

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
519-741-2200 ext. 7765

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

WARD INVOLVED: 10

DATE OF REPORT: February 10, 2023

REPORT NO.: DSD-2023-073

SUBJECT: Minor Variance Application A2023-019 - 100-102 Waterloo Street

RECOMMENDATION:

Zoning By-law 85-1

That Minor Variance Application A2023-019 for 100-102 Waterloo Street requesting relief from the following sections of Zoning By-law 85-1:

- i) Section 39.2 to allow a minimum front yard setback of 1.0 metre instead of the minimum required 6.28 metres; and
- ii) Section 5.3 to allow portions of the proposed building to be located within the Driveway Visibility Triangles;

to permit a new semi-detached dwelling, generally in accordance with drawings attached to Report DSD-2023-073, as Attachment 'A' and Attachment 'B', 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 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.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend approval of variances to permit redevelopment of the property with a new semi-detached dwelling with a reduced front yard setback and relief for Driveway Visibility Triangles.
- 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 east side of Waterloo Street, north of Shanley Street in the Mt. Hope Huron Park Planning Community. The surrounding lands are composed of a mix of low-density residential land uses, primarily single detached dwellings. The property contains a semi-detached dwelling, on one lot, that was constructed in approximately 1884. The existing dwelling currently encroaches onto the Waterloo Street right-of-way by 0.59 metres.

The property is identified as 'Major Transit Station Area (MTSA)' 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 subject property is not part of Stage 2B of the City's Comprehensive Review of the Zoning By-law (i.e., implementation of new RES zones) and is not subject to By-law 2019-051. The future zoning of the property has been deferred to a subsequent project, since the property is within a Major Transit Station Area (MTSA).

City Planning staff visited the property on January 23, 2023.

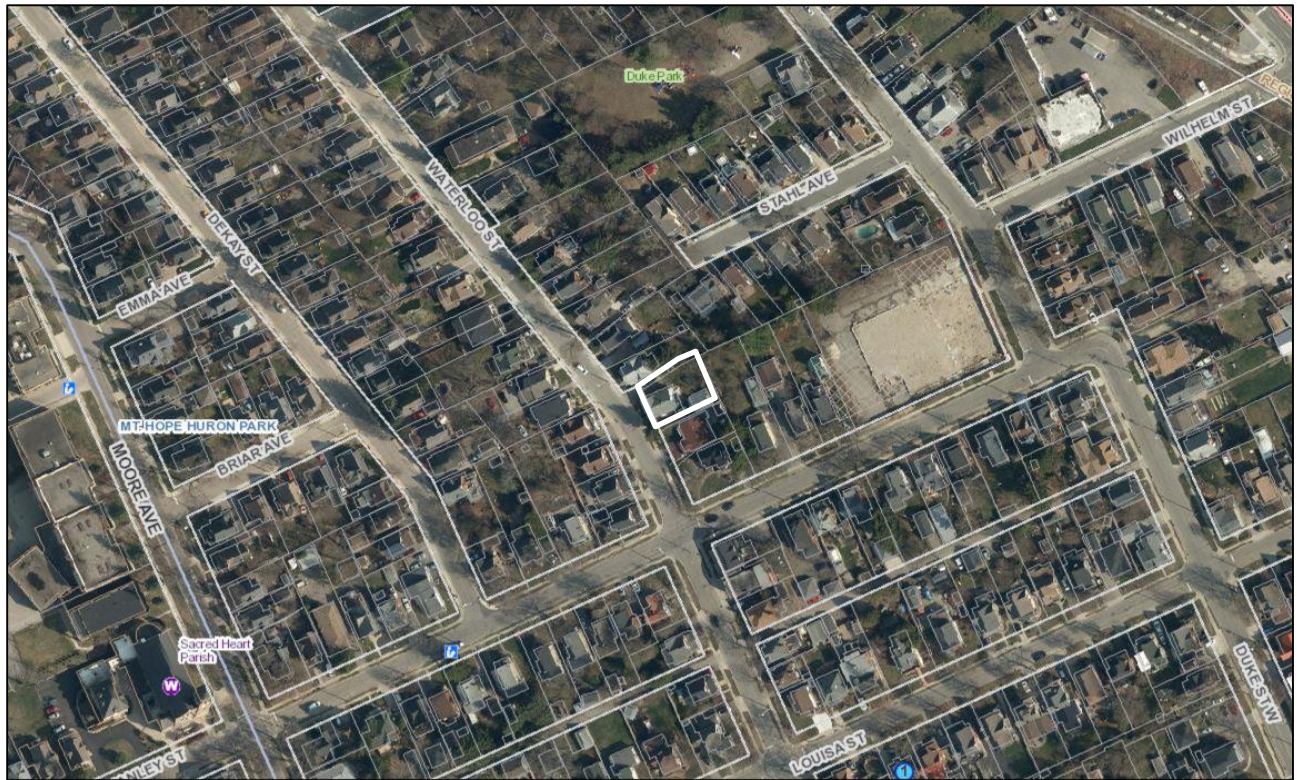


Figure 1: Aerial photo showing subject property outlined in white.

