



Alternative formats and communication supports available upon request. Please contact accessibility@brantford.ca or 519-759-4150 for assistance.

**Date** February 2, 2023 **Report No.** 2023-112

**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.** A06/2023

**Agent/Applicant** MHBC Planning c/o Stephanie Mirtitsch

**Owner** Losani Homes c/o Myles Smith

**Location** 450 Blackburn Drive

---

## 3.0 Recommendation

- A. THAT application A06/2023 seeking relief from Section 7.5.3.6.6 of Zoning By-law 160-90 to permit a rear yard setback of 1.2 m, whereas a minimum rear yard of 7.0 m is required, BE REFUSED;
- B. THAT the reason(s) for refusal of the minor variances are as follows: 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 and is not 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:

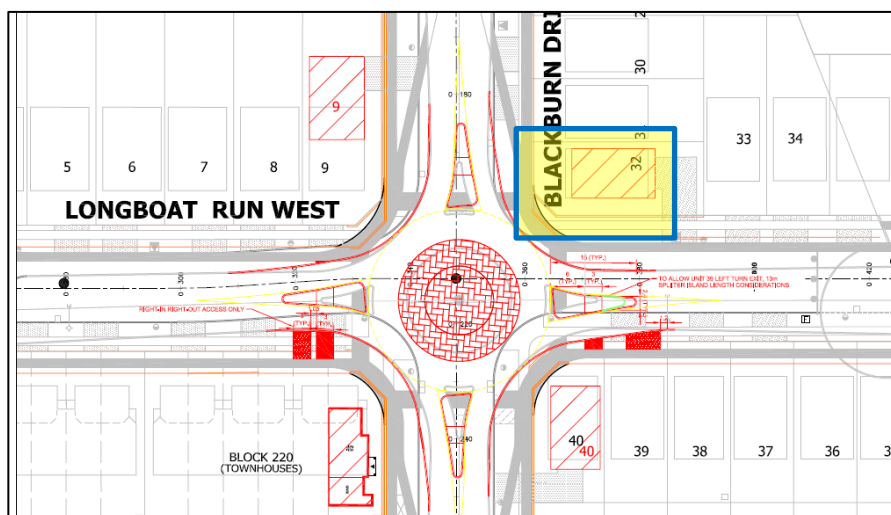
*“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2023-112.”*

#### 4.0 Purpose and Description of Application

A minor variance application has been received for 450 Blackburn Drive. The lot is proposed to be developed with a single detached dwelling, which is currently under construction. A minor variance is requested to Section 7.5.3.6.6 of Zoning By-law 160-90 to permit a rear yard setback of 1.2 metres to the garage, whereas the By-law permits a minimum rear yard setback of 7.0 metres.

This site is located within the Brant West Phase 1 subdivision and as such, has been part of many previous planning applications including Draft Plan of Subdivision (File # 29T-16502), Neighbourhood Plan (File # NP-02-16) and Zoning By-law Amendment (File # PZ-07-16). During these processes, the intersection at Blackburn Drive and Longboat Run West was initially proposed by the applicant as a four-way stop. Engineering Staff determined that a roundabout was required which would slightly alter the lot fabric of the four corner lots, which in turn would require shifting the proposed dwellings to ensure front yard setback requirements would continue to be met. The applicant agreed to this, which was addressed through the planning approval process for the draft plan of subdivision. The draft of these changes is included below as **Figure 1**, with the changes highlighted in red.

Figure 1 - Introduction of Roundabout at Blackburn Drive and Longboat Run West



The plans were then revised to accommodate for the reduced corner lots and the applicant provided plans (see **Figures 2 and 3**) to prove that these lots were still viable and could accommodate a dwelling and still meet the Zoning By-law requirements.

