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Date April 3, 2024 **Report No.** 2024-211
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. B14-2024 and A14-2024
AGENT N/A
APPLICANT/OWNER Hugh MacNeil
LOCATION 12 Eastbourne Street

3.0 Recommendation

- A. THAT Consent application B14-2024 requesting to sever a parcel of land from the subject property municipally addressed as 12 Eastbourne Street, having a lot area of 337 m² and a retained parcel of land having a lot area of 547 m², BE APPROVED subject to the Conditions of Consent, attached to Report 2024-211 as **Appendix A**;
- B. THAT the reason(s) for approval of B14-2024 are as follows: having regard for the matters under Section 51 (24) of the *Planning Act*, Staff is satisfied that the proposed consent application is desirable and compatible with the

surrounding area and will not result in adverse impacts on surrounding properties.

- C. THAT application A14-2024 seeking relief from Section 7.5.2.1.2 of Zoning By-Law 160-90 to permit a lot width of 7.9 m for the severed parcel, whereas a minimum of 9 m is otherwise required, BE APPROVED;
- D. THAT the reason(s) for approval of the minor variance 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,
- 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 2024-211.”

4.0 Purpose and Description of Applications

Concurrent consent and minor variance applications have been received for the lands municipally addressed as 12 Eastbourne Street. The dimensions of both the severed and retained lots are shown in **Table 1 – Lot Dimensions** as well as **Figure 1 – Severance Sketch**. To facilitate the consent application, a minor variance application is also required for lot width, as shown in **Table 2 - Minor Variance Relief Requested**. The applicant is seeking relief for 1.07 metres.

The purpose of this application is to facilitate the construction of a 2-storey single detached dwelling, with a ground floor area of 101 m² as shown in **Figure 1 – Severance Sketch and Figure 2 – Front Elevation**. The proposed dwelling satisfies all of the other provisions in the Zoning By-law.

Table 1 - Lot Dimensions

| | Required (Current R1D Zone) | Severed Lot | Retained Lot |
|-----------|--------------------------------|----------------------------------|----------------------------------|
| Lot Area | 270 m ² | 337 m ² (Complies) | 547 m ² (Complies) |
| Lot Width | 9 m | 7.93 m (Does not comply) | 12.81 (Complies) |

Table 2 - Minor Variance Relief Requested

| Regulation | By-law Section | Required | Proposed | Relief Requested |
|------------|-------------------|-------------|----------|------------------|
| Lot Width | Section 7.5.2.1.2 | Minimum 9 m | 7.93 m | - 1.07 m |

Figure 1 - Severance Sketch

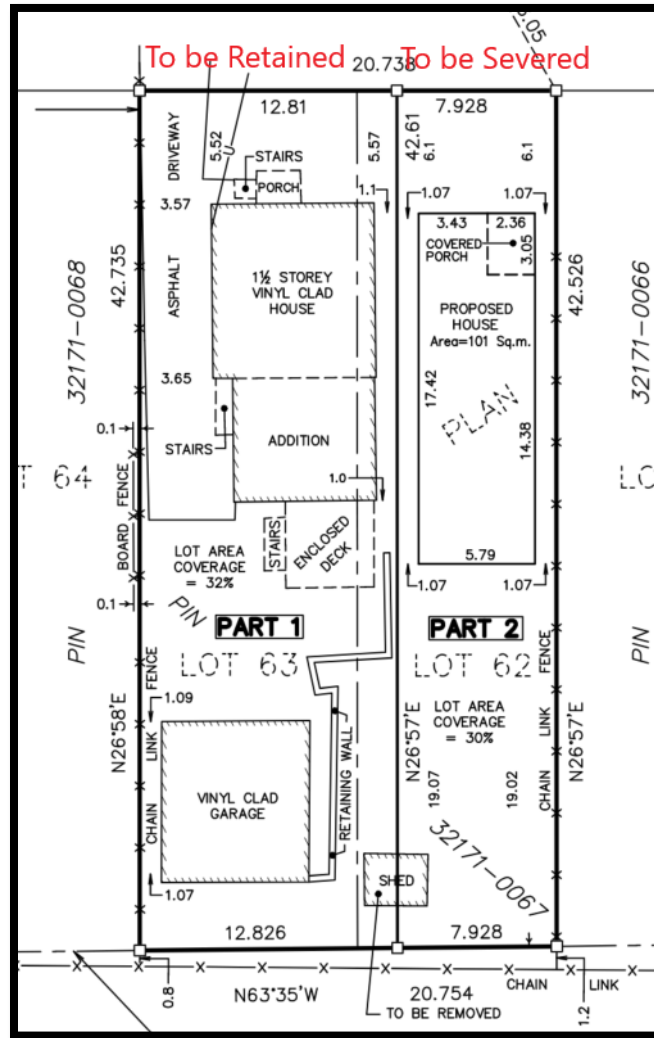


Figure 2 - Front Elevation of proposed dwelling



5.0 Site Features

The subject lands are located east of St. Paul Avenue on the south side of Eastbourne Street. The lot to be severed is currently vacant and the lot to be retained currently has an existing 1.5-storey single detached dwelling.

| | |
|--------------|---|
| North | Single detached dwellings |
| South | Mid-rise apartment building (4-storeys) |
| East | Single detached dwellings |
| West | Single detached dwellings |

Figure 3 – Subject Lands



6.0 Input from Other Sources

6.1 Technical Comments

This application was circulated to all applicable departments and agencies on February 21, 2024. Several departments provided conditions, as shown in **Appendix A – Conditions of Consent**. The notable comments are summarized below, and no objections were received.

