



March 12, 2024

File No: 23098

Guelph City Hall  
1 Carden Street  
Guelph, ON N1H 3A1

(via e-mail)

Attn: Secretary-Treasurer  
Committee of Adjustment

**Re: Minor Variance Application Update  
60 Ontario Street, Guelph**

---

GSP Group Inc. (“GSP”) has been retained by Watir Holdings Corp. to provide land use planning services related to the proposed minor variance application for 60 Ontario Street within the City of Guelph (“Site”). The proposal includes adding a shared licensed patio for the commercial uses which occupy the building at 60 Ontario Street. The construction would see a new raised patio deck with capacity for up to 20 guests, with planter boxes lining the deck. The original application was discussed at the Committee of Adjustment on June 8 2023 where there were several questions and concerns raised. While no changes have been made to the request for minor variance, we have made efforts to address all questions and concerns and offer responses in this letter.

Currently on the Site, is a 1-storey commercial building with 3 commercial units. Each unit has a capacity of 10 people. At the time of the original application, the tenants of the building included a licensed art gallery, a café, and a licensed bar which are each distinct and independent indoors. Today, the commercial unit that hosted the art gallery is now vacant. The gallery space will soon be occupied by Sugo Mercato.

Sugo Mercato will be serving sandwiches and small meals to be eaten on the patio. Sugo is planning to service the neighbourhood with prepared grab-and-go home made meals, sandwiches, produce and other convenience items which is a permitted use in the by-laws.

The proposed patio would become a shared space for all three uses whereby café, bar patrons and Sugo patrons, could intermingle. However, only the bar will be licensed to serve alcohol on the patio as per AGCO regulations.

To facilitate the proposed development, the following minor variances are requested under Zoning By-law (1995)-14864 C.1-15 Zone:

- Relief from Section 6.1.3.15.1 to permit a licensed establishment with an outdoor patio whereas Section 6.1.3.15.1 does not permit a licensed establishment in the C.1-15 Zone.
- To permit an outdoor patio/accessory structure partially within the sight line triangle whereas Section 4.6.1(i) states that on a corner lot in any Zone, within the sign light triangle formed by the point of intersection to points on each Street Line, measured 9 metres from

that point of intersection, no Building, Structure, play equipment, statue or parked motor Vehicle shall be located.

- To allow the outdoor patio to be 100% of the indoor licensed capacity whereas Section 4.17.1 states that the total number of persons permitted on all outdoor patios associated with the restaurant or licensed establishment shall not exceed 50% of the indoor licensed capacity, or 70 persons, whichever is less.
- To allow the outdoor patio to be 1 metre from the street (property line) whereas Section 4.17.2.2 states “Where only the Rear Lot Line adjoins a Residential Zone, an Outdoor Patio shall be permitted in the Front Yard or Exterior Side Yard provided it is a minimum of 3 metres away from the Street”
- To permit an outdoor patio to be outside the building envelope whereas Section 4.17.2.6 states “Where permitted, Outdoor Patios shall be permitted within the building envelope of the development on the site.”
- To allow an accessory structure in the front yard whereas Section 4.5.1 states “An accessory building or structure may be located in a yard other than a front yard or required exterior side yard on a lot”

The following minor variances are requested under Zoning By-law (2023)-20790 CC Zone:

- To permit a licensed establishment with an outdoor patio whereas Table 8.1 does not permit a licensed establishment in the CC Zone
- To permit an outdoor patio/accessory structure partially within the sight line triangle whereas Section 4.6.1 (i) states On a Corner Lot in any Zone, within the sight line triangle formed by joining the point of intersection to points on each Street Line, measured 9 metres from that point of intersection, no Building, Structure, play equipment, statue or parked motor Vehicle shall be located
- To permit an outdoor patio to be 1 metres away from the street whereas Section 4.13.1 (b) states Where only the rear lot line adjoins a residential zone, an outdoor patio is permitted in the front yard or exterior side yard provided it is a minimum of 3 metres away from the street
- To allow an outdoor patio to be located outside the required building setbacks of the CC Zone whereas Section 4.13.1 (f) states Outdoor patios shall comply with the building setbacks in the zone.
- To allow an accessory structure in the front yard whereas Section 4.5.1 (b) states An accessory building or structure may be located in a yard other than a front yard or required exterior side yard on a lot.

### **Response to Concerns Raised**

On June 8, 2023, the application for the above request was heard at the Committee of Adjustment meeting. Several questions and concerns were raised by the Committee and members of the public. Ultimately, the Committee passed a motion to defer the application so we could address the questions and concerns. We sought input from the City’s building department, and the AGCO which we believe has provided us with the answers to return to the Committee of Adjustment for a decision on the requested minor variances.

### Washroom Facilities

The first concern during the original meeting was regarding washroom facilities for the patrons of the bar. There were concerns that the bar only had one washroom facility and that this may not be adequate to serve the patrons of the bar and newly proposed patio space. The owner plans to build a second washroom for the bar which will address this concern. The space is being accommodated within the existing floor space of the former art gallery and will only be accessed from the bar.

