

**REPORT TO:** Committee of Adjustment

**DATE OF MEETING:** March 21, 2023

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

**PREPARED BY:** Tim Seyler, Planner, 519-741-2200 ext. 7860

**WARD(S) INVOLVED:** Ward 10

**DATE OF REPORT:** March 8, 2023

**REPORT NO.:** DSD-2023-110

**SUBJECT:** Minor Variance Application A 2023-027 – 289-295 Sheldon Ave. N.

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## **RECOMMENDATION:**

### **Zoning By-law 2019-051**

That Minor Variance Application A2023-110 for 289-295 Sheldon Avenue North requesting relief from Section 7.3, Table 7-2 of Zoning By-law 2019-051, to permit:

- i) A maximum Floor Space Ratio (FSR) of 0.75 instead of the maximum permitted Floor Space Ratio (FSR) of 0.6; and
- ii) A side yard setback of 2.5 metres instead of the minimum required 3.0 metres;

to facilitate development of the site with a multiple dwelling (stacked townhouses) having 40 dwelling units, in accordance with Site Plan Application SP22/132/S/TS, dated October 12, 2022, BE APPROVED.

## **REPORT HIGHLIGHTS:**

- The purpose of this report is to review an application for minor variances to permit the construction of a 40 unit stacked townhouse residential development.
- There are no financial implications.
- Community engagement included a notice sign being placed on the property advising that a Committee of Adjustment application has been received, notice of the application was mailed to all property owners within 30 metres of the subject property and this report was posted to the City's website with the agenda in advance of the Committee of Adjustment meeting.
- This report supports the delivery of core services.

## **BACKGROUND:**

The subject property is located at 289 and 295 Sheldon Avenue North. Each of the properties currently contains a single detached dwelling.

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 properties are zoned 'Low Rise Residential Five Zone (RES-5)' in Zoning By-law 2019-051.



**Location Map: 289 & 295 Sheldon Avenue North**



**Existing dwellings at 289 and 295 Sheldon Avenue North**

The application is requesting relief from Section 7.3, Table 7-2, of Zoning By-law 2019-051 to permit a Floor Space Ratio of 0.75 instead of the maximum permitted FSR of 0.6. A minimum side yard setback of 2.5 metres is requested instead of the minimum required 3.0 metres. The variances will facilitate the development of a 40 unit stacked townhouse residential dwelling.

A previous owner received Committee of Adjustment approval for minor variances in 2019 for a different proposal. Since that time the property was purchased by a new owner and a new site plan application has been submitted and has received conditional approval (Site Plan Application SP22/132/S/TS).

## **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' in the City's Official Plan, which contains a number of policies related to density in low rise residential areas. The Low Rise Residential land use designation accommodates a full range of low density housing types including single detached dwellings, duplex dwellings, semi-detached dwellings, street townhouse dwellings, townhouse dwellings in a cluster development, low-rise multiple dwellings and special needs housing. Policy 15.D.3.11 applies a maximum Floor Space Ratio (FSR) of 0.6, however site-specific increases up to a maximum FSR of 0.75 may be considered, where it can be demonstrated that the increase in the FSR is compatible. Staff is of the opinion that the increase in the FSR meets the general intent of the policies of the Official Plan. Staff is satisfied the requested variances will maintain the low-density character of the property and surrounding neighbourhood.

Staff is satisfied the requested side yard variance will maintain the low-density character of the property and surrounding neighbourhood, and the reduction in the side yard will have no impact on the adjacent property. Staff is further satisfied that urban design considerations have been addressed to ensure the development is compatible by designing the site so that one building is close to the front of the property to maintain an active street presence, as well as the parking located closest to the side of the property adjacent to the highway. As such, the proposed variances meet the general intent of the Official Plan.

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

The 'RES-5' zone permits a range of housing types, and the intent of 0.6 FSR maximum is to ensure development occurs at a scale which is compatible with other low-rise housing forms in adjacent neighbourhoods. The proposed townhouse units will provide a mix of housing types while maintaining compatibility with the low-rise residential neighbourhood. As such, staff is satisfied the requested variance to increase the maximum FSR from 0.6 to 0.75 meets the general intent of the Zoning By-law.

The intent of the side yard setback is to ensure adequate separation from adjacent properties and to ensure there is appropriate access to the rear yards. The proposed 2.5 metre side yard setback still provides adequate separation from adjacent properties and an accessory access on this side of the development. The general intent of the zoning is maintained through the variance for the side yard setback.

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

Staff is of the opinion that the requested variances are minor as the reduced side yard and increased FSR will not present any significant impacts to adjacent properties or the overall neighbourhood.

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

The proposed variances are appropriate for the development and use of the land as they will facilitate the development the proposed townhouses (multiple dwelling) use on the subject lands. The proposed use is permitted in the Zoning By-law and the variances allow the site to be developed at an appropriate density. The scale, massing and height of the proposed townhouse units will not negatively impact the existing character of the subject property or surrounding neighbourhood.

**Environmental Planning Comments:**

Any Environmental Planning concerns will be addressed through Site Plan Application SP22/132/S/TS.

**Heritage Planning Comments:**

Heritage Planning has no concerns.

**Building Division Comments:**

The Building Division has no objections to the proposed variance provided building permit for the stacked townhouses are obtained prior to construction. Please contact the Building Division at [building@kitchener.ca](mailto:building@kitchener.ca) with any questions.

**Engineering Division Comments:**

Engineering division has no concerns.

**Parks/Operations Division Comments:**

Parks division has no concerns or requirements with the application.

**Transportation Planning Comments:**

Transportation Services does not have any concerns with the proposed application.

**MTO Comments:**

The owner should be aware that the property falls within MTO's Permit Control Area (PCA), and as such, MTO Permits are required before any demolition, grading, construction or alteration to the site commences. In accordance with the Ontario Building Code, municipal permits may not be issued until such time as all other applicable requirements (i.e.: MTO permits/approvals) are satisfied. MTO is aware of the proposed townhouse units at this location. MTO will comment on the Site Plan application when it is circulated. MTO has no concerns with the Minor Variance application with the understanding the site plan application is forthcoming and MTO will have the opportunity to comment.

**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 2019-051*
- *DSD-2019-214*

**ATTACHMENTS:**

Attachment A – Conditional Approved Site Plan



