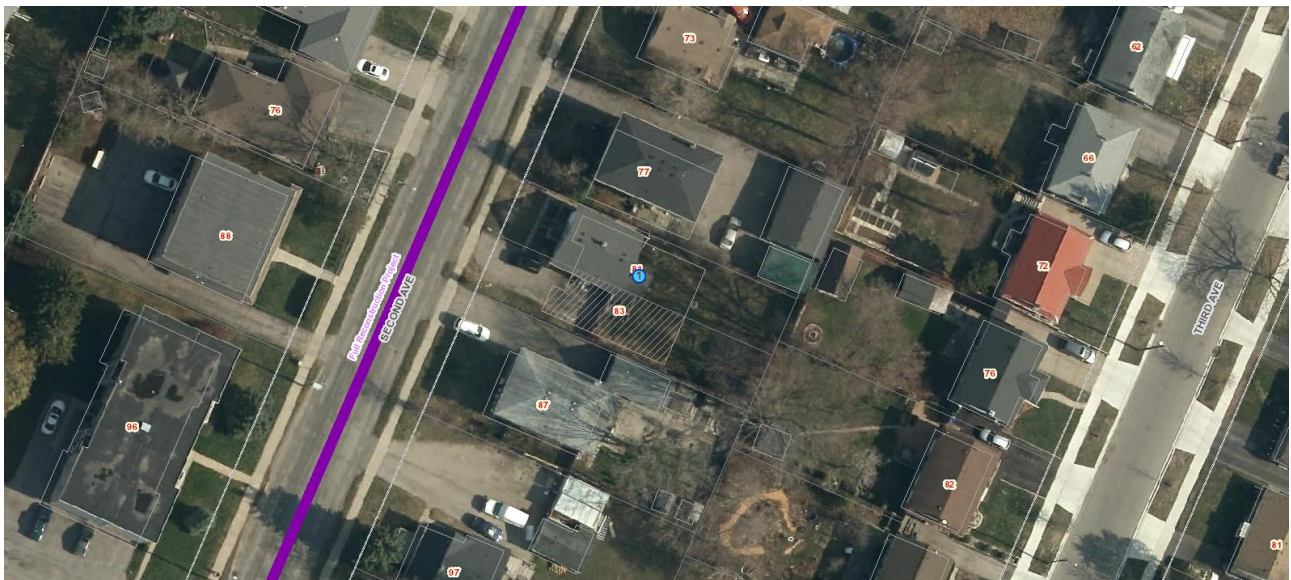
### **Zoning By-law 2019-051**

- B. That Minor Variance Application A2022-138 for 83 Second Avenue requesting relief from Section 5.3.1, Table 5-1, of Zoning By-law 2019-051, to permit the required parking space within a building to have a minimum length of 4.87 metres instead of the minimum required 5.5 metres, to legalize the size of the parking space within the existing attached garage of the semi-detached dwelling, 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 legalize the size of a parking space within the existing attached garage of a semi-detached dwelling.
- The key finding of this report is that the requested minor variance meets the 4 tests of the Planning Act.
- There are no financial implications.
- This report supports the delivery of core services.



### **BACKGROUND:**

The subject properties are located on the southeast side of Second Avenue, with the closest intersection being Second Avenue and Connaught Street. The subject properties contain a recently constructed semi-detached dwelling. The area is predominantly a low-rise low-density residential neighbourhood.

