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Date December 6, 2023 **Report No.** 2023-701

To Chair and Members
City of Brantford Committee of Adjustment

From Lindsay King
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Minor Variance

2.0 Topic

Application No.: A37/2023

Agent: Underwood Ion & Johnson Law c/o Carolyn Johnson

Applicant/Owner: 1446300 Ontario Limited c/o Grant Tinney

Location: 83 Victoria Street

3.0 Recommendation

- A. THAT application A37/2023 seeking relief from Section 7.8.2.3.3 to permit 49% lot coverage, whereas 40% is the maximum lot coverage, BE APPROVED;
- B. THAT application A37/2023 seeking relief from Section 7.8.2.6 to permit a rear yard setback of 4.6 m, whereas 7.5 m is otherwise required, BE APPROVED;
- C. THAT the reasons for approval of the Minor Variance to grant relief to Section 7.8.2.3.3 are as follows: the proposed variance is 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 desirable for the appropriate development and use of the subject lands; and

D. THAT the reasons for approval of the minor variance to grant relief from Section 7.8.2.6 are as follows: the proposed variance is 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 desirable for the appropriate development and use of the subject lands; and

E. 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 2023-701”.

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 83 Victoria Avenue. The subject lands currently have a single detached dwelling with a recent addition that does not comply with Zoning By-law 160-90. The property owner did not obtain a Building Permit for this addition. The Building Department received a complaint for suspected construction without a permit. Building Staff determined that a permit was not obtained for the addition and advised that a building permit or a demolition permit would be required. The property owner opted to submit a building permit. During the Building permit review process, Building Staff identified that a minor variance was required since the addition did not comply with the Zoning By-law. A Building permit has not been issued and will not be issued unless this minor variance is approved. In an effort to gain compliance, the applicant has submitted this minor variance application to request relief from the following Sections of Zoning By-law 160-90:

- Section 7.8.2.1.3.3 to permit 49% lot coverage, whereas 40% is the maximum lot coverage; and,
- Section 7.8.2.1.6 to permit a rear yard setback of 4.6 m, whereas 7.5 m is otherwise required.

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

Regulation	By-law Section	Required	Proposed	Relief Requested
Maximum Lot	7.8.2.1.3.3	40%	49%	9%

Regulation	By-law Section	Required	Proposed	Relief Requested
Coverage				
Minimum Rear Yard	7.8.2.1.6	7.5 m	4.6 m	2.9 m

