



## Committee of Adjustment

### Committee Minutes

November 19, 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, Manager, Development Approvals  
S. Hajgato, Transport Planning Analyst  
M. Mills, Committee Coordinator  
C. Owen, Administrative Clerk

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#### 1. COMMENCEMENT

The Committee of Adjustment met this date commencing at 10:01 a.m.

#### 2. MINUTES

**Moved by B. McColl**

**Second by B. Santos**

"That the regular minutes of the Committee of Adjustment meeting held October 15, 2024, as circulated to the members, be accepted."

**Carried**

#### 3. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None.

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

**5. NEW BUSINESS**

**5.1 A 2024-090 - 386 Wake Robin Crescent, DSD-2024-476**

Submission No.: A 2024-090

Applicant: Kalpesh Bhatt

Property Location: 386 Wake Robin Crescent

Legal Description: Part Block 3, Plan 58M-55; being Parts 59, 60, 61, 62 & 63 on Reference Plan 58R-11873

Appearances:

In Support:

M. Ribau

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requested permission to permit an accessory structure (existing detached garage) to have an easterly side yard setback of 0.11m rather than the minimum required 0.6m; a maximum height to the underside of the fascia of 4m rather than the permitted 3m; and, a building height of 6.3m rather than the permitted 5.5m to facilitate a 2nd-storey addition to an existing accessory structure.

The Committee considered Development Services Department report DSD-2024-476, dated November 6, 2024, recommending refusal as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 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 November 4, 2024, advising they have no concerns with the subject application.

T. Malone-Wright advised the Committee that when the application was originally submitted, the proposed 2nd-storey was shown to be setback 0m from the side lot line however following the completion of the Staff report, the applicant submitted a new drawing showing the 2nd-storey will rather be setback 0.6m from the side lot line. However, Staff have reviewed the requested variances in light of the four tests of the Planning Act and have concerns with the height of the building and its' impacts on the adjacent property, as well as the use of accessory building for human habitation thus Staff have recommended refusal of the application.

M. Ribau, Perspective Views, was in attendance in opposition of the staff recommendation noting the purpose for the proposed legalization and conversion of the existing detached garage is to provide a recreational space and storage space. It was noted the property owner initially submitted an application to convert the garage into a separate dwelling unit however due to the structure of the lot, it would not have been feasible to maintain the lot width and parking requirements of the Zoning By-Law. As such, the property owner opted to use the accessory structure as a recreational space. M. Ribau noted, concerns related to the 0m setback from the lot line were raised concerns in the Staff report and although this setback is permitted by the Planning Act, the property owner submitted new drawings prior to the meeting indicating they are willing to meet the 0.6m setback requirement. Further, the property owner provided a declaration indicating the accessory structure will not be used as a dwelling unit. M. Ribau noted, he believes the requested variances are reasonable, minor in nature and meets the requirement of the Planning Act.

In response to questions from the Committee, T. Malone-Wright advised a recreational space is considered a human habitation.

S. Hannah suggested the Committee defer consideration of the application to give the applicant an opportunity to apply for a variance for the recreation room to be used as a human habitation. In response, T. Malone-Wright advised Staff would not be in support of a variance for the recreation space to be used as a human habitation as it would be considered an Additional Dwelling Unit (ADU), however due to the lot structure, the required setbacks and walkways for an ADU use would not be met.

M. Ribau requested the Committee impose a condition for the accessory structure to be used only as a storage space and further advised all occupants will be living in the main dwelling.

The Committee noted the accessory structure could be converted into a human habitation even though it is proposed to only be used as a recreational space.

A motion to refuse the application was brought forward by S. Hannah and seconded by B. Santos. The motion was then voted on and was **Carried**.

**Moved by S. Hannah**

**Seconded by B. Santos**

That the application of KALPESH CHANDRAKANT BHATT requesting minor variances to permit an accessory structure (existing detached garage) to have an easterly side yard setback of 0.11m rather than the minimum required 0.6m; a maximum height to the underside of the fascia of 4m rather than the permitted 3m; and, a building height of 6.3m rather than the permitted 5.5m to facilitate a 2nd-storey addition to an existing accessory structure, on Part Block 3, Registered Plan 58M-55; being Parts 59, 60, 61, 62 & 63 on Reference Plan 58R-11873, 386 Wake Robin Crescent, Kitchener, Ontario, **BE REFUSED**.

It is the opinion of this Committee that:

1. The variances requested in this application are not minor.
2. This application is not 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 not 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](http://www.kitchener.ca).

**Carried**

**5.2 A 2024-091, A 2024-092, A 2024-093 & A 2024-094 - 32, 34, 36 & 38 Burgetz Avenue, DSD-2024-471**

Submission No.: A 2024-091, A 2024-092, A 2024-093 & A 2024-094

Applicant: Bardh & Dardan Investments Corp c/o Musli Prebreza

Property Location: 32, 34, 36 & 38 Burgetz Avenue

Legal Description: Part Lot 4, Plan 589; being Parts 1 to 4 on Reference Plan 58R-21091

Appearances:

In Support:

M. Prebreza

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requested permission to permit a parking space located within a building to be setback 5.6m from the street line rather than the minimum required 6m to legalize the location of an attached garage for the existing semi-detached dwelling; and, to permit the required parking for a duplex in a driveway to be located 0m from the front lot line rather than the required 0.5m

The Committee considered Development Services Department report DSD-2024-471, dated November 6, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 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 November 4, 2024, advising they have no concerns with the subject application.

