



THE CORPORATION OF THE CITY OF BRANTFORD
 CITY HALL, 58 DALHOUSIE STREET, BRANTFORD, ON N3T 2J2
 TELEPHONE 519-759-4150

**COMMITTEE OF ADJUSTMENT
 DECISION OF THE COMMITTEE**

File Number: A35/2023
Related File Numbers: N/A
Address: 575 Conklin Road
Roll Numbers: 2906010011024600000
Applicant: Elite MD Developments
 Agent: Weston Consulting
Owner: Ambrose Condos Inc.

**IN THE MATTER OF AN APPLICATION FOR VARIANCE MADE UNDER SECTION
 45 OF THE PLANNING ACT, R.S.O. 1990, CHAPTER 13 as amended:**

PROPOSAL:

A minor variance application has been received for the lands municipally addressed as 575 Conklin Road. The applicant is proposing to construct a four-storey apartment building with 8-units, and a GFA of 1,349.77 square metres.

To facilitate the development as proposed, the applicant is seeking the following relief from Zoning By-law 160-90:

Regulation	By-law Section	Required	Proposed	Relief Requested
Minimum Lot Area	7.11.2.1.1	50 sq. m / unit	48 sq. m / unit	- 2.0 sq. m / unit
Maximum Lot Coverage	7.11.2.1.3	35%	39%	+ 4%
Minimum Rear Yard	7.11.2.1.6	7.5 m + 1.5 m / storey (13.5 m total – for four storeys)	11.5 m	- 2.0 m

DECISION: REFUSED

DATE: December 6, 2023

THAT application A35/2023 seeking relief from Section 7.11.2.1.1 of Zoning By-law 160-90 to permit a minimum lot area of 48 sq. m per unit, whereas 50 sq. m per unit is required, and from Section 7.11.2.1.3 of Zoning By-law 160-90 to permit a maximum lot coverage of 39%, whereas 35% is required, and from Section 7.11.2.1.6 of Zoning By-law 160-90 to permit a minimum rear yard of 11.5 m, whereas 7.5 m plus 1.5 m per storey is required (13.5 m), BE REFUSED;

THAT the reason(s) for refusal of the minor variances are as follows:

- i. the proposed variances are not in keeping with the general intent of the Official Plan and Zoning By-law 160-90, the relief requested is not considered minor in nature, is not desirable development and use of the subject lands;
- ii. the original 10-storey apartment building approved plans did not show the proposed 4-storey apartment building;
- iii. the storm-water management concerns have not been addressed;
- iv. the proposal does not include affordable housing; and

Pursuant to Section 45(8) – (8.2) of the *Planning Act*, R.S.O 1990, c.P.13, regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2023-625”.

**OPPOSED - V. Kershaw,
Chair/Member**

**Electronically signed by M. Bodnar
Member**

**Electronically signed by T. Cupoli,
Member**

**ABSENT - T. Gaskin
Member**

**Electronically signed by G. Kempa,
Member**

**Electronically signed by J. Panag,
Member**

**Electronically signed by M. Simpson,
Member**

CERTIFICATION

I hereby certify that this is a true copy of the original document



Secretary-Treasurer

ADDITIONAL INFORMATION

If you require additional information regarding the application, please contact Secretary-Treasurer, Committee of Adjustment, (519)759-4150 or CofA@brantford.ca.

APPEALS

The applicant, the Minister, a specified person (as defined under Section 1(1) of the *Planning Act*), or public body that has an interest in the matter may, not later than 20 days after the giving of notice of a decision under Section 45(12) for minor variances) of the *Planning Act* is completed, appeal the decision and/or any conditions imposed on a decision by the Committee of Adjustment, to the Ontario Land Tribunal. Please note that members of the public are no longer entitled to appeal decisions of the Committee of Adjustment.

The fee for an appeal to the Ontario Land Tribunal is \$400.00 for the primary appeal and \$25.00 for each related appeal, by Certified Cheque or money order made payable to the: “**Minister of Finance**”. In addition you must complete an Appellant Form (A1). All notices of appeal shall be accompanied by a \$575.00 administrative fee made payable to the Corporation of the City of Brantford.

Notice of Changes

You will be entitled to the conditions of the provisional consent if you have either made a written request to be notified of the decisions to give or refuse to give provisional consent or make a written request to be notified of changes to the conditions of the provisional consent.

The letter of appeal, Appellant Form (A1) and fee for appeal are to be filed with the following:

Secretary-Treasurer
Committee of Adjustment
58 Dalhousie Street
Brantford ON
N3T 2J2

If no appeal is filed by the date listed on the decision, the decision of the Committee of Adjustment is final.

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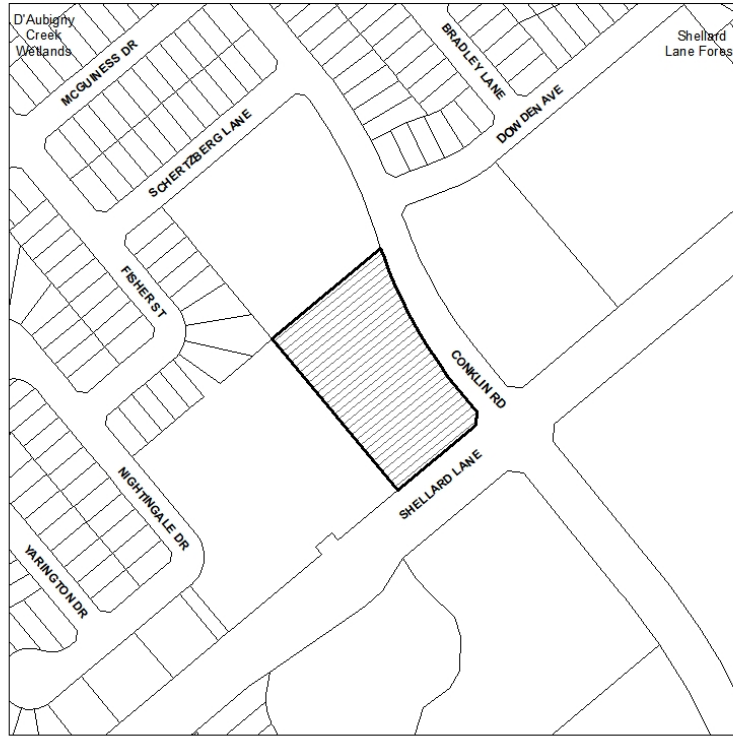
The last date for filing a notice of appeal to the Ontario Land Tribunal of this Decision is December 27, 2023