Figure 2 - Revised Site Plan showing conceptual dwelling footprints on corner lots

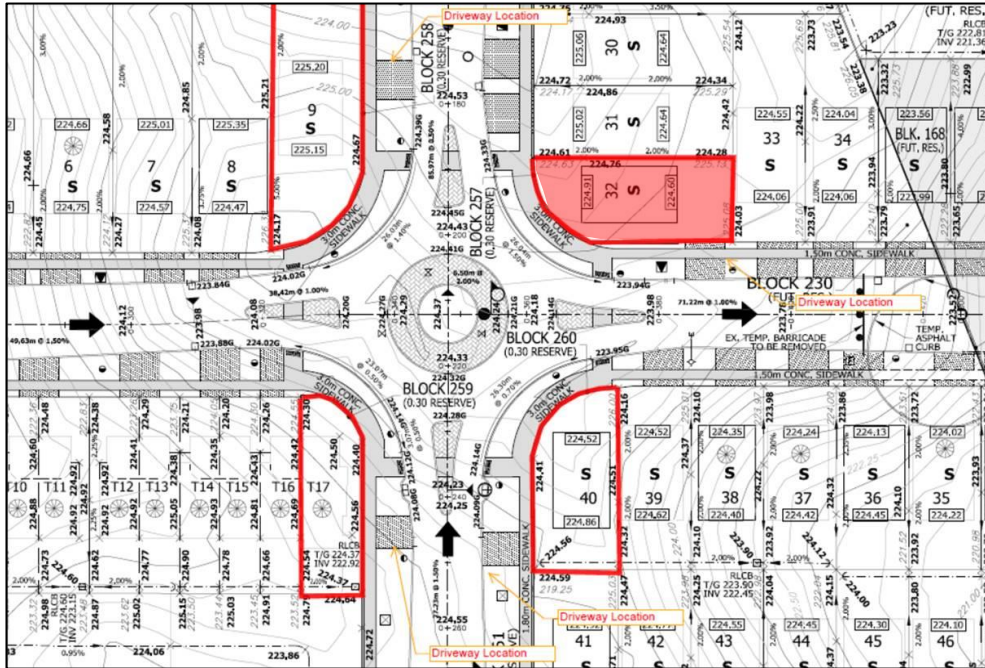
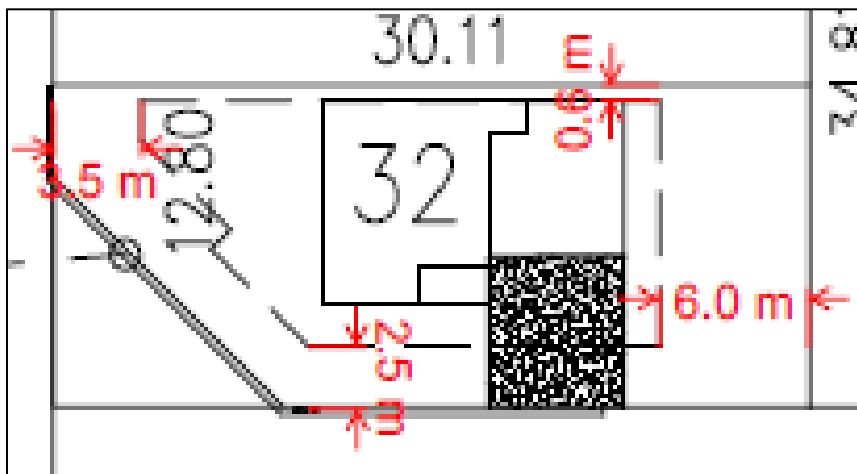


Figure 3 - Proposed layout of Lot 32 showing dwelling that meets all setbacks of the R1D-6 Zone

