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Date February 2, 2023 **Report No.** 2023-106
To Chair and Members
City of Brantford Committee of Adjustment
From Holly Stemberger
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Consent

2.0 Topic

Application No.	B03/2023
Agent	W. Christopher Nunn
Applicant/Owner	Terry Dasilva
Location	272 and 280 Grand Street

3.0 Recommendation

- A. THAT Application B03/2023 to sever a 196 m² parcel of land from the rear of 280 Grand Street to be transferred to neighbouring property 272 Grand Street for the purposes of a lot boundary adjustment, BE APPROVED, subject to the conditions attached in **Appendix A** to Report 2023-106;
- 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; and

- C. 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. 2023-106.”

4.0 Purpose and Description of Application

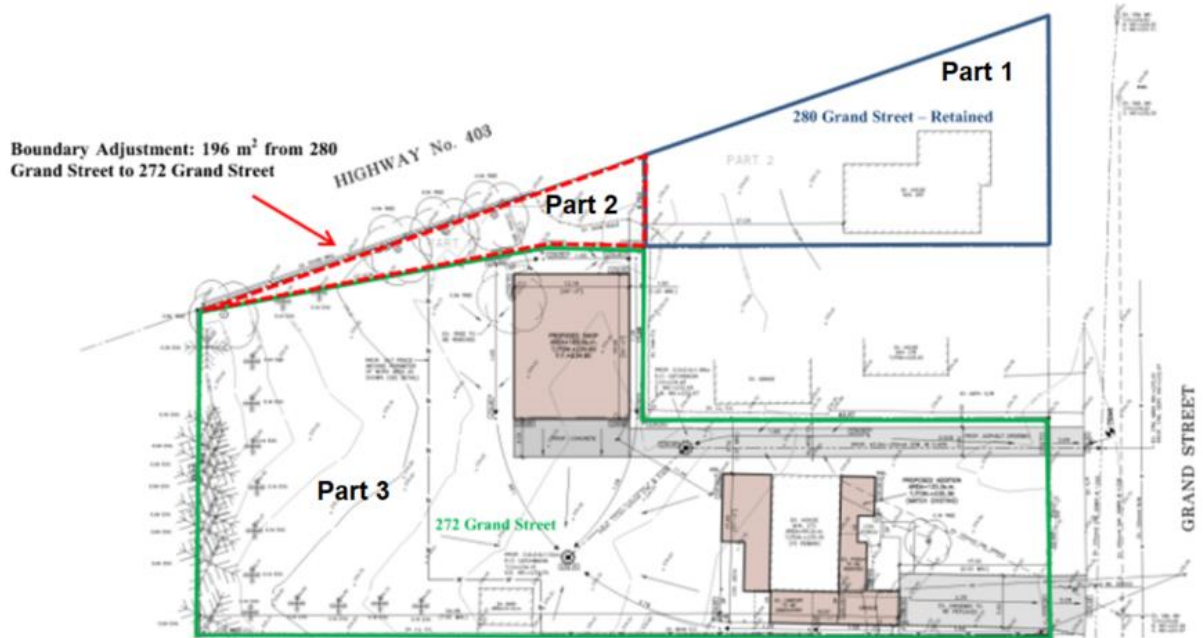
An application for a lot boundary adjustment has been received to transfer a portion of lands (**Part 2**) from 280 Grand Street (**Part 1**) to 272 Grand Street (**Part 3**) (**Figure 1**). The applicant from 272 Grand Street is seeking an increased lot size to allow for additional rear yard space and intends to build an accessory structure for personal use and storage in the future.

Prior to processing the application for lot boundary adjustment, the applicant and their agent were notified of the following concerns with the concept plan:

- The proposed accessory structure illustrated on the conceptual site plan exceeds the maximum height for a residential zone (6.0 metres where the maximum is 4.5 metres) and,
- The Ministry of Transportation (MTO) requires all buildings, structures and features integral to the site to be located a minimum of 14 metres from the highway property limit, while the proposed structure is 12.5 metres from the property limit.

