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Date October 4, 2023 **Report No.** 2023-600
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. A33/2023
Agent Claudia Kartick – Property Manager, G3 Property Solutions
Applicant Steve Krysa – Pretium Engineering Inc.
Owner Brant Condominium Corporation No. 58
Location 24 Hardy Road (Units 1-9)

3.0 Recommendation

- A. THAT application A33/2023 seeking relief from Section 6.4.1.1 of Zoning By-law 160-90 to permit an unenclosed deck to project 3.0 m into the required rear yard, whereas a maximum projection of 2.5 m is permitted, provided the projection is no closer than 1.2 m from the 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,

- 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 2023-600.”

4.0 Purpose and Description of Application

A Minor Variance application has been received for the lands municipally addressed as 24 Hard Road (Units 1-9). The subject lands are part of a common elements condominium and have received building permits to replace the existing decks on Units 1-9. Due to the existing footings and on-grade concrete patios, the new decks are being built approximately 0.6 m deeper than the existing decks, which was included in the permit applications. During a footings inspection, it was determined that the increased depth is not in compliance with the encroachment provisions of Zoning By-law 160-90. Accordingly, the applicant has applied for relief from Section 6.4.1.1 to permit a 3.0 m encroachment of an unenclosed deck into the rear yard, whereas the maximum permitted encroachment is 2.5 m, provided the projection is no closer than 1.2 m from the lot line.



Figure 1 - Area of Work (Units 1-9)

