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Date January 18, 2024 **Report No.** 2024-24
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.: A02/2024
AGENT: N/A
APPLICANT/OWNER: Dexter Stewart
LOCATION: 108-110 Albion Street

3.0 Recommendation

- A. THAT Application A02/2024 requesting relief from Section 6.18.3.9 of the City of Brantford Zoning By-law 160-90 to permit 40% Landscaped Open Space in the required front yard whereas a minimum of 50% is otherwise required, BE APPROVED, conditional upon the registration of an environmental easement for operational noise and vibration emissions, in favour of CN Rail;
- B. THAT the reasons for approval of the minor variance 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 2024-24.”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 108 and 110 Albion Street. The lands at 108 Albion Street has a single detached dwelling on site and 110 Albion Street is currently vacant and previously utilized for parking. The applicant proposes to demolish the existing single detached dwelling and develop a semi-detached dwelling, with two Accessory Dwelling Units within each building. The applicant also proposes two parking spaces for each property: one in the garage and one alongside the driveway. The reason that this parking configuration is proposed is that the applicant wants each resident to be able to enter and exit their parking space without the need for coordination with the other residents. To facilitate this development, the applicant is requesting relief from the following section of Zoning By-law 160-90:

- Section 6.18.3.9 to permit a minimum landscaped open space in the required front yard of 40.1%, whereas 50% is otherwise required.

The subject lot is identified as having a required front yard of 40.1%, however Planning Staff recommend requesting a required front yard of 40% to allow for any potential discrepancies with the measurements provided.

5.0 Site Features

The subject lands are located on the west side of Albion Street, south of Henrietta Street, west of William Street, and north of Richmond Street. The surrounding land use is residential and institutional; the Hungarian Canadian Club abuts the property, there is a private school (Victoria Academy) across the street, and the Polish Community Centre at the corner of Albion Street and Henrietta Street. Robert Moore Park is also across the Albion Street from this site. The subject lands are designated “Residential” and zoned “Residential Conversion” as shown in **Appendix A** and **Appendix B**, respectively.

