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Date November 14, 2019 **Report No.** 2019-715

To Chair and Members
City of Brantford Committee of Adjustment

From Alexandra Mathers
Development Planner

1.0 Type of Report

Committee of Adjustment Decision Regarding Minor Variance Application

2.0 Topic

APPLICATION NO.	A37/2019
APPLICANT/OWNER	Amanda Allison
LOCATION	41 Abigail Avenue

3.0 Recommendation

- A. THAT Application A37/2019 requesting relief from the City of Brantford Zoning By-law 160-90 to permit the following:
1. Section 6.3.1.1 to permit a maximum lot coverage of 14 %, whereas a maximum of 10% for accessory buildings and structures is required; and
 2. Section 6.17.3 to permit an area of 37.1 m² for a home occupation, whereas a maximum area of 28 m² is required, BE APPROVED;
- B. THAT the reason(s) for approval area 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 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 submission received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2019-715”

4.0 Purpose and Description of Application

A minor variance application has been received for the lands municipally addressed as 41 Abigail Avenue. A location map is attached as **Appendix A**. The applicant is proposing to demolish their existing accessory structure and build a larger 76.9 m² accessory structure for the purpose of personal storage and a 37.1 m² home occupation ‘Bare Ur Beauty’ spa (refer to **Appendix B** the concept site plan sketch, floor plan and elevations). To facilitate the development as proposed, the applicant is seeking relief from the following sections of Zoning By-law 160-90:

- Section 6.3.1.1 to permit a maximum lot coverage for accessory buildings and structures of 14%, whereas a maximum of 10% is required; and,
- Section 6.17.3 to permit an area of 37.1 m² for a home occupation, whereas a maximum of 28 m² is required.

5.0 Site Features

The subject lands are located on the east side of Abigail Avenue, south of Terrace Hill Street. A laneway is located behind the subject lands between Abigail Avenue and Lyons Avenue to the southeast. The subject lands have an area of 566 m² and has an existing one-storey single detached dwelling and detached accessory structure. The subject lands are located in an established residential neighbourhood consisting primarily of single detached dwellings. Commercial retail and service uses including ‘IDA Pharmacy’, ‘Aldo’s Motor Service’ and ‘Tranquility Burial & Cremation Services’ and the ‘Brantford General Hospital’ exists further to the southeast along Terrace Hill Street and St. Paul Avenue.

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

6.0 Input from Other Sources

6.1 Technical Comments

This application was circulated to all appropriate departments and agencies. No adverse comments or objections were received from the commenting agencies. The Development Engineering will require a Site Alteration Permit for any modifications made to the site. A building permit will be required for the proposed accessory structure. 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 (45 notices) and by posting a sign on-site. At the date of the preparation of this Report, no responses have been received. A map of the area of notification is included as **Appendix G** of this Report.

7.0 Planning Staff Comments and Conclusion

7.1 Provincial Policy Context

Application A37/2019 was reviewed in the context of Provincial Policy, including the Provincial Policy Statement (PPS) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan). These policies set the standard to which provincial and local interests, policies and goals are implemented. The PPS outlines that Ontario's long term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. The Growth Plan outlines the principals that provide the basis of guiding decisions in the Greater Golden Horseshoe on how land is developed, resources are managed and protected, and public dollars are invested. Planning Staff is of the opinion that the proposed minor variance application is consistent with the direction set out in the PPS and conforms to the Growth Plan.

7.2 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. Home Occupations are permitted in all Residential Areas under Section 7.2.1.15 of the Official Plan.

7.3 City of Brantford Zoning By-law 160-90

The subject lands are zoned “Residential Type 1B (R1B) Zone” in Zoning By-law 160-90 (**Appendix I**). The Residential Type 1A Zone permits single detached dwellings.

Both accessory structures and home occupations are regulated under the General Provisions section of the Zoning By-law. Accessory uses, buildings and structures are permitted in all residential Zones and are regulated under Section 6.3 of the Zoning By-law. Home occupations are permitted within all residential zones and may be conducted within a structure, including accessory structures, on a residential lot as per Section 6.17.1 of the Zoning By-law.

7.4 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. Staff’s analysis of the four tests are included below.

7.4.1 Variance 1 – Maximum Lot Coverage for Accessory Buildings and Structures

The increase in lot coverage for accessory buildings and structures is minor in nature as it is not expected to have an adverse impact on adjacent properties. The proposed accessory structure will replace the existing accessory structure on the subject lands. As the proposed accessory structure requires a variance for maximum lot coverage, a building permit for the proposed structure will not be issued until the existing structure has been removed. The application is desirable for the appropriate development and use of the land as the accessory structure is not excessive in size and sufficient amenity space is

provided on the property. The proposed accessory structure is in keeping with the character of the area.

