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Date September 4, 2024 **Report No.** 2024-525
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 Minor Variance [X]

2.0 Topic

Application No. A45-2024
Agent Armstrong Planning & Project Management
(c/o Cesare Pittelli)
Applicant/Owner Empire Communities
Location 389 Conklin Road

3.0 Recommendation

- A. THAT application A45-2024 seeking relief from Section 7.9.4.83.2.4 of Zoning By-Law 160-90 to permit a front yard of 3.9 m, whereas a minimum of 4.5 m is otherwise required, BE APPROVED;
- B. THAT application A45-2024 seeking relief from Section 7.9.4.83.2.2 of Zoning By-Law 160-90 to permit a lot width of 2.1 m per unit (91 m total),

whereas a minimum of 5 m per unit (215 m total) is otherwise required, BE APPROVED;

C. THAT application A45-2024 seeking relief from Section 7.9.4.83.2.5.1 of Zoning By-Law 160-90 to permit a rear yard of 3.8 m, whereas a minimum of 6 m is otherwise required, BE APPROVED;

D. THAT the reasons 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,

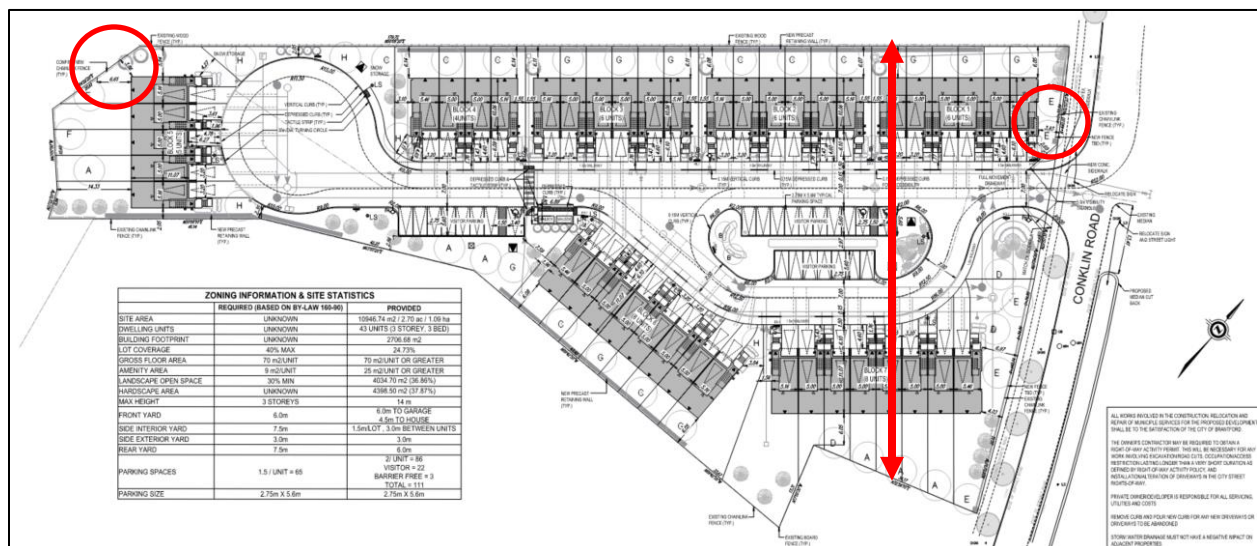
E. THAT pursuant to Section 45(8) – (8.2) of the Planning Act, R.S.O 1990, c. P. 13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“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 2024-525.”

4.0 Purpose and Description of Applications

A Minor Variance application has been received for the lands municipally described as 389 Conklin Road. The purpose of this application is to facilitate the construction of a 7 Block, 43-unit townhouse development with access from Conklin Road, as shown in **Figure 1**.

Figure 1 - Conceptual Site Plan (full scale version attached)



The applicant is requesting a minor variance for the minimum front yard, lot width and rear yard, as shown in **Table 1**. A planning analysis of these variances is provided in Section 7 of this Report.

Table 1 - Minor Variance Relief Requested

No.	Regulation (Minimum)	By-law Section	Required	Proposed	Relief Requested
1	Front Yard	Section 7.9.4.83.2.4	4.5 m	3.9 m	- 0.57 m
2	Lot Width	Section 7.9.4.83.2.2	5.0 m / unit (215 m total)	2.1 m / unit (91 m total)	- 2.9 m / unit (124 m total)
3	Rear Yard	Section 7.9.4.83.2.5.1	6.0 m	3.8 m	- 2.14 m

The applicant has recently applied for an application seeking relief from Part Lot Control (File No. PLC-02-24) with the purpose of dividing the lot into individual parcels of tied land (POTLs), which will be tied to a future condominium corporation. If this application is approved, variances 1 and 2 listed above will become redundant. Further information is provided in Section 7 of this Report. The City also has an active Draft Plan of Condominium Application (File No. 29-24502) to establish a common elements condo for this development as well as an active Site Plan Application (File No. SPC-17-22) to establish the site operative features and elements for this development.

