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Date December 6, 2023 **Report No.** 2023-702
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 Applications for Minor Variance

2.0 Topic

Application No.: A38/2023
Agent: RESCo Energy Inc.
Applicant/Owner: 2180903 Ontario Inc.
Location: 156 Adams Boulevard

3.0 Recommendation

- A. THAT application A38/2023 seeking relief from Section 6.3.1.6.1 to permit an accessory structure in the front yard, BE APPROVED;
- B. THAT the reasons for approval of the minor variance to grant relief to Section 6.3.1.6.1 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

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 2023-702”.

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 156 Adams Boulevard. The subject lands currently have an industrial warehouse on the site, known as the Amhil North America Distribution Warehouse. The property owner proposes the development of a 2570 kW battery energy storage system that would be incorporated with the existing Grandbridge Energy electrical infrastructure and feed the Ahmil facility during peak hours to be more efficient with energy consumption. The battery, measuring approximately 1.8 m in height and 189 m² in area, would be affixed to a cement pad and fenced. To facilitate this development, the applicant has submitted a site plan application (SPC-12-23) and this minor variance is to request relief from the following Sections of Zoning By-law 160-90:

- Section 6.3.1.6.1 to permit an accessory structure in the required front yard, whereas it is otherwise not permitted.

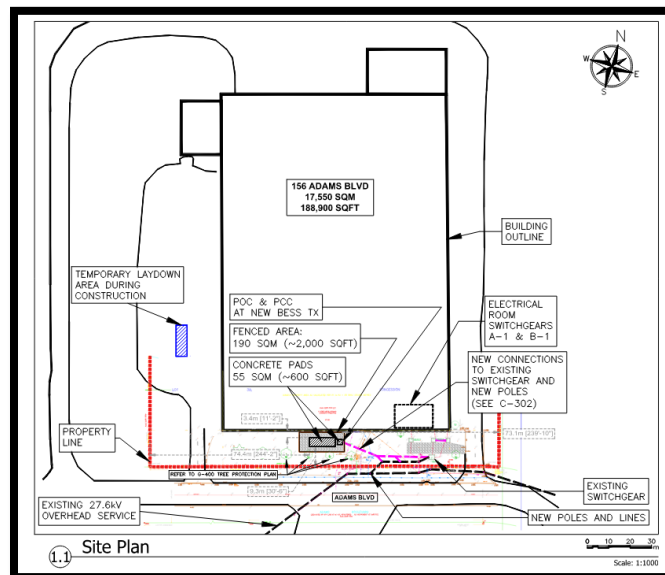


Figure 1 - Conceptual Site Plan

5.0 Site Features

The subject lands are located on the north side of Adams Boulevard, south of Highway 403, and west of Garden Avenue. The subject lands are surrounded by industrial land use.

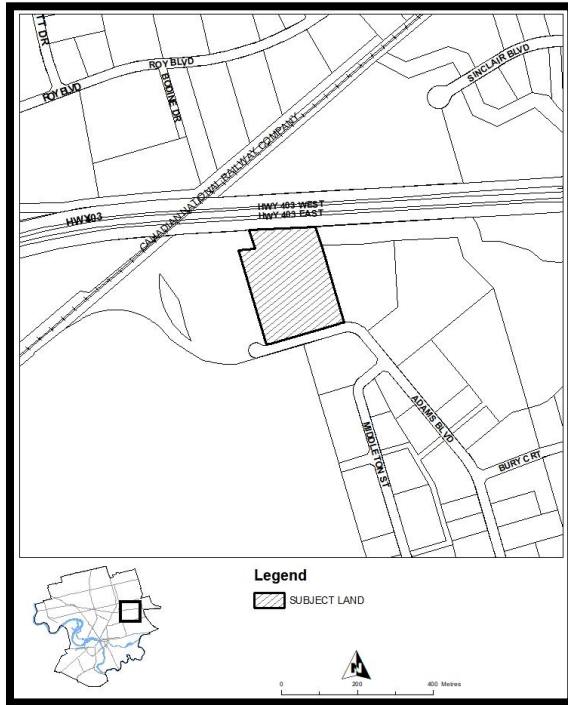


Figure 2 - Location Map



Figure 3 - Aerial Photo



Figure 4 – View of the proposed battery location



Figure 5 – View of the proposed battery location

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 1 - Department and Agency Comments

