



Alternative formats and communication supports available upon request. Please contact accessibility@brantford.ca or 519-759-4150 for assistance.

Date April 3, 2024 **Report No.** 2024-231
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. B05-2023 & A11-2023
AGENT N/A
APPLICANT/OWNER Richard Woods
LOCATION 71 Anderson Road

3.0 Recommendation

- A. THAT Consent application B05-2023 requesting to sever a parcel of land from the subject property municipally addressed as 71 Anderson Road, having a lot area of 578.49 m² and retain a parcel of land having a lot area of 471 m², BE APPROVED subject to services of the Wyndfield West Phase 6B Stage 1 Subdivision having final assumption by the City of Brantford and subject to the Conditions of Consent, attached to Report 2024-231 as **Appendix A**;

-
- B. THAT the reason(s) for approval of B05-2023 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 A11-2023 seeking relief from Section 7.4.3.21.7 of Zoning By-Law 160-90 to permit a rear yard setback of 4.5 m for a portion of the lot, whereas a minimum of 7 m is otherwise required, BE APPROVED subject to Consent Application B05-2023 being in full force and effect;
- 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 2024-231.”

4.0 Purpose and Description of Applications

Concurrent consent and minor variance applications have been received for the lands municipally addressed as 71 Anderson Road. The dimensions of both the severed and retained lots are shown in **Table 1 – Lot Dimensions** as well as **Figure 1 – Severance Sketch**.

The purpose of this application is to facilitate the construction of a single detached dwelling with a gross floor area (GFA) of 137.7 m² on the severed lot, as shown in **Figure 2 – Conceptual Site Plan**. The proposed dwelling satisfies all of the provisions in the Zoning By-law, except for the rear yard setback. The applicant is seeking a minor variance for a rear yard setback of 4.5 m, whereas 7 m is otherwise required, as shown in **Table 2 - Minor Variance Relief Requested**.

Table 1 - Lot Dimensions

	Required (Current R1C-21 Zone)	Severed Lot	Retained Lot
Lot Area	300 m ²	578.49 m ² (Complies)	471 m ² (Complies)
Lot Width	11 m	24.85 m (Complies)	12.15 m (Complies)

Table 2 - Minor Variance Relief Requested

Regulation	By-law Section	Required	Proposed	Relief Requested
Rear yard setback	Section 7.4.3.21.7	Minimum 7 m	4.5 m	- 2.5 m

