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Date July 6, 2022 **Report No.** 2022-470

To Chair and Members
City of Brantford Committee of Adjustment

From Sarah Hague
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Minor Variance

2.0 Topic

| | |
|------------------------|--------------|
| APPLICATION NO. | A25/2022 |
| AGENT | Ben McFadgen |
| APPLICANT/OWNER | Eric Stigter |
| LOCATION | 90 Ava Road |

3.0 Recommendation

- A. THAT Application A25/2022 requesting relief from Section 6.3.1.21 of the City of Brantford Zoning By-law 160-90 to permit a maximum height of 7.24 m for an accessory building in a residential zone, whereas a maximum height of 4.5 m is permitted, and Section 6.32.8 to permit an accessory dwelling unit on the 2nd floor of an accessory structure, whereas accessory dwelling units in accessory structures shall not be permitted above the first floor, BE APPROVED;
- B. 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

- 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 submission received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2022-470.”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 90 Ava Road. A location map is attached as **Appendix A**. The applicant received a Building Permit in November 2021 to construct a 2 storey detached garage. There was an error in issuing the permit which has resulted in the structure being taller than the Zoning By-law permits, triggering the need for a minor variance. The applicant also wishes to establish an accessible dwelling unit on the 2nd storey of the structure, which is not permitted in the by-law. Accordingly, the applicant is requesting relief from the following sections of Zoning By-law 160-90:

- Section 6.3.1.2.1 to permit a height of 7.24 m, whereas 4.5 m is permitted; and,
- Section 6.32.8 to permit an accessory dwelling unit on the 2nd floor of an accessory structure, whereas accessory dwelling units in accessory structures shall not be permitted above the first floor.

A site plan, elevations, and floor plans for the proposed accessory building are attached as **Appendices B, C and D**.

5.0 Site Features

The subject lands are located at the southwest intersection of Hardy Road and Ava Road, across from a CN Rail corridor. An aerial photo and site photographs are attached as **Appendices E and F**. A single detached dwelling occupies the site which fronts onto Ava Road with driveway access from both Ava Road and Hardy Road. A two storey accessory structure is under construction in the northwest corner of the property. The subject lands are predominately surrounded by single detached dwellings and block townhouse dwellings which are 1 to 1.5 storeys in height.

6.0 Input from Other Sources

6.1 Technical Comments

The application was circulated to all applicable departments and agencies. No adverse comments were received. Detailed comments from the Building, Environmental Services, Transportation, and Development Engineering Departments are attached as **Appendices G, H, I and J**.

6.2 Public Response

Notice of public hearing was issued by personal mail (44 notices) and by posting 2 signs on-site. A plan illustrating the notification area is attached as **Appendix K**. At the time of writing this Report, no comments or objections have been received.

7.0 Planning Staff Comments and Conclusion

7.1 Provincial Policy Context

Application A25/2022 was reviewed in the context of Provincial Policy, including the Provincial Policy Statement (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 depend on wisely managing change and promoting efficient land use and development patterns. The Growth Plan outlines the principals that provide the basis of guiding decisions in the Greater Golden Horseshoe on how land is developed, resources are managed and protected, and public dollars are invested. Specifically, Section 2.2.6.1.a.i of the Growth Plan outlines that municipalities should support housing choices by identifying a diverse range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents. Accordingly, Planning Staff is of the opinion that the proposed minor variance application is 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 "Neighbourhoods - Residential" designation on Schedule 3 of the City of Brantford's Official Plan

(**Appendix L**). The “Residential” designation permits a full range of residential dwelling types and accessory buildings, including single detached dwellings and additional dwelling units. Additionally, Section 4.3 of the Official Plan speaks to accommodating projected growth to 2051. Subsection 4.3(c)(iii) outlines that intensification within the Neighbourhoods designation within the Delineated Built-up Area will primarily be accomplished through compatible infill, adaptive reuse or expansion of existing buildings, and the establishment of additional residential units in existing homes and accessory buildings. As such, the subject application conforms 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 Type 1A (18 metre) – Exception 2 Zone (R1A-2)” in Zoning By-law 160-90 (**Appendix M**). The R1A-2 Zone permits single detached dwellings and accessory uses, buildings, and structures. Aside from the increase in maximum height of the accessory structure and permitting an accessory dwelling unit above the first floor, the proposed development will continue to satisfy all other Zoning By-law requirements of the R1A-2 Zone.

