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Date October 4, 2023 **Report No.** 2023-593

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. A42/2023

Owner/Applicant Cam Le Trinh

Location 153 Pusey Boulevard

3.0 Recommendation

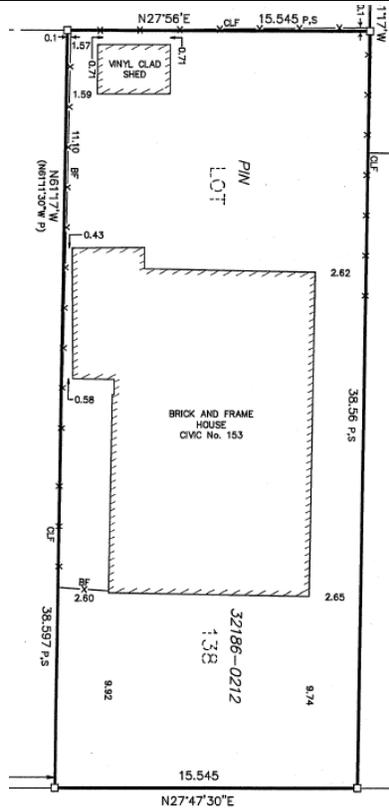
- A. THAT application A42/2022 seeking relief from Section 7.3.2.1.7.1 of Zoning By-law 160-90 to permit an interior side yard of 0.4 m for an enclosed porch, whereas a minimum side yard of 1.0 m is required, and from Section 6.4.1.1 to permit eaves to project up to 0.7 m into the required side yard, whereas the maximum permitted projection is 0.6 m, provided the projection is no closer than 0.3 m to a lot line, BE APPROVED;
- B. 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,

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- 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 2023-593.”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 153 Pusey Blvd., legally described as Lot 138, Registered Plan 1406. In the Summer of 2022, the applicant had partially constructed what is considered an enclosed porch in the side yard. She had hired a contractor to construct the enclosed porch and was made to believe that he had applied for any necessary permits and that what was being constructed was permitted. The construction was reported to the By-law Department and she was issued a stop work order for building without a permit. When the applicant applied for a Building Permit, she was informed that the construction did not meet the side yard and encroachment provisions of the Zoning By-law. Accordingly, in the Fall of 2022, the applicant had applied for a minor variance application for a reduced side yard to rectify the situation. The application was initially deemed incomplete and Planning Staff worked with the applicant to correct the issues with the application. The applicant applied again in early 2023 and based on the information provided, was required to submit a survey and grading and drainage plan, due to concerns over the exact location of the property line and pre-existing drainage concerns. The necessary documentation took an additional 6 months for the applicant to produce due to a backlog for the required professionals hired. The provided documentation confirmed that in addition to the reduced side yard, the applicant also required a variance for an increased encroachment of the eaves. The amended application was deemed complete in August 2023.



