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Date May 1, 2024 **Report No.** 2024-277
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
Application for Minor Variance

2.0 Topic

APPLICATION NO.	A19-2024
AGENT	King Homes Inc c/o Ken Bekendam
APPLICANT/OWNER Shawn Allen	Veranda Property Investments Inc c/o
LOCATION	93 West Street

3.0 Recommendation

- A. THAT application A19-2024 seeking relief from Section 9.3.2.9.2 to permit a Gross Floor Area of 50 m² per unit, whereas a minimum Gross Floor Area of 55 m² per unit for a converted dwelling is otherwise required, BE APPROVED conditional upon an Agreement with CN Rail being registered on title;
- B. THAT the reason(s) for approval of the minor variances 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,

- 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 2024-277.”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally known as 93 West Street. The purpose of this application is to facilitate the conversion of the existing single detached dwelling into a converted dwelling consisting of 4 units, as shown in **Figure 1 – Conceptual Site Plan**. The proposed development will have four on-site parking spaces. The applicant has applied for a minor variance to permit a GFA of 50 m² per unit, whereas a minimum GFA of 55 m² per unit is otherwise required for a converted dwelling, as shown in **Table 1 - Minor Variance Relief Requested**.

Table 1 - Minor Variance Relief Requested

Regulation	By-law Section	Required	Proposed	Relief Requested
Gross Floor Area (minimum)	Section 9.3.2.9.2	55 m ² per unit	50 m ² per unit	- 5 m ² per unit

West Church and Funeral Chapel

Figure 2 - Subject Lands



6.0 Input from Other Sources

6.1 Technical Comments

This application was circulated to all applicable departments and agencies on March 15, 2024. The following is a brief summary of notable comments.

CN Rail noted that the subject site is within 1000 meters of CN railway operations including the CN Brantford Yard's. 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 encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval:

The Owner shall engage a consultant to undertake an analysis of noise. Subject to the review of the noise report, the Railway may consider other measures recommended by an approved Noise Consultant.

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:

“Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-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.”

The Owner shall through restrictive covenants registered on title and all agreements of purchase and sale or lease provide notice to the public/occupants that the noise and vibration isolation measures implemented are not to be tampered with or altered and further that the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of CN Rail.

The Owner shall enter into an Agreement with CN stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.

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.

CN anticipates the opportunity to review a noise and vibration study taking into consideration CN development guidelines.

In Section 3.0 of this Report, Staff recommended that an agreement between the owner and CN Rail be registered on title to capture all of the above comments and concerns.

6.2 Public Response

A Notice of Public Hearing was issued by personal mail on April 11, 2024 to property owners (29 Notices) within 60 metres of the subject lands pursuant to the *Planning Act*. No public comments were received at the writing of this Report.

7.0 Planning Staff Comments and Conclusion

7.1 Minor Variance 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.

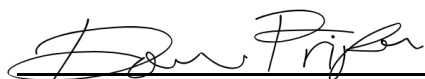
Table 2 - Minor Variance tests

Four Tests	Discussion
1. That the requested variance is minor in nature	<p>“Minor” is determined by impact, not by the value of the variance being sought.</p> <p>The proposed development seeks to build slightly smaller units than what is permitted in the Zoning By-law. There are constraints on how big the units can be due to the fact the development involves converting an existing single detached dwelling into a four-unit dwelling. There is no proposed increase to the building footprint as all renovations will be interior to the building. Therefore, there are no expected adverse impacts on the surrounding area.</p> <p>Staff is of the opinion the relief sought in this application is minor.</p>
2. That the intent and purpose of the Zoning By-law 160-90 is maintained	<p>The subject lands are zoned “Mixed Commercial Residential (C3)” in the Zoning By-law, as shown in Appendix A.</p> <p>The intent of the minimum Gross Floor Area requirement in the Zoning By-law is to ensure adequate-sized units for residential use. In this case, the deficiency per unit is only 5 m² and thus, there is no significant concern that the units</p>

Four Tests	Discussion
	<p>wouldn't be able to be used for their intended residential purposes.</p> <p>It is Planning Staff's opinion that the proposed variance would 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 wide variety of residential units are permitted. The Official Plan generally encourages infill development as well as increasing density and adding additional dwelling units to properties where appropriate.</p> <p>Therefore, it is the opinion of Staff that the proposed 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 structure</p>	<p>It is the opinion of staff that the proposal is desirable as it would facilitate the creation of 3 additional dwelling units in a mixed residential and commercial area. The increased density is suitable for the neighbourhood.</p>

7.2 Conclusion

A site inspection was completed on April 12, 2024. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. The proposed application will intensify an existing single detached dwelling into a 4-unit converted dwelling. This will add 3 additional dwelling units to the City's housing stock. For these reasons and the ones mentioned above, the minor variance satisfies the criteria of Section 45(1) of the *Planning Act*, and Staff recommends that application A19-2024 be approved conditional upon an Agreement with CN Rail being registered on title.



