



Committee of Adjustment

Committee Minutes

January 16, 2024, 10:00 a.m.

Council Chambers

City of Kitchener

200 King Street W, Kitchener, ON N2G 4G7

Present: D. Pateman, Chair
S. Hannah, Member
B. Santos, Member
B. McColl, Member
M. Gambetti, Member

Staff: T. Malone-Wright, Supervisor, Development Applications
S. Ryder, Transportation Services
M. Blake, Committee Coordinator
Connie Owen, Administrative Clerk

1. COMMENCEMENT

The Committee of Adjustment met this date commencing at 10:00 a.m.

2. MINUTES

That the regular minutes of the Committee of Adjustment meeting held on December 12, 2023, as circulated to the members, be accepted.

3. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

B. McColl - B 2023-042 & A 2023-135-136 - 52 Edgehill Drive, DSD-2023-498

B. McColl declared a conflict with regards to B 2023-042 & A 2023-135-136 - 52 Edgehill Drive, DSD-2023-498, due to owning property in close proximity to the subject property. B. McColl did not participate in any voting or discussion regarding the matter.

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

5. UNFINISHED BUSINESS

5.1 B 2023-042, A 2023-135 & A 2023-136 - 52 Edgehill Drive, DSD-2024-032

Submission No.: B 2023-042 & A 2023-135 to 136

Applicants: James & Beverley Mellish

Property Location: 52 Edgehill Drive

Legal Description: Part Lot 1, Plan 689

Appearances:

In Support:

J. & B. Mellish

Contra:

None.

Written Submissions:

None.

B. McColl declared a conflict on this item. (B. McColl declared a pecuniary interest with respect to B 2023-042 & A 2023-135 to 136 - 52 Edgehill Drive, DSD-2023-498, due to owning property in close proximity to the subject property. B. McColl did not participate in any voting or discussion regarding the matter.)

The Committee was advised the applicant requested permission to sever a parcel of land at the rear of the existing dwelling, having a width of 32m, a depth of 45m, and an area of 1253.6sq.m. The retained land will have a width of 52m, a depth of 45m, and an area of 1741sq.m. Minor Variances are also being requested to permit a driveway width of 16.5m for an existing driveway rather than maximum width of 8m, and to permit reduced lot areas for both the proposed severed and retained lands of 1,253sq.m. and 1,741sq.m., rather than the minimum required 2,023sq.m. The retained parcel will maintain the existing dwelling, while the severed parcel is intended for a residential dwelling.

The Committee considered Development Services Department report DSD-2023-498, dated January 16, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated December 20, 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 November 1, 2023, advising they have no concerns with the subject application.

T. Malone-Wright noted the subject application was initially heard at the November 21, 2023 Committee of Adjustment Meeting, and was deferred to allow additional time to receive further information from the Region of Waterloo.

J. & B. Mellish were in attendance in support of the staff recommendation, with the exception of the noise mitigation measures outlined in conditions 16 and 17, as outlined in the staff recommendation.

In response to questions from the Committee, J & B. Mellish confirmed they only intended to have municipal water service to the severed lot.

In response to questions from the Committee, T. Malone-Wright noted as a condition of the severance application, the severed lot will be required to connect to municipal water services. T. Malone-Wright also noted the applicant is not required to connect to municipal services for the retained parcel, as building permits were issued in 2015 prior to the Official Plan being in force and effect, which no longer permits the use of onsite water service.

The Committee noted the noise mitigation measures outlined in conditions 16 and 17 are not overly onerous process for the applicant, and will be of assistance to future potential property owners.

Submission No. A 2023-135

Moved by S. Hannah

Seconded by B. Santos

That the application of BEVERLEY MELLISH and JAMES MELLISH requesting a minor variance to permit a driveway width of 16.5m for an existing driveway rather than maximum width of 8m, and to permit a lot area of 1,741sq.m., rather than the minimum required 2,023sq.m., generally in accordance with the Sketch for Severance included with Consent Application B 2023-042, prepared by Guenther Rueb Surveying Limited, on Part Lot 1, Plan 689, 52 Edgehill Drive, 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

Submission No. A 2023-136

Moved by S. Hannah

Seconded by B. Santos

That the application of BEVERLEY MELLISH and JAMES MELLISH requesting a minor variance to allow a lot area of 1,253.6sq.m. rather than the minimum required 2,023sq.m., generally in accordance with the Sketch for Severance included with Consent Application B 2023-X042, prepared by Guenther Rueb Surveying Limited, on Part Lot 1, Plan 689, 52 Edgehill Drive, 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