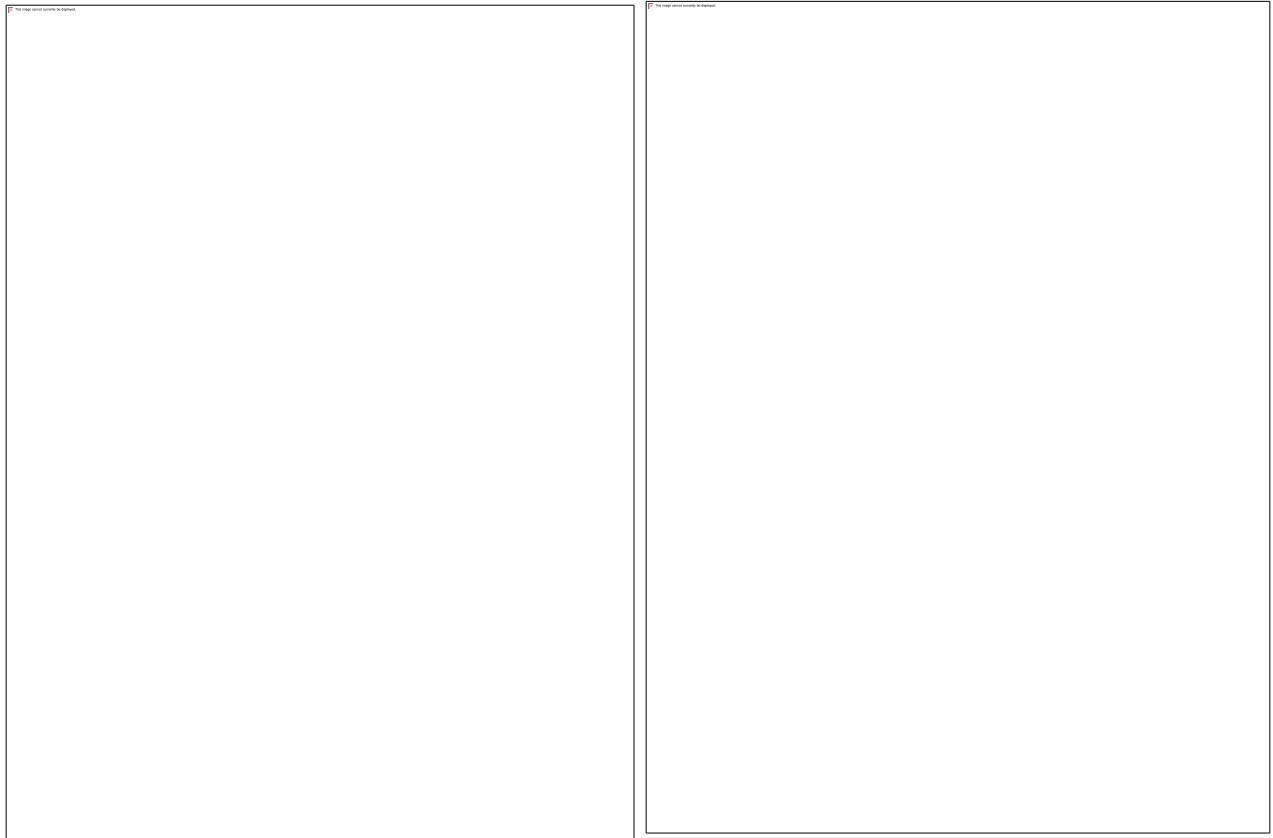
The subject properties are identified as 'Community Area' on Map 2 – Urban Structure and are designated 'Low Rise Residential' on Map 3 – Land Use in the City's 2014 Official Plan.

The properties are 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.