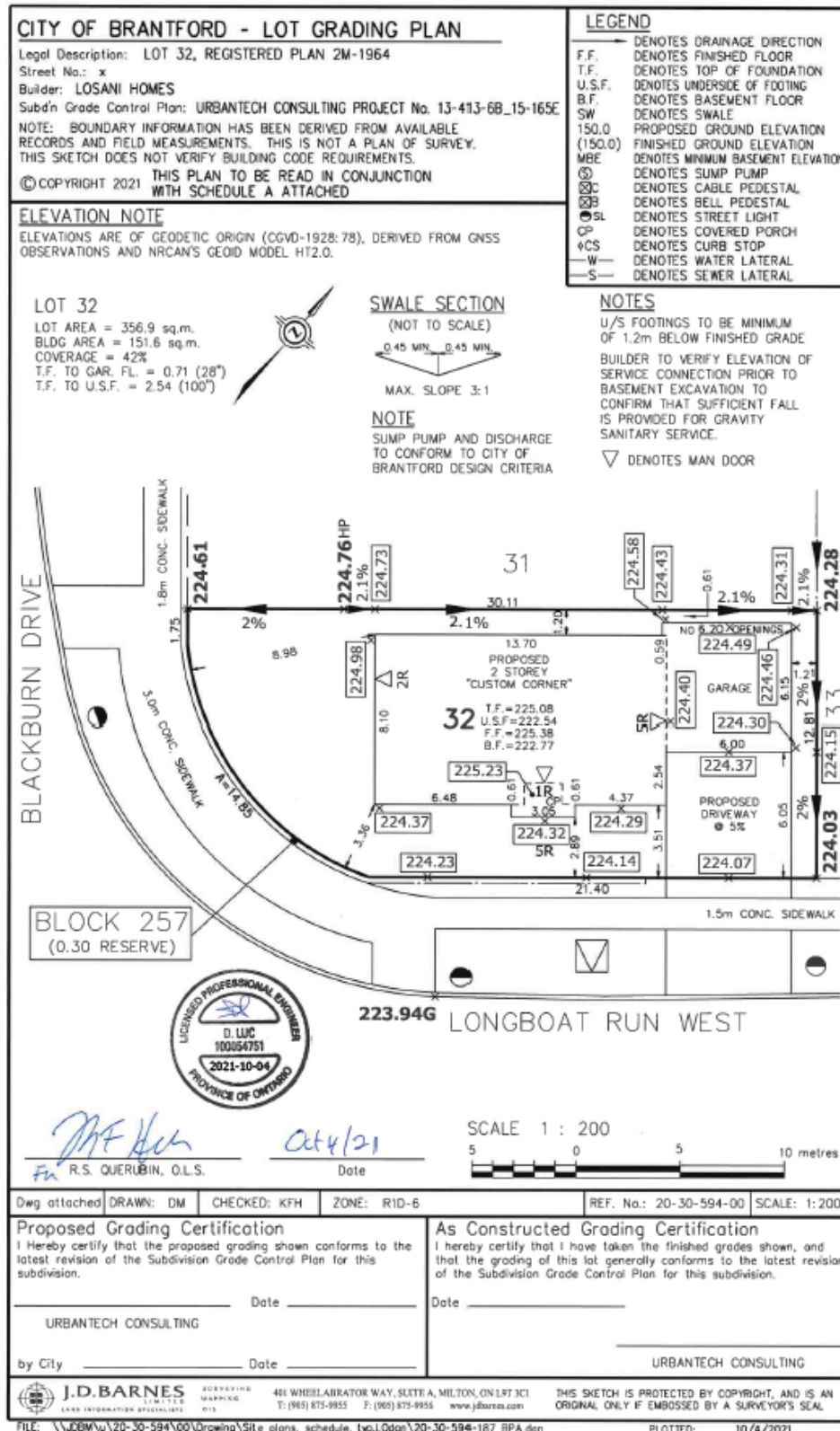


The applicant then concurrently applied for building permits in this phase of development for 200 lots at once. Typically, Losani Homes prepares a number of dwelling models for each development so while hundreds of homes may be built, there may be 20 or so standard home designs and standardized lot fabric

---

and sizes. As such, these permits are often approved in batches, whereby the design of the model is reviewed, the zoning compliance is confirmed and permits can be issued on all applicable lots with that design. Part of the application includes a checklist completed by the applicant whom confirmed that the application is in compliance with all applicable law, which includes the Building Code and the Zoning By-law. The permit for this application was applied for in such a batch and unfortunately was not identified by the applicant as a unique design on an irregular lot so the permit was issued in error. The applicant then proceeded to construct the dwelling and the error was not caught until November during a standard inspection, at which time they were instructed that the dwelling did not meet the provisions of the Zoning By-law. Accordingly, they applicant applied for this minor variance application to attempt to rectify the issue. An additional application has also been submitted for another lot at this intersection, identified as Lot 40 in **Figures 1 and 2** (now municipally known as 183 Longboat Run West, File #A07/2023)The applicant has provided the following lot plan of the proposed./existing lot configuration (**Figure 4**).