M. Prebreza, Bardh & Dardan Investments was in attendance in support of the staff recommendation.

**Submission No. A 2024-091**

**Moved by B. Santos**

**Seconded by M. Gambetti**

That the application of BARDH & DARDAN INVESTMENTS CORP requesting minor variances to permit a parking space located within a building to be setback 5.6m from the street line rather than the minimum required 6m to legalize the location of an attached garage for the existing semi-detached dwelling; and, to permit the required parking for a duplex in a driveway to be located 0m from the front lot line rather than the required 0.5m, on Part Lot 4, Plan 589; being Part 1 on Reference Plan 58R-21091, 32 Burgetz Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner shall install a distinguishable driveway and required walkway(s) and landscaped areas, in accordance with the regulations of Zoning By-law 2019-051, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. That any request for a time extension related to removal of the existing asphalt areas must be approved in writing by the Manager of Development Approvals prior to the completion date set out in this decision.
3. Failure to complete Condition 1 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](http://www.kitchener.ca).

**Carried**

**Submission No. A 2024-092**

**Moved by B. Santos**

**Seconded by M. Gambetti**

That the application of BARDH & DARDAN INVESTMENTS CORP requesting minor variances to permit a parking space located within a building to be setback 5.6m from the street line rather than the minimum required 6m to legalize the location of an attached garage for the existing semi-detached dwelling; and, to permit the required parking for a duplex in a driveway to be located 0m from the front lot line rather than the required 0.5m, on Part Lot 4, Plan 589; being Part 2 on Reference Plan 58R-21091, 34 Burgetz Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner shall install a distinguishable driveway and required walkway(s) and landscaped areas, in accordance with the regulations of Zoning By-law 2019-051, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. That any request for a time extension related to removal of the existing asphalt areas must be approved in writing by the Manager of Development Approvals prior to the completion date set out in this decision.
3. Failure to complete Condition 1 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](http://www.kitchener.ca).

**Carried**

**Submission No. A 2024-093**

**Moved by B. Santos**

**Seconded by M. Gambetti**

That the application of BARDH & DARDAN INVESTMENTS CORP requesting minor variances to permit a parking space located within a building to be setback 5.6m from the street line rather than the minimum required 6m to legalize the location of an attached garage for the existing semi-detached dwelling; and, to permit the required parking for a duplex in a driveway to be located 0m from the front lot line rather than the required 0.5m, on Part Lot 4, Plan 589; being Part 3 on Reference Plan 58R-21091, 36 Burgetz Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following:

1. That the property owner shall install a distinguishable driveway and required walkway(s) and landscaped areas, in accordance with the regulations of Zoning By-law 2019-051, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. That any request for a time extension related to removal of the existing asphalt areas must be approved in writing by the Manager of Development Approvals prior to the completion date set out in this decision.
3. Failure to complete Condition 1 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](http://www.kitchener.ca).

**Carried**

**Submission No. A 2024-094**

**Moved by B. Santos**

**Seconded by M. Gambetti**

That the application of BARDH & DARDAN INVESTMENTS CORP requesting minor variances to permit a parking space located within a building to be setback 5.6m from the street line rather than the minimum required 6m to legalize the location of an attached garage for the existing semi-detached dwelling; and, to permit the required parking for a duplex in a driveway to be located 0m from the front lot line rather than the required 0.5m, on Part Lot 4, Plan 589; being Part 4 on Reference Plan 58R-21091, 38 Burgetz Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following:



1. That the property owner shall install a distinguishable driveway and required walkway(s) and landscaped areas, in accordance with the regulations of Zoning By-law 2019-051, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. That any request for a time extension related to removal of the existing asphalt areas must be approved in writing by the Manager of Development Approvals prior to the completion date set out in this decision.
3. Failure to complete Condition 1 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](http://www.kitchener.ca).

**Carried**

### **5.3 A 2024-095 - 29 The Crestway, DSD-2024-493**

Submission No.: A 2024-095

Applicants: Earl and Trina Allen

Property Location: 29 The Crestway

Legal Description: Part Lot 17, Plan 782; being Part 1 on Reference Plan 58R-18922

Appearances:

In Support:

R. Friesen

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requested permission to permit a maximum height to the underside of the fascia of 5m rather than the permitted 3m to facilitate the construction of an accessory structure in the rear yard of the subject property.

The Committee considered Development Services Department report DSD-2024-493, dated November 6, 2024, recommending approval as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 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 November 4, 2024, advising they have no concerns with the subject application.