The applicant was encouraged to address these issues concurrently with the lot boundary adjustment application; however, they elected to proceed with only the lot boundary adjustment in isolation at this time. The applicant identified that the proposed structure was on the plan as a concept only, and they would not be pursuing development of the accessory structure at this stage. The applicant was notified and is aware that any further development will require addressing these concerns to obtain any requisite planning approvals and the proper permits from the City of Brantford and the MTO, if required.

Figure 1: Conceptual Site Plan/Survey of Subject Properties



To facilitate the development as proposed, the lot dimensions are detailed below:

Table 1: Proposed lot statistics for 272 and 280 Grand Street after boundary adjustment

	Lands to be Retained (Part 1 on Site Plan)	Lands to be combined through Lot Boundary Adjustment (Part 2 and 3 on Site Plan)
Lot Width	22.25 m	22.93 m
Lot Depth	42.67 m	89.89 m
Lot Area	727.1 m ²	2,976.5 m ²

5.0 Site Features

The subject properties are located at the northern end of Grand Street; 280 Grand Street is the last property on the western side of Grand Street, and 272 Grand Street is located two houses south of 280 Grand Street. These two properties have a shared interior lot line towards the back of their properties. A location map and aerial map can be seen below:



The subject properties are located in a neighbourhood just south of Highway 403 (Alexander Graham Bell Parkway). The exterior lot line of 280 Grand Street runs adjacent to the highway. The neighbourhood consists of detached single and two-storey dwellings with a few low-rise apartment buildings south of the subject properties on Morton Avenue.

The subject lands are designated “Residential” in the Official Plan (**Appendix B**) and zoned “Residential Type 1C (R1C) Zone” in Zoning By-law 160-90 (**Appendix C**).

Figure 2: Image showing 280 Grand Street and 272 Grand Street



Figure 3: View of rear yard at 272 Grand Street; north side of yard showing proposed boundary adjustment.



Figure 4: View of rear yard at 272 Grand Street; south side of yard.



Figure 5: View to rear yard from 280 Grand Street



Figure 6: View from rear yard of 272 Grand Street facing the new proposed boundary for 280 Grand Street.



6.0 Input from Other Sources

6.1 Technical Comments

The application was circulated to all applicable departments and agencies. No objections to the lot boundary adjustment were received. A summary of the comments and conditions are provided below:

Table 2: Department and Agency Comments

Agency Comments		Applicant Response
Building Department	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.	Agent and applicant acknowledged receipt. Applicant has identified that they are aware of the accessory structure height concerns and will look to modify this, or address this through a separate minor variance application in the future, prior to any additional construction on this site.
	Proposed height of shop exceeds the maximum height of 4.5 m for an accessory structure in a residential zone as per Section 6.3.1.2 of Zoning By-law 160-90. The applicant is advised to modify this proposed height prior to the building permit process, or else a separate minor variance application will be required to pursue the proposed height.	
	<p>Conditions:</p> <p>Spatial separation calculation from a qualified professional to newly created property line for 280 Grand Street will be required</p>	
Environmental Services	No objections.	N/A
Development Engineering	<p>Condition:</p> <p>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.</p>	Agent and applicant acknowledged receipt.
	<p>General Information:</p> <p>A Water Connection Permit will be required for any proposed water service connections. This Permit is administered by the Cities Environmental Services</p>	

Agency Comments		Applicant Response
	<p>Department.</p> <p>General Information:</p> <p>A Right of Way Activity Permit will be required for any access/driveway activity, any proposed excavation activity within the Right of Way and any occupancy activity within the Right of Way. This Permit is administered by the Cities Operational Services Department.</p> <p>General Information:</p> <p>A Sanitary Lateral Connection Permit will be required for any proposed sanitary service connections. This Permit is administered by the Cities Development Engineering Department.</p> <p>General Information:</p> <p>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. This Permit is administered by the Cities Development Engineering Department.</p>	
Transportation	<p>Transportation has no objection to the lot line adjustment or the second driveway serving the accessory structure, since it is more than 9m from the existing driveway and less than 6.0m in width. We do caution the Applicant that due to their proximity to Highway 403, the property falls within the 14.0 metre MTO highway setback limits, measured from the property line, and the MTO will need to comment whether accessory structures are permitted within this area.</p>	<p>Agent and applicant acknowledged receipt. The applicant has noted they have been in touch with the MTO and will ensure final designs for the proposed garage meet these MTO requirements.</p>
Enbridge Gas	<p>Enbridge Gas Inc, does have service lines running within the area which may or may</p>	<p>Agent and applicant</p>