Figure 4 – Lot Grading Plan



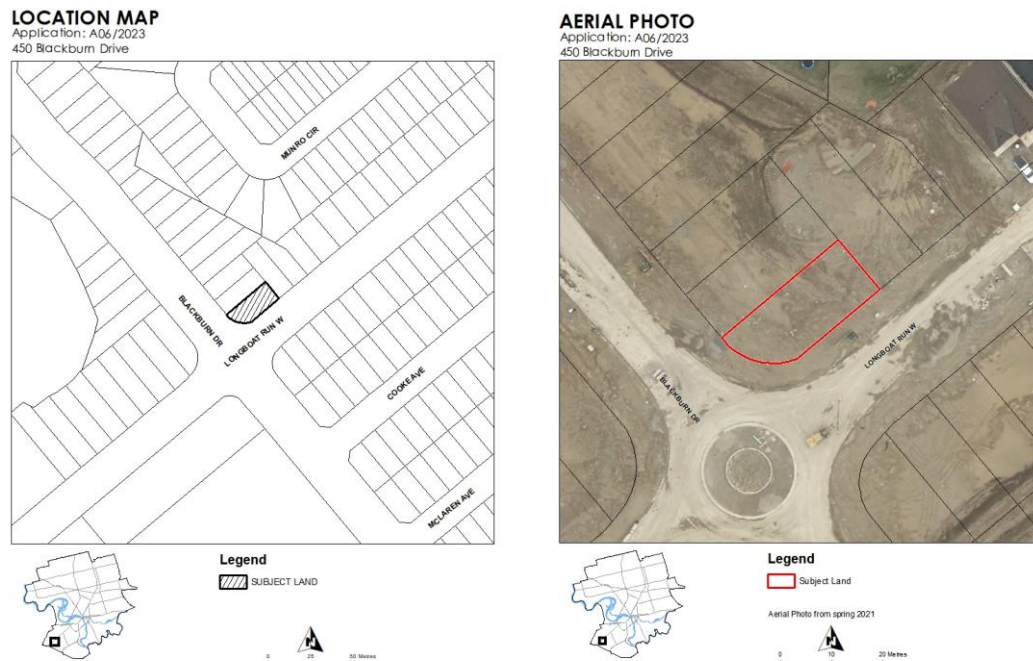
[illegible]

### Table 1 - Requested relief from Zoning By-law 160-90

Regulation	By-law Section	Required	Proposed	Relief Requested
Minimum rear yard	7.5.3.6.6	7.0 m	1.2 m	5.8 m (83%)

The subject lands are located at the north corner of the intersection at Blackburn Drive and Longboat Run West which includes a roundabout. The front yard of the property abuts Blackburn Drive but the property is accessed via Longboat Run West. A location map and aerial photo are included below.





The property is in a new subdivision which is actively being developed with 2 storey single detached dwellings to the northwest and southeast which are mostly completed, and with townhouse dwellings to the south which are currently under construction. The property is occupied by a single detached dwelling which is currently under construction. The applicant had applied for a building perming permit, which was issued in error. The error was later identified which triggered the need for the minor variance application for the reduced rear yard.

Figure 6 - View of the frontage of the subject property (off Blackburn Drive) showing the proximity of the dwelling to the corner (location of the roundabout).



Figure 7 - View of the frontage of the subject property (off Blackburn Drive)



Figure 8 - View of the frontage of the subject property showing the proximity to the neighbouring property.





Figure 9 - View of the exterior side yard of the subject property (off Blackburn Drive)



Figure 10 - View from the exterior side yard indicating the rear yard and lot line.



## 6.0 Input from Other Sources

### 6.1 Technical Comments

The application was circulated to all applicable departments and agencies. A summary of the comments/conditions is provided below:

