

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: January 17, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
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WARD(S) INVOLVED: 10

DATE OF REPORT: January 6, 2023

REPORT NO.: DSD-2023-036

SUBJECT: Minor Variance Application A2023-007 - 30 Breithaupt Street
Owner: 2184647 Ontario Ltd and Breithaupt Block Inc.
Agent: Perimeter Development Corp. (c/o Craig Beattie)

RECOMMENDATION:

Zoning By-law 85-1

That Minor Variance Application A2023-007 for 30 Breithaupt Street requesting relief from the following sections of Zoning By-law 85-1:

- i) Section 55.2.1 to allow a front yard setback of 0.32 metres instead of the minimum required front yard setback of 1.5 metres; and
- ii) Section 6.1.1.2 b) to allow a parking lot to provide for ingress and egress of vehicles to and from a lane in a reverse motion and a forward motion, whereas section 6.1.1.2 b) requires that a parking lot shall provide for ingress and egress of vehicles to and from a street or lane in a forward motion only;

to facilitate the development of a four-storey office building, in accordance with Site Plan Application SP21/120/B/AP, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of variances for a reduced front yard setback and to allow vehicles to enter and exit a parking lot to and from a lane in a reversing motion.
- 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.



Figure 1. Aerial photo showing the subject property (white outline), “L” shaped public lane (red, dashed line), and surrounding context.

BACKGROUND:

The subject property is municipally addressed as 30 Breithaupt Street and is located east of the corner of Breithaupt Street and Moore Avenue, north of downtown. The subject property is part of a complex of buildings and properties located on both sides of Breithaupt Street that are presently occupied by Google.

The subject property is currently used as a surface parking lot for Google employees. However, Site Plan Application SP21/120/B/AP received Approval In Principle on July 18, 2022 (later revised on September 22, 2022), to permit the development of a 4-storey office building (Attachment B represents the most recently approved Site Plan drawing). It should be noted that the applicants have advised staff that they intend to make very minor changes to this most recently approved plan (Attachment C represents the ‘New Proposed Site Plan’). These proposed changes have little or no consequence for the subject application. The applicants also own the property immediately to the west, addressed as 20 Breithaupt Street, which is under construction with an 11-storey office building. An “L” shaped, unnamed public lane connects Waterloo Street (to the east) to Wellington Street North (to the north) and grants access to the subject property as well as 20 Breithaupt Street.

Properties immediately to the east were originally developed as Single Detached dwellings but are currently zoned ‘Industrial Residential Zone (M-1)’. The lands on the opposite side of the public lane are zoned and used for low rise residential land uses.

The subject property is designated ‘Mixed Use’ on Map 3 – Land Use with Specific Policy Area 39 (Breithaupt Block Phase 3) on Map 5 – Specific Policy Areas in the City’s 2014 Official Plan. Specific Policy Area 39 allows a maximum Floor Space Ratio (FSR) of 4.5 and is not applicable to the subject application.

Moreover, the subject property is identified as Major Transit Station Area on Map 2 – Urban Structure. The property is split zoned under Zoning By-law 85-1 only (the property is not presently zoned under Zoning By-law 2019-051):

- The approximately 89 percent eastern portion of the lot is zoned 'High Intensity Mixed Use Corridor Zone (MU-3)' with Special Regulation Provisions 716R and 718R and Special Use Provision 465U;
- The approximately 11 percent western portion of the lot is zoned 'High Intensity Mixed Use Corridor Zone (MU-3)' with Special Regulation Provisions 716R and 717R and Special Use Provision 465U.

In February 2022, the applicant submitted Consent Application B2022-012 which requested, among other matters, consent to sever a parcel of land from 20 Breithaupt Street with an approximate width ranging between 9.6 metres and 12.0 metres, a depth of 48.1 metres, and an area of 567.5 square metres, and combine the lands with the subject property, to provide the sufficient lot area to facilitate the proposed development of the 4-storey office building, as outlined above (refer to Report DSD-2022-085).

