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**Date** July 6, 2022 **Report No.** 2022-473

**To** Chair and Members  
City of Brantford Committee of Adjustment

**From** Sarah Hague  
Development Planner

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## 1.0 Type of Report

Committee of Adjustment Decision Regarding Applications for Consent and Minor Variance

## 2.0 Topic

<b>APPLICATION NO.</b>	B16/2022 & A28/2022
<b>APPLICANT</b>	Melanie Hague
<b>OWNER</b>	Melanie Hague & Charles Chung
<b>LOCATION</b>	218-220 Nelson Street

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## 3.0 Recommendation

- A. THAT Application B16/2022 to sever a parcel of land municipally addressed as 220 Nelson Street, having a lot area of 414 m<sup>2</sup>, and to retain a parcel of land municipally addressed at 218 Nelson Street, having a lot area of 344 m<sup>2</sup>, BE APPROVED, subject to the conditions attached is **Appendix A** to Report 2022-473;
- B. THAT the reason(s) for approval are as follows: having regard for the matters under Section 51 (24) of the *Planning Act*, Staff is satisfied that the proposed development is desirable and compatible with the surrounding area and will not

result in adverse impacts on surrounding properties. The application is in conformity with the general intent of the policies of the Official Plan and Zoning By-law, specifically Section 9.3 (g – i) of the Official Plan respecting consent applications within the City of Brantford and is consistent with the policies of the Growth Plan for the Greater Golden Horseshoe and Provincial Policy Statement;

- C. THAT Application A28/2022 requesting relief from Section 7.8.2.1.7.1 of the City of Brantford Zoning By-law 160-90 to permit a minimum interior side yard of 0.0 m along a common wall, whereas 0.6 m is required, BE APPROVED;
- D. THAT the reason(s) for approval are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-law, 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 53(17) – (18.2) and 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 No. 2022-473.”*

#### 4.0 Purpose and Description of Applications

A consent application has been received for the property municipally addressed as 218-220 Nelson Street. The proposed consent will facilitate the creation of a new residential lot which will recognize separate ownership of the existing semi-detached dwelling (divided vertically by a common wall) so that each dwelling unit can be conveyed separately. There is no proposed increase in density and the units shall remain unchanged. The proposed lot dimensions are detailed below:

	<b><i>Retained (Parcel 1)</i></b>	<b><i>Severed (Parcel 2)</i></b>
Lot Frontage	11.97 m	12.9 m
Lot Area	343.71 m <sup>2</sup>	413.75 m <sup>2</sup>
Lot Coverage	30.8%	35.3%
Building Height	2 storeys (existing)	2 storeys (existing)
Front Yard	3.8 m (existing)	3.76 m (existing)
Rear Yard	14.16 m (existing)	11.5 m (existing)
Side Yard	4.13 m & 0 m (existing)	3.39 m & 0 m (existing)

To facilitate the consent application, a minor variance is required to recognize the existing common wall which will divide the two properties. Accordingly, the applicant has requested relief from Section 7.8.2.1.7.1 of Zoning By-law 160-90 to permit a minimum interior side yard of 0.0 m along a common wall, whereas a minimum interior side yard of 0.6 m is required. A location map and a severance sketch are attached as **Appendices B and C**.

## **5.0 Site Features**

The subject lands are located at the northwest intersection of Nelson Street and Murray Street. The lot is currently occupied by two dwellings which share a common wall. 218 Nelson contains a single residential unit and 220 Nelson contains 3 self-contained dwelling units. The subject lands are located in a mature neighbourhood and the area is dominant by single detached and converted dwellings. An aerial photo and site photographs are attached as **Appendices D and E**.

## **6.0 Input from Other Sources**

### **6.1 Technical Comments**

The applications were circulated to all appropriate departments and agencies: no objections were received. Despite the existing structure's age, the property is not listed as having any cultural heritage value. Detailed comments from the Building, Environmental Services, Transportation, and Development Engineering Departments are attached as **Appendices F, G, H and I**.

### **6.2 Public Response**

Notice of public hearing was issued by personal mail (50 notices) and by posting 2 signs on-site. A plan illustrating the notification area is attached as **Appendix J**. At the time of writing this Report, no comments or objections have been received.

### **6.3 Grand River Notification**

Notice of the public meeting was issued to representatives of the Six Nations of the Grand River and the Mississaugas of the Credit First Nation, with no response received to date.