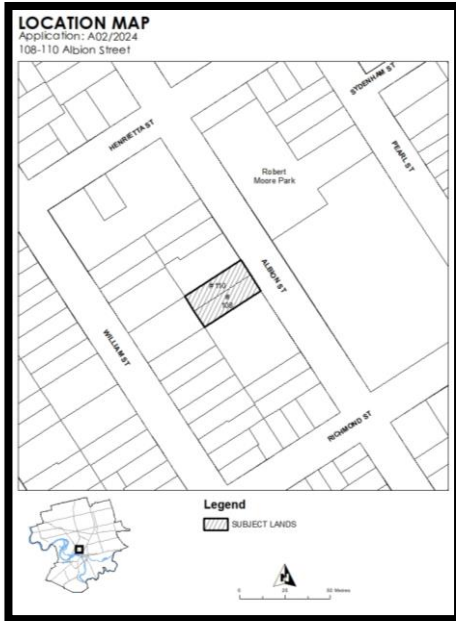


Figure 1 - Location Map

Figure 2 - Aerial Photo



Figure 3 - Site visit view



Figure 4 – Neighbouring front yards

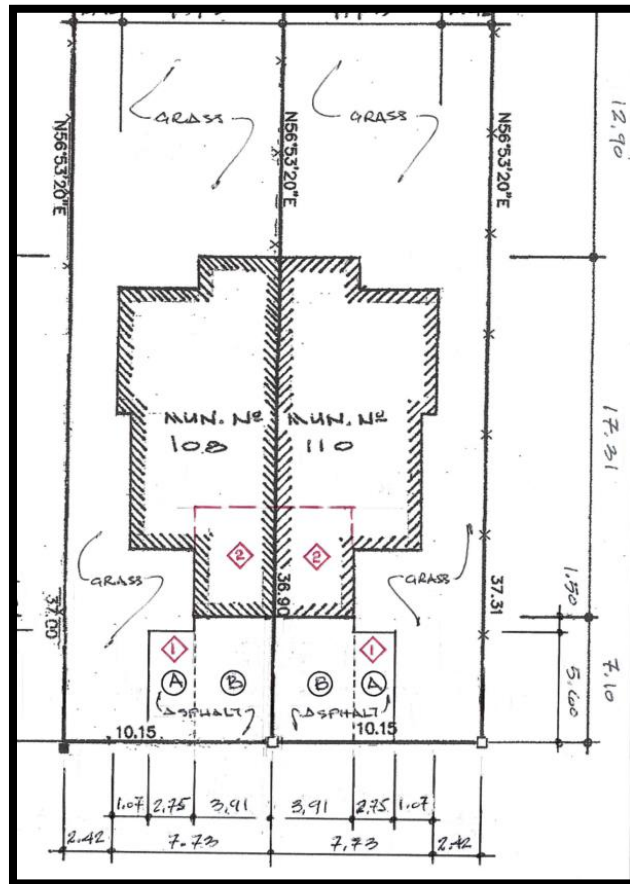


Figure 5 – Concept plan

6.0 Input from Other Sources

6.1 Technical Comments

This application was circulated to all applicable departments and agencies on November 24, 2023. A summary of the associated comments/conditions is provided below. Although Landscaping staff requested a Tree Protection Plan as a condition of this minor variance, Planning staff are of the opinion that those concerns can be addressed through compliance with the City’s Tree By-law. It is not common practice at the City of Brantford to place numerous conditions on minor variance applications since they are difficult to enforce, including the fact that such applications are for minor matters. However, Staff does recommend including wording in Recommendation ‘A’ of this Report which would address CN Rail comments. This has been done in the past with other minor variance applications.

Agency Name	Agency Comment
Accessibility	There would be no accessibility comments for this project.
Building Department	Agree with calculation, 40.1% landscape provided whereas 50% is required.
	Landscape Open Space shall conform to Zoning By-law definition.
Environmental Services	I reviewed the subject noted application and associated documents-On behalf of Environmental Services and have no objections to the minor variance but offer the following comments for the applicants information:
	City records indicate the subject properties are serviced as follows: 110 Albion Street · 19 mm copper lateral from the 200 mm Cast Iron watermain in Albion Street; this service lateral appears to be located 1.0 m Left of the Left side of the Property and the curb stop 3.3 m Out from same; 108 Albion Street · 19 mm copper (public) and 13mm Lead (private) lateral from the 200 mm Cast Iron watermain in Albion Street; this service lateral appears to be located 0.6 m Right of the Right side of the existing dwelling and the curb stop 3.2 m Out from same;
	Connection will not be permitted to the existing Lead service. The service must be replaced with the minimum service size (25mm) and shall be type ‘k’ soft copper or City approved crosslinked polyethylene;
	Only one (1) service will be permitted to the property; Each unit must be serviced within its respective frontage. If the service to either unit is found to be within the frontage of the other lot, the Owner will be required to correct the servicing.
	The Owner will be required to remove the existing water services and curb stops during demolition of the existing building. The service must be removed from the main to preserve water quality and prevent leaks and the curb stop removed to avoid confusion; The Owner will be required to submit a deposit for removal of the

Agency Name	Agency Comment
	<p>water service; the deposit will be based on the current Corporation approved rate.</p> <p>The City will complete inspection of all watermains and appurtenances associated with the development. The Owner will be required to pay the City's inspection time. The Owner will be required to pay a deposit for the inspections. The estimated deposit will be determined once the final design has been approved;</p> <p>The Owner will be required to obtain a Water Service Connection Permit and pay all applicable fees prior to commencing any work to connect the new water service; the City will complete the inspection of all connections to City watermains;</p> <p>The development must be metered during construction and the Owner will be required to pay the current fee per cubic meter for the quantity of water used;</p> <p>All materials and construction methods must comply with the latest version of the City's Linear Design & Construction Manual and Ontario Building Code;</p> <p>Participation in the City's Waste diversion programs is mandatory. Collection of garbage, recycling, organics, bulk waste and yard waste will be provided by the City at the curbside</p> <p>The developer or property owner is responsible for the management of all waste and recyclables materials during construction.</p> <p>Under Bill 151, Waste Free Ontario (WFOA) and "Food and Organic Waste Framework in Ontario", Part B, Waste Policy Statement, new requirements have been established for the future management of food and organic waste materials for residential and commercial locations. The proposed development shall comply will all future requirements of the Provincial Waste Policy Statement. Effective November 1, 2023 the City will be implementing the Green Bin Program. For more information please visit https://www.brantford.ca/en/living-here/green-bin.aspx; The development must provide appropriate means to manage this waste stream.</p>
	<p>The property developer or owner is required to contact the Solid Waste Department to request the start of waste collection service upon occupancy;</p>
Development Engineering	<p>No comments</p>
Fire	<p>The Brantford Fire Department has no objection regarding the above noted Minor Variance.</p>
Heritage	<p>The subject properties have gone through the demolition control and notice of intention to demolish process. Council approved demolition and did not designate 108 Albion Street, so there are no further cultural heritage comments.</p>
Landscaping	<p>Please note that this development is adjacent to two street trees (located at 108 Albion St and 112 Albion St) and are subject to the City Tree By-law, 38-2023.</p>

