

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: Andrew Pinnell, Senior Planner, 519-741-2200 ext. 7668

WARD INVOLVED: Ward 9

DATE OF REPORT: January 6, 2023

REPORT NO.: DSD-2023-028

SUBJECT: Minor Variance Application A2023-006 - 35 Coral Cres.
Owner: 2611601 Ontario Inc. (c/o Janelle Hale)

RECOMMENDATION:

Zoning By-law 85-1

A. That Minor Variance Application A2023-006 for 35 Coral Crescent requesting relief from the following sections of Zoning By-law 85-1:

- i) Section 5.22 h) to permit the Building Floor Area of an Additional Dwelling Unit (Detached) to exceed 50 percent of the Building Floor Area of the principal building, whereas a maximum of 50 percent or 80 square metres is permitted, whichever is less;
- ii) Section 5.22 i) i) and 38.2.1 to permit an existing side yard setback of 0.95m on one side for the principal building instead of the minimum required 1.2 metres; and
- iii) Section 6.1.1.1 b) ii) e) to permit a driveway to be located 0 metres from the side lot line, whereas a minimum driveway setback of 0.6 metres is required;

to permit an Additional Dwelling Unit (Detached) with a maximum Building Floor Area of 80 square metres, generally in accordance with drawing attached to Report DSD-2023-028, as Attachment A, BE APPROVED subject to the following condition:

1. Prior to the issuance of a Demolition and/or Building Permit:

- a) the Owner shall prepare a Tree Preservation/Enhancement Plan, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area, and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.
- b) The Owner shall implement the approved Tree Preservation/Enhancement Plan, prior to any tree removal, grading, servicing or the issuance of any demolition

and/or building permits, to the satisfaction of the City's Supervisor, Site Plans. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.

Zoning By-law 2019-051

B. That Minor Variance Application A2023-006 for 35 Coral Crescent requesting relief from the following sections of Zoning By-law 2019-051:

- i) Section 4.12.3 g) to permit the Building Floor Area of an Additional Dwelling Unit (Detached) to exceed 50 percent of the Building Floor Area of the principal building, whereas a maximum of 50 percent or 80 square metres is permitted, whichever is less;**
- ii) Section 4.12.3.1a) a) to permit an existing side yard setback of 0.95 metres on one side for the principal building, instead of the minimum 1.2 metres; and**
- iii) Section 5.4, Table 5-3, to permit a driveway to be located 0 metres from the side lot line, whereas a minimum driveway setback of 1.2 metres is required;**

to permit an Additional Dwelling Unit (Detached) with a maximum Building Floor Area of 80 square metres, generally in accordance with drawing attached to Report DSD-2023-028, as Attachment A, BE APPROVED subject to the following condition:

1. Prior to the issuance of a Demolition and/or Building Permit:

- a) the Owner shall prepare a Tree Preservation/Enhancement Plan, in accordance with the City's Tree Management Policy, to the satisfaction of and approval by the City's Supervisor, Site Plans. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area, and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.**
- b) The Owner shall implement the approved Tree Preservation/Enhancement Plan, prior to any tree removal, grading, servicing or the issuance of any demolition and/or building permits, to the satisfaction of the City's Supervisor, Site Plans. No changes to the said plan shall be granted except with the prior approval of the City's Supervisor, Site Plans.**

And 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.



Figure 1. Aerial photo showing the subject property and surrounding context.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of variances to permit an Additional Dwelling Unit (Detached) with a Building Floor Area (BFA) greater than 50 percent of the BFA of the principal building, a reduced side yard setback for the principal building, and a reduced driveway setback.
- There are no financial implications.
- Community engagement included circulation of the application via mail and 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 on the north side of Coral Crescent in the Southdale Planning Community. The property contains a single detached dwelling that was constructed in approximately 1961. The surrounding lands are composed primarily of low-density residential land uses on lots of various dimensions and shapes. Dwelling types include single detached dwellings, duplexes, and semi-detached dwellings constructed mainly between the mid-1940s and mid-1970s, though there are recent examples of new development. Dwellings within the surrounding neighbourhood range in design, architecture, materials, and building height.

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 is zoned 'Low Rise Residential Four Zone (RES-4)' in Zoning By-law 2019-051, which is currently under appeal. City Planning staff visited the property on January 3, 2023.



