



Committee of Adjustment

Committee Minutes

October 17, 2023, 10:00 a.m.

Council Chambers

City of Kitchener

200 King Street W, Kitchener, ON N2G 4G7

Present: S. Hannah
D. Pateman
B. Santos
B. McColl

Staff: T. Malone-Wright, Supervisor, Development Applications
D. Seller, Transportation Services
M. Blake, Committee Administrator
A. Fox, Administrative Clerk

1. COMMENCEMENT

2. MINUTES

That the regular minutes of the Committee of Adjustment meeting held September 19, 2023, as circulated to the members, be accepted.

3. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

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

5. NEW BUSINESS

5.1 A 2023-116 - 267 Traynor Avenue, DSD-2023-450

Submission No.: A 2023-116

Applicants: Traynor Street Properties Inc.

Property Location: 267 Traynor Avenue

Legal Description: Part Lot 1219, Plan 123

Appearances:

In Support:

K. Bekendam

Contra:

M. Jagorin

M. Walker

Written Submissions:

J. Tsui

K. Elder

H. Kristo

B. Hyseni

Y. de Jesus

D. & I. Lockyer

M. Jagorin

The Committee was advised the applicant requested a minor variance to permit a parking rate of 1.38 spaces/per-unit (25 off-street parking spaces) rather than the required 1.75 spaces/per-unit (32 off-street parking spaces) to facilitate an additional dwelling unit within an existing 17-unit multiple dwelling for a total of 18 dwelling units on the subject property. Site Plan Application, SP/23/031/T/TZ to facilitate the creation of the additional dwelling unit has received conditional approval.

The Committee considered Development Services Department report DSD-2023-450, dated October 3, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated September 26, 2023, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

K. Bekendam was in attendance in support of the staff recommendation.

M. Jagorin and M. Walker were in attendance in opposition to the application, stating there is currently a landlord and tenant board hearing being scheduled for the subject property, and noting concerns with the potential of the development to displace existing tenants.

In response to questions from the Committee, K. Bekendam noted there are currently 25 parking spaces for 18 units, and no additional parking will be added. K. Bekendam also clarified the property's existing common space area will be converted into an additional unit, and will allow in-suite laundry to be added.

In response to questions from the Committee, T. Malone-Wright stated By-law 2019-051 requires a parking requirement of 1 parking space per dwelling unit.

The Committee noted the concern raised by the existing tenants, and noted unfortunately matters concerning the Landlord and Tenant Board are outside of the scope of this Committee.

Moved by S. Hannah

Seconded by B. Santos

That the application of TRAYNOR STREET PROPERTIES INC. requesting a minor variance to permit a parking rate of 1.38 spaces/per-unit (25 off-street parking spaces) rather than the required 1.75 spaces/per-unit (32 off-street parking spaces) to facilitate an additional dwelling unit within an existing 17-unit multiple dwelling for a total of 18 dwelling units on the subject property, in accordance with Site Plan Application SP23/031/T/TZ, on Part Lot 1219, Plan 123, 267 Traynor Avenue, 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.

5.2 A 2023-117 - 72 Underhill Crescent, DSD-2023-439

Submission No.: A 2023-117

Applicants: Nafiseh Moghimi

Property Location: 72 Underhill Crescent

Legal Description: Lot 207, Plan 1340

Appearances:

In Support:

A. Nalini

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested a minor variance to permit a required parking space to be located 2.4m from the property line rather than the required 6m to facilitate the conversion of the attached garage into living space for a new Additional Dwelling Unit (ADU) (Attached) in the existing Single Detached Dwelling.

The Committee considered Development Services Department report DSD-2023-439, dated September 28 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated September 26, 2023, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

A. Nalini was in attendance in support of the staff recommendation.

Moved by B. Santos

Seconded by B. McColl

That the application of NAFISEH MOGHIMI requesting a minor variance to permit a required parking space to be located 2.4m from the property line rather than the required 6m to facilitate the conversion of the attached garage into living space for a new Additional Dwelling Unit (ADU) (Attached) in the existing Single Detached Dwelling, on Lot 206, Plan 1340, 72 Underhill Crescent, 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

5.3 A 2023-118 - 35 Fifth Avenue, DSD-2023-442

Submission No.: A 2023-118

Applicants: Jankadar Abbas & Roda Atallah

Property Location: 35 Fifth Avenue

Legal Description: Part Block G, Plan 254

Appearances:

In Support:

A. Hamid

Contra:

None.

