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Date May 1, 2024 **Report No.** 2024-270
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.: B19-2024, A21-2024
AGENT: The Angrish Group c/o Ruchika Angrish
APPLICANT/OWNER: Mark Cioci (1 Hart Street)
Orlando Frizado (3 Hart Street)
LOCATION: 1 and 3 Hart Street

3.0 Recommendation

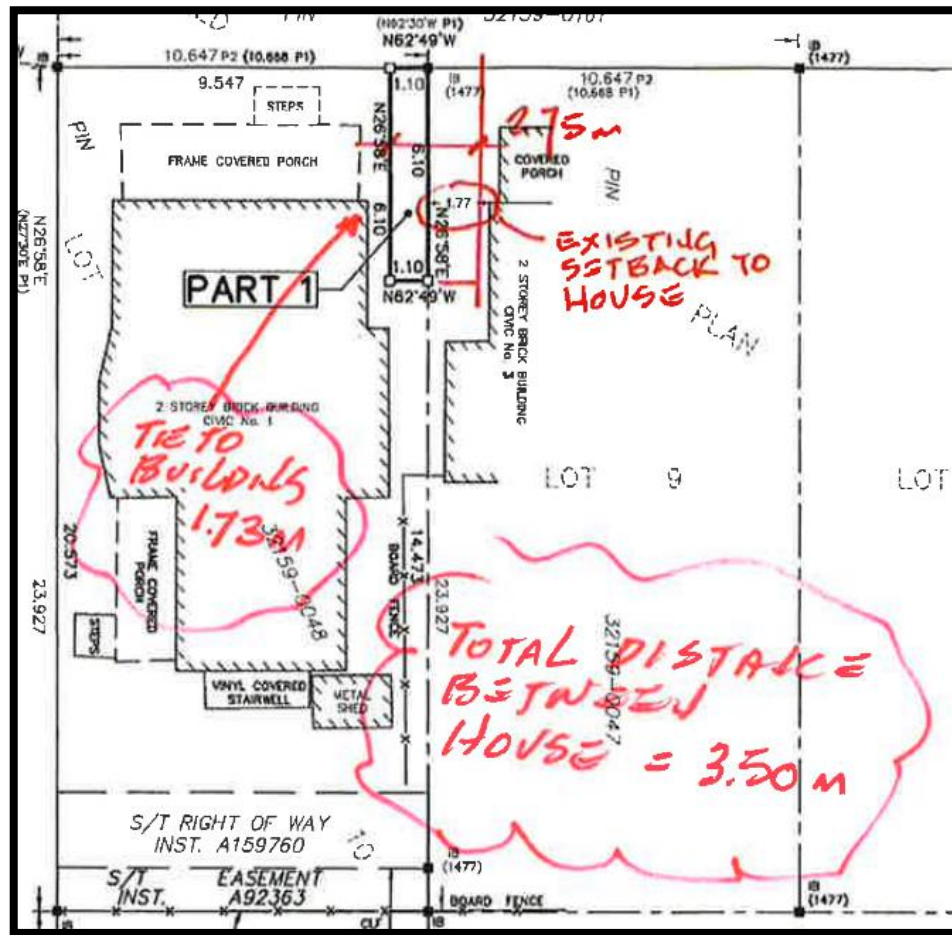
- A. THAT application A21-2024 seeking relief from Section 6.18.3.1 to permit a parking space that is not entirely on the lands for which it is intended, BE APPROVED;
- B. THAT the reasons for the approval of the minor variance are as follows: the proposed variance that would provide relief from Section 6.18.3.1 is in keeping with the general intent and purpose of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and desirable for the appropriate development and use of the subject lands;

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- C. THAT application B19-2024 requesting to establish an easement on 1 Hart Street, having an area of 6.71 m² , BE APPROVED; subject to the conditions attached as **Appendix A – Conditions of Consent** to Report 2024-270,
- D. THAT the reasons for approval of B19-2024 are as follows: the proposed consent has regard for the matters under Section 51(24) of the *Planning Act*, Staff are satisfied that the proposed development is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties. The application is in conformity with the general intent and policies of the Official Plan and Zoning By-law; and,
- E. THAT pursuant to Section 45(8)-(8.2) and 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 2024-270.”*

4.0 Purpose and Description of Applications

The joint minor variance and consent applications seek to address parking accommodations for 3 Hart Street. The consent component aims to establish an easement on 1 Hart Street to facilitate the provision of a driveway and parking space for 3 Hart Street. Concurrently, the minor variance application aims to permit this parking space for 3 Hart Street that partially occupies the land of 1 Hart Street, straddling the common property line between both properties. The Zoning By-law otherwise requires that parking spaces be entirely on the property for which they are intended, except in certain cases which do not apply here. Access to the proposed parking space would be from Hart Street. A severance plan is provided in **Figure 1**.