Figure 1 - Severance Sketch

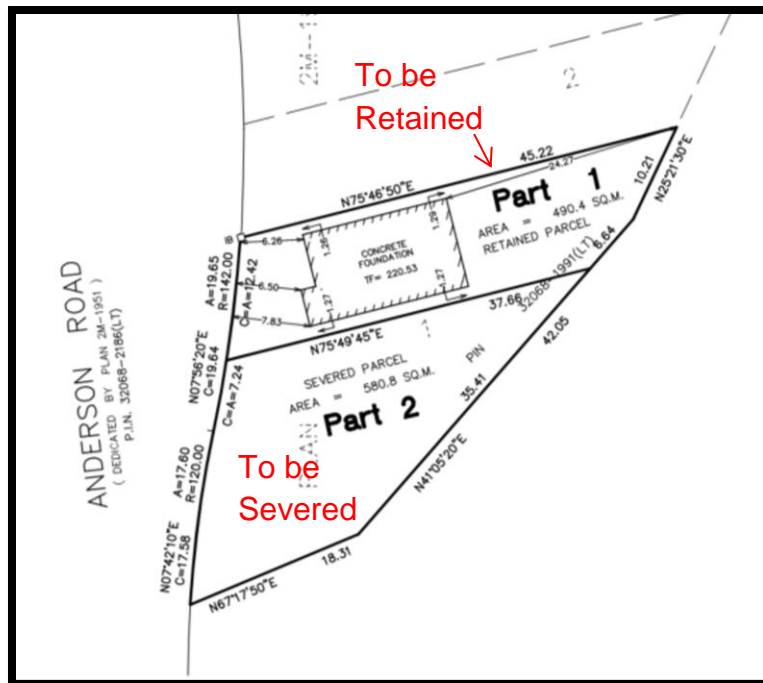
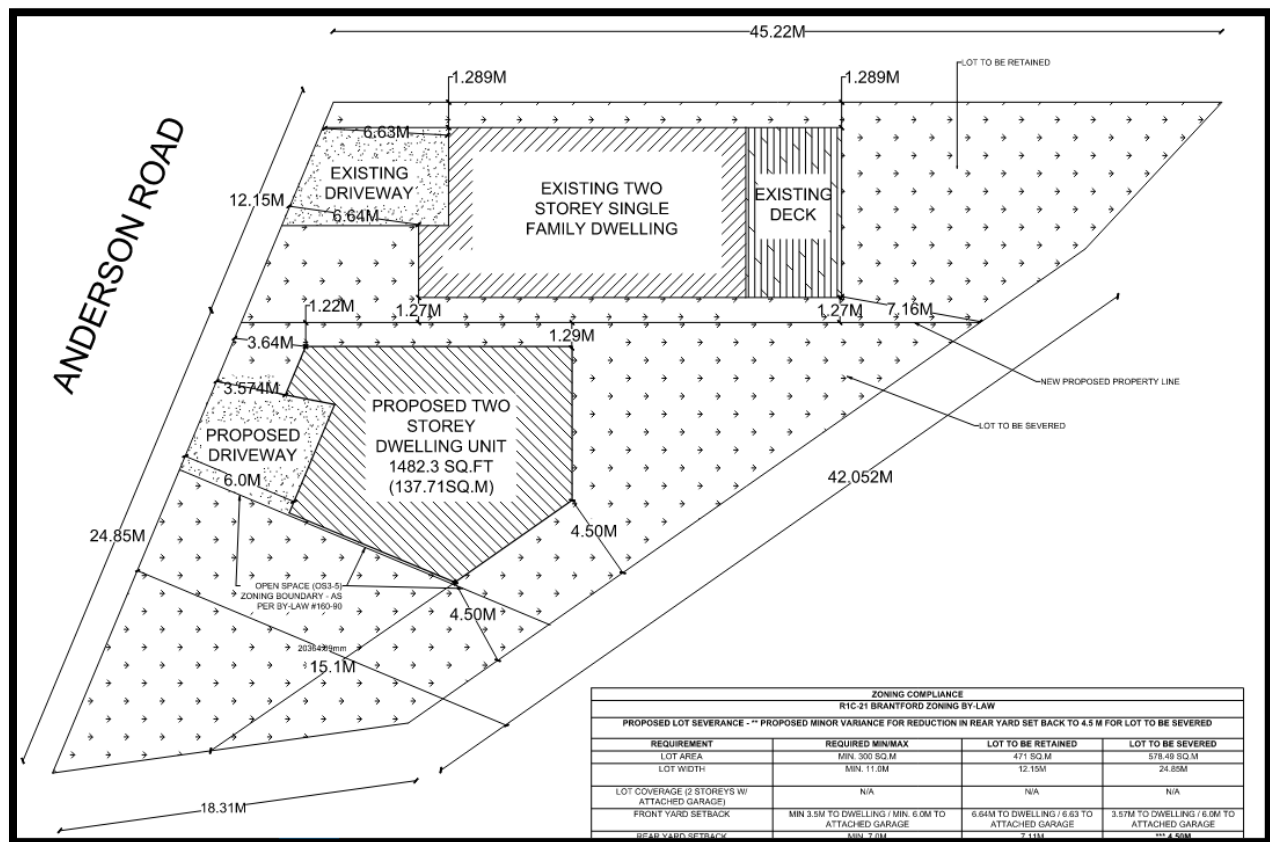


Figure 2 - Conceptual Site Plan



5.0 Site Features

The subject lands are located north of Blackburn Drive and east of Anderson Road. The lands currently have an existing 2-storey single detached dwelling. The parcel proposed to be severed currently has an existing storage structure and has a slight downward slope, see **Figure 3 – Subject Lands**. The existing storage structure (detached garage) does not currently comply with the Zoning By-law and may be required to be removed or brought into conformity as the structure was not identified on the supporting plans provided in the application submission. If the applicant wishes to keep the storage structure, a building permit would be needed as the structure is 17.84 m² which exceeds the exemption of 15 m². Before the applicant can apply for a building permit, a minor variance application would also be required for the front yard setback or the structure would have to be moved to be in conformance with the Zoning By-law. The applicant has been made aware of this. Conditions to ensure conformity with the Zoning By-law have been included in **Appendix A – Conditions of Consent**.

The following is a description of the land use surrounding the subject lands.