7.4 Planning Analysis and Conclusion

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

The intent of the maximum height of 4.5 m for accessory buildings within residential zones is to ensure that the structure remains subordinate to and compatible with the primary residential use. There is a significant grade change within the property and the existing single storey dwelling is built at a higher elevation than the proposed two storey accessory structure. As such, the peak of the roof of the accessory structure is lower than the peak of the roof of the residential dwelling. Additionally, the footprint of the accessory structure is roughly half that of the residential dwelling. Accordingly, Staff is of the opinion that the accessory structure is subordinate to the primary structure. The design of the accessory

structure is complementary to the design of the existing residence, and will not impact the usability of the site, nor the available amenity space. As such, Staff is of the opinion that the accessory structure is compatible with the primary use.

The location of the accessory structure is close to Hardy Road, near the rear lot line which abuts the neighbouring property's side lot line (19 Hardy Road). There are mature trees and shrubs located along both the exterior side lot line and the rear lot line, which provides a natural visual barrier, as well as retaining wall along that lot line. Additionally, this section of Hardy Road is on a hill, with the elevation increasing both to the west and the south. As such, the structure is built into the hill of a significant grade change, which also aids in reducing any negative visual impact. Due to the unique topography of the land and the substantial existing vegetation and landscaping, the structure is significantly buffered from view and is not expected to have an adverse impact on neighbouring properties.

Accordingly, the proposed increased height for the accessory building is considered minor in nature, desirable for the appropriate use and development of the lands, and in keeping with the general intent of the Zoning By-law and Official Plan as the use is permitted, the structure is compatible with and subordinate to the primary use, and it will not adversely impact neighbouring properties nor the functionality of the site.

The intent of not permitting accessory dwelling units above the first floor of an accessory structure is to avoid accessory structures of a substantial height and to avoid privacy concerns with second storey residential units with windows overlooking neighbouring backyards. As outlined above, due to the topography of the land, the structure will remain subordinate to and will not overpower the primary residence. As the structure is located adjacent to the abutting property's front yard, there are no impacts or privacy concerns to the related the accessory building on neighbouring residential uses. Accordingly, the variance to permit an accessory dwelling unit on the second storey in this location is considered minor in nature and desirable for the appropriate use of the land.

The Zoning By-law permits accessory dwelling units in accessory structures. As the development is not expected to have any adverse impacts on neighbours, Staff are of the opinion that the variance is in keeping with the intent of the Zoning By-law.

This development will facilitate the creation of an additional dwelling unit. The Official Plan encourages a wide range of housing types, residential intensification and affordable housing to accommodate the anticipated population. Additionally, the proposal is considered compatible with the character of the neighbourhood in accordance with Section 5.1 (c) of the Official Plan, *Development Proposal Review*. It is the opinion of Planning Staff that the proposal will maintain the general intent and purpose of the City's Official Plan.

The building is accessory to the existing single detached dwelling and will be utilized for the storage of vehicles and a proposed accessory dwelling. As accessory structures and accessory dwelling units are permitted in the Zoning By-law and the Official Plan and the proposed structure is not anticipated to have adverse impacts on neighbouring properties, Staff are of the opinion that the proposal meets the four tests of a minor variance.

The proposed accessory building is not required to go through the Site Plan Control process. However, Site Alteration and Building permits are required.

A site inspection was completed on May 25, 2022. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. The minor variance will facilitate the construction of a detached garage and accessory dwelling unit, which are permitted by the Zoning By-law. For the reasons mentioned above, the minor variance satisfies the criteria of Section 45(1) of the *Planning Act*, and Staff recommend that application A25/2022 be approved.