### Bar Capacity

The second concern was in relation to the overall capacity of the bar in relation to the patio. At the time there was uncertainty whether the patio added to the overall capacity of the bar, or if it would be included in the overall capacity permitted. Since the Committee meeting, through discussions with the City's building department and the AGCO, we have come to the understanding that the patio does not increase the overall capacity of the bar. Therefore, the overall capacity of the bar will be shared between the indoor space and outdoor patio. Based on one washroom, the capacity is 10 people total, meaning there could be any combination of 10 people total within the indoor and outdoor spaces. By adding a second washroom, the overall bar capacity becomes 30 people. This means, by adding a second washroom there could be any combination of 30 people total within the indoor and outdoor spaces of the bar. For example, there could be 10 people indoors, and 20 people on the patio at any given time which is shown on the concept plan provided.

### Noise

There were also concerns regarding noise and nuisance coming from the bar and patio. 60 Ontario Street falls under the "residential area" of the City's Noise By-Law (2000)-16366. The by-law outlines a number of noise-generating activities and what time of day those activities are prohibited. It is the responsibility of all property owners to comply with the by-laws of the City and this proposal does not request an exception to this rule.

### Lighting

Lighting was another concern raised by the public. There were concerns there would be light flooding to neighbouring residential houses. The existing exterior lighting surrounding the building are similar to those that can be seen on any residential porch. They are downturned and angled toward the building with non-transparent shades. The lights proposed for the patio are string lights which provide a light "glow" to a space and are popular choices for residential porches and backyard decks and can be seen throughout the City on residential streets.

### Hours of Operation

Members of the public and Council had concerns regarding the hours of operation of the bar and patio space. To address this concern, the bar is committed to cease servicing alcohol beyond 11:00pm 7 days a week. These hours of operation are shorter than Ontario's typical bar hours which demonstrates the desire for the bar to fit in well with the community and not cause disturbance to the surrounding neighbourhood.

### Parking

Finally, on-site parking was raised as a concern as well. A minor variance was approved on May 18, 2021 which permitted a minimum of 0 off-street parking spaces for the property. This decision was supported by planning staff. The site is intended to contribute to the walkable commercial options in the area while any necessary parking can be accommodated on the street.

## **Planning Framework**

The following is intended to review the Minor Variances and discuss how they meet the four tests as set out on Section 45(1) of the *Planning Act*.

### **Are the proposed variances minor in nature?**

The proposed development includes a triangular patio space, and planters less than 0.8m in height along the perimeter. Since the patio and planters are so low, they will not impact the street visually or functionally. As such, it is believed that the variances relating to setbacks and sight lines are minor in nature.

The request to permit 100% of the indoor capacity on the patio is a result of how small the capacity is indoors. Based on the patio seating plan originally filed, it shows the spatial capacity for 20 people. This has not changed through this update. Because the capacity of the bar is so small, the request to permit 100% of indoor capacity is minor in nature.

The patio is setback farther from the property line than the existing building already on the property. The requested variances for setbacks, building envelope, and location are a result of the unique shape of the property and will not negatively impact the form or function of the street and are therefore minor in nature.

### **Are the proposed variances desirable for the appropriate development of the lands?**

The existing multi-use commercial space on the property have proven to be an exciting feature of the neighbourhood since the gallery and café opened in 2022 and the bar opening in 2023. The proposed variances will facilitate the addition of shared patio space for all three commercial tenants on the property whereby patrons can intermingle. The patio will serve as an extension of the existing uses and will support all three businesses that are currently on-site. Having guests outside will provide more activation of the street and contribute to an attractive street block. Each of these reasons demonstrates that the variances are desirable and appropriate for the development of the lands.

### **Do the proposed variances maintain the general intent and purpose of the Official Plan?**

The Site is designated Low Density Residential which encourages distribution of local convenience commercial such as this. The minor variances required to facilitate the patio expansion of the existing uses on the property will expand on the service it is currently providing in the neighborhood in alignment with the Official Plan.

### **Do the proposed variances maintain the general intent and purpose of the Zoning By-law?**

The intent of the Zoning By-law is to provide for small convenience-type uses which offer diversity of uses within the neighborhood. The proposed minor variances maintain the general intent and purpose of the Zoning By-law by continuing to provide diversity of small-scale commercial uses in the Zone. Furthermore, the height of the patio and planters will allow for the continued visibility through the site and at the corner of Arthur St and Ontario St which maintains the general intent of setbacks and visibility triangles.

## **Conclusion**

Since the Committee meeting in June 2023, some changes have been made to the plan, and answers have been found to address the questions and concerns of the committee and members of the public. It is our opinion that all concerns have been appropriately addressed, and the proposed Minor Variances meet the four tests of a Minor Variance as set out in Section 45(1) of the *Planning Act, R.S.O. 1990*.

In support of the required Minor Variance application, please find attached the following supporting documentation:

- Minor Variance Deferral Fee sent under separate cover; and,
- Revised Concept Plan
- A petition of over 1300 signatures from the neighbourhood and around the city in support of the patio.

Should you have any questions or require any additional information, please do not hesitate to contact myself or Charlotte Lewington of this office.

Yours truly,  
GSP Group

A handwritten signature in black ink that reads "Hugh Handy". The signature is written in a cursive, flowing style.

Hugh Handy, MCIP, RPP  
Vice President

C.c. Michael Watt, Watir Holdings Corp.  
C.c. Doug Todd, Watir Holdings Corp.