Moved by S. Hannah

Seconded by B. Santos

That the application of BEVERLEY MELLISH and JAMES MELLISH requesting permission to sever a parcel of land at the rear of the existing dwelling, having a width of 35.4m, a depth of 45m, and an area of 1253.6sq.m., generally in accordance with the Sketch for Severance Application, prepared by Guenther Rueb Surveying Limited, on Part Lot 1, Plan 689, 52 Edgehill Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner shall ensure the Minor Variance Applications A2023-135 and A2023-136 receive final approval.
2. 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.
3. That the property owner shall obtain a tax certificate from the City of Kitchener to verify that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City's Revenue Division.
4. 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 size 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.
5. That the property owner shall remove the existing shed, or relocate it to the Retained Lot, to the satisfaction of the City's Director of Development and Housing Approvals.
6. That the property owner shall remove any existing tile bed on the Severed Lot, to the satisfaction of the Region of Waterloo and City's Building Division.
7. That the property owner shall, at the sole option of the City's Director of Development and Housing Approvals, 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 Development and Housing Approvals, which shall include the following:

- a) That the property owner shall prepare a Tree Preservation Plan for the Severed Lot and Retained Lot, in accordance with the City's Tree Management Policy, to be approved by the City's Director of Development and Housing Approvals, and where necessary, implemented prior to any grading, servicing, tree removal or the issuance of building permits. Such plans shall include, among other matters, the identification of a proposed building envelope/work zone, a landscaped area and the vegetation to be preserved. If necessary, the plan shall include required mitigation and or compensation measures.
 - b) That the property owner further agrees to implement the approved plan. No changes to the said plan shall be granted except with the prior approval of the City's Director of Development and Housing Approvals.
8. That the property owner shall:
- a) Complete a Building Code Assessment for the existing dwelling proposed to be retained on the Retained Lot, prepared by a qualified person, to confirm that the proposed property line and any of the building adjacent to this new property line complies with the Ontario Building Code, to the satisfaction of the City's Chief Building Official. The assessment shall address items such as, but not limited to, spatial separation of existing buildings' wall face, and shall include recommendations such as closing in of openings pending spatial separation calculation results.
 - b) Obtain a Building Permit shall for any remedial work/ upgrades required by the Building Code Assessment.
9. 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.
10. 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.
11. That the property owner shall make financial arrangements for the installation of any new service connections to the Severed Lot and the Retained Lot, to the satisfaction of the City's Director of Engineering Services. This may involve the extension of municipal services to the Severed Lot and the Retained Lot. It may also include 'alternate sanitary servicing solutions', in accordance with City of Kitchener Official Plan

Section 14.C.1.19. a) and Regional Official Plan Section 2.J.8 to the satisfaction of the Region of Waterloo and any applicable Provincial Agency/Body.

12. 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.
13. 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.
14. That the property owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.
15. That the property owner shall make satisfactory financial arrangements to the Region of Waterloo for the consent application review fee of \$350.00.
16. That the property owner/applicant shall, prior to final approval, enter into a development agreement, registered on title, with the Region of Waterloo to include the following noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements for the severed lands:
 - a) That all dwelling unit(s) on the severed lands be installed with an air-ducted heating and ventilation system suitably sized and designed with the provision for central air conditioning.
 - b) *"Purchasers/tenants are advised that despite the inclusion of noise attenuation control features in the development and within the building units, sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP)."*
 - c) *"This unit has been designed with the provision of adding a central air conditioning system at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments 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 & Parks (MECP)."

d) *"Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also at times be audible."*

17. That the property owner shall, prior to final approval, enter into a development agreement, registered on title, with the Region of Waterloo to include the following noise mitigation and warning clauses in all Offers of Purchase and Sale, lease/rental agreements for the retained lands:

a) *"Purchasers/tenants are advised that sound levels due to increasing road traffic on King Street East (RR #8) may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Region of Waterloo and the Ministry of the Environment Conservation & Parks (MECP)."*

b) *"Purchasers/tenants are advised that the stationary noise levels from the existing commercial land uses in the vicinity may also 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

6. NEW BUSINESS

6.1 A 2024-001 - 3273 King Street East, DSD-2024-039

Submission No.: A 2024-001

Applicants: Elbita Batky & Nelson Napoles

Property Location: 3273 King Street East

Legal Description: Plan 986

Appearances:

In Support:

E. Batky

N. Napoles

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to permit a legal non-conforming single detached dwelling in a RES-7 zone to be used for a Single Detached Dwelling and a Personal Services Use (Hair Salon); to permit a parking space to be located 0.5m from the street line rather than the minimum required 3m, to permit a parking space to be located in a Driveway Visibility Triangle (DVT), whereas the By-law does not permit encroachments into the DVT; and, to permit one barrier-free parking space to be 2.4m wide rather than the required 3.4m, to facilitate the use of the existing building for a Single Detached Dwelling and a Personal Services Use (Hair Salon).

