



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

Date: July 3, 2024

To: Committee of Adjustment

From: Lindsay King
Intermediate Development Planner

Re: 111/113 Pearl Street Consent (Boundary Adjustment) and
Minor Variance – File No. B15-2024 and A15-2024

This memo provides an update on the joint minor variance and boundary adjustment application for the properties at 111 and 113 Pearl Street. Following the initial review and recommendation for refusal in Report 2024-201, the applicant requested a deferral and subsequently revised the proposal. The revised proposal includes a 0.6 m rear yard instead of the originally proposed 0 m rear yard. In the previous memo, Staff recommended a deferral in the absence of Development Engineering comments. On June 27, Development Engineering provided a comment stating no concerns on the revised concept.

Despite the updated comments from Development Engineering, Planning Staff continue to recommend refusal of the consent for the following reasons:

1. Environmental Stewardship Concerns:

- Although Development Engineering supports the 0.6 m setback from a development perspective, Planning Staff remain concerned about the long-term environmental impact of the proposed variance. Planning staff note that the City of Brantford does not have staff who are qualified to evaluate the environmental impacts of this proposal on the hard cap and soft cap. Staff also note that this application is void of any environmental studies in support of this application. In the absence of this assurance, Staff are of the opinion that the proposed minimum rear yard is not desirable for the appropriate use of the lands.

2. Impact on Abutting Lands:

- The proximity of a large accessory building to the abutting property would have significant negative impacts due to the negative visual impact and reduced privacy. The proposed development is not considered desirable for the appropriate use of the lands and would change the character of the neighbourhood and could set an undesirable precedent.

3. Non-conformity with the Official Plan and Zoning By-law:

- The revised proposal does not align with the intent and purpose of the Official Plan and Zoning By-law, particularly concerning environmental stewardship and sustainable development. The lack of an environmental study further exacerbates these concerns, as there is no assurance that the hard cap and soft cap will remain undamaged in both the short and long term.

Staff recommend that the Committee of Adjustment refuse the consent application and minor variance application for increased accessory lot coverage. While Development Engineering's updated comments address stormwater drainage from a development perspective, they do not alleviate broader environmental and compatibility concerns. Section 53(12) of the *Planning Act* states that "[a] council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51(24)". Section 51(24) of the *Planning Act* states that "*regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,*

(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;

(d) the suitability of the land for the purposes for which it is to be subdivided;

Staff are of the opinion that the proposed consent is not in conformity with Section 51(24) (c) or (d) due to the proximity of the previous remediation site and the subsequent hard cap and soft cap. In the absence of an environmental study that supports the development, staff are not satisfied that the lands to be conveyed are suitable for the intended purpose; an residential accessory structure addition. As such, the proposed development does not uphold the City of Brantford's Official Plan. Specifically, the following Sections of the Official Plan:

- Section 1.2 Interpretation of this Plan (c) "*The Vision, Guiding Principles, and policies of this Plan are interconnected and interrelated. Decision making will be based on conformity with all relevant policies. Further, decisions about development will need to integrate environmental, social and economic*

perspectives so that today’s needs can be met, without compromising the ability of future generations to meet their needs.”

- Section 2.2 Guiding Principles, Principle 2 which states that “[t]he City will demonstrate environmental leadership by promoting the remediation of brownfields and supporting their redevelopment...”

Table 1 shows Staff’s analysis on the requested Consent, **Table 2** shows Staff’s analysis on the requested minor variance for the reduced rear yard for 113 Pearl Street, **Table 3** shows Staff’s analysis on the requested minor variance to increase Accessory Lot Coverage, and **Table 4** summarizes Staff’s position on the joint consent and minor variance applications. Staff have no concerns with the reduced minimum rear yard for 113 Pearl Street but recommend refusal of the proposed boundary adjustment and increased accessory lot coverage. **Appendix A** provides the complete revised recommendation. Staff have also drafted recommended conditions of consent in **Appendix B** in the case that Committee votes against staff’s recommendation regarding the boundary adjustment.

Table 1 - Consent Evaluation

Criteria for Considering a Consent Application	Discussion
1. That the application conforms to the Official Plan	<p>The proposed development does not conform with the following sections of the Official Plan:</p> <p>Section 5.1 (b) states that permitted development shall be compatible, and not cause undue or adverse impacts on adjacent properties. Staff are of the opinion that the increased accessory lot coverage will cause undue and adverse impacts the adjacent property and remediation site.</p> <p>Guiding Principle #2 which emphasizes environmental stewardship and sustainable development practices. Staff are of the opinion that the proposed accessory structure addition will have negative long term environmental impacts.</p>
2. The dimensions and shapes of the proposed lot	<p>Staff have no concerns with the dimensions and shapes of the proposed lots. If approved, both 111 Pearl Street and 113 Pearl Street will continue to have unchanged street frontage.</p>
3. The adequacy of utilities and municipal services	<p>Staff have no concerns with the adequacy of utilities and municipal services. If approved, both 111 Pearl Street and 113 Pearl Street will continue to have unchanged and adequate servicing.</p>