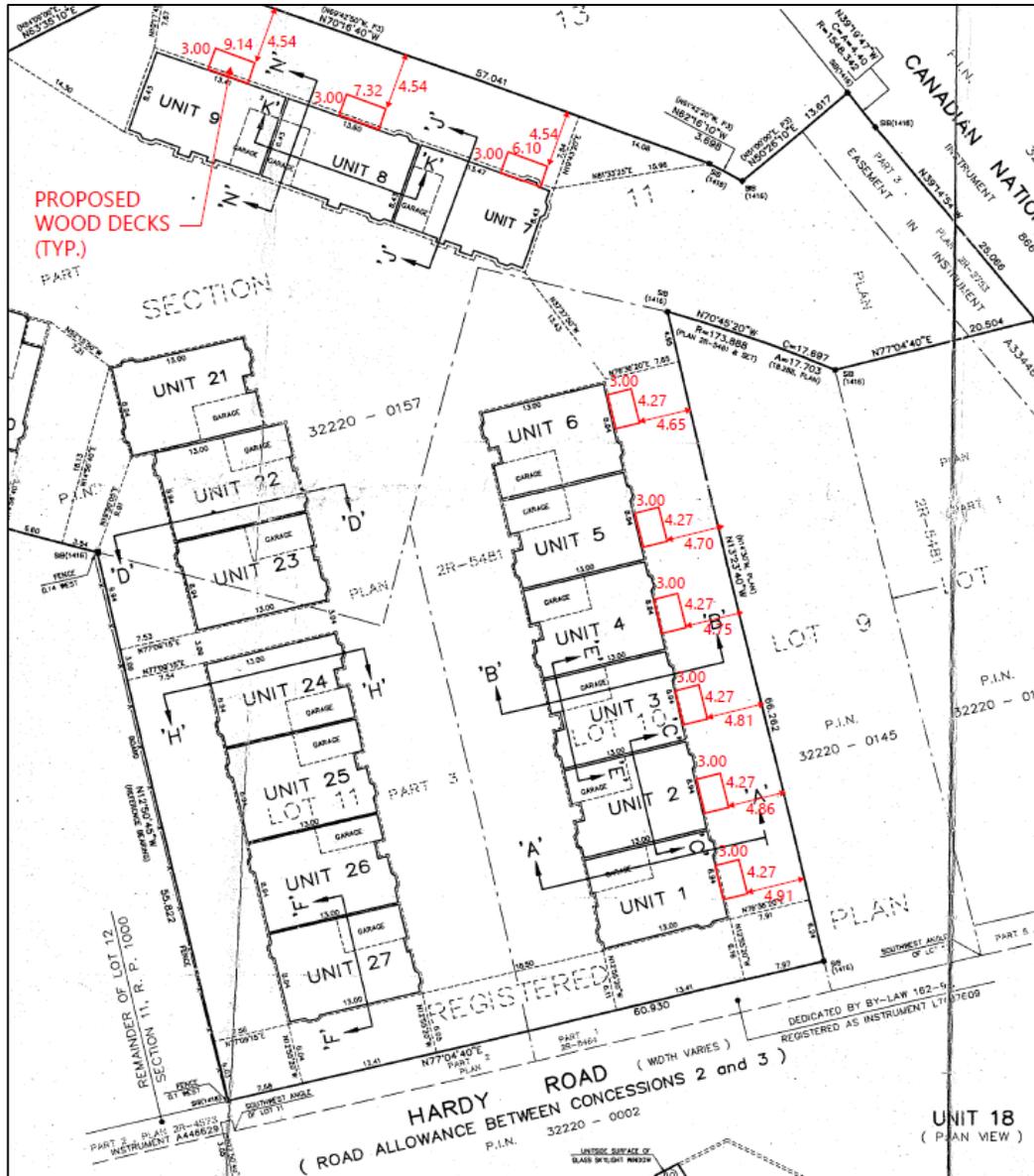


Figure 2 - Site Plan showing Deck Encroachments

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	Permitted	Proposed	Relief Requested
Deck Encroachment	6.4.1.1	2.5 m	3.0 m	0.5 m

5.0 Site Features

The subject lands are a common elements Condominium with 27 units located on the north side of Hardy Road, east of St. Andrews Drive and west of a CN Rail line. Brantford Golf & Country Club is located to the west, with residential uses to the north, east, and south. This application pertains specifically to Units 1 through 9 which are located along the southeasterly property line. A location map, aerial photo and site photographs are included below.

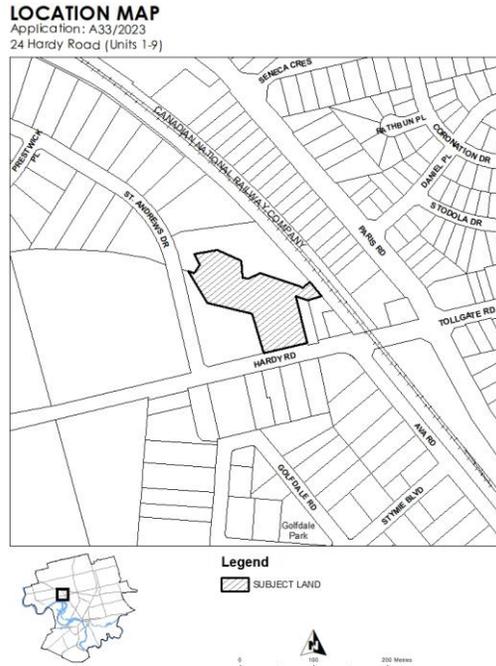


Figure 3 - Location Map



Figure 4 - Aerial Photo



Figure 5 - View of the rear yards of Units 1-6



Figure 6 - Location of the new footings in relation to the existing footings and deck structure



Figure 7 - View of the rear yards of Units 7-9



Figure 8 - Exiting decks and foundations at Units 7-9

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
Building Department	The decks will meet the Zoning By-law once the variance is approved.
Environmental Services	City records indicate the subject property is currently serviced by a 200mm Ductile Iron lateral from the 400mm PSCC watermain in Hardy Road; this service lateral appears to be located 4.2m out from unit 21 and 6.8m right of the same The development must be metered during construction; the Owner is

Agency Name	Agency Comment
	<p>responsible to pay the current fee per cubic metre for the quantity of water used</p> <p>The developer or property owner is responsible for the management of all waste and recyclables materials during construction.</p>
Development Engineering	No comments
Source Water Protection	<p>24 Hardy Rd. located within the Intake Protection Zone, (IPZ-2); however this minor variance application does <u>not</u> require the Restricted Land Use Declaration to be completed. There are <u>no</u> Source Water Protection Requirements.</p>
Transportation	No comments
Rogers	<p>Rogers has underground plant in this area that services the units 1-9 on Hardy Rd, Brantford. Our services are buried 2 feet deep below grade.</p> 

6.2 Public Response

Notice of public hearing was issued by personal mail (63 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 regarding the subject application.