Figure 1 - Proposed Easement



Historically, the parking space for 3 Hart Street was situated within the rear yard and accessed via an existing access easement over the rear yard of 1 Hart Street. The owner of 3 Hart Street now wishes to remove this easement to provide space for residential development at the rear of 1 Hart Street, and therefore seeking to remove this easement. The details of this development were not provided with this application but will be further assessed at a later date once the applicant has a better understanding on how they plan to develop the site. Furthermore, this configuration was not considered a legal parking space, as confirmed by Building Department Staff. This is due to it being accessed through another property. The current application seeks to secure a legal parking space for 3 Hart while providing additional space at the rear of 1 Hart for additional residential development.

5.0 Site Features

The subject properties are on the south side of Hart Street, north of Pearl Street, south of the CN rail lines, and west of West Street. The lands are designated Residential (as shown in **Appendix B**) and zoned Residential Conversion (as shown in **Appendix C**). The properties each have a two-storey detached dwelling on site, which are characteristic of the neighbourhood. The neighbourhood is primarily residential, with some commercial properties to the east and two places of worship which are located two blocks to the west. At the rear of 3 Hart Street, there is an aging garage that the property owner plans to demolish. Several driveways along Hart Street and the adjoining Waterloo Street have driveways similar to that which is proposed in this application as shown below in **Figures 2, 3** and **4**. The proposed easement area between 1 Hart and 3 Hart is shown in **Figure 5**.

6.0 Input from Other Sources

6.1 Technical Comments

Staff circulated this application to all applicable departments and agencies on March 15, 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 requested that a Driveway Permit be obtained from Operational Services as a condition of consent. Staff also noted that an existing City Parking sign will need to be relocated to allow space for the proposed driveway.

Operations Staff advised that a Right-of-Way Activity Permit be obtained before any construction within the public right-of-way.

6.2 Public Comment

Staff issued a Notice of Public Hearing by personal mail on April 11, 2024 to 60 property owners within 60 m of the subject lands pursuant to the *Planning Act*. No comments were received at the time of writing this Report.

7.0 Planning Staff Comments and Conclusion

7.1 Planning Analysis

When evaluating the merits of a Consent application, the Committee of Adjustment must be satisfied that the criteria established in Section 51(24) of the *Planning Act* has been satisfied, as summarized in **Table 1**. When evaluating the merits of a Minor Variance application, the Committee must be satisfied that the four tests of a minor variance have been satisfied, as summarized in **Table 2**.

Table 1 - Consent Criteria

Criteria for Considering a Consent Application	Discussion
<p>1. That the plan conforms to the Official Plan</p>	<p>Section 9.3 (i) states that “Consents may be permitted for the creation of up to three (3) new lots, easements, boundary adjustments, rights-of-way, lot additions and leases in accordance with the provisions of the <i>Planning Act</i>.”</p> <p>Section 5.1 (c) states that “Compatible development shall be considered in the evaluation of all development proposals throughout the City. The following shall be considered when evaluating the compatibility of development proposals:</p> <ul style="list-style-type: none"> i. The use, height, massing, orientation and landscape characteristics of nearby properties is properly considered and appropriate transitions between the built forms and uses shall be ensured; ii. On-site amenity space is provided and is reflective of, or enhances, the existing patterns of private and public amenity space in the vicinity; and, iii. Streetscape patterns, including block lengths, setbacks and building separations are generally maintained.” <p>The proposed driveway is characteristic of the neighbourhood, and will not negatively impact the streetscapes. The parking reconfiguration would also increase the available amenity space in the rear yard of 3 Hart and would have less of a negative impact on the streetscape than on-street parking. For these reasons, staff are satisfied that the proposed easement meets the purpose and intent of the Official Plan.</p>
<p>2. The dimensions and shapes of the proposed lot</p>	<p>The easement is intended to facilitate a driveway and parking space. Planning staff shared concerns with the width of the easement and proposed driveway, the agent confirmed that it was adequate, and agreed to apply for a Driveway Permit as a condition of approval. With this condition, Staff are satisfied with the proposed dimensions of the easement.</p>
<p>3. The adequacy of utilities and municipal services</p>	<p>The established easement will not impact municipal servicing infrastructure, however the creation of a driveway will impact a municipal traffic sign, and so Condition 6 of Appendix A serves to ensure that this sign would be relocated at the applicant’s expense. With this condition, Staff are satisfied that the</p>

Criteria for Considering a Consent Application	Discussion
	proposed driveway and parking space will municipal parking signage.