- North** Single detached dwellings
- South** Open space (zoned OS3-5)
- East** Open space (zoned OS3-5)
- West** Community park and playground

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.

Building Staff has requested that spatial separation calculations for both retained and severed lots be provided and that the portion of property within the OS3-5 zone be identified on the site plan, as no portion of the proposed dwelling is permitted within the OS3-5 zone. The applicant revised the site plan to identify the proposed dwelling outside of the OS3-5, as shown in **Figure 2 – Conceptual Site Plan**. The spatial separation calculation comments were captured in **Appendix A – Conditions of Consent**.

Development Engineering Staff had shared concerns about the amount of usable rear yard being proposed through the minor variance application. They made mention of the Wyndfield West Phase 6 Subdivision Agreement which had the intent to ensure all dwelling units on the lots within the proposed development shall be provided with adequate usable rear yard area, in this case, with a depth of 5 meters. The agreement also notes that the usable rear yard area shall be graded at not less than 1% and not more than 4%.

Planning Staff have reviewed these concerns carefully and is of the opinion that the proposed minor variance would still maintain the overall intent of the Subdivision Agreement, in addition to satisfying the four tests of a minor variance outlined in the *Planning Act*. Minor variance applications should be analysed in their own right, within the specific context of the site and surrounding characteristics. Due to the irregular shape of the lot, only a portion of the site does not meet the 5 m depth stipulation in the agreement, but roughly 70% of the site does. Additionally, the total area of usable backyard space of the proposed severed lot with the proposed dwelling would equal around 190 m². When compared to many other near-by lots, the proposal would provide more usable backyard space. For example, 51 Anderson Rd has roughly 80 m² of usable backyard space available; 32 Anderson Rd has roughly 90 m²; and 55 Anderson Rd has roughly 95 m². When taking this information into consideration, Planning Staff is of the opinion that concerns relating to adequate usable rear yard space are sufficiently addressed. As for the grading comment, a condition in **Appendix A – Conditions of Consent** is that the owner shall prepare a Grading and Drainage Plan, to the satisfaction of the Manager of Development Engineering. A more in-depth planning analysis on the proposed minor variance is provided in **Table 4 - Minor Variance tests**.

Development Engineering Staff also note that before the applicant finalizes the proposed development, confirmation from the Manager of Development Engineering or his/her designate, indicating that the above ground and below ground services of the Wyndfield West Phase 6B Stage 1 Subdivision has received final assumption by the City of Brantford is required. This is due to the fact that the developer of the subdivision (Empire Homes) is still responsible for properties within the subdivision. Through the process of assumption, the City will gradually take on the responsibility of maintaining the public features of the subdivision, including services. Therefore, the assumption of the services by the City of Brantford is a critical condition that was included in **Appendix A – Conditions of Consent**. The applicant is not to take any action on the subject lands regarding the applications until all conditions of consent have been satisfied.

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*. No public comments were received at the time of writing this Report.

7.0 Planning Staff Comments and Conclusion

7.1 Planning Background

The subject lands are designated “Residential” and “Core Natural Area” in the Official Plan and zoned “Residential Type 1C Exception Zone 21 (R1C-21)” and “Open Space Restricted Exception Zone 5 (OS3-5)” 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