Written Submissions:

J. Abbas

D. Abbas

A. Abbas

The Committee was advised the applicant requested a minor variance to permit a lot width of 12.2m instead of the minimum required lot width of 13.1m to facilitate the construction of a single detached dwelling with two (2) Additional Dwelling Units (ADUs)(Attached)(Triplex).

The Committee considered Development Services Department report DSD-2023-442, dated October 10, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated September 26, 2023, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

A. Hamid was in attendance in support of the staff recommendation.

In response to questions from the Committee regarding parking, T. Malone noted the Committee considered a minor variance (Application A 2023-078) for the subject property in July of this year, which was approved to permit a variance for an increased driveway and garage width.

Moved by S. Hannah

Seconded by B. McColl

That the application of JANKADAR ABBAS and RODA ATALLAH requesting a minor variance to permit a lot width of 12.2m instead of the minimum required lot width of 13.1m to facilitate the construction of a single detached dwelling with two (2) Additional Dwelling Units (ADUs) (Attached) (Triplex), generally in accordance with drawings prepared by AH+ Architects, dated September 13, 2023, on Part Block G, Plan 254, 35 Fifth Avenue, 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

5.4 A 2023-119 - 196 Forest Hill Drive, DSD-2023-440

Submission No.: A 2023-119

Applicants: Danielle Lorimer

Property Location: 196 Forest Hill Drive

Legal Description: Lot 5, Plan 883

Appearances:

In Support:

J. Bauman

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested a minor variance to permit a required parking space to be located 3.5m from the property line rather than the required 6m to facilitate the conversion of the attached garage into living space for the existing single detached dwelling.

The Committee considered Development Services Department report DSD-2023-440, dated September 28, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated September 26, 2023, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

J. Bauman was in attendance in support of the staff recommendation.

At the request of staff, the Committee, agreed to amend the staff recommendation requesting a minor variance to permit a required parking space to be located 3.5m from the property line rather than the required 6m, "to facilitate the conversion of the attached garage into living space for the existing single detached dwelling."

Moved by B. McColl

Seconded by B. Santos

That the application of DANIELLE LORIMER requesting a minor variance to permit a required parking space to be located 3.5m from the property line rather than the required 6m to facilitate the conversion of the attached garage into living space for the existing single detached dwelling, generally in accordance with drawings prepared by County Lane Builders, dated September 6, 2023, on Lot 5, Plan 883, 196 Forest Hill Drive, 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

5.5 A 2023-121 - 15 Cedar Street North, DSD-2023-451

Submission No.: A 2023-121

Applicants: Nimbell Holdings Inc.

Property Location: 15 Cedar Street North

Legal Description: Part Lot 15, Plan 364

Appearances:

In Support:

S. Litt

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested minor variances to allow a 10-unit multiple dwelling to be constructed on a lot having a width of 12.4 meters rather than the required 15m, a minimum yard setback abutting a residentially zoned property of 1.5m rather than the instead of the minimum required 7.5m, a minimum front yard setback of 1.1m rather than the required 1.5m and to permit 0 parking spaces rather than the required 10 parking spaces.

The Committee considered Development Services Department report DSD-2023-451, dated October 4, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated September 26, 2023, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

S. Litt was in attendance in support of the staff recommendation.

In response to questions from the Committee, S. Litt confirmed the application requests permission to permit 10 residential units with 0 parking spaces due to the property being located in a Major Transit Station Area (MTSA).

In response to questions from the Committee, T. Malone-Wright noted the reduction to 0 parking spaces per unit is permitted with an MTSA area as it is the future direction for lands within the MTSA areas to require minimal to no parking spaces.