Table 2 - Department and Agency Comments

Agency Name	Agency Comment
<b>Building Department</b>	Building permit already issued in error without meeting by-law setbacks. No additional comments.
<b>Environmental Services</b>	Environmental Services has no objections or concerns In regards to the minor variance, but offer the following comments:
	City Records indicate that the property is currently not serviced. Only one (1) service will be permitted to the property; and
	All materials and construction methods must comply with the latest version of the City's Linear Design & Construction Manual and Ontario Building Code.
<b>Development Engineering</b>	<p>Development Engineering is not in support of the Minor Variance application as it does not meet the requirements of the Brant West Phase 1 Subdivision Agreement clause 12.11 in regards to minimum rear yard area (see below clause from the agreement).</p> <p><i>"All single family residential Lots within the Plan shall be provided with a minimum rear yard area of 5 meters in depth, to be located immediately adjacent to, and be accessible from, the dwelling unit. The usable rear yard shall consist of one uninterrupted space and shall not include side yards. The usable rear yard area shall be graded at not less than 2% and not more than 5 %."</i></p>
<b>Water Compliance</b>	No comments or requirements.
<b>Transit</b>	No comments or concerns.
<b>Transportation</b>	No comments.
<b>GRCA</b>	GRCA has no objection to the approval of the above applications. The subject properties do not contain any watercourses, floodplains, shorelines, wetlands, valley slopes or other environmental features of interest to GRCA. The properties are not subject to Ontario Regulation 150/06, and therefore, permission from GRCA is not required.
<b>Canada Post</b>	No comments.
<b>County of Brant</b>	No comments.

## 6.2 Public Response

Notice of public hearing was issued by personal mail (37 notices) and by posting a sign on-site. A map of the area of notification is included herein. At the date of the preparation of this Report, no comments have been received to date regarding the subject application.



## 7.0 Planning Staff Comments and Conclusion

### 7.1 Policy Context

This application was reviewed in the context of the Provincial Policy Statement, the Growth Plan, the Official Plan and the Zoning By-law. A summary is provided in the table below:

**Table 3 - Policy Context and Conformity**

Document	Relevant Policy	Conformity
<b>Provincial Policy Statement (PPS) (2020) and A Place to Growth: Growth Plan for the Greater Golden Horseshoe (Growth Plan)</b>	These policies set the standard to which provincial and local interests, policies and goals are implemented.	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.
<b>City of Brantford Official Plan (Envisioning Our City: 2051)</b>	The subject lands are designated “Residential” on Schedule 3 of the City of Brantford’s Official Plan ( <b>Appendix A</b> ). The “Residential” designation permits a full range of residential dwelling types, including single-detached, semi-detached, converted dwellings and additional residential units, as well as supporting land uses intended to serve local residents.	The subject applications conform to the policies set out in the Official Plan.

Document	Relevant Policy	Conformity
<b>City of Brantford Zoning By-law 160-90</b>	The subject lands are zoned “Residential Type 1D – Exception 6 (R1D-6) Zone” in Zoning By-law 160-90 ( <b>Appendix B</b> ). The R1D-6 Zone permits single detached dwellings with smaller lot sizes and setbacks than the R1D Zone and also permits a greater building height and no maximum lot coverage requirement.	Aside from the minor variance proposed through this application, the subject property will continue to satisfy all other zoning requirements of the R1D-6 Zone.

## 7.2 Planning Analysis

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. These tests are discussed in the table below:

**Table 4 - Four Tests of a Minor Variance**

Four Tests	Discussion
1. That the requested variance is <b>minor</b> in nature	“Minor” is determined by impact, not by the value of the variance being sought. While the requested reduction of the rear yard is significant (82.9%), the impact is what needs to be considered. The requested reduction is not considered minor in nature as the proposed rear yard is unusable due to its significantly reduced size and therefore will be unable to function as intended.
	All of the neighbouring properties maintain a rear yard setback of at least 7.0 m so the proposed is not at all in keeping with the character of the neighbourhood.
	Planning Staff are of the opinion that the variance is not minor in nature.
	The purpose of a rear yard is to provide adequate outdoor amenity space.

