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Date February 7, 2024 **Report No.** 2024-88
To Chair and Members
City of Brantford Committee of Adjustment
From Dora Pripon
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Applications for Consent and Minor Variance

2.0 Topic

APPLICATION NO.	A04/2024
AGENT	Nicholas Christensen
APPLICANT/OWNER	Paul Robertson
LOCATION	255 Nelson Street

3.0 Recommendation

- A. THAT application A04/2024 seeking relief from Section 6.18.3.10 of Zoning By-Law 190-60 to permit a third parking space in tandem on-site, whereas a maximum of 2 parking spaces in tandem are otherwise permitted, 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 2024-88.”

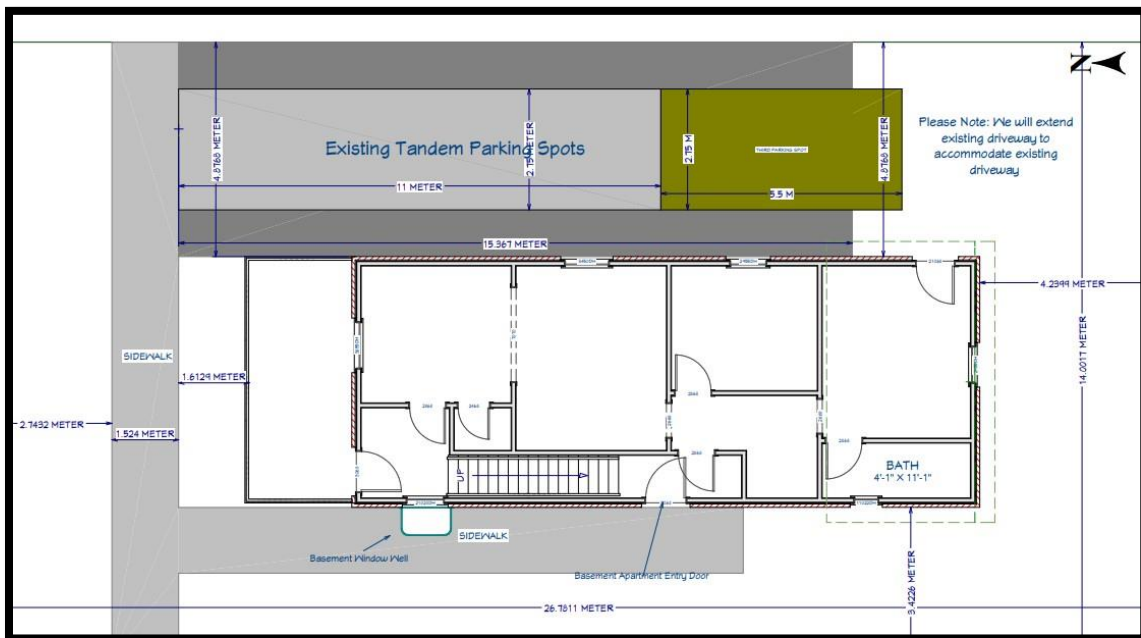
4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally described as 255 Nelson Street. The applicant is proposing to build a third accessory dwelling unit within the existing single detached dwelling. Section 6.32.4 of the Zoning By-law requires a parking rate of 1.0 space per Accessory Dwelling Unit. To meet this required parking rate, the applicant is requesting the following relief from the Zoning By-law 160-90.

Table 1 - Minor Variance Relief Requested

Regulation	By-law Section	Required	Proposed	Relief Requested
Parking	Section 6.18.3.10	Maximum of 2 parking spaces in tandem	3 parking spaces in tandem	1 additional tandem parking space

Figure 1 - Conceptual Site Plan



5.0 Site Features

The subject lands are designated “Residential” in the Official Plan and zoned “RC – Residential Conversion” in Zoning By-law 160-90 as shown in **Appendix B** and **Appendix C**, respectively. The following is a description of the land use surrounding the subject lands.

