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Date November 14, 2019 **Report No.** 2019-716

To Chair and Members
City of Brantford Committee of Adjustment

From Sean House
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Application for Minor Variance

2.0 Topic

APPLICATION NO.	A35/2019
AGENT	Wendy Greenspoon-Soer
APPLICANT/OWNER	Jennier Lou-Anne LeBlanc & Levi Brubacher
LOCATION	63 Salisbury Avenue

3.0 Recommendation

- A. THAT Application A35/2019 requesting relief from the City of Brantford Zoning By-law 160-90 to permit a minimum side yard of 0.08 m for an existing accessory structure (deck), whereas 0.6 m is required, BE APPROVED;
- B. THAT the reason(s) for approval are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject land; 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 No. 2019-716.”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 63 Salisbury Avenue. A location map is attached as **Appendix A**. There is an existing single detached dwelling on the property with an attached wooden deck. The deck is constructed 0.08 m from the western property line, whereas the required setback is 0.6 m (see **Appendix B** for a plan of survey). To recognize the encroachment into the required side yard, the applicant is seeking relief from Section 6.3.1.3 of Zoning By-law 160-90.

5.0 Site Features

The subject lands are located on the north side of Salisbury Avenue between Tecumseh Street and Ontario Street. The lands have an area of 413 m² and contain a single detached dwelling that is one-storey in height. The subject lands are located in an established residential neighbourhood consisting of primarily single detached dwellings. The Grand River is located further west of the site, and Princess Elizabeth Public School further south of the site.

The subject deck is attached to the single detached dwelling and located in the rear yard of the property. The deck is approximately 0.6 m in height and 18 m² in area, and has existed since at least 2006. A gazebo structure is installed on the deck, and a privacy blind is attached to the gazebo abutting the western property line. A privacy fence approximately 2 m in height is also located on the westerly lot line.

An aerial photo and site photographs are attached as **Appendices C** and **D**.

6.0 Input from Other Sources

6.1 Technical Comments

This application was circulated to all applicable departments and agencies. No adverse comments or objections were received from the

commenting agencies. Detailed comments from Building and Engineering Departments are attached as **Appendices E** and **F**.

6.2 Public Response

Notice of public hearing was issued by personal mail (41 notices) and by posting a sign on-site. A plan illustrating the notification area is attached as **Appendix G**. As of the date of the preparation of this Report, no objections have been received. A member of the public who was circulated contacted Staff by phone with questions regarding the application. Staff clarified various aspects of the application to the caller and the caller did not express any objections to the proposal.

7.0 Planning Staff Comments and Conclusion

7.1 City of Brantford Official Plan

The subject lands are designated “Residential Area – Low Density” in the City’s Official Plan (**Appendix H**). The “Residential Area – Low Density” designation permits a range of low density dwelling types including single detached, semi-detached, duplex, triplex and converted dwellings.

7.2 City of Brantford Zoning By-law 160-90

The subject lands are zoned “Flood-Residential Type 1D Zone (R1D)” in Zoning By-law 160-90 (**Appendix I**). The F-R1D Zone permits single detached dwellings. The flood provision restricts sensitive uses in the Zone, prohibits basements and requires mechanical equipment to be located above the first floor elevation. Aside from deficient interior side yard for the deck, the property conforms to all other Zoning By-law provisions

7.3 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 the general intent and purpose of the Zoning By-law and Official Plan must be maintained.

The application is minor in nature as there are measures in place to mitigate the impact a deck located 0.08 m from a property line may have on the privacy of adjacent amenity areas. An approximately 2 m tall fence is located on the property line abutting the deck, and a privacy blind has been installed on the gazebo located at the western edge of the deck. In Planning Staff's opinion, there would be minimal difference regarding impact to privacy or overlook concerns if the deck was situated at the required 0.6 m side yard rather than where it is currently situated at 0.08 m.

The application is desirable for the appropriate development and use of the land as it has existed since at least 2006, while receiving only one complaint to the Property Standards and By-laws Division in that time. The complaint was made prior to the current owner acquiring the property, and the applicant has indicated that residents in the surrounding neighbourhood no longer consider the deck location to be a concern.