City Planning staff visited the property on December 14, 2022. A photo taken at the time of the site visit is included below (Figure 2):



Figure 2. View of subject property from Breithaupt Street, looking across the existing parking lot towards 20 Breithaupt Street.

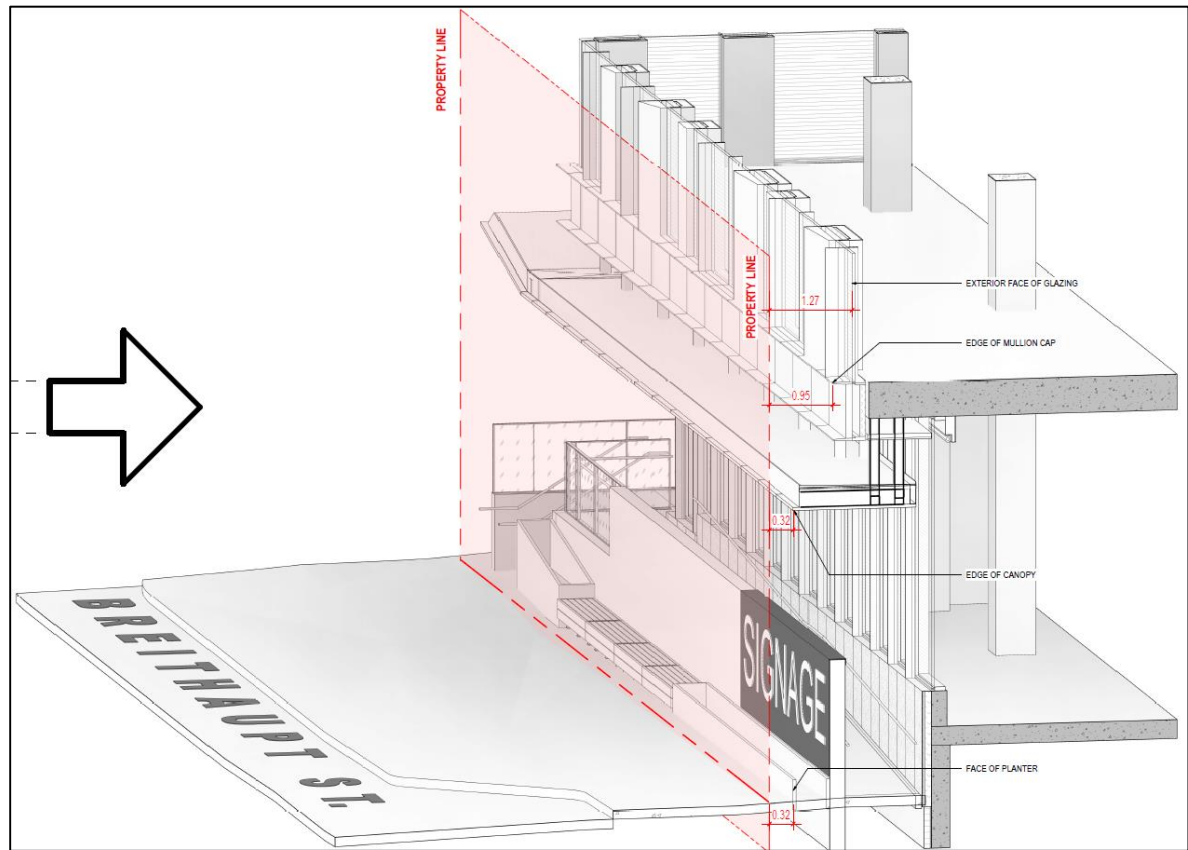
At this time, the applicant is requesting variances to facilitate the development proposed of the 4-storey office building. Special Condition IV of the Approval in Principle for Site Plan Application SP21/120/B/AP requires that such a variance be submitted and approved. Specifically, the applicant is requesting relief from the following sections of Zoning By-law 85-1:

- 55.2.1 to allow a front yard of 0.32 metres, whereas a minimum front yard of 1.5 metres is required. The following building features are proposed within the 1.5m front yard:

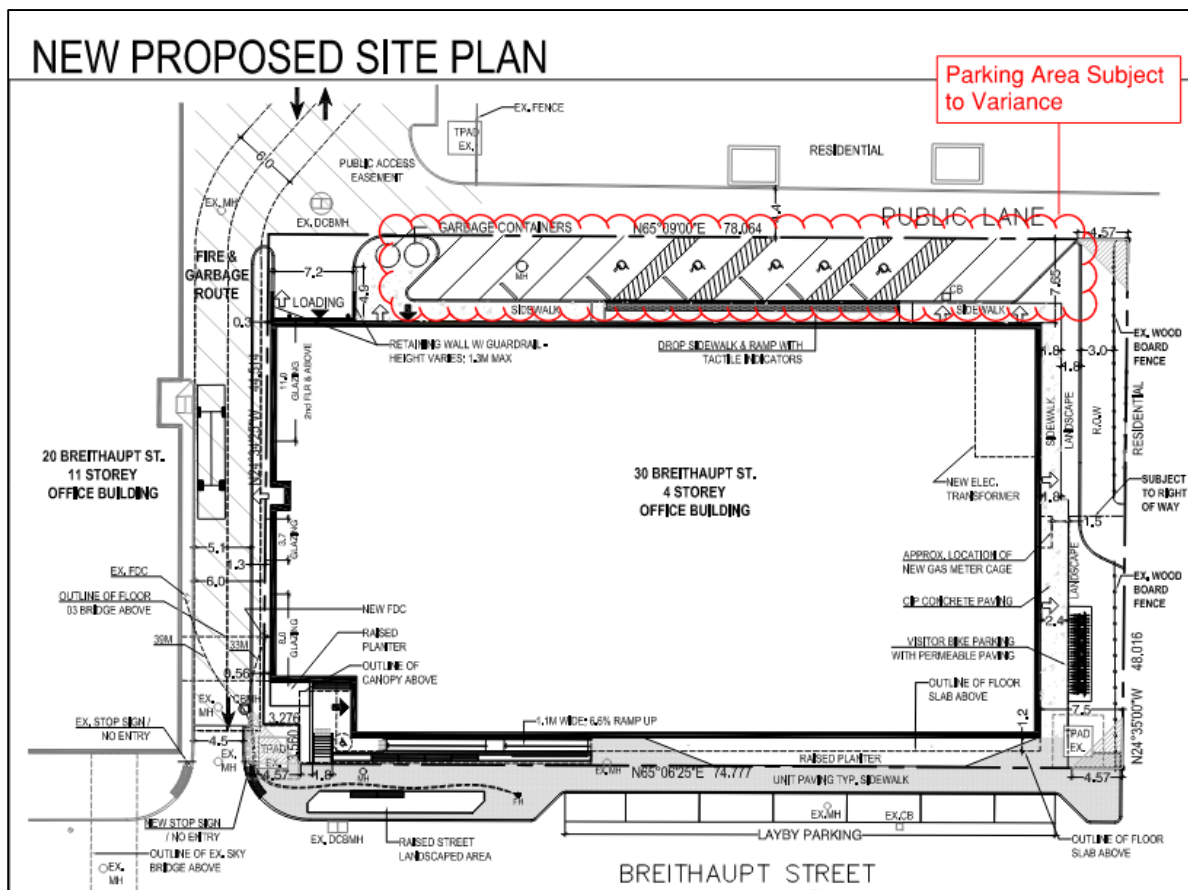
Building Feature	Setback from Front Lot Line	Encroachment into 1.5m Min. Front Yard
Edge of Canopy	0.32 metres	1.18 metres

Face of Planter	0.32 metres	1.18 metres
Edge of Mullion Cap	0.95 metres	0.55 metres
Exterior Face of Glazing	1.27 metres	0.23 metres

The graphic below, extracted from the application submission, illustrates the applicable building features.