The property has been the subject of two sets of multiple Committee of Adjustment applications since 2021, as follows:

1. On June 15, 2021, the subject property was the subject of a Committee of Adjustment decision regarding Consent Application B2021-039 and Minor Variance Applications A2021-077 and A2021-078. The Committee granted conditional consent to create a new lot to facilitate redevelopment of the lands for two new dwellings, one on each resultant lot.

The severed lot had an approximate lot width of 8.74 metres, a depth of 26.3 metres, and an area of 246 square metres. A variance was also approved for the severed lot, which permitted a reduced lot width of 8.74 metres instead of the required 9.0 metres (Minor Variance Application A2021-078).

The retained lot had an approximate lot width of 8.74 metres, a depth of 26.3 metres, and an area of 230 square metres. The retained lot required a minor variance (Minor Variance Application A2021-077) to allow a reduced lot width to be 8.74 metres, instead of the required 9.0 metres and a reduced lot area to be 230 square metres, instead of the required 235 square metres.

2. On May 17, 2022, the subject property was the subject of further Committee of Adjustment decisions regarding Minor Variance Applications A2022-040 and A2022-041. The Committee granted approval to both variances, without conditions, to facilitate the development of a duplex dwelling on each resultant lot, as previously approved by Consent Application B2021-039. The variances were as follows:

- a) The purpose of Application A2022-040 was to request further variances for the proposed retained lot as follows:

- i) to permit a reduced minimum front yard setback of 5.3 metres, instead of the minimum required 6.2 metres as outlined in Section 39.2.1 of Zoning By-law 85-1, and
- ii) to permit a reduced minimum rear yard setback of 6.2 metres, instead of the minimum required 7.5 metres as outlined in Section 39.2.1 of Zoning By-law 85-1.

- b) The purpose of the Application A2022-041 was to request further variances for the proposed severed lot as follows:

- i) to permit a reduced minimum front yard setback of 5.4 metres, instead of the minimum required 6.2 metres as outlined in Section 39.2.1 of Zoning By-law 85-1, and
- ii) to permit a reduced minimum rear yard setback of 6 metres, instead of the minimum required 7.5 metres as outlined in Section 39.2.1 of Zoning By-law 85-1.

At this time, as part of the subject application, the applicant has advised that they do not intend on proceeding with any of the previously approved applications. Instead, the applicant now intends on demolishing the existing dwelling and constructing a new semi-detached dwelling on the property.

The applicant does not propose to sever the lot along the common wall of the new semi-detached dwelling; at this time, the semi-detached dwelling would remain on one lot. To facilitate this new plan, the applicant is requesting the following variances, both under Zoning By-law 85-1 only (By-law 2019-051 does not apply):

1. Requesting relief from Section 39.2 to allow a Minimum Front Yard of 1.0 metre, whereas 6.28 metres is required; and
2. Requesting relief from Section 5.3 to allow portions of the proposed building to be located within the Driveway Visibility Triangles.

The subject lands are within *Appendix H: Residential Intensification in Established Neighbourhoods Study (RIENS) Area* of By-law 85-1. The 'R-5' Zone requires that the Minimum Front Yard for lands identified on Appendix 'H' shall be the average of the front yards of the abutting lots, minus 1.0 metre. In this regard, the required Minimum Front Yard has been determined as follows:

- Front yard setback of 96 Waterloo Street (abutting lot to south): 7.95 metres
- Front yard setback of 108 Waterloo Street (abutting lot to north): 6.61 metres
- $[7.95 + 6.61] / 2 - 1.0 = \mathbf{6.28 \text{ metres}}$

In addition, it should be noted that in the vicinity of the subject property there is a “jog” in the front lot lines along Waterloo Street, which has the effect of increasing the width between the City sidewalk and the front lot line. The “jog” and the technical determination of the required minimum front yard based on the setbacks of abutting dwellings, are complicating factors, which make compliance with the required setback challenging if the building is to remain a similar distance to the street as the dwellings to the north.