The general intent and purpose of a minimum interior side yard for an accessory structure (deck) in the Zoning By-law is for property maintenance, fire prevention and maintaining access to the rear yard. Regarding property maintenance, the existing fence abutting the deck would limit the extent of maintenance required within the subject interior side yard. Concerning fire prevention, the City of Brantford Fire Department was notified of the application and no comments or objections were received. Further, there is adequate space on the eastern side of the property which currently provides access to the rear yard. The property complies with the remaining development regulations of the Zone. It is Planning Staff's opinion that this minor variance meets the intent of the Zoning By-law.

Section 18.11.2 of the Official Plan also lists criteria for minor variance applications, including if the structure is in keeping with adjacent development and that building coverage is not excessive. Planning Staff are satisfied that the general intent of the Official Plan is maintained as decks are a common amenity feature for residential uses, and the property will continue to meet the minimum lot coverage requirements. Decks below 1.2 m in height do not count towards lot coverage calculation; therefore the existing deck is not factored into lot coverage for the subject lands.

7.4 Conclusion

A site visit was conducted on October 30, 2019. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. For the reasons mentioned above, the minor variance satisfies the criteria of Section 45(1) of the *Planning Act*, and Staff recommends that application A35/2019 be approved.



Prepared By: Sean House
Development Planner
Prepared on: November 7, 2019



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

Appendix A – Location Map

LOCATION MAP

Application: A35/2019
65 Salisbury Avenue



Legend

 SUBJECT LAND



LANE 3.658 WDE, P1,S

PIN 32086

0143

IB N84°12'45"E 11.784

0.3

0.3

0.91

0.67 P2,S

35.052

35.052

LOT 288 PIN 32086-0115

METAL CLAD GARAGE

0.11

0.08

0.62 P2,S

WOOD DECK

LOT 287 PIN 32086-0114

1 1/2 STOREY VINYL CLAD HOUSE MUN. No. 63

2.52

2.54

5.07

(11.735 P1) 11.784 PN

5.05

ASPHALT DRIVEWAY

N6°47'15"W

N6°47'15"W

LOT 289 PIN 32086-0116

IB (1416)

35.352 (140.667 P1)

IB (1416)

70.257 P1) 70.263 PN

N84°12'45"E (N84°30'E P1)

0.2

IB

TECUMSEH STREET

LOT 282

LOT 286

LOT 290

PLAN

REGISTERED

SALISBURY AVENUE

PIN 32086-0002


Appendix C – Aerial Photograph

AERIAL PHOTO

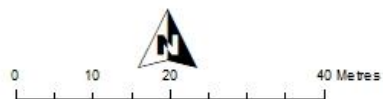
Application: A35/2019
65 Salisbury Avenue



Legend

 Subject Land

Aerial Photo from Spring 2017



Appendix D – Site Photographs



Photo 1: Existing single dwelling at 63 Salisbury Avenue



Photo 2: Deck abutting property line



Photo 3: Side view of deck property line

Appendix E – Building Department Comments



BUILDING DEPARTMENT

PRELIMINARY REPORT TO PLANNING

<input checked="" type="checkbox"/> MINOR VARIANCE	<input type="checkbox"/> SEVERANCE
<input type="checkbox"/> DRAFT PLAN OF SUBDIVISION	<input type="checkbox"/> ZONING BYLAW AMENDMENT
<input type="checkbox"/> OFFICIAL PLAN AMENDMENT	<input type="checkbox"/> DRAFT PLAN OF CONDOMINIUM
<input type="checkbox"/> RENTAL HOUSING PROTECTION ACT	<input type="checkbox"/> SITE PLAN CONTROL APPROVAL

APPLICATION / SUBMISSION N^o A35/2019

SITE: **63 Salisbury Avenue**

TO PERMIT: **Deck**

APPLICANT: **Wendy Greenspoon**

COMMENTS:

BYLAW: 160-90 ZONE: F-R1D

The existing deck has a side yard setback of 0.08m whereas 0.6m is required.

Based on the information provided, this proposal appears to comply with the remaining development regulations for the noted zone.

A handwritten signature in black ink, appearing to read "Russ Thomson".