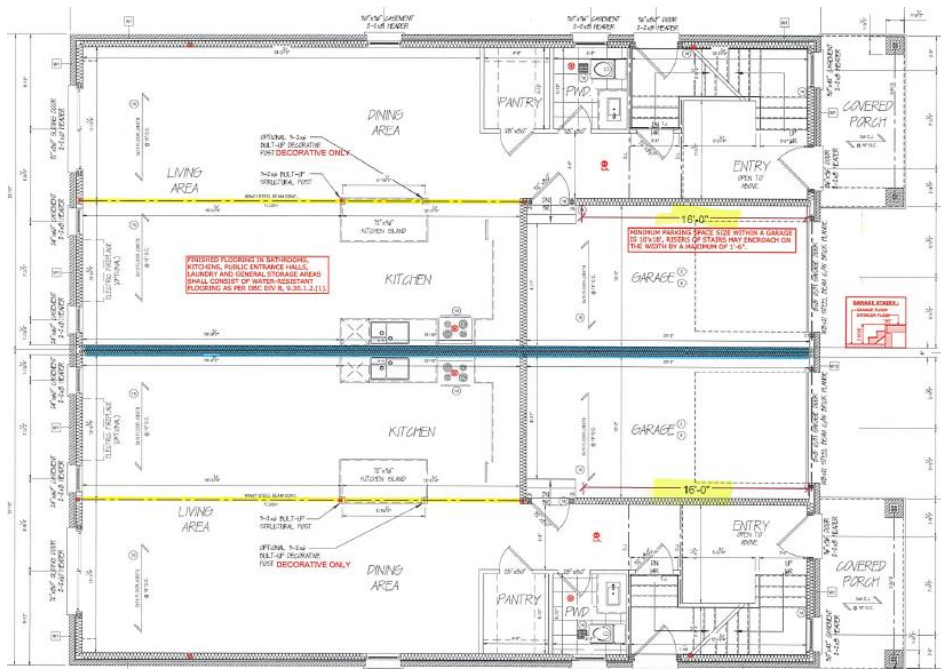
The purpose of the applications is to legalize the length of a parking space in the existing attached garage of a semi-detached dwelling to accommodate steps to access the dwelling units. Specifically, the variance is as follows:

- to permit the required parking space within a building to have a minimum length of 4.87 metres instead of the minimum required 5.49 metres (85-1) and 5.5 metres (2019-051) to legalize the size of the parking space within the existing attached garage of the semi-detached dwelling.

Planning staff conducted a site inspection on December 1<sup>st</sup>, 2022.



**Site photo of 81 and 83 Second Avenue (subject property).**



**Site Plan of subject property showing attached garage area.**

## 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 existing variances to permit a reduced length of a parking space within in the attached garages will allow the legal parking space to be within the garage and will not change the existing massing, height, or other design characteristics of the property. Therefore, it is the opinion of staff that the requested variances meet the general intent of the Official Plan.

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

The general intent and purpose of the Zoning By-law requiring parking spaces to be a minimum length 5.49 metres (85-1) and 5.5 metres (2019-051), is to ensure that the attached garage can accommodate a vehicle, which if the garage is 6 metres from the lot line, is the legal parking space. The intent of the by-law is maintained as the length of 4.87 metres is still long enough to provide a legal parking and accommodate a parking space 6 metres from the street line. Therefore, the 2 parking spaces that are located inside of the attached garage, are able to maintain enough space to safely park, and allow access to the steps and entrance to the units through the garage. Accordingly, it is staff's opinion that the general intent of the zoning by-law will be maintained.

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

The requested variance can be considered minor as each attached garage, will still be able to provide one (1) parking legal parking space and also accommodate stairs to allow an appropriate internal access to the dwelling. Accordingly, it is staff's opinion that the effects of the variance are minor.

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 garage parking length are desirable as they will recognize the parking space within the attached garage as the legal parking space, while also facilitating stairs to access the dwelling from the garage.

**Environmental Planning Comments:**

No comments.

**Heritage Planning Comments:**

No comments.

**Building Division Comments:**

The Building Division has no objections to the proposed variance.

**Engineering Division Comments:**

No comments.

**Parks/Operations Division Comments:**

No comments.

**Transportation Planning Comments:**

Transportation Services can support the reduction in length for an internal garage parking space to 4.87m.