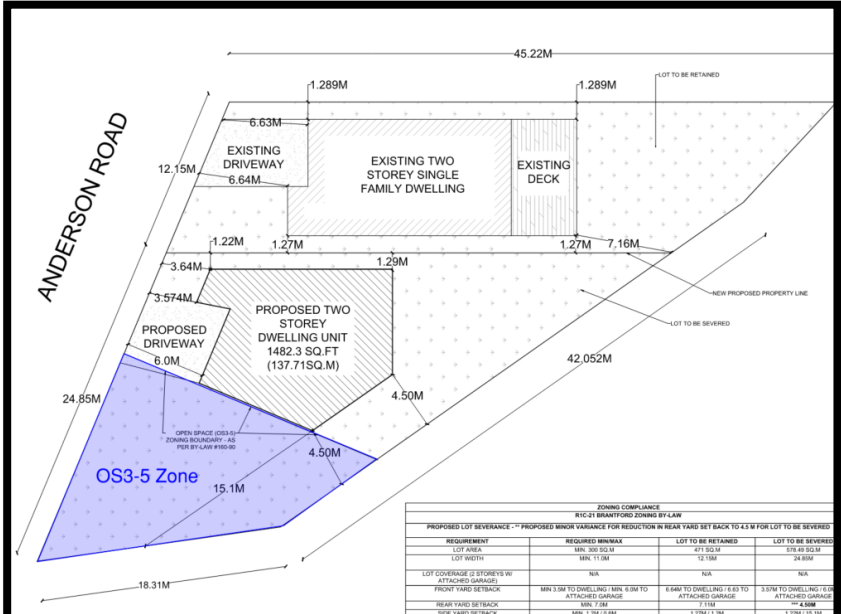
Criteria for Considering a Consent Application	Discussion
<p>1. That the application conforms to the Official Plan</p>	<p>The proposed consent application is for the purpose of creating one new residential lot within an existing residential neighbourhood. The Official Plan encourages a wide range of 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> <ul style="list-style-type: none"> <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> <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>The proposed severance application satisfies the general intent of the Official Plan regarding the division of land through a consent application.</p>
<p>2. The dimensions and shapes of the proposed lot</p>	<p>The dimensions and lot area of the retained and severed lot satisfy the provisions in the R1C-21 zone, as shown in Table 2 - Minor Variance Relief Requested. The irregular angle of the rear lot line is due to the adjacent natural features.</p>
<p>3. The adequacy of utilities and municipal services</p>	<p>The retained parcel and severed lots will 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.</p>

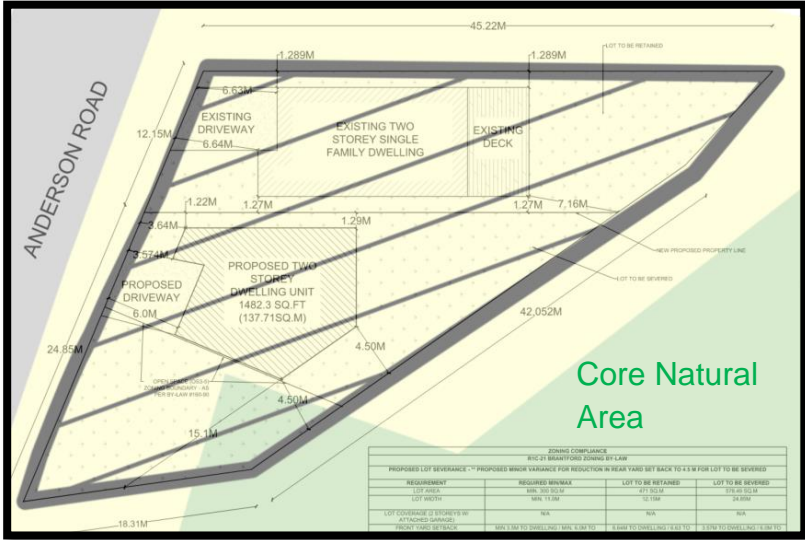
7.3 Minor Variance

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. Planning Staff is of the opinion that deficiency in the rear yard is minor and wouldn’t have a substantial impact on the surrounding area. One of the main intents and purposes of the minimum rear yard setback requirement is to ensure there is sufficient privacy from neighbouring properties from the rear. The reduction in the rear yard setback would not pose a concern for privacy as the rear of the property is surrounded by open space.</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 Sections of the Zoning By-law that the applicant is seeking relief from.</p> <p>Due to the irregular angle of the rear lot line, relief is needed for the rear yard setback. If the rear lot line was completely straight and parallel to the front lot line, the single detached dwelling would be able to satisfy the 7 m rear yard requirement. The proposed development satisfies all of the other required provisions for the zone.</p> <p>A portion of the site is also zoned “Open Space Restricted Exception Zone 5 (OS3-5)”, shown in Appendix C – Zoning Map. Residential uses in the form of single detached dwellings are not a permitted in the OS3-5 zone. The proposed dwelling does not encroach into the OS3-5 zone, as shown in Figure 4 below.</p> <p>Figure 4 - Site Plan with OS3-5 depicted (blue)</p>