END OF DECISION

Location Map

LOCATION MAP

Application: A35/2023
575 Conklin Road

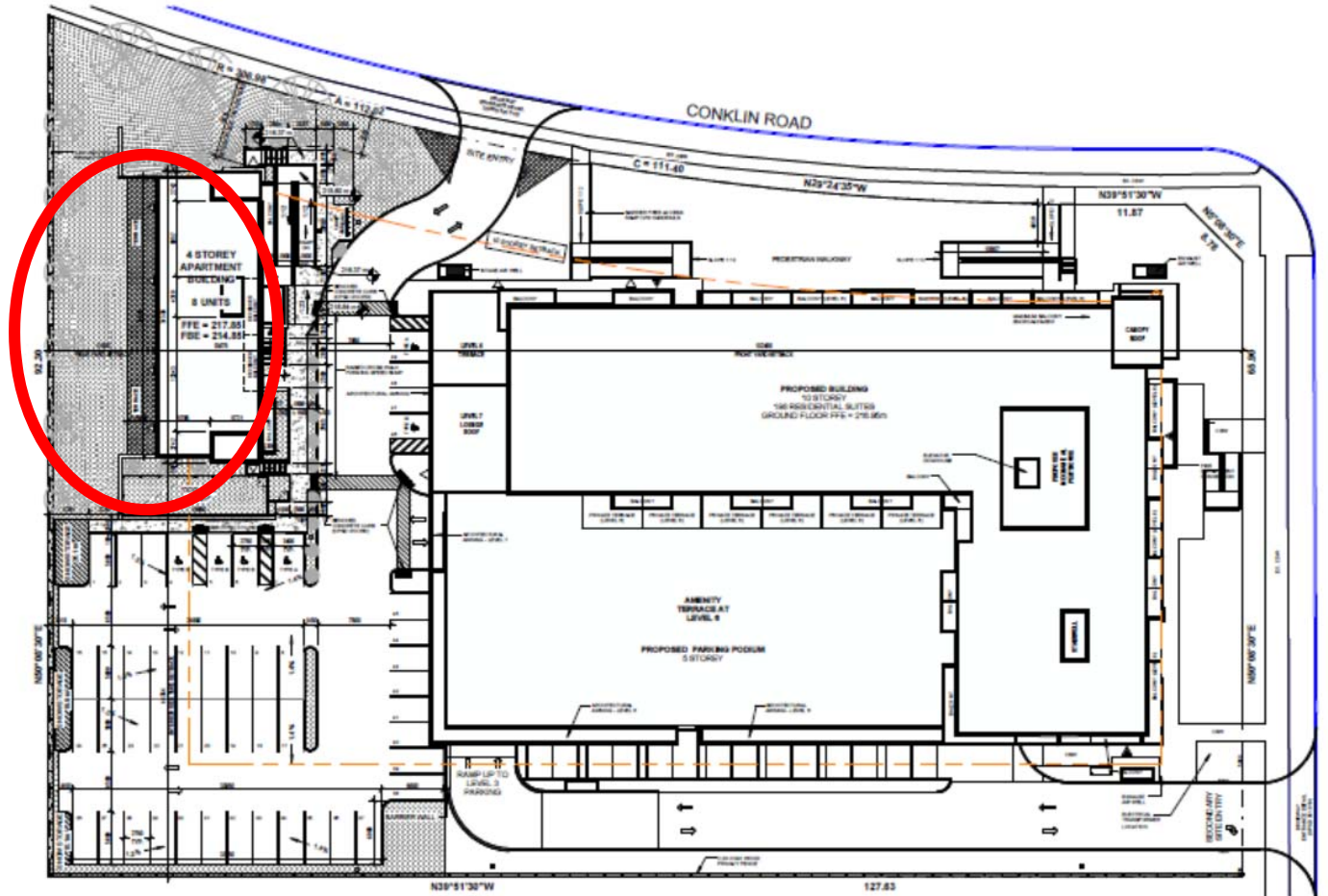


Legend

 SUBJECT LAND



Variance Sketch



Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: July 22, 2024

CASE NO(S):

OLT-24-000018

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	The Ambrose Condos Inc.
Subject:	Minor Variance
Description:	To permit the development of a 4-storey, 8 unit apartment building
Reference Number:	A35/2023
Property Address:	575 Conklin Road
Municipality/UT:	Brantford/Brant
OLT Case No.:	OLT-24-000018
OLT Lead Case No.:	OLT-24-000018
OLT Case Name:	The Ambrose Condos Inc. v. Brantford (City)

Heard: March 25, 2024 by Video Hearing

APPEARANCES:

Parties

The Ambrose Condos Inc.

Counsel

Alex Ciccone

DECISION DELIVERED BY F. LAVOIE AND ORDER OF THE TRIBUNAL

[Link to Order](#)

INTRODUCTION

[1] This Decision and Order arises from an Appeal filed by The Ambrose Condos Inc. (“Appellant”), pursuant to s. 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“Act”), in respect of the refusal by the City of Brantford’s (“City”) Committee of Adjustment (“COA”) of its application for Minor Variances (“MV”), which seeks to permit the development of a four-storey, eight-unit apartment building, at the property Municipally known as 575 Conklin Road (“Subject Property”).

BACKGROUND

[2] The Subject Property is approximately 0.99 hectares with an approximate frontage of 131 metres (“m”) on Conklin Road. It is zoned ‘Residential’ by the Official Plan (“OP”) and Residential High-Density Zone by the City of Brantford (“City”) Comprehensive Zoning By-Law No. 160-90 (“ZBL”). The Subject Property is surrounded by townhouses to the north, a commercial plaza to the east, and vacant land to the west and south of the Subject Property.

[3] The Appellant is already in the process of developing the southern portion of the Subject Property with a 10-storey, mixed use building with 198 units along Shellard Lane. The proposed development (“Development”) would be in the northern portion of the Subject Property, closer to the townhouses. The Appellant identifies each Development as Phase 1 and Phase 2, respectively.

[4] The Appellant’s original variance application requested a minimum rear yard setback of 6.7 m, and the same lot area and lot coverage relief as revised. Following discussions with City Planning Staff concerning the minimum rear yard setback, the

Appellant revised its application. On November 10, 2023, the Appellant submitted a revised variance application to the City's COA, increasing the requested rear yard setback from 6.7 m to 11.5 m. The City Planning Staff's report dated December 6, 2023 ("planning report"), found the proposal met the four tests for a MV and recommended the COA approve all three minor variances of the application. The COA refused the application.

