

Staff Report



Development Services Department

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REPORT TO: Committee of Adjustment

DATE OF MEETING: February 21, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
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PREPARED BY: Sheryl Rice Menezes, Planning Technician (Zoning),
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WARD INVOLVED: 1

DATE OF REPORT: February 10, 2023

REPORT NO.: DSD-2023-076

SUBJECT: Minor Variance Application A2023-018 - 11 Centennial Road

RECOMMENDATION:

Zoning By-law 2029-051

That Minor Variance Application A2023-018 for 11 Centennial Road requesting relief from Section 10.3, Table 10-2, of Zoning By-law 2019-051 to permit four (4) existing buildings to have a rear yard setback of 2.7 metres instead of the minimum required 7.5 metres and to permit a right northerly side yard setback of 0.6 metres instead of the minimum required 1.5 metres for the one (1) of the existing buildings to legalize the location of four (4) existing garage buildings at the rear of the subject property as shown on Site Plan SP16/063/C/SRM, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to legalize four existing buildings in the rear yard of an industrially zoned property.
- 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 the circulation of the application via mail, notification by way of the Record newspaper 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 Centennial Road and east of Forwell Road. It is zoned identified as Arterial Corridor on Map 2 – Urban Structure and is designated ‘General Industrial Employment’ on Map 3 – Land Use in the City’s 2014 Official Plan. The property is zoned ‘General Industrial Employment Zone (EMP-2)’ in Zoning By-law 2019-051.

The purpose of this application is to legalize the rear yard and side yard setbacks for four (4) existing garage buildings located in the rear yard.

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

It is noted that the four detached garages located in the rear yard were constructed without planning or building approvals. This has been brought to the attention of the Building Division who are now requesting a building permit for the four detached structures in the rear yard. Before a building permit can be processed, minor variance approval is required for reduced setbacks. It is noted that the garage located closest to the right (northerly) side lot line currently encroaches over the side lot line as shown on the survey, dated July 6, 2022, and submitted with the application. The owner is proposing to cut back the structure so that it has a setback as requested in the recommendation section above.

Site Plan application SP16/063/C/SRM is currently being processed to acknowledge all buildings on the site and to determine the number of legally existing parking spaces.

Staff visited the site on February 10, 2023.



Aerial photo 1

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:



View of front yard from right side

General Intent of the Official Plan

The intent of the General Industrial Employment designation is to provide for a broad range of industrial uses. The property is used for industrial tenants currently consisting of tradesperson or contractor establishments, automotive detailing and repair operation and warehousing. The subject property backs onto the rear yard of an Arterial Commercial (COM-3) zoned property (see aerial photo 1). The designation does not comment on building setbacks. Staff are of the opinion that the general intent of the Official Plan is met with the uses on the subject property.

General Intent of the Zoning By-law

The intent of the side yard and rear yard setbacks is to ensure that buildings do not negatively impact the neighbouring properties. A minimum rear yard of 2.8 metres exists for the four buildings which is sufficient to maintain the one-storey buildings. As well, because of a grading difference and vegetation along the rear lot line, the buildings have minimal impact/view from the property along the rear lot line. See aerial photo 2 below.

Regarding the proposed 0.6 metre side yard setback, that building currently encroaches over the side lot line and the applicant has advised that the building will be modified by cutting it back or reconstructing it. As noted above, a one-storey building has minimal visual impact on the neighbouring properties and the proposed 0.6 metre setback will allow for maintenance of the building. Based on above comments, staff are of the opinion that the general intent of the Zoning By-law is met.

Is/Are the Effects of the Variance Minor?

The minor variances for the existing one-storey rear yard buildings are suitable for an industrially zoned lot. The building closest to the side lot line must be modified to meet the requested 0.6 metre setback. Staff are of the opinion that the setback variances are minor.



Aerial photo 2: Google 3D view 2023



View of front yard from left side

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

As noted above, the variances are considered minor for the subject property. The buildings are used by tenants for industrial uses. Therefore, staff consider it appropriate development for the property. Regarding to the surrounding area, the buildings are not visible from the street and have no impact on the streetscape.