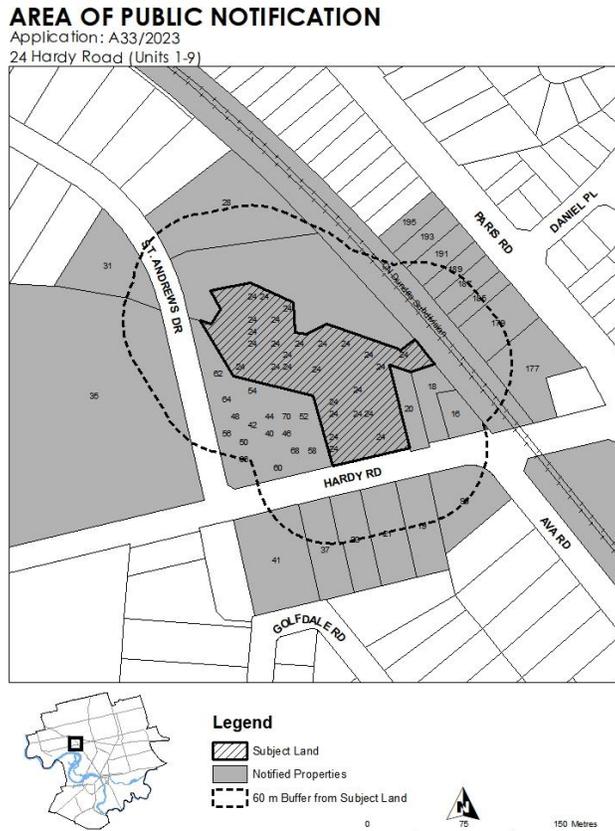


Figure 9 - Area of Public Notification Map

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
<p>City of Brantford Official Plan (Envisioning Our City: 2051)</p>	<p>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, additional residential units, as well as supporting land uses intended to serve local residents.</p>	<p>The subject application for a deck encroachment for a residential use conforms to the policies set out in the Official Plan.</p>
<p>City of Brantford Zoning By-law 160-90</p>	<p>The subject lands are zoned “Residential Medium Density Type A (R4A) Zone” in Zoning By-law 160-90 (Appendix B). The R4A Zone permits a range of medium density dwelling types including block townhouse dwellings.</p>	<p>Aside from the minor variance proposed through this application, the subject property will continue to satisfy all other zoning requirements of the R4A Zone.</p>

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 proposed additional 0.5 m projection into the rear yard is not expected to have an adverse impact on neighbouring properties, nor would it create overlook or privacy concerns as Units 1-6 back onto 1 large rear yard with a fence in between and Units 7-9 back onto a vegetated area owned by the City of Brantford.
	Planning Staff are of the opinion that this request for a minor variance is considered minor in nature.
2. That the intent and purpose of the Zoning By-law is maintained	The general intent and purpose of a maximum deck projection and minimum proximity to the lot line is to ensure that there is adequate space between the main building and the projection towards the lot line, ensuring no privacy or overlook concerns, fire prevention, and maintaining yards on a property.
	The proposed decks are all a minimum of 4.5 m from the rear yard lot line and allow for sufficient area between the dwelling and the lot line to ensure access along the rear yard.
	Planning Staff are of the opinion that this request for a minor variance meets the intent and purpose of the Zoning By-law.
3. That the general intent and purpose of the Official Plan is maintained	The “Residential” designation permits a range of dwelling types without providing specific requirements for accessory structures or amenity requirements.
	It is the opinion of Planning Staff that the proposal to extend the deck projection an addition 0.5 m into the required rear yard will maintain the general intent and purpose of the Official Plan.
4. That the variance is desirable for the appropriate development and use of the land, building or structure	The variance will allow for the replacement of existing decks, to be constructed to a higher safety standard.
	There is still sufficient space in the rear yard for maintenance, access, fire prevention, and other amenity activities.
	It is not expected that this relief will have any adverse impacts on neighbouring properties.
	It is the opinion of Planning Staff that the proposed 3.0 m deck encroachment is desirable for the appropriate development and use of the land.

7.3 Conclusion

A site inspection was completed on September 25, 2023. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. In Staff's opinion, the deck projection will not create any adverse impacts in regards to access in the rear yard, privacy and overlook or safety concerns. For the reasons mentioned above, the minor variance satisfies the criteria of Section 45(1) of the *Planning Act*, and Staff recommends that application A33/2023 be approved.