Table 2 - 4 Minor Variance Tests

Four Tests	Discussion
That the requested variance is minor in nature	“Minor” is determined by impact, not by the value of the variance being sought. The proposed driveway location will not impact the surrounding property owners, except the owner of 1 Hart Street, who initiated this joint application for the purposes of residential expansion. Since there is an existing access easement, Staff consider the impact of its relocation minor in nature.
That the general intent and purpose of the Zoning By-law is maintained	The purpose of requiring parking spaces to be on the same property as their intended use is to manage traffic, reduce the need for pedestrians to cross streets to access on-street parking, thereby enhancing pedestrian safety, and efficient land use. As the proposed parking location directly abuts the property for which it is intended for, staff are satisfied that it would constitute safe and efficient land use.
That the general intent and purpose of the Official Plan is maintained	The subject lands are designated “Residential,” in which a wide range of housing types and residential designs are permitted. It is the opinion of Staff that the proposed variance would maintain the general intent and purpose of the Official Plan.
That the variance is desirable for the appropriate development and use of the land, building or structure.	Staff considers the proposed easement and driveway desirable for the appropriate use of the lands. Staff note that a planning application is not required to remove the existing access easement from title. Since 3 Hart is legally non-conforming with no parking space, it would follow that, if refused for this easement, 3 Hart would be required to park on the street. Staff are of the opinion that additional on street parking would have a more negative impact on the streetscape and traffic in the neighbourhood.

7.2 Conclusion

After a thorough review of the file including a site inspection completed on Wednesday, April 10, 2024, staff are supportive of the application. The proposed Consent would create an easement and provide 3 Hart with space for a driveway

and parking space, and the Minor Variance would permit the parking space that is not entirely on the property for which it is intended. Staff are supportive of applications B19-2024 and A21-2024 and recommend their approval.



