



Committee of Adjustment

Committee Minutes

**November 15, 2022, 10:00 a.m.
Electronic Meeting**

Present: D. Cybalski, Chair
M. Kidd, Member
S. Hannah, Member
B. McColl, Member
J. Meader, Member

Staff: T. Malone-Wright, Supervisor, Development Applications
S. Ryder, Transportation Services
M. Mills, Committee Administrator
A. Fox, Administrative Clerk

1. COMMENCEMENT

2. MINUTES

That the regular minutes of the Committee of Adjustment meeting held October 18th, 2022, as circulated to the members, be accepted.

3. UNFINISHED BUSINESS

3.1 A 2022-069 – 92 River Road East, DSD-2022-293

Submission No.: A 2022-069

Applicants: Urbe Developments Inc.

Property Location: 92 River Road East

Legal Description: Part Lot 42, Plan 764

Appearances:

In Support:

D. Galbraith

Contra:

R. Heimpel

Written Submissions:

R. Heimpel

The Committee was advised the applicant requested a minor variance to the Zoning By-law to demolish the existing single detached dwelling to construct a 5-storey apartment building containing 14 units having a northerly yard setback of 3.5m rather than the required 6m; an easterly side yard setback of 1.5m rather than the required 6m; a lot width of 19.6m rather than the minimum required 30m; an off-street parking ratio of 1.14 parking spaces/unit (16 spaces total) rather than the required 1.75 spaces/unit (25 spaces total); and, a Floor Space Ratio (FSR) of 2.1 instead of the maximum permitted 2.0.

The Committee considered Development Services Department report DSD-2022-293, dated June 10, 2022, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated May 30, 2022, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated June 3, 2022, advising they have no concerns with the subject application.

R. Heimpel was in attendance in opposition of the application, noting he resides at the property adjacent to the proposed development. R. Hemipel expressed concerns with the proposed construction phase and the need to potentially relocate during that time. R. Hemipel expressed further concerns with the impacts of the proposed development and adverse impacts on his property evaluation.

D. Galbraith addressed the Committee in support of the requested deferral, noting the applicant wishes to have additional time to consult with the neighbouring property owners related to the development. It was suggested and agreed that the application be deferred to the February 21, 2023 Committee of Adjustment meeting.

Moved by S. Hannah

Seconded by J. Meader

That the application of URBE DEVELOPMENTS INC requesting a minor variance to the Zoning By-law to demolish the existing single detached dwelling to construct a 5-storey apartment building containing 14 units having a northerly yard setback of 3.5m rather than the required 6m; an easterly side yard setback of 1.5m rather than the required 6m; a lot width of 19.6m rather than the minimum required 30m; an off-street parking ratio of 1.14 parking spaces/unit (16 spaces total) rather than the required 1.75 spaces/unit (25 spaces total); and, a Floor Space Ratio (FSR) of 2.1 instead of the maximum permitted 2.0, in accordance with Site Plan Application SP22/040/R/TS, on Part Lot 42, Plan 764, 92 River Road East, Kitchener, Ontario, **BE DEFERRED until February 21, 2023** to allow the applicant the opportunity to conduct for further discussions with the party in opposition regarding the sale of property required for the proposed development.

Carried

4. APPLICATIONS FOR MINOR VARIANCE AND / OR CONSENT PURSUANT TO THE PLANNING ACT

4.1 A 2022-129 - 103 Peter Street, DSD-2022-471

Submission No.: A 2022-129

Applicants: Haifaa Khodour

Property Location: 103 Peter Street

Legal Description: Subdivision Lot 17, Lot 274, German Company Tract

Appearances:

In Support:

A. Kouen Khaddour

Contra:

None.

Written Submissions:

P. Denau

A. Denau

The Committee was advised the applicant requested a minor variance to the Zoning By-law to permit a minimum westerly interior side yard setback of 0.8m rather than the minimum required 1.2m, to facilitate the construction of a second storey addition onto the existing dwelling.

The Committee considered Development Services Department report DSD-2022-471, dated November 4, 2022, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 31, 2022, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated October 28, 2022, advising they have no concerns with the subject application.