Agency Name	Agency Comment
Building	The proposed accessory structure is in the required front yard (9.3 m), whereas accessory structures are not permitted in the required front yard in the Industrial, Commercial, or Institutional zones.
Environmental Services	<p>City records indicate the subject property is currently serviced by a 50 mm copper lateral from the 300 mm PVC watermain in Adams Boulevard; this service lateral appears to be located 19.6 m Left of the Right and 2.2 m out from side of the existing building;</p> <p>Demonstrate the minimum clearance for new utilities with a horizontal distance from the watermain pipes of 1.5 m.</p> <p>The developer or property owner is responsible for the management of all waste and recyclables materials during construction.</p> <p>The City of Brantford does not collect Commercial, Industrial or Institutional waste materials. The owner must utilize Private Collection services (at property owner's expense) to manage waste material collection;</p>
Development Engineering	No comment
Landscape	No comments under the assumption that trees indicated on the provided Tree Protection Plan (Drawing 458086-G-400) are to remain and be protected.
Source Water Protection	<p>Property is located in Intake Protection Zone 3 (IPZ-3) and is required to complete the Restricted Land Use Declaration form (RLU form) for the City's Source Water Protection Plan.</p> <p>The cost of reviewing the Restricted Land Use Declaration Form is \$58.00 (for 2023). There are additional fees possible if a Risk Management Plan is required. Upon review of the RLU form and payment of the fee, the Risk Management Official (RMO) will issue a notice as to whether the development can proceed without requirements or whether there is a Source Protection Plan policy requirement.</p>
Transportation	No comment
Brant County	No comment

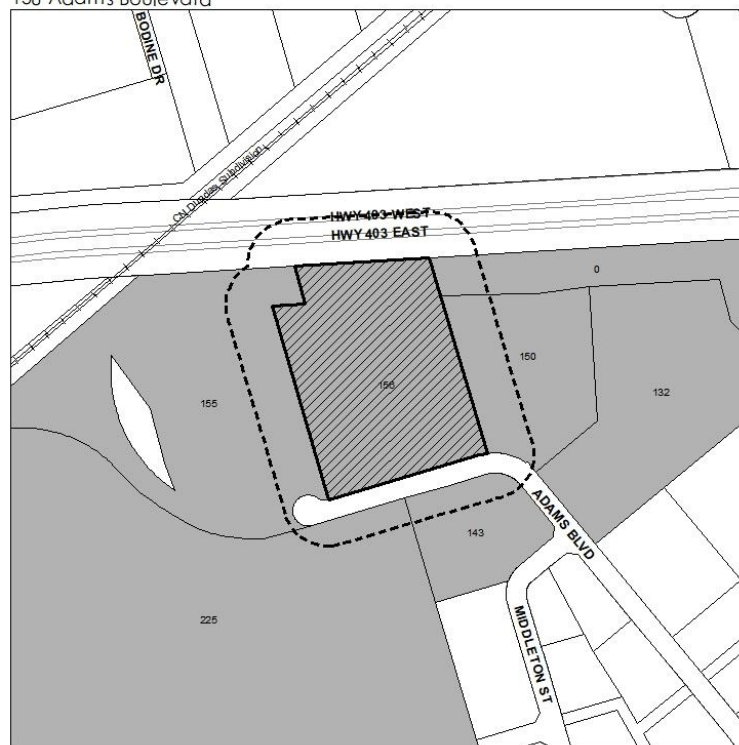
Agency Name	Agency Comment
Canada Post	No comment
GRCA	GRCA has no objection to the approval of A38/2023. GRCA staff recently provided comments on the related site plan application and we have no additional comments at this time.

6.2 Public Response

Notice of public hearing was issued by personal mail (6 notices) on November 16, 2023 to property owners within 60 m of the subject lands pursuant to the *Planning Act*. No public comments were received.