The Committee considered Development Services Department report DSD-2023-039, dated January 6, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated January 2, 2024, advising they have no concerns with the subject application.

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

E. Batky and N. Napoles were in attendance in support of the staff recommendation.

Moved by B. Santos

Seconded by S. Hannah

That the application of ELBITA BATKY and NELSON NAPOLES requesting a minor variance to permit a legal non-conforming single detached dwelling in a RES-7 zone to be used for a Single Detached Dwelling and a Personal Services Use (Hair Salon); to permit a parking space to be located 0.5m from the street line rather than the minimum required 3m, to permit a parking space to be located in a Driveway Visibility Triangle (DVT), whereas the By-law does not permit encroachments into the DVT; and, to permit one barrier-free parking space to be 2.4m wide rather than the required 3.4m, to facilitate the use of the existing building for a Single Detached Dwelling and a Personal Services Use (Hair Salon), generally in accordance with the drawings submitted with Minor Variance Application A 2024-001, on Plan 986, 3273 King Street East, Kitchener, Ontario, **BE APPROVED, subject to the following conditions:**

1. That the required parking spaces be demarcated on-site, as shown on the drawing in this staff report, and barrier-free signage is to be installed and provided in accordance with the City of Kitchener Urban Design Manual,
2. That the property owner shall complete the work, identified in Condition No. 1 above by July 1, 2024. Any request for a time extension must be approved in writing by the Manager, Development Approvals 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 application is in the public interest as it would allow for the continuation of the existing use of the single detached dwelling (SDD) while introducing a personal service use (hair salon).
2. The approval of this application will not adversely impact the adjacent properties or the neighborhood as a whole.

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

6.2 A 2024-002 - 44 Patricia Avenue, DSD-2024-041

Submission No.: A 2024-002

Applicants: Nina & Jason Lepp

Property Location: 44 Patricia Avenue

Legal Description: Lot 473, Plan 230

Appearances:

In Support:

C. Poschner

J. Westcott

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to permit a westerly interior side yard setback of 0.5m rather than the minimum required 1.2m to facilitate the construction of a second-storey addition above the existing attached garage of the single detached dwelling.

The Committee considered Development Services Department report DSD-2024-041, dated January 3, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated January 2, 2024, advising they have no concerns with the subject application.

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

C. Poschner and J. Westcott were in attendance in support the staff recommendation.

Moved by B. McColl

Seconded by M. Gambetti

That the application of JASON LEPP and NINA LEPP requesting a minor variance to permit a westerly interior side yard setback of 0.5m rather than the minimum required 1.2m to facilitate the construction of a second-storey addition above the existing attached garage of the single detached dwelling, generally in accordance with the drawings submitted with Minor Variance Application A 2024-002, on Lot 473, Plan 230, 44 Patricia 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

6.3 A 2024-003 to 008 – 1388 New Dundee Road (Parts 111, 112, 115, 116, 119 and 120, Registered Plan 58M-671, Future addresses 6, 7, 10, 11, 14 and 15 Winter Wren Crescent), DSD-2024-045

Submission No.: A 2024-003 to 008

Applicants: David Peres, Activa Holdings Inc.

Property Location: 1388 New Dundee Road (Future addresses 6, 7, 10, 11, 14, 15 Winter Wren Crescent)

Legal Description: Part Lots 3 & 4, Block 11, Plan 58M-671

Appearances:

In Support:

R. Wolff

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to permit 6 external/end townhouse dwelling units in a future townhouse block to have a lot width of 6.9m rather than the minimum required lot width for an external/end townhouse dwelling unit of 9.5m to facilitate the development of townhouse dwelling units on Winter Wren Crescent.

The Committee considered Development Services Department report DSD-2024-045, dated January 3, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated January 2, 2024, advising they have no concerns with the subject application.