5.0 Site Features

The subject lands are located on the west side of Conklin Road, south of Shellard Lane. The lands are currently vacant, except for a private road that the developer has constructed under the site alteration permit process, as shown in **Figure 2** and **Figure 3**.

Figure 2 - Photo showing the front of the subject lands



Figure 3 - Photo showing the rear of the subject lands (where the variance for the rear yard is being requested)



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

North Apartment dwellings

South Townhouse dwellings

East Secondary School (including sports field)

West	Vacant land (designated Core Natural Areas and zoned Open Space)
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6.0 Input from Other Sources

6.1 Technical Comments

This application was circulated to all applicable departments and agencies on July 22, 2024. No notable comments or objections were received.

6.2 Public Response

A Notice of Public Hearing was issued by personal mail on August 16, 2024, to property owners within 60 metres of the subject lands pursuant to the *Planning Act*. At the time of writing this Report, one resident provided their objections to the requested relief, as shown in detail in **Appendix C**. To summarize, the resident was concerned that the proposed townhouse blocks would be too close to the neighbouring apartment buildings to the north of the subject lands. Staff responded to inform the resident that the proposed development would comply with the 6 m rear yard requirement for the portion of the site abutting the apartment buildings; and that it was only one lot abutting open space in the rear that did not meet this 6 m requirement.

7.0 Planning Staff Comments and Conclusion

7.1 Planning Analysis

The majority of the subject lands are designated “Residential” and a small portion in the rear is designated “Core Natural Area” in the Official Plan. The property is zoned “Residential Medium Density Type A – Exception 83 Zone (R4A-83)” in Zoning By-law 160-90 as shown in **Appendix A** and **Appendix B**, respectively.

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.

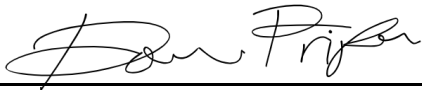
Table 2 - Minor Variance tests

Four Tests	Discussion
<p>1. That the requested variance is minor in nature</p>	<p>As stated above, the first two variances listed in Table 1 of this Report will become redundant after the relief from Part Lot Control Application (PLC-02-24) is approved by Council. Once the Parcels of Tied Land (POTL) are created, the individual POTLs would meet the 5 m per unit lot width requirement as well as the 4.5 m front yard requirement, as shown in Figure 1.</p> <p>Although the minimum rear yard will apply to all the individual parcels as a result of the PLC application, there will still be a deficiency for one of the lots. This deficiency is a result of the irregular rear lot line abutting a core natural area. Therefore, Planning Staff is of the opinion the relief sought in this application is minor.</p>
<p>2. That the intent and purpose of the Zoning By-law 160-90 is maintained</p>	<p>Section 7.9.4.83 of the By-law lists site-specific requirements for front yard, lot width and rear yard for block townhouse dwellings. The intent of the front yard and lot width requirement is to ensure adequately sized lots that can accommodate enough landscaped open space in the front yard. As mentioned above, once the POTLs are created, the requirements for the front yard and lot width will be met. The intent of the rear yard requirement is to ensure privacy from other neighbouring properties as well as to provide amenity space. The requested relief in the rear yard should not create any privacy concerns as the abutting property in the rear is vacant and is designated Core Natural Areas and zoned Open Space. The proposed development satisfies all of the other required provisions for the zone. Therefore, it is Planning Staff's opinion that the proposed variances 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" and a small portion in the rear is designated "Core Natural Area", as shown in Appendix A. No development is proposed within the Core Natural Area portion of the subject lands.</p> <p>The residential designation encourages a variety of dwellings including townhouse dwellings. As this development proposes residential townhouse units, it is the opinion of Staff that the proposed rear yard variance would maintain the general intent and purpose of the Official Plan.</p>

Four Tests	Discussion
4. That the variance is desirable for the appropriate development and use of the land, building or structure	It is the opinion of Staff that the proposal is desirable as it would facilitate the creation of 43 residential units, which is appropriate for the subject lands and existing neighbourhood.

7.2 Conclusion

A site inspection was completed on July 29, 2024. Upon completion of this visit and review of the applicable policies, Planning Staff is supportive of the application. The proposed application is minor and will facilitate the addition of 43 residential 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 A45-2024 be approved.