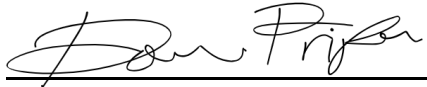
Four Tests	Discussion																																								
	 <p>The diagram shows a property layout with Anderson Road on the left. It features an existing two-storey single family dwelling and an existing deck. A proposed two-storey dwelling unit (1482.3 sq. ft.) and a proposed driveway are shown. A blue-shaded area in the southeast corner is labeled 'OS3-5 Zone'. Dimensions for setbacks and lot boundaries are provided. A table titled 'ZONING COMPLIANCE' is included at the bottom right of the diagram.</p> <table border="1" data-bbox="958 756 1388 871"> <thead> <tr> <th colspan="4">ZONING COMPLIANCE</th> </tr> <tr> <th colspan="4">R1-C11 BRANFORD ZONING BY-LAW</th> </tr> <tr> <th colspan="4">PROPOSED LOT SEVERANCE - PROPOSED MINOR VARIANCE FOR REDUCTION IN REAR YARD SET BACK TO 4.5 M FOR LOT TO BE SEVERED</th> </tr> <tr> <th>REQUIREMENT</th> <th>REQUIRED MINIMUM</th> <th>LOT TO BE RETAINED</th> <th>LOT TO BE SEVERED</th> </tr> </thead> <tbody> <tr> <td>LOT AREA</td> <td>MIN. 200 SQ.M</td> <td>475 SQ.M</td> <td>128 SQ.M</td> </tr> <tr> <td>LOT WIDTH</td> <td>MIN. 11.0M</td> <td>12.15M</td> <td>24.85M</td> </tr> <tr> <td>LOT COVERAGE (2 STOREYS W/ ATTACHED GARAGE)</td> <td>N/A</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>FRONT YARD SETBACK</td> <td>MIN 3.0M TO DWELLING - MIN. 6.0M TO ATTACHED GARAGE</td> <td>6.0M TO DWELLING - 6.0M TO ATTACHED GARAGE</td> <td>3.0M TO DWELLING - 6.0M TO ATTACHED GARAGE</td> </tr> <tr> <td>REAR YARD SETBACK</td> <td>MIN. 7.0M</td> <td>7.16M</td> <td>4.50M</td> </tr> <tr> <td>REAR YARD SETBACK</td> <td>MIN. 4.50M</td> <td>4.50M</td> <td>4.50M</td> </tr> </tbody> </table>	ZONING COMPLIANCE				R1-C11 BRANFORD ZONING BY-LAW				PROPOSED LOT SEVERANCE - PROPOSED MINOR VARIANCE FOR REDUCTION IN REAR YARD SET BACK TO 4.5 M FOR LOT TO BE SEVERED				REQUIREMENT	REQUIRED MINIMUM	LOT TO BE RETAINED	LOT TO BE SEVERED	LOT AREA	MIN. 200 SQ.M	475 SQ.M	128 SQ.M	LOT WIDTH	MIN. 11.0M	12.15M	24.85M	LOT COVERAGE (2 STOREYS W/ ATTACHED GARAGE)	N/A	N/A	N/A	FRONT YARD SETBACK	MIN 3.0M TO DWELLING - MIN. 6.0M TO ATTACHED GARAGE	6.0M TO DWELLING - 6.0M TO ATTACHED GARAGE	3.0M TO DWELLING - 6.0M TO ATTACHED GARAGE	REAR YARD SETBACK	MIN. 7.0M	7.16M	4.50M	REAR YARD SETBACK	MIN. 4.50M	4.50M	4.50M
ZONING COMPLIANCE																																									
R1-C11 BRANFORD ZONING BY-LAW																																									
PROPOSED LOT SEVERANCE - PROPOSED MINOR VARIANCE FOR REDUCTION IN REAR YARD SET BACK TO 4.5 M FOR LOT TO BE SEVERED																																									
REQUIREMENT	REQUIRED MINIMUM	LOT TO BE RETAINED	LOT TO BE SEVERED																																						
LOT AREA	MIN. 200 SQ.M	475 SQ.M	128 SQ.M																																						
LOT WIDTH	MIN. 11.0M	12.15M	24.85M																																						
LOT COVERAGE (2 STOREYS W/ ATTACHED GARAGE)	N/A	N/A	N/A																																						
FRONT YARD SETBACK	MIN 3.0M TO DWELLING - MIN. 6.0M TO ATTACHED GARAGE	6.0M TO DWELLING - 6.0M TO ATTACHED GARAGE	3.0M TO DWELLING - 6.0M TO ATTACHED GARAGE																																						
REAR YARD SETBACK	MIN. 7.0M	7.16M	4.50M																																						
REAR YARD SETBACK	MIN. 4.50M	4.50M	4.50M																																						
<p>3. That the general intent and purpose of the Official Plan is maintained</p>	<p>It is Planning Staff's opinion that the proposed variances maintain the general intent of the Zoning By-law.</p> <p>The subject lands are designated "Residential", wherein a range of dwelling types and supporting land uses are intended to serve the residents. A small portion in the southeastern corner of the subject lands is also designated "Core Natural Area", as shown in Appendix B – Official Plan. Section 5.6.1 f) of the of the Official Plan states the following.</p> <p><i>"No buildings or structures, nor the removal or placing of fill of any kind whether originating on the site or elsewhere, may be permitted within the Core Natural Areas Designation".</i></p> <p>The proposed dwelling does not encroach in the Core Natural Area, as shown in Figure 5 below.</p> <p>Figure 5 - Site with Core Natural Area overlay (light green)</p>																																								