- | | |
|--------------|--|
| North | Recreation Park including a baseball diamond, basketball court and open space. |
| South | Single detached dwellings zoned RC. |
| East | Single detached dwellings zoned RC. |
| West | Single detached dwellings zoned RC. |

Table 2 - View of subject lands from Nelson St looking south



Table 3 - View of neighbouring properties from Nelson St looking southwest



6.0 Input from Other Sources

6.1 Technical Comments

To facilitate the development of a third accessory dwelling unit, the applicant first applied for a minor variance that sought relief for (0) zero parking spaces, whereas one parking space per accessory dwelling unit is required as per Section 6.32.4 of the Zoning By-law. This application was circulated to all applicable departments and agencies on December 12, 2023. Several departments provided comments, as shown in **Appendix C**. The City's Transportation Department did not support the parking relief, noting that it may create a future situation in which the tenants leasing the third unit will have to park on the street. Furthermore, on-street parking is not to be used as justification for parking reduction. On-street parking is provided for general use of surrounding properties and cannot be dedicated to any individual property.

The applicant revised the minor variance application to instead seek relief for a third tandem parking space, whereas a maximum of 2 tandem parking spaces are permitted. On January 24, 2024 this revised application was re-circulated to scoped departments including, Development Engineering, Building Department and Transportation Department, see **Appendix D**. No objections were received on this revised application.

6.2 Public Response

A Notice of Public Hearing was issued by personal mail (35 notices) on January 24, 2024 to property owners within 60 metres of the subject lands pursuant to the *Planning Act*. No public comments were received at the writing of this report.

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 of the analysis is provided below.

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 4 - Minor Variance tests to allow for a 3rd tandem parking space

Four Tests	Discussion
1. That the requested variance is minor in nature	<p>“Minor” is determined by impact, not by the value of the variance being sought.</p> <p>Staff is of the opinion the relief sought after in this application is minor. The driveway on the subject lands is long enough to accommodate three cars in tandem and would not impact the surrounding properties or public right-of-way.</p>
2. That the intent and purpose of the Zoning By-law 160-90 is maintained	<p>Section 6.32.4 of the Zoning By-law requires that an accessory dwelling unit has one parking space per unit. This proposal would satisfy this provision. However, the existing driveway is not wide enough to accommodate more than one car in a row. The only possible configuration on the existing driveway is to have the parking space for the proposed third accessory dwelling unit in tandem.</p>

Four Tests	Discussion
	<p>Section 6.18.1.1.2 of the Zoning By-law requires that a tandem parking space (to accommodate 2 cars) be 11 m in length. The existing driveway is currently closer to 15 m so it surpasses the required dimension for length of a tandem space. Furthermore, the applicant proposes to extend the driveway by about 1.5 m to have total of 16.5 m. This will make the third proposed parking space 5.5 m long, which is half of the 11 m length required for 2 cars. Therefore, this proposal is in keeping with the other provisions for tandem parking spaces in the Zoning By-law.</p> <p>The subject lands are consistent with the driveways on the surrounding neighbourhood properties which are also long and go along the side of the dwelling. It is Staff’s opinion that the proposal to slightly extend the existing driveway and add a third parking space on the subject lands will not have any negative impacts on the surrounding area.</p>
<p>3. That the general intent and purpose of the Official Plan is maintained</p>	<p>The subject lands are designated “Residential”, wherein a variety of residential forms are supported, including accessory dwelling units.</p> <p>It is the opinion of Staff that the proposed variance would 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>It is the opinion of staff that the proposal is desirable as it would facilitate the creation of a third additional dwelling unit. The Ontario Housing Affordability Task Force has identified intensification within existing built-up areas of municipalities as one of the most important residential housing priorities. Furthermore, the third tandem parking space would be desirable from a transportation perspective because it would not interfere with the right-of-way.</p>

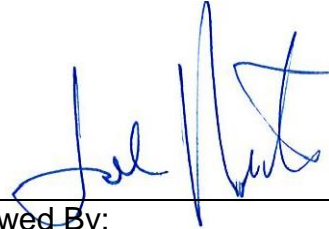
7.3 Conclusion

A site inspection was completed on January 22, 2024. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. The minor variance will facilitate the development of a new accessory dwelling unit which will contribute to the City’s range of housing stock, which is in line with the Province’s direction of providing more homes. The proposed relief is also not predicated to have any adverse impact on the surrounding neighbourhood. For these reasons and the ones mentioned above, the minor variance satisfies the

criteria of Section 45(1) of the *Planning Act*, and Staff recommends that application A04-2024 be approved.



