

REPORT TO: Committee of Adjustment

DATE OF MEETING: April 16, 2024

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
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WARD(S) INVOLVED: Ward 10

DATE OF REPORT: April 3, 2024

REPORT NO.: DSD-2024-162

SUBJECT: Minor Variance Application A2024-026 – 58 and 60 Ellen Street East and 115 Lancaster Street East

RECOMMENDATION:

Zoning By-law 85-1

That Minor Variance Application A2024-026 for 58 and 60 Ellen Street East and 115 Lancaster Street East requesting relief from the following Sections of Zoning By-law 85-1:

- i) Section 6.1.1.1 d) i) to permit parking spaces to be located within a front yard/side yard abutting a street and within 0 metres from a street line instead of the minimum required 3 metres;
- ii) Section 6.1.2 a) to permit a parking requirement of 2 parking spaces instead of the minimum required 15 parking spaces;
- iii) Section 42.2.6 to permit a front yard setback of 0 metres instead of the minimum required 4.5 metres;
- iv) Section 42.2.6 to permit a side yard setback abutting a street of 3 metres instead of the minimum required 4.5 metres; and
- v) Section 42.2.6 to permit a rear yard setback of 4 metres instead of the minimum required 7.5 metres;

to facilitate an addition having 5 dwelling units to the existing 6 unit multiple dwelling, for a total of 11 dwelling units, in accordance with Site Plan Application SP22/154/L/BB, BE APPROVED.

Zoning By-law 2019-051

That Minor Variance Application A2024-026 for 58 and 60 Ellen Street East and 115 Lancaster Street East requesting relief from the following Sections of Zoning By-law 2019-051:

- i) Section 4.14.8.2 to permit a Private Patio to have a minimum area of 3 square metres instead of the minimum required 11 square metres;**
- ii) Section 5.3.3 b) i) to permit parking spaces to be located within a front yard or exterior side yard and within 0 metres from a front lot line, exterior side lot line or street line instead of the minimum required 3 metres;**
- iii) Section 5.6, Table 5-5, to permit a parking requirement of 2 parking spaces instead of the minimum required 11 parking spaces;**
- iv) Section 7.3, Table 7-6, to permit a front yard setback of 0 metres instead of the minimum required 3 metres;**
- v) Section 7.3, Table 7-6, to permit an exterior side yard setback of 3.5 metres instead of the minimum required 4.5 metres; and**
- vi) Section 7.3, Table 7-6, to permit a rear yard setback of 4 metres instead of the minimum required 7.5 metres;**

to facilitate an addition having 5 dwelling units to the existing 6 unit multiple dwelling, for a total of 11 dwelling units, in accordance with Site Plan Application SP22/154/L/BB, BE APPROVED subject to the following:

This Minor Variance shall become effective only at such time as By-law 2024-066 comes into force and effect, 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 and effect as of the final date of this decision.

REPORT HIGHLIGHTS:

- The purpose of this report is to seek direction from the Committee of Adjustment regarding a number of variances required to facilitate the proposed building addition of 5 residential units to an existing 6 unit multiple dwelling.
- The key finding of this report is that due to the irregular shape of the lot and the City's requirement for a significant road widening along Lancaster Street East secured through the Site Plan Approval process, several minor variances to both Zoning By-laws 85-1 and 2019-051 are necessary.
- 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 the northwest corner of Lancaster Street and Frederick Street and Ellen Street in the Civic Centre Planning Neighbourhood (see Figure 1). The lot

configuration is 'flat-iron' shaped due to two angular street frontages. The lot currently contains a 5 unit multiple dwelling of historical significance.