Other Site Plan Matters

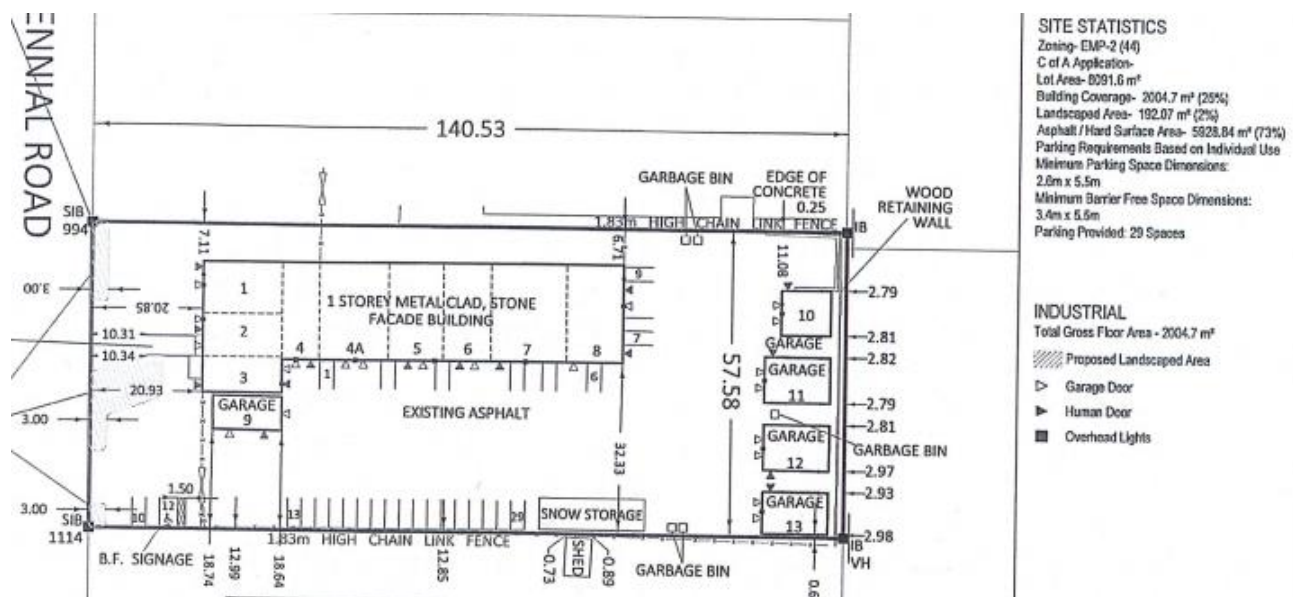
During the Site Plan review and a recent site visit, it is noted that there is non-compliance in other areas of the property. Section 10.5 of the Zoning By-law prohibits outdoor storage of goods, equipment or materials in any yard abutting a street. There is currently some outdoor storage in the front yard including a garbage container. Any outdoor storage should be removed from the front yard. This can be followed up by the City's Enforcement division if required.

Regarding parking spaces in the front yard, the by-law requires a minimum 3 metres front yard setback to parking spaces and drive aisles. As well, within 3 metres of the front yard, landscaping such as grass is required. As part of the Site Plan approval, this is being confirmed.

In addition, it is noted that a sign has been placed on the wooden fence facing Centennial St. Signs on fences are not permitted under a separate bylaw, the Sign By-law. The applicant can legalize the sign by removing it from the fence and constructing it as a free-standing ground sign with a sign permit. Staff to follow up separately with the agent or property owner on this matter as it is under a different bylaw.

Lastly, it was brought to staff's attention that there are parking spaces on the left (south) side of the main building that are used by the neighbouring property. It is noted that these are not legal spaces.

Although there are other regulations of non-compliance the only variance before the Committee is the location of the four (4) accessory buildings. The other matters will be resolved through the Site Plan Approval process.



Proposed Site Plan

Heritage Comments:

Slight overlap with Cultural heritage landscape under review on the south-east property line.

Environmental Planning Comments:

No natural heritage concerns, tree management will be addressed through the Site Plan Application.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the accessory structures is obtained to legalize the 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:

Transportation Services have no concerns with the application, provided that the parking requirement is being satisfied.

Metrolinx Comments:

The subject property is located within 300 meters of Metrolinx's Guelph Subdivision which carries Metrolinx's Kitchener GO Train service. The proponent is advised the following:

Warning: The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Ministry of Transportation Comments:

The Ministry of Transportation (MTO) has no objection to this application. The subject property is located beyond MTO limits of permit control and therefore MTO review, approval and permits will not be required.

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*
- *Zoning By-law 2019-051*