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

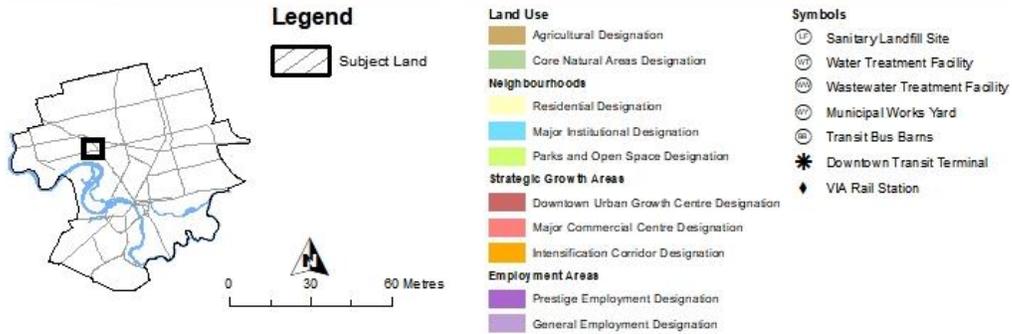
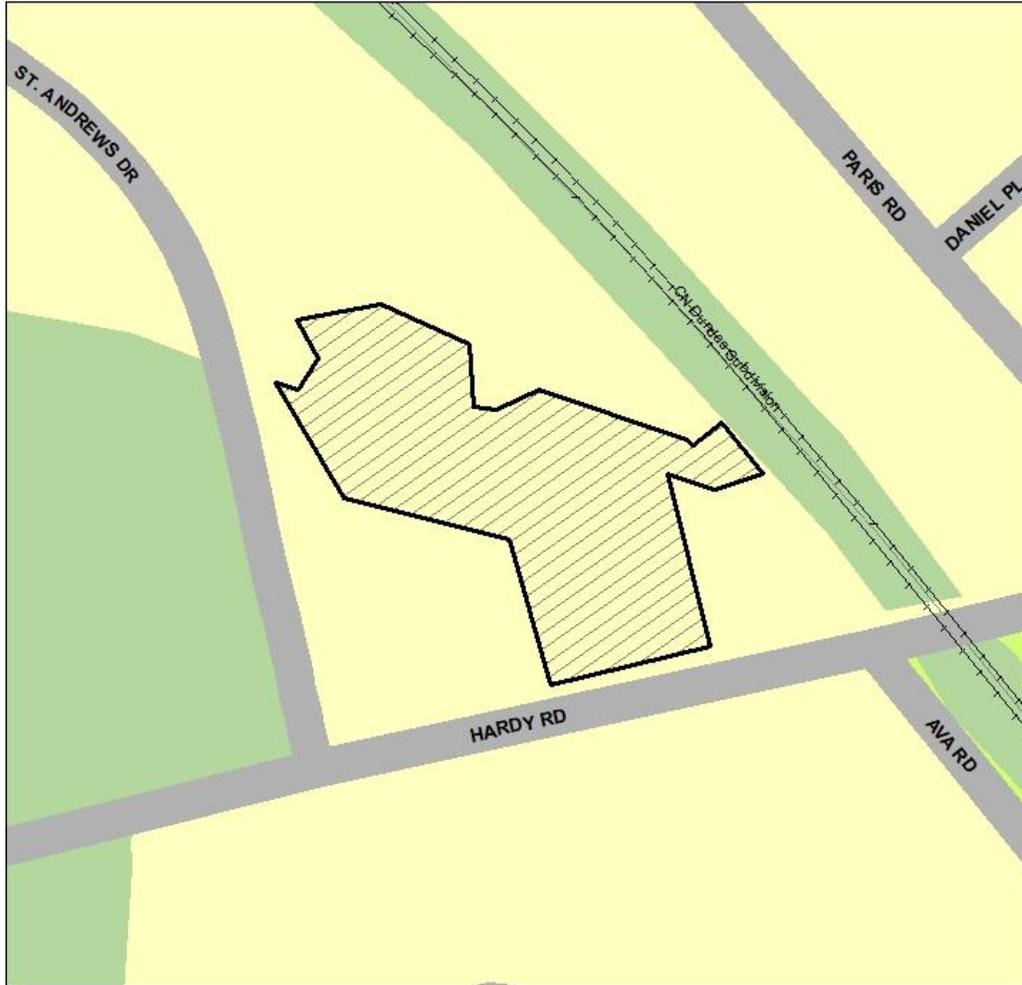