THE HEARING

[5] Alex Ciccone attended the Hearing, representing the Appellant. The City confirmed with the Tribunal in advance of the Hearing that it would not participate at the Hearing and took no position on this Appeal. There were no Party status requests, but several Participant status requests.

[6] The Tribunal granted Participant status to Catherine Astolfo, Elaine Bessie, Richard Freedman, Diana Marriott, and Thomas Marriott. All Participants reside in the townhouses immediately north of the Development, and request that this Appeal be denied. They raised several issues, including the following:

1. stormwater management;
2. privacy concerns;
3. lack of compatibility with their adjacent residential properties;
4. that Phase 2 was not mentioned during Phase 1's proposal;
5. that tree planting will not provide privacy for several years;
6. impact on property values;
7. impact of increased traffic; and
8. lack of affordable housing.

[7] The Tribunal heard evidence from two experts retained by the Appellant: Martin Quarcoopome, a land use planner, and Steven Frankovich, a professional engineer. Both were affirmed and deemed qualified to provide expert opinion evidence in land use

planning and site servicing/stormwater management, respectively. The Tribunal relied on their witness statements and testimony, the Appellant's Book of Documents, the planning report, and the Participant statements in adjudicating this matter.

VARIANCES REQUESTED

[8] The requested variances from the ZBL are as follows:

- a. A minimum lot area of 48 square metres ("m²") per unit, whereas 50 m² per unit is required ("First Variance");
- b. A maximum lot coverage of 39%, whereas 35% is required ("Second Variance"); and
- c. A minimum rear yard setback of 11.5 m, whereas 13.5 m is required for an apartment with four-storeys ("Third Variance").

THE FOUR TESTS

[9] Pursuant to s.45(1) of the Act, an application for a MV may be granted if the following four tests are met:

- a. The application maintains the general intent and purpose of the OP;
- b. The application maintains the general intent and purpose of the ZBL;
- c. The requested variance is minor in nature; and
- d. The requested variance is desirable for the appropriate development or use of the land, building or structure.

[10] In addition, in carrying out its responsibilities under the Act, the Tribunal shall have regard to matters of provincial interest such as those enumerated under s. 2. Pursuant to s. 3(5) of the Act, its Decision shall be consistent with the Provincial Policy Statement, 2020 ("PPS"), and shall conform with Provincial plans (in this case, the Growth Plan for the Greater Golden Horseshoe ("Growth Plan")).

EVIDENCE AND SUBMISSIONS

PPS and the Growth Plan

[11] Mr. Quarcoopome opined that the proposal implements a redevelopment in a Settlement Area, is currently serviced, and is compatible with adjacent uses and built forms. He states the proposed built form is an appropriate type and scale in the context of the surrounding area and will contribute to housing supply by adding additional units to a residential area. In his opinion, the application is consistent with the PPS and conforms to the Growth Plan.

General Intent and Purpose of the OP

[12] The OP identifies a Mid-Rise Residential Building as being between three and six storeys in height, which would apply to this four-storey proposal. Mr. Quarcoopome testified that policy 5.2.1 j) of the OP sets out criteria which must be met for site-specific ZBL proposals seeking to permit a new Mid-Rise Residential Building. In his opinion, the Development meets the criteria above. He states it is located on a site suitable for the proposed built form, with suitable parking facilities, sufficient landscaping including buffering, and outdoor amenity space such as a dog run. The buffering will consist of a 3 m densely planted landscape, to screen the development from the adjacent residential uses to the north.

[13] In keeping with the rest of the criteria, he opined this location is within walking distance (500-800 m) of numerous parks, community facilities, services and amenities, has frontage on Conklin Road, which is a Minor Collector Road, and within walking distance from bus stops.

[14] Policy 5.1 b) explains that the intent of the OP is that the built form be a key determining factor for types of developments permitted in each land use designation,

and that the concept of compatible development is a fundamental element. Compatible development is defined as “development which respects or enhances the character of the community, without causing any undue, adverse impacts on adjacent properties. Compatible development is not necessarily the same as, or even similar to existing development in the vicinity.” Criteria in evaluating the compatibility of development proposals are set out in policy 5.1 c):

- a. The use, height, massing, orientation and landscape characteristics of nearby properties is properly considered and appropriate transitions between the built forms and uses shall be ensured;
- b. On-site amenity space is provided and is reflective of, or enhances, the existing patterns of private and public amenity space in the vicinity; and
- c. Streetscape patterns, including block lengths, setbacks and building separations are generally maintained.

[15] In Mr. Quarcoopome’s opinion, the Development was designed to mitigate any undue impact on adjacent properties. Its design mimics a townhouse-built form, to ensure compatibility with adjacent townhouses to the north. The four-storey building also functions as a transition between the 10-storey building to the south, and the low-rise residential uses to the north.

[16] He states that on-site private and shared amenity space, including private terraces and balconies, is reflective of existing private amenity found in the community, such as private rear yards of residential uses to the north, and balconies of the 10-storey building. He highlights that the balconies will only face south, to ensure greater privacy for adjacent uses to the north. Finally, while the Subject Property reflects a unique lotting condition, this building will create a block that reflects the existing townhouse blocks to the north in terms of block length and depth, as well as separation and setbacks.

[17] Overall, Mr. Quarcoopome’s opinion is that the application maintains the general intent and purpose of the OP, by adding new residential units using a permitted built form while maintaining compatibility with adjacent land uses.

[18] Following the hearing, the Tribunal sought additional submissions from the Parties on policy 5.1 e) of the OP, which requires that all development applications be consistent with the City's Urban Design Manual ("UDM"), and s. 5.2 6) of the UDM, which allows minor penetration into the angular plane, where it does not impact light, view and privacy of surrounding low-rise residential uses. The Tribunal received additional submissions from the Appellant on these two policies, which restated what was originally submitted: that shadowing was created, but acceptable, and that privacy had been mitigated.

General Intent and Purpose of the ZBL

[19] Mr. Quarcoopome testified that the general intent and purpose of the lot area and lot coverage performance standards is to ensure that adequate space is available for landscape and amenity space relative to the number of units and building size. Despite narrowly missing minimum lot area and exceeding maximum lot coverage, the Development will provide significantly more outdoor amenity space and landscaped area on site than required by the ZBL. Therefore, for the First and Second Variances, the intent and general purpose of the ZBL is maintained.