Four Tests	Discussion
	 <p>Therefore, it is the opinion of Staff that the proposed relief of the rear yard setback 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 single detached dwelling in a residential neighbourhood.</p>

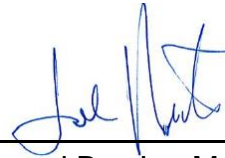
7.4 Conclusion

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 B05-2023 subject to the confirmation that services of the Wyndfield West Phase 6B Stage 1 Subdivision have final assumption by the City of Brantford and 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, subject subject to Consent Application B05-2023 being in full force and effect. The minor variance would facilitate the addition of a residential unit to the City's housing stock, which is in keeping with the vision of the Official Plan and provisions in the Zoning By-law. 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*. Thus, Staff recommends approval.



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



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

Appendix A – Conditions of Consent

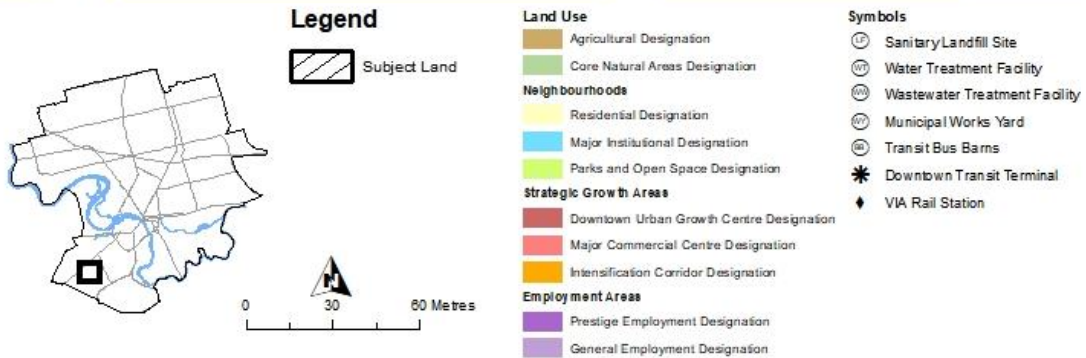
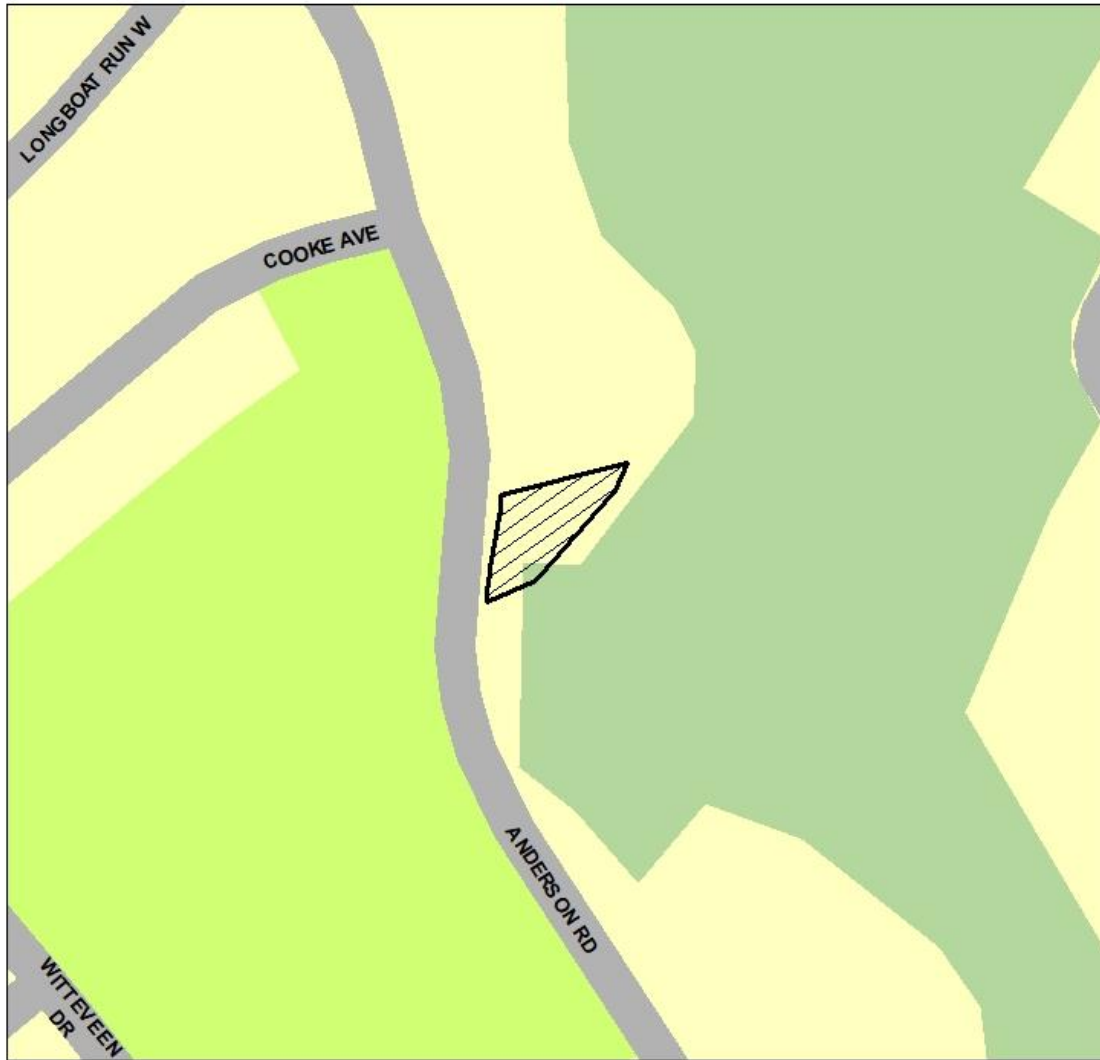
1. Receipt of a registered Reference Plan showing the severed and retained parcels..
2. Receipt of payment for cash-in-lieu of parkland (*amount to be determined in accordance with City of Brantford By-law 139-2022*).
3. Receipt of confirmation that all taxes are paid up to date.
4. Receipt of confirmation 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*).
5. 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.
6. 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.
7. 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.
8. 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 and that these services do not cross the proposed severance line(s) and are connected directly to City infrastructure.