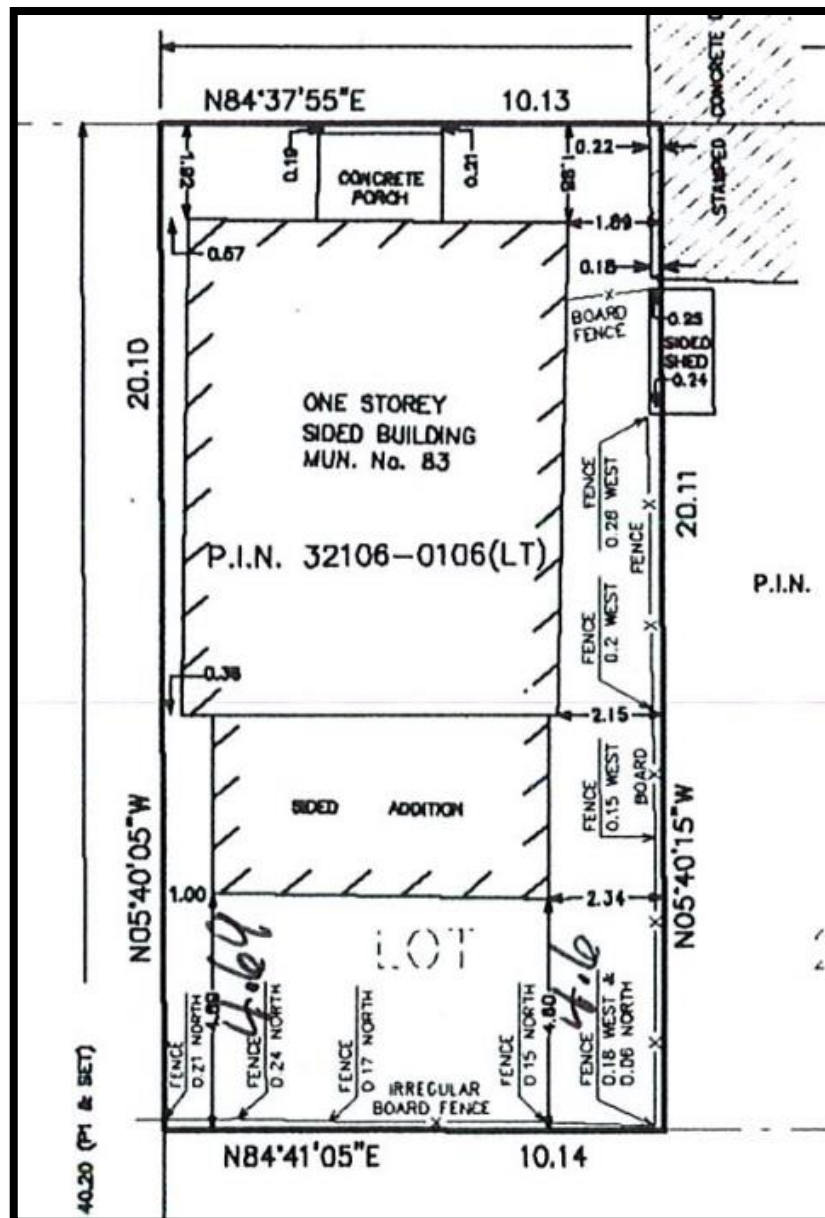


Figure 1 - Conceptual Site Plan

5.0 Site Features

The subject lands are located on the south side of Victoria Street, north of Mohawk Lake and south of Colborne Street. The subject lands are surrounded by residential land uses, primarily in the form of single detached dwellings.



Figure 2 - Location Map



Figure 3 - Aerial Photo



Figure 4 - View of the subject property

6.0 Input from Other Sources

6.1 Technical Comments

The application was circulated to all applicable departments and agencies on October 24th, 2023. A summary of the comments/conditions is provided below:

Table 2 - Department and Agency Comments

Agency Name	Agency Comment
Building	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	<p>I have reviewed this application and have no objections on behalf of Environmental services. The following comments are for the applicant's information only.</p> <p>City records indicate the subject property is currently serviced by a 19 mm copper lateral from the 150 mm Cast Iron watermain in Brock St; this service lateral appears to be located 1.7 m right of the back side of the existing dwelling and 3.4 m out from Brock St.</p>
Development Engineering	No comment
Landscape	No comment
Source Water Protection	No comment
Transportation	No comment
Brant County	No comment
Canada Post	No comment
GRCA	GRCA has no objection to the approval of the above applications. The subject properties do not contain any natural hazards such as watercourses, floodplains, shorelines, wetlands, or valley slopes. The properties are not subject to Ontario Regulation 150/06, and therefore, a permission from GRCA is not required.

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. 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.	Planning Staff are 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.
City of Brantford Official Plan (Envisioning Our City: 2051)	Section 5.2.1.a of the Official Plan states that lands within the The subject lands are designated "Residential" on Schedule 3 of the City of Brantford's Official Plan. The "Residential" designation permits residential units in Low-Rise, Mid-Rise, and High-Rise residential buildings.	The subject application conforms to the policies set out in the Official Plan.
City of Brantford Zoning By-law 160-90	The subject lands are zoned "Residential Conversion Zone" (RC) in Zoning By-law 160-90. The RC Zone permits the use.	Aside from the proposed variances requested, the site conforms with the Zoning By-law.