R. Friesen, Fine Line Drafting and Design Inc., was in attendance in support of the staff recommendation.

**Moved by S. Hannah**

**Seconded by B. Santos**

That the application of EARL WILLIAM ALLEN and TRINA ELIZABETH ALLEN requesting a minor variance to permit a maximum height to the underside of the fascia of 5m rather than the permitted 3m to facilitate the construction of an accessory structure in the rear yard of the subject property, in accordance with drawings prepared by Fine Line Drafting and Design Inc, dated October 3, 2024 on Part Lot 17, Plan 782; being Part 1 on Reference Plan 58R-18922, 29 The Crestway, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

1. The variances 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](http://www.kitchener.ca).

**Carried**

**5.4 A 2024-096 - 165 Fairway Road North, DSD-2024-473**

Submission No.: A 2024-096

Applicant: 2589751 Ontario Inc c/o Gurbeant Singh Bajwa

Property Location: 165 Fairway Road North

Legal Description: Part Lots 30 and 31, Plan 959

Appearances:

In Support:

R. Masri

G. Bajwa

Contra:

None

Written Submissions:

D. Kraftchick

The Committee was advised the applicant requested permission to permit 23 parking spaces rather than the minimum required 38 parking spaces and to permit the required parking to be located in the front yard whereas the Zoning by-law does not permit parking in the front yard; a northerly side yard setback of 0m and a southerly side yard setback of 1.8m rather than the required 3m; a rear yard setback of 0.1m rather than the required 7.5m; a Floor Space Ratio (FSR) of 0.75 rather than the maximum permitted 0.6; and, ground floor level units to having no patio areas whereas the Zoning By-Law requires ground floor units to have a patio area, to facilitate the redevelopment of the existing building with 33 dwelling units in accordance with Site Plan Application SP24/047/F/AA.

The Committee considered Development Services Department report DSD-2024-473, dated November 1, 2024, recommending deferral until March 19, 2025, or earlier.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 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 November 4, 2024, advising they have no concerns with the subject application.

R. Masri, Masri O Inc., was in attendance in opposition to the staff recommendation noting the requested variances are to legalize existing conditions of the building. It was noted it would be financial burdensome for the applicant to demolish the existing building and reconstruct in order to bring the building into compliance. Further, R. Masri noted the Committee approved the requested variances in a previous application and the concerns raised by Planning Staff in the Staff report were addressed through the site plan process. R. Masri also noted the only feedback received through the site plan review process was related to landscaping, so deferral of the application introduces project delays and unnecessary costs.

In response to questions from the Committee, T. Malone-Wright clarified that the site plan application for the subject property received conditional approval however, some of the variances being requested including the increased Floor Space Ratio and the provision to omit the Patio Space is not compatible with the redline comments that were provided in the conditional site plan approval.

S. Hannah brought forward a motion defer consideration of the application until March 19, 2025, or earlier to allow an opportunity for the applicant to engage Staff on the variances being requested as it relates to the feedback provided on the conditionally approved Site Plan application.

**Moved by S. Hannah**

**Seconded by M. Gambetti**

That the application of 2589751 ONTARIO INC requesting minor variances to permit 23 parking spaces rather than the minimum required 38 parking spaces and to permit the required parking to be located in the front yard whereas the Zoning by-law does not permit parking in the front yard; a northerly side yard setback of 0m and a southerly side yard setback of 1.8m rather than the required 3m; a rear yard setback of 0.1m rather than the required 7.5m; a Floor Space Ratio (FSR) of 0.75 rather than the maximum permitted 0.6; and, ground floor level units to having no patio areas whereas the Zoning By-Law requires ground floor units to have a patio area, to facilitate the redevelopment of the existing building with 33 dwelling units in accordance with Site Plan Application

SP24/047/F/AA, on Part Lots 30 and 31, Plan 959, 165 Fairway Road North, Kitchener, Ontario, **BE DEFERRED until March 19, 2025, or earlier** to allow an opportunity for the applicant to engage Staff on the variances being requested as it relates to the feedback provided on the Conditionally Approved Site Plan.

**Carried**

## **5.5 A 2024-097 - 593 Ephraim Street, DSD-2024-478**

Submission No.: A 2024-097

Applicant: Holger Fischer

Property Location: 593 Ephraim Street

Legal Description: Lot 19, Plan 764

Appearances:

In Support:

H. Fischer

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requested permission to permit a portion of an accessory structure to be located in the front yard, whereas the Zoning By-law does not permit accessory structures to be located in the front yard to legalize the location of an existing shed.

The Committee considered Development Services Department report DSD-2024-478, dated November 6, 2024, recommending approval as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 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 November 4, 2024, advising they have no concerns with the subject application.

H. Fischer was in attendance in support of the staff recommendation.

**Moved by B. Santos**

**Seconded by M. Gambetti**

That the application of HOLGER FISCHER requesting a minor variance to permit a portion of an accessory structure to be located in the front yard, whereas the Zoning By-law does not permit accessory structures to be located in the front yard, to legalize the location of an existing shed, generally in accordance with drawings by Holger Fischer submitted with Minor Variance Application A2024-097 on Lot 19, Plan 764, 593 Ephraim Street, Kitchener, Ontario, **BE APPROVED.**

It is the opinion of this Committee that:

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

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

**Carried**

**5.6 A 2024-098 - 153 Eighth Avenue, DSD-2024-488**

Submission No.: A 2024-098

Applicants: Pete Panayiotis Christodoulou & Darija Mirosavljevic

Property Location: 153 Eighth Avenue

Legal Description: Part Lots 218 and 219, Plan 254

Appearances:

In Support:

P. Christodoulou

Contra:

S. Primeaux

Written Submissions:

None

The Committee was advised the applicant requested permission to permit the conversion of an existing garage into an Additional Dwelling Unit (ADU) (Detached) having a Gross Floor Area (GFA) of 83.7sq.m. rather than the maximum permitted 80sq.m.

The Committee considered Development Services Department report DSD-2024-488, dated November 12, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 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 November 4, 2024, advising they have no concerns with the subject application.