Dora Pripon - Development Planner
Prepared on: August 29, 2024

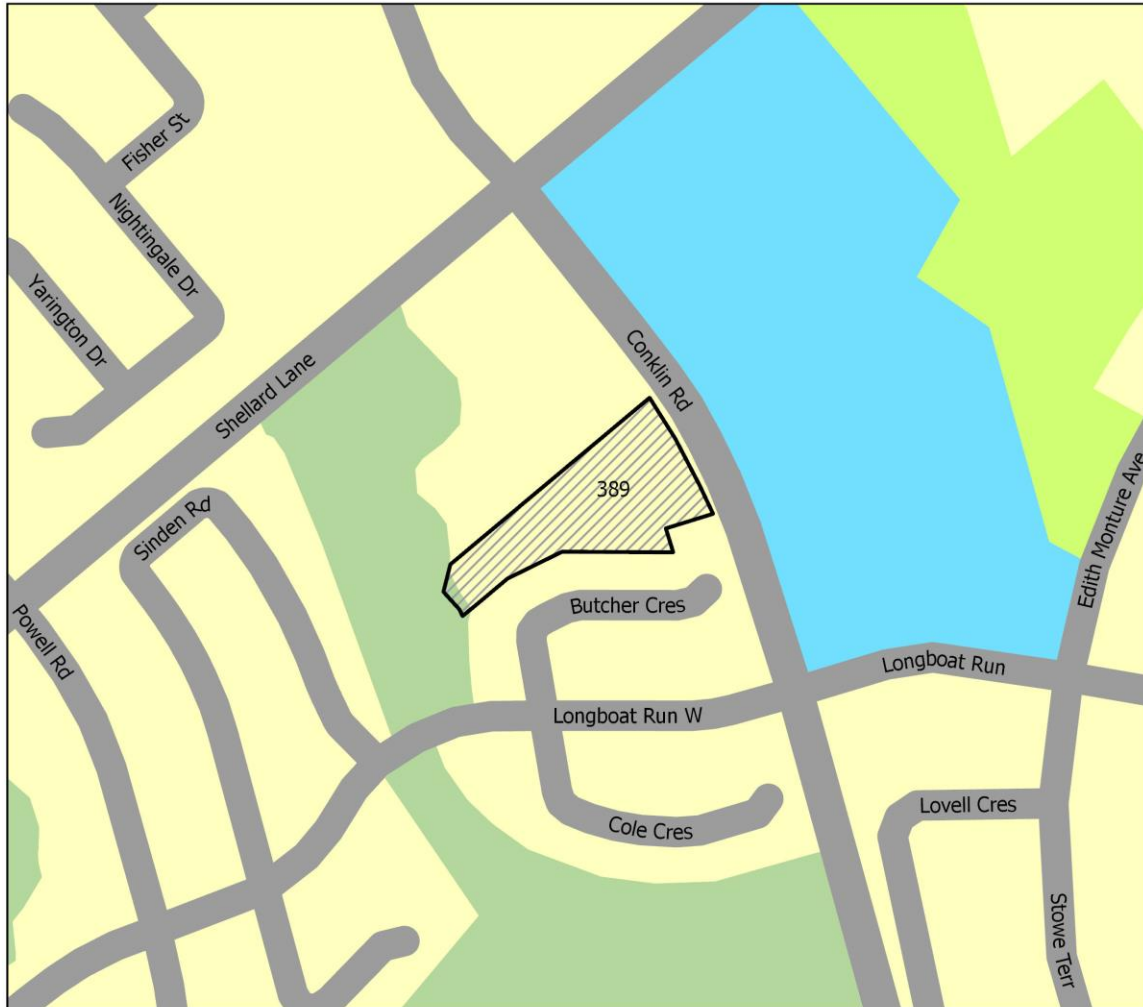


Reviewed By: Sean House, RPP, MCIP
Senior Project Manager

Appendix A – Official Plan

OFFICIAL PLAN EXCERPT MAP

Application: A45-2024
389 Conklin Road



Legend

- | | |
|--|---------------------------------|
| Agricultural Designation | Prestige Employment Designation |
| Core Natural Areas Designation | Commercial Mixed Use Corridor |
| Residential Designation | General Employment Designation |
| Major Institutional Designation | Six Nations Territory |
| Parks and Open Space Designation | VIA Station |
| Downtown Urban Growth Centre Designation | Transit Terminal |
| Major Commercial Centre Designation | Subject Land |
| Intensification Corridor Designation | |