Figure 2. View of subject property from Coral Crescent

In 2021, the applicant submitted Consent Application B2021-045 which requested to sever the existing lot in half (refer to Report DSD-2021-208). The existing single detached dwelling was proposed to be demolished and a duplex was proposed on each resultant lot. The Committee of Adjustment deferred the application at the October 2021 Committee meeting to allow the applicant the opportunity to submit elevation drawings, a conceptual site plan, and provide an update regarding the Phase One Environmental Site Assessment that was requested by the Region. In June 2022, the applicant withdrew the application with the intention of re-applying at a later date.

At this time, the applicant is pursuing a new proposal for the subject property. In this regard, the applicant is proposing to convert the principal building from a single detached dwelling to a duplex dwelling. Moreover, the applicant is proposing to construct an Additional Dwelling Unit (Detached) [ADU (Detached)] in the rear yard. To permit the ADU (Detached), the applicant is requesting the following variances from Zoning By-law 85-1:

1. Relief from 5.22 h) to permit the Building Floor Area of the ADU (Detached) to exceed 50 percent of the Building Floor Area of the principal building, whereas a maximum of 50 percent or 80 square metres is required, whichever is less;
2. Relief from 5.22 i) i) and 38.2.1 to permit an existing side yard setback of 0.95 metres on one side for the principal building, whereas 1.2 metres is required; and
3. Relief from 6.1.1.1 b) ii) e) to permit a driveway to be located zero metres from the side lot line, whereas a minimum driveway setback of 0.6 metres is required.

Moreover, the following variances from Zoning By-law 2019-051 are also required to facilitate the ADU (Detached):

1. Relief from 4.12.3. g) to permit the Building Floor Area of the ADU (Detached) to exceed 50 percent of the Building Floor Area of the principal building, whereas a maximum of 50 percent or 80 square metres is required, whichever is less;
2. Relief from 4.12.3.1 a) a) to permit an existing side yard setback of 0.95 metres on one side for the principal building, whereas 1.2 metres is required; and
3. Relief from Section 5.4, Table 5-3, to permit a driveway to be located zero metres from the side lot line, whereas a minimum driveway setback of 1.2 metres is required.

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 2014 Official Plan contains numerous policies that relate to the proposal. For example:

- The *Low Rise Residential* land use policies of the Official Plan state the following:

15.D.3.8. The Low Rise Residential land use designation will accommodate a full range of low density housing types which may include single detached dwellings, additional dwelling units, attached and detached, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings, special needs housing, and other forms of low-rise housing.

15.D.3.9. The City will encourage and support the mixing and integrating of innovative and different forms of housing to achieve and maintain a low-rise built form.
- The *Community Areas* policies of the Official Plan state the following:

3.C.2.50. The planned function of Community Areas is to provide for residential uses as well as non-residential supporting uses intended to serve the immediate residential areas.
- The Housing policies of the Official Plan state the following:

4.C.1.6. The City will identify and encourage residential intensification and/or redevelopment, including adaptive re-use and infill opportunities, including additional dwelling units, attached and detached, in order to respond to changing housing needs and as a cost-effective means to reduce infrastructure and servicing costs by minimizing land consumption and making better use of existing community infrastructure.
- The *Built Boundary and Built-Up Area* policies of the Official Plan state the following:

3.C.1.11. Smaller scale, site-specific intensification opportunities and additional dwelling units, attached, may be permitted throughout the Built-Up Area in accordance with the land use policies in Section 15.

- The *Additional Dwelling Units, Attached and Detached* policies of the Official Plan state the following:

4.C.1.24. The City, in accordance with Planning Act and other applicable legislation, will permit a stand-alone additional dwelling unit (detached), as an ancillary use to single detached dwellings, semi-detach dwellings and street townhouse dwellings. The following criteria will be considered as the basis for permitting an additional dwelling unit (detached).

- a) the use is subordinate to the main dwelling on the lot;
- b) the use can be integrated into its surroundings with negligible visual impact to the streetscape;
- c) the use is compatible in design and scale with the built form on the lot and the surrounding residential neighbourhood in terms of massing, height and visual appearance; and,
- d) other requirements such as servicing, parking, access, stormwater management, tree preservation, landscaping and the provision of amenity areas.

Additional dwelling units (detached) will be subject to site plan control.

Planning staff is of the opinion that the requested variances would maintain the general intent of the Official Plan. The variances would facilitate an ADU (Detached), which is an innovative, low density housing form, and one that is specifically permitted within the Built-Up Area and by way of the Low Rise Residential policies.