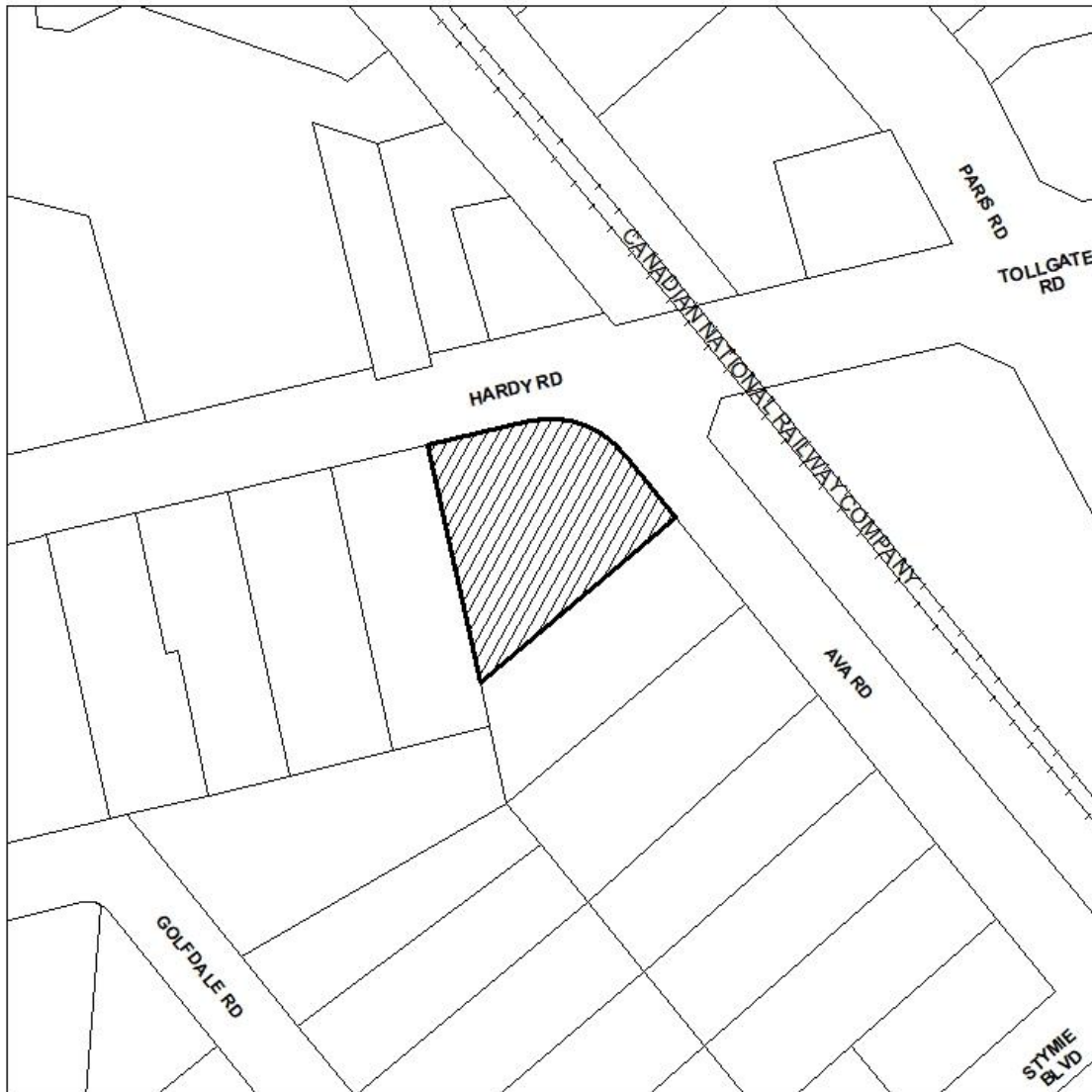


Prepared by:
Joe Muto, MCIP, RPP
Manager of Development Planning
Prepared on June 24, 2022