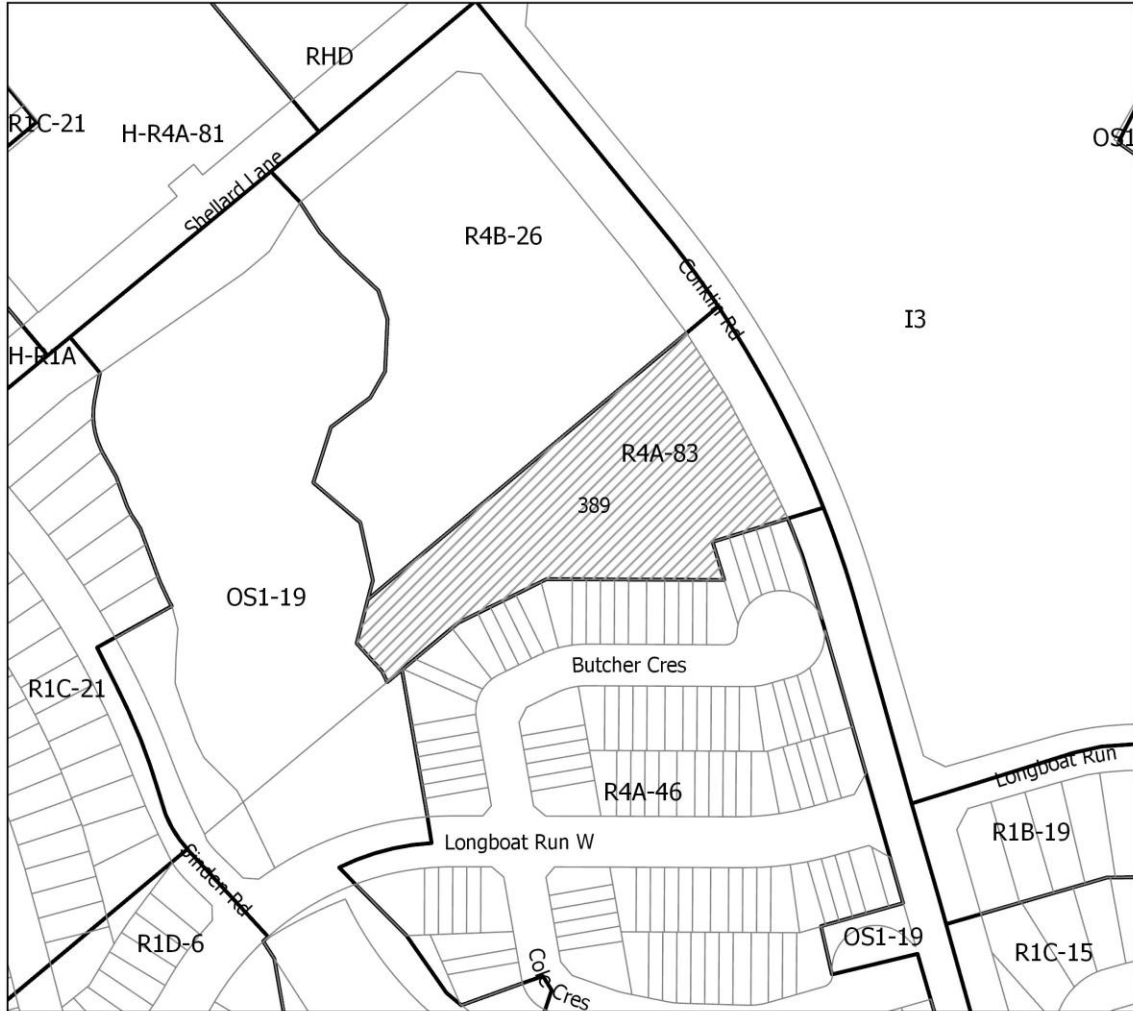


0 75 150 Metres

Appendix B – Zoning By-law

ZONING MAP

Application: A45-2024
 389 Conklin Road



Zoning
 // Subject Land
 □ Zoning

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

- R1A Residential Type 1A (18 metre)
- R1B Residential Type 1B (15 metre)
- R1C Residential Type 1C (12 metre)
- R1D Residential Type 1D (9 metre)
- R4A Residential Medium Density Type A
- R4B Residential Medium Density Type B
- RHD Residential High Density
- I3 Institutional Major
- OS1 Open Space Type 1
- H Holding Provision
- # Exception Number



Appendix C – Public Comments

Dora Pripon

From: Paul Scibetta <[REDACTED]>
Sent: Thursday, August 22, 2024 10:01 AM
To: Dora Pripon
Subject: 389 Conklin Rd Inquiry

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Good morning Dora,

I am writing to inquire about the appeal process for the minor variance application for 389 Conklin Road as I do not support relief from the zoning bylaw. This change would allow the proposed townhouses to be dangerously close to the apartment building I live in at 395 Conklin Road, and may prevent ample sunlight exposure to my first floor apartment. I chose the apartment I live in based on the direction and sunlight exposure, required for mental health support, and a towering townhouse could block this exposure if it is too close to my building. Additionally, the closeness of the townhouse and my building could be a potential fire hazard.

In addition to the appeal process information, if you could also provide the proposed height of the townhouses to be built that would be helpful.

Paul Scibetta
[REDACTED] Conklin Road
[REDACTED]