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 5 - Four Tests of a Minor Variance (Minimum Rear Yard)

Four Tests	Discussion
<p>1. That the requested variance is minor in nature</p>	<p>“Minor” is determined by impact, not by the value of the variance being sought. Allowing for a reduced rear yard setback to permit an addition will not, in staff’s opinion, change neighbourhood’s character and is not expected to adversely impact adjacent properties.</p>
	<p>Similar rear yard setbacks exist in the neighbourhood along Victoria Street and Brock Street. Planning staff are of the opinion that this request is minor in nature, as it will continue to have access to the public right-of-way that borders the side and front yard lot lines.</p>
<p>2. That the intent and purpose of the Zoning By-law is maintained</p>	<p>The intent of rear yards is to allow for adequate, amenity space, drainage, and to reduce building massing.</p>
	<p>The proposed site configuration provides the required parking space.</p>
	<p>The proposed site configuration maintains amenity space in the side yard, as well as direct access to the public right-of-way, which abuts the front and side lot lines on this corner lot.</p>
	<p>It is the opinion of staff that the proposal maintains the intent and purpose of the Zoning By-law since the proposed site configuration allows for adequate parking in the rear yard, and adequate amenity space in the side yard.</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 amenity requirements.</p>
	<p>It is staff’s opinion that the request to reduce the rear yard will maintain the general intent and purpose of the Official Plan as appropriate amenity space will continue to be provided.</p>
<p>4. That the variance is desirable for the appropriate development and use of the land, building or structure</p>	<p>The addition has resulted in a similar rear yard setback to other properties in the surrounding area.</p>
	<p>In Staff’s opinion, the addition is not expected have any adverse impacts on any the neighbouring properties.</p>


Table 5 - Four Tests of a Minor Variance ([Maximum Lot Coverage](#))

Four Tests	Discussion
<p>1. That the requested variance is minor in nature</p>	<p>“Minor” is determined by impact, not by the value of the variance being sought. In staff’s opinion, the increased maximum lot coverage to recognize an existing addition will not change the character of the neighbourhood and is not expected to adversely impact any adjacent properties.</p>
	<p>Similar lot coverages exist in the neighbourhood along both Victoria Street and Brock Street. Planning staff are of the opinion that this request will not adversely impact the character of the neighbourhood.</p>
<p>2. That the intent and purpose of the Zoning By-law is maintained</p>	<p>The intent of the maximum lot coverage is to allow for adequate drainage and to safeguard against over-massing of buildings.</p>
	<p>The proposed site configuration maintains adequate drainage.</p>
	<p>In Staff’s opinion, the addition does not adversely impact the streetscape and the placement of the addition is situated in an appropriate location, as well, the existing parameter fence provides screening to neighbouring properties.</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 amenity requirements.</p>
	<p>It is Staff’s opinion that the request to increased maximum lot coverage will maintain the general intent and purpose of the Official Plan.</p>
<p>4. That the variance is desirable for the appropriate development and use of the land, building or structure</p>	<p>The addition creates similar lot coverage as many other properties in the surrounding neighbourhood.</p>
	<p>In Staff’s opinion, the addition will not cause any adverse impacts on the neighbouring properties.</p>

7.3 Conclusion

A site inspection was completed on November 23rd, 2023. Upon completion of this visit and review of the applicable policies, staff is supportive of the requested variances regarding file A37/2023. The supported minor variances would facilitate a minor expansion to the residential use of the lot, while maintaining adequate amenity space, parking, and privacy. For the reasons mentioned above, the minor

variances satisfy the criteria of Section 45(1) of the *Planning Act*, and staff recommends approval.



Prepared by: Lindsay King
Planner, Development Planning
Prepared on: November 29, 2023