Prepared by:
Lindsay King
Development Planning
Prepared on: April 24, 2024



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

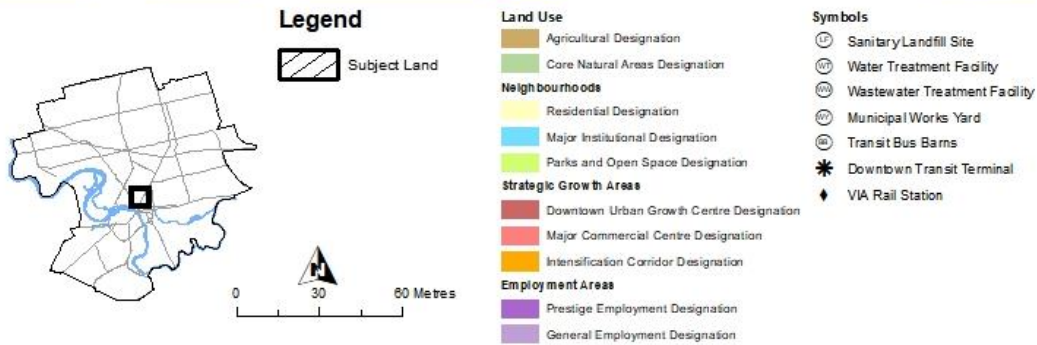
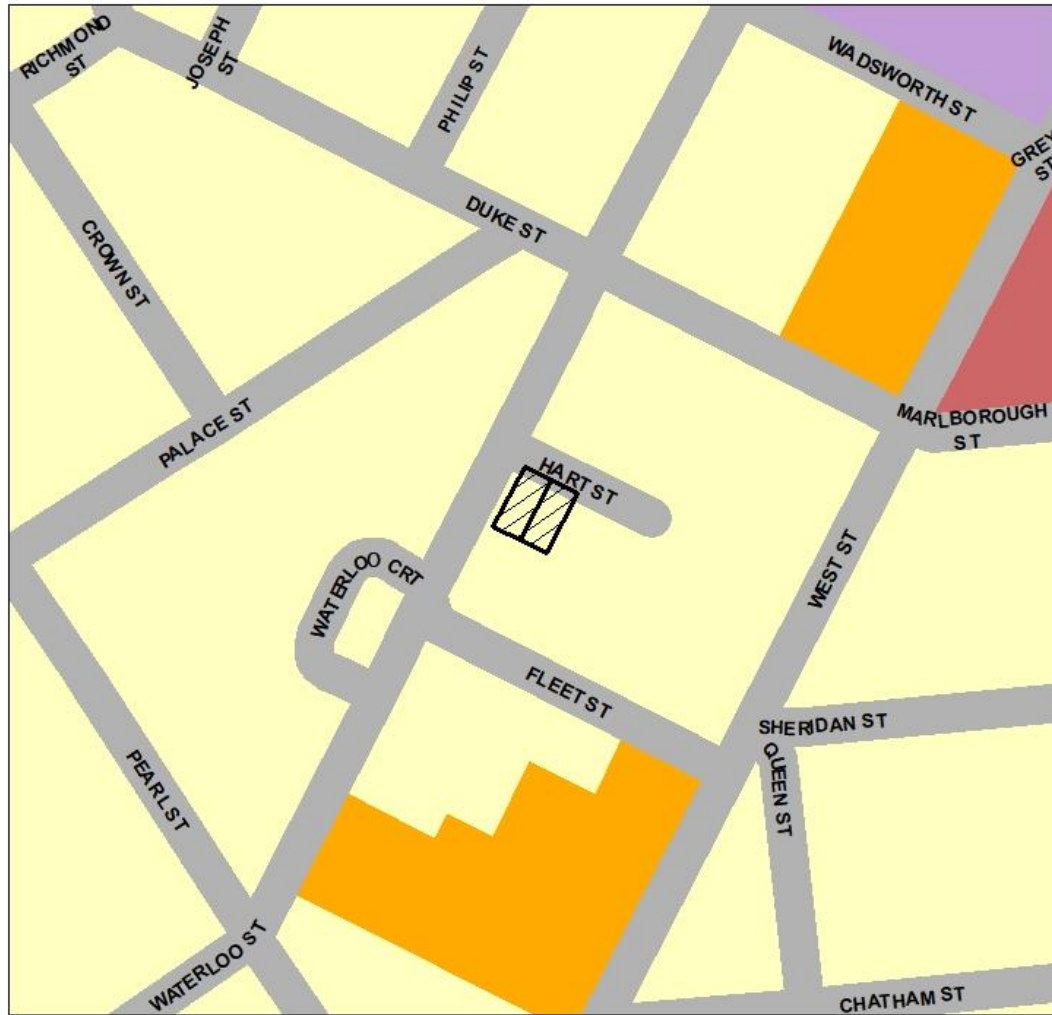
APPENDIX A – CONDITIONS OF APPROVAL

1. Receipt of confirmation that A21-2024 is approved by Committee and comes into full force;
2. Receipt of confirmation that a Driveway Permit has been approved by the Manager of Operations or their designate, for the proposed driveway;
3. Receipt of a registered reference plan showing the easement;
4. Receipt of confirmation that the application 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 that the existing easement A159760 has been removed from title, to the satisfaction of the Manager of Development Planning or their designate;
6. Receipt of confirmation that the parking sign has been relocated to the satisfaction of the Manager of Development Engineering or their designate;
7. Receipt of confirmation that all taxes are paid up to date, to the satisfaction of the Manager of Development Planning or their designate;
8. That the above conditions be fulfilled and the Certificate of Consent be issued on or before **May 1, 2026**, after which time the consent will lapse.

APPENDIX B – OFFICIAL PLAN DESIGNATION

OFFICIAL PLAN EXCERPT MAP

Application: B19-2024 & A21-2024 -
 1 & 3 Hart Street



APPENDIX C – ZONING

ZONING

Application: B19-2024 & A21-2024 -
1 & 3 Hart Street



Legend
Subject Land
Zone Boundary

ZONING (Bylaw 160-90) and County of Brant(61-16)
RC Residential Conversion
R4B Residential Medium Density Type B
I2 Institutional School
- # Exception Number