Agency Name	Agency Comment
	<p>The Owner/Applicant shall provide a Tree Protection Plan prepared by a qualified Arborist for the Right-of-Way Trees located at 108 Albion St. and 112 Albion St. The Arborist report must assess trees for health and structural condition; the Tree Protection Plan shall prescribe protection measures which shall include tree protection fencing measures, proper root excavation and root compaction mitigation measures in lieu of the proposed driveway modifications/installation, to the satisfaction of the Manager of Development Engineering or his/her designate.</p> <p>If disturbed, the municipal Right-of-Way must be restored back to City Boulevard standards inclusive of any Street Trees as per the City's Linear Design Manual.</p>
Long Term Planning	I do not have comments to provide for this file in regard to incentive programs.
Transit	No comments
Transportation	Please ensure the garage staircase does not encroach within the parking stall.
	<p>Please note, Development Engineering staff does approve single/semi-detached driveway permits.</p> <p>All work proposed within the road allowance or the purpose of constructing, altering, or extending a driveway approach, will require the contractor to obtain a Right of Way Activity Permit administered by the City's Operational Services Department.</p> <p>https://www.brantford.ca/en/living-here/right-of-way-activity.aspx</p>
Rogers	Rogers is clear. We may have underground service drops to #108 & #110 but if the resident is demoing the structure within these parcels of land and building new it shouldn't matter.
Canada Post	Please be advised that Canada Post does not have any comments on this application and the creation of a semi as well as additional dwelling units. These addresses will have door to door service. Please have the customers call our Customer Service department at 1-800-267-1177 to register for mail delivery.
CN	<p>Thank you for consulting CN on the application mentioned in subject (construction of two attached single family dwellings). It is noted that the subject site is located at approximately 280 meters from CN's Rail Yard facilities. CN has concerns of developing/densifying residential uses in proximity to railway operations. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. CN's guidelines reinforce the safety and well-being of any existing and future occupants of the area. Please refer to CN's guidelines for the development of sensitive uses in proximity to railways. These policies have been developed by the Railway Association of Canada and the Federation of Canadian Municipalities.</p> <p>CN encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval:</p> <ol style="list-style-type: none"> 1. The Owner shall engage a consultant to undertake an analysis of noise. Subject to the review of the noise report, the CN may consider other measures recommended by an approved Noise Consultant.

Agency Name	Agency Comment
	<p>2. The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 1000m of the railway right-of-way:</p> <ul style="list-style-type: none"> • “Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 1000 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.” <p>3. The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.</p>

Table 1 - Department and Agency Comments

6.2 Public Comment

A Notice of Public Hearing was issued by personal mail (36 notices) on December 20, 2023 to property owners within 60 metres of the subject lands pursuant to the *Planning Act*. No public comments were received.

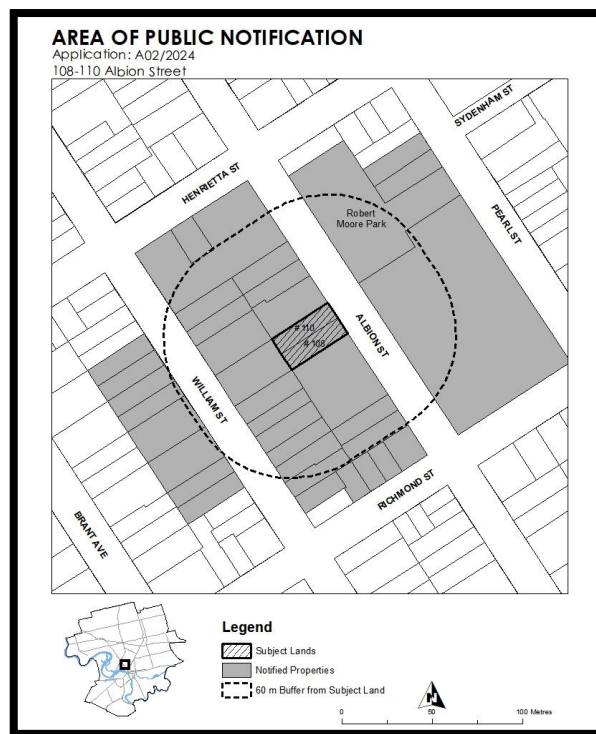


Figure 4 – Notification Map

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 of the analysis is provided below.