Agency Comments		Applicant Response
	<p>not be affected by the proposed Site Plan.</p> <p>Should the proposed site plan impact these services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required would be at the cost of the property owner.</p> <p>If there is any work (i.e. underground infrastructure rebuild or grading changes...) at our easement and on/near any of our existing facilities, please contact us as early as possible (1 month in advance at least) so we can exercise engineering assessment of your work. The purpose is to ensure the integrity of our main is maintained and protected.</p> <p>Confirmation of the location of our natural gas pipeline should be made through Ontario One Call 1-800-400-2255 for locates prior to any activity.</p>	<p>acknowledged receipt.</p>
<p>Ministry of Transportation</p>	<p>The City and the owner should be aware that the property (272 & 280 Grand Street, Brantford ON) falls within MTO's Permit Control Area (PCA), and as such, MTO Permits are required before any demolition, grading, construction or alteration to the site commences. In accordance with the Ontario Building Code, municipal permits may not be issued until such time as all other applicable requirements (i.e.: MTO permits/approvals) are satisfied.</p> <p>The application was considered in accordance with the <i>Public Transportation and Highway Improvement Act (PTHIA)</i>, <i>MTO's Highway Corridor Management Manual (HCMM)</i> and all related guidelines and policies. The following outlines our comments:</p>	<p>Agent and applicant acknowledged receipt. The applicant has noted they have been in touch with the MTO and will ensure final designs for the proposed garage meet these MTO requirements.</p>

Agency Comments	Applicant Response
<p>Highway 403 in the vicinity of the subject property is a Class 1A – Provincial Freeway and designated as a Controlled Access Highway (CAH), with a posted speed of 100km/hr. As such, all requirements, guidelines and best practices in accordance with this classification and designation shall apply. The owner should be aware that the property falls within MTO's Permit Control Area (PCA), and as such, MTO Permits are required before any demolition, grading, construction or alteration to the site commences. In accordance with the Ontario Building Code, municipal permits may not be issued until such time as all other applicable requirements (i.e.: MTO permits/approvals) are satisfied.</p> <p>An MTO <u>Building and Land Use Permit</u> will be required for the construction of the proposed auxiliary building. MTO requires all buildings, structures and features integral to the site to be located a minimum of 14 metres from the highway property limit. Please ensure all features are fully dimensioned, confirming the offset from the MTO property line. The proposed plan currently does not meet this requirement.</p>	

6.2 Public Response

Notice of public hearing was issued by personal mail (42 notices) and by posting 2 signs on-site. At the time of writing this Report, one communication has been received in regards to this consent application inquiring about the potential for future severances at this address (**Appendix D**). This resident was notified that no additional

AREA OF PUBLIC NOTIFICATION

Application: B03/2023
272 and 280 Grand Street



Legend
 Subject Property
 80 m Buffer from Subject Land
 Notified Properties



severances are being sought out by the applicant at this time. A map of the area of notification is included to the right.

7.0 Planning Staff Comments and Conclusion

7.1 Policy Context

This application was reviewed in the context of the Provincial Policy Statement (PPS) (2020), A Place to Growth: Growth Plan for the Greater Golden Horseshoe (Growth Plan), the Official Plan and the Zoning By-law. A summary of conformity to these policies are provided in the table below:

Table 3: Policy Context and Conformity

Document	Relevant Policy	Conformity
Provincial Policy Statement (PPS) (2020) and A Place to Growth: Growth Plan for the Greater Golden Horseshoe (Growth Plan)	<p>These policies set the standard to which provincial and local interests, policies and goals are implemented.</p> <p>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.</p>	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.
City of Brantford Official Plan (Envisioning Our City: 2051)	<p>The subject lands are designated “Residential” on Schedule 3 of the Official Plan. The “Residential” designation permits a full range of residential dwelling types, including single-detached, semi-detached, converted dwellings, additional residential units, as well as supporting land uses intended to serve local residents. This is inclusive of accessory structures.</p> <p>Section 9.3 (g – i) of the Official Plan</p>	The subject application regarding a lot boundary adjustment conforms to the policies set out in the Official Plan.

