

REPORT TO: Committee of Adjustment

DATE OF MEETING: January 17, 2023

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: 8

DATE OF REPORT: January 10, 2023

REPORT NO.: DSD-2023-044

SUBJECT: Minor Variance Application A2023-008 - 36 Orchard Park Crescent
Owners: Erin Way and Sean Hubberstey
Agent: Danny Carreiro

RECOMMENDATION:

Zoning By-law 85-1

- A. That Minor Variance Application A2023-008 for 36 Orchard Park Crescent requesting relief from Section 36.2 of Zoning By-law 85-1 to permit an attached garage to be located 4.5 metres from the front lot line instead of the minimum required 6.0 metres, to facilitate the construction of a two-storey addition to the existing single detached dwelling, generally in accordance drawings prepared by Danny Carreiro, dated September 9, 2022, BE APPROVED.

Zoning By-law 2019-051

- B. That Minor Variance Application A2023-008 for 36 Orchard Park Crescent requesting relief from the following sections of Zoning By-law 2019-051:
- i) Section 7.3, Table 7-2, to permit an attached garage to be located 4.5 metres from the front lot line instead of the minimum required 6.0 metres;
 - ii) Section 7.3, Table 7-2, to permit a front yard setback for an addition of 4.5 metres from the front lot line instead of the minimum required 6.35 metres;
 - iii) Section 7.3, Table 7-2, to permit a southerly side yard setback of 1.2 metres instead of the minimum required 3.0 metres; and,
 - iv) Section 5-2 b) iii) to permit a garage to project beyond the front porch whereas the Zoning By-law does not permit this,

to facilitate the construction of a two-storey addition to the existing single detached dwelling, generally in accordance drawings prepared by Danny Carreiro, dated September 9, 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 two-storey addition 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 on the property.
- This report supports the delivery of core services.

BACKGROUND:

The subject property is located on the west side of Orchard Park Cres and north of Glasgow Street.



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 R-2 (Residential Two) in Zoning By-law 85-1 and RES-1 (Low Rise Residential One) in Zoning By-law 2019-051, which is currently under appeal.

The purpose of the application is to permit the construction of a two-storey addition in front of the existing façade of a single detached dwelling. A portion of the existing dwelling is proposed to be demolished. The second-floor addition will contain living space and the ground floor will be a two-car garage. The use of the property will continue to be a single detached dwelling.

It is noted that the public circulation of the variances had stated the correct variances, however, some of the variances referenced the incorrect by-law. Zoning By-law 85-1 has one variance and By-law 2019-051 has four variances. The correct by-law variances are noted above in the Recommendation.

Staff visited the site on January 5, 2023.



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 accommodates a full range of low-density housing types including single detached dwellings. It encourages and supports the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form. The property is on a crescent with large lots and there is another property with a second storey. The proposed building height is 10.5 metres which meets the regulation of both by-laws. The variances meet the general intent of the Official Plan.

mature trees located in front of the proposed addition are to remain which lessens the impact of the addition.

The intent of the 6-metre setback for the garage portion of the addition (in both by-laws) is to ensure that vehicles that may park in front of a garage do not overhang City sidewalks or streets nor impact the streetscape. However, the orientation of the proposed garage has the vehicles entering the property and then accessing the garage doors from the side of the addition because the garage doors face the right-side lot line. The existing driveway is to be removed and replaced with landscaping. As shown in the application drawings, the proposed elevation that faces the street will have windows and appear to be living space which will soften the impact of the reduced setback.

The intent of the regulation for side yard setback is to ensure sufficient setback from neighbouring properties. By-law 85-1 permits the proposed 1.2 metre side yard. However, By-law 2019-051 requires a 3-metre side yard. The intent of the larger side yard in the new by-law is to ensure sufficient setback on the larger lots found in the RES-1 zone. It is noted that the proposed addition has a reduced side yard at two points of the addition which are an angle to the side lot line. The overall impact is not onerous on the neighbouring property which has a building that is 6 metres from the subject side lot line.

The intent of the regulation prohibiting a garage to project beyond the porch is in By-law 2019-051 only. (It is noted that the older By-law 85-1 permits a garage projection not greater than the width of the façade.) The regulation in 2019-051 is to ensure that a garage does not dominate the development or streetscape. As noted previously, the addition will have living space above the garage and the garage is oriented towards the side lot line, therefore softening the impact of the garage on the streetscape and the development. The existing driveway is to be removed and replaced with landscaping.

Staff are of the opinion that the intent of the by-laws are met.