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

S. Primeaux was in attendance in opposition of the application noting concerns with the height of existing garage and previous illegal use of the driveway for an automobile workshop. In response, T. Malone-Wright advised, the applicant provided Staff a Zoning Occupancy Certificate and the drawings confirm the height of the existing garage that is proposed to be converted into an ADU is in compliance with the Zoning By-Law.

In response to questions from the Committee regarding the compliance of the porch, T. Malone-Wright noted Staff requested drawings from the applicant but have yet to receive them.

S. Hannah brought forward a motion to defer consideration of the application to allow the applicant an opportunity to bring the property into compliance prior to the approval of the minor variance. The motion failed to receive a seconder.

A motion was brought forward by B. Santos, to approve the application as outlined in Staff report DSD-2024-488, which was seconded by M. Gambetti.

The following motion was then voted on and was **Carried**, with D. Pateman, B. McColl, B. Santos and M. Gambetti voting in favour; and, S. Hannah voting in opposition.

**Moved by B. Santos**

**Seconded by M. Gambetti**

That the application of DARIJA MIROSAVLJEVIC and PETE PANAYIOTIS CHRISTODOULOU requesting a minor variance to permit the conversion of an existing garage into an Additional Dwelling Unit (ADU) (Detached) having a Gross Floor Area (GFA) of 83.7sq.m. rather than the maximum permitted 80sq.m., generally in accordance with drawings attached to Minor Variance Application A2024-098, on Part Lots 218 and 219, Plan 254, 153 Eighth Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner shall:i) modify and install a distinguishable driveway and required walkway(s);ii) modify the parking area in the rear yard to remove unnecessary asphalt, not required for parking, and install appropriate landscaping;iii) modify the existing deck/porch and the existing fence in the front yard to be in compliance with the regulations of Zoning By-law 2019-051 and the Fence By-law, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. That any request for a time extension related to removal of the existing asphalt areas must be approved in writing by the Manager of Development Approvals prior to completion date set out in this decision.
3. Failure to complete Condition 1 will result in this approval becoming null and void.

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](http://www.kitchener.ca).

**Carried**

#### **5.7 A 2024-099 - 165 Courtland Avenue East, DSD-2024-494**

Submission No.: A 2024-099

Applicant: D. Boyer



Property Location: 165 Courtland Avenue East  
Legal Description: Part Lot 4, Plan 395, Plan Streets and Lanes Part Lot 50;  
being Part 2 on Reference Plan 58R-5430

Appearances:

In Support:

M. Villemaire

P. Stridecki

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requested permission to permit a building length of 70.7m rather than the required 36m; a building height of 17.5m rather than the permitted 11m; a rear yard landscaped area of 30.8% rather than the minimum required 40%; and, requesting a minor variance to Zoning By-law 85-1 to permit a Floor Space Ratio (FSR) of 1.2 rather than the permitted 1.0 to facilitate the development of 4-storey multiple dwelling having 36 dwelling units in accordance with Site Plan Application SP20/064/C/ES.

The Committee considered Development Services Department report DSD-2024-494, dated November 6, 2024, recommending approval as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 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 November 1, 2024, advising they have no concerns with the subject application.

T. Malone-Wright advised the Committee if the new Zoning By-Law was in effect, the variance for the building length would not be required.

M. Villemaire, SRM Architects Inc., was in attendance in support of the Staff recommendation, save and except for the recommendation to refuse the variance for the building length. M. Villemaire noted the application is subject to both Zoning By-Law 2019-051 and 85-1 which creates a challenge with meeting the requirements for the building length. It was noted the Site Plan for the

building project has received conditional approval, including the proposed building length. Further, it was noted design modifications have been agreed upon with Staff to ensure the project is suitable for the site, is aligned with the intent of the Official Plan and is appropriate in the context of the neighbourhood. In response to questions from the Committee, M. Villemaire noted if the proposed 70.7m building length is not approved, the project would not be viable.

S. Hannah brought forward a motion to approve all of the variances as requested, which was seconded by M. Gambetti. The following motion was then voted on and was **Carried**.

**Moved by S. Hannah**

**Seconded by M. Gambetti**

That the application of 165 COURTLAND LTD requesting minor variances to Zoning By-Law 2019-051 to permit a building length of 70.7m rather than the required 36m; a building height of 17.5m rather than the permitted 11m; a rear yard landscaped area of 30.8% rather than the minimum required 40%; and, a minor variance to Zoning By-law 85-1 to permit a Floor Space Ratio (FSR) of 1.2 rather than the permitted 1.0 to facilitate the development of 4-storey multiple dwelling having 36 dwelling units in accordance with Site Plan Application SP20/064/C/ES, generally, in accordance with drawings prepared by SRM Architects, dated October 2, 2024, on Part Lot 50, Streets and Lanes, save and except Part 1 on Reference Plan 58R-21175, Part Lot 4, Plan 395, being Part 2 on Reference Plan 58R-5430, 165 Courtland Avenue East, 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](http://www.kitchener.ca).

**5.8 A 2024-100, A 2024-101, A 2024-102 & A 2024-103 - 100, 102, 104 & 106 St. George Street, DSD-2024-487**

Submission No.: A 2024-100 to 103

Applicant: Habitat for Humanity Waterloo Region c/o Bil Ioannidis

Property Location: 100-106 St. George Street

Legal Description: Part Lot 48, Plan 393

Appearances:

In Support:

R. D'Alessandro

B. Ioannidis

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requesting a minor variance to Zoning By-law 85-1 to permit a front yard setback of 6.0m rather than the required 6.58m to facilitate the construction of 2 new semi-detached dwellings.