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## 7.0 Planning Staff Comments and Conclusion

### 7.1 Provincial Policy Context

Applications B16/2022 & A28/2022 were reviewed in the context of Provincial Policy, including the Provincial Policy Statement (2020) (PPS) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan). These policies set the standard to which provincial and local interests, policies and goals are implemented. The PPS outlines that Ontario's long term prosperity, environmental health and social well-being depends on wisely managing change and promoting efficient land use and development patterns. The Growth Plan outlines the principals that provide the basis for guiding decisions in the Greater Golden Horseshoe on how land is developed, resources are managed and protected, and public dollars are invested. Planning Staff is of the opinion that the proposed consent and minor variance applications are consistent with the direction set out in the PPS and conforms to the Growth Plan.

### 7.2 City of Brantford Official Plan (Envisioning our City: 2051)

The subject lands are designated "Residential" on Schedule 3 of the Official Plan (see **Appendix I**). This designation permits a full range of residential dwelling types and accessory buildings, including single detached and converted dwellings, as well as supporting land uses intended to serve local residents. The subject applications conform to the policies set out in the Official Plan, which is discussed further in Section 7.4 of this Report.

### 7.3 City of Brantford Zoning By-law 160-90

The subject lands are zoned "Residential Conversion Zone (RC)" in Zoning By-law 160-90 (see **Appendix J**). The RC Zone permits single detached, semi-detached, duplex, triplex, street townhouse, and converted dwellings, in addition to some other uses and accessory buildings. The minimum side yard setback requirement for common walls in the RC Zone refers to Section 6.20 in Zoning By-law 160-90 (Interior Side Yard – Common Walls). Section 6.20.1 states that "*Notwithstanding any provision of this Bylaw, the minimum interior side yard may be 0.0 m along a common wall separating units in a semi-detached, double duplex, fourplex, or street townhouse dwelling.*" However, the structure is unique in design; it was built in 1890, pre-dating any Zoning By-laws, and would

not meet any current definitions and is considered a converted dwelling under Zoning By-law 160-90. For Committee's information, the existing building is not designated or identified as having any cultural heritage interest. As Section 6.20.1 does not apply to converted dwellings, a minor variance application is required to recognize the existing common wall and permit a 0.0 m interior side yard for both proposed lots. The proposed lots comply with all other requirements of Zoning By-law 160-90.

## **7.4 Planning Analysis**

### **7.4.1 Consent Application B16/2022**

The *Planning Act* sets the standard to which provincial and local interests, policies and goals are implemented. Section 51 (24) of the *Planning Act* lists the criteria that the Committee of Adjustment must have regard for when considering a consent application for approval. These criteria include: if the plan conforms to the Official Plan, the dimensions and shapes of the proposed lot, and the adequacy of utilities and municipal services. Section 9.3 (g – i) of the Official Plan also outlines criteria for the subdivision of land and stipulates when consents are appropriate which includes when a Plan of Subdivision is deemed unnecessary and where the application conforms to the policies of the Official Plan, no more than three new lots are being created and all lots have frontage on a municipal road and do not require that municipal services be extended, and for the creation easements, boundary adjustments, rights-of-way, lot additions and long-term leases.

The proposed consent application is for the purpose of creating a new residential lot which already contains a residential dwelling within an existing residential neighbourhood. Both the severed and retained parcels will have frontage on a municipal roadway and meet the minimum lot area requirements of the Zoning By-law. The structure will also be required to meet all aspects of the Building Code, including requirements for a fire wall and spatial separation. Accordingly, prior to receiving a Certificate of Consent, the applicant will need to satisfy all requirements of the Building Department (attached as Conditions 9 through 12 of **Appendix A**) Planning Staff are satisfied that these conditions will ensure there will be no outstanding concerns regarding the

proposed severance. If approved, both lots can and will continue to accommodate a dwelling while still providing space for the required parking, and amenity space. The creation of this new lot will not restrict the development of any adjacent property.

Planning Staff have given regard to Section 51(24) of the *Planning Act* and are satisfied that the application is desirable and compatible with the surrounding area and will not result in any adverse impacts on surrounding properties. Planning Staff are of the opinion that the subject consent application is consistent with Section 51 (24) of the *Planning Act* and conforms to the Official Plan and therefore should be approved.

#### **7.4.2 Minor Variance Application A28/2022**

The Committee of Adjustment must be satisfied that the four tests of Section 45(1) of the *Planning Act* have been met when evaluating the merits of a minor variance application. To be recommended for approval, a minor variance must maintain the general intent and purpose of the Official Plan and Zoning By-law, be minor in nature, and desirable for the appropriate development and use of the land.

