

REPORT TO: Committee of Adjustment

DATE OF MEETING: April 16, 2024

SUBMITTED BY: Tina Malone-Wright, Manager, Development Approvals
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PREPARED BY: Eric Schneider, Senior Planner, 519-741-2200 ext. 7843

WARD(S) INVOLVED: Ward 10

DATE OF REPORT: April 5, 2024

REPORT NO.: DSD-2024-178

SUBJECT: Minor Variance Application A2024-024 – 101 Clive Road

RECOMMENDATION:

That Minor Variance Application A2024-024 for 101 Clive Road requesting relief from Section 7.3, Table 7-6, of Zoning By-law 2019-051:

- i) To permit a Floor Space Ratio (FSR) of 0.75 instead of the maximum permitted 0.6; and
- ii) To permit a front yard setback of 6.7 metres instead of the minimum required 7.7 metres;

to facilitate a multiple residential development with 24 dwelling units, in accordance with Site Plan Application SP22/014/C/ES, BE APPROVED.

REPORT HIGHLIGHTS:

- The purpose of this report is to review a minor variance application to facilitate the construction of a multiple dwelling development containing 24 dwelling units within two (2) stacked townhome buildings.
- The key finding of this report is that the requested variances meet the 4 tests of the Planning Act.
- There are no financial implications.
- Community engagement included notice signs 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 on the South side of Clive Road between Montgomery Road and Fairmount Road. The lands currently contain a single detached dwelling.



Figure 1: Location Map

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

The purpose of the application is to facilitate the redevelopment of the lands with a multiple dwelling development consisting of 24 dwelling units in stacked townhouse built form. The applicant proposes to demolish the existing single detached dwelling.

Site Plan Application SP22/014/C/ES received 'Conditional Approval' in May 2023 for a 21 dwelling unit concept with three (3) buildings. The applicant has since revised the concept to 24 dwelling units within two (2) buildings and is now requesting relief from the Zoning By-law for this updated concept.



Figure 2: View of Existing Single Detached Dwelling (March 22, 2024).

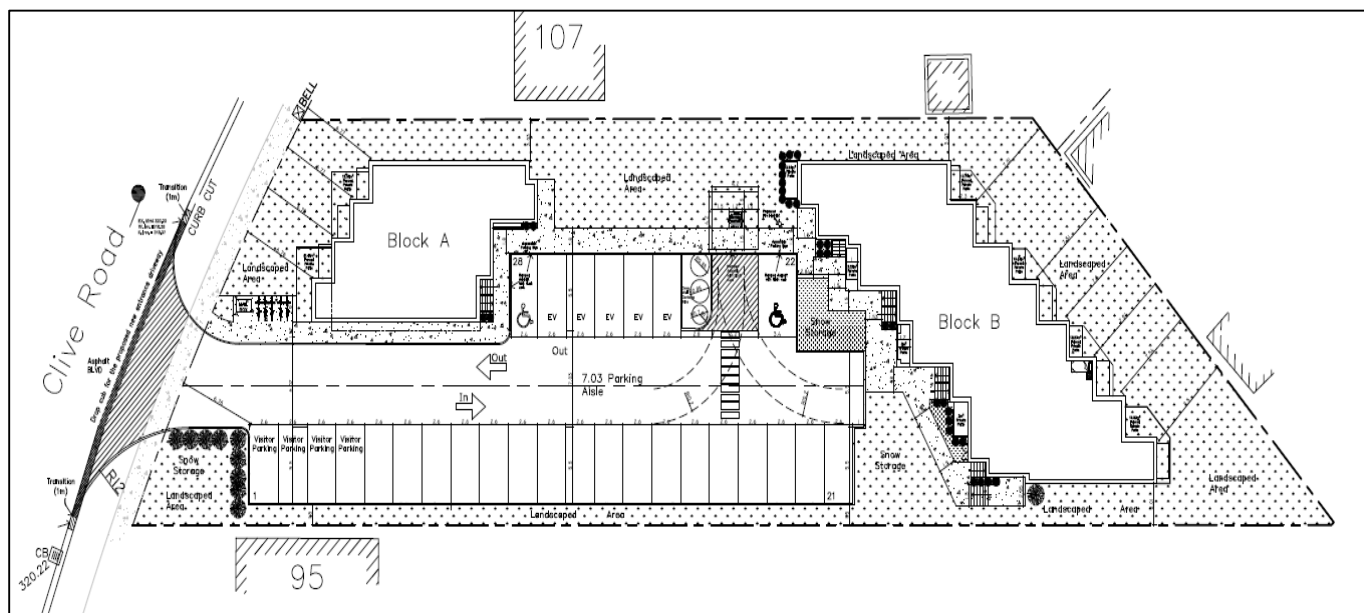


Figure 3: Site Plan Drawing.

