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Date April 3, 2024 **Report No.** 2024-201

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 Consent and Minor Variance

2.0 Topic

APPLICATION NO.: B15-2024, A15-2024

AGENT: The Angrish Group

APPLICANT/OWNER: Kevin Walchuk (111 Pearl Street), Donna Ferrier (113 Pearl Street)

LOCATION: 111-113 Pearl Street

3.0 Recommendation

- A. THAT application A15-2024 seeking relief from Sections 6.3.1.1 and 6.3.1.3.3 of Zoning By-law 160-90 to permit an accessory lot coverage of 20.1%, whereas a maximum of 18.7% is otherwise permitted, and to permit the extension of a 0 m rear yard setback, whereas 7.5 m is otherwise required, on the lands municipally known as 111 Pearl Street, BE REFUSED;

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- B. THAT the reasons for the refusal of the minor variance application A15-2024 are as follows: the proposed variance is not in keeping with the general intent and purpose of the Zoning By-law, the relief requested is not considered minor in nature nor desirable for the appropriate development and use of the subject lands;
- C. THAT application A15-2024 seeking relief from Section 7.8.2.1.6 of Zoning By-law 160-90 to permit a rear yard setback of 3.32 m whereas 7.5 m is otherwise required, on the lands municipally known as 113 Pearl Street, BE REFUSED;
- D. THAT the reasons for the refusal of the minor variance application A15-2024 are as follows: the proposed variance is not considered minor in nature nor desirable for the appropriate development and use of the subject lands;
- E. THAT Consent application B15-2024 requesting to transfer a parcel of land that is approximately 117.18 m² from the subject property at 113 Pearl Street to the subject property at 111 Pearl Street, BE REFUSED;
- F. THAT the reason(s) for refusal of B15-2024 are as follows: the proposed consent does not comply with the Zoning By-law, and is not desirable or compatible with the surrounding area and will result in adverse impacts on surrounding properties; and,
- G. THAT pursuant to Section 53(17)-(18.2) of the *Planning Act*, R.S.O 1990, c.P.13, the following statement SHALL BE INCLUDED in the Notice of Decision:

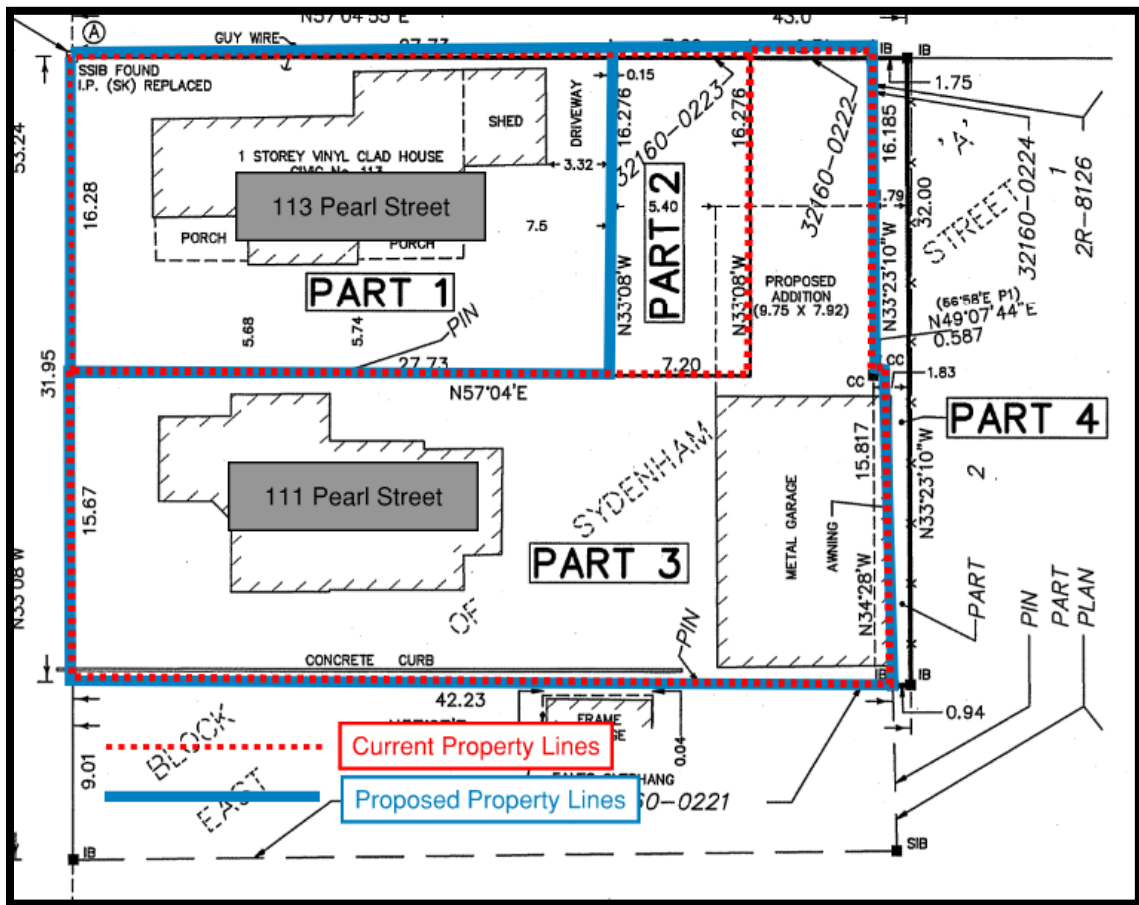
“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in section 6.2 of Report No. 2024-201”