[20] With respect to the Third Variance, reducing the rear yard setback from 13.5 m to 11.5 m, Mr. Quarcoopome opined that the use of sunken terraces, densely planted vegetated buffer, 2.2 m-high privacy fence, and the lack of balconies on the rear side of the building minimizes any potential privacy or overlook impacts on adjacent properties.

[21] He also explained that the Development has consideration for the UDM, which introduces the concept of a 45-degree angular plane, measured from the property line to the top of a proposed mid-rise building. Mr. Quarcoopome acknowledged that a very small portion of the building penetrates this angular plane, which he states is permitted by the UDM. He also states that, while unusual for a building of this scale, a Sun Shadow Study was prepared, which demonstrates limited shadowing impact on the rear yards of the adjacent townhouse properties.

Desirable for the Appropriate Development or Use of the Land

[22] Mr. Quarcoopome opined that the proposed variances allow for the appropriate use of the Subject Property for residential uses, and efficiently uses the site and existing infrastructure. He also states the proposed four-storeys maintains compatibility and minimizes impacts to the Subject Property and its surroundings.

Minor Variance

[23] Mr. Quarcoopome's opinion is that the proposed variances are minor in nature, respect the character of the area, and will result in a residential building that is compatible with the existing neighborhood. He testified that they would have minimal impact on the surrounding neighbourhood, which do not rise to the level of undue adverse impact.

Stormwater Management

[24] In response to concerns raised by the Participants, Mr. Frankovich testified that the Site Plan Application process for Phase 1 ensures the grading will direct the storm water runoff to the proposed private storm sewer system throughout the Subject Property. He also addressed that the proposed Phase 2 building does not exceed the allocated runoff coefficient used to design the downstream Municipal stormwater management facility, and the Municipal storm sewer system along Conklin Road.

[25] In his opinion, the proposed development can be developed to meet all Municipal engineering standards and does not negatively affect the adjacent lands nor the existing Municipal infrastructure.

Participant's Other Concerns

[26] With regards to Phase 2 not having been mentioned during Phase 1's proposal, Mr. Quarcoopome candidly stated that Phase 2 was not contemplated at that time. His opinion was that the Site Plan Amendment process and MV process were established, in part, to allow minor revisions to approved developments. He stated that the Appellant has followed the due process to facilitate the proposed Phase 2 Development, and that Phase 2 not being proposed at the time of Phase 1 is not appropriate grounds for refusing Phase 2.

[27] On affordable housing, Mr. Quarcoopome stated that there are no requirements either in the PPS or the OP requiring affordable housing be provided on the Subject Property, and that the provision of affordable housing does not form part of the test for a MV.

ANALYSIS AND FINDINGS

[28] For the First Variance and Second Variance, the Tribunal accepts the uncontroverted evidence of Mr. Quarcoopome, and finds that they maintain the general intent and purpose of the OP and ZBL, are minor in nature, and are desirable for the appropriate development or use of the land.

[29] With regards to the Third Variance, the Tribunal also accepts Mr. Quarcoopome's evidence, with one exception.

[30] As previously noted, Mr. Quarcoopome's evidence was that penetration of a building in the angular plane is permitted by the UDM. The UDM indeed permits minor penetration into the angular plane - subject to an important caveat:

(5.2.6.) Buildings should incorporate setbacks and stepbacks to lessen the impact of the streetwall on the public realm. Where mid-rise buildings share a property line with low-rise residential buildings, a 45 degree angular plane should be measured from the adjacent property line to the top of the building. Some minor penetrations into the angular plane may be permitted, where it does not impact the light, view and privacy of surrounding low-rise residential uses.
(emphasis added)

[31] Policy 5.1 e) i) of the OP, which the witness statement did not refer to, states that “all development applications shall be consistent with the City’s Urban Design Manual”.

[32] The Tribunal finds that the Third Variance is not consistent with the UDM, as a minor penetration is only permitted where it does not impact, among other things, the light of surrounding low-rise residential uses. Mr. Quarcoopome’s witness statement clearly indicates that the Sun-Shadow Study demonstrates “limited shadowing impact” on the rear yards of surrounding low-rise residential uses. The evidence is clear that the proposal has light impacts, albeit limited, on the adjacent residential properties. The UDM is also clear that no impact to light on surrounding low-rise residential uses is permitted for a proposal to avail itself of the exception permitting minor penetrations into the angular plane. Accordingly, by failing to be consistent with the UDM, the Third Variance does not maintain the intent and purpose of the OP.

[33] The Tribunal accepts the evidence that the shadow impact on adjacent residential uses to the north is limited and does not rise to the level of undue, adverse impact. As such, the Tribunal finds that the Third Variance maintains the general intent and purpose of the ZBL, is minor in nature, and is desirable for the appropriate development or use of the land. Notwithstanding this finding, by failing one of the four tests for a variance, the Third Variance does not meet the legislative test and cannot be authorized.

[34] The Tribunal finds the Appellant has adequately addressed the land planning issues raised in the Participant statements, including stormwater management, compatibility, privacy, and affordable housing. Property value concerns have repeatedly

been held by this Tribunal and its predecessors to not be a land use planning matter: see *Developments Inc. v Toronto (City)*, 2016 CanLII 14704 (ON LPAT) at para 4; *Abernethy v Toronto (City)*, 2019 CanLII 18898 (ON LPAT) at para 40; *Sifton Properties Limited v Brant (County)*, 2023 CanLII 115086 (ON LT) at para 6.

[35] While traffic concerns raised by the Participants were not addressed by the Appellant's evidence, the Tribunal finds the concerns raised by traffic were in essence, critical of the existing traffic situation at the intersection of Conklin Road and Shellard Lane. Recognizing Phase 2 is for only eight additional units, the Tribunal finds this proposal will have minimal, if any, impact on the existing traffic concerns raised by some of the Participants.

[36] Finally, the Tribunal accepts Mr. Quarcoopome's evidence with regards to the PPS and Growth Plan and finds the Application is consistent with the former and conforms to the latter. The Tribunal also finds the First and Second Variances are representative of good planning and are in the public interest.

ORDER

[37] **THE TRIBUNAL ORDERS** that the Appeal is allowed in part and the following Minor Variances to the City of Brantford Comprehensive Zoning By-Law No. 160-90 are authorized:

- a. A minimum lot area of 48 metres squared per unit, whereas 50 metres squared per unit is required; and
- b. A maximum lot coverage of 39%, whereas 35% is required.

[38] The requested variance reducing the minimum rear yard setback to 11.5 metres is not authorized.

