

June 5, 2025

Attn: Ministry of Municipal Affairs and Housing

**Re: Proposed Regulation – As-of-right Variations from Setback Requirements
Environmental Registry of Ontario Posting: 025-0463**

Kitchener acknowledges the value of any tool that can eliminate or reduce straightforward Committee of Adjustment applications. Instead of adopting an as-of-right permissive approach, Kitchener recommends a new and revised tool that delegates authority to staff for the consideration and approval of minor variances based on the existing four tests outlined in the Planning Act, rather than relying on numerical calculations.

To illustrate this, there may also be cases where a 10% reduction is not considered minor, or cases where a reduction exceeding 25% may be justified based on site-specific conditions. For example, within a Heritage Conservation District and Cultural Heritage Landscape, specific criteria regarding setbacks may apply. An automatic setback reduction could create a disconnect between a planning (variance) and heritage approval.

In Kitchener's experience, there have been few variances for setbacks, as most zones have yard setbacks that are already at the minimum as prescribed by other authorities (ex. Building Code). For example, the front setback is roughly the length of an average car, the rear yard setback establishes the minimum landscaped area to meet lot coverage and amenity requirements, and side yards are at the Ontario Building Code minimum (for openings).

Clarification is needed if this tool would permit one setback reduction per property, or if multiple reductions would be permitted. While varying setbacks as of right could reduce the need for variances, some setback reductions would trigger other variances that are not covered by the tool such as maximum lot coverage, building height (adjacent property), Floor Space Ratio, parking, and minimum landscape area.

Furthermore, Section 39 of the Planning Act should be amended to eliminate public notice, waive appeal rights, and limit consultation to a prescribed person for such delegated authority.