4.0 Purpose and Description of Applications

The joint minor variance and severance application aims to facilitate the expansion of an existing accessory structure to park a recreational trailer. This involves severing a 117.19 m² parcel of land from 113 Pearl Street and merging it to 111 Pearl Street. The expansion necessitates the demolition of a dilapidated 37.16 m² shed facing Sydenham Street, which is insufficient in size for the intended use. The proposed expansion of the accessory structure triggers the need for a Consent and Minor Variance Applications, requiring variances for 111 and 113 Pearl Street. For the lands at 111 Pearl Street, the variances seek to extend the existing building with a zero rear yard setback while acknowledging an existing awning encroaching onto municipal lands covered under an Encroachment Agreement. In 1992, 111 Pearl Street was approved for a minor

variance application that permitted 18.7% maximum accessory lot coverage (A23/92). A second variance for 111 Pearl Street requests an increase from 18.7% maximum accessory lot coverage to 20.1%. The proposed concept drawing with proposed building footprint is shown in **Figure 1**. The consent application, if approved, would effectively transfer Part 2 from Part 1 (111 Pearl Street) to Part 3 (113 Pearl Street). The existing 0 m rear yard setback for the encroaching accessory structure was approved through a minor variance in 2016. The encroached lands are identified in **Figure 1** as Part 4.

Figure 1 - Proposed Severance and Addition



Conversely, the variance for 113 Pearl Street pertains to reducing the rear yard setback to accommodate the lot addition to 111 Pearl Street, which, if approved, would result in a zoning deficiency of 4.18 m. **Table 1** details the proposed relief.

Table 1 - Requested Relief

Regulation	By-law Section	Required	111 Pearl St. Proposal	113 Pearl St. Proposal
Rear Yard Setback (primary dwelling)	Section 7.8.2.1.6	7.5 m	NA	3.32 m
Rear Yard Setback (accessory building)	Section 6.3.1.3.3	.6 m	0 m	NA
Accessory Lot Coverage	Section 6.3.1.1	1 m	0.67 m	NA

5.0 Site Features

The subject properties; 113 Pearl Street and 111 Pearl Street, are situated at the corner of Sydenham Street and Pearl Street. 113 Pearl Street has a lot area of 568.67 m², with approximately 35 m of frontage onto Sydenham Street. 111 Pearl Street is 730 m² and has approximately 16 m of frontage on Pearl Street. 111 Pearl has a two-storey residential dwelling alongside a storage garage and workshop. Both properties are between parcels zoned General Industrial (M2-27), however the neighbourhood is primarily residential. Adjacent to the properties is Robert Moore Park and a former school site adjoining the park is designated for residential development. The subject lands abut a vacant lot which was previously an industrial site owned by the City of Brantford. The City of Brantford has completed remediation for this site by installing a 'hard cap', however, maintenance and annual inspections are required by the Ministry of Environment. The planned function of those lands is residential. **Figure 2** shows the existing accessory building on 113 Pearl, behind the dilapidated building that the applicant proposes demolishing to accommodate the addition. The following is a description of the land use surrounding the subject lands.