Moved by B. Santos

Seconded by B. McColl

That the application of NIMBELL HOLDINGS INC requesting a minor variance to allow a 10-unit multiple dwelling to be constructed on a lot having a width of 12.4 meters rather than the required 15m, a minimum yard setback abutting a residentially zoned property of 1.5m rather than the instead of the minimum required 7.5m, a minimum front yard setback of 1.1m rather than the required

1.5m and to permit 0 parking spaces rather than the required 10 parking spaces, in accordance with drawings prepared by Chris Fernandes Design Corp., dated April 28, 2023, on Part Lot 15, Plan 364, 15 Cedar Street North, 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

5.6 A 2023-122 - 186 Lyndhurst Drive, DSD-2023-441

Submission No.: A 2032-122

Applicants: Paul Burns, Cathy Burns, Joshua Burns & Isabel Hermoza

Property Location: 186 Lyndhurst Drive

Legal Description: Lot 31, Plan 884

Appearances:

In Support:

C. Burns

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested minor variances to allow an unobstructed walkway that has a width of 1.06m rather than the required of 1.1m; to permit the principal dwelling and the driveway to be located 1.06m from the northerly side lot line rather than required 1.2m, to facilitate the construction, of

an Additional Dwelling Unit (ADU) (Detached) in the rear yard an existing Single Detached Dwelling.

The Committee considered Development Services Department report DSD-2023-441, dated October 3, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated September 26, 2023, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

C. Burns was in attendance in support of the staff recommendation.

In response to questions from the Committee, C. Burns noted an engineer has not been hired at this point in time to prepare servicing drawings for the Additional Dwelling Unit (ADU).

In response to questions from the Committee regarding whether Additional Dwelling Units (ADU) must be independently serviced, T. Malone-Wright noted the City permits one service connection per lot, and stated the service connection is required to be directed from the main lot.

Moved by B. McColl

Seconded by S. Hannah

That the application of CATHERINE ANN BURNS and ISABEL HERMOZA and JOSHUA RYAN BURNS and PAUL CHARLES BURNS requesting a minor variance to allow an unobstructed walkway that has a width of 1.06m rather than the required of 1.1m; to permit the principal dwelling and the driveway to be located 1.06m from the northerly side lot line rather than required 1.2m, to facilitate the construction, of an Additional Dwelling Unit (ADU) (Detached) in the rear yard an existing Single Detached Dwelling, generally in accordance with drawings prepared by Paul Burns, dated September 2023, on Lot 31, Plan 884, 186 Lyndhurst Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following condition:

1. That the property owner shall modify the existing driveway to provide a driveway and a distinguishable unobstructed walkway to the proposed Additional Dwelling Unit (ADU) (Detached) in accordance with the Regulations of Zoning By-law 2019-051 by September 30, 2024. Any

request for a time extension must be approved in writing by the Manager of Development Review prior to completion date set out in this decision. Failure to complete the condition will result in this approval becoming null and void.

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

5.7 A 2023-123 - 230 Frederick Street, DSD-2023-448

Submission No.: A 2023-123

Applicants: Dan Forsey

Property Location: 230 Frederick Street

Legal Description: Part Lot 2, Block A, Plan 425

Appearances:

In Support:

M. Muller

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested minor variances to permit a front yard setback of 1.9m rather than the required 3m; having a northerly side yard setback of 1.2m rather than the required 3m for the portion of the addition that is above 10.5m in height; to permit a minimum landscaped area of 9.5%

rather than the required 10%; and, to permit a parking lot to be located 0m from rear lot line rather than the required 1.5m, to facilitate the construction of an addition to permit the conversion of a single detached dwelling to a multiple dwelling having 4 dwelling units.

The Committee considered Development Services Department report DSD-2023-448, dated October 3, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated September 26, 2023, advising they have no concerns with the subject application.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

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

Moved by S. Hannah

Seconded by B. Santos

That the application of DANIEL SWAYZE FORSEY requesting a minor variance to permit a front yard setback of 1.9m rather than the required 3m; having a northerly side yard setback of 1.2m rather than the required 3m for the portion of the addition that is above 10.5m in height; to permit a minimum landscaped area of 9.5% rather than the required 10%; and, to permit a parking lot to be located 0m from rear lot line rather than the required 1.5m, to facilitate the construction of an addition to permit the conversion of a single detached dwelling to a multiple dwelling having 4 dwelling units, generally in accordance with drawings prepared by John MacDonald Architect, on Part Lot 2, Block A, Plan 425, 230 Frederick Street, 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

5.8 B 2023-036 - 45 Duke Street West, DSD-2023-438

Submission No.: B 2023-036

Applicants: 536357 Ontario Limited

Property Location: 45 Duke Street West

Legal Description: Part lot 7, Plan 401; Being Parts 9 & 10 on Reference Plan 58R-1391

Appearances:

In Support:

D. Aston

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to create an easement having a width of 1m, a depth of 15m and an area of 15sq.m. for access in favour of the property municipally addressed as 48 Ontario Street North for maintenance purpose.

