

Staff Report



Development Services Department

www.kitchener.ca

REPORT TO: Committee of Adjustment

DATE OF MEETING: February 21, 2023

SUBMITTED BY: Tina Malone-Wright, Interim Manager, Development Review
519-741-2200 ext. 7765

PREPARED BY: Ben Brummelhuis, Student Planner, 519-741-2200 ext. 7074

WARD(S) INVOLVED: 10

DATE OF REPORT: February 8, 2023

REPORT NO.: DSD-2023-070

SUBJECT: Minor Variance Application A2023-022 - 91 Shanley Street

RECOMMENDATION:

Zoning By-law 85-1

That Minor Variance Application A2023-022 for 91 Shanley Street requesting relief from Section 5.22 I) c) of Zoning By-law 85-1, to permit the roof of an Additional Dwelling Unit (ADU) (Detached) to have a maximum building height for a flat roof of 3.6 metres instead of the maximum permitted 3 metres, in accordance with drawings prepared by Paul Sanders, dated December 19, 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) Notwithstanding a) above, due to a tree located where the ADU is proposed to be located and that the tree may potentially be in shared ownership with the lot to the east (as shown on Site Plan dated December 19, 2022), an Arborist's Report may be scoped to the "locust" (species to be confirmed) tree in question, possible impacts from the foundation/grading for the ADU, and recommended remedial measures including root/branch pruning if/as required be completed and approved by the City prior to the issuance of a demolition and/or building permit.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the construction of an ADU (Detached) with a flat roof height of 3.6 metres.
- The key finding of this report is that the request for minor variance meet the four tests of the Planning Act.

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

- 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 south side of Shanley Street and the intersection of Shanley and Dekay Street. The surrounding neighbourhood is comprised of a range of low-rise residential uses.