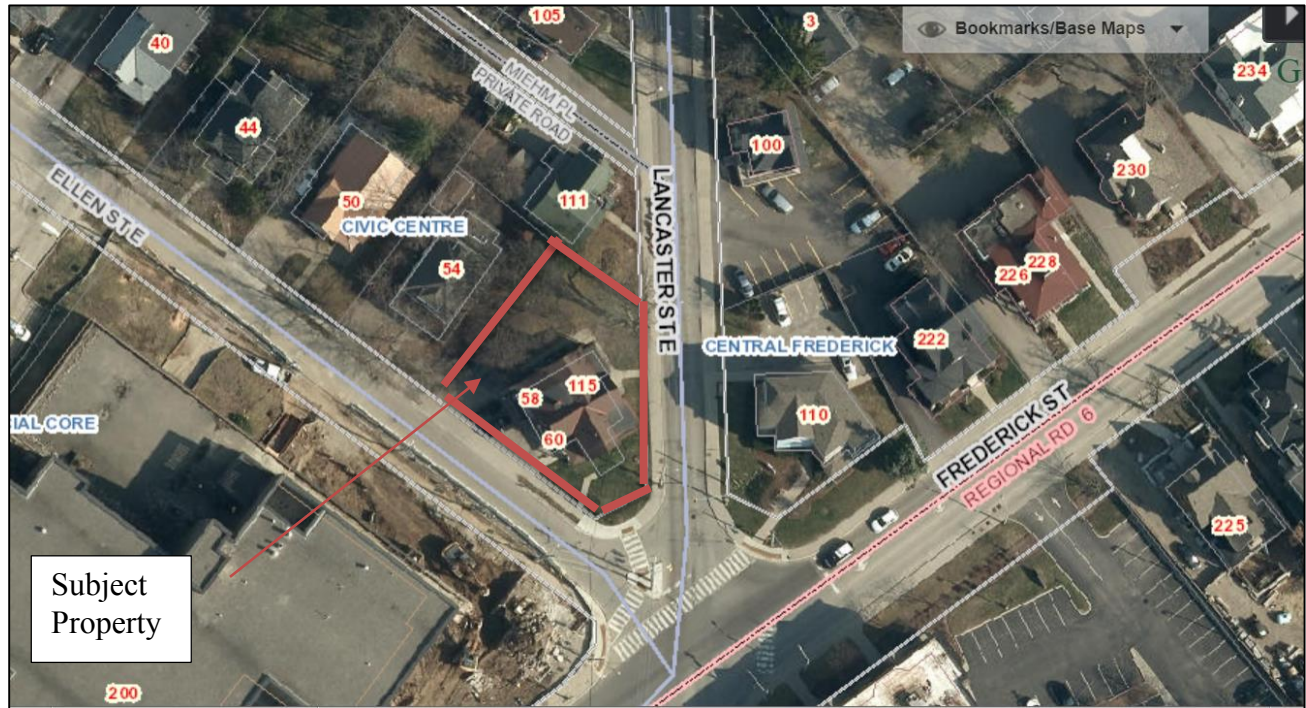


Figure 1 – Areal View of Subject Property

In terms of Planning controls, the subject site is affected by two planning documents and two zoning by-laws. The in-effect Official Plan 1994 designation is 'Medium Density Multiple Residential' in the Civic Centre Secondary Plan within a MTSA Urban Structure in the 2014 Official Plan. Planning staff have undertaken the Growing Together Project, which includes developing a new planning framework for the City's PMTSAs to bring secondary plan areas into the 2014 Official Plan. This project continues the planning review process that began in 2013 with the Planning Around Rapid Transit Stations (PARTS) plans and advanced through the Neighbourhood Planning Review (NPR) project through 2021. Under the new framework, the land use for the subject property is 'Medium Rise Residential' and within a 'Community Area' Urban Structure component as the MTSA boundary has been reduced in area to what it was shown previously shown through PARTS. Council recently recommended adoption of this new planning framework on March 18, 2024, which has since been forwarded to the Region for approval. The new 'RES-6' zoning does not come into effect until the Region approves the Official Plan Amendment, and will be effective as of March 18, 2024.

The property is zoned 'R-8' in Zoning By-law 85-1 (in-effect) and 'RES-6' in Zoning 2019-051(approved). Both Zoning By-laws permit the use of a multiple dwellings at medium densities. Therefore, until such time as the new OP policies are approved and in-effect, dual testing of the zoning will occur and hence the need to vary both Zoning by-laws.



Figure 2 – Street View Photo of Subject Property

The applicant is proposing to add a 6 unit, 3 storey building addition in the configuration shown above in Figure 3. To that end, a site plan application was submitted in 2022, and conditional approval issued in May of 2023. The proposal has also been reviewed by Heritage Kitchener in January 2023. Revisions to window proportion, shape and sizing, were suggested by Committee members. A Heritage Permit is required due its location within the Civic Centre Heritage District, and the property Owner intends to make formal application following completion of the minor variance process. A draft Heritage Impact Assessment (HIA) and Conservation Plan (CP) have been prepared and submitted to the City and Heritage Committee and will be revised to address the Heritage Planner's comments. Heritage requirements are conditions of Site Plan Approval to be cleared prior to issuance of a building permit.

To facilitate the proposal, several variances are required and are outlined in detail in the Recommendation section of the report. However, many of those variances such as front yard and interior side yard setback and parking setback are due to existing conditions, lot configuration and a significant road widening to be taken along Lancaster Street. As such, these are more technical in nature needing only to be legalized. The rear yard and parking reduction variances however are due to the proposed building addition, and these will be

assessed critically for impact and compatibility considerations within the policy and regulatory framework governing the subject lands.