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

R. Wolfe was in attendance in support of the staff recommendation.

S. Hannah moved the staff recommendation and proposed an amendment to include that minor variance applications A2024-003 to A2024-008 for 1388 New Dundee Road (58M-671, Block 11) (Parts 111, 112, 115, 116, 119 and 120 on a Draft Reference Plan) requesting relief from Section 7.3, Table 7-4, of Zoning By-law 2019-051 to permit a lot width (for an external unit) "of a minimum of" 6.9m instead of the minimum required lot width (for an external unit) of 9.5m be approved.

Staff noted their support of S. Hannah's amendment.

S. Hannah's amendment was then voted on and was **Carried**, as amended.

Submission No. A 2024-003

Moved by S. Hannah

Seconded by B. Santos

That the application of ACTIVA HOLDINGS INC requesting a minor variance to permit 6 external/end townhouse dwelling units in a future townhouse block to have a minimum lot width of 6.9m rather than the minimum required lot width for

an external/end townhouse dwelling unit of 9.5m to facilitate the development of townhouse dwelling units on Winter Wren Crescent, generally in accordance with the drawings submitted with Minor Variance Application A 2024-003, on Part Lots 3 & 4, Block 11, Plan 58M-671, 1388 New Dundee Road (future 6 Winter Wren Crescent), 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, as amended

Submission No. A 2024-004

Moved by S. Hannah

Seconded by B. Santos

That the application of ACTIVA HOLDINGS INC requesting a minor variance to permit 6 external/end townhouse dwelling units in a future townhouse block to have a minimum lot width of 6.9m rather than the minimum required lot width for an external/end townhouse dwelling unit of 9.5m to facilitate the development of townhouse dwelling units on Winter Wren Crescent, generally in accordance with the drawings submitted with Minor Variance Application A 2024-004, on Part Lots 3 & 4, Block 11, Plan 58M-671, 1388 New Dundee Road (future 7 Winter Wren Crescent), 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, as amended

Submission No. A 2024-005

Moved by S. Hannah

Seconded by B. Santos

That the application of ACTIVA HOLDINGS INC requesting a minor variance to permit 6 external/end townhouse dwelling units in a future townhouse block to have a minimum lot width of 6.9m rather than the minimum required lot width for an external/end townhouse dwelling unit of 9.5m to facilitate the development of townhouse dwelling units on Winter Wren Crescent, generally in accordance with the drawings submitted with Minor Variance Application A 2024-005, on Part Lots 3 & 4, Block 11, Plan 58M-671, 1388 New Dundee Road (future 10 Winter Wren Crescent), 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, as amended

Submission No. A 2024-006

Moved by S. Hannah

Seconded by B. Santos

That the application of ACTIVA HOLDINGS INC requesting a minor variance to permit 6 external/end townhouse dwelling units in a future townhouse block to have a minimum lot width of 6.9m rather than the minimum required lot width for an external/end townhouse dwelling unit of 9.5m to facilitate the development of townhouse dwelling units on Winter Wren Crescent, generally in accordance with the drawings submitted with Minor Variance Application A 2024-006, on Part Lots 3 & 4, Block 11, Plan 58M-671, 1388 New Dundee Road (future 11 Winter Wren Crescent), 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, as amended

Submission No. A 2024-007

Moved by S. Hannah

Seconded by B. Santos

That the application of ACTIVA HOLDINGS INC requesting a minor variance to permit 6 external/end townhouse dwelling units in a future townhouse block to have a minimum lot width of 6.9m rather than the minimum required lot width for an external/end townhouse dwelling unit of 9.5m to facilitate the development of townhouse dwelling units on Winter Wren Crescent, generally in accordance with the drawings submitted with Minor Variance Application A 2024-007, on Part Lots 3 & 4, Block 11, Plan 58M-671, 1388 New Dundee Road (future 14 Winter Wren Crescent), 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, as amended

Submission No. A 2024-008

Moved by S. Hannah

Seconded by B. Santos

That the application of ACTIVA HOLDINGS INC requesting a minor variance to permit 6 external/end townhouse dwelling units in a future townhouse block to have a minimum lot width of 6.9m rather than the minimum required lot width for an external/end townhouse dwelling unit of 9.5m to facilitate the development of townhouse dwelling units on Winter Wren Crescent, generally in accordance with the drawings submitted with Minor Variance Application A 2024-008, on Part Lots 3 & 4, Block 11, Plan 58M-671, 1388 New Dundee Road (future 15 Winter Wren Crescent), 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, as amended

6.4 A 2024-009 - 169 Otterbein Road, DSD-2024-036

Submission No.: A 2024-009

Applicants: Jim Gies, Wm. J. Gies Construction Limited

Property Location: 169 Otterbein Road

Legal Description: Lot 68, Plan 58M-651

Appearances:

In Support:

P. Haramis

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to permit a rear yard setback of 2.08m rather than the minimum required 7.5m to facilitate the construction of a detached dwelling on a vacant irregular sized corner lot.