A. Kouen Khaddour was in attendance in support of the staff recommendation.

J. Meader indicated support of the application. J. Meader commented the flat roof may be characteristically unique within the neighborhood however, the design likely improves usability of the floor space and brings housing to market.

In response to inquiries from the Committee, T. Malone-Wright noted a building permit was issued on the premise that there was a 1.2m setback however during the building permit review process, the 0.8m setback was identified thus the requirement for a minor variance application.

Moved by B. McColl

Seconded by J. Meader

That the application of HAIFAA KHADOUR requesting a minor variance to the Zoning By-law to permit a minimum westerly interior side yard setback of 0.8m rather than the minimum required 1.2m, to legalize a second storey addition and attic on the existing dwelling, generally in accordance with drawings prepared by Nuovo Engineering Services, dated July 15, 2022, on Subdivision Lot 17, Lot 274, German Company Tract, 103 Peter Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variance requested in this application is minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making

process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca.

Carried

4.2 A 2022-130 - 252 Mountain Laurel Crescent, DSD-2022-469

Submission No.: A 2022-130

Applicants: Ilmiye Mustafovski

Property Location: 252 Mountain Laurel Crescent

Legal Description: Part Block 9, Registered Plan 58M-258, being Part 86 on Reference Plan 58R-13866

Appearances:

In Support:

M. Mustafovski

Contra:

None.

Written Submissions:

S. Soehner

The Committee was advised the applicant requested a minor variance to Zoning By-law 85-1 to permit a driveway with a maximum width of 6.5m rather than the maximum permitted 5.2m; and, a variance from Zoning By-law 2019-051 to permit a driveway with a maximum width of 6.5m rather than the maximum permitted 4.5m (50% of the lot width), to facilitate the widening of an existing driveway.

The Committee considered Development Services Department report DSD-2022-469, dated November 4, 2022, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 31, 2022, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated October 28, 2022, advising they have no concerns with the subject application.

M. Mustafovski was in attendance in support of the staff recommendation.

In response to questions from the Committee, T. Malone-Wright noted the applicant initially applied for a curb cut permit however as walkways were not included as part of the driveway, a minor variance is required.

The Committee discussed concerns outlined in a written submission regarding the direction of downspouts on the subject property causing erosion onto a neighbor's property. The Committee advised the applicant contact the neighbour and the City Engineering Department to agree on an alternative location of downspouts to address water run-off.

Moved by B. McColl

Seconded by S. Hannah

That the application of ILMIYE MUSTAFOVSKI requesting a minor variance to Zoning By-law 85-1 to permit a driveway with a maximum width of 6.5m rather than the maximum permitted 5.2m; and, a variance to Zoning By-law 2019-051 to permit a driveway with a maximum width of 6.5m rather than the maximum permitted 4.5m (50% of the lot width), to facilitate the widening of an existing driveway, on Part Block 9, Registered Plan 58M-258, being Part 86 on Reference Plan 58R-13866, 252 Mountain Laurel Crescent, Kitchener, Ontario, **BE APPROVED.**

The minor variance(s), to the Zoning By-law 2019-051 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.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca

4.3 A 2022-131 - 1388 Highland Road West, DSD-2022-468

Submission No.: A 2022-131

Applicants: Region of Waterloo

Property Location: 1388 Highland Road West

Legal Description: Part Lot 38, German Company Tract

Appearances:

In Support:

O. Kemel

S. Millar

E. Bayley

Contra:

None.

Written Submissions:

O. Kemel

The Committee was advised the applicant requested a minor variance to to Zoning By-law 85-1 to permit 0.68 parking spaces per dwelling unit, inclusive of visitor parking, rather than the minimum required 1.5 parking spaces per dwelling unit with a minimum of 20% of the required parking allocated for visitor parking; and, a variance to Zoning By-law 2019-051 to permit 0.68 parking spaces per dwelling unit, inclusive of visitor parking, rather than the minimum required 1 parking space per dwelling unit with 0.1 parking spaces per dwelling unit allocated for visitor parking, to facilitate the construction of a multiple residential building.

