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Date August 7, 2024 **Report No.** 2024-434
To Chair and Members
City of Brantford Committee of Adjustment
From Mila Masic
Intermediate Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding
Application for Minor Variance

2.0 Topic

Application No. A38-2024
Agent MHBC (Stephanie Mirtitsch)
Applicant LIV (Conklin) LP (Jeff Colyer)
Owner Telephone City Aggregates Inc
Location 77 Waldron Street (Lot 79)

3.0 Recommendation

A. THAT Minor Variance application A38-2024 seeking relief from Section 7.7.3.10.3.5 of Zoning By-law 160-90 for the lands municipally known as 77 Waldron Street to permit a rear yard setback of 0.88 m, whereas 6.0 m is otherwise required, BE APPROVED , conditional upon a minimum interior side yard of 15 m being provided adjacent to 31 Dennis Avenue for any residential use or structure;

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- B. THAT the reasons for the approval of the minor variance is as follows: the proposed variance 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 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 2024-434.”

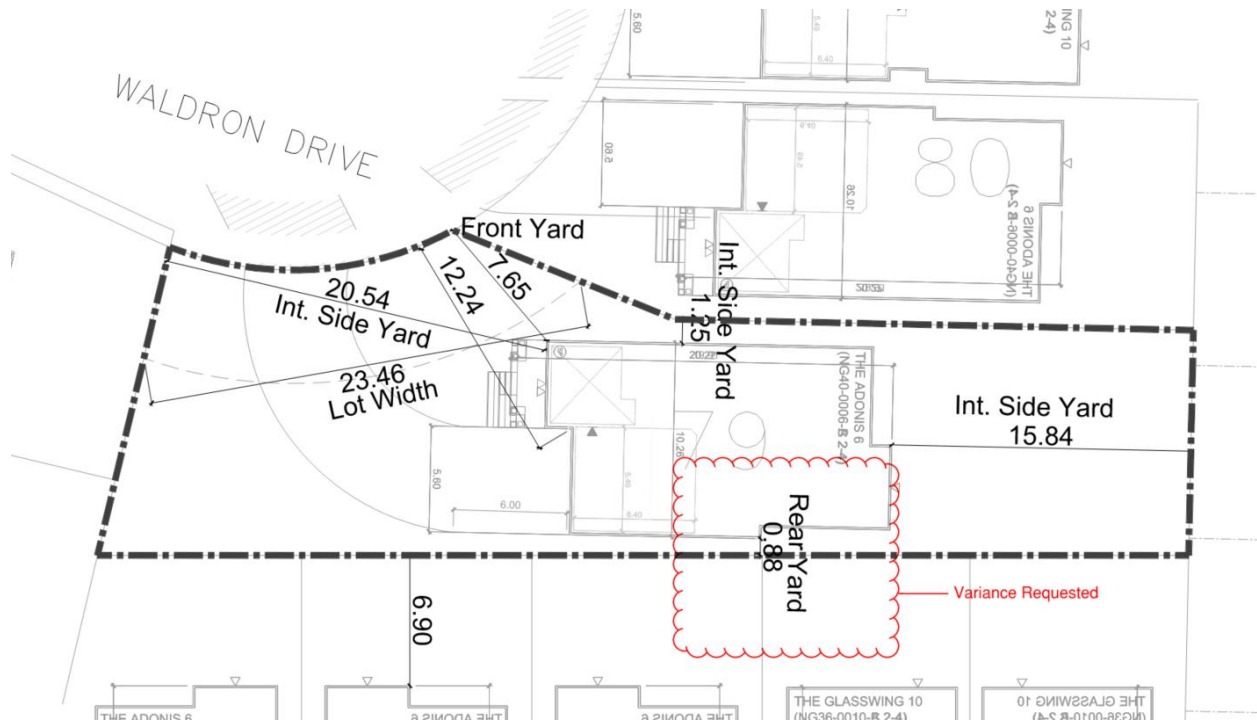
4.0 Purpose and Description of Applications

A minor variance application has been received for the lands municipally known as 77 Waldron Street, also known as Lot 79 within Nature’s Grand – Phase 3, registered plan of subdivision 2M-1986. The purpose of this application is to facilitate the construction of a single detached dwelling on an irregularly shaped vacant lot, as shown in **Figure 1 – Conceptual Site Plan**. The applicant is requesting a minor variance for a portion of the rear yard setback, as described in **Table 1 – Minor Variance Relief Requested** and **Figure 1**.