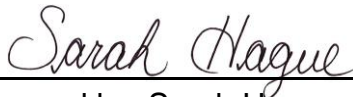


Four Tests	Discussion
2. That the intent and purpose of the <b>Zoning By-law</b> is maintained	Based on the minimum lot width (9.0 m) and rear yard (7.0 m) requirements of this zone, the minimum rear yard is required to be 63.0 m <sup>2</sup> . The subject application is for a rear yard that is only 15.37 m <sup>2</sup> and is not deep enough to accommodate much outdoor furniture or activity.
	The interior side yard is only 0.6 m wide and therefore also cannot accommodate any amenity space.
	Amenity space in front or exterior side yards is discouraged for reasons of safety, privacy, and urban design.
	Planning Staff are of the opinion that the intent and purpose of Zoning By-law 160-90 is not maintained.
	The “Residential” designation permits a range of dwelling types without providing specific requirements for sizes or amenity requirements.
3. That the general intent and purpose of the <b>Official Plan</b> is maintained	<p>However, Section 5.1 c) of the Official Plan, <i>Development Proposal Review</i>, outlines that compatible development shall be considered in the evaluation of all development proposals throughout the City and that the following shall be considered when evaluating the compatibility of development proposals:</p> <ul style="list-style-type: none"> <li>○ 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;</li> <li>○ 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,</li> </ul> <p>Streetscape patterns, including block lengths, setbacks and building separations are generally maintained.</p>
	This application provides minimal on-site amenity space which is not reflective the existing lot patterns in the vicinity. While the front yard contains some open space that could be fence, Chapter 438 of the City’s Municipal Code speaks to fence height regulations which only permits a fence height of 1.0 m in the required front yard.
	The proposed rear yard setback is not at all consistent with those in the area.
	Planning Staff are of the opinion that the general intent.
	The lot is approximately 357 m <sup>2</sup> , approximately 43% larger than the zone requires, and is consistent with or larger than the surrounding lots.

Four Tests	Discussion
4. That the variance is <b>desirable</b> for the appropriate development and use of the land, building or structure	All of the neighbouring lots were able to accommodate a large dwelling and the appropriate parking and sufficient rear yard amenity space in addition to meeting all required setbacks.
	While the corner lot required a slightly different design than the neighbouring interior lots, the applicant had previously proven that it was possible to accommodate a dwelling and parking within the requirement setbacks (refer to <b>Figure 3</b> ).
	Planning Staff is of the opinion that the subject application is undesirable as the lot will have minimal outdoor amenity space which may have negative impacts on the character of the neighbourhood as the available amenity space will be restricted to the front yard, where property owners will have less privacy.
	The proposed dwelling is approximately 222 m <sup>2</sup> (2,390 ft <sup>2</sup> ), not including the garage or living area above the garage. The space above the garage adds an additional 37 m <sup>2</sup> (400 ft <sup>2</sup> ). While desirability is subjective, outdoor amenity space is important for the overall enjoyment of a property. Accordingly, staff is of the opinion that the omission of amenity space for the creation of additional indoor living space is not desirable.
	Planning Staff are of the opinion that the variance is not desirable for the appropriate development and use of the land and building.

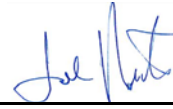
### 7.3 Conclusion

A site inspection was completed on January 16, 2023. Upon completion of this visit and review of the applicable policies, Planning Staff are not supportive of the application. The minor variance would recognize the on-going construction of a new dwelling which is substantially oversized for the size of the lot and negatively impact the neighbourhood. For these reasons and those mentioned above in Section 7.2, it is Planning Staff's opinion that the variance fails to satisfy all four tests as defined under the *Planning Act*. The application is not minor in nature, is not appropriate for the development and use of the lands, and does not meet the intent of the Zoning By-law or Official Plan. Planning Staff recommend that application A06/2023 be refused.



---

Prepared by: Sarah Hague  
Planner, Development Planning  
Prepared on: January 25, 2023