Appendix A – Location Map

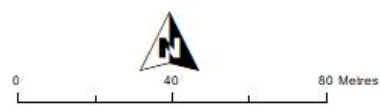
LOCATION MAP

Application: A25/2022
90 Ava Road



Legend

 SUBJECT LAND

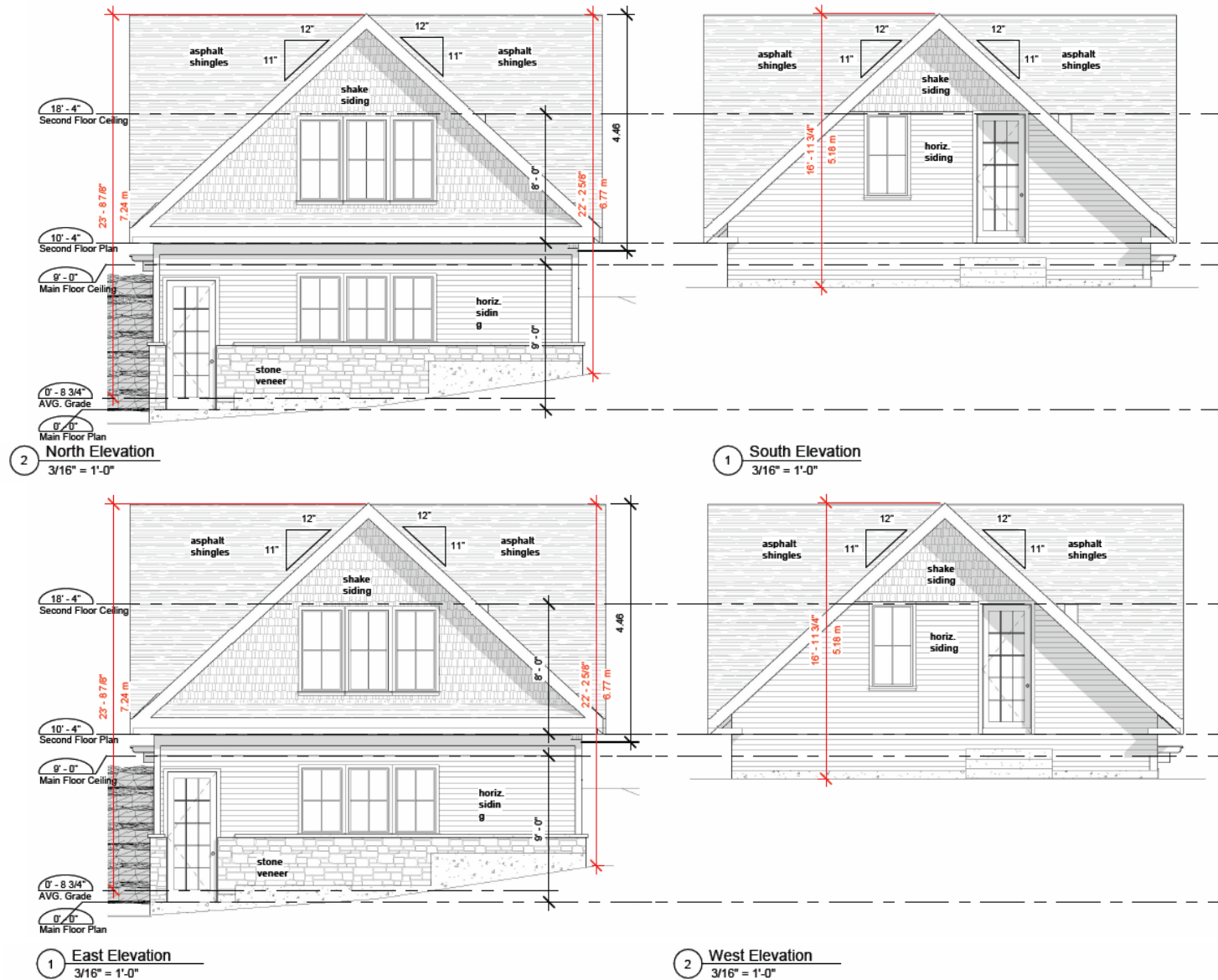


Appendix B - Site Plan

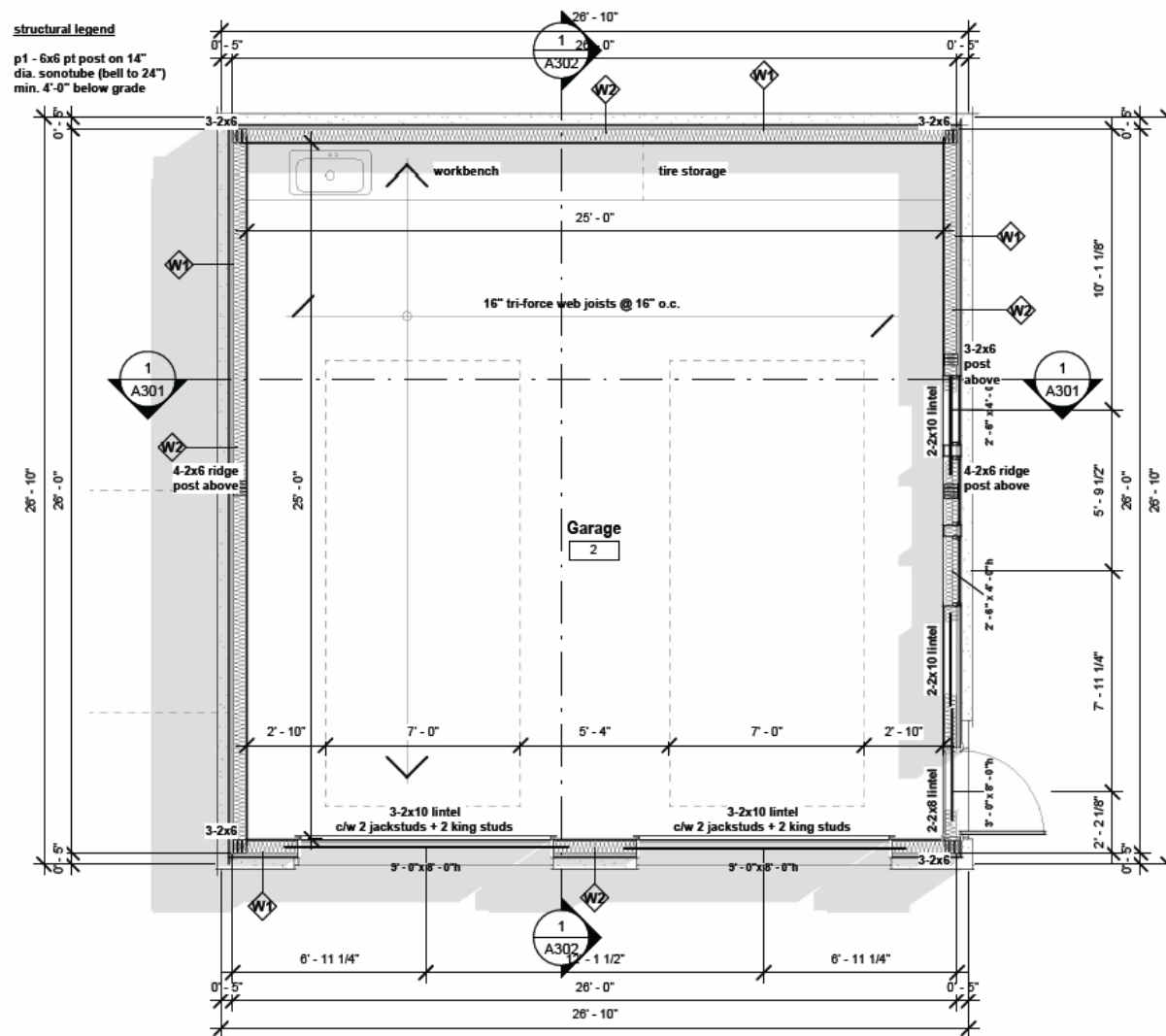


1 Site Plan
1" = 20'-0"

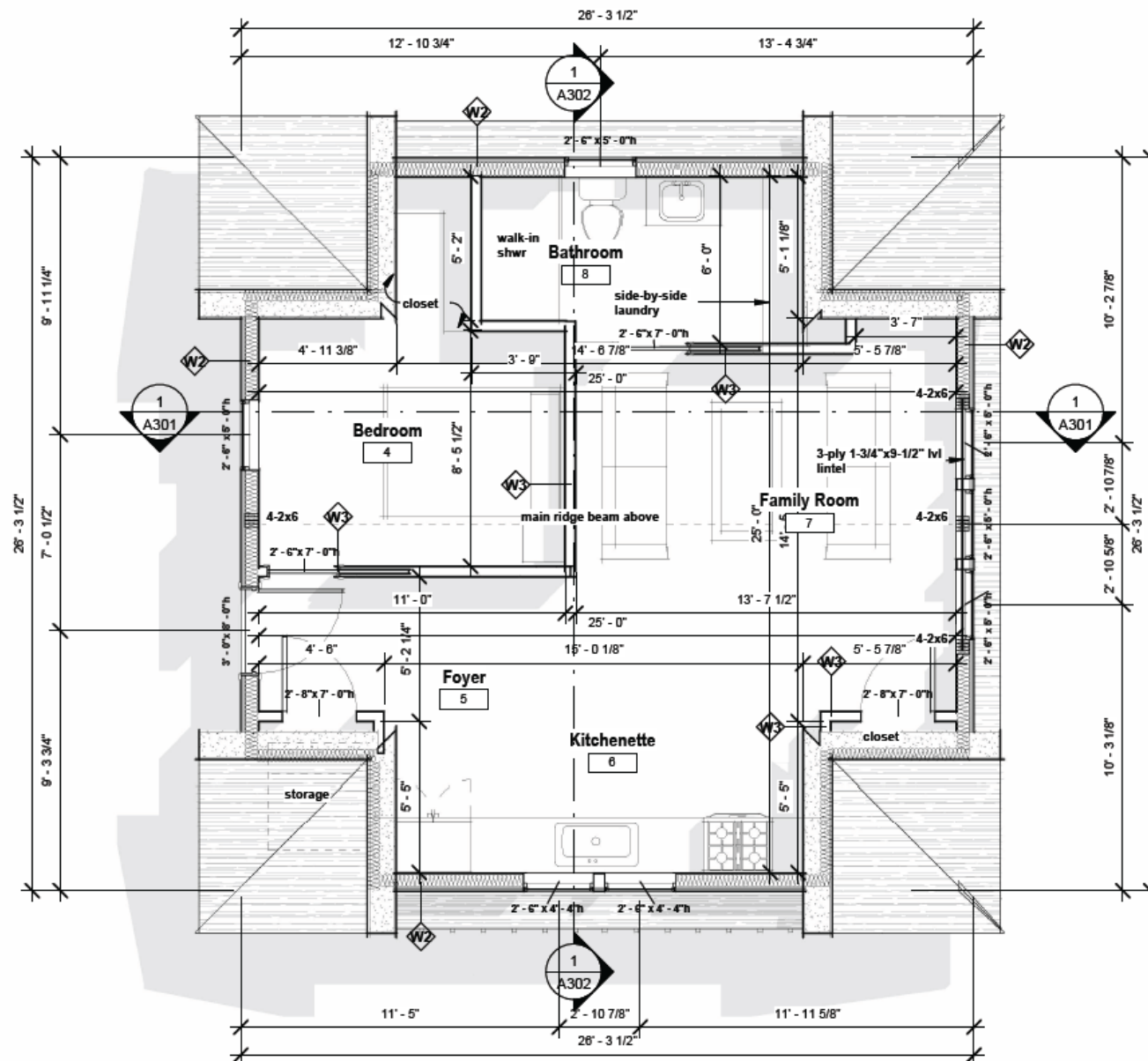
Appendix C – Elevations



Appendix D - Floor Plans



1 Garage Floor Plan
1/4" = 1'-0"



1 Main Floor Plan
1/4" = 1'-0"


Appendix E - Aerial Photo

AERIAL PHOTO

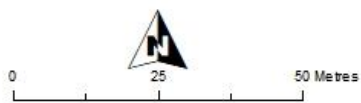
Application: A25/2022
90 Ava Road



Legend

 Subject Land

Aerial Photo from spring 2021



Appendix F - Site Photographs



Photo 1: View of subject property from Ava Road



Photo 2: View of subject property from Hardy Road



Photo 3: View of west side of accessory structure from Hardy Road showing grade change



Photo 4: View of accessory structure in relation to residential dwelling showing additional grade change



Photo 5: View of northwest corner of accessory structure showing grade change from front to back



Photo 6: View of property looking west, showing comparison of building height of accessory structure to dwelling

Appendix G – Building Department Comments



BUILDING DEPARTMENT

PRELIMINARY REPORT TO PLANNING

| | |
|--|---|
| <input checked="" type="checkbox"/> MINOR VARIANCE | <input 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 |
| | <input type="checkbox"/> RELIEF FROM PART LOT CONTROL |

APPLICATION / SUBMISSION N^o A25/2022

SITE: 90 Ava Rd.