It is the opinion of Planning Staff that the minor variance requested for reduced interior side yard setback from 0.6 m to 0.0 m for both the severed and retained lots is minor in nature and appropriate for the development of the lands as it is already existing and does not negatively impact neighbouring properties. The existing structure was built before the zoning by-law with a common wall separating the two residential dwellings. These structures would be permitted to remain this way without a planning application, if it were not for the severance application to establish the dwellings on individual lots. However, establishing individual ownership does trigger the need to confirm that a proper fire wall and spatial separations are in place. Accordingly the Building Department has requested some conditions of approval for the consent application (Conditions 9 and 10 of **Appendix A**) which could trigger the need for additional Building Permits. These conditions will need to be satisfied prior to the consent being finalized. If the applicant can satisfy the requirements of the Building Code, Planning Staff maintain that

the minor variance application is minor in nature and desirable for the appropriate development of the land. The variance was triggered due to the highly specific nature of the dwelling definitions in Zoning By-law 160-90, and the existing 4 unit structure not fitting into the prescribed definitions to permit common walls (which are only permitted for semi-detached, double duplex, fourplex, and street townhouse dwellings). Due to the fact that 220 Nelson contains 3 units as opposed to 1 unit, it is not considered a semi-detached dwelling. It also cannot be considered a double duplex dwelling, as the units would need to be divided both horizontally and vertically, which they are not. All units in a fourplex must contain two vertical common walls and street townhouse dwellings require each unit to have frontage on a street, neither of which is not the case for this dwelling. As the structure was originally built as just half of the existing structure, with the other half being added at a later date, it is considered a converted dwelling, which is defined as “*a building located on a lot, which building was originally designed to provide one or more dwelling units, and which is altered to create additional dwelling units*”. These structures do not typically contain a common wall and therefore were excluded from Section 6.20.1. However, this is a unique situation in which a common wall (and therefore a 0.0 m interior side yard) is already existing and appropriate.

The minor variance meets the general intent and purpose of Zoning By-law 160-90 and the Official Plan by facilitating the consent application to create 2 lots which will both appropriately accommodate the existing dwellings and respective parking and amenity spaces. The severed lot is subject to Site Plan Control which will provide the City and Ward Councillors with an opportunity to review any future redevelopment of the site. Planning Staff are of the opinion that the proposed minor variance meets the four tests of Section 45(1) of the *Planning Act*.

## **7.5 Conclusion**

A site inspection was completed on June 20, 2022. Upon completion of this visit and review of all relevant policies, Planning Staff are supportive of the applications. Having regard for the matters under Section 51 (24) of the *Planning Act*, Staff is satisfied that the consent application is desirable and compatible with the surrounding area and will not result in adverse

impacts on surrounding properties. The proposal will contribute to a broad range of housing options in Brantford in accordance with the applicable planning policy framework in the PPS, Growth Plan, and Official Plan.

It is Planning Staff's opinion that the variance satisfies the four tests as defined under the *Planning Act*. The application is minor in nature, appropriate for the development and use of the lands, and meets the intent of the Zoning By-law and Official Plan. Planning Staff recommend that applications B16/2022 and A28/2022 be approved subject to the conditions attached as **Appendix A** to Report 2022-473.



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Prepared by: Sarah Hague  
Planner, Development Planning  
Prepared on: June, 29, 2022



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Reviewed By: Joe Muto, RPP, MCIP  
Manager of Development Planning