The Committee considered Development Services Department report DSD-2024-487, dated November 6, 2024, recommending approval as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 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 November 4, 2024 advising they have no concerns with the subject application.

T. Malone-Wright advised the Committee if Zoning By-Law 2019-051 was in the effect, the variances being requested would not be required.

R. D'Alessandro, NEO Architecture Inc. was in attendance in support of the staff recommendation.

The Committee noted there are no trees on the subject property, thus it would be onerous to require the applicant to provide a Tree Preservation and Enhancement Plan as outlined in the Staff recommendation. Further, it was noted the property was subject to Consent Application B2023 – 035 and a condition of the application approval was a requirement for a Tree Preservation and Enhancement Plan.

B. McColl brought a motion to approve to approve the staff recommendation as outlined in Development Services Department report DSD-2024-487 including an amendment to remove Condition 1, which was seconded by S. Hannah. The following motion as amended, was then voted on and was **Carried**.

**Submission No. A 2024-100**

**Moved by B. McColl**

**Seconded by S. Hannah**

That the application of HABITAT FOR HUMANITY WATERLOO REGION INC requesting a minor variance to Zoning By-law 85-1 to permit a front yard setback of 6.0m rather than the required 6.58m to facilitate the construction of 2 new semi-detached dwellings, on Part Lot 48, Plan 393, 100 St. George Street, Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

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

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

**Carried, as amended**

**Submission No. A 2024-101**

**Moved by B. McColl**

**Seconded by S. Hannah**

That the application of HABITAT FOR HUMANITY WATERLOO REGION INC requesting a minor variance to Zoning By-law 85-1 to permit a front yard setback of 6.0m rather than the required 6.58m to facilitate the construction of 2 new semi-detached dwellings, on Part Lot 48, Plan 393, 102 St. George Street, Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

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

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

**Carried, as amended**

**Submission No. A 2024-102**

**Moved by B. McColl**

**Seconded by S. Hannah**

That the application of HABITAT FOR HUMANITY WATERLOO REGION INC requesting a minor variance to Zoning By-law 85-1 to permit a front yard setback of 6.0m rather than the required 6.58m to facilitate the construction of 2 new semi-detached dwellings, on Part Lot 48, Plan 393, 104 St. George Street, Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

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

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

**Carried, as amended**

**Submission No. A 2024-103**

**Moved by B. McColl**

**Seconded by S. Hannah**

That the application of HABITAT FOR HUMANITY WATERLOO REGION INC requesting a minor variance to Zoning By-law 85-1 to permit a front yard setback of 6.0m rather than the required 6.58m to facilitate the construction of 2 new semi-detached dwellings, on Part Lot 48, Plan 393, 106 St. George Street, Kitchener, Ontario, **BE APPROVED**.

It is the opinion of this Committee that:

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

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

**Carried, as amended**

**5.9 B 2024-029 - 62 Fourth Avenue, DSD-2024-470**

Submission No.: B 2024-029

Applicant: K. Hodgins

Property Location: 62 Fourth Avenue

Legal Description: Part Lot 75 and 76, Plan 254

Appearances:

In Support:

J. O'Malley

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requesting consent to sever a parcel of land having a width of 7.6m, a depth of 40.3m and an area of 307.6sq.m. The retained land will have a width of 7.6m, a depth of 40.3m and an area of 307.6sq.m. The consent will allow each half of a semi-detached duplex dwelling to be dealt with independently.

The Committee considered Development Services Department report DSD-2024-070, dated November 6, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated November 4, 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 November 4, 2024, advising they have no concerns with the subject application.

J. O'Malley, O'Malley Homes, was in attendance in support of the staff recommendation, however requested the Committee consider removing conditions 9 and 10 outlined in the Staff recommendation, noting the requirement for a cash-in-lieu contribution for park dedication and the Urban Forest Compensation is financially burdensome. In response, T. Malone-Wright advised the cash-in-lieu contribution is a requirement under the Planning Act and further the parkland dedication fee is a City of Kitchener policy. As such, the Committee noted it would not be prudent to omit conditions 9 and 10.

**Moved by B. McCoil**

**Seconded by S. Hannah**

That the application of KEN HODGINS EXPERT PAINTING INC requesting consent to sever a parcel of land having a width of 7.6m, a depth of 40.3m and

an area of 307.6sq.m., on Part Lots 75 and 76, Plan 254, 62 Fourth Avenue, 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 pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$8,032.00.



10. That the property owner shall make satisfactory financial arrangements with the City in the amount of \$5,400.00 in Urban Forest Compensation for the tree removal in the City's boulevard.
11. That the property owner shall submit a valid Notice of Source Protection Plan Compliance (Section 59) as per the Clean Water Act, 2006 to the Region of Waterloo.
12. That the property owner shall make satisfactory financial arrangements to the Region of Waterloo for the consent application review fee of \$350.00.
13. That the property owner shall enter into a registered development agreement with the City of Kitchener to include the following noise warning clause in all agreements of offer of purchase/sale and lease/rental for all dwelling units on the retained and severed lots, to the satisfaction of the Region.