PUSEY BOULEVARD

Figure 1 - Survey of 153 Pusey Boulevard

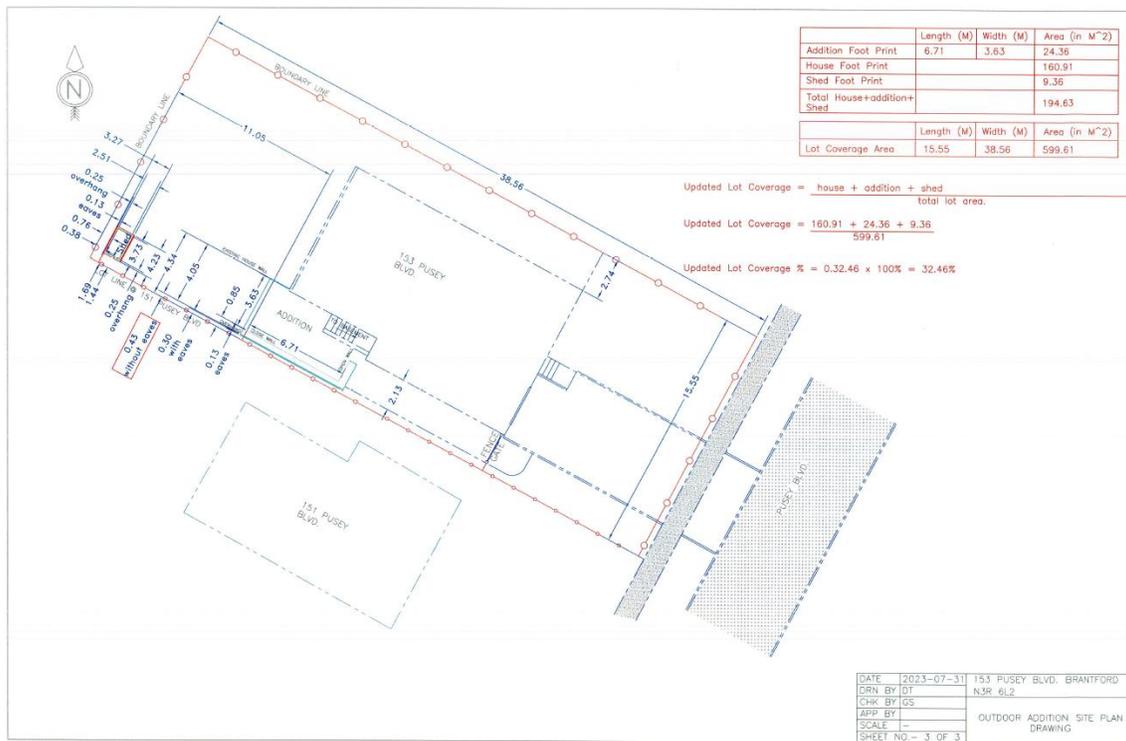


Figure 2 - Site Plan

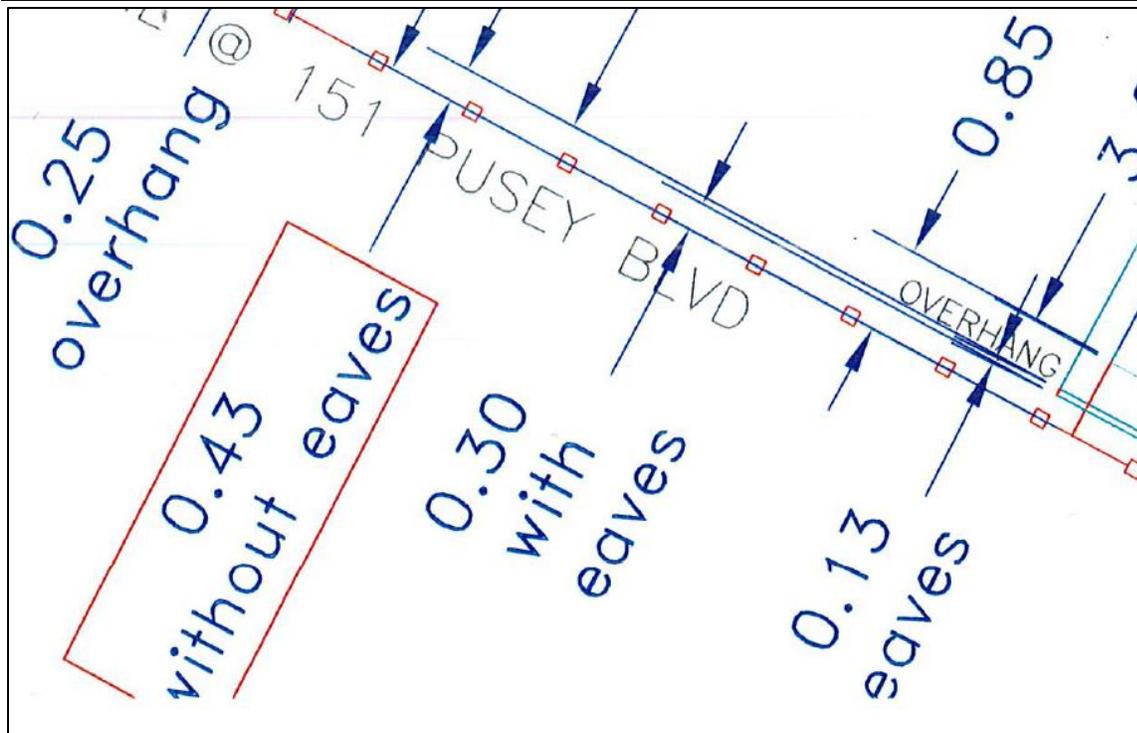


Figure 3 - Detailed Site Plan Showing Side Yard Setback and Eaves Encroachment

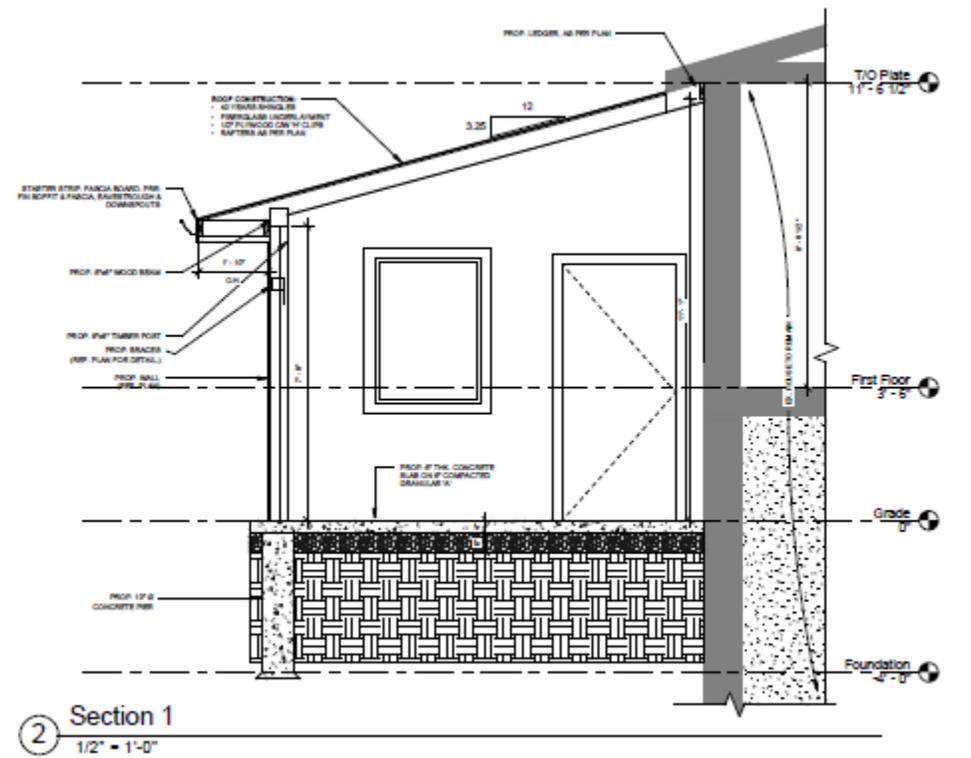


Figure 4 - Elevation Drawing of Enclosed Porch

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

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

Regulation	By-law Section	Required	Proposed	Relief Requested
Minimum Interior Side Yard	7.3.2.1.7.1	1.0 m	0.43 m	0.57 m
Eaves Encroachment	6.4.1.1	0.6 m	0.7 m	0.1 m

5.0 Site Features

The subject lands are located within an existing residential neighbourhood on the west side of Pusey Boulevard, south of Farringford Drive, west of West Street, and north of Ventnor Court. A location map, aerial photo and site photographs are included below.