Section 7.2.1.2.10 of the Official Plan provides opportunities for accessory buildings and structures in residential areas which are accessory to the permitted uses, which are regulated under the Zoning By-law. It is the opinion of Planning Staff that the proposal will maintain the general intent and purpose of the City's Official Plan.

Section 6.3.1.1 of the Zoning By-law permits a maximum of 10% lot coverage for accessory structures and buildings. The intent and purpose of this regulation is to ensure that accessory buildings and structures are not excessive in size and that sufficient amenity space is provided on the property. The applicant is proposing to demolish the existing accessory structure and replace it with a 76.9 m² detached accessory structure for the purpose of personal storage and relocating of the existing home occupation from the basement of the existing single detached dwelling unit. Sufficient space is provided within the driveway for the required parking spaces (the residential dwelling and home occupation). Planning Staff are of the opinion that the accessory structure is not excessive in size, and adequate amenity space is still provided on the subject property. The applicant had applied for an overall 14 % lot coverage for the accessory building to account for any tolerances during the construction process, as the proposed building is approximately 13.6 % lot coverage was identified in the minor variance application form. Planning Staff are satisfied that there will be sufficient amenity space and that the proposed variance meets the intent of the Zoning By-law.

7.4.2 Variance 2 – Area for Home Occupation

The applicant is proposing an increase in area for home occupation use. Home occupations are a permitted use in all residential zones.

The home occupation spa business is run by the home owner and is secondary to the residential use. The existing home occupation will be relocated from the basement of the existing single detached dwelling unit into a portion of the proposed accessory


building. The remaining area of the proposed accessory structure will be used for personal storage. The proposed accessory structure is residential in nature and is similar in design to the existing single detached dwelling on the subject lands (refer to **Appendix C**). The owner is able to accommodate the additional parking space required for the home occupation on site. Planning Staff are of the opinion that the increase in area for the home occupation is minor in nature and is not expected to have an adverse impact on adjacent properties. The application is desirable for the appropriate development and use of the land as the home occupation will continue to function as ancillary to the single detached dwelling.

Home occupations are permitted within any residential area designation in accordance with the policies outlined in Section 7.2.1.15 of the Official Plan. The home occupation is entirely accommodated within a structure on a residential lot, is smaller in floor space than the dwelling unit and is owned and operated by the owner of the residential dwelling. Parking is provided on-site for the home occupation. The home occupation is compatible with the surrounding residential land uses, and will not be out of character in the neighbourhood. It is Planning Staff's opinion that proposal will maintain the general intent and purpose of the Official Plan.

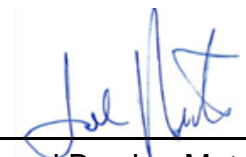
Section 6.17.3 of the Zoning By-law requires a maximum area of 28 m² for home occupations. The intent of this Section of the By-law is to ensure that the home occupation is ancillary to the principal residential use. The home occupation is proposed to be 37.1 m² in size, which is smaller than the existing single detached dwelling. In Planning Staff's opinion the increase in size of the home occupation by 9 m² will not impact the residential character of the lot as the proposed design of the detached accessory structure resembles a common detached garage within, sufficient amenity space will continue to be provided in the rear yard, and the home occupation will continue to be ancillary to the single detached dwelling on the lot. Planning Staff is of the opinion that the intent of the Zoning By-law is maintained.

7.5 Conclusion

A site visit was conducted on October 29, 2019. Upon completion of this visit and review of the applicable policies, Planning Staff are supportive of the application. The minor variances as proposed will facilitate the development of a new accessory structure and the appropriate expansion of an existing home occupation that is ancillary to the residential use. For reasons mentioned above, the minor variances satisfy the criteria of Section 45(1) of the *Planning Act*, and Staff recommend that application A37/2019 be approved.