The Committee considered Development Services Department report DSD-2022-468, dated November 4, 2022, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 31, 2022, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated October 28, 2022, advising they have no concerns with the subject application.

O. Kemel, S. Millar and E. Bayley were in attendance in support of the staff recommendation.

In response to questions from the Committee, O. Kemel noted, in order for 40% of the units in the proposed development to be affordable housing, the requested parking variance is required, as such, a site plan was not submitted. O. Kemel explained, a concept plan was provided and requested the Committee's decision omit reference to the specific number of units to allow the developer to make modifications through further approval processes. O. Kemel indicated any modifications to the proposed development requiring a minor variance would be brought to the Committee for approval.

It was discussed and agreed the Committee's decision omit reference to the 10-storey unit and 151 dwelling units as these specifications will be addressed in the site plan approval process.

Moved by B. McColl

Seconded by S. Hannah

That the application of REGIONAL MUNICIPALITY OF WATERLOO and REGIONAL MUNICIPALITY OF WATERLOO requesting a minor variance to Zoning By-law 85-1 to permit 0.68 parking spaces per dwelling unit, inclusive of visitor parking, rather than the minimum required 1.5 parking spaces per dwelling unit with a minimum of 20% of the required parking allocated for visitor parking; and, a variance to Zoning By-law 2019-051 to permit 0.68 parking spaces per dwelling unit, inclusive of visitor parking, rather than the minimum required 1 parking space per dwelling unit with 0.1 parking spaces per dwelling unit allocated for visitor parking, to facilitate the construction of a multiple residential building, on Part Lot 38, Germany Company Tract, 1388 Highland Road West, Kitchener, Ontario, **BE APPROVED.**

The minor variance(s), to the Zoning By-law 2019-051 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.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.

2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca.

Carried

4.4 A 2022-132 - 85 Byron Avenue, DSD-2022-474

Submission No.: A 2022-132

Applicants: Marieflor, Cora & Leodegario Ganigan

Property Location: 85 Byron Avenue

Legal Description: Lot 97, Plan 849

Appearances:

In Support:

M. Ganigan

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested a minor variance to Zoning By-law 85-1 to permit a multiple dwelling having 3-units, whereas the By-law does not permit a triplex use; to legalize 2 off-street parking spaces between the front façade and front lot line, whereas the By-law does not permit parking between the front façade and the front lot line; and, to legalize parking in tandem whereas the By-law does not permit tandem parking; and, a variance from Zoning By-law 2019-051 to legalize a westerly side yard setback of 0.9m rather than the required 1.2m for an existing side yard condition, to facilitate the conversion of an existing single detached dwelling with 1 additional dwelling unit (attached) into a single detached dwelling with 2 additional dwelling units (attached); and, to permit two of the three required parking spaces to locate on

the driveway within 6m of the front lot line, whereas only 1 parking space is permitted within 6m of the front lot line.

The Committee considered Development Services Department report DSD-2022-474, dated November 4, 2022, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 31, 2022, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated October 28, 2022, advising they have no concerns with the subject application.

M. Ganigan was in attendance in support of the staff recommendation.

In response to questions from the Committee, T-Malone Wright confirmed that under Zoning By-law 2019-051 a dwelling having 3 dwelling units is a permitted use.

Moved by B. McColl

Seconded by J. Meader

That the application of CORA GANIGAN and LEODEGARIO LANGIT GANIGAN and MARIEFLOR ASAN GANIGAN requesting a minor variance to Zoning By-law 85-1 to permit a multiple dwelling having 3-units, whereas the By-law does not permit a triplex use; and, to permit 2 parking spaces between the front façade and front lot line, whereas the By-law does not permit parking between the front façade and the front lot line; and, to permit 2 of the 3 required parking spaces to be in tandem whereas the By-law does not permit tandem parking; and, a variance to Zoning By-law 2019-051 to legalize a westerly side yard setback of 0.9m rather than the required 1.2m for an existing attached garage, to facilitate the conversion of an existing single detached dwelling with 1 additional dwelling unit (attached) into a single detached dwelling with 2 additional dwelling units (attached); and, to permit two of the three required parking spaces to be located on the driveway within 6m of the front lot line, whereas only 1 parking space is permitted within 6m of the front lot line, generally in accordance with Site Plan Application SP22/137/B/TZ, on Lot 97, Plan 849, 85 Byron Avenue, Kitchener, Ontario, **BE APPROVED.**

The minor variance(s), to the Zoning By-law 2019-051 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.