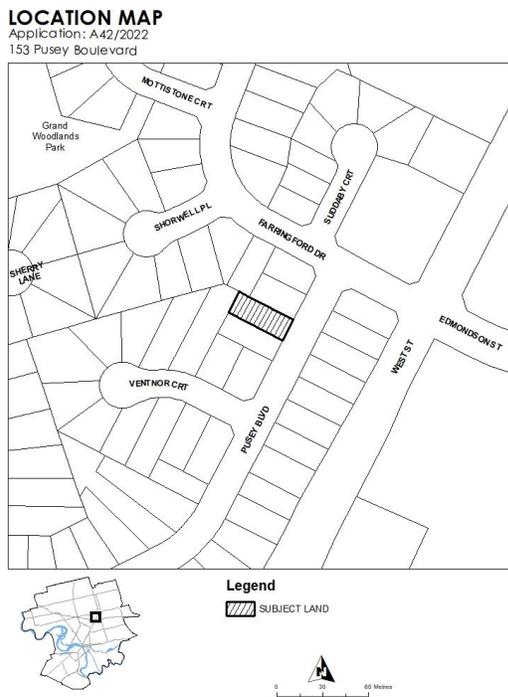


Figure 5 - Location Map



Figure 6 - Aerial Photo



Figure 7 - View of the subject property



Figure 8 - View of the partially constructed enclosed porch



Figure 9 - Proximity of the enclosed porch to the fence line (which is inside the property 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 is provided below:

Table 2 - Department and Agency Comments

Agency Name	Agency Comment
Building Department	Minimum setback to an enclosed porch is 1.0 m in the R1B zone (Existing house has attached garage). Does not meet zoning bylaw. Based on their request they are asking for a relief of 0.57 m which would permit an interior side yard of 0.43 m.
	Minimum setback to eave is 0.4m (1.0 m – 0.6 m permitted encroachment = 0.4 m) in the R1B zone. If the minor variance for a side yard is approved then the eave can be 0.3 m from the side yard lot line as proposed.
	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.
Environmental Services	No comments
Development Engineering	No comments
Landscaping	No comments
Source Water Protection	The property is located within IPZ-3, however this minor variance does not require the Restricted Land Use Declaration Form to be completed. There are no Source Water Protection requirements for this application.
Transportation	No comments
MTO	No comments
GRCA	GRCA has no objection to the approval of application A42/2022. The subject property does not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The property is not subject to Ontario Regulation 150/06 and, therefore, a permission from GRCA is not required.

6.2 Public Response

Notice of public hearing was issued by personal mail (29 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, Staff received 2 phone calls from neighbouring residents with questions. The neighbour to the rear wanted to ensure the proposed addition included an eaves trough which drained towards the street. No comments have been received regarding the subject application.



Figure 10 - Area of Public Notification Map

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
Provincial Policy Statement (PPS) (2020) 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.	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.

Document	Relevant Policy	Conformity
City of Brantford Official Plan (Envisioning Our City: 2051)	The subject lands are designated “Residential” on Schedule 3 of the City of Brantford’s Official Plan (Appendix A). The “Residential” designation permits a full range of residential dwelling types, including single detached dwellings, additional residential units, accessory structures and supporting land uses intended to serve local residents.	The subject application for a reduced side yard and eaves encroachment for an enclosed porch, conform to the policies set out in the Official Plan.
City of Brantford Zoning By-law 160-90	The subject lands are zoned “Residential Type 1B Zone (15 Metre) (R1B)” in Zoning By-law 160-90.	Aside from the minor variances proposed through this application, the subject property will continue to satisfy all other zoning requirements of the R1B 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 minor in nature	“Minor” is determined by impact, not by the value of the variance being sought. The impact of a 0.57 m reduction to the required interior side yard and an eaves encroachment of an additional 0.1 m are minor in this case as it is not expected to have any adverse impacts. Staff have reviewed the application and grading and drainage plan and have no concerns. Additionally, the larger interior side yard on the opposite side of the house is sufficient for