9. The Owner/Applicant shall be responsible, financial and otherwise, to provide sanitary and storm 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.
10. The Owner/Applicant shall provide a Grading and Drainage 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.
11. The Owner/Applicant shall be responsible, financial and otherwise, to construct and/or restore the City's right-of-way (i.e., sidewalk, curb, driveway, boulevard, road etc.) across the frontage of the severed and retained parcel to the satisfaction of the Manager of Development Engineering or his/her designate.

-
12. The Owner/Applicant shall provide a Sediment & Erosion Control Plan protecting the adjacent Core Natural Area to the satisfaction of the Manager of Development Engineering or his/her designate, prepared by a qualified Engineer licensed in the Province of Ontario.
 13. Receipt of confirmation from the Manager of Development Engineering or his/her designate, indicating that the aboveground and belowground services of the Wyndfield West Phase 6B Stage 1 Subdivision have final assumption by the City of Brantford.
 14. Receipt of confirmation that spatial separation calculations are completed by a qualified designer to the satisfaction of the Building Department.
 15. Receipt of confirmation that Owner/Applicant has obtained a building permit for the existing storage structure on the proposed severed parcel or has removed it to the satisfaction of the Building Department.
 16. Receipt of confirmation that the current building permit application for the addition to the principle dwelling on the proposed retained parcel (permit number 2022-3888) has been completed or cancelled to the satisfaction of the Building Department.
 17. 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