With respect to policy 4.C.1.24, Planning staff is of the opinion that the proposed ADU (Detached) would be subordinate to the main dwelling on the lot, being approximately 67 percent of the Building Floor Area of the principal building and only approximately 41 percent of the Gross Floor Area of the principal building. The proposed ADU (Detached) would be located on a relatively large lot (1,119.47 square metres / 0.28 acres), behind the principal building and more than 40 metres from the front lot line. The proposed ADU (Detached) has also been specifically positioned to not negatively affect trees located near the rear and side lot lines. Servicing, parking, access, stormwater management, and provision of open space are regulated through zoning and through the building permit process. Additionally, no variance to the building massing and height have been proposed. It should be noted that under the recently effected Bill 23, Site Plan Control no longer applies to ADUs.

General Intent of the Zoning By-law

Planning staff is of the opinion that the requested variances would maintain the general intent of the Zoning By-law.

The general intent of the zoning regulation to limit the size of an ADU (Detached) is to ensure that the ADU remains subordinate to the principal building. It should be noted that in this case the Building Floor Area (above grade floor area) of the principal building is approximately 120.4 square metres, whereas the Gross Floor Area (all floor area, including raised basement) is approximately 194 square metres. In this regard, although the ADU (Detached) would be greater than 50 percent of the BFA of the principal building (67 percent), it would be only 41 percent of the GFA of the principal building.

As noted above, Planning staff is of the opinion that the proposed ADU (Detached) would be subordinate to the main dwelling on the lot. The proposed ADU (Detached) would be located on a relatively large lot (1,119.47 square metres / 0.28 acres), behind the principal building and more than 40 metres from the front lot line. The ADU (Detached) would be subordinate to the principal building.

The general intent of the zoning regulation for a minimum side yard setback of 1.2 metres for the principal building is to ensure that sufficient space is maintained for a minimum 1.1 metre wide

walkway from the street to the ADU (Detached). In this case, the applicant has advised that the walkway will be provided on the side of the principal building where a 1.78 metre side yard setback will be maintained (fully compliant; the same side of the lot as the ADU). It should also be noted that the current 0.95 metre side yard setback is likely considered legal non-conforming, having been established prior to the by-law requirement, noting that the principal building was constructed in the early 1960s. However, relief is now required as a result of the subject proposal.

The general intent of the zoning regulation for a minimum driveway setback is to ensure adequate landscaped area in the front yards and for buffering to adjacent properties. In this case, the driveway on the subject property already exists and directly abuts a concrete walkway on the adjacent property (31 Coral Cres) that connects the municipal sidewalk and a side entrance. Also, the width of both the subject property and adjacent property are relatively large so as to allow for significant amounts of front yard landscaping.

Are the Effects of the Variances Minor?

The variances are minor since they will not cause unacceptably adverse impacts on adjacent properties. Adequate parking, landscaping, and amenity area are being accommodated and the streetscape will not be negatively impacted. Note that Planning staff is recommending a condition for tree preservation. Also, massing and building height regulations are being respected.

Are the Variances Desirable for the Appropriate Development or Use of the Land?

The variances are desirable since they will facilitate a form of housing and a level of intensification that is appropriate for the context. The ADU (Detached) will be located deep into the rear yard of the subject property so as to protect existing trees near the property line. Setbacks, building height, and massing related to the ADU (Detached) will comply with the Zoning By-law.

Environmental Planning Comments:

The standard tree management condition should be applied. The City's concern is for the neighbour's or shared-ownership trees, especially at northwest corner of rear yard and that the Tree Preservation / Enhancement Plan or arborist's report could be scoped to those trees, or any others close to property limits that development might impact. The City does not have any concerns regarding the removal of spruce trees located entirely on the subject property.

Heritage Planning Comments:

No heritage concern. The subject property is adjacent to the St Mary's Heritage Conservation District.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the Additional Dwelling Unit is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No concerns.

Parks/Operations Division Comments:

No concerns.

Transportation Planning Comments:

No concerns.

Region Comments:

No concerns.

GRCA Comments:

No concerns.

MTO Comments:

No concerns.

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-law 85-1 and 2019-051*
- *Report DSD-2021-208*

ATTACHMENTS:

Attachment A – Plan Submitted with Minor Variance Application 2023-006

Attachment A - Plan Submitted with Minor Variance Application 2023-006