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 Growth Plan.
City of Brantford Official Plan (Envisioning Our City: 2051)	The subject lands are designated Residential. Section 3.0 Successful Communities states that the City will encourage a mix and range of market-based housing types, styles, and tenures.	Planning staff are of the opinion that the proposed minor variance application conforms with the Official Plan.
City of Brantford Zoning By-law 160-90	Section 6.18.3.9 of Zoning By-law 160-90 permits a minimum of 50% landscaped open space in the required front yard.	Aside from the proposed variances, the proposed site conforms with the Zoning By-law.

Table 2 – Policy Context and Conformity

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:

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. Although the applicant has requested relief for 40.1%, Staff has rounded this percentage to 40% to address and potential miscalculation of the area in the absence of a survey plan and to address any issues during the construction of the building. Staff is of the opinion that a 10% reduction to the required front yard landscaped open space is minor as there is still an appropriate amount of landscaped open space.
2. That the intent and purpose of the Zoning By-law is maintained	<p>The purpose of required front yard landscaped open space within the Zoning By-law is to ensure that lots are not overdeveloped, to encourage consistent green space along streetscapes, and to support stormwater management.</p> <p>The proposal is consistent with the surrounding built form; most of the homes along the section of Albion Street between Henrietta Street and Richmond Street have smaller required front yard landscaped open space than what is proposed through this application. The applicant is also proposing approximately 379 m² of landscaped open space at the rear of the property which will support stormwater management.</p>
3. That the general intent and purpose of the Official Plan is maintained	<p>The subject lands are designated Residential, wherein residential units are permitted. Section 3.0 Successful Communities identifies that the “<i>City shall encourage a mix and range of market-based housing types, styles, tenures and affordability characteristics to meet the needs of a growing and diverse population.</i>”</p> <p>The proposed variance would maintain the general intent and purpose of the Official Plan.</p>
4. That the variance is desirable for the appropriate development and use of the land, building or structure	<p>The proposal is desirable for the appropriate development and use of the land because the variance would facilitate adequate parking that is not in tandem. This is preferable for the applicant because it allows for the occupant of each dwelling unit to enter and exit the space without having to coordinate with the other residents (unlike with tandem parking).</p> <p>Staff think a reduced required front yard landscaped open space will not adversely impact the neighbouring properties as it is in keeping with the neighbourhood.</p>

Table 3 – Four Minor Variance Tests

7.3 Conclusion

A site inspection was completed on January 2, 2023. Upon completion of this visit and review of all applicable policies, Staff are supportive of the requested variance regarding file A02/2024. The supported variance as amended by Staff would facilitate sufficient parking for the proposed dwelling units and result in a required front yard landscaped open space that is in keeping with the surrounding neighbourhood as well as acknowledging any noise related matters outlined by CN Rail. For the reasons mentioned above, the minor variance satisfies the criteria of Section 45(1) of the *Planning Act*, and staff recommends approval of application A02/2024.



Prepared by: Lindsay King
Planner, Development Planning
Prepared on: January 10, 2024