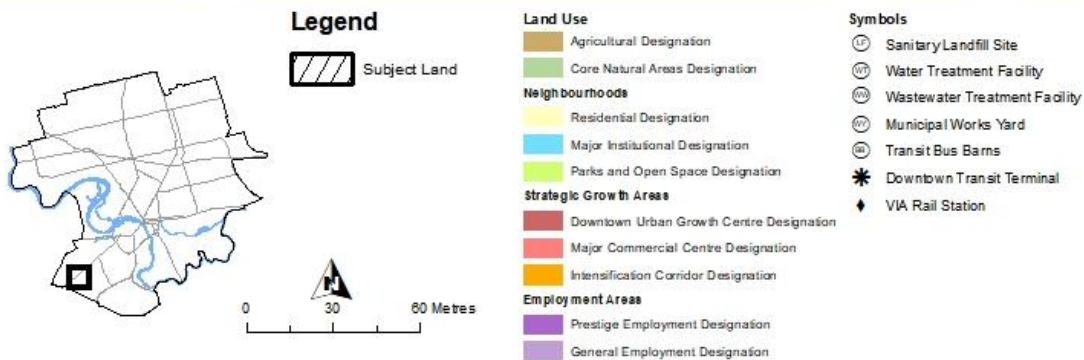
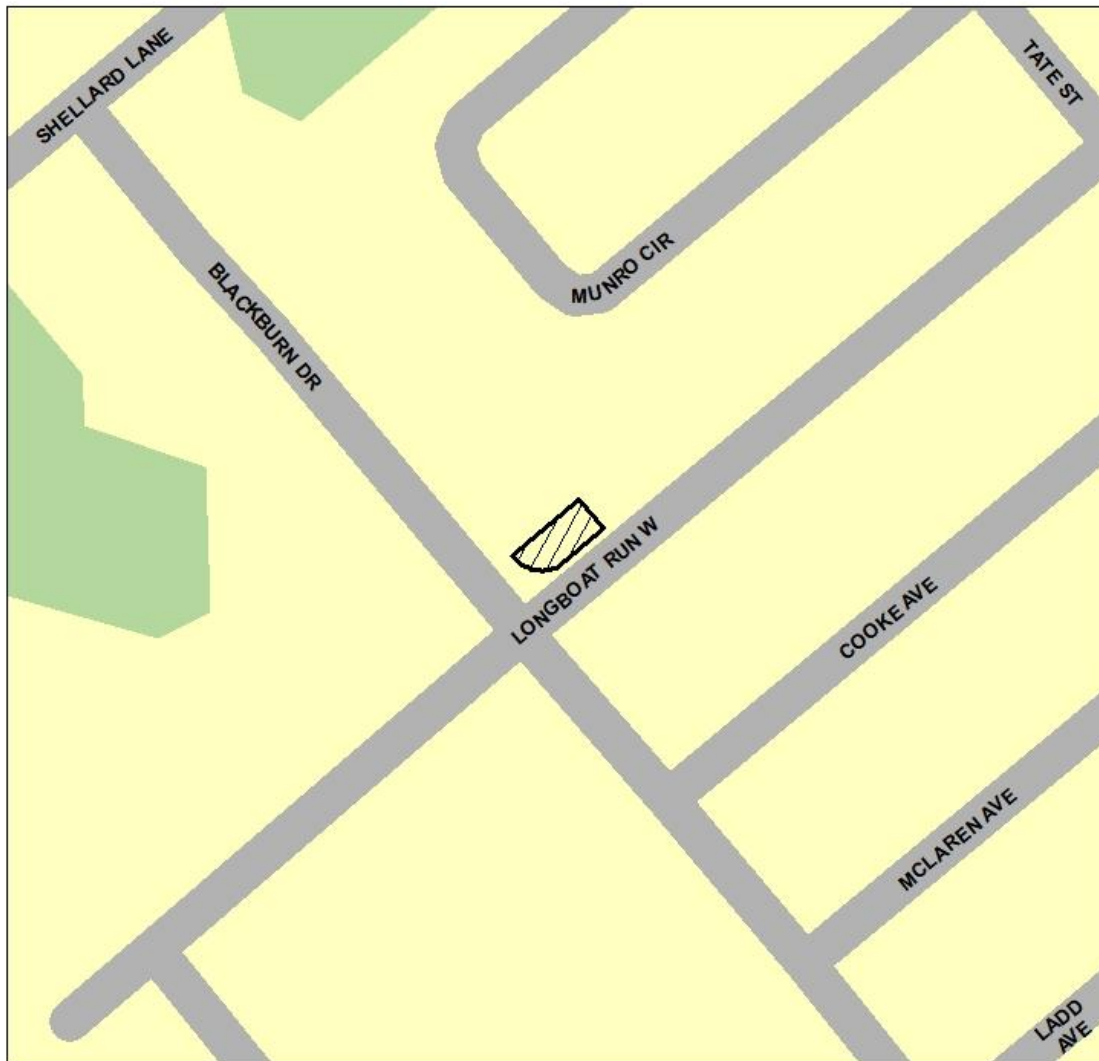
---