- North** Vacant
- South** Single detached dwelling
- East** Vacant remediation site
- West** Robert Moore Park and a former school

Figure 2 - Existing Accessory Buildings



6.0 Input from Other Sources

6.1 Technical Comments

This application was circulated for technical review on February 23, 2024. The following is a summary of the related feedback received.

Development Engineering Department staff cannot support a 0 m setback to the adjacent property without an agreement between adjacent property owners addressing stormwater runoff, and ensuring that it would be properly managed and conveyed to the municipal ROW. Staff are furthermore concerned with the maintenance of the hard cap concrete surface on the City owned lands. The 0 m setback does not allow for this conveyance to be achieved as well as prohibits required maintenance and ultimate life cycle replacement of the hard cap surface on the neighboring property.

Transportation Development Engineering Department staff requested a daylight triangle measuring 2.5 m to be conveyed to the public roadway at the corner of the property nearest the intersection of Pearl Street and Sydenham Street, along with 0.3 m reserves. These dimensions must be confirmed through a Survey prepared by an Ontario Land Surveyor.

Operations Department staff identified that the applicant is required an approved Right-of-Way permit for any construction activity within the public Right-of-Way.

Building Department staff note that if approved, the addition to the accessory building at the rear of 111 Pearl Street will not be permitted any openings, in accordance with the Ontario Building Code. Building Department staff also note that this building face must have a fire-resistance rating of not less than 45 minutes, using clad and noncombustible materials.

6.2 Public Comment

A notice of public hearing was issued by personal mail to 15 property owners within 60 m of the subject lands on March 13, 2024, and by posting a sign on-site. At the time of writing this Report, no members of the public have contacted staff regarding this application.

7.0 Planning Staff Comments and Conclusion

7.1 Planning Analysis

The subject properties are designated Residential in the Official Plan, as shown in **Appendix B** and zoned Residential Conversion (RC) in the Zoning By-law as shown in **Appendix C**. Staff completed a site inspection on February 12, 2024. Upon completion of this site visit and review of the relevant policies, Planning Staff do not support the application. **Table 2** details the minor variance application in the context of the four tests of a minor variance, and **Table 3** evaluates the consent application.

Table 2 - 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. While the proposed 3.32 m rear yard setback for 113 Pearl Street may be considered minor, the proposed 0 m setback to facilitate the addition to the accessory structure on 111 Pearl Street is not considered minor in nature since the absence of a rear yard setback on this site may impede proper stormwater management and maintenance of a remediation site on the rear abutting property. This could pose significant risks to both the subject property and adjacent parcels. The proposed elimination of a rear yard and accessory lot