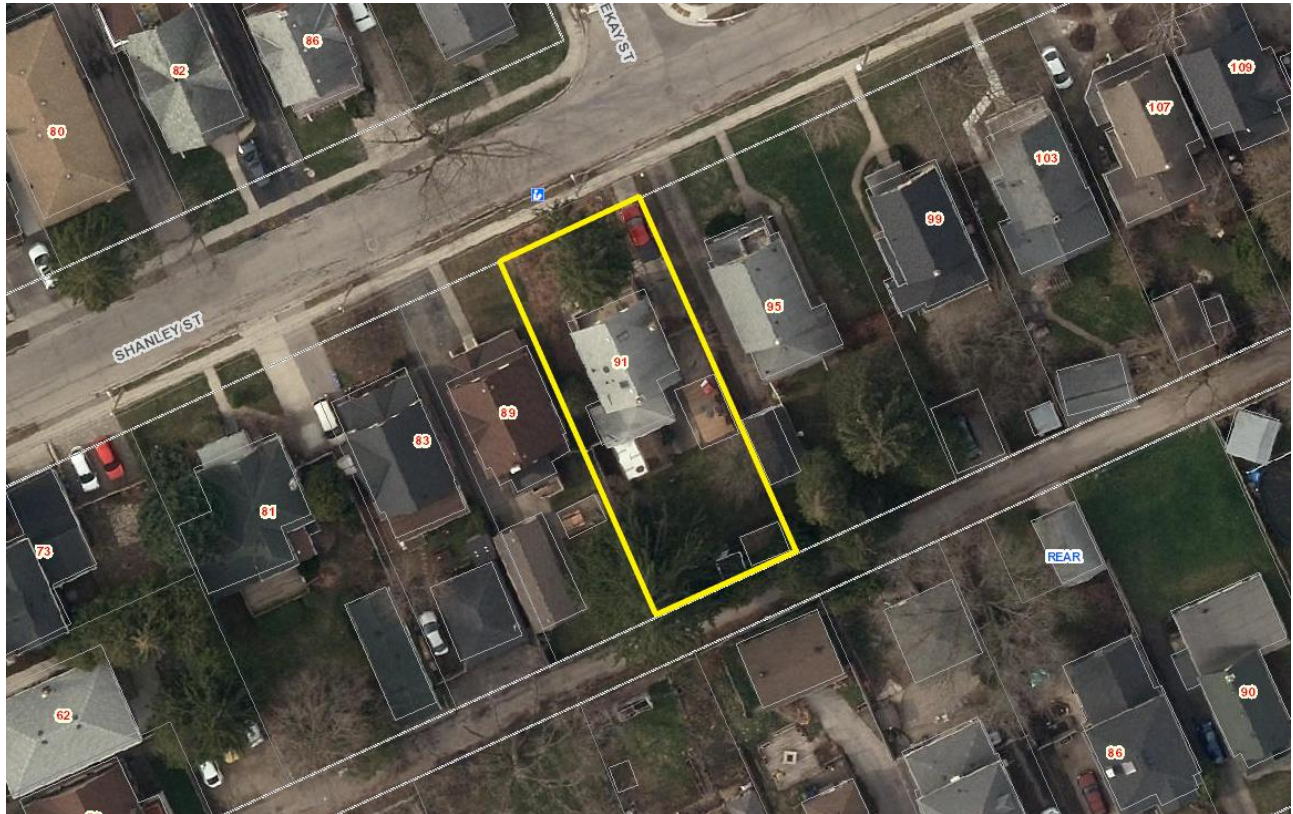


Figure 1 – Aerial Location Map

The subject property is identified as 'Major Transit Station 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 Five Zone (R-5)' in Zoning By-law 85-1.

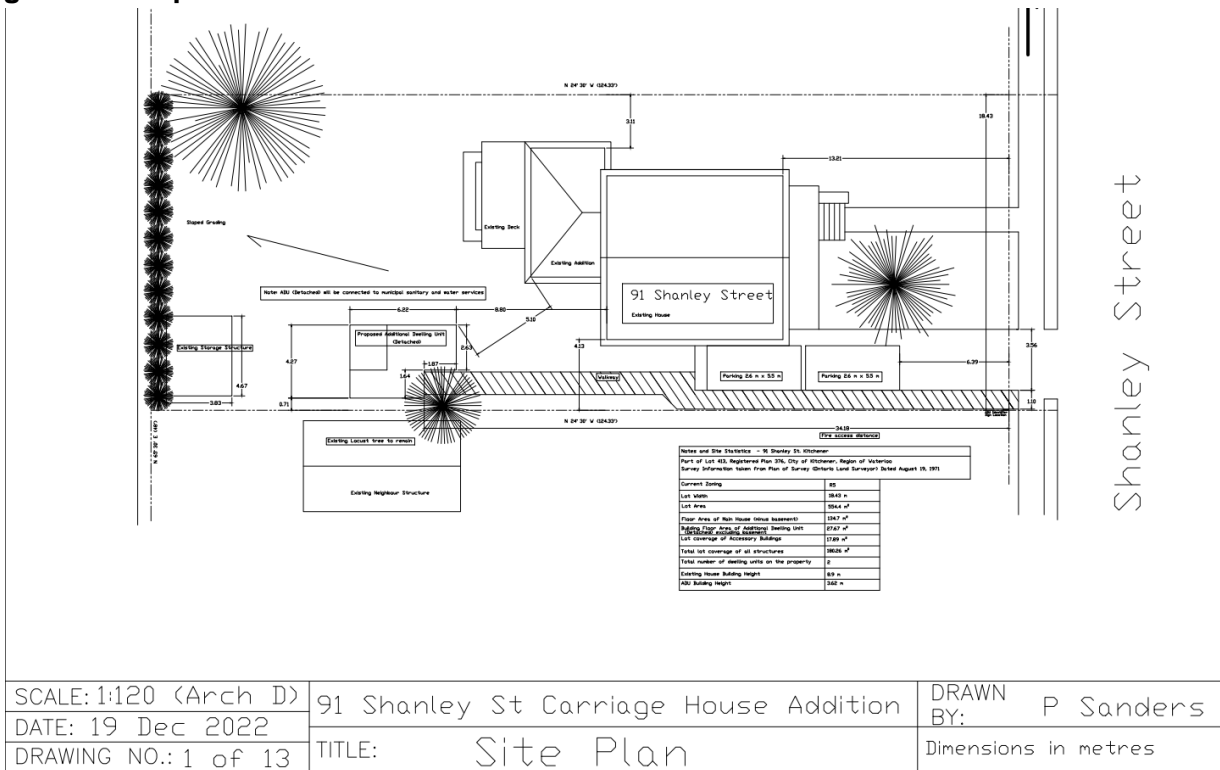
The purpose of the application is to facilitate the construction of an Additional Dwelling Unit (ADU) (Detached) with a flat roof height of 3.6 metres instead of the maximum permitted 3 metres.