The Committee considered Development Services Department report DSD-2024-036, dated December 27, 2023, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated January 2, 2024, advising they have no concerns with the subject application.

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

P. Haramis was in attendance in support of the staff recommendation.

In response to questions from the Committee regarding whether the driveway could be re-located closer to the intersection, T. Malone-Wright noted the by-law requires an 8m setback, and stated staff would have to conduct additional review

to evaluate the feasibility of driveway relocation. T. Malone-Wright also noted that engineering drawings were approved as part of subdivision approval.

In response to further questions, T. Malone-Wright noted the maximum height of a front yard fence permitted by the By-law is 3 feet.

The Committee noted concerns with sight-line obstructions, should a future owner choose to construct a fence.

B. Santos moved that the staff recommendation be approved.

M. Gambetti proposed an amendment to the staff recommendation to include "the minor variance to permit a rear yard setback of 2.08m rather than the minimum required 7.5m to facilitate the construction of a detached dwelling, 'in accordance with the Zoning By-law and Fence By-law'..." to assist with Committee concerns with visibility and potential fence height.

Moved by B. Santos

Seconded by M. Gambetti

That the application of JAMES GIES CONSTRUCTION (JIM GIES) requesting a minor variance to permit a rear yard setback of 2.08m rather than the minimum required 7.5m to facilitate the construction of a detached dwelling in accordance with the Zoning By-law and Fence By-law on a vacant irregular sized corner lot, generally in accordance with the drawings submitted with Minor Variance Application A 2024-009, on Lot 68, Plan 58M-651, 169 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

6.5 A 2024-010 - 7 Morrison Road, DSD-2024-038

Submission No.: A 2024-010

Applicants: Klondike Homes Ltd., c/o Paul Florica

Property Location: 7 Morrison Road

Legal Description: Part Lot 12, Part 1, Plan 58R-7570

Appearances:

In Support:

P. Florica

P. Chauvin

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to permit a Floor Space Ratio (FSR) of 1.0 rather than the maximum permitted 0.9 to facilitate the redevelopment of the property with two (2) 3-storey stacked townhouse buildings with 16 units each, for a total of 32 dwelling units.

The Committee considered Development Services Department report DSD-2024-038, dated January 3, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated January 2, 2024, advising they have no concerns with the subject application.

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

P. Chauvin and P. Florica were in attendance in support of the staff recommendation.

Moved by B. Santos

Seconded by M. Gambetti

That the application of KLONDIKE HOMES LTD requesting a minor variance to permit a Floor Space Ratio (FSR) of 1.0 rather than the maximum permitted 0.9

to facilitate the redevelopment of the property with two (2) 3-storey stacked townhouse buildings with 16 units each, for a total of 32 dwelling units, generally in accordance with the drawings submitted with Minor Variance Application A 2024-010, on Part Lot 12, Part 1, Plan 58R-7570, 7 Morrison 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

6.6 A 2024-011 - 1955 Fischer Hallman Road, DSD-2024-030

Submission No.: A 2024-011

Applicants: Ankush Bhola

Property Location: 1955 Fischer Hallman Road

Legal Description: Tract German Company Part Lots 151, 152 & 153, Parts 1 to 3, 58R3382, except parts 1 to 3, 58R10081, and except Part 1, 58R19939

Appearances:

In Support:

A. Dietrich

A. Bhola

Contra:

None.

Written Submissions:

None.

The Committee was advised the applicant requested permission to permit a minimum parking requirement of 1 parking space for each 30 sq.m. of Gross Floor Area (GFA) rather than the required 1 parking space for each 23 sq.m., to facilitate the final stages of development for a Community Facility and a Fieldhouse.

The Committee considered Development Services Department report DSD-2024-030, dated January 3, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated January 2, 2024, advising they have no concerns with the subject application.