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:

Requesting to increase the Floor Space Ratio (FSR) to 0.75

General Intent of the Official Plan

The intent of the Low Rise Residential land use designation is to accommodate a full range of low density housing types, including the proposed stacked townhouse dwellings. The Low Rise Residential designation encourages the mixing and integrating of different forms of housing to achieve and maintain a low rise built form. Official Plan policies in the Low Rise Residential land use designation allow for increases up to 0.75 in FSR where it can be demonstrated that the increase is compatible. It is important to note that compatible does not mean it must be the same land use as the adjacent properties. Compatibility is defined in the Official Plan as “mutually tolerant and capable of existing together in harmony within an area without causing adverse impacts”. Planning Staff have worked with the applicant through the site plan application process to achieve a site layout that can accomplish compatibility and can demonstrate that it can be developed in a manner that does not cause adverse impacts. Planning Staff are of the opinion that the proposed development meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The intent of the regulation for a maximum Floor Space Ratio of 0.6 for multiple dwellings is to regulate the overall massing of buildings on site and to ensure there is adequate space on-site for off-street parking, amenity areas, waste storage, snow storage, hydro transformers, community mailbox, bicycle storage, and other various site features. In regards to the massing, the proposed buildings are within the 11 metre maximum building height and are meeting the 3 metre minimum interior side yards and 7.5 metre minimum rear yard setbacks. The site plan provided demonstrates that there is adequate space on site for the aforementioned site features to be provided. Staff is of the opinion that the requested variance for an increase in Floor Space Ratio meets the general intent of the Zoning By-law.

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

The effects of the increase in Floor Space Ratio are considered minor, as the increased floor space on site can be accommodated while providing for the necessary site features as well as maintaining the required side and rear yard setbacks and maximum building height. The increased floor space is not expected to increase impacts to the surrounding neighbourhood beyond what is permitted with a 0.6 Floor Space Ratio permitted as-of-right.

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

The requested variance is considered desirable for the appropriate development of the land. The increase in floor space ratio allows for the incorporation of 3 bedroom units, while developing the site with the permitted building typology of multiple dwellings within stacked townhomes.

Requesting to decrease the front yard setback to 6.7 metres

General Intent of the Official Plan

The intent of the Low Rise Residential land use designation is to accommodate a full range of low density housing types, including the proposed stacked townhouse dwellings.

The Low Rise Residential designation encourages the mixing and integrating of different forms of housing to achieve and maintain a low rise built form. The requested decrease in front yard setback does not interfere with the Low Rise Residential land use designation. Planning Staff are of the opinion that the requested variance meets the general intent of the Official Plan.

General Intent of the Zoning By-law

The minimum front yard setback for the subject application is determined by the RIENS (Residential Intensification in Established Neighbourhoods) by-law, meaning it is determined by the average of front yard setback of the two adjacent dwellings on Clive Road. The intent of this regulation is to maintain an existing building line along the street in areas with established building lines along streets. The subject lands are located along a curve in the road, which results in an irregular shaped lot and a front yard line that is on an obtuse angle from the parallel interior side yard lines. This creates an inconsistent building line along the street and is not considered uniform or symmetrical. The proposed 6.7 metres setback will provide adequate building separation from the right of way. Therefore, Staff is of the opinion that the requested variance meets the general intent of the Zoning By-law.

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

The effects of the reduction in front yard setback can be considered minor, as the shifting of the building one metre closer to the front lot line does not interrupt an established building line and will provide adequate separation from the right of way and public realm.

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

The proposed front yard setback of 6.7 metres is appropriate for the site and proposed building layout on site and will support the City's Housing Pledge. The requested variance is considered desirable for the appropriate development of the land.

Environmental Planning Comments:

No Natural Heritage concerns. Tree management will be addressed through the site plan application.

Heritage Planning Comments:

No heritage concerns.

Building Division Comments:

The Building Division has no objections to the proposed variance provided building permit for the new residential buildings are obtained prior to construction. Please contact the Building Division at building@kitchener.ca with any questions.

Engineering Division Comments:

No Engineering concerns.

Parks/Operations Division Comments:

Advisory Comments: The property is subject to site plan application SP22/014/C/ES and Parkland Dedication is required as a condition of final site plan approval; these fees are outstanding.

Transportation Planning Comments:

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

ATTACHMENTS:

Attachment A – Site Plan SP22/014/C/ES