The requested variance would have the effect of permitting existing detached garage to continue to exist and be used for parking for the new dwelling.

Planning staff further notes that the existing dwelling is encroaching onto the City right-of-way by 0.59 metres and possesses poor street presence, having no front door and only two small windows facing the street (see Figure 3). The proposed dwelling would be located 1.59 metres *farther* from the street than the existing dwelling.



Figure 2: Plan showing the “jog” in the front lot lines along Waterloo Street in the vicinity of the subject property, which creates increased width between the City sidewalk and the front lot line.



Figure 3: Photo of the front of the subject property including the existing dwelling, taken from Waterloo Street.

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 Official Plan (2014) contains a number of policies that relate to Variance 1, for example:

4.C.1.8. Where...minor variance(s) is/are requested, proposed or required to facilitate...redevelopment of lands, the overall impact of the...minor variance(s) will be reviewed, but not limited to the following to ensure, that:...b) Where front yard setback reductions are proposed for new buildings in established neighbourhoods, the requested front yard setback should be similar to adjacent properties and supports and maintain the character of the streetscape and the neighbourhood...

The Official Plan (2014) contains the following Parking policy that relates to Variance 2:

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

Understanding the variability of the front lot lines on the east side of Waterloo Street, in the immediate vicinity of the subject property (see Figure 2), requested Variance 1 would help to ensure that the distance between the proposed dwelling and the sidewalk / street is similar to that of the adjacent properties to the north and would help support and maintain the character of the streetscape and the neighbourhood, in accordance with the intent of Policy 4.C.1.8.b).

Regarding Variance 2, Transportation Services staff has commented as follows:

A portion of the each of the proposed dwellings are within the 4.57m x 4.57m driveway visibility triangles (DVT), however, due to the approximate 3 metre setback from the property line to back of curb, Transportation Services is of the opinion that there is sufficient visibility being provided within this area. Therefore, Transportation Services can support the minor encroachments into the DVTs. It should also be noted that Waterloo Street is not listed within the City of Kitchener Official Plan of roads to be widened under Schedule 'D' of the Official Plan.

No transportation safety or efficiency concerns have been identified with the request for relief from the Driveway Visibility Triangle regulation, as a result of the unique characteristics between the front lot line and the sidewalk / travelled portion of the street.

Planning staff is of the opinion that the variances meet the general intent of the Official Plan.

General Intent of the Zoning By-law

The general intent of the minimum front yard setback is to ensure that buildings are adequately set back from the travelled portion of the right-of-way for buffering and safety purposes, to ensure that a consistent street wall / streetscape is established, and to allow sufficient private front yard landscaped area for aesthetic reasons.

The general intent of the Driveway Visibility Triangle requirement is to ensure drivers entering and exiting the property have a clear view of any potential obstacles.

In this case, because of the unique characteristics of the front lot lines in the immediate vicinity, there are no concerns with respect to buffering, streetscape, front yard landscaped area, or visibility. Planning staff is of the opinion that the variances meet the general intent of the Zoning By-law.

Are the Effects of the Variance Minor?

Transportation Services staff has advised that it has no concerns with the requested variances. In addition, Planning staff has no concerns about impact on the streetscape and front yard landscaping. Planning staff is of the opinion that the variances are minor because they will not create unacceptably adverse impacts on neighbouring properties or the right-of-way.

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

The applicant has advised that the existing semi-detached dwelling is uninhabitable. The proposal would permit the lands to be redeveloped with a new semi-detached dwelling. The proposal would facilitate an outcome that results in usable housing and would preserve the existing detached garage, preventing waste. This outcome is consistent with the objectives of City's Official Plan. Planning staff is satisfied that the variances are desirable for the appropriate development of the land.

Environmental Planning Comments:

A Tree Management condition was requested as part of Consent Application B2021-039. Although the lands are no longer proposed to be severed, the proposal is to still demolish the existing semi-

detached dwelling and construct a new semi-detached dwelling on the subject property. The potential impacts to existing trees and vegetation remains the same and so it would be appropriate to still consider the approval of a Tree Preservation Plan as a condition of the Minor Variance Application.