Document	Relevant Policy	Conformity
	<p>outlines when consent to sever should be granted. This includes when a Plan of Subdivision is deemed unnecessary and where the application conforms to the policies of the Official Plan, when 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 of easements, boundary adjustments, rights-of-way, lot additions and long-term leases.</p>	
<p>City of Brantford Zoning By-law 160-90</p>	<p>The subject lands are zoned” “Residential Type 1C (R1C) Zone” in Zoning By-law 160-90. The R1C Zone permits a range of low density and medium residential dwelling types such as single detached dwellings, semi-detached dwellings, and street townhouses.</p>	<p>Both subject lots will continue to satisfy zoning requirements of the R1C zone through this lot boundary adjustment.</p> <p>The current concept drawing illustrates an accessory structure that would not be eligible for an MTO Permit or a City of Brantford Permit due to deficiencies in the proposed set-back to the MTO regulation area and the proposed structure height. The applicant has been advised the lot boundary adjustment can be facilitated, but any further development on this site will require a building permit, and should there be any zoning deficiencies identified through this process, the applicant will be required to pursue a separate minor variance application.</p> <p>No building permits or</p>

Document	Relevant Policy	Conformity
		<p>minor variance applications have been submitted at this time and the applicant has indicated they will either reassess the garage design and location, or work with the appropriate agencies to get the proper planning applications and permits processed to facilitate future construction.</p>

7.2 Planning Analysis

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 lists criteria for the subdivision of land and stipulates when consents are appropriate.

Table 4: Analysis of Consent

	Criteria for Considering a Consent Application	Discussion
1.	That the plan conforms to the Official Plan	<ul style="list-style-type: none"> • Section 9.3 (g – i) of the Official Plan outlines criteria for the subdivision of land and stipulates when consents are appropriate which includes: <ul style="list-style-type: none"> a) when a Plan of Subdivision is deemed unnecessary and where the application conforms to the policies of the Official Plan, b) no more than three new lots are being

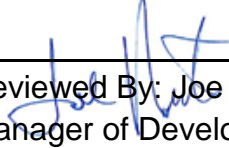
		<p>created,</p> <p>c) all lots have frontage on a municipal road and do not require that municipal services be extended and</p> <p>d) where an application seeks out the creation of a boundary adjustment in accordance with the provisions of the <i>Planning Act</i>.</p> <ul style="list-style-type: none"> • This application meets all of the above criteria.
2.	The dimensions and shapes of the proposed lot	<ul style="list-style-type: none"> • The proposed lots are similar in both size and shape to other single detached dwelling lots in this area and conform to minimum lot sizes required in Zoning By-law 160-90.
3.	The adequacy of utilities and municipal services	<ul style="list-style-type: none"> • The severed parcel from 280 Grand Street will merge with an existing parcel at 272 Grand Street with frontage on a municipal roadway and have access to municipal services and utilities. The retained parcel will also maintain frontage on a municipal roadway and have access to municipal services and utilities.

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 lot boundary adjustment application is consistent with Section 51 (24) of the *Planning Act* and conforms to the Official Plan and therefore should be approved. Planning Staff would also note that Report 2023-106 provides analysis and approval in support of the lot boundary adjustment for the intent of facilitating a land transfer. This Report does not lend support to the accessory structure as proposed in the conceptual site plan (**Figure 1**).

7.3 Conclusion

A site inspection was completed on January 19, 2023. Upon completion of this visit and review of all relevant policies, Planning Staff are supportive of the application for a lot boundary adjustment. 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.