Transportation Staff recommended that the location of the driveway/garage be established. At this time a single car driveway is all that would be permitted. The applicant was made aware and they provided a plan showing the driveway location.

Building Staff requested the spatial separation calculations for the existing house and for the existing garage on retained lot be completed by a qualified designer. This was captured in **Appendix A – Conditions of Consent**.

6.2 Public Comment

A Notice of Public Hearing was issued by personal mail on March 15, 2024 to property owners within 60 metres of the subject lands pursuant to

the *Planning Act*. The only comment that was received is summarized below.

The resident next door to the subject lands called in to ask if there will be any potential concern to the foundation of their house. The resident was made aware that proposed dwelling met all of the required setbacks in the Zoning By-law. They were also told that the applicant still needed to apply for a building permit for the new proposed dwelling.

7.0 Planning Staff Comments and Conclusion

7.1 Planning Background

The subject lands are designated “Residential” in the Official Plan and zoned “Residential Type 1D (R1D)” in Zoning By-law 160-90, as shown in **Appendix B** and **Appendix C**, respectively.

7.2 Consent Application

The *Planning Act* sets the standard to which provincial and local interests, policies, and goals are implemented. Section 51(24) of the *Planning Act* lists the criteria that the Committee of Adjustment must have regard for when considering a consent application, as summarized in the table below.

Table 3 - Criteria for Considering a Consent Application

| Criteria for Considering a Consent Application | Discussion |
|---|---|
| 1. That the application conforms to the Official Plan | <p>The purpose of the proposed consent application is to create one new residential lot with the intent to construct a residential dwelling within an existing residential neighbourhood. The Official Plan encourages a wide range of housing types to accommodate the anticipated population. Section 3.1(d) of the Official Plan promotes the supply of new affordable housing in a variety of locations, dwelling types and tenures.</p> <p>Section 9.3 (g – i) of the Official Plan outlines criteria for the subdivision of land and stipulates when consents are appropriate which includes:</p> |

| Criteria for Considering a Consent Application | Discussion |
|---|--|
| | <p><i>g) A Consent to sever land shall only be considered where a Plan of Subdivision is deemed to be unnecessary and where the application conforms to the policies of the Official Plan,</i></p> <p><i>h) The maximum number of new lots approved by the City on one property through Consent shall be three (3), where appropriate.</i></p> <p>The proposed severance application satisfies the general intent of the Official Plan regarding the division of land through a consent application.</p> |
| 2. The dimensions and shapes of the proposed lot | The dimensions and lot area of the retained and severed lot satisfy the provisions in the R1D zone, except for the lot width of the severed lot. A more in depth analysis of the deficiency in lot width is outlined below in Table 4 - Minor Variance tests . |
| 3. The adequacy of utilities and municipal services | The proposed retained and severed parcels will both have frontage on a municipal roadway and have access to municipal services and utilities. It is noted that a condition of approval of this consent application is that a Servicing Plan prepared by a qualified Engineer licensed in the Province of Ontario, be submitted to the satisfaction of the Manager of Development Engineering or his/her designate, as listed in Appendix A – Conditions of Consent . |

7.3 Minor Variance

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.

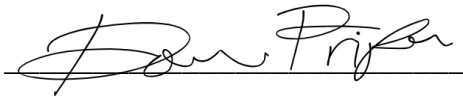
Table 24 - Minor Variance tests

| 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. The proposed reduction to lot width would result in a property that is slightly narrower than those in the immediate vicinity. The applicant is proposing a lot width of 7.93 m and seeking relief for 1.07 m. Staff is of the opinion that this relief is minor and still generally consistent with the existing neighbourhood surrounding Eastbourne Street. For example, 133 Dundas St has a lot width of 7.62 m which is 0.31 m less than the proposed 7.93 m for the subject lands. Additionally, 20 St. George St has a lot width of 8.23 m which is a difference of 0.3 m and 71 St George Street has a lot width of 8.38 m which is a difference of 0.45 m. All three of these properties are located within 300 metres of the subject lands and have a single detached dwelling located on them.</p> |
| <p>2. That the intent and purpose of the Zoning By-law 160-90 is maintained</p> | <p>Table 1 - Minor Variance Relief Requested in Section 4.0 of this Report provides a summary of the Section of the Zoning By-law that the applicant is seeking relief from.</p> <p>The intent and purpose of minimum lot width is to ensure adequate space for a residential dwelling and respective setbacks and parking. Although narrower, the proposed lot would still maintain adequate space for a residential dwelling. The proposed dwelling satisfies the minimum required gross floor area of 70 m² and satisfies all of the other setback requirements. Building Staff have also requested that the applicant provide spatial separation calculations as a condition of consent to ensure there are no privacy concerns and confirm Building Code requirements. It is Planning Staff’s opinion that the proposed variances maintain the general intent of the Zoning By-law.</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 range of dwelling types and supporting land uses are intended to serve the residents. It is the opinion of Staff that the proposed lot width 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</p> | <p>It is the opinion of Planning Staff that the proposal is desirable as it would facilitate the creation of a residential dwelling unit which is a permitted use in the Official Plan and Zoning By-law.</p> |