APPLICANT:

COMMENTS:

BYLAW: 160-90 ZONE: R1A-2

- Proposing an overall height of 7.24m, whereas Section 6.3.1.2.1 of zoning By-law 160-90 permits a maximum height of 4.5m.
- Proposing an accessory dwelling unit on the 2nd floor of an accessory structure, whereas section 6.32.8 of zoning By-law 160-90 does not permit accessory dwelling units in an accessory structure above the first floor.
- Revised drawings sent to the building department will be required for the proposed 2nd floor accessory dwelling unit.
- Any additional proposed demolition and construction will require that a building permit be applied for and approved through this department.

Mitch Brown
Plan Examiner

06/14/2022
Date

Appendix H – Environmental Services Department Comments



June 13, 2022

Environmental Services

Attention: Sarah Hague, Planner

RE: A25-2022 — 90 Ava Road— Application for Minor Variance

I reviewed the subject noted application and associated figure— as prepared by Eric Stigter, on behalf of Environmental Services and have no objections or concerns but offer the following comments:

1. City records indicate the property is serviced by a 50mm (public) / 50mm (private) copper lateral from the 200mm Ductile Iron watermain on Ava Road;
2. Only one service is permitted to the property. Any water services to the accessory building must extend from the principal building after the water meter and in accordance with the requirements of the Ontario Building Code.

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

Appendix I – Transportation Comments



| | |
|--------------|---|
| Date: | June, 2022 |
| From: | Sivana Younan, Transportation Reviewer – Planning & Development Engineering |
| RE: | A25/2022- 90 Ava Road |

A. Transportation Comments

1. No further comments.

Appendix J – Development Engineering Comments

Location: 90 Ava Road
App. #: A25/2022
Date: June, 2022
Reviewer: Emily Tunnicliffe

Committee of Adjustment

Development Engineering Severance & Minor Variance Application Comments

Conditions

- No conditions.

General Information

- A Site Alteration Permit will be required for any changes/modifications made to the site as defined by the Site Alteration By-Law 28-2011.
- A Driveway Permit will be required for any new proposed driveways.
- A Road Excavation Permit will be required for any proposed excavation within the municipally owned road.
- A Road Occupancy Permit will be required for any proposed work within the municipally owned road.
- A Sanitary Lateral Connection Permit will be required for any proposed sanitary service connections.

Appendix K – Area of Public Notification

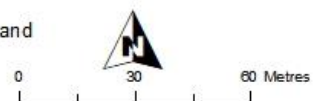
AREA OF PUBLIC NOTIFICATION

Application: A25/2022
90 Ava Road



Legend

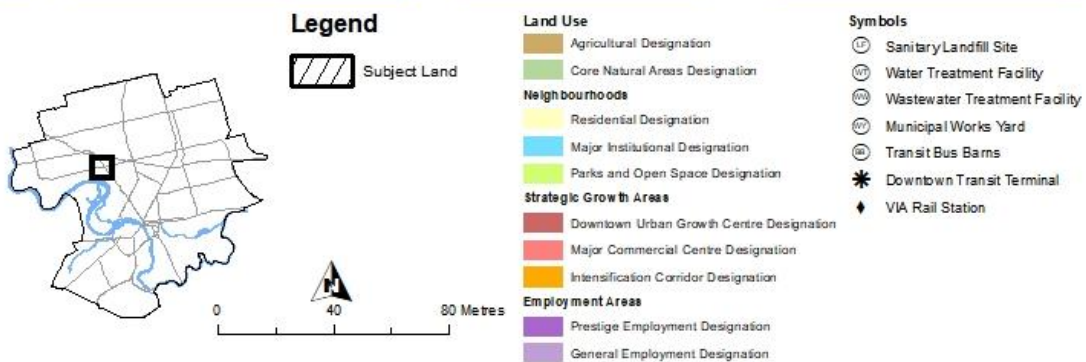
-  Subject Land
-  Notified Properties
-  60 m Buffer from Subject Land