Figure 3 – Proposed Site Plan (SP22/154/L/BB)

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 intent of the existing in-effect and approved Land use designations is to allow for medium density residential development to a maximum of 8 storeys and 2.0 Floor Space Ratio (FSR). This proposal is for 11 residential units in total and 3 storeys in height would therefore meet the intent in terms of use. The rear yard variance of 4.0 metres would have the test of Policy 4.19 of the Official Plan. It is the opinion of staff the addition has kept height and massing of the addition in the rear yard at a minimum to not overshadow and

impact adjacent residential properties. Most of existing perimeter trees and vegetation will be maintained and will be supplemented through additional plantings to promote privacy. Heritage design considerations have been taken into account and the original dwelling will be preserved and upgraded to celebrate the historical significance. Furthermore, a 4.0 metre setback of the addition at a height of 3 storey represents a balanced approach that maintains a positive and sensitive relationship to adjacent residential properties with what could potentially be achieved through existing as-of-right height permissions.

In terms of the parking variance, OP policy may consider adjustments to parking requirements for properties within an area or areas, where the City is satisfied that adequate alternative parking facilities are available, where developments adopt transportation demand management (TDM) measures or where sufficient transit exists or is to be provided. The subject property is within walking distance of the ION, the Downtown, open space and is located on a bus route (Frederick). It is also within proximity to the Frederick Street Plaza. Moreover, the applicant is proposing secured and unsecured bike parking to further off set the need for vehicular parking. As such, staff is of the opinion the reduction in parking can be supported as TDM measures are being proposed, there is access to major transit options and is situated near commercial areas to provide for day-to-day requirements without a need for a vehicle.

The minor variance meets the general intent of the Official Plan.

General Intent of Zoning By-law 85-1 and 2019-51

Both the 'R-8' and 'RES-6' zones are both medium rise zoning that permit multiple dwellings. The technical variances for front yard setback, interior side yard setback and parking setback reflect either existing conditions or because of a road widening dedication along Lancaster Street. Staff has no concerns with legalizing those technical variances.

The rear yard setback of 4.0 metres is a result of the proposed building addition. The intent is to ensure there is adequate separation to adjacent rear yards and an adequate amenity space is being provided. The rear yard in this instance acts more like a side yard as it faces the side lot line of 54 Ellen Street as evident by Figure 1. This is due to the odd lotting configuration. Under this circumstance, a 4.0 metre setback provides adequate separation and shouldn't create unacceptable adverse impacts on 54 Ellen Street.

All units with access to grade are proposed to be provided with private outdoor amenity space, either at grade, or with balconies at the second floor level. The area of each amenity space varies from 3.0m² to 9.0m² depending upon the unit, however the lower limit of 3 m² applies only to one of the units at grade. These reductions are necessary due to the limitations of the property area and shape, location of existing and new structures to the property line, and efforts to keep private amenity spaces away from each other. Mitigating measures include a shared outdoor amenity space accessible to all residents, located at the south end of the property, away from the private amenities. Extensive landscaping is proposed adjacent and surrounding the shared amenity space, to mitigate its location near the Frederick and Lancaster intersection. For more active and passive space, there is a park and a school nearby.

The minor variances maintain the general intent of the Zoning By-laws.

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

The subject property has an oddly shaped lot which provides design challenges, but the addition is only 3 storeys in height designed to minimize massing and height impacts, is located within the rear yard of the property, and ensures a proper building relationship is maintained to adjacent properties given existing permissions allow up to 8 storeys. The proposal represents modest intensification to increase the housing stock in an area of the city where intensification is wanted and needed to support the ION and to increase the number of units.

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

In the opinion of staff, they are desirable and appropriate for the use of land. The site is located immediately adjacent to a MTSA on an Arterial roadway where intensification with no parking is encouraged to take advantage of higher order public transportation options and to promote alternative modes of transportation such as biking and walking.

Environmental Planning Comments:

No natural heritage concerns, Tree Management will be addressed through the Site Plan Application process.

Heritage Planning Comments:

The property municipally addressed as 58-60 Ellen Street East and 115 Lancaster Street East is located within the Civic Centre Neighborhood Heritage Conservation District and is designated under Part V of the Ontario Heritage Act. A site plan application for the proposed development at the subject property has been given condition approval subject to fulfilling a number of heritage conditions before final approval is granted. Staff have no concerns or issues with the minor variances, however a Heritage Permit will be required in the future and must be approved prior to any grading, demolition or construction on site for the proposed development.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the addition to the residential buildings 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:

The property is subject to site plan application SP22/154/L/BB and Parkland Dedication is required as a condition of final site plan approval; these fees are outstanding.

Transportation Planning Comments:

In November 2022 a Site Plan Review Committee meeting was held and a Traffic Brief was submitted (March 17, 2022) by Paradigm Transportation Solutions Limited as part of the site plan application process. Transportation Services reviewed that Traffic Brief at that time and supported the proposed parking supply.

Region:

No concerns.

GRCA:

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 and 2019-051*
- *DSD-2024-005 and DSD-2024-128*