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

## Appendix A – Official Plan

### OFFICIAL PLAN EXCERPT MAP

Application: A06/2023  
450 Blackburn Drive

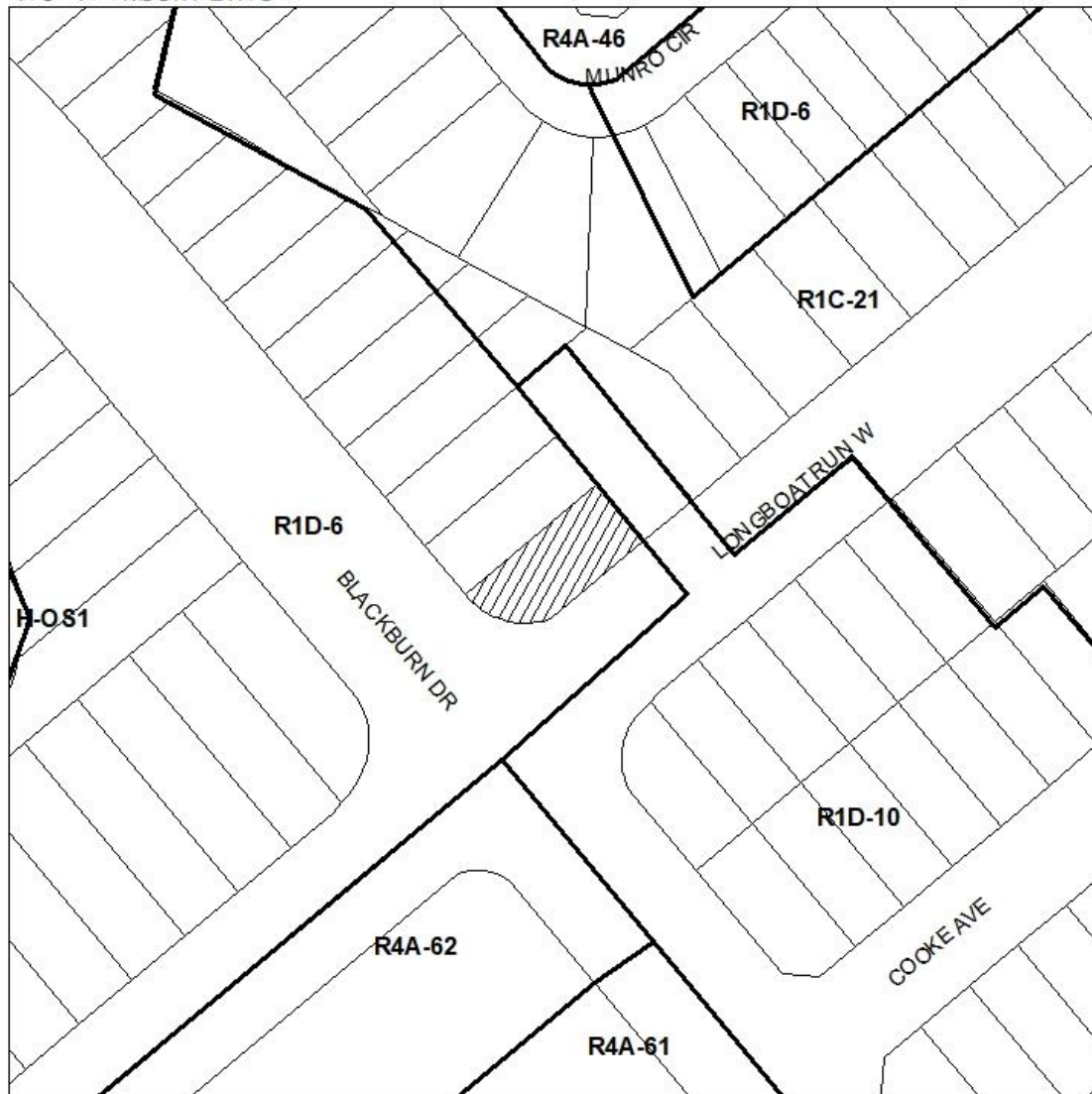






## Appendix B – Zoning

### ZONING

Application: A06/2023  
450 Blackburn Drive



#### Legend

-  Subject Land
-  Zone Boundary



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

- R1C Residential Type 1C (12 metre)
- R1D Residential Type 1D (9 metre)
- R4A Residential Medium Density Type A
- OS1 Open Space Type 1
- H Holding Provision
- # Exception Number