"F. Lavoie"

F. LAVOIE
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.



THE CORPORATION OF THE CITY OF BRANTFORD
 CITY HALL, 58 DALHOUSIE STREET, BRANTFORD, ON N3T 2J2
 TELEPHONE 519-759-4150

**COMMITTEE OF ADJUSTMENT
 DECISION OF THE COMMITTEE**

File Number: A36/2023
Related File Numbers: N/A
Address: 9 Garden Avenue
Roll Numbers: 290604001538500000
Applicant/Owner: 1000147958 Ontario Inc.
Agent: Upper Canada Consultants

**IN THE MATTER OF AN APPLICATION FOR VARIANCE MADE UNDER SECTION
 45 OF THE PLANNING ACT, R.S.O. 1990, CHAPTER 13 as amended:**

PROPOSAL:

A minor variance application has been received for the lands municipally addressed as 9 Garden Avenue. The applicant is proposing to construct a development consisting of 34 stacked townhouse units.

To facilitate the development as proposed, the applicant is seeking the following relief from Zoning By-law 160-90:

Regulation	By-Law Section (160-90)	Required (R4A-79)	Proposed	Relief Requested
Minimum Lot Area	7.9.2.1.1	162.5 m ² /unit	153 m ² /unit	9.5 m ² /unit
Minimum Landscaped Open Space	7.9.2.1.9	36%	33%	3%

DECISION: APPROVED

DATE: December 6, 2023

- A. THAT application A36/2023 seeking relief from Section 2.1.79.2.1 of Zoning By-law Amendment 72-2022 to permit a reduced minimum lot area of 153 m²/unit, whereas 162.5 m²/unit is required, BE APPROVED;
- B. THAT the reasons for approval of the minor variance are as follows: the proposed variances are in keeping with the general intent of the Official Plan and Zoning By-law 160-90, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject lands; and

- C. THAT application A36/2023 seeking relief from Section 2.1.79.2.10 of Zoning By-law Amendment 72-2022 to permit a reduced Landscaped Open Space of 33%, whereas 36% is required, BE APPROVED;
- D. THAT the reason(s) for approval of the minor variances are as follows: the proposed variances are in keeping with the general intent of the Official Plan and Zoning By-law 160-90, and the relief requested is considered minor in nature and desirable for the appropriate development and use of the subject lands; and,
- E. THAT pursuant to Section 45(8) – (8.2) of the *Planning Act*, R.S.O 1990, c. P. 13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2023-645.”

**Electronically signed by V. Kershaw,
Chair/Member**

**Electronically signed by M. Bodnar
Member**

**ABSENT - T. Cupoli
Member
(Declared a conflict of interest)**

**ABSENT - T. Gaskin
Member**

**Electronically signed by G. Kempa,
Member**

**Electronically signed by J. Panag,
Member**

**Electronically signed by M. Simpson
Member**

CERTIFICATION

I hereby certify that this is a true copy of the original document


Secretary-Treasurer

ADDITIONAL INFORMATION

If you require additional information regarding the application, please contact Secretary-Treasurer, Committee of Adjustment, (519)759-4150 CofA@brantford.ca.

APPEALS

The applicant, the Minister, a specified person (as defined under Section 1(1) of the *Planning Act*), or public body that has an interest in the matter may, not later than 20 days after the giving of notice of a decision under Section 45(12) for minor variances) of the *Planning Act* is completed, appeal the decision and/or any conditions imposed on a decision by the Committee of Adjustment, to the Ontario Land Tribunal. Please note that members of the public are no longer entitled to appeal decisions of the Committee of Adjustment.

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The letter of appeal, Appellant Form (A1) and fee for appeal are to be filed with the following:

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Committee of Adjustment
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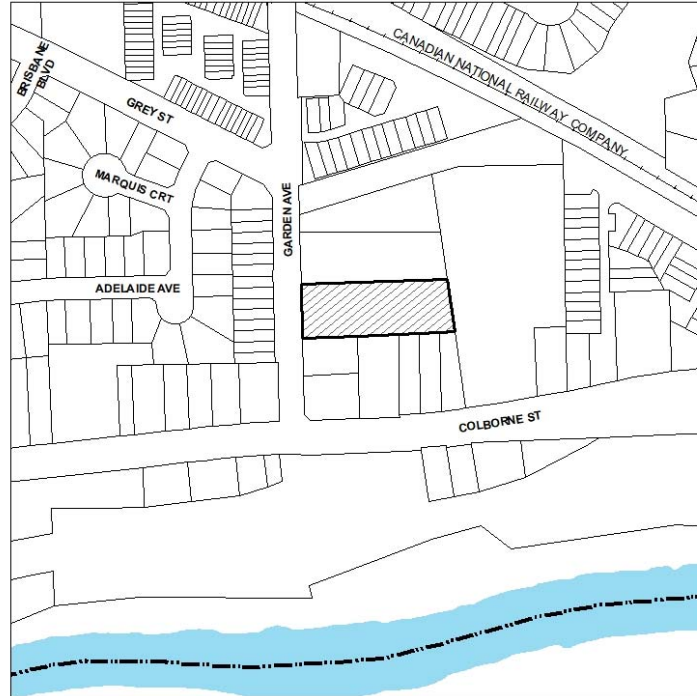
The last date for filing a notice of appeal to the Ontario Land Tribunal of this Decision is December 27, 2023