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## Appendix A – Conditions

1. ☒ Receipt of confirmation that Application A28/2022 receives final and binding approval and is in full force and effect.
2. ☒ Receipt of confirmation that all taxes are paid up to date.
3. ☒ Receipt of confirmation that the Applicant shall submit to the Secretary-Treasurer a draft of the Transfer deed for review (Upon registration a final copy of the Transfer deed shall be provided to the City).
4. ☒ Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that the deposited reference plan showing the severed and retained parcels of land has been received.
5. ☒ Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Municipal Numbering Assignment Request Form to assign a municipal address number to the severed and/or retained parcel(s) has been submitted.
6. ☒ The Owner/Applicant shall provide a Servicing Plan to the satisfaction of the Manager of Development Engineering or his/her designate and the Manager of Capital and Development, Environmental Services, or his/her designate, indicating that the severed and retained parcels have been independently serviced with a sanitary and storm sewer connection and that these services do not cross the proposed severance line and are connected directly to City infrastructure.
7. ☒ The Owner/Applicant shall be responsible, financial and otherwise, to provide sanitary and storm sewer connections to each parcel of land (severed and retained) to ensure each parcel has been independently serviced to the satisfaction of the Manager of Development Engineering or his/her designate.
8. ☒ The Owner/Applicant shall confirm pre-development drainage (existing conditions) to ensure no significant drainage impacts will occur following severance of the proposed parcels of land, all to the satisfaction of the Manager of Development Engineering or his/her designate.
9. ☒ Receipt of confirmation that elevation drawings and calculations are provided to the Chief Building Official verifying that the spatial separations requirements of the Ontario Building Code are met relative to the severance line.
10. ☒ Receipt of confirmation that floor plans and either a design or confirmation of an existing fire wall/fire separation from a qualified designer for the party wall are provided to the satisfaction of the Chief Building Official verifying that the common wall meet the requirements Ontario Building Code.
11. ☒ Receipt of confirmation that the pool enclosure details have been provided to the satisfaction of the Chief Building Official and that the pool enclosure meets the pool enclosure by-law.

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12. ☒ Receipt of confirmation that the Building Department requirements have been met.
  13. ☒ Receipt of confirmation that proof that there are no common plumbing connections through the dividing wall of the building along the severance line are provided to the Manager of Capital and Development, Environmental Services.
  14. ☒ Receipt of confirmation from the Environmental Services Department indicating that their requirements have been satisfied.
  15. ☒ Receipt of payment for cash in lieu of parkland (Payment for cash-in-lieu of parkland is to be based on an opinion of value for the lands in accordance with City of Brantford By-law 50-2018).
  16. ☒ That the above conditions be fulfilled and the Certificate of Consent be issued on or before July 7, 2024, after which time the consent will lapse.