Prepared By: Alexandra Mathers
Development Planner
Prepared on: November 7, 2019



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


Appendix A – Location Map

LOCATION MAP

Application: A37/2019
41 Abigail Avenue



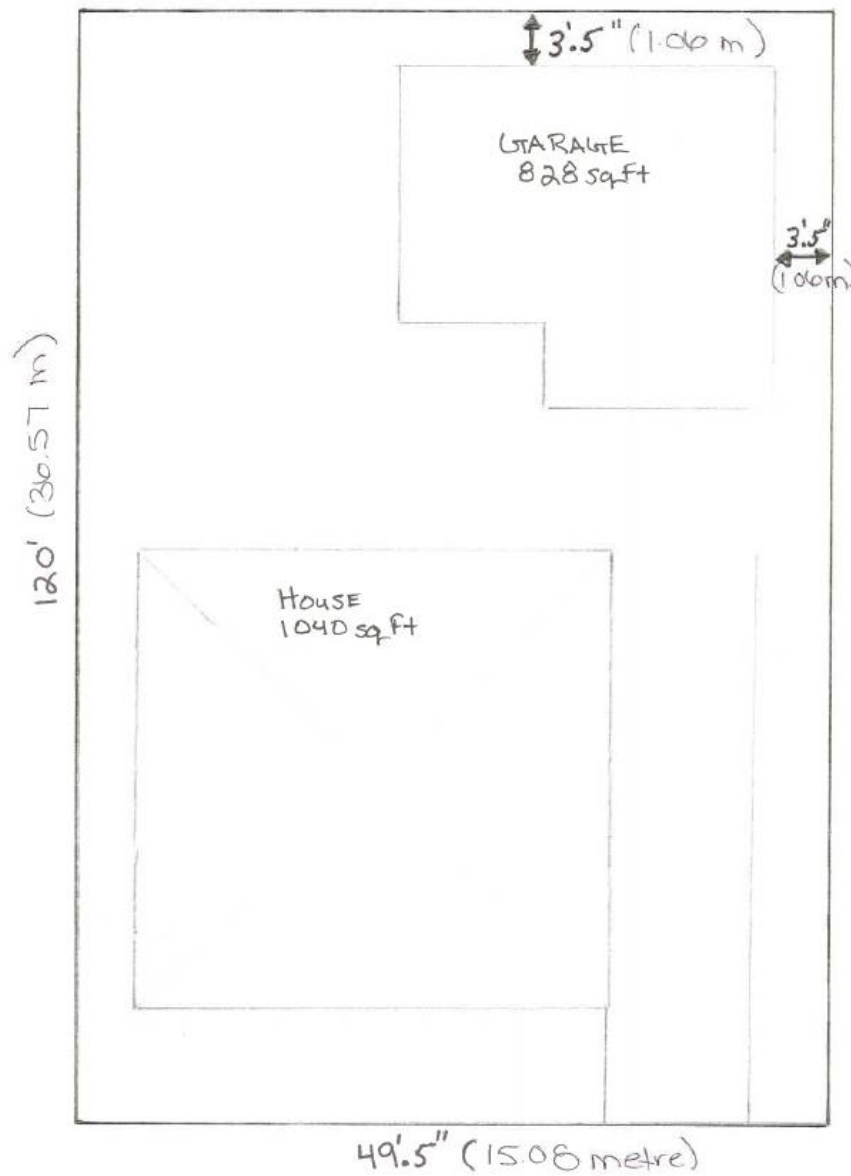
Legend

 SUBJECT LAND

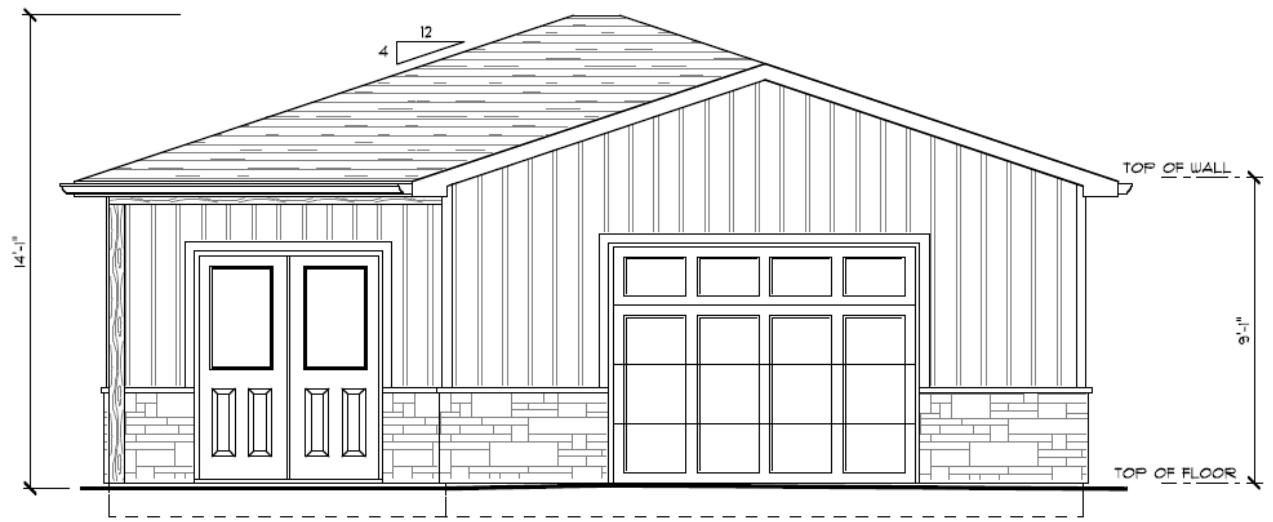


Appendix B – Conceptual Site Plan and Elevations

41 ABIGAIL AVE



Appendix B – Conceptual Site Plan and Elevations Continued



FRONT ELEVATION


Appendix C – Aerial Photo

AERIAL PHOTO

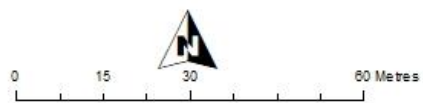
Application: A37/2019
41 Abigail Avenue



Legend

 Subject Land

Aerial Photo from Spring 2017



Appendix D – Site Photograph



Photo of existing single detached dwelling and accessory structure at 41 Abigail Avenue.

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 A37/2019

SITE: **41 Abigail Ave**
TO PERMIT: **Accessory Building**
APPLICANT: **Amanda Allison**

COMMENTS:

BYLAW: 160-90 ZONE: RID

There are no active permits or orders against this property.

This proposal appears to comply with the development regulations for the noted zone with the exception that the proposed accessory building has a lot coverage of 14% whereas 10% maximum is permitted.

Also a portion, 37m² of the proposed building is to be used for the purpose of a home occupation whereas the bylaw allows a maximum area of 28m².

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, M.A.T.O. C.B.C.O. C.P.S.O.
Chief Building Official

October 21, 2019
Date

Appendix F – Engineering Comments

COMMITTEE OF ADJUSTMENT APPLICATION
ENGINEERING SERVICES STAFF REPORT

No. A37/2019