END OF DECISION


Location Map

LOCATION MAP

Application: A36/2023
9 Garden Ave

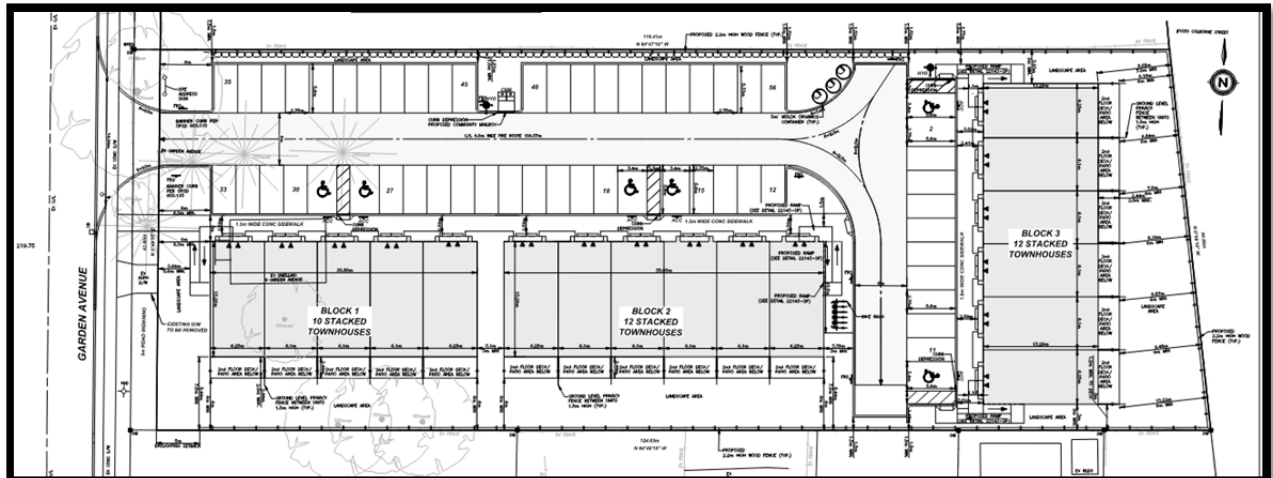


Legend

 SUBJECT LAND



Variance Sketch





THE CORPORATION OF THE CITY OF BRANTFORD
 CITY HALL, 58 DALHOUSIE STREET, BRANTFORD, ON N3T 2J2
 TELEPHONE 519-759-4150

**COMMITTEE OF ADJUSTMENT
 DECISION OF THE COMMITTEE**

File Number: A37/2023
Related File Numbers: N/A
Address: 83 Victoria Street
Roll Numbers: 2906040006173000000
Applicant/Owner: 1446500 Ontario Limited
Agent: Underwood, Ion & Johnson

**IN THE MATTER OF AN APPLICATION FOR VARIANCE MADE UNDER SECTION
 45 OF THE PLANNING ACT, R.S.O. 1990, CHAPTER 13 as amended:**

PROPOSAL:

A minor variance application has been received for the lands municipally addressed as 83 Victoria Street. The subject lands currently have a single detached dwelling with a recent addition that does not comply with Zoning By-law 160-90.

To facilitate the development as proposed, the applicant is seeking the following relief from Zoning By-law 160-90:

Regulation	By-law Section	Required	Proposed	Relief Requested
Maximum Lot Coverage	7.8.2.1.3.3	40%	49%	9%
Minimum Rear Yard	7.8.2.1.6	7.5 m	4.6 m	2.9 m

DECISION: APPROVED

DATE: December 6, 2023

- A. THAT application A37/2023 seeking relief from Section 7.8.2.3.3 to permit 49% lot coverage, whereas 40% is the maximum lot coverage, BE APPROVED;
- B. THAT application A37/2023 seeking relief from Section 7.8.2.6 to permit a rear yard setback of 4.6 m, whereas 7.5 m is otherwise required, BE APPROVED;
- C. THAT the reasons for approval of the Minor Variance to grant relief to Section 7.8.2.3.3 are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-Law 160-90, the relief requested is considered minor in nature and desirable for the appropriate development and use of the subject lands; and

- D. THAT the reasons for approval of the minor variance to grant relief from Section 7.8.2.6 are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-Law 160-90, the relief requested is considered minor in nature and desirable for the appropriate development and use of the subject lands; and
- E. THAT pursuant to Section 45(8) – (8.2) of the *Planning Act*, R.S.O 1990, c. P. 13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2023-701”.

**Electronically signed by V. Kershaw,
Chair/Member**

**Electronically signed by M. Bodnar
Member**

**Electronically signed by T. Cupoli,
Member**

**ABSENT - T. Gaskin
Member**

**Electronically signed by G. Kempa,
Member**

**Electronically signed by J. Panag,
Member**

**Electronically signed by M. Simpson
Member**

CERTIFICATION

I hereby certify that this is a true copy of the original document


Secretary-Treasurer

ADDITIONAL INFORMATION

If you require additional information regarding the application, please contact Secretary-Treasurer, Committee of Adjustment, (519)759-4150 CofA@brantford.ca.

APPEALS

The applicant, the Minister, a specified person (as defined under Section 1(1) of the *Planning Act*), or public body that has an interest in the matter may, not later than 20 days after the giving of notice of a decision under Section 45(12) for minor variances) of the *Planning Act* is completed, appeal the decision and/or any conditions imposed on a decision by the Committee of Adjustment, to the Ontario Land Tribunal. Please note that members of the public are no longer entitled to appeal decisions of the Committee of Adjustment.

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Notice of Changes

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The letter of appeal, Appellant Form (A1) and fee for appeal are to be filed with the following:

Secretary-Treasurer
Committee of Adjustment
58 Dalhousie Street
Brantford ON
N3T 2J2

If no appeal is filed by the date listed on the decision, the decision of the Committee of Adjustment is final.

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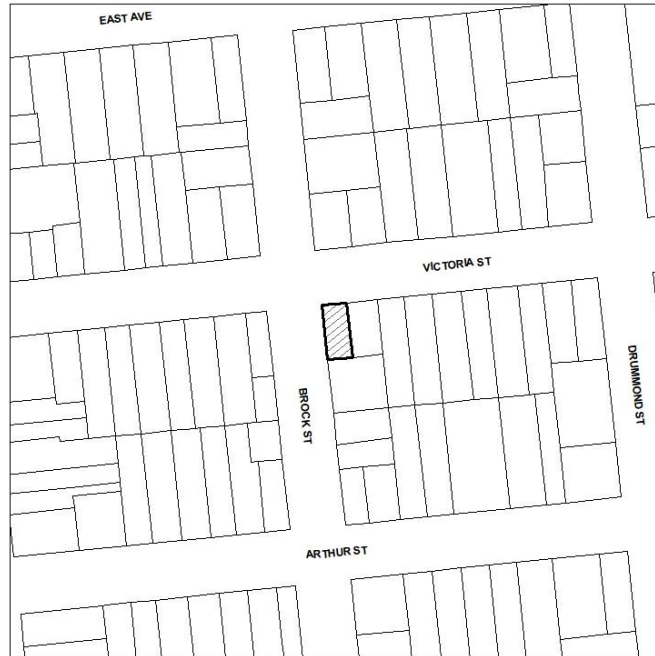
The last date for filing a notice of appeal to the Ontario Land Tribunal of this Decision is December 27, 2023