**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.

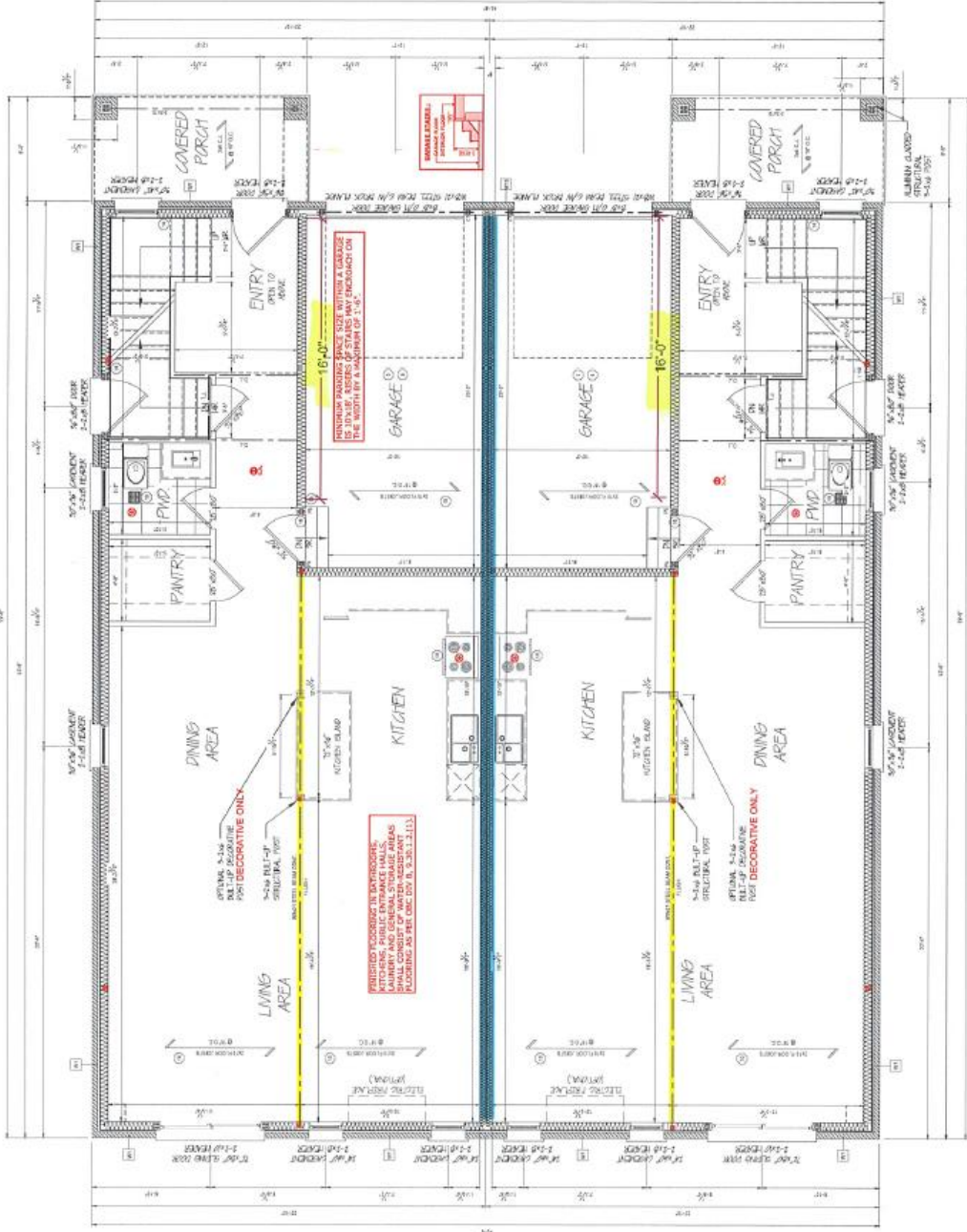
**PREVIOUS REPORTS/AUTHORITIES:**

- *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*

**ATTACHMENTS:**

Attachment A – Drawings submitted with application.





**PROPOSED MAIN FLOOR LAYOUT**

83 SECOND AVE.  
KITCHENER, ONTARIO

SEPTEMBER 11, 2021

SEPTEMBER 11, 2021

SEPTEMBER 11, 2021

**A2.0**

ISSUED FOR PERMIT