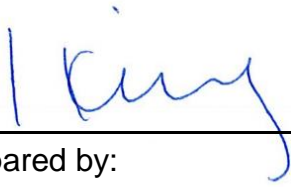
Four Tests	Discussion
	coverage are not in keeping with the character of the neighbourhood, and staff are concerned that this may set an undesirable precedent.
2. That the intent and purpose of the Zoning By-law 160-90 is maintained	The proposed variance does not maintain the general intent and purpose of the Zoning By-law. Setbacks serve to ensure harmonious development patterns, maintain privacy, and mitigate adverse impacts such as visual clutter. Granting a variance to eliminate the rear yard undermines these objectives and could compromise the quality of life for neighbourhood residents and future residents.
3. That the general intent and purpose of the Official Plan is maintained	The proposed variance does not maintain the general intent and purpose of the Official Plan, particularly Guiding Principle #2, which emphasizes environmental stewardship and sustainable development practices. Allowing a zero setback may exacerbate drainage issues onto the neighbouring property, which is particularly concerning for the maintenance of the hard cap surface discussed in this Report, and which is critical for environmental protection and public safety. Failure to adhere to these principles would undermine the City’s commitment to promoting environmental leadership and responsible land use practices. Furthermore, the Official Plan states that compatibility shall be a key determining factor in development, and defines compatible development as <i>“development that respects or enhances the character of the community, without causing undue, adverse impacts on adjacent properties.”</i> Staff are of the opinion that the proposal would constitute as incompatible development as it would have undue and adverse impact on the adjacent property.
4. That the variance is desirable for the appropriate development and use of the land, building or structure	Considering the factors listed above, it is evident that the proposed minor variance for the 0 m setback on 111 Pearl Street is not desirable for the site. Granting such a variance could exacerbate existing drainage concerns onto neighbouring properties, potentially compromising environmental integrity and community well-being. The variance request for a 3.32 m setback on 113 Pearl Street only serves to facilitate the extension of the accessory structure, and so this variance is also considered undesirable for the appropriate use of the subject lands.

Table 3 - Criteria for Consent

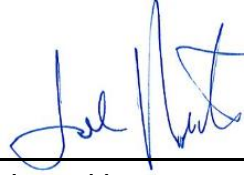
Criteria for Considering a Consent Application	Discussion
1. That the application conforms to the Official Plan	The proposed development does not conform with the following sections of the Official Plan: (1) Section 5.1 General Provisions for All Land Use Designations (b) which states that permitted development shall be compatible, and not cause undue or adverse impacts on adjacent properties. (2) Guiding Principle #2, which emphasizes environmental stewardship and sustainable development practices.
2. The dimensions and shapes of the proposed lot	The dimensions and lot area of the retained and severed lot do not satisfy the provisions in the RC Zone, as detailed in this Report, which is why the consent application is accompanied by the minor variance application. As detailed in the table above, staff are not supportive of the proposed lot dimensions, and so Staff are of the opinion that the consent should likewise, not be approved.
3. The adequacy of utilities and municipal services	The proposed retained parcel and severed lots would have frontage on a municipal roadway and access to municipal services and utilities. No changes are proposed to servicing.

7.2 Conclusion

The proposal would facilitate the transfer of land from the property municipally known as 113 Pearl Street to the property municipally known as 111 Pearl Street to accommodate an addition to an existing accessory building. For the reasons listed above in **Table 2**, staff are of the opinion that the relief requested is not minor and recommend refusal of the minor variance and consent applications.