AREA OF PUBLIC NOTIFICATION

Application: A38/2023
 156 Adams Boulevard



Legend

-  Subject Land
-  Notified Properties
-  60 m Buffer from Subject Land



Figure 6 - 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 2 - 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.
City of Brantford Official Plan (Envisioning Our City: 2051)	Section 3.5 of the Official Plan, “Promoting Sustainable Development and Adapting to Climate Change” includes a list of encouraged practices including i. “developing communities and buildings that are energy and water efficient”.	The proposed battery unit would increase the energy efficiency of the related warehouse and therein conform to the policies set out in the Official Plan.
City of Brantford Zoning By-law 160-90	6.3.1.3.1 states that “in Residential Zones, no accessory building or structure shall be located: .1 In a required front yard or required exterior side yard, except a gatehouse in a RHD Zone.”	Aside from the proposed variance, the proposed site conforms with the Zoning By-Law. The proposed battery unit satisfies subsections (2),(3), and (4) in that it is not proposed to be closer than .6 m to an interior lot line, closer than .6 m to an interior lot line, rear lot line, or public laneway, and is not proposed to be closer than 1.5 m to any main building or structure.

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 maintain the general intent and purpose of the Zoning By-Law and Official Plan. These tests are discussed in the table below:

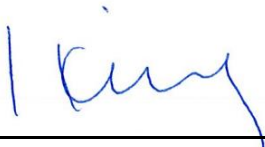
Table 3 - Four Tests of a Minor Variance

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. Allowing for a fenced in 55 m ² accessory structure in the required front yard of an industrial property is considered minor in nature.
	Since the accessory structure is proposed with fencing, and since the current landscaping will remain intact and provide additional screening, staff are of the opinion that this proposal would not adversely impact adjacent properties.
2. That the intent and purpose of the Zoning By-law is maintained	The purpose of required front yard is to ensure that the structures are adequately set back from the public right-of-way.
	As the proposal maintains 9.1 m of front yard, it is the opinion of staff that permitting the accessory structure in the front yard on an industrial site would continue to maintain the intent and purpose of the Zoning By-law.
	Aside from the proposed variance, the subject property will continue to satisfy all other zoning requirements for the Industrial (M2) Zone.
3. That the general intent and purpose of the Official Plan is maintained	The subject lands are designated Prestige Employment. Section 5.4.1(e) states that development within this designation shall “exhibit high-quality design features including built form,” and Section 3.5 of the Official Plan encourages energy efficiency.
	It is the opinion of staff that the proposed battery unit would maintain the general intent and purpose of the Official Plan and implemented through the site plan control process.

Four Tests	Discussion
4. That the variance is desirable for the appropriate development and use of the land, building or structure	It is the opinion of staff that the proposed battery unit is desirable as it supports the efficient use of the lands and is appropriate development for the area. The proposed battery would store power and the power would be used in the facility during peak energy use times of the year.
	It is the opinion of staff that the proposed addition is not expected have any adverse impacts on neighbouring properties or right-of-way.

7.3 Conclusion

A site inspection was completed on November 23, 2023. Upon completion of this visit and review of all relevant policies, Planning staff are supportive of the requested variance regarding file A38/2023. The proposed battery unit will not impact landscaping, will be screened with fencing, and would support increase energy efficiency on the site. For the reasons mentioned above, the minor variance satisfies 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