The Committee considered Development Services Department report DSD-2023-438, dated September 27, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 2, 2023, advising they have no concerns with the subject application, subject to the conditions as outlined in the report.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

D. Aston, MHBC Planning was in attendance in support of the staff recommendation.

Moved by B. Santos

Seconded by B. McColl

That the application of 536357 ONTARIO LIMITED requesting permission to create an easement having a width of 1m, a depth of 15m and an area of 15sq.m. for access in favour of the property municipally addressed as 48 Ontario Street North for maintenance purpose, on Part Lot 7, Plan 401; Being Parts 9 & 10 on Reference Plan 58R-1391, 25 Duke Street West, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the property owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property.
3. That the property owner shall provide a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full sized paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the property owner shall ensure the Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Supervisor, Development Applications:
 - a) A clear and specific description of the purpose of the Easement(s) and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto); and
 - b) A clause/statement/wording confirming that the Easement(s) being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.
5. That the property owner's solicitor shall provide a Solicitor's Undertaking to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor be provided to the City Solicitor.

6. That the property owner shall make satisfactory financial arrangements to the Region of Waterloo for the consent application review fee of \$350.00.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 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.

Pursuant to Subsection 53 (41) of the Planning Act, the applicant shall fulfil the above-noted conditions within two years of the date of giving notice of this decision.

Pursuant to Subsection 53 (43) of the Planning Act, a consent lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent.

Carried

5.9 B 2023-037 - 38 Braun Street, DSD-2023-436

Submission No.: B 2023-037

Applicants: Burim Islami

Property Location: 38 Braun Street

Legal Description: Lot 24, Plan 413; Being Parts 1 & 4 on Reference Plan 58R-15111

Appearances:

In Support:

B. Jokanovic

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to sever a parcel of land having a width of 10m, a depth of 40m and an area of 402.6sq.m.. The retained parcel will have a width of 10m, a depth of 40m and an area of 402.6sq.m. Both parcels are intended for duplex dwellings.

The Committee considered Development Services Department report DSD-2023-436, dated September 28, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 2, 2023, advising they have no concerns with the subject application, subject to the conditions as outlined in the report.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

B. Jokanovic was in attendance in support of the staff recommendation.

In response to questions from the Committee, T. Malone-Wright noted condition 12, requiring an archaeologist assessment, was implemented as regional Staff noted the subject property possesses the potential for the recovery of archaeological resources due to the proximity of a cemetery (within 50m buffer), age of the existing dwelling, proximity to other mapped historic buildings and a known historic landform.

In response to questions regarding the current state of the site and whether construction has begun, B. Jokanovic confirmed the property is currently being used as a storage site for dirt from other construction sites owned by the property owner.

T. Malone-Wright noted in response to questions that if the property was going to be developed as a triplex, rather than a duplex, an additional variance would be required due to the parking space location and distance to property line.

In response to further questions, T. Malone-Wright stated the adjacent City-owned property did not require an archaeologist assessment.

B. Santos brought forward a motion to approve the staff recommendation, including an amendment to remove condition 12, as outlined in Development Services Department report, DSD-2023-436.

The Committee noted the requirement of an archaeological assessment is a taxing and onerous process for the applicant. As such, the Committee agreed to amend the staff recommendation to remove condition 12 as outlined in Development Services Department report, DSD-2023-436.

Moved by B. Santos

Seconded by S. Hannah

That the application of BURIM ISLAMI requesting permission to sever a parcel of land having a width of 10m, a depth of 40m and an area of 402.6sq.m., on Lot 24, Plan 413; Being Parts 1 & 4 on Reference Plan 58R-15111, 38 Braun Street, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the property owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property.
3. That the property owner shall provide a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full sized paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the property owner shall provide a servicing plan showing outlets to the municipal servicing system to the satisfaction of the Director of Engineering Services.
5. That the property owner shall submit a Development Asset Drawing (digital AutoCAD) for the site (servicing, SWM etc.) with corresponding layer names and asset information to the satisfaction of the City's Director of Engineering Services, prior to deed endorsement.
6. That the property owner shall make financial arrangements for the installation of any new service connections to the severed and/or retained lands to the satisfaction of the City's Director of Engineering Services.

