

REPORT TO: Committee of Adjustment

DATE OF MEETING: October 18, 2022

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 8

DATE OF REPORT: October 7, 2022

REPORT NO.: DSD-2022-460

SUBJECT: Minor Variance Application A2022-126
44 Rusholme Road
Applicant and Owner: Krystal Darling

RECOMMENDATION:

Zoning By-law 2019-051

A. That Minor Variance Application A2022-126 for 44 Rusholme Road requesting relief from Section 7.3, Table 7-2 of Zoning By-law 2019-051, to permit an interior side yard setback of 1.5 metres instead of the minimum required 3.0 metres to facilitate the construction of a garage addition to a single detached dwelling, generally in accordance with the Site Plan, dated August 2022, submitted with Minor Variance Application A0222-126, BE APPROVED subject to the following condition:

1. Prior to the issuance of a Building Permit, the Owner shall prepare a Tree Preservation and 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. No changes to the said plan shall be granted except with the approval of the City's Supervisor, Site Plans.

And subject to the following:

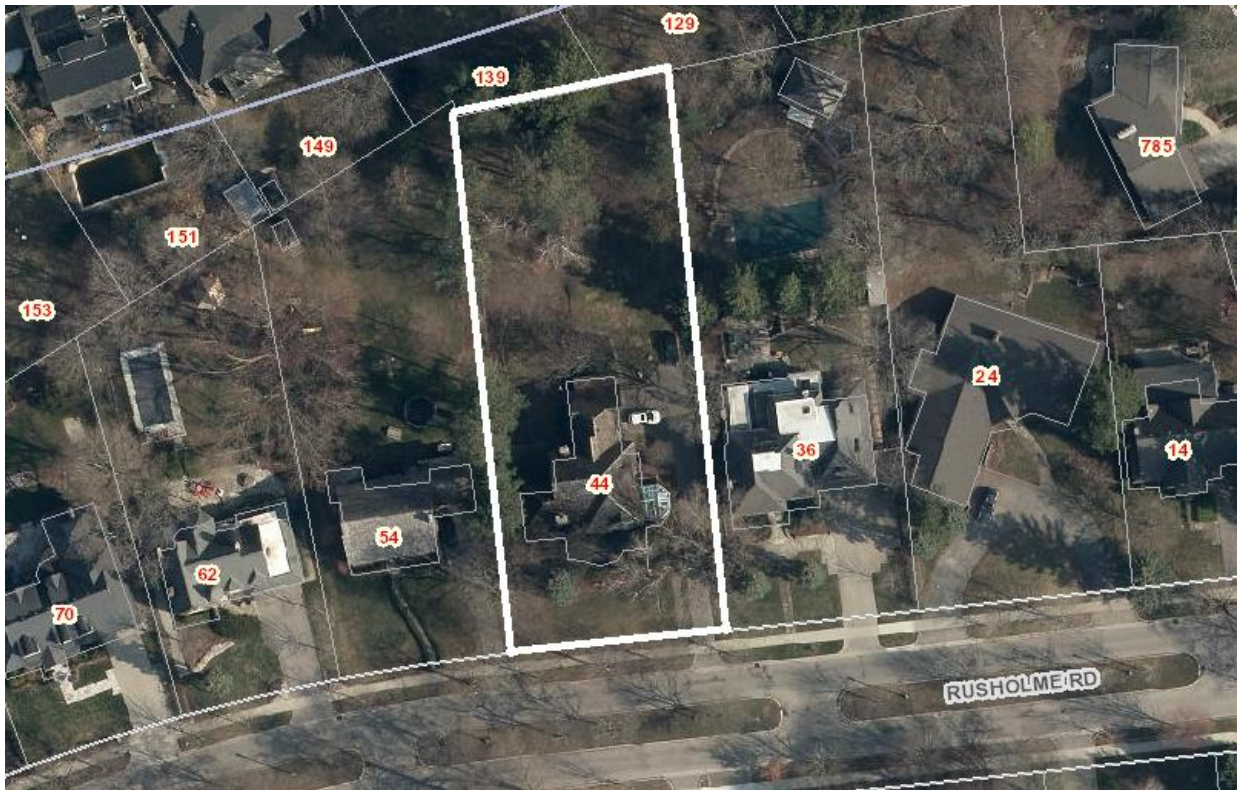
This minor variance shall become effective only at such time as Zoning By-law 2022-040 comes into force, pursuant to section 34 (30) of the Planning Act, R.S.O. 1990, c. P 13, as amended, at such time the variance shall be deemed to have come into force as of the final date of this decision.

REPORT HIGHLIGHTS:

- The purpose of this report is to review an application for a minor variance to permit the construction of a garage addition onto an existing single detached dwelling.

- There are no financial implications.
- This report supports the delivery of core services.

BACKGROUND:



Subject Property – 44 Rusholme Road





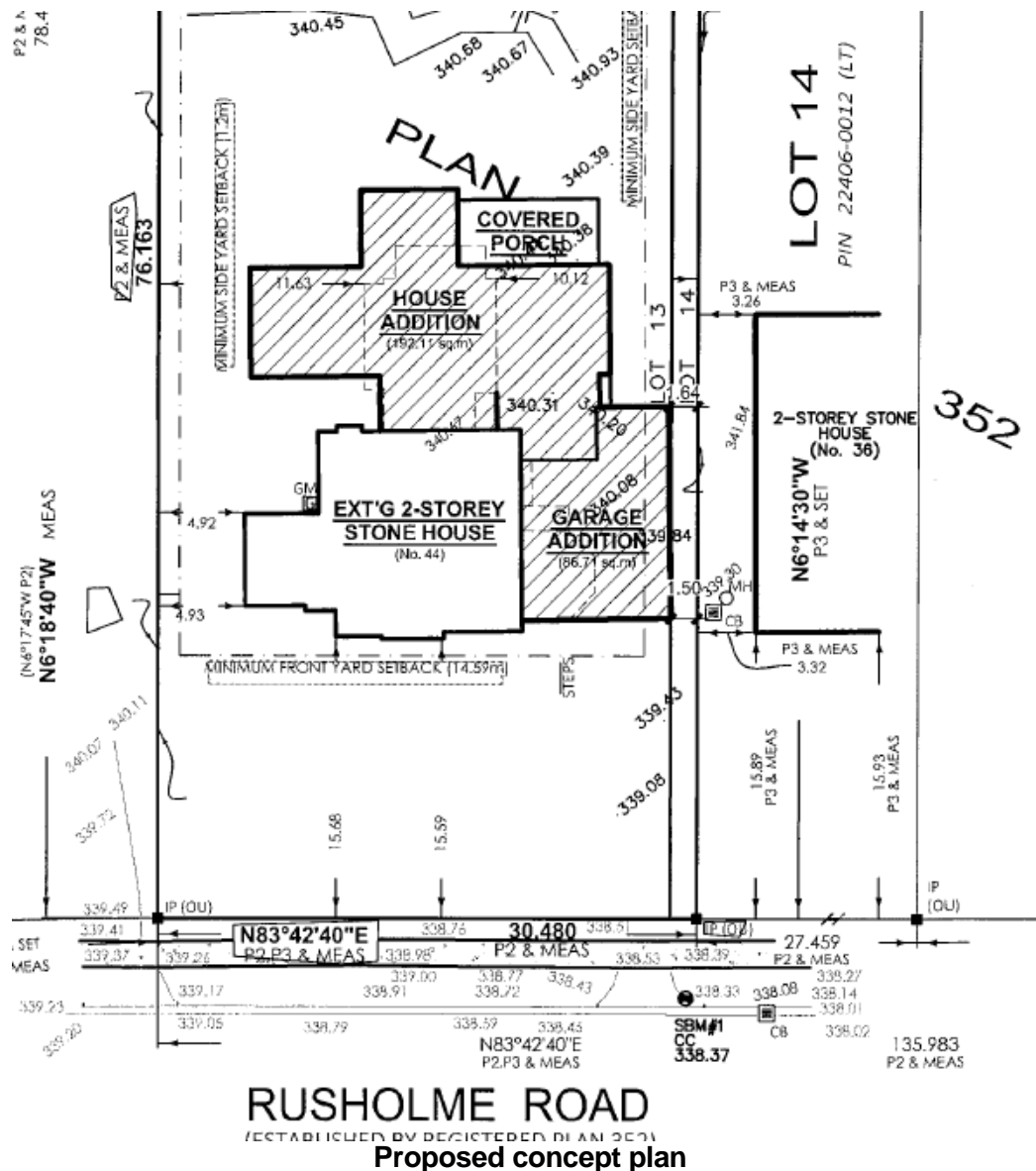
Front view and side view of property

The subject property is located on Rusholme Road, between Westmount Road West and Dunbar Road. The current use of the building is 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 property is zoned 'Residential Two Zone (R-2)' in Zoning By-law 85-1 and zoned 'Low Rise Residential One Zone (RES-1)' in Zoning By-law 2019-051 which is currently under appeal.

The application is requesting relief from Section 7.3, Table 7-2 of Zoning By-law 2019-051, to permit and interior side yard setback of 1.5 metres rather than the minimum required 3.0 metres to facilitate the construction of a garage addition to a single detached dwelling. There is no variance required to Zoning By-law 85-1, as the minimum side yard setback required is 1.2 metres, and the applicant is requesting a setback greater than the 1.2 metres.



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. This designation places emphasis on compatibility of building form with respect to massing, scale and design in order to support the successful integration of different housing types. It also places emphasis on the relationship of housing to adjacent buildings, streets and exterior areas. The proposed use of the property conforms to the designation and it is the opinion of staff the requested variance to be able to expand the residential use meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the increased 3.0 metre side yard setback in the proposed By-law 2019-051, from the 1.2 metres approved for By-law 85-1 was to ensure there is adequate setbacks from adjacent lots

on larger property fabrics that are permitted in RES-1, as well as provide sufficient access to the rear of the property. The proposed 1.5 metres setback provides adequate separation from the adjacent property line and provides sufficient access to the rear yard. It should also be noted that had the building permit been submitted to the City at the beginning of the year, no minor variances would have been required. Staff is of the opinion that the reduction in the side yard setback meets the general intent of the Zoning By-law.

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

The variance can be considered minor as it is the opinion of staff that the side yard setback continues to accommodate the appropriate rear yard access. The setback of 1.5 metres for the side yard will not present any significant impacts to adjacent properties and the overall 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 requested variance should not impact any of the adjacent properties or the surrounding neighbourhood. The scale, massing and height of the proposed addition will not negatively impact the existing character of the subject property or surrounding neighbourhood.

Environmental Planning Comments:

Due to the treed nature of the adjacent neighboring properties, Environmental planning requires a Tree preservation and enhancement plan prior to the issuance of a building permit. 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 plans shall include required mitigation and or compensation measures. No changes to the said plan shall be granted except with the approval of the City's Supervisor, Site Plans.

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 44 Rusholme Rd is located within the Westmount East & West 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 addition to the single detached dwelling is obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

Engineering Division has no concerns.

Parks/Operations Division Comments:

Several City-owned trees may be impacted by the proposed development, particularly if an adjustment to the driveway width is anticipated. The owner should contact the above noted staff for direction.

Transportation Planning Comments:

Transportation Services have no 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 2014)
- A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020
- Regional Official Plan
- Official Plan (2014)
- Zoning By-law 2019-051