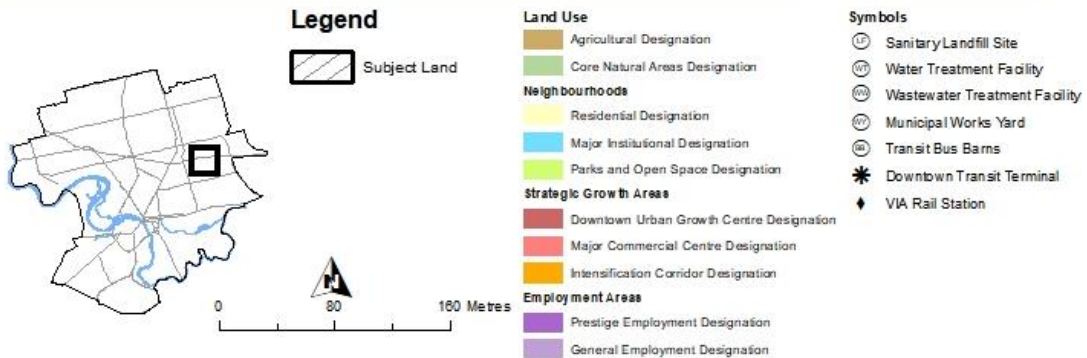


Reviewed by: Joe Muto, RPP MCIP
Manager of Development Planning

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

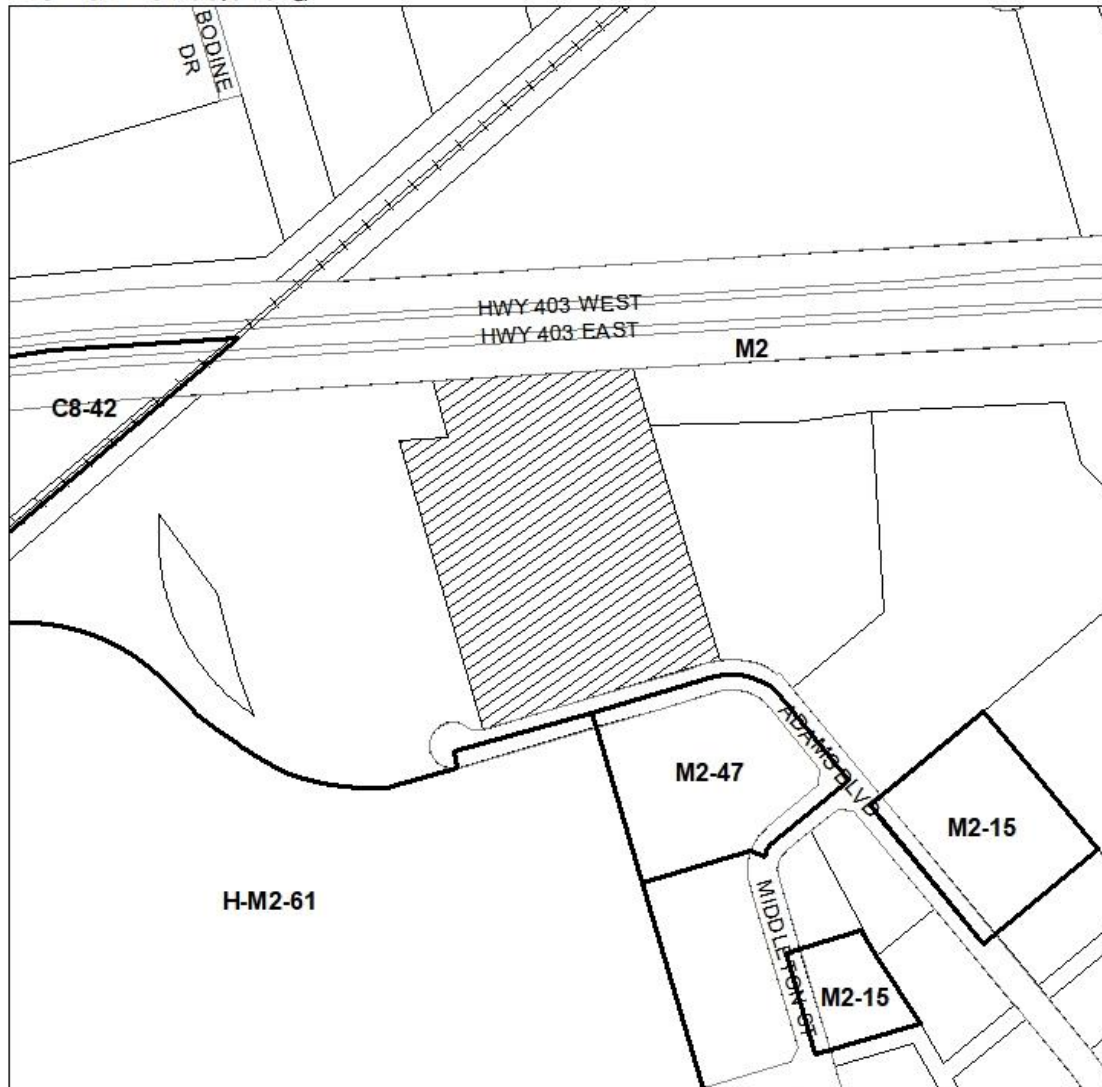
Application: A38/2023
156 Adams Boulevard



Appendix B – Zoning

ZONING

Application: A38/2023
156 Adams Boulevard



Legend
Subject Land
Zone Boundary

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

- C8 General Commercial
- M2 General Industrial
- H Holding Provision
- # Exception Number