7. That the property owner shall ensure any new driveways are to be built to the City of Kitchener standards at the Owner's expense prior to occupancy of the building to the satisfaction of the City's Director of Engineering Services.
8. That the property owner shall provide confirmation that the basement elevation can be drained by gravity to the street sewers to the satisfaction of the City's Director of Engineering Services. If this is not the case, then the owner will need to pump the sewage via a pump and forcemain to the property line and have a gravity sewer from the property line to the street to the satisfaction of the City's Director of Engineering Services
9. That the property owner shall implement a suitable design solution for a sump pump outlet to the satisfaction of the Director of Engineering.
10. That the property owner shall at the sole option of the City's Director of Planning, enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Director of Planning, which shall include the following:
 - a) That prior to any grading, servicing or application or issuance of a building permit, the property owner shall submit a plan, prepared by a qualified consultant, to the satisfaction and approval of the City's Supervisor, Site Plans: showing:
 - i) The proposed location of all buildings (including accessory buildings and structures), decks and driveways;
 - ii) The location of any existing buildings or structures to be removed or relocated;
 - iii) The proposed grades and drainage;
 - iv) The location of all trees to be preserved, removed or potentially impacted on or adjacent to the subject lands, including notations of their size, species and condition;
 - v) Justification for any trees to be removed; and
 - vi) Outline tree protection measures for trees to be preserved; and
 - vii) Building elevation drawings.
 - viii) If necessary, the plan shall include required mitigation and compensation measures.
 - ix) That the approved elevation drawings shall be implemented as approved or be substantively similar to the approved elevations as part of issuance of any building permit(s).

b) Any alteration or improvement to the lands including grading, servicing, tree removal and the application or issuance of any building permits shall be in compliance with the approved plan. Any charges or revisions to the plan required the approval of the City's Supervisor, Site Plans.

11. That the property owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$4,727.00.

12. That the property owner shall make satisfactory financial arrangements to the Region of Waterloo for the consent application review fee of \$350.00.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 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.

Pursuant to Subsection 53 (41) of the Planning Act, the applicant shall fulfil the above-noted conditions within two years of the date of giving notice of this decision.

Pursuant to Subsection 53 (43) of the Planning Act, a consent lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent.

Carried

5.10 B 2023-038 - 265 Cotton Grass Street, DSD-2023-449

Submission No.: B 2023-038

Applicants: Schlegel Urban Developments Corp.

Property Location: 265 Cotton Grass Street

Legal Description: Part Lot 6, Plan 1470, Block 1, Registered Plan 58M-307

Appearances:

In Support:

A. Vandersluis

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to sever a parcel of land having a width of 50m along Cotton Grass Street, a depth of 72m and an area of 3,477sq.m. and is proposed for a multiple dwelling. The retained parcel will have a width of 62m along Max Becker Drive, a depth of 170m and an area of 10,714sq.m. and will contain both existing and proposed commercial buildings.

The Committee considered Development Services Department report DSD-2023-449, dated October 4, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 2, 2023, advising they have no concerns with the subject application, subject to the conditions as outlined in the report.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

A. Vandersluis was in attendance in support of the staff recommendation.

Moved by S. Hannah

Seconded by B. McColl

That the application of SCHLEGEL URBAN DEVELOPMENTS CORP requesting permission to sever a parcel of land having a width of 50m along Cotton Grass Street, a depth of 72m and an area of 3,477sq.m. and is proposed for a multiple dwelling, on Part Lot 6, Plan 1470, Block 1, Registered Plan 58M-307, 265 Cotton Grass Street, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
2. That the property owner shall obtain a tax certificate from the City of Kitchener to verify there are no outstanding taxes on the subject property.
3. That the property owner shall provide a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full sized paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
4. That the property owner shall make satisfactory financial arrangements to the Region of Waterloo for the consent application review fee of \$350.00.
5. That the property owner shall submit a valid Notice of Source Protection Plan Compliance (Section 59 Notice) as per the Clean Water Act, 2006.
6. That the property owner enters into a registered agreement with the City of Kitchener for the severed parcel to implement the recommendations of the accepted noise study, Noise Feasibility Study, Proposed Residential Development, 265 Cotton Grass Street, Kitchener, Ontario (Prepared by HGC, May 1, 2023), and Addendum (Prepared by HGC, May 1, 2023), specifically that:
 - a) That the property owner shall ensure all dwelling units on the severed parcel be constructed with an air-ducted heating system suitably sized and designed to provide for the future installation of a central air conditioning system at the property owner's discretion.
 - b) That the property owner agrees to include the following warning clause in all offers to purchase and/or rental agreements:
 - i) "Purchasers/tenants are advised that sound levels due to increasing road traffic may on occasion interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks."
 - ii) "This dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are