| Four Tests | Discussion |
|------------|------------|
| structure | |

7.4 Conclusion

A site inspection was completed on March 19, 2024. Upon completion of this visit and review of all applicable policies, Staff is supportive of the requested severance regarding file B14-2024 subject to the conditions in **Appendix A**. The supported severance would facilitate the creation of a residential lot in a residential neighbourhood. Staff is also supportive of the requested minor variance regarding file A14-2024 as it would facilitate the addition of a residential unit to the City's housing stock. For the reasons discussed above, the consent application satisfies Section 51(24) and the minor variance application satisfies Section 45(1) of the *Planning Act*, and Staff recommends approval of both applications.



Prepared by: Dora Pripon
Development Planner
Prepared on: March 28, 2024



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

Appendix A – Conditions of Consent

1. Receipt of a registered Reference Plan showing the severed and retained parcels.
2. Receipt and confirmation that Minor Variance Application A14-2024 receives final and binding approval and is in full force and effect;
3. Receipt of payment for cash-in-lieu of parkland (*amount to be determined in accordance with City of Brantford By-law 139-2022*).
4. Receipt of confirmation that all taxes are paid up to date.
5. Receipt of confirmation that the applicant shall submit to the Secretary-Treasurer a draft of the Transfer deed for review (*Upon registration a final copy of the Transfer deed shall be provided to the City*).
6. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that the deposited Reference Plan showing the severed and retained parcels of land has been received.
7. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Wastewater Allocation Request Form has been submitted and approved.
8. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that a Municipal Numbering Assignment Request Form to assign a municipal address number to the severed and/or retained parcel(s) has been submitted.
9. The Owner/Applicant shall provide a Servicing Plan prepared by a qualified Engineer licensed in the Province of Ontario, to the satisfaction of the Manager of Development Engineering or his/her designate. The Servicing Plan shall indicate that the severed and retained parcels have been independently serviced with a sanitary and storm sewer connection to a legal outlet for each parcel of land (severed and retained) and that these services do not cross the proposed severance line(s) and are connected directly to City infrastructure.
10. The Owner/Applicant shall be responsible, financial and otherwise, to provide sanitary sewer connections to each parcel of land (severed and retained) to ensure each parcel has been independently serviced to the satisfaction of the Manager of Development Engineering or his/her designate.
11. Receipt of confirmation that spatial separation calculations as per 9.10.15.4. for an existing house and 9.10.14.4. for an existing garage on retained lot have been completed by a qualified designer, to the satisfaction of the Building Department.
12. Receipt of confirmation that the existing shed currently on the proposed property line has been demolished to the satisfaction of the Building Department.

13. That the above conditions be fulfilled and the Certificate of Consent be issued on or before **April 3, 2026**, after which time the consent will lapse.

Appendix B – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: B14-2024 & A14-2024
 12 Eastbourne Street



Legend

Subject Land

Inset Map

0 30 60 Metres

Land Use

- Agricultural Designation
- Core Natural Areas Designation

Neighbourhoods

- Residential Designation
- Major Institutional Designation
- Parks and Open Space Designation

Strategic Growth Areas

- Downtown Urban Growth Centre Designation
- Major Commercial Centre Designation
- Intensification Corridor Designation

Employment Areas

- Prestige Employment Designation
- General Employment Designation

Symbols

- Sanitary Landfill Site
- Water Treatment Facility
- Wastewater Treatment Facility
- Municipal Works Yard
- Transit Bus Barns
- Downtown Transit Terminal
- VIA Rail Station



Appendix C – Zoning By-law 160-90

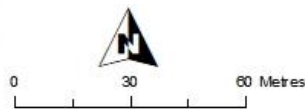
ZONING

Application: B14-2024 & A14-2024
 12 Eastbourne Street



Legend

-  Subject Land
-  Zone Boundary



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

- R1C Residential Type 1C (12 metre)
- R1D Residential Type 1D (9 metre)
- R2 Residential Type 2
- RC Residential Conversion
- R4A Residential Medium Density Type A
- R4B Residential Medium Density Type B
- RHD Residential High Density
- I2 Institutional School
- C7 Convenience Commercial
- C8 General Commercial
- # Exception Number