Prepared by:
Dora Pripon
Planner, Development Planning
Prepared on: February 1, 2024

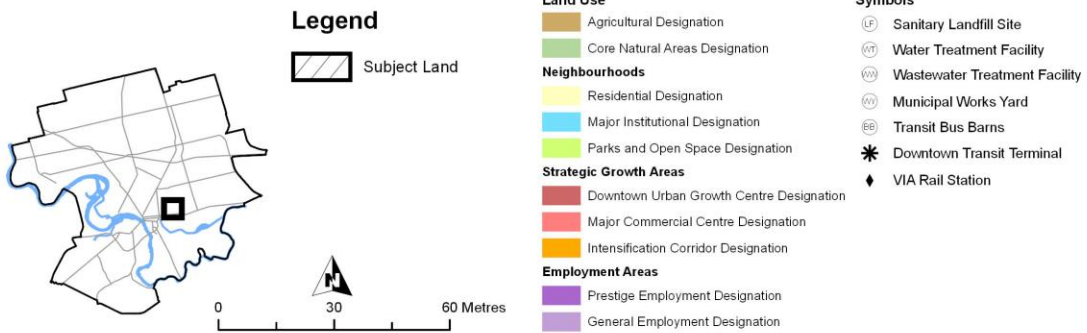
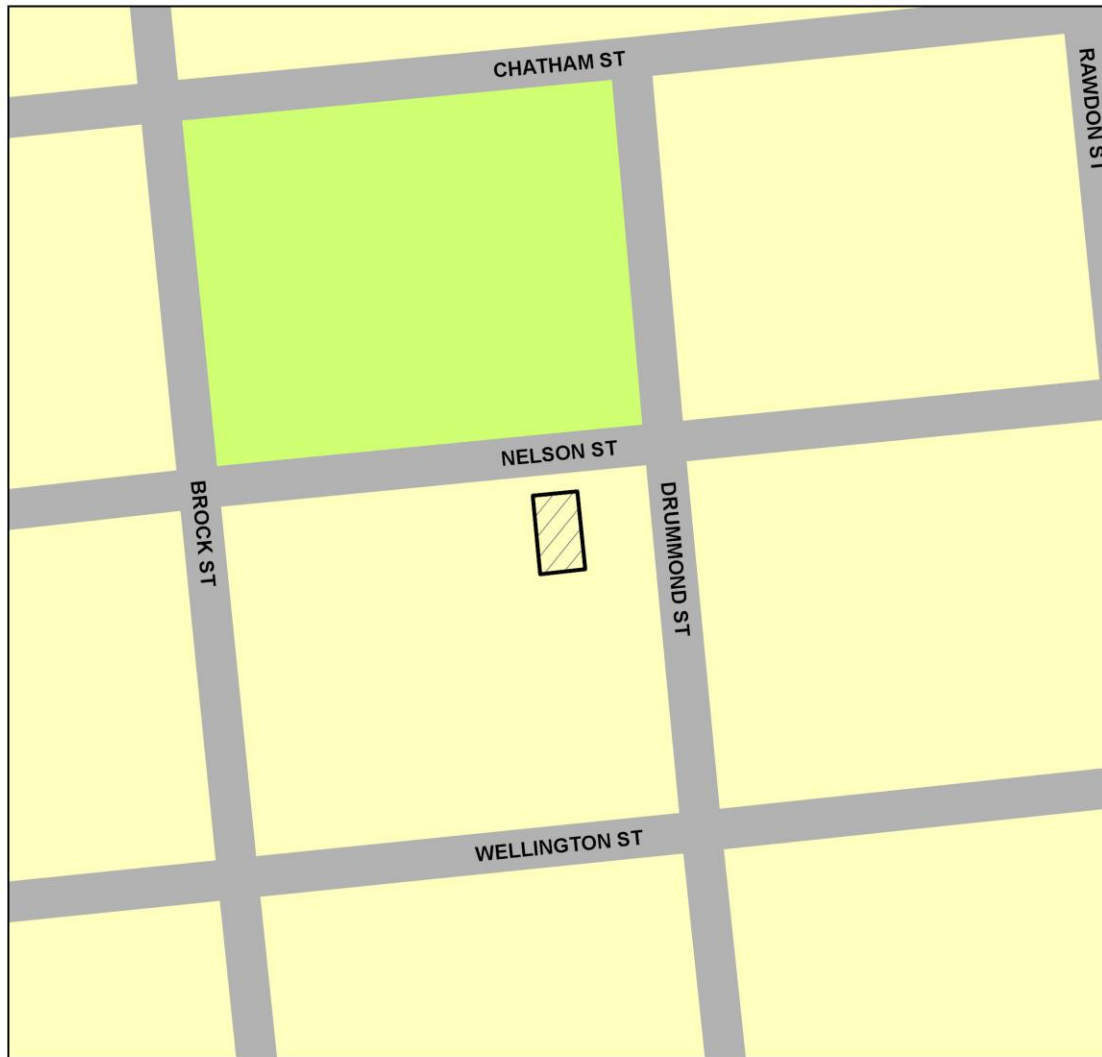