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee's decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City's website at www.kitchener.ca.

Carried

4.5 A 2022-133 - 130 Weber Street West, DSD-2022-473

Submission No.: A 2022-133

Applicants: 1361959 Ontario Inc.

Property Location: 130 Weber Street West

Legal Description: Part Lot 157 to 159, Plan 376

Appearances:

In Support:

B. Nimer

M. Generoux

J. Stannard

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested a minor variance to the Zoning By-law to permit an increase to the "Maximum Floor Area Devoted to

Retail where permitted as an Accessory Use” in the M-2 from 25% to 35% as per the illustration included in the application.

The Committee considered Development Services Department report DSD-2022-473, dated November 4, 2022, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 31, 2022, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated October 28, 2022, advising they have no concerns with the subject application.

B. Nimer, M. Generoux and J. Stannard were in attendance in support of the staff recommendation.

Moved by B. McColl

Seconded by J. Meader

That the application of 1361959 ONTARIO INC requesting a minor variance to the Zoning By-law to permit an increase to the “Maximum Floor Area Devoted to Retail where permitted as an Accessory Use” in the M-2 from 25% to 35% as per the illustration included in the application, on Part Lot 157 to 159, Plan 376, 130 Weber Street West, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances requested in this application are minor.
2. This application is desirable for the appropriate development of the property.
3. The general intent and purpose of the City of Kitchener Zoning By-Law and Official Plan is being maintained on the subject property.

Pursuant to Section 45 of the Planning Act, all oral and written submissions were considered and taken into account as part of the Committee’s decision-making process with respect to the subject application. For more information please review the meeting minutes, which are available on the City’s website at www.kitchener.ca.

Carried

4.6 B 2022-057 - 193 Louisa Street, DSD-2022-470

Submission No.: B 2022-057

Applicants: Mohammad Gohari

Property Location: 193 Louisa Street

Legal Description: Part Lot 321, Plan 376

Appearances:

In Support:

M. Gohari

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to sever a parcel of land so each half of a semi-detached dwelling can be dealt with separately. The severed land at the corner of Louisa Street and Weber Street will have a width of 13.8m, a depth of 22.6m and an area of 237 sq.m. The retained land will have a width of 7.52m, a depth of 27.94m and an area of 190 sq.m.

The Committee considered Development Services Department report DSD-2022-470, dated November 4, 2022, recommending deferral, until the subject application is updated to include a request for a Servicing Easement.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 31, 2022, advising they have no concerns with the subject application subject to conditions as outlined in the report.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated October 28, 2022, advising they have no concerns with the subject application.

M. Gohari was in attendance in support of the staff recommendation.

It was discussed and agreed the application be deferred to March 2023, or to an earlier meeting pending the applicant submits a revised application and updated reference plans to include a servicing easement to allow for a new Notice of Hearing to be published.

Moved by B. McColl

Seconded by S. Hannah

That the application of MOHAMMAD GOHARI requesting permission to sever a parcel of land so each half of a semi-detached dwelling can be dealt with separately. The severed land at the corner of Louisa Street and Weber Street will have a width of 13.8m, a depth of 22.6m and an area of 237 sq.m. The retained land will have a width of 7.52m, a depth of 27.94m and an area of 190 sq.m, on Part Lot 321, Plan 376, 193 Louisa Street, Kitchener, Ontario, **BE DEFERRED until March 21, 2023**, or to an earlier meeting pending the applicant submits a revised application and updated reference plans to include a servicing easement to allow for a new Notice of Hearing to be published.

Carried

5. ADJOURNMENT

On motion, the meeting adjourned at 10:34 a.m.

6. Livestream

[Meeting Livestream](#)

Marilyn Mills
Secretary-Treasurer
Committee of Adjustment