*"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally 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."*

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](http://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 2024-030 - 630 Benninger Drive, DSD-2024-483**

Submission No.: B 2024-030

Applicant: Activa Holdings Inc c/o Alex Sumner

Property Location: 630 Benninger Drive

Legal Description: Block 132, Plan 58M-642

Appearances:

In Support:

R. Wolff

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requesting consent to create an irregular shaped access easement having a width of 7.3m, an approximate length of 300m and an approximate area of 2,190sq.m over the internal roadway within Unit 2 of Waterloo Vacant Land Condominium Plan (WVLCP) 782, in favour of Units 3-9 of WVLCP for the purpose of access.

The Committee considered Development Services Department report DSD-2024-483, dated November 6, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated November 4, 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 November 4, 2024, advising they have no concerns with the subject application.

R. Wolff, MHBC Planning, was in attendance in support of the staff recommendation.

**Moved by B. Santos**

**Seconded by M. Gambetti**

That the application of ACTIVA HOLDINGS INC requesting consent to create an irregular shaped access easement having a width of 7.3m, an approximate length of 300m and an approximate area of 2,190sq.m over the internal roadway within Unit 2 of Waterloo Vacant Land Condominium Plan (WVLCP) 782, in favour of Units 3-9 of WVLCP for the purpose of access, in accordance with Parts 1 and 2 on Reference Plan 58R-21439, prepared by MTE Ontario Land Surveyors Ltd., dated June 8, 2022, on Block 132, Registered Plan 58M-642, 630 Benninger Drive, 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 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, Development and Housing Approvals:
  - 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 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.
6. That the property owner shall submit a valid Notice of Source Protection Plan Compliance (Section 59) as per the Clean Water Act, 2006 to the Region of Waterloo.

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](http://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 2024-031 - 829 Stirling Avenue South, DSD-2024-482**

Submission No.: B 2024-031

Applicant: KK Holding Inc

Property Location: 829 Stirling Avenue South

Legal Description: Part Lot 3, Plan 785

Appearances:

In Support:

K. Bonthu

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requesting consent to sever a parcel of land having a width of 7.9m, a depth of 45.7m and an area of 362.3sq.m. The retained land will have a width of 7.9m, a depth of 45.7m and an area of 362.3 sq.m. The severance will allow each half of a semi-detached dwelling to be dealt with independently.

The Committee considered Development Services Department report DSD-2024-482, dated November 6, 2024, recommending approval with conditions as outlined in the Staff report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated November 4, 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 November 4, 2024, advising they have no concerns with the subject application.

K. Bonthu was in attendance in support of the staff recommendation. In response to questions from the Committee, K. Bonthu noted he is seeking to sever the lot prior to installing the future property's foundation so he can accurately determine the elevation and slopes for the future servicing pipes.

The Committee noted its' preference for the foundation to be installed prior to severance of the lot to avoid any surveying mistakes.

K. Bonthu advised the Committee, the City of Kitchener's Engineering Department is unwilling to provide servicing permits without the Committee's approval of the consent application. The Committee advised the applicant they can acquire a land surveyor or engineer to assist with determining the elevation of the existing sewers. In response to questions from the Committee, K. Bonthu advised of his intention to install the future lot foundation prior to winter.

S. Hannah brought forward a motion to defer consideration of the application until June 1, 2025 or earlier to allow an opportunity for the applicant to install the property foundation prior to the severance of the lot.

The following motion was then voted on and was **Carried**, with S. Hannah, B. McColl, B. Santos and M. Gambetti voting in favour; and, D. Pateman voting in opposition.

**Moved by S. Hannah**

**Seconded by B. McColl**

That the application of KK HOLDING INC requesting consent to sever a parcel of land having a width of 7.9m, a depth of 45.7m and an area of 362.3sq.m. The retained land will have a width of 7.9m, a depth of 45.7m and an area of 362.3 sq.m. The severance will allow each half of a semi-detached dwelling to be dealt with independently, on Part Lot 3, Plan 785, 829 Stirling Avenue South, Kitchener, Ontario, **BE DEFERRED until June 1, 2025, or earlier** to allow an opportunity for the applicant to install the property foundation prior to the severance of the lot.

**Carried, as amended**

#### **5.12 B 2024-032 & B 2024-033 - 75 Otterbein Road, DSD-2024-501**

Submission No.: B 2024-032 & B 2024-033

Applicant: Kolb Creek Land Corp c/o Nitin Jain

Property Location: 75 Otterbein Road

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

Appearances:

In Support:

L. Vacondio

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requesting consent to create an easement over a retained land identified as Part 2 on the plan submitted with the application, in favour of the severed land for the purpose of access and servicing.

Permission is also being requested to create easements over the severed land identified as Parts 5, 6 and 7 on the plan submitted with the application, in favour of the retained land for drainage and servicing. The severed and retained parcels are subject to Consent Application B 2023-040 which would sever the lot for future residential development.

The Committee considered Development Services Department report DSD-2024-501, dated November 8, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated November 4, 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 November 4, 2024, advising they have no concerns with the subject application.