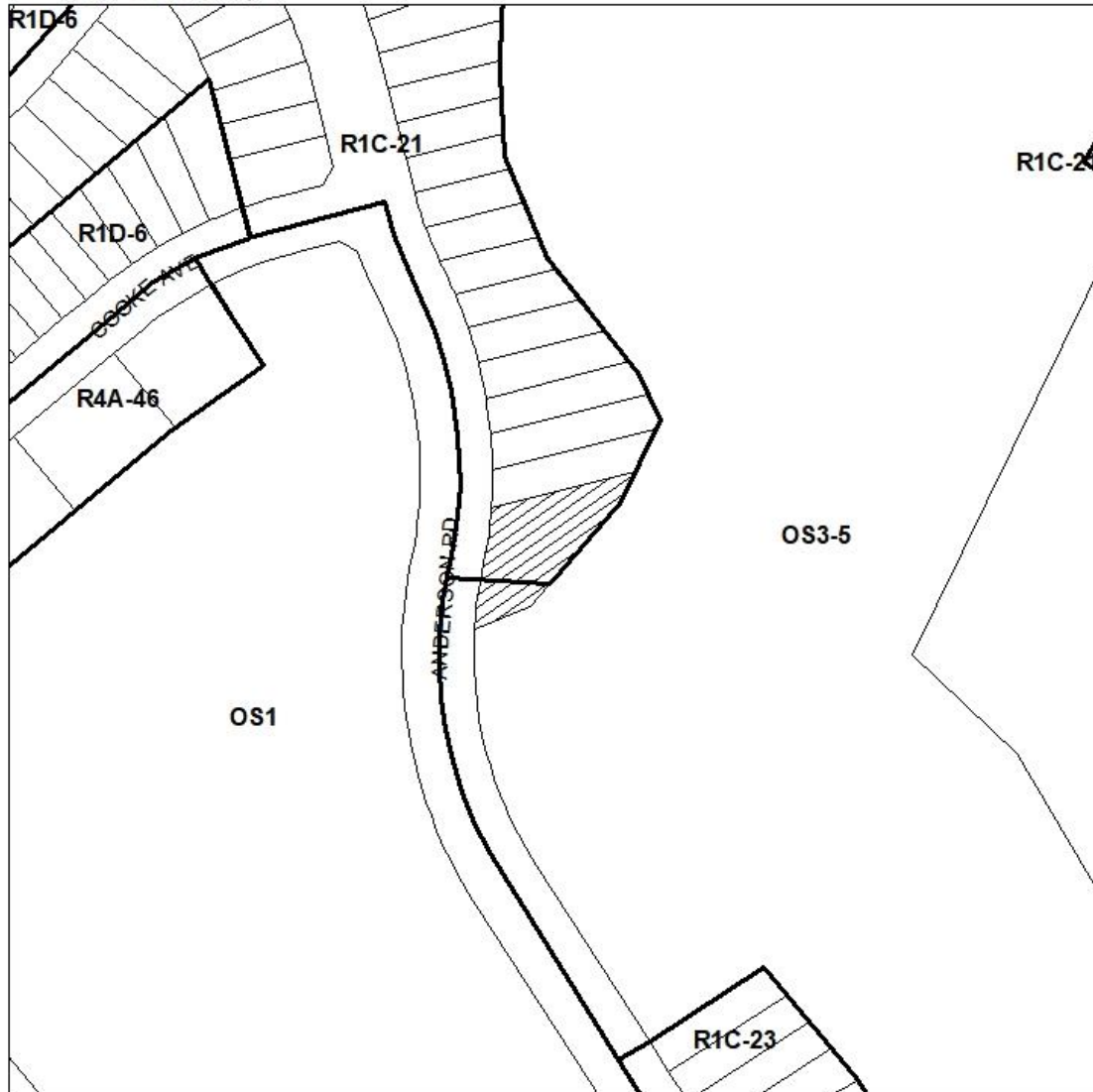
Application: B05/2023 & A11/2023
71 Anderson Road



Appendix C – Zoning By-law

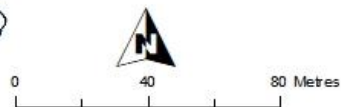
ZONING

Application: B05/2023 & A11/2023
71 Anderson Road



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)
- R4A Residential Medium Density Type A
- OS1 Open Space Type 1
- OS3 Open Space Restricted
- # Exception Number