within the sound level limits of the Region of Waterloo and the Ministry of the Environment, Conservation and Parks.”

iii) “Purchasers/tenants are advised that due to the proximity of this development to nearby commercial/retail facilities, sound levels from the facilities may at times be audible.”

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 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.

Pursuant to Subsection 53 (41) of the Planning Act, the applicant shall fulfil the above-noted conditions within two years of the date of giving notice of this decision.

Pursuant to Subsection 53 (43) of the Planning Act, a consent lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent.

Carried

5.11 B 2023-039, B2023-040 & A2023-124 – 75 Otterbein Road, DSD-2023-455

Submission No.: B 2023-039 to 040 & A 2023-124

Applicants: Kolb Creek Land Corp.

Property Location: 75 Otterbein Road

Legal Description: Block 1, Registered Plan 58M-654

Appearances:

In Support:

D. Aston

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to sever a parcel of land along Otterbein Road for a proposed townhouse development containing 57 dwelling units. The severed land will have a width of 113m and a lot area of 6,709 sq.m. Permission is also being requested to grant an easement having a width of 7.3m, a depth of 72.5m, and an area of 550 sq.m. in favour of the retained land for access purpose. The retained lands will have a width on Otterbein Road of 71.4m and an area of 8,550 sq.m. and is proposed for the development of 2 multiple dwellings containing 96 dwelling units. Permission is also requested grant an easement as shown on the plan with the application over the retained land having a maximum width of 7.3m, a depth of 107.3m and an area of 760 sq.m. in favour of the severed land for the purpose of access. A minor variance is also requested for the retained land to permit a reduced rear yard setback of 6m rather than the required 7.5m for proposed Building B as identified on the plan submitted with the application.

The Committee considered Development Services Department report DSD-2023-455, dated October 4, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated September 26, 2023 and October 2, 2023, advising they have no concerns with the subject application, subject to the conditions as outlined in the report.

The Committee considered the report of the Grand River Conservation Authority Resource Planning Technician dated September 29, 2023, advising they have no concerns with the subject application.

D. Aston, MHBC Planning was in attendance in support of the staff recommendation.

Staff proposed an amendment to remove conditions 6 and 7 with regards to B2023-040, as outlined in Development Services Department report, DSD-2023-455, as they are no longer required.

D. Aston noted concerns with conditions 8 and 9 with regards to B2023-040, as outlined in Development Services Department report, DSD-2023-455 due to concerns with the necessity of road traffic and stationary noise study and requirement of a site plan for proposed changes.

S. Hannah brought forward the staff recommendation.

S. Hannah proposed an amendment to condition 9, as outlined in the Development Services Department report, DSD-2023-455, to include, "That the property owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Supervisor, Site Plans, and registered on title to the retained lands, which shall include the following:"

The Committee discussed and agreed to remove conditions 6 and 7, as outlined in report DSD-2023-307, and as requested by staff.

S. Hannah's amendment to the wording outlined in condition 9, was then voted and **Carried**.

B 2023-039

Moved by S. Hannah

Seconded by B. Santos

That the application of KOLB CREEK LAND CORP requesting permission to grant an easement as shown on the plan with the application over the retained land having a maximum width of 7.3m, a depth of 107.3m and an area of 760 sq.m. in favour of the severed land for the purpose of access, on Block 1, Registered Plan 58M-654, 75 Otterbein Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner shall receive final approval of Minor Variance Application A 2023-124.
2. That the property owner's solicitor shall provide a Solicitor's Undertaking to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor be provided to the City Solicitor.
3. That the property owner shall ensure the Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Supervisor, Development Applications:

a) A clear and specific description of the purpose of the Easement(s) and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto); and

b) A clause/statement/wording confirming that the Easement(s) being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.