Russ Thomson, MAATO, CBCO, CPSO
Chief Building Official

October 21, 2019

Date

Appendix F – Engineering Comments

No. A35/2019

COMMITTEE OF ADJUSTMENT APPLICATION ENGINEERING SERVICES STAFF REPORT

HEARING DATE: OCTOBER 18, 2019
NAME OF APPLICANT / OWNER: Jennifer Lou-Anne LeBlanc & Levi Brubacher
AGENT: Wendy Greenspoon-Soer, Garfinkle Biderman LLP
ADDRESS: 63 Salisbury Avenue
NATURE OF APPLICATION: Variance Application

ENGINEERING DEPARTMENT REQUIREMENTS:

- | | | | | | | |
|----|--|---|-----|--------------------------|----|--------------------------|
| 1. | Land required for road widening purposes | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 2. | Ingress and Egress satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 3. | Off-street parking satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 4. | Sanitary sewers available and satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 5. | Storm sewers available and satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 6. | Water Service available and satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

COMMENTS OR REMARKS:

1. TRAFFIC/PARKING

- Transportation staff have no comment on this application.

T. KU, P.ENG., PTOE
MANAGER, TRANSPORTATION AND PARKING SERVICES

2. TRANSIT SERVICES

- Transit has no issues.

E. VANDERMADE
MANAGER OF TRANSIT

No. A35/2019

COMMITTEE OF ADJUSTMENT APPLICATION
ENGINEERING SERVICES STAFF REPORT

HEARING DATE: OCTOBER 18, 2019
NAME OF APPLICANT / OWNER: Jennifer Lou-Anne LeBlanc & Levi Brubacher
AGENT: Wendy Greenspoon-Soer, Garfinkle Biderman LLP
ADDRESS: 63 Salisbury Avenue
NATURE OF APPLICATION: Variance Application

ENGINEERING DEPARTMENT REQUIREMENTS:

- | | | | | | | |
|----|--|---|-----|--------------------------|----|--------------------------|
| 1. | Land required for road widening purposes | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 2. | Ingress and Egress satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 3. | Off-street parking satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 4. | Sanitary sewers available and satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 5. | Storm sewers available and satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 6. | Water Service available and satisfactory | - | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

COMMENTS OR REMARKS:

3. WATER

I reviewed the minor variance application and Survey Plan, dated Aug. 11, 2019, with no revisions, as prepared by Archaus Architects Inc.—on behalf of Environmental Services and have no objections.

J. SPAGNUOLO, C.E.T.
SENIOR PROJECT MANAGER

4. DEVELOPMENT ENGINEERING

- Confirmation the structure does not affect the side yard drainage.