Table 1 – Minor Variance Relief Requested

Regulation	Bylaw Section	Required	Proposed	Relief Requested
Rear Yard Setback	7.7.3.10.3.1.5	6.0 m	0.88 m	-5.12 m

Figure 1 – Conceptual Site Plan (full version attached as **Appendix A**)



5.0 Site Features

The subject lands are located north of Sherril Avenue and west of Dennis Avenue. The lands are within Nature's Grand – Phase 3 Subdivision and registered as Lot 79 on Registered Plan 2M-1986. Surrounding the subject lands in all directions are proposed single detached dwellings, and some townhomes proposed to the east of the site.

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 June 24, 2024. No objections were received. Notable comments are summarized below.

Development Engineering Staff requested that language be provided in the recommendation that ensures that the interior (eastern) side yard is viewed as the rear yard regarding setback requirements. Planning staff have included this wording in the recommendation and have further clarified within Section 7.2 of this report.

Other comments were received from external agencies and internal departments relating to documentation and procedural items for final approval. No objections were received as they relate to the requested variances.

6.2 Public Response

A notice of Public Hearing was issued by personal mail (23 notices) on July 19, 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” in the Official Plan and zoned “Residential Type 3 Exception 10 Zone (R3-10)” in Zoning By-law 160-90 as shown in **Appendix B** and **Appendix C**, respectively.

7.2 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 maintain the general intent and purpose of the Official Plan and Zoning By-law, be minor in nature, and desirable for the appropriate development and use of the land. These tests are discussed in the table below.

Four Tests	Discussion
1. That the general intent and purpose of the Official Plan is maintained	The subject lands are designated “Residential” within the City’s Official Plan. The “Residential” Designation applies to the Neighbourhood residential areas of the City which are intended to support a full range of housing types and serve residents. Included among these housing types is a single detached residential dwelling. The requested minor variance would not conflict with the general intent and purpose of the Official Plan as the proposed variances maintain the existing low density single detached residential use and nature on the subject property. It is the opinion of Staff that the application would maintain the general intent and purpose of the Official Plan.
2. That the intent and purpose of the Zoning By-law 160-90 is maintained	The subject lands are zoned “Residential Type 3 Exception 10 Zone” (R3-10) in the Zoning Bylaw. This residential zone permits single detached dwellings. The applicant is requesting relief to permit a rear yard setback of 0.88 m, whereas 6.0 m is otherwise required. This variance would permit the location of the proposed single detached dwelling on the subject lands.

	<p>The general intent and purpose of the Zoning By-law relating to rear yard setbacks is to maintain a rear yard amenity area and to ensure the property is not over-developed. The subject lands are configured in an irregular manner, with the technical frontage of the lot being located on the curve of the cul-de-sac of Waldron Drive, as can be seen in Figure 1. The technical interior (eastern) side yard of 15.84 m to the rear of the proposed dwelling provides adequate room for the enjoyment of the amenity area for the eventual residents. The proposed rear yard, which functions as an interior side yard, provides adequate access and is greater than the Zoning By-law's requirement of 0.6 m for an interior side yard.</p> <p>The requested variance conforms to the general intent and purpose of the Zoning By-law.</p>
<p>3. That the requested variance is minor in nature</p>	<p>"Minor" is determined by impact, not by the value of the variance being sought.</p> <p>The requested variance to reduce the rear yard are technical in nature and are only required due to the site being located on a cul-de-sac, and a result of the definition of the front lot line (the shorter of the two lines abutting a street). If a front yard existed parallel to the front of the proposed dwelling, as a typical lot would have, the rear yard line would be considered as the interior, and the eastern interior lot line would be considered the rear lot line. No variance to the yard would be required if this were the case as all other setbacks and regulations have been met. Thus, minimal impact will occur to the properties adjacent to the southern lot line of the subject lands. Additionally, Figure 1 demonstrates that the proposed development abides by the Registered Subdivision Agreement between the applicant and the City. Staff consider this variance minor in nature.</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 Planning Staff that the proposal is desirable for the appropriate development of the land, as it would facilitate the creation of a detached dwelling which is a permitted use in the Official Plan and Zoning By-law.</p>

7.3 Conclusion

A site inspection was completed on July 24, 2024. Upon completion of this visit and review of all applicable policies, Staff is supportive of the requested minor variances within file A38-2024 subject to the conditions outlined in the recommendations. For the reasons discussed above, the minor variance application satisfies Section 45(1) of the *Planning Act*, and Staff recommends approval of the application.

Mila Masic

Mila Masic,
Development Planner

Sean House

Reviewed By: Sean House, MCIP RPP
Senior Project Manager