## Appendix B – Location Map

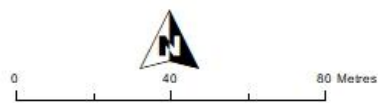
### LOCATION MAP

Application: B16/2022  
218-220 Nelson Street

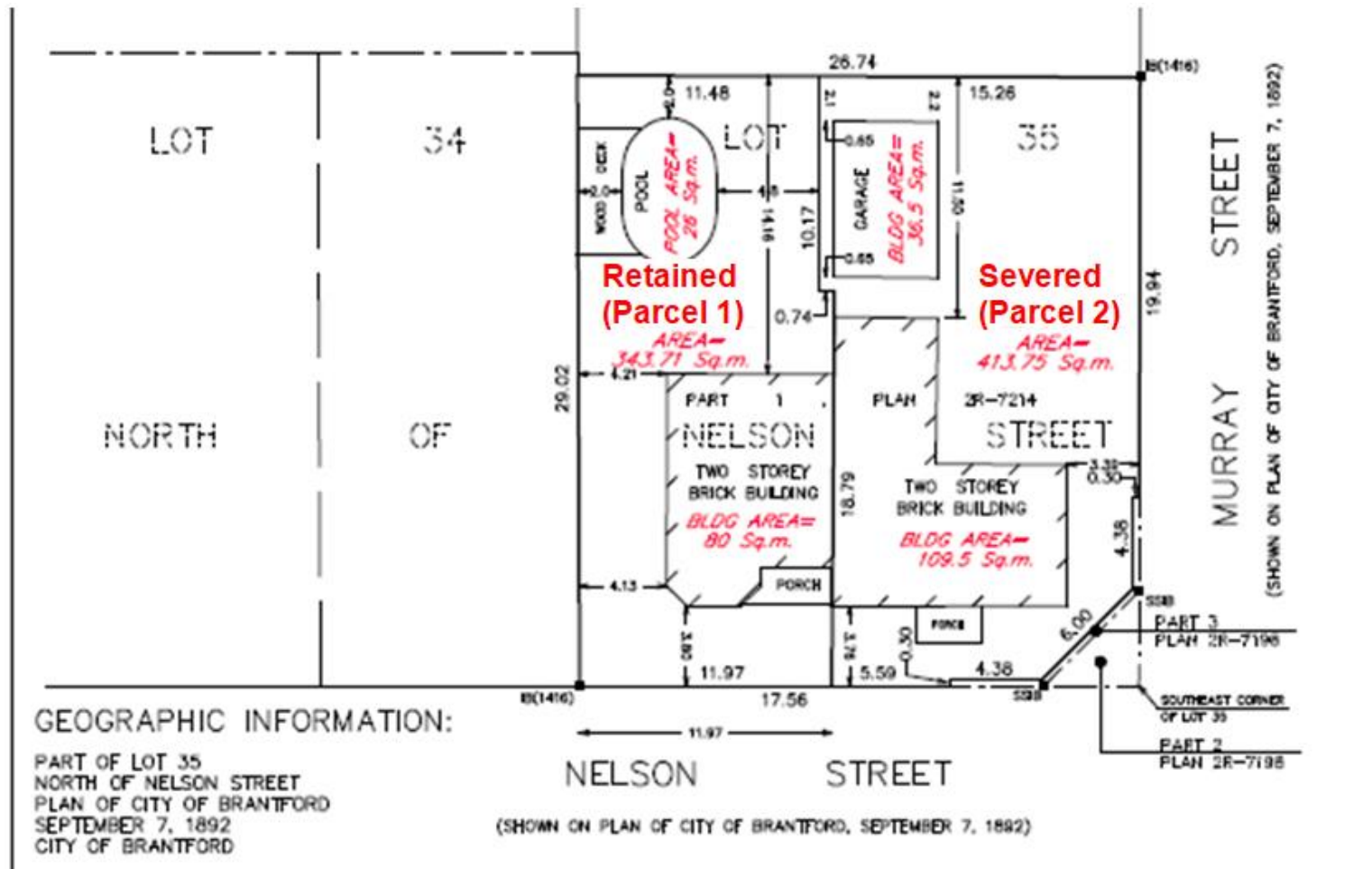


#### Legend

 SUBJECT LAND



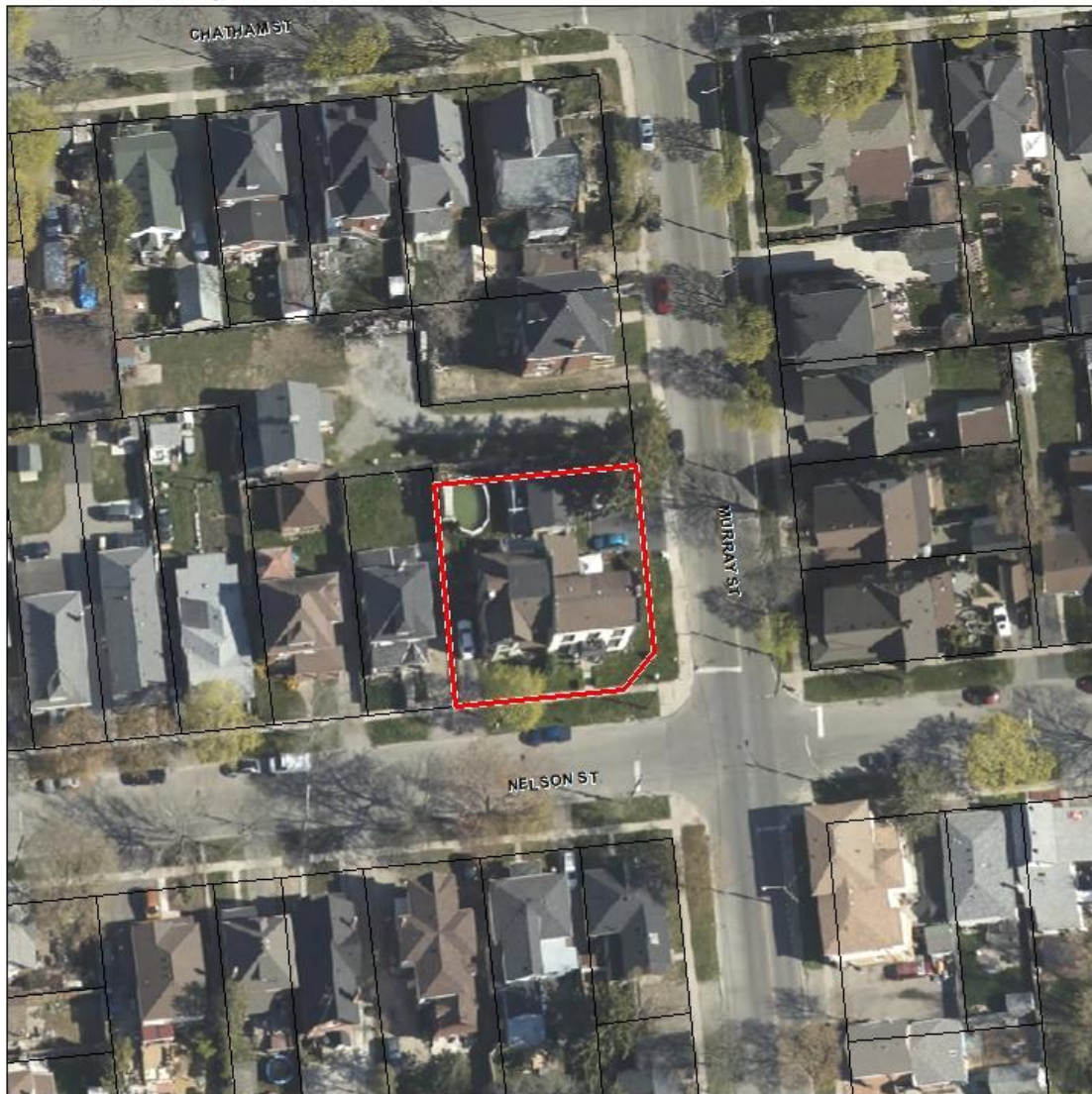
## Appendix C –Severance Sketch




## Appendix D – Aerial Photo

### AERIAL PHOTO

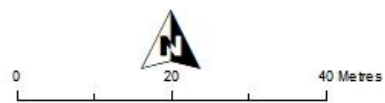
Application: B16/2022  
218-220 Nelson Street



#### Legend

 Subject Land

Aerial Photo from spring 2021





## Appendix E – Site Photographs



Photo 1: View of the frontage of subject property from Nelson Street



Photo 2: View of subject property from Murray Street

## Appendix F – Building Department Comments



### BUILDING DEPARTMENT

#### PRELIMINARY REPORT TO PLANNING

<input type="checkbox"/> MINOR VARIANCE	<input checked="" type="checkbox"/> SEVERANCE
<input type="checkbox"/> DRAFT PLAN OF SUBDIVISION	<input type="checkbox"/> ZONING BYLAW AMENDMENT
<input type="checkbox"/> OFFICIAL PLAN AMENDMENT	<input type="checkbox"/> DRAFT PLAN OF CONDOMINIUM
<input type="checkbox"/> RENTAL HOUSING PROTECTION ACT	<input type="checkbox"/> SITE PLAN CONTROL APPROVAL

APPLICATION / SUBMISSION N<sup>o</sup> ..... B16-2022

**SITE:** 218-220 Nelson St

**APPLICANT:** Melanie Hague and Charles Chung

**COMMENTS:**

BYLAW: 160-90      ZONE: RC

- Elevations and spatial separation calculations from a qualified designer as per 9.10.14. is required for the existing garage on parcel 2.
- A party wall is required to separate the two buildings (single family dwelling and 3 unit building). Provide floor layouts and either a design or confirmation of an existing fire wall/fire separation from a qualified designer for the party wall. Whether a fire wall is required is dependent on the layout of the buildings containing 3 units.
- Provide elevations and spatial separation calculations from a qualified designer for the walls surrounding the front porch in Parcel 1.
- Provide dimensions of parking spaces on site plan.
- A minor variance is required for 0.0m interior side yard for both parcels.
- Confirmation of a pool enclosure which meets the pool enclosure by-law is required. Any alterations to the pool enclosure require a pool enclosure permit.
- Any proposed construction will require that a building permit be applied for and approved through this department. Development charges may be applicable to any new development.

Julie Facey-Crowther  
Plan Examiner

15-June-2022  
Date

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## Appendix G – Environmental Services Department Comments

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June 15<sup>th</sup>, 2022

Environmental Services

Attention: Sarah Hague, Development Planner

**RE: B16-2022— 218-220 Nelson Street— Consent Applications**

I reviewed the subject noted applications and associated documents—as prepared by Melanie Hague—on behalf of Environmental Services and have no objections to the consent applications; however, I would like to offer the following comments for the proposed severed lot:

1. City records indicate both units within the subject property are serviced by separate 25 mm x 19 mm copper laterals from a 150 mm Cast Iron watermain, as follows:

218 Nelson Street

- a. This service appears to be located 6.6 m right of the left side of the dwelling and the curb stop 4.2 m Out from same;