G. PEEVER, P. ENG.,
MANAGER, DEVELOPMENT ENGINEERING

October 21, 2019
DATE



04-25/19
I. HANS, P. ENG., PMP
DIRECTOR, ENGINEERING SERVICES
PUBLIC WORKS COMMISSION

Appendix G – Area of Notification

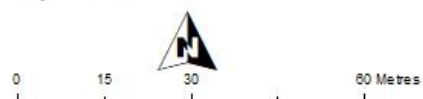
AREA OF PUBLIC NOTIFICATION

Application: A35/2019
65 Salisbury Avenue



Legend

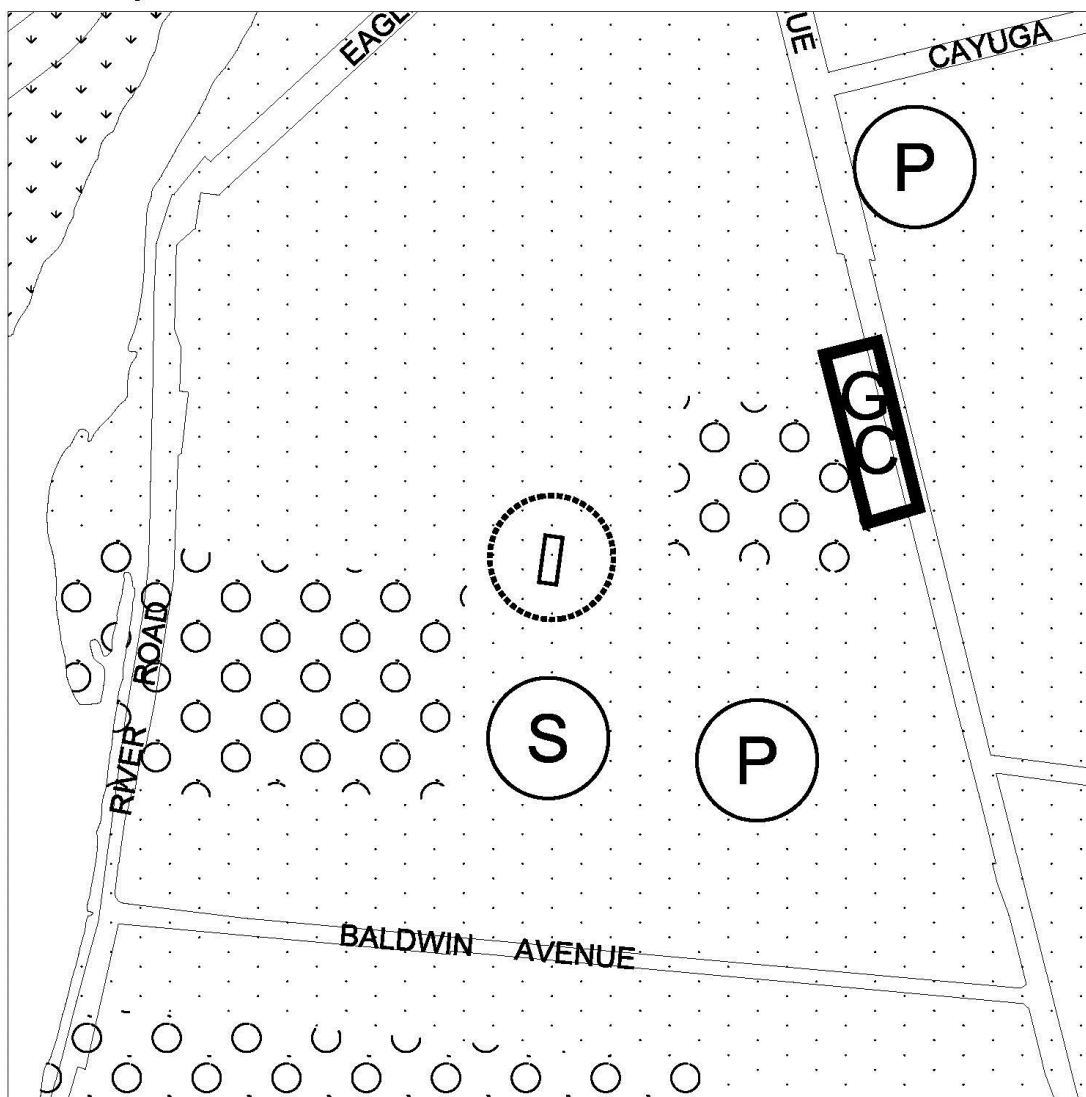
-  Subject Land
-  Notified Properties
-  60 m Buffer from Subject Land



Appendix H – Official Plan Map

OFFICIAL PLAN

Application: A35/2019
65 Salisbury Avenue



LEGEND

SUBJECT LAND

- LOW DENSITY RESIDENTIAL AREA
- MEDIUM DENSITY RESIDENTIAL AREA
- HIGH DENSITY RESIDENTIAL AREA
- GENERAL INDUSTRIAL AREA
- MIXED INDUSTRIAL COMMERCIAL AREA
- BUSINESS PARK AREA
- MAJOR INSTITUTIONAL
- MAJOR OPEN SPACE

- CORE COMMERCIAL AREA
- COMMUNITY CENTRE COMMERCIAL AREA
- GENERAL COMMERCIAL AREA
- MIXED COMMERCIAL RESIDENTIAL AREA
- DISTRICT CENTRE COMMERCIAL AREA
- NEIGHBOURHOOD CENTRE COMMERCIAL AREA
- HIGHWAY COMMERCIAL AREA
- NEW FORMAT COMMERCIAL AREA

- CEMETERY
- ELEMENTARY SCHOOL
- FREEWAY
- LONG TERM CORRIDOR PROTECTION
- SPECIALIZED PARK and OPEN SPACE
- COMMUNITY PARK and OPEN SPACE
- NEIGHBOURHOOD PARK and OPEN SPACE

Appendix I – Zoning

ZONING

Application: A35/2019
65 Salisbury Avenue



Legend

- Subject Land
- Zone Boundary

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

- R1D Residential Type 1D (9 metre)
- R4A Residential Medium Density Type A
- I2 Institutional School
- F Floodplain Provision
- 3 Exception Number