Table 2 - Four Tests of a Minor Variance - Reduced Minimum Rear Yard for 113 Pearl Street

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 3.32 m minimum rear yard would have the effect of permitting an addition that is within 3.32 m of the rear property line. The rear property line, in this case, is shared with 111 Pearl Street. Staff consider the requested relief minor in nature, and expect no adverse impacts.
That the intent and purpose of the Zoning By-law 160-90 is maintained	The proposed variance maintains the general intent and purpose of the Zoning By-law. Setbacks serve to ensure harmonious development patterns, maintain privacy, and mitigate adverse impacts such as visual clutter. Staff are of the opinion that granting a minimum rear yard of 3.32 m will not cause disharmony, adversely impact privacy, or create visual clutter. As such, it is Staff’s opinion that the general intent and purpose of the Zoning By-law is maintained.
That the general intent and purpose of the Official Plan is maintained	The subject lands are designated “Residential”. The Official Plan states that lands “within the Residential Designation may include a full range of residential dwelling types, as well as supporting land uses intended to serve local residents. It is recognized that areas within the Residential Designation will continue to evolve, with compatible development playing a modest role in achieving the City’s overall target for residential intensification in the Built-up Area.” Staff are of the opinion that the proposed reduction to the minimum rear yard for 113 Pearl Street maintains 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	Given that the property owner wishes to sell a portion of their land to the property owners of 113 Pearl Street, and given that this transfer of land would create a minimum rear yard deficiency that would not have any impacts on the built form or the remediation site, Staff are of the opinion that the relief sought is desirable for the appropriate development and use of the subject lands.

Table 3 - Four Tests of a Minor Variance - Increased Maximum Lot Coverage for 111 Pearl Street

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 20.1% accessory lot coverage is over double the base zoning provision for maximum lot coverage in all residential zones. Staff do not consider a 20.1% maximum accessory lot coverage to be in keeping with the character of the neighbourhood. Furthermore, staff do not consider the requested increase to maximum lot coverage ‘minor’.

<p>That the intent and purpose of the Zoning By-law 160-90 is maintained</p>	<p>The proposed of maximum accessory lot coverages is to regulate the extent to which accessory structures such as sheds, garages, and other outbuildings can occupy a lot. This regulation services to control the built form and ensure there is adequate open space, to preserve aesthetics, to manage stormwater runoff, and to ensure adequate yard space. Staff are of the opinion that the proposed built form does not uphold the purpose and intent of the Zoning By-law since it will adversely impact visual aesthetics of the neighbourhood.</p>
<p>That the general intent and purpose of the Official Plan is maintained</p>	<p>The proposed development does not conform with the following sections of the Official Plan:</p> <p>Section 5.1 (b) states that permitted development shall be compatible, and not cause undue or adverse impacts on adjacent properties. Staff are of the opinion that the increased accessory lot coverage will cause undue and adverse impacts the adjacent property and remediation site.</p> <p>Guiding Principle #2 which emphasizes environmental stewardship and sustainable development practices. Staff are of the opinion that the proposed accessory structure addition will have negative long term environmental impacts.</p>
<p>That the variance is desirable for the appropriate development and use of the land, building or structure</p>	<p>The requested increase to maximum accessory lot coverage is not in keeping with the character of the neighbourhood and would adversely impact the aesthetics of the neighbourhood. As such, staff do not consider the proposed accessory lot coverage desirable for the appropriate development and use of the subject lands.</p>

Table 4 - Summary of Staff Recommendations

Type	Regulation	Required	Proposed	Staff Recommendation
Consent	NA	NA	NA	Refusal
Minor Variance	Section 6.3.1.1 Accessory Lot Coverage (111 Pearl Street)	18.7%	20.1%	Refusal
Minor Variance	Section 6.3.1.3.3 Rear Yard Setback Accessory Building (111 Pearl Street)	0.6 m	0 m	NA – No longer required as location of accessory structure has been shifted 0.6 m from the property line.

Minor Variance	Section 7.8.2.1.6 Rear Yard Setback (113 Pearl Street)	7.5 m	3.32 m	Approval
----------------	--	-------	--------	----------

In conclusion, Staff are supportive of the reduced rear yard setback for 113 Pearl Street, but not supportive of the increased accessory lot coverage for 111 Pearl Street, or the consent due to the proposed use of the lands to be conveyed. The applicant proposes to develop the conveyed lands by constructing an addition the existing accessory structure. Due to the proximity of the hard and soft caps, and due to the City's ongoing responsibilities to act as stewards of the remediation site, Staff are of the opinion that the proposed consent and application to increase accessory lot coverage do not maintain the criteria for consent or minor variance. It is crucial to prioritize the long-term integrity of the remediation site and the overall compatibility with the neighbourhood. As such, staff recommend refusal of the requested consent and minor variance to increase accessory lot coverage.



Lindsay King
Intermediate Development Planner