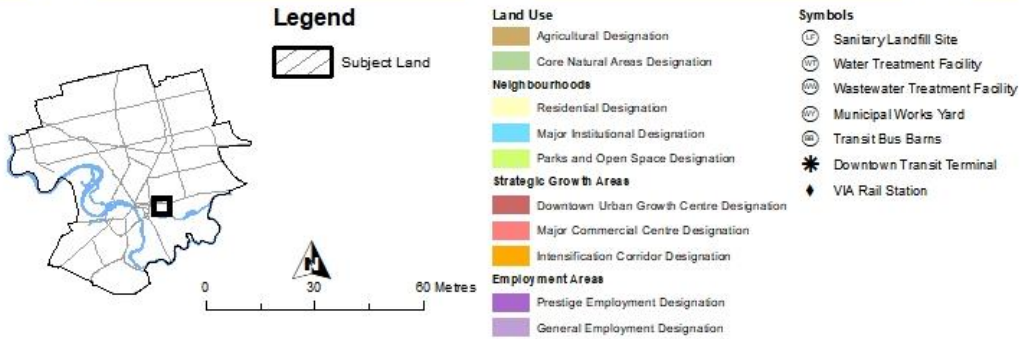
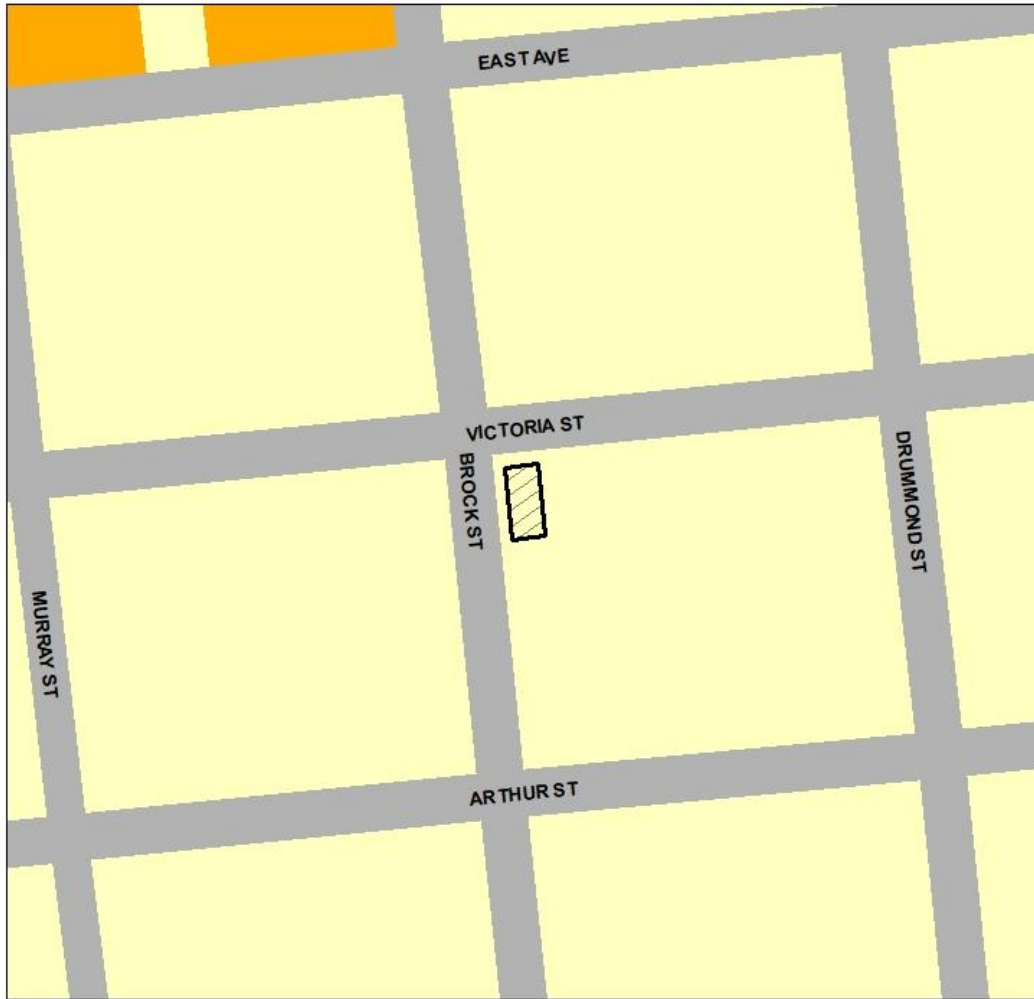


Reviewed by: Joe Muto, RPP, MCIP
Manager of Development Planning

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: A37/2023
 83 Victoria Street



Appendix B – Zoning By-law

ZONING

Application: A37 /2023

83 Victoria Street †



Legend

- Subject Land
- Zone Boundary



0 30 60 Metres

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

- RC Residential Conversion
- R4A Residential Medium Density Type A
- I2 Institutional School
- C7 Convenience Commercial
- # Exception Number