The applicant intends to convert an existing tiny house on a trailer into ADU on a foundation. The applicant requires the additional height of 0.6 metres for a flat roof to allow for a higher foundation, more efficient drain/waste connection, increased natural light, and architectural interest. The proposed ADU will be located in the rear of the yard and will meet all additional requirements for an ADU in Section 5.22 of Zoning By-law 85-1.

Staff visited the site on January 27, 2023.



Figure 2 – Photo from Site Visit
 Figure 3 – Proposed Site Plan



SCALE: 1:120 (Arch D)	91 Shanley St Carriage House Addition	DRAWN BY: P Sanders
DATE: 19 Dec 2022	TITLE: Site Plan	Dimensions in metres
DRAWING NO.: 1 of 13		

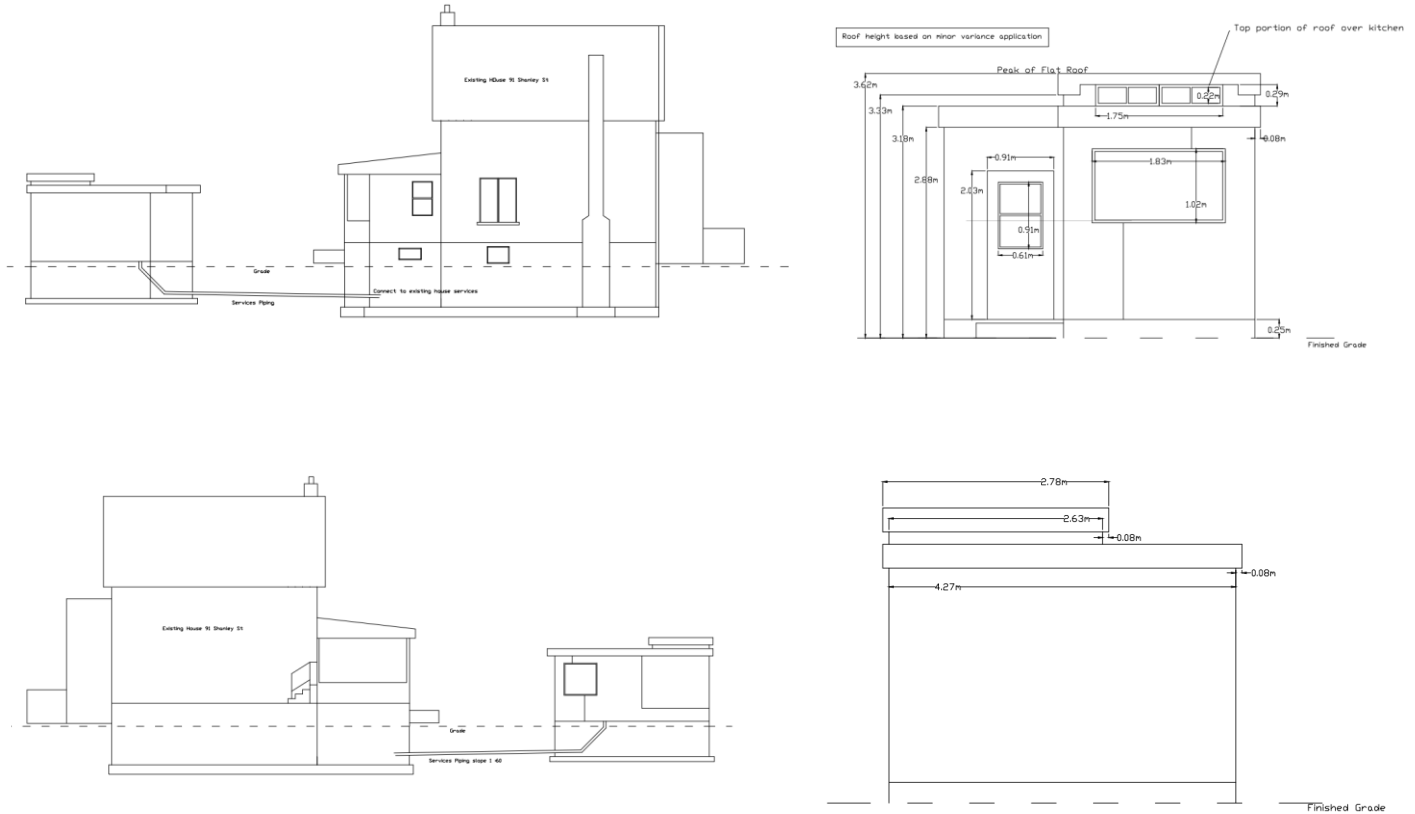


Figure 4 – Elevation Drawings

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 subject property is designated 'Low Rise Residential' on Map 3 – Land Use. The intent of the Low Rise Residential designation is to permit a variety of low-density residential uses with an emphasis on compatibility with the built form, height, massing, scale, and design. The Low Rise Residential policy supports a cohesive relationship of the principal and accessory buildings with the streets, and within the neighbourhood. The current structure at 91 Shanley Street is a two-storey single detached dwelling similar in height, massing, scale, and design to adjacent buildings. Several properties on Shanley Street contain ADUs, accessory structures, and sheds in the rear yard, similar to the proposal. Staff is of the opinion that the proposed construction of an ADU is an appropriate use that provides a mix of residential uses and heights similar to and comparable to other structures within the surrounding neighbourhood and the intent of the Official Plan will be maintained.

General Intent of the Zoning By-law

The intent of the 3 metre flat roof height of an ADU is to ensure that there is adequate privacy and light to abutting properties, and the height is similar to accessory buildings and sheds of comparable height, massing, scale, and design. Given the highest portion of the roof is closest to the interior of

the lot and the lowest portion of the roof abuts the side yard with an increased side yard setback, staff are of the opinion that the 0.6 metre height increase is an appropriate height and meets the intent of the regulation. Therefore, staff is of the opinion that the increase in the height of the flat roof being requested meets the general intent of the Zoning By-law.