HEARING DATE: OCTOBER 17, 2019

NAME OF APPLICANT / OWNER: Amanda Allison

ADDRESS: 41 Abigail 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

- No comments.

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

2. TRANSIT SERVICES

- Transit has no issues with Minor Variance application.

E. VANDERMADE
MANAGER OF TRANSIT



Appendix G – Engineering Comments Continued

No. A37/2019

COMMITTEE OF ADJUSTMENT APPLICATION
ENGINEERING SERVICES STAFF REPORT

HEARING DATE: OCTOBER 17, 2019

NAME OF APPLICANT / OWNER: Amanda Allison

ADDRESS: 41 Abigail 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 site plan—as prepared by Amanda Allison—on behalf of Environmental Services and offer the following comments and conditions:

1. City records indicate the subject property is serviced with a 19 mm x 13 mm copper lateral from the 150 mm Cast Iron watermain in Abigail Avenue. City records indicate the curb stop is located 0.8 m Right of the Left side of the existing building and 4.9 m Out from same;
2. The development must be metered during construction; the Owner is responsible to pay the current fee per cubic metre for the quantity of water used; and
3. All materials and construction methods must comply with the latest version of the City's Linear Design & Construction Manual and Ontario Building Code.

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


4. DEVELOPMENT ENGINEERING

1. A reference plan should be submitted to verify the property boundaries.
2. A Site Alteration Permit will be required for any changes/modifications made to the site as defined by the Site Alteration By-Law 28-2011.