220 Nelson Street

- b. This service appears to be located 1.6 m Right of the Left side of the existing dwelling and the curb stop 6.0 m Out from same.
2. Only one service will be permitted to each property. The severed lot can be serviced from the existing 25 mm x 19 mm services. Each unit must be serviced within its respective frontage. If the service to either unit is found to be within the frontage of the other lot, the Owner will be required to correct the servicing.
  3. The Owner must demonstrate that there are no common plumbing connections through the dividing wall of the building along the severance line.
  4. If the existing services are not to be used then it must be removed and new service proposed within its respective frontage;
  5. If applicable, the Owner will be required to submit a deposit for removal/replacement of any service not contained wholly within the parcel it serves;
  6. The Owner must provide a servicing plan of the severed lot for review, comment and approval prior to commencing any installations;
  7. The Owner will be required to obtain a Water Service Connection Permit and pay all applicable fees prior to commencing any work to connect new water service



for the severed lot; the City will complete the inspection of all connections to City watermain;

8. If applicable, the Owner will be required to obtain a Street Excavation Permit prior to commencing any work within the City's road right-of-way;
9. The development must be metered during construction and the Owner will be required to pay the current fee per cubic metre for the quantity of water used; and
10. All materials and construction methods must comply with the latest version of the City's Linear Design & Construction Manual and Ontario Building Code.

On behalf of Environmental Services—Solid Waste, I would like to offer the following solid waste management conditions:

11. The Owner is responsible for collection, haulage and disposal of all waste from the property until such time as the site is approved for collection services.

If you have any questions, please feel free to contact me directly.

Sincerely,

Alexandra Lee-Bun, C. Tech.  
Environmental Services Technologist  
519-759-4150 x5763  
[ALeeBun@brantford.ca](mailto:ALeeBun@brantford.ca)

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## Appendix H– Transportation Comments



<b>Date:</b>	June, 2022
<b>From:</b>	Sivana Younan, Transportation Reviewer – Planning & Development Engineering
<b>RE:</b>	A16/2022- 309 Nelson Street

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### A. Transportation Comments

1. No further comments.

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## **Appendix I – Development Engineering Comments**

Location: 218-220 Nelson  
App. #: B16/2022  
Date: June, 2022  
Reviewer: Emily Tunnicliffe on behalf of Tyler Wright

### **Committee of Adjustment**

#### **Development Engineering Severance Application Comments**

##### **Conditions**

- Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that the deposited reference plan showing the severed and retained parcels of land has been received.
- Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Municipal Numbering Assignment Request Form to assign a municipal address number to the severed and/or retained parcel(s) has been submitted.
- The Owner/Applicant shall provide a Servicing Plan to the satisfaction of the Manager of Development Engineering or his/her designate, indicating that the severed and retained parcels have been independently serviced with a sanitary and storm sewer connection and that these services do not cross the proposed severance line and are connected directly to City infrastructure.
- The Owner/Applicant shall be responsible, financial and otherwise, to provide sanitary and storm sewer connections to each parcel of land (severed and retained) to ensure each parcel has been independently serviced to the satisfaction of the Manager of Development Engineering or his/her designate.
- The Owner/Applicant shall confirm pre-development drainage (existing conditions) to ensure no significant drainage impacts will occur following severance of the proposed parcels of land, all to the satisfaction of the Manager of Development Engineering or his/her designate.

