

# 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  
519-741-2200 ext. 7765

**PREPARED BY:** Katie Anderl, Senior Planner, 519-741-2200 ext. 7987

**WARD(S) INVOLVED:** Ward 7

**DATE OF REPORT:** January 5, 2023

**REPORT NO.:** DSD-2023-030

**SUBJECT:** Minor Variance Application A2023-009 - 126 Rolling Meadows Drive  
Owners: Andrei and Diana Balulescu

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## RECOMMENDATION:

### Zoning By-law 85-1

A. That Minor Variance Application A2023-009 for 126 Rolling Meadows Drive requesting relief from Section 5.22 (k) of Zoning By-law 85-1, to permit an additional dwelling unit (detached) to be located in the side yard abutting a street of the principal dwelling, having a minimum setback of 4.7 metres, generally in accordance with drawings prepared by 360 Smart Design, dated October 2022, BE APPROVED, subject to the following:

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 A2023-009 for 126 Rolling Meadows Drive requesting relief from Section 4.12.3 (k) of Zoning By-law 2019-051, to permit an additional dwelling unit (detached) to be located in the exterior side yard of the principal dwelling, having a

minimum setback of 4.7 metres, generally in accordance with drawings prepared by 360 Smart Design, dated October 2022, 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.**

**REPORT HIGHLIGHTS:**

- The purpose of this report is to recommend approval of a variance to permit an accessory dwelling unit (detached) to have a side yard abutting the street that is less than the principal dwelling.
- 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 at 126 Rolling Meadows Drive at the intersection of Rolling Meadows Drive and Timberlane Crescent. The property is a corner lot and currently contains a raised bungalow used as a single detached dwelling.



Image 1: 126 Rolling Meadows Crescent

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 'Residential Three Zone (R-3)' in Zoning By-law 85-1 and 'Low Rise Residential Two Zone (RES-2)' in Zoning By-law 2019-051, which is currently under appeal.

The purpose of the application is to permit an additional dwelling unit (detached) to have a side yard abutting a street that is less than the principal dwelling unit.



Image 2 – 126 Rolling Meadows Dr from Rolling Meadows Drive (December 20, 2022)



Image 3 – 126 Rolling Meadows Dr from Timberlane Crescent (December 20, 2022)

## **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

Policies of the Official Plan support stand-alone additional dwellings as an ancillary use to single detached dwellings and outline criteria for the location of such dwellings including: that the use is subordinate to the main dwelling on the lot, that the use can be integrated into its surroundings with negligible visual impact to the streetscape; that it is compatible in scale with the built form on the lot and the surrounding residential neighbourhood in terms of massing and height; and, and that other requirements such as servicing, parking, access, stormwater management, etc. are met.

The proposed stand-alone additional dwelling is proposed to be located in the rear yard of the primary dwelling. Matters of scale (size and height) as well as servicing, parking, etc. are addressed through zoning by-law regulations and associated building permit requirements. Due the irregular exterior side lot line, the proposed additional dwelling is proposed to be closer to the street than the main dwelling. Staff is of the opinion that the dwelling will not have a negative visual impact on the streetscape and note that it is generally aligned with the primary dwelling. It also meets the minimum side yard setback for the principal dwelling of 4.5 metres and will be screened by an existing wood fence. Staff is of the opinion that general intent of the Official Plan is maintained.

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

The intent of the Zoning By-law requirement for an additional dwelling unit (detached) to not be located in the front yard or exterior side yard (i.e., closer to the street than the principal dwelling) is to ensure that the additional dwelling unit is subordinate to the principal dwelling and is located in the rear yard. The proposed additional dwelling unit is located in the rear yard and is generally inline with the principal dwelling which has a generous side yard abutting the street. The additional dwelling will be located within a fenced in yard and is setback more than the minimum side yard abutting a street of 4.5 metres for the principal dwelling. Staff is of the opinion that the general intent of the Zoning By-law is maintained.

#### Is the Effect of the Variance Minor?

Staff is of the opinion that the effect of the variance is minor. The proposed dwelling is located in the rear yard of the principal dwelling and is compatible in scale with the built form on the lot and the surrounding dwellings. The setback is in keeping with setback requirements for a primary dwelling, and due to the curve in the road staff is of the opinion that reduction will not be visually intrusive on the streetscape.

#### Is the Variance Desirable for The Appropriate Development or Use of the Land, Building and/or Structure?

Staff is of the opinion that the variance is desirable for the appropriate development of the land. The proposed dwelling is compatible in scale with surrounding homes, is located in the rear yard and is subordinate to the primary dwelling. The additional dwelling (detached) complies with other zoning regulations including lot coverage, maximum size, parking, etc. Accessory dwelling units (detached) represent a form of gentle intensification within existing communities and provide much needed housing options.

**Environmental Planning Comments:**

Standard tree management condition should be included to ensure that the mature tree at 91 Timberlane Cres is assessed for impact and permission to impact/damage/remove is obtained from neighbour if necessary. The applicant is advised that street trees must be protected if construction access is proposed from Timberlane Cres.

**Heritage Planning Comments:**

No concerns.

**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](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

No concerns.

**Parks/Operations Division Comments:**

No comments.

**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*