Four Tests	Discussion
	<p>access to the rear yard, if larger equipment is ever required.</p> <p>No neighbours have raised any concerns and the structure is already partial built and not out of character for the neighbourhood as it is buffer with a board on board fence / gate from the travelled street edge. Planning Staff are of the opinion that this request for a minor variance is considered minor in nature.</p>
<p>2. That the intent and purpose of the Zoning By-law is maintained</p>	<p>The intent of an interior side yard is to provide adequate access, drainage, and buffering between built forms. Comments from City Staff have confirmed that there are no anticipated concerns regarding access or drainage.</p> <p>Aside from the proposed variance, the subject property will continue to satisfy all other zoning requirements of the R1B Zone.</p>
<p>3. That the general intent and purpose of the Official Plan is maintained</p>	<p>The “Residential” designation permits a range of dwelling types without providing specific requirements for sizes or setbacks.</p> <p>The proposal is considered compatible with the character of the neighbourhood in accordance with Section 5.1 (c) of the Official Plan, <i>Development Proposal Review</i>.</p> <p>It is Planning Staff’s opinion that the general intent of the Official Plan is maintained as the “Residential” designation permits the single detached dwelling and porch and the reduced side yard will not impact the functionality of the site.</p>
<p>4. That the variance is desirable for the appropriate development and use of the land, building or structure</p>	<p>The reduced setback and increased eaves encroachment will facilitate additional outdoor living space and improve the residents’ enjoyment of the property.</p> <p>Additionally, the design of the structure was intended to improve the existing drainage concerns experienced on the subject lands. The proposed encroachment will permit an eaves trough on the enclosed porch which will help ensure water is properly draining from the site.</p> <p>It is not expected that this relief will have any adverse impacts on neighbouring properties.</p> <p>Planning Staff are of the opinion that this variance is desirable and appropriate for the use of the land.</p>

7.3 Conclusion

Site inspections were completed on October 18, 2022, November 25, 2022 and September 25, 2023. Upon completion of these visits and review of the applicable policies, Planning Staff are supportive of the application. The minor variance will facilitate the development of an enclosed porch for the increased usability and enjoyment of the subject lands. For the reasons mentioned above, the minor variance satisfies the criteria of Section 45(1) of the *Planning Act*, and Staff recommends that application A42/2022 be approved.



Prepared by: Sarah Hague
Planner, Development Planning
Prepared on: September 28, 2023



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

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: A42/2022
 153 Pusey Boulevard