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

A. Dietrich and A. Bhola were in attendance in support of the staff recommendation.

Moved by S. Hannah

Seconded by M. Gambetti

That the application of CITY OF KITCHENER requesting a minor variance to permit a minimum parking requirement of 1 parking space for each 30 sq.m. of Gross Floor Area (GFA) rather than the required 1 parking space for each 23 sq.m., to facilitate the final stages of development for a Community Facility and a Fieldhouse, generally in accordance with the drawings submitted with Minor Variance Application A 2024-011, on Tract German Company Part Lots 151, 152 & 153, Parts 1 to 3, 58R3382, except parts 1 to 3, 58R10081, and except Part 1, 58R19939, 1955 Fischer Hallman Road, Kitchener, Ontario, **BE APPROVED, subject to the following condition:**

1. That the Applicant prepare a Parking Management Plan for Special Events, to the satisfaction of the City's Director of Sport, in consultation with the City's Director of Transportation, prior to final Site Plan Approval.

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

6.7 B 2024-001 & B 2024-002 - 46 Shanley Street, DSD-2024-025

Submission No.: B 2024-001 & B 2024-002

Applicants: Michael & Jillian Welk

Property Location: 146 Shanley Street

Legal Description: Part Lot 432, Parts 1 - 3, Plan 376

Appearances:

In Support:

M. Welk

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, municipally addressed as 46 and 46A Shanley Street, so each half can be dealt with separately. The severed parcel (46A Shanley Street) will have a width of 8.9m, a depth of 45.4m and an area of 385 sq.m.; and, to grant an easement on the severed land in the front yard, along the common wall, having a width of 1.5m, and a depth of 1.82m for maintenance purpose in favour of the retained land. The retained land (46 Shanley Street) will have a width of 10.2m, a depth of 45.4m; and an area of 485 sq.m.; and, to grant an easement on the retained land in the rear yard, along the common wall, having a width of 1.5m, and a depth of 1.82m for maintenance purpose in favour of the severed land.

The Committee considered Development Services Department report DSD-2024-025, dated January 4, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated January 2, 2024, advising they have no concerns with the subject application.

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

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

Submission No. B 2024-001

Moved by S. Hannah

Seconded by M Gambetti

That the application of JILLIAN WELK and MICHAEL WELK requesting permission to create a parcel (“Severed Lot”) of land having an approximate lot width of 8.9 metres, a lot depth of 45.4 metres, and a lot area of 385 square metres and to establish an access and maintenance easement having an approximate width of 1.5 metres and a depth of 3.0 metres in favour of the “Retained Lot”, as generally shown on the “Severance Sketch” and “Easement Sketch” on, Part Lot 432, Parts 1 - 3, Plan 376, 46 Shanley 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 that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City’s Revenue Division.
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 size 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, for the Severed and Retained Lands, 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.
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 provide design drawings to implement suitable design solutions for sump pump outlets, to the satisfaction of the City's Director of Engineering Services.
10. That the property owner shall:
 - a) Complete a Building Code Assessment for the existing dwelling proposed to be retained on the severed and retained parcels of land, prepared by a qualified person, to confirm that the proposed property line and any of the building adjacent to this new property line complies with the Ontario Building Code, to the satisfaction of the City's Chief Building Official. The assessment shall address items such as, but not limited to, spatial separation of existing buildings' wall face, and shall include recommendations such as closing in of openings pending spatial separation calculation results.
 - b) Obtain a Building Permit for any remedial work/ upgrades required by the Building Code Assessment.

11. 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 Director of Planning:
 - 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.
12. That the property owner shall ensure a satisfactory 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.
13. 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

Submission No. B 2024-002

Moved by S. Hannah

Seconded by M Gambetti

That the application of JILLIAN WELK and MICHAEL WELK requesting permission to establish an access and maintenance easement having an approximate width of 1.5 metres and a depth of 4.0 metres in favour of the “Severed Lot”, as generally shown in the “Easement Sketch”, on Part Lot 432, Parts 1 - 3, Plan 376, 46 Shanley 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 that there are no outstanding taxes on the subject property(ies) to the satisfaction of the City’s Revenue Division.
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 size 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 Director of Planning:
 - 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 shall ensure a satisfactory Solicitor's Undertaking, to register the approved Transfer Easement(s) and to immediately thereafter provide copies thereof to the City Solicitor, shall 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

7. ADJOURNMENT

On motion, the meeting adjourned at 10:46 a.m.

Mariah Blake
Secretary-Treasurer
Committee of Adjustment