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

The variance to increase the height of a flat roof by 0.6 metres is minor in nature. The lowest elevation of the roof of 3.1 metres, will abut the side yard setback of 0.7 metres, which is greater than the required 0.60 metres, and the portion of the roof that is 3.6 metres in height is closest to the interior of the yard. Staff is of the opinion that the requested increase will allow for the construction of an ADU on an appropriate foundation compatible with the existing shed on the property and will not negatively impact any adjacent properties or neighbourhood.

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

The variance is appropriate for the development and use of the land. The variance will facilitate the relocation of an existing tiny home on a trailer to a foundation on the subject property. The requested variance is not expected to impact any of the adjacent properties or the surrounding neighbourhood as the highest portion of the roof is closest to the interior of the lot, and there is an increased side yard setback. The proposed massing, scale, and height of the ADU are compatible and will not negatively impact the existing dwelling, structures on the property, and the surrounding neighbourhood.

Environmental Planning Comments:

Due to a tree located where the ADU is intended to be and that the tree may potentially be in shared ownership with the lot to the east (as shown on Site Plan dated December 19, 2022), we are requesting that an Arborist's Report scoped to the "locust" (species to be confirmed) tree in question, possible impacts from the foundation/grading for the ADU, and recommended remedial measures including root / branch pruning if/as required be completed and approved by the City prior to the issuance of a building permit.

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 91 Shanley Street is located within the Mt Hope/Breithaupt 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 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:

Engineering has no concerns.

Parks/Operations Division Comments:

Parks/operations has no concerns.

Transportation Planning Comments:

Transportation Services have no concerns with the proposed application.

Region of Waterloo Comments:

Region of Waterloo has no concerns.

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:

There are no previous reports/authorities related to this matter.

- *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*