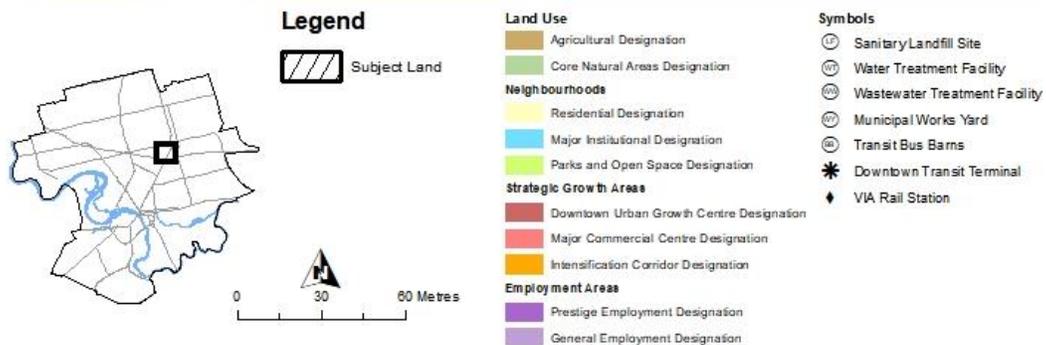
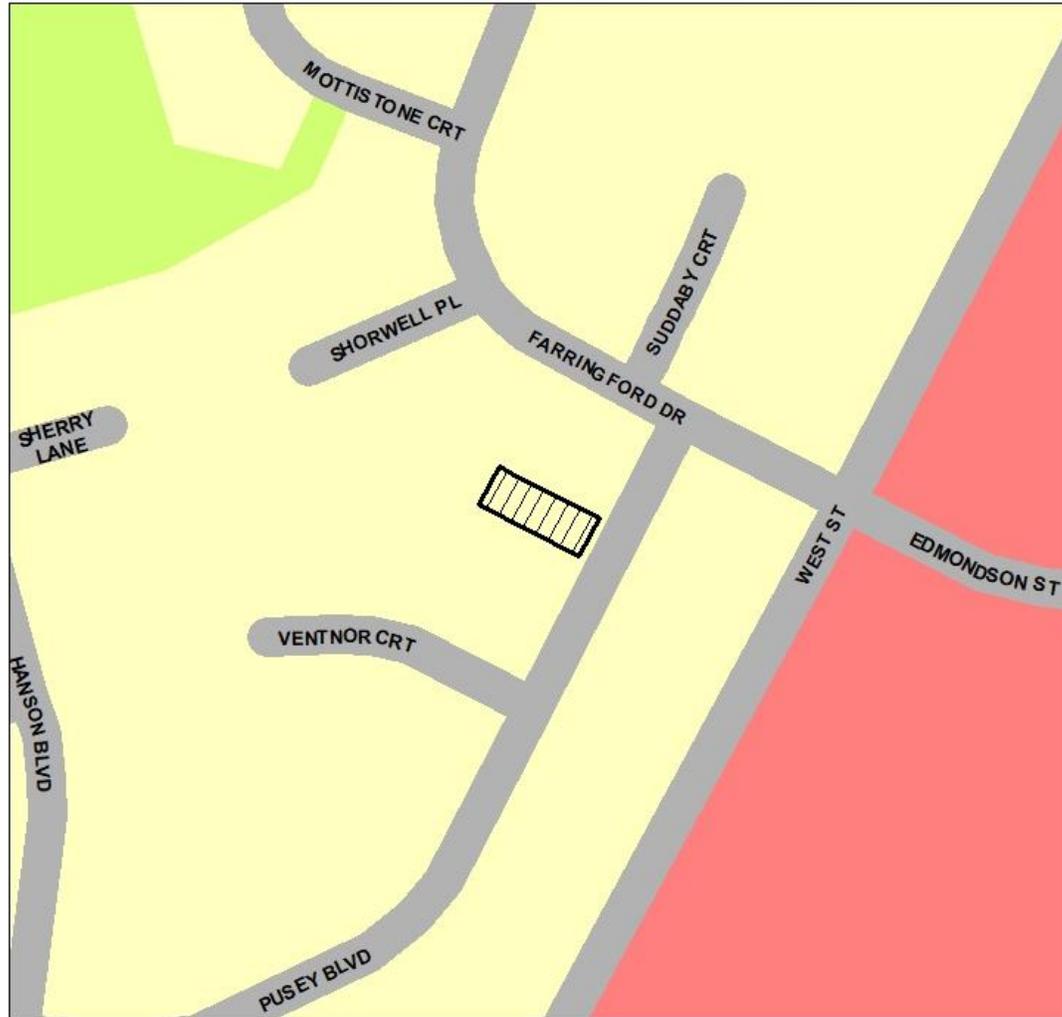


Figure 11 - Official Plan Map

Appendix B – Zoning

ZONING

Application: A42/2022
153 Pusey Boulevard



Legend

-  Subject Land
-  Zone Boundary



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

- R1B Residential Type 1B (15 metre)
- R4A Residential Medium Density Type A
- C8 General Commercial
- M1 Industrial Commercial
- M2 General Industrial
- OS1 Open Space Type 1
- H Holding Provision
- # Exception Number

Figure 12 - Zoning Map