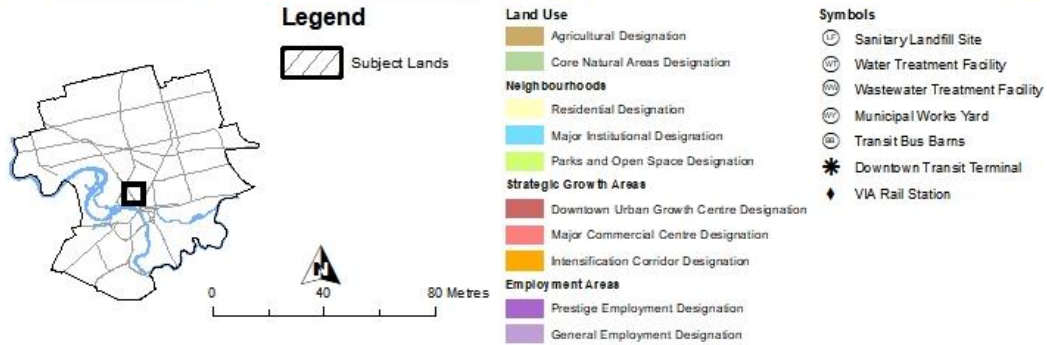
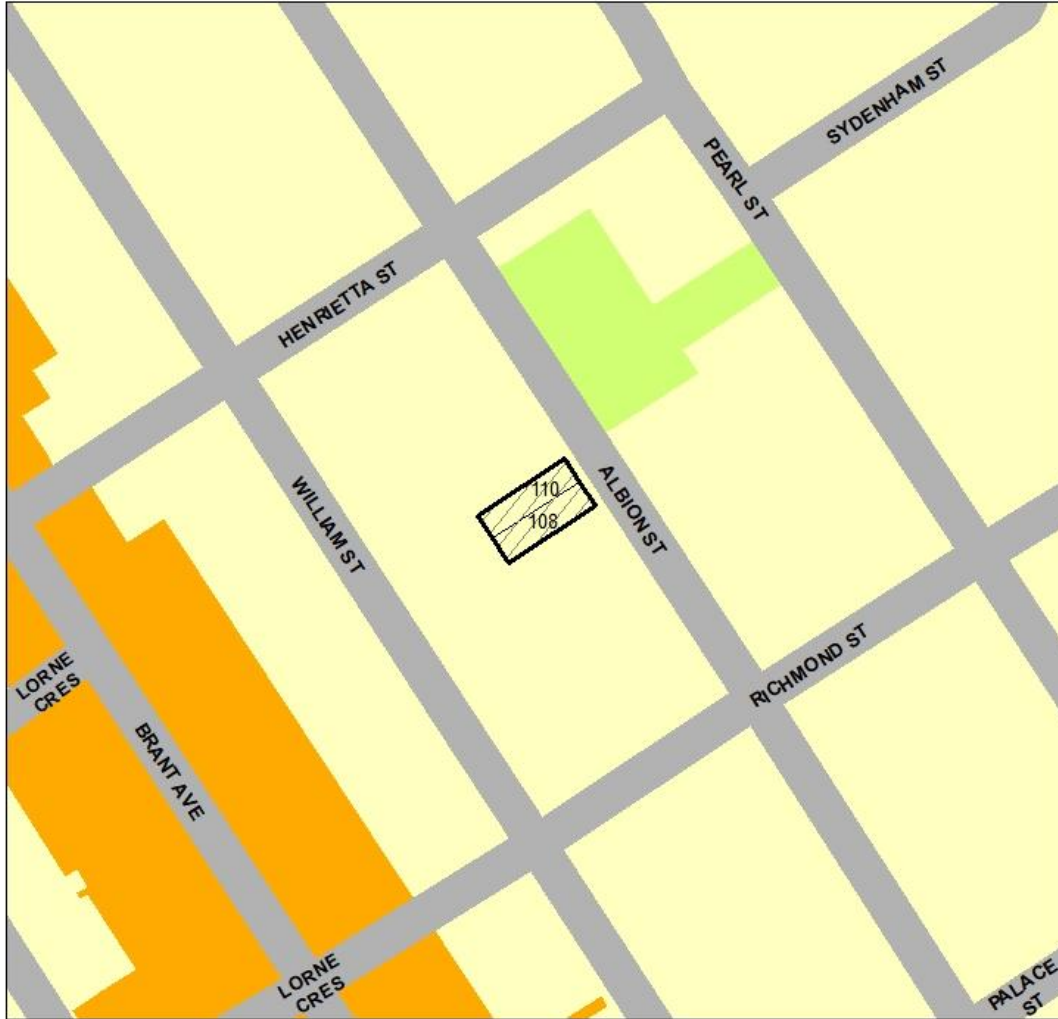


Reviewed by: Joe Muto, MCIP, RPP
Manager of Development Planning

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: A02/2024
 108-110 Albion Street





Appendix B – Zoning

ZONING



Legend

-  Subject Lands
-  Zone Boundary



0 30 60 Metres

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

- RC RESIDENTIAL CONVERSION
- I2 INSTITUTIONAL SCHOOL
- C4 HERITAGE COMMERCIAL RESIDENTIAL
- OS1 OPEN SPACE Type 1
- # Exception Number