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

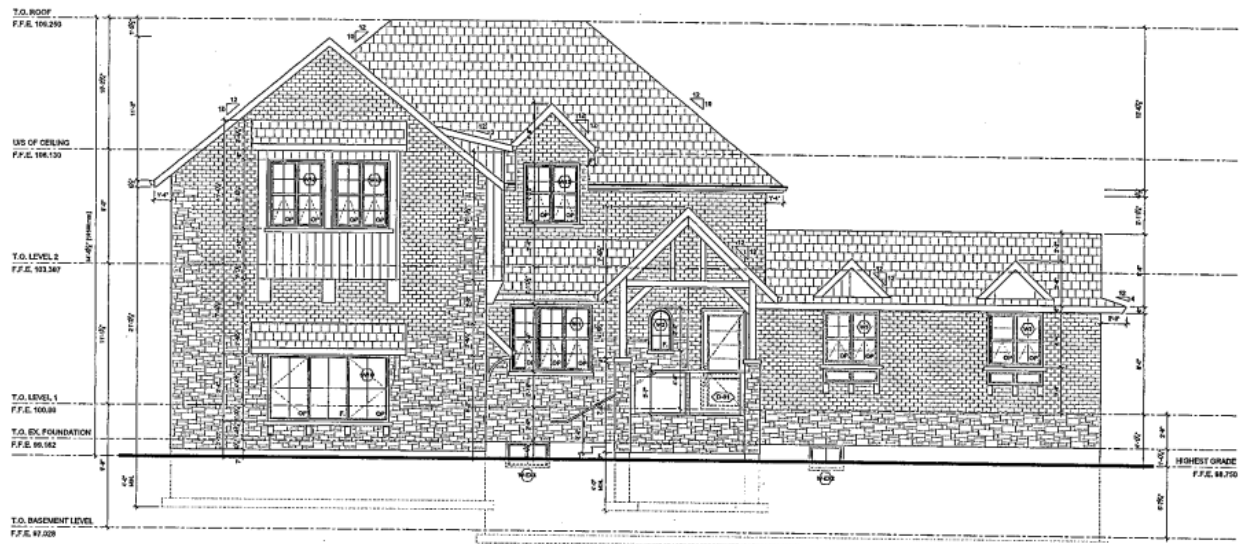
The above noted variances will permit the enlargement of the existing single detached dwelling to better accommodate the current owner's requirement for their family. As shown in the proposed elevation (submitted with application) the addition is innovative with the garage accessed from the side, but with a second storey that softens the impact of the garage on the property. Transportation Planning staff have advised that they have no objection to the parking variance.

The applicant has advised that they will ensure that the maximum driveway width of 8 metres is met. And any additional hard-surface area, for the patio, to be of a material that is distinguishable from the driveway and not to be used for parking or driveway access.

Staff are of the opinion that the requested variances can be considered minor.

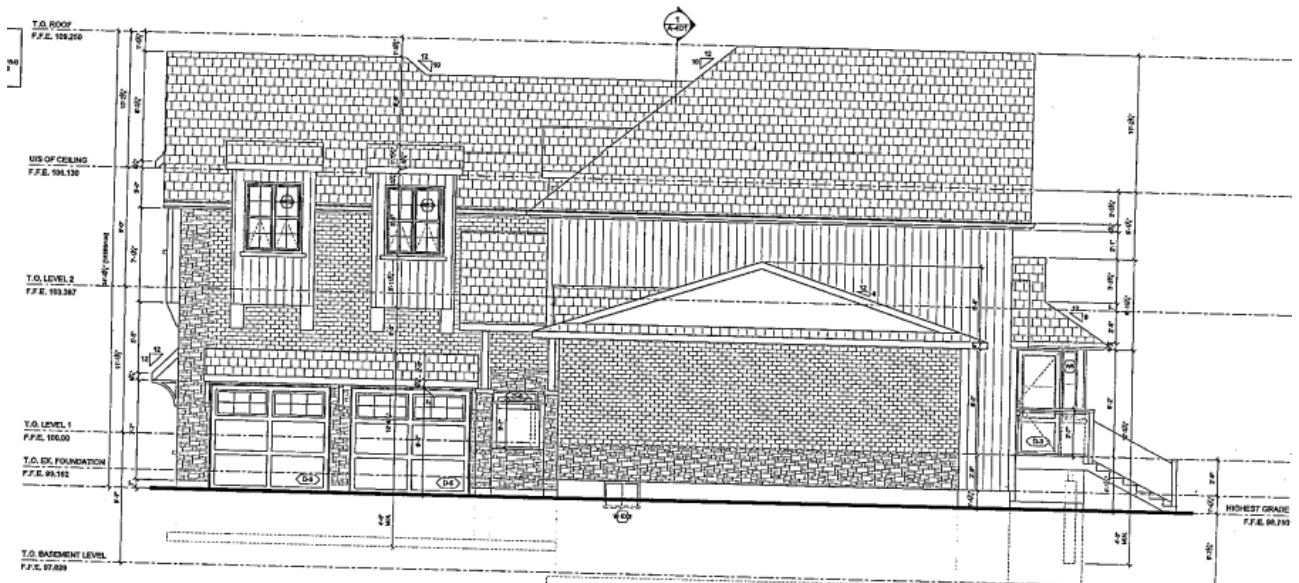
Is/Are the Variance(s) Desirable For The Appropriate Development or Use of the Land, Building and/or Structure?

As noted above, the variances meet the intent of the two by-laws and can be considered minor. The proposed addition will maintain the low-rise density of the property and surrounding neighbourhood.



AFTER

Proposed elevation viewed from front lot line.



Proposed elevation viewed from right side lot line

Environmental Planning Comments:

No natural heritage issues or requirements under the Tree Management Policy.

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 36 Orchard Park Crescent is located within the Westmount East and West 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. Application has been made for the addition to the single detached dwelling and is currently under review.

Engineering Division Comments:

No concerns.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

Transportation Services does not have any concerns with the proposed 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 2020)*
- *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*