END OF DECISION

Location Map

LOCATION MAP

Application: A37/2023
83 Victoria Street

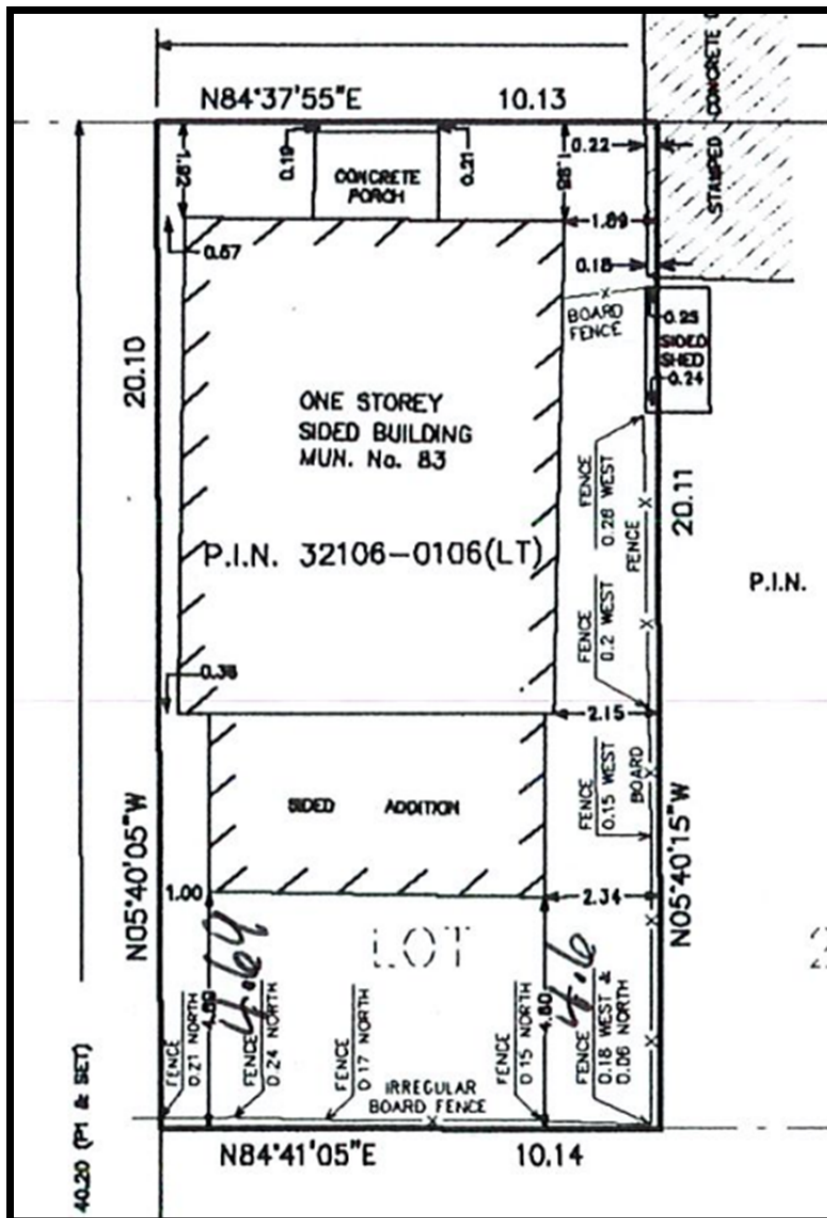


Legend

 SUBJECT LAND



Variance Sketch





THE CORPORATION OF THE CITY OF BRANTFORD
CITY HALL, 58 DALHOUSIE STREET, BRANTFORD, ON N3T 2J2
TELEPHONE 519-759-4150

**COMMITTEE OF ADJUSTMENT
DECISION OF THE COMMITTEE**

File Number: A38/2023
Related File Numbers: N/A
Address: 156 Adams Boulevard
Roll Numbers: 2906030019165340000
Applicant: Enel X Canada Ltd.
Owner: 2180903 Ontario Inc.
Agent: RESCo. Energy Inc.

**IN THE MATTER OF AN APPLICATION FOR VARIANCE MADE UNDER SECTION
45 OF THE PLANNING ACT, R.S.O. 1990, CHAPTER 13 as amended:**

PROPOSAL:

The subject lands currently have an industrial warehouse on the site, known as the Amhil North America Distribution Warehouse. The property owner proposes the development of a 2570 kW battery energy storage system that would be incorporated with the existing Grandbridge Energy electrical infrastructure and feed the Amhil facility during peak hours to be more efficient with energy consumption. The battery, measuring approximately 1.8 m in height and 189 m² in area, would be affixed to a cement pad and fenced.

To facilitate this development, the applicant has submitted a site plan application (SPC-12-23) and this minor variance is to request relief from the following Sections of Zoning By-law 160-90:

- Section 6.3.1.6.1 to permit an accessory structure in the required front yard, whereas it is otherwise not permitted.

DECISION: APPROVED

DATE: December 6, 2023

- A. THAT application A38/2023 seeking relief from Section 6.3.1.6.1 to permit an accessory structure in the front yard, BE APPROVED;
- B. THAT the reasons for approval of the minor variance to grant relief to Section 6.3.1.6.1 are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-law 160-90, the relief requested is considered minor in nature and desirable for the appropriate development and use of the subject lands; and

C. THAT pursuant to Section 45(8) – (8.2) of the *Planning Act*, R.S.O 1990, c. P. 13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2023-702”.

**Electronically signed by V. Kershaw,
Chair/Member**

**Electronically signed by M. Bodnar
Member**

**Electronically signed by T. Cupoli,
Member**

**ABSENT - T. Gaskin
Member**

**Electronically signed by G. Kempa,
Member**

**Electronically signed by J. Panag,
Member**

**Electronically signed by M. Simpson
Member**

CERTIFICATION

I hereby certify that this is a true copy of the original document


Secretary-Treasurer

ADDITIONAL INFORMATION

If you require additional information regarding the application, please contact Secretary-Treasurer, Committee of Adjustment, (519)759-4150 CofA@brantford.ca.

APPEALS

The applicant, the Minister, a specified person (as defined under Section 1(1) of the *Planning Act*), or public body that has an interest in the matter may, not later than 20 days after the giving of notice of a decision under Section 45(12) for minor variances) of the *Planning Act* is completed, appeal the decision and/or any conditions imposed on a decision by the Committee of Adjustment, to the Ontario Land Tribunal. Please note that members of the public are no longer entitled to appeal decisions of the Committee of Adjustment.