Prepared by:
Lindsay King
Development Planner
Prepared on: March 28, 2024

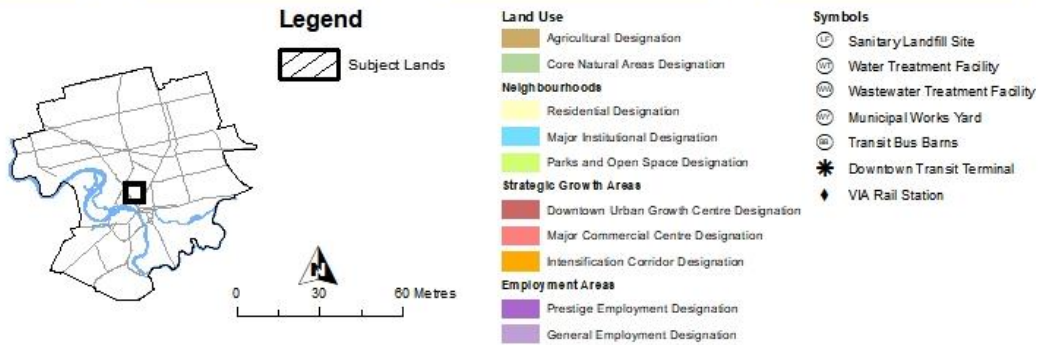
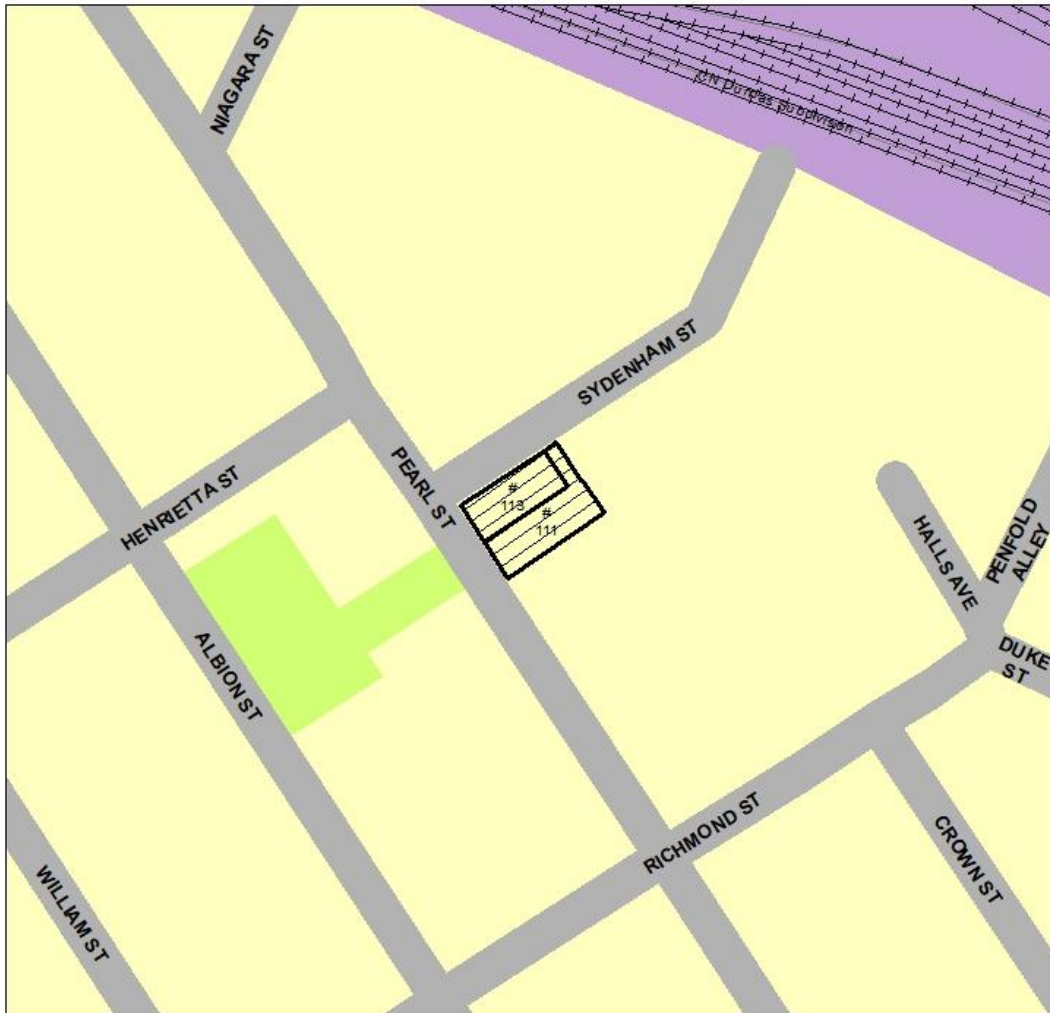


Reviewed by:
Joe Muto, RPP, MCIP
Manager of Development Planning

APPENDIX A – OFFICIAL PLAN DESIGNATION

OFFICIAL PLAN EXCERPT MAP

Application: B15/2024 & A15/2024
 111-113 Pearl Street



APPENDIX B – ZONING

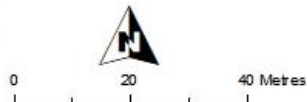
ZONING

Application: B15/2024 & A15/2024
111-113 Pearl Street



Legend

- Subject Land
- Zone Boundary



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

- RC Residential Conversion
- I2 Institutional School
- C7 Convenience Commercial
- M2 General Industrial
- OS1 Open Space Type 1
- # Exception Number