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 properties municipally addressed as 100 & 102 Waterloo Street are 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 semi-detached dwelling 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:

A portion of the each of the proposed dwellings are within the 4.57m x 4.57m driveway visibility triangles (DVT), however, due to the approximate 3m setback from the property line to back of curb, Transpiration Services is of the opinion that there is sufficient visibility being provided within this area. Therefore, Transportation Services can support the minor encroachments into the DVTs. It should also be noted that Waterloo Street is not listed within the City of Kitchener Official Plan of roads to be widened under Schedule D.

Regional Municipality of Waterloo 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*
- *Report DSD-2021-142 (Applications B2021-039, A2021-077 and A2021-078)*
- *Report DSD-2022-225 (Applications A2022-040 and A2022-041)*

ATTACHMENTS:

Attachment A: Elevation Drawings submitted with Application A2023-019
Attachment B: Site Plan Drawing submitted with Application A2023-019

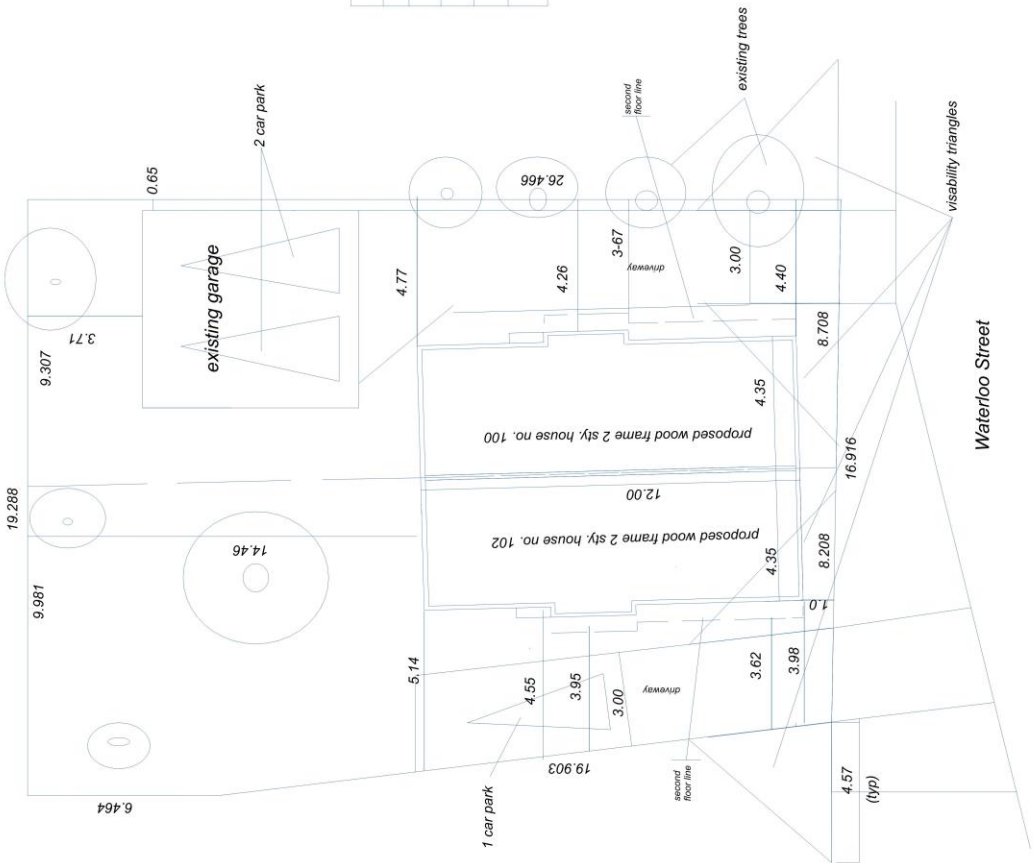
Attachment A: Elevation Drawings submitted with Application A2023-019



PROPOSAL FOR 100 - 102 WATERLOO STREET,
KITCHENER, ONTARIO

NOTE: ALL DIMENSION ARE IN METRIC
THIS IS A PROPOSAL
existing garage 21' x 26' +/-

R5 ZONE.	EXISTING.	PROPOSED.	BY-LAW
AREA OF LOT	470 SQ. M.	470 SQ. M.	235 SQ. M.
GROUND FLOOR ARE.	139.9 SQ. M. 29.7%	158.6 SQ. M. 33.7%	55%
GROSS FLOOR AREA.	224.4 SQ. M.	328.12 SQ. M.	-
NUMBER OF STOREYS.	2.	2.	2
BUILDING HEIGHT.	7 M	6 M.	10.5 m



SITE PLAN