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The letter of appeal, Appellant Form (A1) and fee for appeal are to be filed with the following:

Secretary-Treasurer
Committee of Adjustment
58 Dalhousie Street
Brantford ON
N3T 2J2

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Notice of Changes

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The last date for filing a notice of appeal to the Ontario Land Tribunal of this Decision is December 27, 2023

END OF DECISION



THE CORPORATION OF THE CITY OF BRANTFORD
CITY HALL, 58 DALHOUSIE STREET, BRANTFORD, ON N3T 2J2
TELEPHONE 519-759-4150

**COMMITTEE OF ADJUSTMENT
DECISION OF THE COMMITTEE**

File Number: A39/2023
Related File Numbers: N/A
Address: 40 Fen Ridge Court
Roll Numbers: 2906010012019760000
Applicant: Vicano Construction Ltd.
Owner: GIZEH Packaging NA Inc.
Agent: Cynthia Baycetch

**IN THE MATTER OF AN APPLICATION FOR VARIANCE MADE UNDER SECTION
45 OF THE PLANNING ACT, R.S.O. 1990, CHAPTER 13 as amended:**

PROPOSAL:

A minor variance application has been received for the lands municipally addressed as 40 Fen Ridge Court. The subject lands contain a warehouse building operating as Gizeh Packaging N.A. Inc. The site has received previous planning approvals through site-specific zoning by-law amendments and site plan control applications to implement the various phases of expansion. The applicant is now proposing Phase 4 which includes a 1,409.6 m² warehouse addition and connects the two existing warehouses on site. A site plan amendment will be required to implement this phase. However, to facilitate this proposed expansion, the applicant has submitted a minor variance application to request for relief from the following section of the Zoning By-law 160-90:

- Section 10.3.2.1.3.2 of Zoning By-law 160-90 to permit a maximum lot coverage of 44%, whereas a maximum lot coverage of 40% is permitted,

DECISION: APPROVED

DATE: December 6, 2023

- THAT application A39/2023 seeking relief from Section 10.3.2.1.3.2 of Zoning By-law 160-90 to permit a maximum lot coverage of 44%, whereas a maximum lot coverage of 40% is permitted, BE APPROVED;
- THAT the reason(s) for approval of the minor variance are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-law 160-90, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject lands; and,
- THAT pursuant to Section 45(8) – (8.2) of the *Planning Act*, R.S.O 1990, c. P. 13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2023-704.”

Electronically signed by V. Kershaw,
Chair/Member

Electronically signed by M. Bodnar
Member

Electronically signed by T. Cupoli,
Member

ABSENT - T. Gaskin
Member

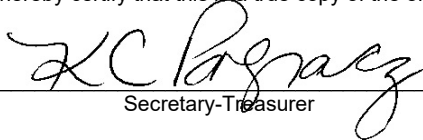
Electronically signed by G. Kempa,
Member

Electronically signed by J. Panag,
Member

Electronically signed by M. Simpson
Member

CERTIFICATION

I hereby certify that this is a true copy of the original document



Secretary-Treasurer

ADDITIONAL INFORMATION

If you require additional information regarding the application, please contact Secretary-Treasurer, Committee of Adjustment, (519)759-4150 CofA@brantford.ca.

APPEALS

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The last date for filing a notice of appeal to the Ontario Land Tribunal of this Decision is December 27, 2023

END OF DECISION



THE CORPORATION OF THE CITY OF BRANTFORD
 CITY HALL, 58 DALHOUSIE STREET, BRANTFORD, ON N3T 2J2
 TELEPHONE 519-759-4150

**COMMITTEE OF ADJUSTMENT
 DECISION OF THE COMMITTEE**

File Number: A40/2023
Related File Numbers: N/A
Address: 8 Sterling Street
Roll Numbers: 2906010003011000000
Applicant/Owner: B. Murray
Agent: J.H. Cohoon Engineering Ltd.

**IN THE MATTER OF AN APPLICATION FOR VARIANCE MADE UNDER SECTION
 45 OF THE PLANNING ACT, R.S.O. 1990, CHAPTER 13 as amended:**

PROPOSAL:

A minor variance application has been received for the lands municipally addressed as 8 Sterling Street. The applicant is proposing to construct a two-storey, 3-unit street townhouse, with a GFA of 299.1 square metres.

In order to facilitate the residential development, minor variances are proposed to provide relief from the following sections of Zoning By-law 160-90:

Regulation	By-law Section	Required	Proposed	Relief Requested
Maximum Lot Coverage	7.8.2.1.3.1	43.3% (Variance A13-2022)	48.1%	+ 4.8 %
Minimum Front Yard	7.8.2.5	3.59 m (Variance A13/2022)	6.00 m to garage	+ 2.01 m
Minimum Rear Yard	7.8.2.6	7.5 m	5.18 m	- 2.32 m

DECISION: CONDITIONALLY APPROVED

DATE: December 6, 2023

- A. THAT application A40/2023 seeking relief from Section 7.8.2.1.3.1 of Zoning By-law 160-90 to permit a maximum lot coverage of 48.1%, whereas 43.3% is required, BE APPROVED, conditional upon the registration of an environmental easement for operational noise and vibration emissions, in favour of CN Rail;
- B. THAT application A40/2023 seeking relief from Section 7.8.2.5 of Zoning By-law 160-90 to permit a modified minimum front yard, BE APPROVED provided the front yard setback to the garage is 6.0 m, conditional upon the registration of an environmental easement for operational noise and vibration emissions, in favour of CN Rail;

- C. THAT application A40/2023 seeking relief from Section 7.8.2.6 of Zoning By-law 160-90 to permit a minimum rear yard of 5.18 m, whereas 7.5 m is required, BE APPROVED, conditional upon the registration of an environmental easement for operational noise and vibration emissions, in favour of CN Rail;
- D. THAT the reason(s) for approval of the minor variances are as follows: the proposed variances are in keeping with the general intent of the Official Plan and Zoning By-law 160-90, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject lands; and,
- E. THAT pursuant to Section 45(8) – (8.2) of the *Planning Act*, R.S.O 1990, c. P. 13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2023-709”.

**Electronically signed by V. Kershaw,
Chair/Member**

**Electronically signed by M. Bodnar
Member**

**Electronically signed by T. Cupoli,
Member**

**ABSENT - T. Gaskin
Member**

**Electronically signed by G. Kempa,
Member**

**Electronically signed by J. Panag,
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**Electronically signed by M. Simpson
Member**

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Secretary-Treasurer

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END OF DECISION

Location Map

LOCATION MAP
 Application: A40/2023
 8 Sterling Street



Variance Sketch