L. Vacondio, MHBC Planning, was in attendance in support of the staff recommendation.

#### **Submission No. B 2024-032**

**Moved by M. Gambetti**

**Seconded by B. Santos**

That the application of KOLB CREEK LAND CORP requesting consent to create easements over the severed lands identified as Parts 5, 6 and 7 on the plan submitted with the application in favour of the retained land for the purpose of servicing and access (subject to Consent Application B 2023-040 which would sever the lot for a future residential development), in accordance with drawings prepared by MHBC Planning dated August 23, 2023, on Block 1, Registered Plan 58M-654, 75 Otterbein Road, 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 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.
5. That 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.
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](http://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 2024-033**

**Moved by M. Gambetti**

**Seconded by B. Santos**

That the application of KOLB CREEK LAND CORP requesting consent to create an easement over a retained land identified as Part 2 on the plan submitted with the application (subject to Consent Application B 2023-040 which would sever the lot for a future residential development), in favour of the severed land for the purpose of access and servicing, in accordance with the drawings prepared by MHBC Planning dated August 23, 2023, on Block 1, Registered Plan 58M-654, 75 Otterbein Road, 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 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.
5. That 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.
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](http://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**

**5.13 B 2024-034, B 2024-035, A 2024-104 & A 2024-105 - 70 & 74 Rutherford Drive, DSD-2024-500**

Submission No.: B 2024-034, B 2024-035, A 2024-104 & A 2024-105

Applicant: P. Perencevic

Property Location: 70 & 74 Rutherford Drive

Legal Description: Part Lot 7, Plan 742; being Parts 1 to 4 on Reference Plan 58R-21514

Appearances:

In Support:

B. Jokanovic

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requesting consent to create an easement having a width of 1.9m, a length of 58.8m and an area of 113.5 sq.m. for a shared driveway between 70 and 74 Rutherford Drive. Minor variances are also being requested to permit a drive aisle width of 4.4m rather than the required 6m; and, to permit a driveway width of 1.9m rather than the required 2.6m, to facilitate the proposed shared driveway between 70 and 74 Rutherford Drive.

The Committee considered Development Services Department report DSD-2024-500, dated November 6, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated October 30, 2024, and November 4, 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 November 4, 2024, advising they have no concerns with the subject application.

B. Jokanovic, Bobicon Ltd., was in attendance in support of the staff recommendation.

In response to questions from the Committee regarding the rationale for the installation of a 3.7m wide walkway, B. Jokanovic noted the Zoning By-Law requires that the walkway is distinguishable from the driveway.

S. Hannah noted the proposed 3.7m walkway is too large and if it was smaller in size, about 1.1m, additional landscaping could be provided. In response, T. Malone-Wright advised the Committee, the Zoning By-Law does not require a maximum width for the walkway thus Staff could not impose a Zoning regulation. Further, B. Jokanovic advised he would be amenable to constructing a 1.1m walkway rather than a 3.7m walkway.

S. Hannah brought forward a motion to approve the staff recommendation as outlined in Development Services Department report DSD-2024-500 including an amendment to add a condition to Minor Variances applications A 2024-104 and 105, that the walkways to the front porch and the side of the property have a maximum width of 1.1m.

The following motion as amended was then voted on and was **Carried**

**Submission No. B 2024-034**

**Moved by S. Hannah**

**Seconded by B. Santos**

That the application of MIRJANA PERENCEVIC and PERO PERENCEVIC requesting consent to create an easement having a width of 1.9m, a length of 58.8m and an area of 113.5 sq.m. for a shared driveway between 70 and 74 Rutherford Drive, on Part Lot 7, Plan 742; being Parts 1 & 2 on Reference Plan 58R-21514, 70 Rutherford Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That Minor Variance Application A2024-104 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 there are no outstanding taxes on the subject property.
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 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.

5. That the property owner shall remove the existing asphalt areas in the front and rear yards and replace with sod, or other landscaping, in accordance with the regulations of Zoning By-law 2019-051 and drawings prepared by Bobicon Ltd., dated August 23, 2024, to the satisfaction of the Manager of Development Approvals.
6. That 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.
7. That 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 Manager, Development Approvals:
  - 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.
8. 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](http://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 2024-035**

**Moved by S. Hannah**

**Seconded by B. Santos**

That the application of MIRJANA PERENCEVIC and PERO PERENCEVIC requesting consent to create an easement having a width of 1.9m, a length of 58.8m and an area of 113.5 sq.m. for a shared driveway between 70 and 74 Rutherford Drive, on Part Lot 7, Plan 742; being Parts 3 & 4 on Reference Plan 58R-21514, 74 Rutherford Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That Minor Variance Application A2024-105 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 there are no outstanding taxes on the subject property.
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 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.

5. That the property owner shall remove the existing asphalt areas in the front and rear yards and replace with sod, or other landscaping, in accordance with the regulations of Zoning By-law 2019-051 and drawings prepared by Bobicon Ltd., dated August 23, 2024, to the satisfaction of the Manager of Development Approvals.
6. That 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.
7. That 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 Manager, 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.
8. 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](http://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. A 2024-104**

**Moved by S. Hannah**

**Seconded by B. Santos**

That the application of MIRJANA PERENCEVIC and PERO PERENCEVIC requesting minor variances to permit a drive aisle width of 4.4m rather than the required 6m; and, to permit a driveway width of 1.9m rather than the required 2.6m, to facilitate the proposed shared driveway between 70 and 74 Rutherford Drive, generally in accordance with drawings prepared by Bobicon Ltd., dated August 23, 2024, on Part Lot 7, Plan 742; being Parts 1 & 2 on Reference Plan 58R-21514, 70 Rutherford Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner shall remove the existing asphalt areas in the front and rear yards and replace with sod or other landscaping, in accordance with the regulations of Zoning By-law 2019-051 and drawings prepared by Bobicon, dated August 23, 2024, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. That any request for a time extension related to removal of the existing asphalt areas must be approved in writing by the Manager of Development Approvals prior to completion date set out in this decision.
3. Failure to complete Condition 1 will result in this approval becoming null and void.
4. That the property owner shall ensure walkways to the front porch and the side of the property have a maximum width of 1.1m, to the satisfaction of the Manager of Development Approvals.