- ii. To allow a parking lot to provide for ingress and egress of vehicles to and from a lane in a reverse motion and a forward motion, whereas section 6.1.1.2b) requires that a parking lot shall provide for ingress and egress of vehicles to and from a street or lane in a forward motion only. A 12-space parking area is proposed at the rear of the building with direct access to the abutting lane. The parking area is designed so that vehicles must reverse into the public lane, as shown in the graphic below:



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

Planning staff is of the opinion that the variances meet the general intent of the 2014 Official Plan. The Official Plan contains a *Parking* policy that relates to Variance i), for example:

13.C.8.4. All parking areas or facilities will be designed, constructed and maintained: b) for the safe and efficient movement of all users, on the site, and at points of ingress and egress related to the site;

The proposed 12 space parking lot at the rear of the building has been fully reviewed by Transportation Services staff through the related Site Plan Application process. Transportation Services staff has also reviewed the subject application and advises that it has no concerns with the request for relief to allow the parking lot to provide for ingress and egress of vehicles to and from a lane in a reverse motion and a forward motion.

The Official Plan contains several policies that relate to Variance ii), for example:

- The *Mixed Use* policies state the following:

15.4.6. To ensure uses, built form and building design are compatible with surrounding low rise neighbourhoods and are pedestrian-oriented and human-scaled in order to positively contribute to the public realm.

15.4.7. To ensure that development and redevelopment of lands within lands designated Mixed Use implement a high standard of urban design.

15.D.4.12. The City may: a) require that a portion of the building mass as well as primary façades and building entrances be oriented towards the public realm by imposing maximum front yard setbacks and façade design policies, guidelines and zoning regulations...

- The *Urban Design* policies state the following:

11.C.1.31. The City will ensure new buildings are designed, existing buildings are redeveloped, expanded, converted or renovated to enhance pedestrian usability, respects and reinforce human scale, create attractive streetscapes and contribute to rich and vibrant urban places.

11.C.1.33. The City will encourage the following: a) provision of attractive building forms, façades and roof designs which are compatible with surrounding buildings; d) individual architectural innovation and expression that reinforces and positively contributes to achieving the City's urban design goals and objectives;

Urban Design staff is satisfied that the building design, as proposed through the related Site Plan Application, represents a high standard of building design and places an emphasis on architectural detailing of the front façade. The front façade is human-scaled and will positively contribute to the public realm on Breithaupt Street. Moreover, some of the design features at the front of the building will ensure that an access ramp can be provided to ensure AODA compliance.

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 require a parking lot to provide for ingress and egress of vehicles to and from a street or lane in a forward motion only is to ensure the safe and efficient movement of all users on the site, and at points of ingress and egress related to the site. As noted above, in this case, Transportation Services has no concerns with the request for relief from this regulation. It should also be noted that the majority of the required parking spaces for the proposed office building (i.e., 110 parking spaces) are located off-site at a nearby, privately-owned parking garage (305 Joseph Street) and at 20 Breithaupt Street. Only 12 parking spaces are located on-site (i.e., the 12 parking spaces that require relief).

The general intent of the zoning regulation to require a minimum 1.5 metre front yard is to ensure sufficient space for landscaped area and buffering to the street. In this case, it must be noted that it is not the whole of the front building façade that requires relief, but rather only certain building features that project from the building proper that require relief. These projections into the front yard setback are mainly for the purpose of providing an enhanced building design.

In addition, it should be noted that the municipal boulevard along this section of Breithaupt Street is planned to be improved with an enhanced streetscape design. In this regard, Special Condition VII of the Approval In Principle for the associated Site Plan Application requires that the applicant "enter into a Streetscape Plan Agreement and a Maintenance and/or Encroachment Agreement, for the boulevard adjacent to the subject lands, within the Breithaupt Street right-of-way." In addition, the applicant is required to "prepare and submit a Street Tree Planting Plan". These are requirements

agreed to by the applicant to enhance the public realm in front of the proposed building, through implementation of both hard-scaping and soft-scaping within the boulevard.

With respect to buffering to Breithaupt street, Transportation Services has advised that it has no concerns with this variance.

Are the Effects of the Variances Minor?