Prepared by: Holly Stemberger
Planner, Development Planning
Prepared on: January 25, 2022

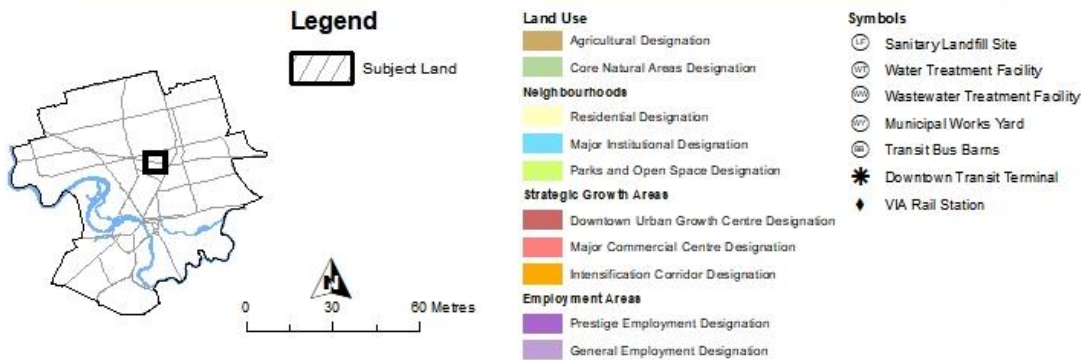
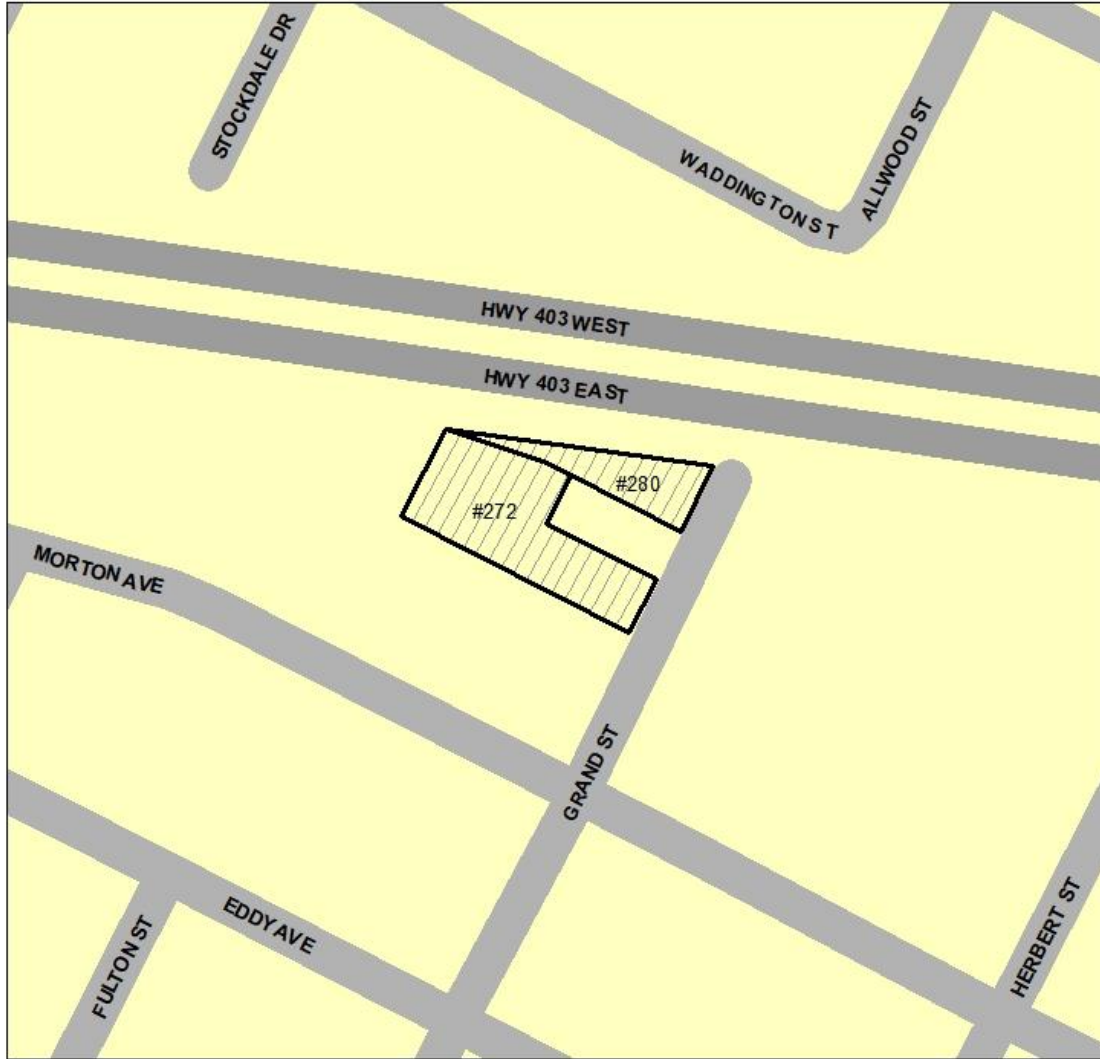