4. That the property owner shall make satisfactory financial arrangements to the Region of Waterloo for the consent application review fee of \$350.00.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 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.

Pursuant to Subsection 53 (41) of the Planning Act, the applicant shall fulfil the above-noted conditions within two years of the date of giving notice of this decision.

Pursuant to Subsection 53 (43) of the Planning Act, a consent lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent.

Carried

B 2023-040

Moved by S. Hannah

Seconded by B. Santos

That the application of KOLB CREEK LAND CORP requesting permission to sever a parcel of land along Otterbein Road having a width of 113m and a lot area of 6,709 sq.m., on Block 1, Registered Plan 58M-654, 75 Otterbein Road, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner shall receive final approval of Minor Variance Application A 2023-124.
2. That the property owner's solicitor shall provide a Solicitor's Undertaking to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor be provided to the City Solicitor.
3. That the property owner shall ensure the Transfer Easement document(s) required to create the Easement(s) being approved herein shall include the following, and shall be approved by the City Solicitor in consultation with the City's Supervisor, Development Applications:
 - a) A clear and specific description of the purpose of the Easement(s) and of the rights and privileges being granted therein (including detailed terms and/or conditions of any required maintenance, liability and/or cost sharing provisions related thereto); and
 - b) A clause/statement/wording confirming that the Easement(s) being granted shall be maintained and registered on title in perpetuity and shall not be amended, released or otherwise dealt with without the express written consent of the City.
4. That the property owner's solicitor shall provide draft transfer documents and associated fees for the Certificate of Official to the satisfaction of the Secretary-Treasurer and City Solicitor, if required.
5. That the property owner shall provide a digital file of the deposited reference plan(s) prepared by an Ontario Land Surveyor in PDF and either .dwg (AutoCad) or .dgn (Microstation) format, as well as two full sized paper copies of the plan(s). The digital file needs to be submitted according to the City of Kitchener's Digital Submission Standards to the satisfaction of the City's Mapping Technologist.
6. That the property owner shall enter into an agreement with the Regional Municipality of Waterloo to agree to complete a Road Traffic and Stationary

Noise Study for the severed and retained lands prior to the issuance of any building permits, and if required enter into a new or updated agreement with the Regional Municipality and/or the City of Kitchener to secure implementation of the noise study recommendations, to the satisfaction of the Region of Waterloo, prior to the issuance of any buildings permits.

7. That the property owner shall enter into an agreement with the City of Kitchener, to be prepared by the City Solicitor, to the satisfaction of the City Solicitor and the City's Supervisor, Site Plans, and registered on title to the retained lands, which shall include the following:

a) That prior to initiation of any site development works, grading or issuance of a building permit the property owner agrees to submit and receive approval of a Site Plan to the satisfaction of the City's Supervisor, Site Plans, which reflects, at minimum, the proposed changes to the lot size and any associated changes to the operation and/or functioning of the site.

Should a Site Plan Application be approved, to the satisfaction of the City's Supervisor, Site Plans, in accordance with the condition above prior to endorsement of the deed, the above noted condition not be required to be registered on title.

It is the opinion of this Committee that:

1. A plan of subdivision is not necessary for the proper and orderly development of the municipality.
2. The requirements of the Zoning By-law are being maintained on the severed lands and the retained lands.
3. The use of the land in the application conforms to the City of Kitchener Municipal Plan and the Regional Official Policies Plan.

Pursuant to Section 53 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.

Pursuant to Subsection 53 (41) of the Planning Act, the applicant shall fulfil the above-noted conditions within two years of the date of giving notice of this decision.

Pursuant to Subsection 53 (43) of the Planning Act, a consent lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent.

Carried

A 2023-124

Moved by S. Hannah

Seconded by B. Santos

That the application of KOLB CREEK LAND CORP requesting a minor variance to permit a reduced rear yard setback of 6m rather than the required 7.5m for proposed Building B as identified on the plan submitted with the application, generally in accordance with drawings prepared by MHBC Planning, dated April 26, 2023, on Block 1, Registered Plan 58M-654, 75 Otterbein Road, 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

6. ADJOURNMENT

On motion, this meeting adjourned at approximately 11:17 a.m.

Mariah Blake
Secretary-Treasurer
Committee of Adjustment