Dora Pripon, Development Planner
 Prepared on: April 24, 2024

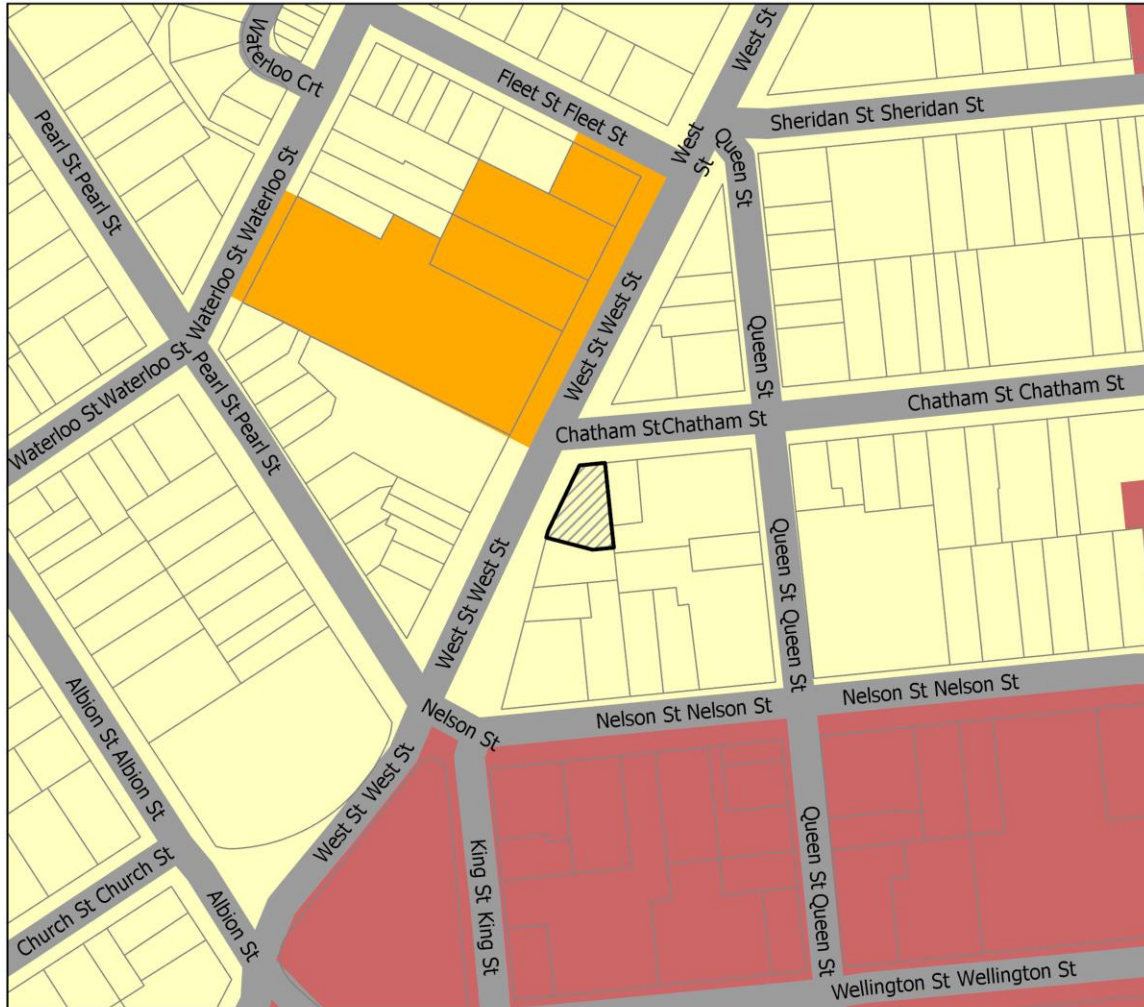


Reviewed By: Joe Muto, RPP, MCIP
 Manager of Development Planning

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: A19-2024
 93 West Street



Legend

- | | |
|--|--------------------------------|
| Subject Land | General Employment Designation |
| Agricultural Designation | Six Nations Territory |
| Core Natural Areas Designation | VIA Station |
| Residential Designation | Transit Terminal |
| Major Institutional Designation | LOCATION |
| Parks and Open Space Designation | Landfill |
| Downtown Urban Growth Centre Designation | Municipal Works Yard |
| Major Commercial Centre Designation | Transit Service Bus Barns |
| Intensification Corridor Designation | Wastewater Treatment Facility |
| Prestige Employment Designation | Water Treatment Plant |
| Commercial Mixed Use Corridor | |



Appendix B – Zoning By-law

ZONING MAP

Application: A19-2024
93 West Street



Legend

- Subject Land
- Zoning

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

- RC Residential Conversion
- I2 Institutional School
- C2 Fringe Core Commercial
- C3 Mixed Commercial Residential
- OS1 Open Space Type 1
- # Exception Number