## Appendix J – Area of Public Notification

### AREA OF PUBLIC NOTIFICATION

Application: B16/2022  
218-220 Nelson Street



#### Legend

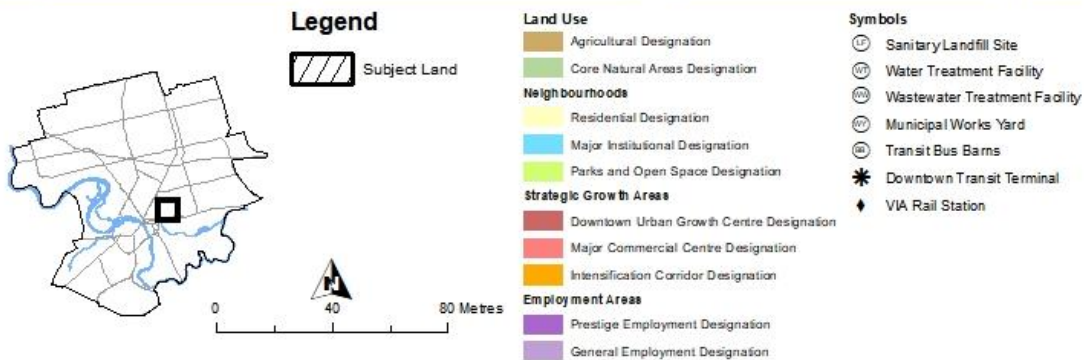
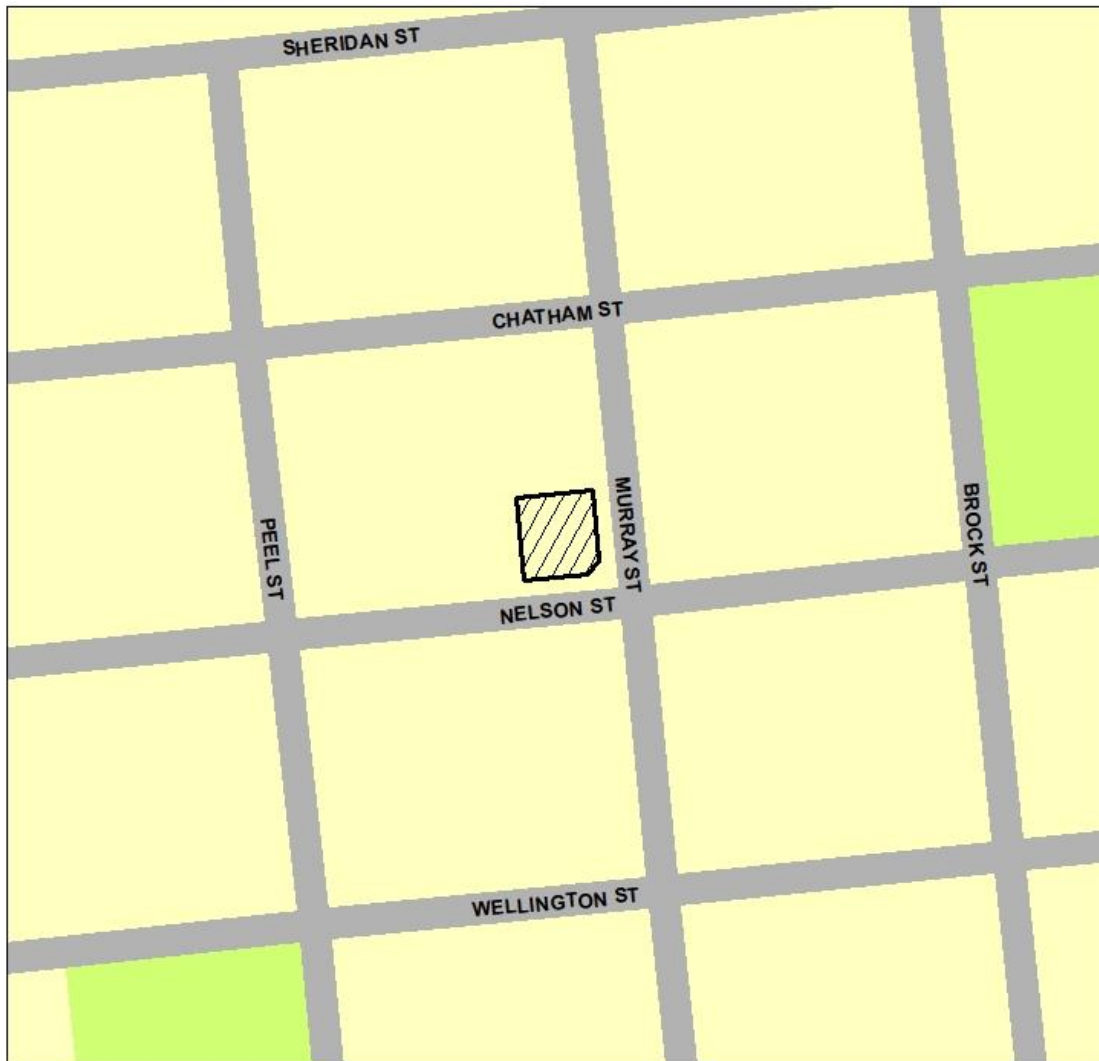
-  Subject Land
-  Notified Properties
-  60 m Buffer from Subject Land



## Appendix K – Official Plan

### OFFICIAL PLAN EXCERPT MAP

Application: B16/2022  
218-220 Nelson Street



## Appendix L - Zoning

### ZONING

Application: B16/2022  
218-220 Nelson Street



#### Legend

- Subject Land
- Zone Boundary

#### ZONING (Bylaw 160-90) and County of Brant(61-16)

- RC Residential Conversion
- C7 Convenience Commercial
- OS1 Open Space Type 1
- # Exception Number