The variances are minor since they will not cause unacceptably adverse impacts on adjacent properties. As noted above, Transportation Services has advised that it has no concerns with this variance for relief from the regulation to require a parking lot to provide for ingress and egress of vehicles to and from a street or lane in a forward motion only and it should be reiterated that this variance only relates to 12 parking spaces. The public realm will not be negatively impacted but rather improved as a result of the enhanced building design with the proposed encroachments into the front yard. Moreover, the Special Condition required through the Site Plan Application will ensure that the streetscape is enhanced, not devalued, as a result of the proposed development.

Are the Variances Desirable for the Appropriate Development or Use of the Land, Building and/or Structure?

The variances are desirable since they will facilitate the continued growth and evolution of the high-tech office complex along Breithaupt Street, which is currently occupied by Google. The proposed 4-storey office is a sympathetic development that assists in the transition from higher intensity office use to the south and west to a low-density residential neighbourhood to the north.

Environmental Planning Comments:

No natural heritage or tree management 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 30 Breithaupt Street is located within the Warehouse District 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. The subject property is also adjacent to 51 Breithaupt Street, which is listed as a property of cultural heritage value or interest in the Kitchener Municipal Heritage Register. There are no anticipated impacts to the identified heritage attribute of the adjacent heritage property as a result of the proposed variance.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the accessible entry platform 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, no requirements (requirements addressed through SP21/120/B/AP).

Transportation Planning Comments:

No concerns.

Region Comments:

No concerns.

Metrolinx Comments:

No concerns (detailed comments were provided to Legislated Services staff).

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*
- *Report DSD-2022-085*

ATTACHMENTS:

Attachment A - Drawings and 3D Illustration Submitted with Minor Variance Application
Attachment B – Most Recently Approved Site Plan Drawing (SP21/120/B/AP)
Attachment C – 'New Proposed Site Plan' Submitted with Minor Variance Application

Attachment A - Drawings and 3D Illustration Submitted with Minor Variance App. 2023-007



SITE STATISTICS

Zoning - MU-3, 716R, 718R, 465U
Lot Area- 3742.40m²
Building Coverage- 2594.21m² (69.3%)
Landscaped Area- 391.17m² (10.5%)
Asphalt / Hard Surface Area- 731.69m² (19.6%)

Parking Required- 1 per 93m² = 122
Barrier-Free Parking Required = 1 + 3% = 5
Barrier-Free Parking Provided -

Onsite - 5
Parking Provided-

Onsite - 12
Offsite - 110

Minimum Dimensions- 2.6m x 5.5m
Offsite Parking Provided at 305 Joseph St.
& 20 Breithaupt

Occupant Bicycle Parking Required -
1 per 333 sm GFA = 94

Occupant Bicycle Parking Provided -

Onsite - 0
Offsite - 36

Offsite Occupant Bicycle Parking Provided at 20
Breithaupt Street

Visitor Bicycle Parking Required -
1 per 500 sm GFA = 23

Visitor Bicycle Parking Provided - 23

COMMERCIAL - OFFICE

Total Gross Floor Area - 11365m²

NOTE: ALL ASPHALT AREAS TO
BE DEFINED WITH 0.15M HIGH
POURED CONCRETE CURBING

The site plan illustrates the proposed development on a rectangular lot. The main building is a large rectangle labeled '4 STOREY OFFICE BUILDING'. To its north are 'GARBAGE CONTAINERS' and 'OUTLINE OF SKY BRIDGE ABOVE'. To its east is a 'LANDSCAPED AREA' and another 'OUTLINE OF SKY BRIDGE ABOVE'. To its south is a 'SUBJECT TO RIGHT OF WAY' area. The building has two 'TRANSFORMER ON PAD' locations. The lot is bounded by 'BREITHAUPT STREET' to the west, 'PUBLIC LANE' to the east, and 'SIDEWALK EX.FH' to the south. A 'FIRE ROUTE' is indicated on the eastern boundary. Various dimensions and setbacks are shown throughout the plan.

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