Reviewed By: Joe Muto, RPP, MCIP
Manager of Development Planning

-
1. Receipt of confirmation that all taxes are paid up to date.
 2. Receipt of a registered reference plan showing the severed, retained and receiving lands.
 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 acknowledgement that Section 50(3) or 50(5) of the *Planning Act* shall apply to any subsequent conveyance or transaction of or in relation to the parcel of land being the subject of this consent;
 5. Receipt of an Undertaking from the Solicitor acting in the transfer confirming that the 196 m² of severed lands from 280 Grand Street will be merged in title with the property municipally addressed as 272 Grand Street
 6. 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.
 7. Provide spatial separation calculations from a qualified professional to newly created property line for 280 Grand Street.
 8. Receipt of confirmation that the Building Department requirements have been met.
 9. Receipt of confirmation from the Development Engineering Department indicating that their requirements have been satisfied.
 10. That the above conditions be fulfilled and the Certificate of Consent be issued **on** or before February 3, 2025, after which time the consent will lapse.

Appendix B

OFFICIAL PLAN EXCERPT MAP

Application: B03/2023
 272 & 280 Grand Street



Appendix C

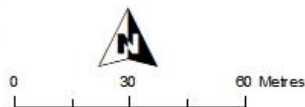
ZONING

Application: B03/2023
272 & 280 Grand Street



Legend

- Subject Land
- Zone Boundary



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

- R1B Residential Type 1B (15 metre)
- R2 Residential Type 2
- R4A Residential Medium Density Type A
- # Exception Number

Appendix D – Public Comments

From: Holly Stemberger
Sent: Wednesday, January 18, 2023 11:40 AM
To: [REDACTED]
Subject: RE: File #A04/2023

Good morning and thank you for your email,

This application has been submitted by the subject property owner(s) to seek out a boundary adjustment that would see the transfer of 196 m2 of land from 280 Grand Street to 272 Grand Street. The applicant(s) has indicated they are looking to pursue the construction of a garage/workshop in the rear yard. At this point in time, the applicant(s) has only submitted a request for the lot boundary adjustment, and no other planning applications have been received at this time. The City does not have any ownership over these lots, and as such, would not be involved in initiating any severance applications.

Please let me know if you have any other questions or concerns.

Best regards,

Holly Stemberger, MSc
Planner, Development Planning
People, Legislated Services and Planning

City of Brantford
58 Dalhousie Street
Brantford, Ontario N3T 2J2
Phone: (519) 759-4150 ext 5125
hstemberger@brantford.ca

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, January 17, 2023 12:09 PM
To: Holly Stemberger
Subject: File #A04/2023

CAUTION EXTERNAL EMAIL This email originated from outside of the City of Brantford email system. Do not click links or open attachments unless you recognize the sender and know the content is safe. If you are unsure, please contact the Service Desk at ext. 5555

Hello my name is [REDACTED], [REDACTED], directly behind this property on Gran Street . I'm looking at this drawing of the purposed garage, looks like there are putting it in the corner of this huge lot. I'm guessing this is the first part of their plan. Looks like this property will be severed and the house knocked down for 2 40' lots. Is the city's plan to do this first then keep asking for more and more on this property? If this is the case why not come clean with the future development plans??

Sent from my iPhone