Appendix L – Official Plan

OFFICIAL PLAN EXCERPT MAP

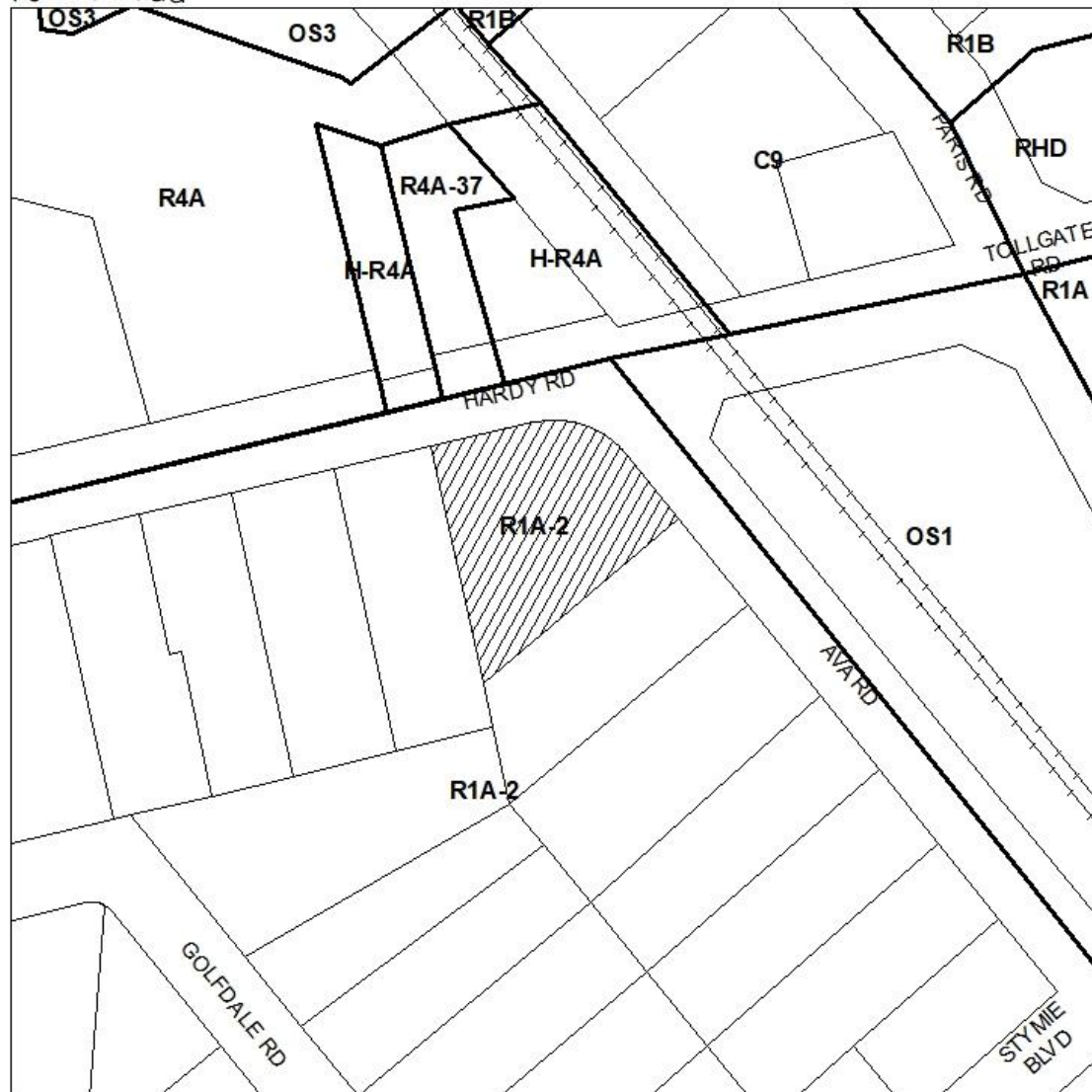
Application: A25/2022
90 Ava Road



Appendix M – Zoning

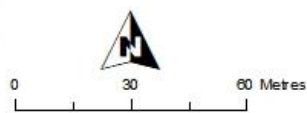
ZONING

Application: A25/2022
90 Ava Road



Legend

- Subject Land
- Zone Boundary



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

- R1A Residential Type 1A (18 metre)
- R1B Residential Type 1B (15 metre)
- R4A Residential Medium Density Type A
- RHD Residential High Density
- C9 Neighborhood Centre Commercial
- OS1 Open Space Type 1
- OS3 Open Space Restricted
- H Holding Provision
- # Exception Number