Reviewed By: Joe Muto, RPP, MCIP
Manager of Development Planning

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

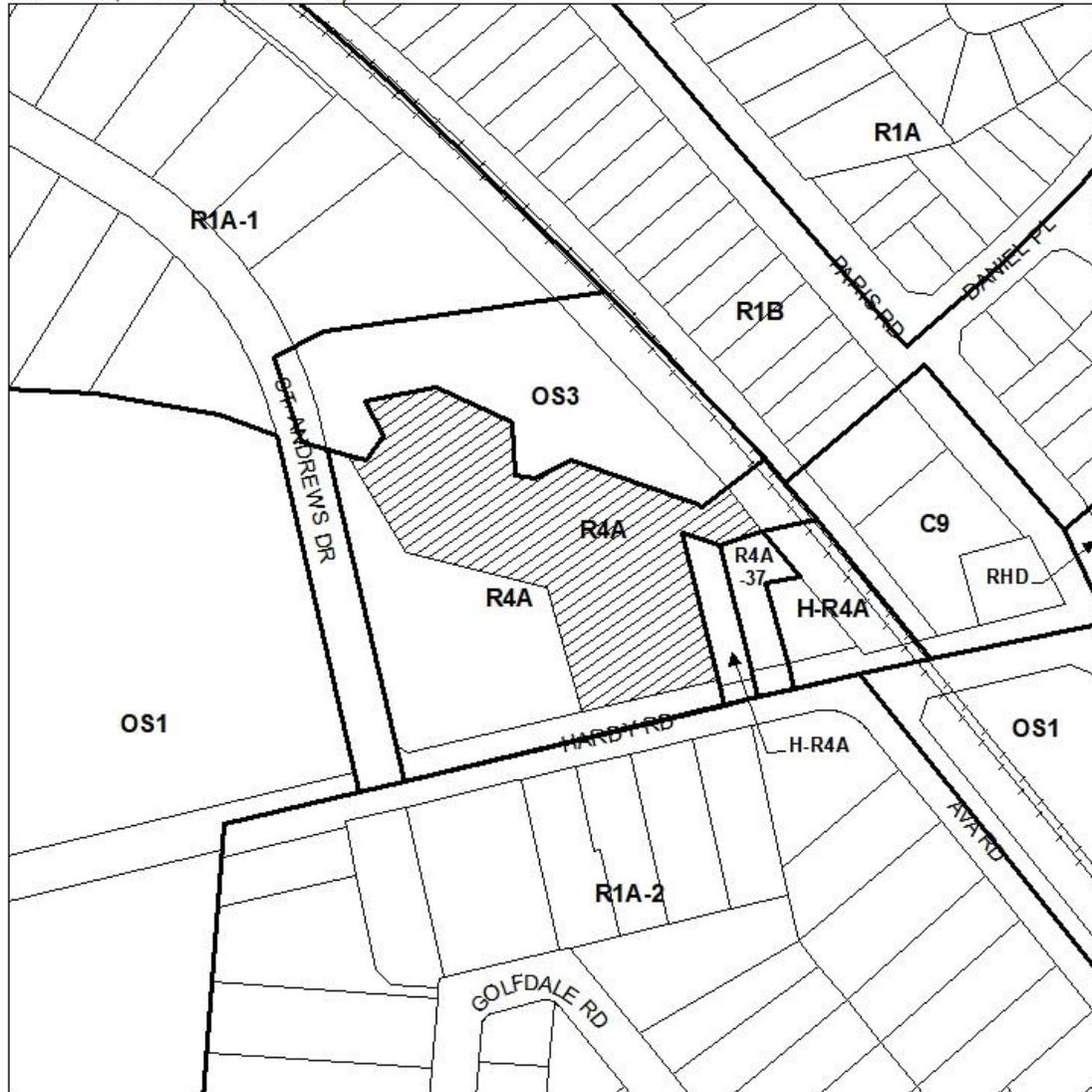
Application: A33/2023
 24 Hardy Road (Units 1-9)



Appendix B – Zoning

ZONING

Application: A33/2023
24 Hardy Road (Units 1-9)



Legend

- Subject Land
- Zone Boundary



0 60 120 Metres

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
- C9 Neighborhood Centre Commercial
- OS1 Open Space Type 1
- OS3 Open Space Restricted
- H Holding Provision
- # Exception Number