Reviewed By:
Joe Muto, RPP, MCIP
Manager of Development Planning

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: A04/2024
255 Nelson Street



Appendix B – Zoning

ZONING

Application: A04/2024
255 Nelson Street



Legend
Subject Land
Zone Boundary



0 25 50 Metres

ZONING (Bylaw 160-90) and County of Brant(61-16)
RC RESIDENTIAL CONVERSION
OS1 OPEN SPACE Type 1
-# Exception Number

Appendix C – Technical Comments (Circulation - December 12, 2023)

Agency Name	Agency Comment
Accessibility	No comments.
Building Department	<p>The proposed basement unit contributes to 3rd dwelling unit. If there are more than two dwelling units, it falls under the definition of a small building, not the house (most of the compliance alternatives don't apply). A separate entrance is required for all the dwelling units, the entry to the main and second dwelling units doesn't comply with 9.9.9.3. Provide a revised site plan indicating access to dwelling units in conformance with 9.9.9.3 of O.B.C.</p> <p>Note: 9.9.9.3 of O.B.C. requires a second and separate means of egress where the dwelling unit opens onto an exit stairway, exterior passageway and a public corridor serving more than one suite.</p> <p>Any proposed construction will require that a building permit be applied for and approved through this department. Development charges may apply to any new development.</p>
Environmental Services	No comments.
Development Engineering	<p>Development Engineering has no comments in regards to the reduction of required parking.</p> <p>The Applicant should be made aware of the City of Brantford Wastewater Allocation Policy. At Building Permit Stage confirmation should be provided that this site has adequate existing wastewater allocation for any additional dwelling units.</p>
Landscaping	No comments.
Mississaugas of the Credit First Nation (MCFN)	<p>The Mississaugas of the Credit First Nation would like to notify you that we are the Treaty Holders of the land on which the proposal for the addition within the existing building will occur. This project is located on the Between the Lakes Treaty No. 3 of 1792.</p> <p>In light of this, the MCFN Department of Consultation and Accommodation (DOCA) has no comments or concerns at this time. Please notify MCFN DOCA if the scope of the project changes. Thank you</p>
Transit	No comments.
Transportation	Staff does not support the relief of the required parking space.
Fire Department	No comments.
Bell Canada	No comments.

Appendix D – Technical Comments (Re-circulation - January 24, 2024)

Agency Name	Agency Comment
Building Department	<p>Access to 3 dwellings units shall comply with O.B.C., its compliance can be verified at the building permit stage.</p> <p>Any proposed construction will require that a building permit be applied for and approved through this department. Development charges may apply to any new development.</p>
Development Engineering	<p>Development Engineering comments remain unchanged from previous.</p>
Transportation	<p>Although residents may utilize on-street parking as a result of the third tandem parking space, without setting precedence, staff can support the 5.5 m long tandem space provided that all three vehicles can fit onto the property without any constraints when entering or exiting the vehicle.</p> <p>Please note, all vehicles must be contained within the property limits, no parked vehicles may encroach within the right-of-way.</p>