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

October 22, 2019
DATE

 Oct 29/19
I. HANS, P. ENG., PMP
DIRECTOR, ENGINEERING SERVICES
PUBLIC WORKS COMMISSION



Appendix H – Area of Public Notification

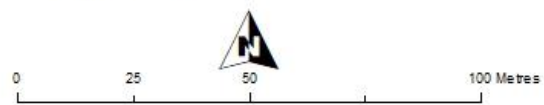
AREA OF PUBLIC NOTIFICATION

Application: A37 /2019
41 Abigail Avenue



Legend

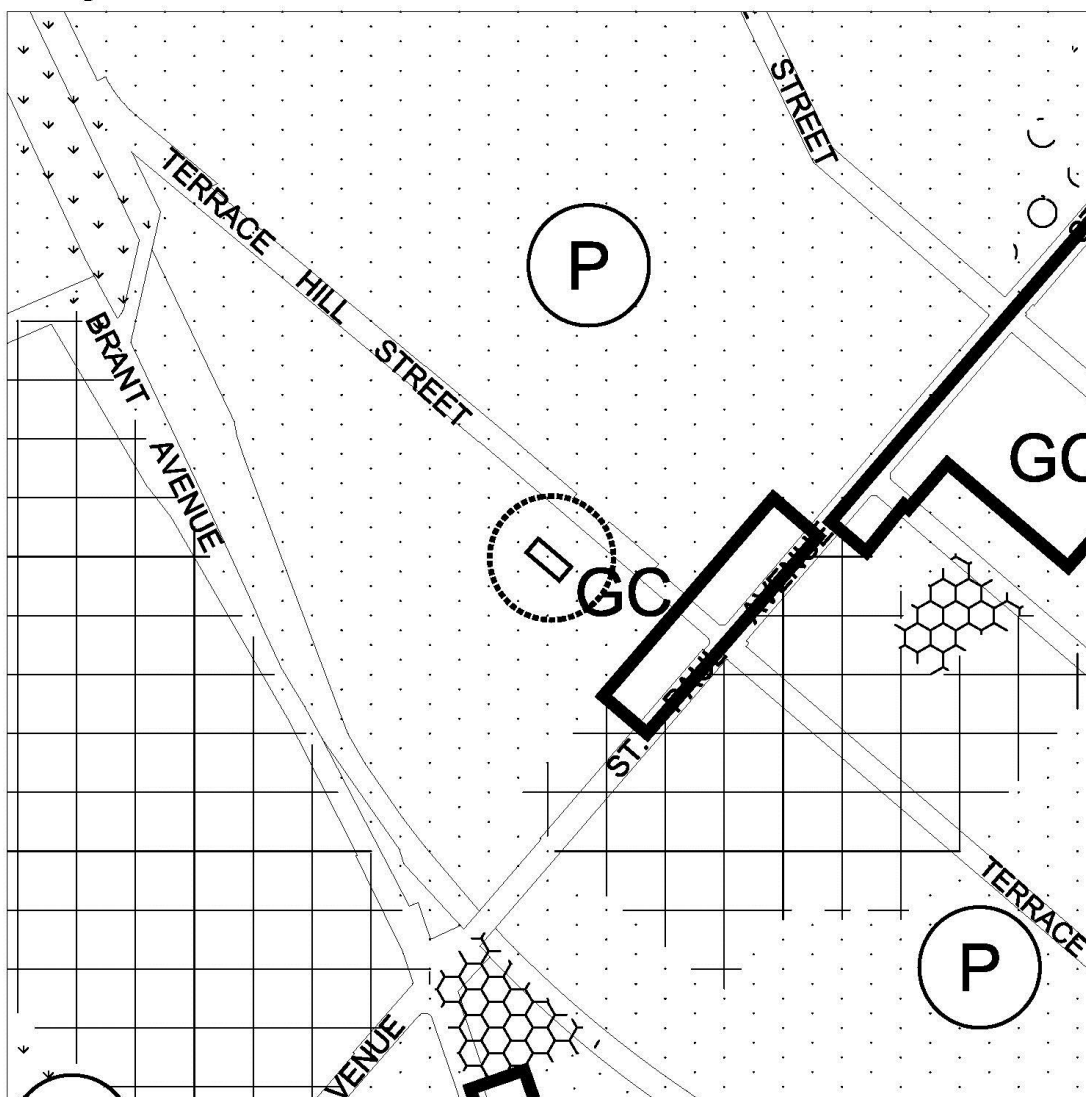
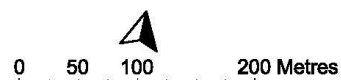
-  Subject Land
-  Notified Properties
-  60 m Buffer from Subject Land



Appendix I – Official Plan

OFFICIAL PLAN

Application: A37/2019
41 Abigail Avenue



LEGEND



- 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 J – Zoning

ZONING

Application: A37 /2019
41 Abigail Avenue



Legend

-  Subject Land
-  Zone Boundary



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

- R1B Residential Type 1B (15 metre)
- R1C Residential Type 1C (12 metre)
- R1D Residential Type 1D (9 metre)
- C8 General Commercial
- 3 Exception Number