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](http://www.kitchener.ca).

**Carried, as amended**

**Submission No. A 2024-105**

**Moved by S. Hannah**

**Seconded by B. Santos**

That the application of MIRJANA PERENCEVIC and PERO PERENCEVIC requesting minor variances to permit a drive aisle width of 4.4m rather than the required 6m; and, to permit a driveway width of 1.9m rather than the required 2.6m, to facilitate the proposed shared driveway between 70 and 74 Rutherford Drive, generally in accordance with drawings prepared by Bobicon Ltd., dated August 23, 2024, on Part Lot 7, Plan 742; being Parts 3 & 4 on Reference Plan 58R-21514, 74 Rutherford Drive, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That the property owner shall remove the existing asphalt areas in the front and rear yards and replace with sod or other landscaping, in accordance with the regulations of Zoning By-law 2019-051 and drawings prepared by Bobicon, dated August 23, 2024, to the satisfaction of the Manager of Development Approvals, by June 1, 2025.
2. That any request for a time extension related to removal of the existing asphalt areas must be approved in writing by the Manager of Development Approvals prior to completion date set out in this decision.

3. Failure to complete Condition 1 will result in this approval becoming null and void.
4. That the property owner shall ensure walkways to the front porch and the side of the property have a maximum width of 1.1m, to the satisfaction of the Manager of Development Approvals.s.

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](http://www.kitchener.ca).

**Carried, as amended**

**5.14 B 2024-036 & A 2024-106 - 73 Fourth Avenue, DSD-2024-496**

Submission No.: A 2024-106

Applicant: N. Vrzic

Property Location: 73 Fourth Avenue

Legal Description: Lot 95, Plan 254

Appearances:

In Support:

B. Jokanovic

Contra:

None

Written Submissions:

None

The Committee was advised the applicant requesting consent to sever a parcel of land having a width of 10m, a depth of 40.2m and an area of 405.1sq.m. and is

proposed for a new 2-storey duplex dwelling. The retained land will have a width of 10m, a depth of 40.2m and an area of 405.1sq.m. A minor variance is also being requested to permit a front yard setback of 9.58m rather than the required 11.25m to recognize the location of an existing 2-storey duplex dwelling.

The Committee considered Development Services Department report DSD-2024-496, dated November 6, 2024, recommending approval with conditions as outlined in the report.

The Committee considered the report of the Region of Waterloo Transportation Planner, dated November 4, 2024, and October 30, 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 November 4, 2024, advising they have no concerns with the subject application.

B. Jokanovic, Bobicon Ltd., was in attendance in support of the staff recommendation.

**Submission No. B 2024-036**

**Moved by M. Gambetti**

**Seconded by B. McColl**

That the application of NIKOLA VRZIC requesting consent to sever a parcel of land having a width of 10m, a depth of 40.2m and an area of 405.1sq.m. and is proposed for a new 2-storey duplex dwelling on Lot 95, Plan 254, 73 Fourth Avenue, Kitchener, Ontario, **BE APPROVED**, subject to the following conditions:

1. That Minor Variance Application A2024-106 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 there are no outstanding taxes on the subject property.
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 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

5. 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.
6. 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.
7. 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.
8. That the property owner shall ensure any new driveways are to be built to 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.
9. 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.
10. That the property owner shall ensure the City-owned street tree in front of the severed lot shall be protected during any development or site alterations, including but not limited to, the installation of driveways and services, to the satisfaction of the Director of Parks and Cemeteries.
11. That the property owner shall pay to the City of Kitchener a cash-in-lieu contribution for park dedication of \$11,862.00.
12. That the property owner shall make satisfactory financial arrangements to the Region of Waterloo for the consent application review fee of \$350.00.
13. That the property owner shall submit a valid Notice of Source Protection Plan Compliance (Section 59) as per the Clean Water Act, 2006 to the Region of Waterloo.
14. That the property owner shall enter into a registered development agreement with the City of Kitchener to include the following noise warning clause in all agreements of offer of purchase/sale and lease/rental for all dwelling units on the retained and severed lots, to the satisfaction of the Region:

*“Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the Municipality and the Ministry of Environment, Conservation, and Parks.”*

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](http://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 A 2024-106**

**Moved by M. Gambetti**

**Seconded by B. McColl**

That the application of NIKOLA VRZIC requesting a minor variance to permit a front yard setback of 9.58m rather than the required 11.25m, to recognize the location of an existing 2-storey duplex dwelling, generally in accordance with

drawings prepared by Bobicon Ltd., dated September 29, 2024, on Lot 95, Plan 254, 73 Fourth 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](http://www.kitchener.ca).

## **6. ADJOURNMENT**

On motion, the meeting adjourned at 11:43 a.m.

Marilyn Mills  
Secretary-Treasurer  
Committee of Adjustment